

**IN THE COURT OF AJAY GOEL, ADDITIONAL SESSION
JUDGE/SPECIAL JUDGE (NDPS),
DWARKA COURTS, NEW DELHI.**

Sessions Case No. 440255/16

State **Vs.** **1) Parmod Kumar @ Pintu (Since P.O.)**
S/o Sh. Suresh Kumar
R/o H. No. 14 Ranaji Enclave Ph-2
Najafgarh New Delhi

2) Gourav Sharma, @ Guddu Pandit,
S/o Sh. Rajbir Sharma,
R/o K-1/167 Mohan Garden Uttam Nagar,
New Delhi.

3) Rohit Gupta @ Gulshan,
S/o Sh. Roshan Lal Gupta,
R/o L Extension 32 part-3 Mohan Garden
Uttam Nagar, New Delhi.

4) Atul Kumar,
S/o Sh. Tridashu Bhardwaj,
R/o H. No. C-123 Rama Park Uttam
Nagar, New Delhi.

FIR No. **:** **940/14**
Police Station **:** **Dwarka North**
Under **:** **302/201/364/457/380/411/404/34**
Sections **:** **IPC**

Date of Institution of case : 11.01.2015
Date of Assignment to this court : 20.05.2017
at the stage of prosecution evidence
Date of Arguments : 17.12.2019
Date of Decision : 20.12.2019

JUDGMENT:

1. The case of the prosecution is that on 13.10.2014, Inspector K.K. Sharma alongwith SI Hariram Sharma, Ct. Vineet Kumar and other police staff was on vehicle checking duty near Kheri Bairagi Tiraha at Shamli Babri Road near Mandir within the jurisdiction of PS Babri, District Shamli, UP and at about 10:30 pm a Ford Figo Car DL 1CM 9765 came on the road in a fast speed from Shamli side and said Ford Figo car was signaled to stop but the driver of the car did not decrease the speed and the car was managed to stop by putting barriers before the same. Accused Parmod @ Pinto (PO) was found on the driving seat and accused Gourav Sharma @ Guddu Pandit and Rohit Gupta @ Gulshan

were found on the rear seat of the car and when Inspector K.K. Sharma asked strictly from accused Parmod Kumar as to why he was not stopping the car, accused Parmod Kumar stated that there was a dead body of a person in the dicky of the car. Accused persons namely Parmod, Gourav and Rohit were apprehended by the police team and thereafter on the checking of the dicky of the Ford Figo car, a dead body of a male person was found and accused persons stated that the dead body was of Shri Ratan Chand Papneja, who was murdered by them alongwith accused Atul at Dwarka, New Delhi. On the next day in the morning at PS Babri, UP, a SIM card was recovered from the car and the same was inserted in the mobile phone of Const. Mukesh Kumar and a call was received on the same from Sh. Subhash Manocha to whom Inspector K.K, Sharma informed about the recovery of the dead body of Shri Ratan Chand Papneja. The aforesaid recovered SIM card was sealed and seized by

Inspector K.K. Sharma and a memo regarding the search and inserting the SIM card in the mobile phone of Ct. Mukesh Kumar was also prepared. Inspector K.K. Sharma prepared a memo regarding the recovery of the dead body, car and arrest of co-accused persons namely Gourav, Rohit Gupta and Parmod. On 14.10.2014, Inspector K.K. Sharma presented the memo before Ct. Ramveer Singh who recorded FIR 109/14 with crime number 277/14 at PS Babri, District Shamli, UP. Postmortem on the dead body of the deceased was conducted by Dr. Bipin Kumar Jain at District Hospital, Muzaffarnagar, UP on 14.10.2014. Dead body of deceased Ratan Chand Papneja was identified by Shri Prem Kumar Batra and Shri Sanjay Papneja, and after postmortem it was received by Shri Prem Kumar Batra. On 20.10.2014 the investigation of the case was assigned to Inspector Kunwar Pal Sharma and during investigation he interrogated accused Gourav, Rohit and Parmod and recorded their disclosure statements. On

29.10.2014 accused Rohit Gupta @ Gulshan had led the police party including Inspector Kunwar Pal Sharma to Dwarka Metro Station and on his pointing out a site plan was prepared by Inspector Kunwar Pal Sharma. Accused Rohit Gupta @ Gulshan led the police party including Inspector Kunwar Pal Sharma and public witness Shri Prem Kumar Batra to a vacant plot behind N.K. Bargodia School Sector 17, Dwarka, New Delhi and pointed out the said place stating that he and co-accused persons had committed murder of Shri Ratan Chand Papneja there by strangulating the neck of the deceased with the seat belt and a memo was prepared by Inspector Kunwar Pal Sharma. Thereafter, accused Rohit Gupta @ Gulshan led to a vacant plot in Sector 16 B, Dwarka, New Delhi and took out a bag of black colour and produced before Inspector Kunwar Pal Sharma. On checking the aforesaid recovered bag was found containing a mobile phone, driving license, spectacles, 10 keys, some coins, four gloves,

some property documents, one CD-walkman, an idol of Sai Baba, one ladies wrist watch, one artificial chain of yellow metal and three small locks belonging to deceased Ratan Chand Papneja. The bag with belongings was seized by Inspector Kunwar Pal Sharma. A site plan of place of recovery was prepared by Inspector Kunwar Pal Sharma. Thereafter, accused Rohit @ Gulshan led to a place in the parking of C123 Rama Park, Uttam Nagar, New Delhi and pointed out the said place stating that the dead body of the deceased was shifted to the dicky of the Ford Figo car from the front seat of the same. A memo of the aforesaid place in Rama Park was prepared by Inspector Kunwar Pal Sharma. Recording of the aforesaid proceedings i.e. pointing out the places and recovery was done and a CD was prepared. On 30.12.2014 a letter of SP Shamli, UP dated 28.12.2014 along with the case file pertaining to case FIR 277/14 u/s 302/201 IPC, PS Babri was received at PS Dwarka North and Inspector Ashok

Kumar Meena made endorsement on the same and the present case was registered at PS Dwarka North vide FIR 940/14 on 31.12.2014.

2. Inspector Ashok Kumar Meena got issued production warrants of accused Gourav, Parmod and Rohit Gupta and all of them were produced in the court concerned on 07.01.2015. Upon completion of investigation qua accused Parmod, Rohit Gupta and Gaurav Sharma they were charge-sheeted for the offences u/s 302/201/364/457/ 380/411/404/34 IPC. After compliance of Section 207 Cr.P.C. the case was committed to the court of Sessions.

3. It is the further case of the prosecution that on 17.01.2015 during the hearing of the anticipatory bail matter of accused Atul in District Court, Dwarka his counsel informed that the Maruti Wagon-R car no. DL3CBJ 3110 of deceased Shri Ratan Chand Papneja was in PS Sardhana, District Meerut, UP.

On the same day i.e. 17.01.2015 accused Atul had surrendered in the court and he was arrested by Inspector Ashok Kumar Meena. On 18.01.2015 accused Atul pointed out the place in parking Dwarka metro station stating that the car of the deceased was parked there and thereafter the deceased was made to sit in Ford Figo car. Accused Atul also pointed out a place near NK Bagrodia School in Sector 17 Dwarka stating that the murder of the deceased was committed there. Thereafter, accused Atul pointed out a place in Sector 16B Dwarka stating that the belongings of the deceased were kept by them in the bushes. On 19.01.2015 accused Atul pointed out a place near Shiv Chowk on the road leading towards Chabriya village in the area of PS Sardhana District Meerut,UP stating that the Maruti WagonR car of the deceased was left by him there on kachha raasta near field. It is the case of the prosecution that on 19.01.2015 the Maruti Wagon-R car of deceased was found abandoned on the kaccha road near

Shiv Chowk,Sardhana and the same was deposited in the Malkhana of PS Sardhana by Ct. Ravinder Kumar and Ct. Vir Sen. On 20.01.2015 accused Atul pointed out a place in the parking of house number C-129 Rama Park,Uttam Nagar, New Delhi stating that the dead body of the deceased was shifted in the dicky of the Ford Figo car number DL1CM 9765 from the front seat of the car. Thereafter, accused Atul pointed out house number 40/126,CR Park, New Delhi stating that they had stolen bag containing the property documents and other belongings of the deceased. As per the case of the prosecution the Ford Figo car No. DL1CM 9765 in which the dead body was recovered was registered in the name of Ms. Kirti Anand, wife of accused Atul. On 09.08.2015 ASI Kulbhushan, Finger Print Expert had inspected the Maruti Wagon-R car. The case property including Ford Figo Car and Maruti Wagon-R was got transferred from PS Babri and PS Sardhana to the Malkhana of PS Dwarka North. On 16.04.2015

the Ford Figo car no. DL1CM 9765 was taken to FSL Rohini by Ct. Sunil and SI Ashok Kumar where the same was inspected and a blood stained piece of mat was taken and was handed over to SI Ashok Kumar who sealed and seized the same. During investigation the exhibits were sent to the FSL. Upon completion of investigation accused Atul was charge-sheeted for the offence u/s 302/201/364/457/ 380/411/404/34 IPC by way of supplementary charge-sheet. After compliance of Section 207 Cr.P.C. the case was committed to the court of Sessions.

Charge against the accused:

4. Charge for the offence under Section 364/302/201/34 IPC was framed against all the accused persons. Separate charges for the offence U/s 404/454/380/34 IPC were framed against accused Rohit Gupta @ Gulshan and Atul Kumar. The accused persons pleaded not guilty and claimed trial.

5. During trial accused Parmod Kumar did not appear after the

expiry of period of interim bail and vide order dt. 19.02.2018 he was declared Proclaimed Offender.

Witnesses examined:

6. In order to prove its case, prosecution examined total 33 witnesses which are as follows:

PW-1 ASI Ramesh Chand. He deposed that on 31.12.2014 he was Duty Officer and on the basis of endorsement of SHO Inspector Ashok Kmar on the letter received from Superintendent of Police, Shamli dt. 28.12.2014, he had recorded the FIR and made his endorsement on the rukka. He proved the FIR as Ex.PW-1/A and endorsement on rukka as Ex.PW1/B. He also proved certificate U/s 65 B of Indian Evidence Act as Ex.PW1/C.

PW-2 Dr. Bipin Kumar Jain. He deposed that on 14.10.2014 he was working in District Hospital, Muzzaffar Nagar, UP and on that day he conducted postmortem of Ratan Chand Papneja. He further deposed that he had opined the cause of death in this case

was asphyxia as a result of ante-mortem strangulation and deceased had died about 1 and ½ day back from the time of conducting the postmortem. He proved the detailed postmortem report as Ex.PW-2/A.

PW-3 Sh. Ranbir Singh, Record Keeper, Transport Department Mall Road, Delhi. He deposed that as per record the registered owner of the Ford Figo car bearing No. DL1CM 9765 is Ms. Kirti Anand. He proved the particulars of vehicle as Ex.PW-3/A.

PW-4 Sh. Chander Shekhar, Nodal Officer, Bharti Airtel Ltd. He proved the customer application form and Migration Form from postpaid to prepaid in respect of mobile No. 9818838555 which was in the name of Sh. Ratan Chand Papneja as Ex.PW-4/A to Ex.PW-4/C respectively. He further proved call details of mobile No. 9818838555 from the period 01.09.2014 to 14.10.2014 and certificate U/s 65 B of the Indian Evidence Act in this regard as Ex. PW-4/D and Ex.PW-4/E respectively. He further proved cell ID

Chart of Airtel as Ex.PW-4/F. He further proved call details of mobile No. 9213446699 for the period 01.09.2014 to 31.10.2014 and certificate u/s 65 B of the Indian Evidence Act in this regard as Ex.PW-4/G and Ex.PW-4/H respectively. He further proved the certified copy of mobile phone No. 9213446699 which was in the name of Sh. Atul Kumar. Further examination of this witness was deferred for the want of original customer application form in respect of mobile phone No. 9213446699 and subsequently PW-19 Sh. Surender Kumar Nodal Officer was examined for proving the record pertaining to this mobile phone number.

PW- 5 Sh. Prem Kumar Batra. He deposed that deceased Sh. Ratan Chand Papneja was his father-in-law and was residing at H. No. 40/126, Chit Ranjan Park, New Delhi. He further deposed that on 13.10.2014, he made a call on mobile phone of deceased Sh. Ratan Chand Papneja at about 8.30/8.45 am and one person responded on the same and told that he was SI K.K. Sharma, SHO

PS Babri, UP and informed that Sh. Ratan Chand Papneja had been murdered. He further deposed that on this he along with Sh. Sanjay Papneja, Sh. Vikas Pahwa, Sh. Amar Kumar and Sh. Manohar Lal Pahwa reached police Station Babri, UP at about 5 pm on the same day. He further deposed that on 14.10.2014 after postmortem, the dead boy of the deceased Sh. Ratan Chand Papneja was handed over to them by the police vide memo Ex.PW-5/A. He further deposed that he do not remember the exact date, however, on 30th or 31st October, 2014, he joined the investigation of the present case with IO/SHO K.P. Sharma and accused Gulshan who was in the custody of IO/SHO SI K.P. Sharma. He further deposed that accused Gulshan Kumar had led them to a vacant plot behind Bargodia School Sector-17, Dwarka and he pointed the said place stating that he and accused Atul had committed murder of Sh. Ratan Chand Papneja there by strangulating his neck with the seat belt. He further deposed that

thereafter, accused Gulshan had led them to a vacant plot in Sector-16B, Dwarka and took out a bag of black colour from the garbage and produced before SI K.P. Sharma and on checking, the bag was found containing 4 hand gloves, driving licence, mobile phone, spectacles, 10 keys, some coins and some property documents. He further deposed that the driving license, mobile phone, the spectacles, 10 keys were belongings to Sh. Ratan Chand Papneja. He further deposed that the recovered property documents were pertaining to shop of Sh Ratan Chand Papneja situated at Mohan Garden. He further deposed that the recovered articles were seized by IO SI K.P. Sharma. He further deposed that thereafter, accused Gulshan had led them to C-123, Rama Park and pointed out a place in the parking stating that the dead body of deceased Sh. Ratan Chand Papneja was shifted in the dicky from the seat of the Ford Figo Car. He further deposed that he identified the mobile phone, driving license, the spectacles,

keys and the property documents before the police as belonging to deceased Sh. Ratan Chand Papneja. He further deposed that on 18.01.2015, he handed over the photocopies of registration certificate and insurance certificate of Maruti Wagon-R Car No. DL3CBJ 3110 belonging to Sh. Ratan Chand Papneja to the IO of PS Dwarka North and the same were seized by him vide Ex.PW-5/B. **Some leading questions were put to this witness by Ld. Additional PP after permission of the court and this witness further deposed that** he made call on the mobile phone of the deceased on 14.10.2014 instead of 13.10.2014. He further deposed that aforesaid recoveries were effected at the instance of the accused Gulshan on 29.10.2014. He further deposed that apart from the aforesaid articles, one wrist watch, artificial chain, ear rings, one ladies watch, one idol of Shirdi Sai Baba and one pencil thermometer were also recovered. He further deposed that a seizure memo with details of the recovered articles was prepared

by the IO at the time of recovery vide memo Ex.PW-5/C. This witness has identified the articles belonging to the deceased.

PW-6 Sh. Sanjay Papneja. He deposed that on 14.10.2014 his father Sh. Vasdev Papneja received a phone call from Sh. Subhash Manocha that his uncle Sh. Ratan Chand had been murdered and his dead body had been recovered in a Ford Figo car near Police Check Post Shamli, U.P. He further deposed that on receipt of this information, he along with his relatives had gone to court at Mujjaffar Nagar. He further deposed that accused Rohit Gupta, Parmod and Gaurav Sharma were found in custody of SHO Sh. K.K. Sharma. He further deposed that on the same day in the night, they had gone to mortuary where the dead body of deceased Sh. Ratan Chand Papneja was kept and they identified the dead body of deceased Sh. Ratan Chand Papneja. He further deposed that after the postmortem examination of the dead body, the dead body of the deceased was received by them.

PW-7 Smt. Anjali Pahwa. She deposed that deceased Sh. Ratan Chand Papneja was her father who was residing at H. No. 40/126, Ground Floor, CR Park, New Delhi. She further deposed that Sh. Rajeev Papneja is her brother and he resides in Canada and Ms. Ritu Batra is her sister and she is residing in Uttam Nagar, New Delhi. She further deposed that her mother Smt. Savitri Papneja had expired in the year 2010. She further deposed that her house is at a distance of 300-400 mtrs from the house in which his father was residing. She further deposed that there were two shops of her father at Mohan Garden, Uttam Nagar and he wanted to sell the same in the year 2014 and talks were going on between him and accused Rohit Gupta. She further deposed that 4-6 days before murder of her father, she was told by her father that 3-4 persons were coming to him for talking about the sale of his shops. She further deposed that accused Atul, Rohit Gupta and Parmod had come to her father at his house and at that time she was

present there and after some time, she left from the house of her father. She further deposed that on the same day, her father told her on phone that the deal with regard to the sale of his shop would be finalized soon. She further deposed that on 13.10.2014 in the day time, her father was at her home because he used to take care of her son when she remains on duty in her school. She further deposed that on 13.10.2014, she came home at about 02.30 pm and her father told her that the deal was finalized and Atul was ready to buy the shops through accused Rohit @ Gulshan. She further deposed that on that day, her father left in his Maruti Wagon R Car at around 02.30 pm. She further deposed that she tried to contact on his mobile phone at around 03.30 pm but he did not take a call. She further deposed that she thought that he must be busy in talking regarding the deal of the shops. She further deposed that when her father left, she told him to return soon because in the late hours, he might have problems in

driving and on this, he told her that in case, he would be late, he would stay at her elder sister's house at Uttam Nagar. She further deposed that on 14.10.2014, in the morning, she went to school for duties and at around 08.30, she received a call from her maternal uncle Sh. Subhash Manocha, who told her that her father had been murdered and his body was in Shamli, UP. She further deposed that thereafter, she alongwith her husband Sh. Vikas Pahwa, cousin brother Sanjay Papneja and 2-3 other relatives went to Shamli Police Station. She further deposed that SHO Sh. K.K. Sharma met them at the police station and told them that they had apprehended three persons in a car with the dead body of her father. She further deposed that accused Rohit Gupta @ Gulshan, Parmod and Gaurav Sharma were in the police custody at that time in the police station. She further deposed that all these accused persons had confessed regarding the murder of her father and they disclosed that accused Atul was also involved and all was

done on asking of accused Atul. She further deposed that accused persons further disclosed that they intended that after murdering her father, they would take the original documents of shops of her father in their custody and will sell those shops and they thought that they would get money after selling the shops and nobody will claim the shop as her father was living alone.

PW-8 Sh. Naresh Batra. He deposed that deceased Sh. R.C. Papneja was father in law of his elder brother Sh. Prem Kumar Batra. He further deposed that on 29.10.2014, he joined the investigation of the present case with SHO Sh. K.P. Sharma and his brother Sh. Prem Kumar Batra. He further deposed that accused Gulshan Kumar, led them behind a school, Sector-17, Dwarka, New Delhi and pointed out the place stating that they had committed murder of deceased Papneja there. He further deposed that thereafter, accused Gulshan Kumar led to Kudaghar, Sector-16B, Dwarka, New Delhi and he took out a black colour bag from

the garbage. He further deposed that on checking the said bag was found containing driving license, mobile phone, spectacles, property documents of Sh. Papneja. He further deposed that one small box of red colour was also found in the said bag and said box was containing some coins, wrist watch, artificial jhumke and an idol of Sai Baba. He further deposed that the said black colour bag was seized by the police vide Ex.PW-5/C.

PW-9 Sh. Sanjay Kumar. He deposed that in the year 2014, he was working in Paprika Hospitality Pvt. Ltd. as General Manager and accused Atul Kumar joined their organization on 01.08.2014. He further deposed that accused Atul Kumar did not come on duty on 11.10.2014 and remained absent thereafter and he was terminated from job w.e.f. 31.10.2014 owing to his absence by order dt. 07.11.2014. He further deposed that during investigation of this case, on asking of IO, he handed over the attested copy of attendance register of October, 2014 along with copy of Order dt.

07.11.2014 and copies of letters dt. 20.10.2014 and 29.10.2014. He proved the letter addressed to the SHO as Ex.PW-9/A and attested copy of attendance register as Ex.PW-9/B.

PW-10 Sh. Vikas Pahwa. He deposed that deceased Sh. Ratan Chand Papneja was his father-in-law. He further deposed that he was married with Ms. Anjali Pahwa D/o Late Sh. Ratan Chand Papneja in the year 1997. He further deposed that Sh. Ratan Chand Papneja was residing alone and was having two shops at Mohan Garden, Uttam Nagar and wanted to sell out the said shops through accused Rohit Gupta @ Gulshan. He further deposed that on 13.10.2014, his father in law had gone to Uttam Nagar in his Maruti Wagon-R car of white colour bearing no. 3110 of Delhi at about 2.15/2.30 pm stating that he was going in connection with the sale of the shops. He further deposed that on next day in the morning at around 9-9.30 am Sh. Subhash Manocha told him on phone that Sh. Ratan Chand Papneja had been murdered which

he came to know from Insp. K.K. Sharma of Shamli Police, UP. He further deposed that on receipt of this information he along with his wife Ms. Anjali Pahwa, Sh. Sanjay Papneja, Sh. Sandeep Kumar, Sh. Prem Batra and one Mause of his wife went to PS Shamli where accused Rohit @ Gulshan, Parmod and Gaurav Sharma were found in police custody. He further deposed that he was told by the police that the said accused persons had committed murder of Sh. Ratan Chand Papneja. He further deposed that after postmortem, they received the dead body of Sh. Ratan Chand Papneja. He further deposed that on reaching at the house of Sh. Ratan Chand Papneja after returning from Shamli, he noticed that the articles in the house were scattered and the property documents and some cash were missing.

PW-11 SI Hari Ram Sharma, Special Branch, Intelligence Shaharanur, UP. He deposed that on 13.10.2014 he along with Insp. K.K. Sharma SHO, Ct. Driver Kiranpal Singh, Ct. Ranpal

Singh, Ct. Ranpal Singh, Ct. Vinit and Ct. Rachit were on checking at Khedi Bairagi Mandir on Mujjaffar Nagar Shamli Road and at about 10.30 pm one car was seen coming in a fast speed from Shamli side and they signaled the said car to stop but the driver of the car did not slow down the speed of the car and on this they got stopped the said car by putting the barricades. He further deposed that the said car was Ford Figo bearing No. DL1CM9765 and one person was found on the driving seat of the car and two persons were sitting on the rear seat. He further deposed that on enquiries by SHO Insp. K.K. Sharma and other staff the person on the driver seat told his name as Parmod Kumar @ Pintu and out of two persons sitting on the rear seat, one disclosed his name as Rohit Gupta @ Gulshan and the other disclosed his name as Gaurav Sharma @ Guddu Pandit. He further deposed that aforesaid persons were interrogated as to why they had not stopped and on this they disclosed that they had a dead body in the Dicky of their

car and thereafter the dicky of the car was checked and one dead body of a male person, aged about 55/60 years was found. He further deposed that the name of the deceased was revealed as Ratan Chand Papneja R/o C.R. Park, Delhi. He further deposed that Inspector K.K. Sharma prepared a seizure memo of dead body and had taken all the three accused persons in custody and car was also taken into police possession. He further deposed that after preparing the necessary documents, SHO Inspector K.K. Sharma had gone to the PS for registration of the case. He further deposed that he and Ct. Ranpal were deputed with the dead body at the spot. He further deposed that on 13.10.2014 after recovery of dead body, car and arrest of accused persons, Insp. K.K. Sharma prepared a memo vide Ex.PW-11/A.

PW-12 Ct. Rambir Singh. He deposed that on 14.10.2014 he was posted at PS Babri, Distt. Shamli, UP and working as Duty Officer. He further deposed that he recorded FIR No. 109/14 and

Crime No. 277/14 PS Babri on the basis of rukka sent by Insp. K.K. Sharma SHO. He proved the FIR as Ex.PW-12/A.

PW-13 Ct. Mukesh Kumar. He deposed that on 14.10.2014, he was posted at PS Babri Distt. Shamli, UP and on that day on checking of Ford Figo car of white colour at the police station, one SIM card of Airtel was recovered from the same. He further deposed that on the instruction of Insp. K.K. Sharma, the said SIM card was inserted in his mobile phone and Insp. K.K. Sharma had made a call from his mobile phone by using the said SIM Card. He further deposed that a seizure memo of the SIM card was prepared by Inspector K.K. Sharma vide Ex.PW-13/A. He further deposed that a document regarding the aforesaid proceedings was also prepared by Insp. K.K. Sharma vide Ex.PW-13/B.

PW-14 Sh. Sanjeev Bajaj. He deposed that he knew accused Rohit Gupta since the year 2007. He further deposed that earlier he was working as property dealer and due to the said business,

he came in contact of accused Rohit Gupta and in the year 2015 he was using mobile number 9212718413. He further deposed that he used to talk with the accused Rohit Gupta on his mobile number. **Some leading questions were put to this witness by Ld. Additional PP after permission of the court and this witness further deposed that** he is not sure if the mobile number of accused Rohit Gupta was 9717151542.

PW -15 Sh. Lalit. He deposed that he does not know accused Gourav Sharma and does not do anything about this case. He further deposed that he had never given the SIM card to any person for using the same at any point of time and his statement was not recorded by the police. **This witness did not support the case of the prosecution and he was cross examined by the Ld. Addl.PP** and despite that he denied the suggestion that he knew the accused since 8th Class or that he was studying with him. He further denied the suggestion that accused Gaurav Sharma is

his friend. He further denied the suggestion that in the year 2014 on his request he had given a SIM card of phone number 9210750698 which was in the name of his father Sh. Hazari Lal. He further denied the suggestion that in October, 2014 accused Gaurav Sharma was using the aforesaid phone number 9210750698.

PW-16 Sh. Gaurav Kumar. He deposed that he know accused Rohit Gupta @ Gulshan for the last 8-10 years. He further deposed that in the year 2014 accused was using a mobile phone number of which he does not remember now. He further deposed that he used to talk him on the said mobile phone and later on he came to know that he has been arrested in the present murder case. **In voluntarily** he deposed that accused was lifted from his house by the police. **This witness did not support the case of the prosecution and he was cross examined by the Ld. Addl.PP** and despite that he denied the suggestion that he had

mentioned the number as 9716151542 to the police. He further denied the suggestion that accused Rohit Gupta was not lifted by the UP Police from his house.

PW-17 Ct. Vineet Kumar. He deposed that on 13.10.2014 he was posted at PS Babri, District Shamli, Uttar Pradesh and he along with Inspector/SHO K.K. Sharma, SI Hari Ram Sharma, Ct. Ranpal and other police staff including driver of the Jeep were present near Kheri Beragi Mandir on Mujjaffarnagar Shamli Road for checking duty. He further deposed that at about 10.30 pm one Ford Figo car had come on the road from the side of Shamli and said car was singled to stop by giving signal with torch and car was stopped with the help of barricade. He further deposed that there were three occupants in the said car and they were asked as to why they had not slowed the speed of the car despite signal. He further deposed that accused persons were asked to come out from the car and to show the documents. He further deposed that

on checking of the car dead body of a male person was found in the dicky of the car bearing no. DL1CM9765. He further deposed that on interrogation the accused persons disclosed that they have brought this dead body from Delhi and were carrying on towards Mujjaffar Nagar for its disposal so that its identity could not be revealed. He further deposed that a seizure memo of the dead body and car was prepared by Inspector K.K. Sharma vide Ex.PW-11/A.

PW-18 Sh. Rajat Kumar. He deposed that he know accused Gaurav Sharma and accused Gaurav Sharma was working with him. He further deposed that he does not know which mobile phone number he was using in the year 2014 & 2015. He further deposed that he is using mobile phone number 9599778533 for the last more than 10 years. He further deposed that he do not know anything about this case. **This witness did not support the case of the prosecution and he was cross examined by**

the Ld. Addl.PP and despite that he denied the suggest that in the year 2014 accused Gaurav was using mobile number 9210750698. He further denied the suggestion that he used to talk with accused Gaurav on Mobile No. 9210750698 from his mobile No. 9599778533 in the year 2014. He further denied the suggestion that his statement was recorded by the police in which he had stated that he used to talk with accused Gaurav on mobile No. 9210750698 from his mobile no. 9599778533 in the year 2014.

PW-19 Sh. Surender Kumar, Nodal Officer of Bharti Airtel Ltd.

He deposed that mobile phone No. 9818838555 was issued in the name of Ratan Chand Papneja vide customer application form Ex.PW-4/A and supporting documents Ex.PW-4/B and Ex.PW-4/C . He also proved certificate u/s 65 B of Indian Evidence Act as Ex.PW-4/E. He further deposed that mobile phone number 9213446699 was issued in the name of Atul Kumar s/o Sh.

Thridashu Bhardwaj vide CAF Ex.PW-19/A. He also proved the supporting documents as Ex.PW-19/B and Ex.PW-19/C which were deposited at the time of filing of CAF. He also proved the call details record of this mobile phone from 01.09.2014 to 31.10.2014. He further proved CDR of mobile phone number 9213446699 as Ex.PW-19/D and certificate U/s 65 B of Indian Evidence Act as Ex.PW-19/E. He further deposed that mobile phone no. 9268277499 does not belong to Bharti Airtel and is not issued by the company. He further deposed that Tata Tele Services has been taken over by Bharti Air Tel Ltd. In January, 2019. He further deposed that mobile phone no. 9210750698 was issued in the name of Vikrat s/o Sh. Hari Shanker vide customer application form Ex.PW-19/F and at the time of filing of CAF, supporting documents i.e. copy of Voter ID card Ex.PW-19/G was submitted. He further deposed that mobile phone no. 9212446699 was issued in the name of Atul Kumar S/o Sh. Tridshu Bhardwaj

vide customer application form Ex.PW-19/H and at the time of filing of CAF supporting document i.e. Copy of DL Ex.PW-19/I was submitted. He further proved the call details record of his mobile phone of the period from 01.09.2014 to 31.10.2014 as Ex.PW-19/J and Tower location chart of the said mobile phone as Ex.PW-19/K and certificate U/s 65 B of Indian Evidence Act given by the then Nodal Officer Sh. Rajiv as Ex.PW-19/L. He further deposed that during investigation the then Nodal Officer Sh. Rajiv submitted all the documents pertaining to mobile phone number 9212446699 to the SHO vide Ex.PW-19/M.

PW-20 Ct. Ravinder Kumar. He deposed that on 19.01.2015 he was posted at PS Sardana, Uttar Pradesh and was on duty along with Ct. Veer Sen. He further deposed that while patrolling they were going towards Chabariya Road from Sardana and about 1 km ahead of Shiv Chowk Sardana towards Chabariya they saw one abandoned white colour Wagon-R car at the left side on

Kacha way along side field of wheat crop. He further deposed that they tried to find out the owner of the said car but could not get any clue about it. He further deposed that the front bumper and front light of the car was damaged. He further deposed that engine number of the car was 17504 and Chasis No. was 92559.

PW-21 Ct. Veer Sen. He deposed on the same line as deposed by PW-20 Ct. Ravinder Kumar. He further proved the photographs of Wagon-R as Ex.PW-21/A1 to Ex.PW-21/A4.

PW-22 ASI Kulbhushan. He deposed that on 09.08.2015 he was posted as Finger Print Expert in Crime Team, South West and inspected the Maruti Wagon-R car having engine No. 17504 and Chasis No. 92559 at the premises of PS Dwarka North on the request of the IO. He further deposed that during inspection no chance print were found in the car. He further deposed that he prepared inspection report vide Ex.PW-22/A and handed over the same to IO.

PW-23 ASI Chaman Singh. He deposed that on 14.04.2015 on the instructions of the IO/Inspector Ashok Kumar, he along with Ct. Manoj went to PS Babri, Shamli UP and collected one sealed pullanda pertaining to deceased R.C. Papneja sealed with the seal of DHM containing the clothes of the deceased, one sealed plastic container containing SIM card and sample seal from MHCM PS Babri. He further deposed that he also collected a Ford Figo Car No. DL1CM9765 from the MHCM PS Babri and brought all the aforesaid articles and Ford Figo Car to PS Dwarka North and deposited in the Malkhana with MHCM. He further deposed that he seized the Ford Figo Car along with key vide Ex.PW-23/A, pullanda pertaining to deceased vide Ex.PW-23/B and plastic container containing the SIM Card vide Ex.PW-23/C. He further deposed that on 01.08.2015 on the instruction of the IO/Inspector Ashok Kumar, he along with Ct. Kuldeep went to PS Sardana, District Meerut, UP and collected Wagon-R Car no. DL-3CBJ3110

having engine No. 17504 and Chasis No. 92559 from MHCM, PS Sardana. He further deposed that both the number plates, lights and battery were missing from the car and its front bumper was also in broken condition at the time when the car was received by them and he seized the car vide memo Ex.PW-23/D.

PW-24 Ct. Sunilj. He deposed that on 16.04.2015 on the directions of SI Ashok Kumar, he received one vehicle Ford Figo No. DL1CM9765 from the Malkhana of PS Dwarka North and they took the same to FSL Rohini. He further deposed that FSL Team inspected the vehicle at their office and took one piece from the mat which was having blood from the dicky of the car and kept the same in a brown envelope and handed over the same to SI Ashok Kumar. He further deposed that SI Ashok Kumar kept this envelope in a white colour cloth and prepared pullanda and gave it the seal of AK and he seized the same vide seizure memo Ex.PW-24/A. He further deposed that his statement was recorded

by the SHO/IO Inspector Ashok Kumar. He proved the photographs in which car was identified by him as Ex.PW-24/B and Ex.PW-24/C. He further proved piece of mat as Ex.P1.

PW-25 Sh. Pawan Singh, Alternate Nodal Officer Vodafone Idea Ltd. He proved the customer application form, supporting documents, call details record w.e.f. 01.09.2014 to 13.10.2014 and call location chart of mobile phone no. 9990712505 issued in the name of Anil s/o Sh. Suresh as Ex.PW-25/A, Ex.PW-25/B, Ex.PW-25/C, Ex.PW-25/D respectively. He further proved Certificate U/s 65 B of Indian Evidence Act as Ex.PW-25/E.

PW-26 Inspector K.K. Sharma. He deposed that on 13.10.2014, he was posted as SHO at PS Babri, District Shamli, UP and on that day he along with SI Hari Ram Sharma, Ct. Bineth, Ct. Rachit Kumar, Ct. Ranpal and Driver Ct. Kiran Pal were present near Kheri Bairagi Tiraha at Shamli Babri Road near Mandir for Vehicle checking duty. He further deposed that at about 10.30 pm one car

came from Shamli Side in a fast speed and the same was signaled to stop but the driver of the car did not decrease the speed and on doubt barriers were put before the car with the help of the staff and the car was managed to stop. He further deposed that the said car was found make Ford Figo bearing No. DL1CM9765 of white colour and one person was found on driver seat and two persons were found sitting on the rear seat. He further deposed that on enquiries the driver told his name as Parmod Kumar @ Pintu and he asked him as to why he was not stopping the car despite signal. He further deposed that accused Parmod Kumar @ Pintu stated that there was a dead body in the dicky of the car. He further deposed that two persons who were sitting on the rear seat revealed their name as Rohit Gupta and Gaurav Sharma and all the accused persons were apprehended so that they could not escape. He further deposed that thereafter, the dicky of the car was checked and a dead body of a male was found in the dicky

and the accused persons stated that the dead body was of Sh. Rattan Chand Papneja who was murdered by them along with their fourth accomplice namely Atul S/o Sh. Tridshu Bhardwarj r/o Village Kalan, District Meerut and Rama Park, PS Uttam Nagar, New Delhi. He further deposed that since the accused persons had confessed about the murder and the dead body of the deceased was recovered from their possession in the aforesaid car, all the three accused persons were taken into police custody and due to late night hours, the car with dead body and the accused persons were brought to the police station and deposited in Malkhana. He further deposed that on next morning, the search of the car was taken in which a SIM Card was recovered and on enquiry the accused persons could not give any satisfactory reply about the SIM card. He further deposed that the SIM card was inserted in mobile phone of Ct. Mukesh Kumar and as soon as the SIM activated in the mobile phone, a call was

received and the caller told his name Subhsh Manocha and told that Rattan Chand Papneja was his brother-in-law (Jija) and they were searching him since yesterday and he was not traceable. He further deposed that he told him about the recovery of the dead body of Sh. Rattan Chand Papneja and arrest of the accused persons. He further deposed that Sh. Subhash Manocha requested him to get the postmortem after their arrival at the police station. He further deposed that he kept the SIM Card in a plastic dibi and sealed the same with his seal and seized vide seizure memo Ex.PW-13/A. He further deposed that he also prepared a separate memo regarding the search and inserting the SIM card in the mobile phone of Ct. Mukesh Kumar vide Ex.PW-13/B. He further deposed that he prepared a detailed memo regarding the recovery of the dead body, car and arrest of the accused persons vide Ex.PW-11/A. He further deposed that memo Ex.PW-11/A was presented before the Duty Officer for registration of the FIR

and on the basis of the same FIR Ex.PW-12/A was registered. He further deposed that on the request of the relative of the deceased the postmortem was delayed and he had written a letter Ex.PW-2/A to the District Magistrate, Muzzaffar Nagar requesting him to get conducted the postmortem in the night. He further deposed that after FIR the initial investigation of the case was conducted by SI Om Prakash Kalyani and further investigation was conducted by Inspector K.P. Sharma.

PW-27 Ms. Kirti Anand. She deposed that she is the registered owner of Ford Figo car No. DL-1CM9765 since 25th July, 2012. She further deposed that said car was seized by the police in the present case and she got released the same on Superdari by the order of the court dt. 09.07.2015. She proved the superdiginama as Ex.PW-27/A and receipt with regard to receiving of aforesaid car as Ex.PW-27/B.

PW-28 Sh. Amit Kumar Sharma, Alternate Nodal Officer,

Reliance Communication Ltd. He proved the customer application form **as Mark-A** of Mobile phone No. 9555049293 which is in the name of Parmod Kumar R/o 104, Vikas Enclave, Rana Enclave, Part-2, Delhi and call details record w.e.f. 02.09.2014 to 12.10.2014 **as Mark-B**. He further proved certificate U/s 65 B of Indian Evidence Act as Ex.PW-28/A. He further proved the covering letter/reply of 91 Cr.P.C. notice as Ex.PW-28/B. He further proved the letter showing the details of customer in respect of the mobile phone no. 9555049293 as Ex.PW-28/C. He further deposed that original record of CAF has been destroyed as per the guidelines issued by DOT and he proved the copy of said order as Mark-C.

PW-29 Inspector Kunwar Pal Sharma (K.P. Sharma). He deposed that on 20.10.2014 he got investigation as per order of Ld. S.P. Shamli of the present case which was at that time registered in PS Babri, District-Shamli. He further deposed that he

got the papers and started investigation and got permission of the court to interrogate the accused persons namely Rohit @ Gulshan, Parmod and Gaurav Sharma in the jail who were lodged in Muzaffar Nagar Jail. He further deposed that he interrogated all the above accused persons separately in Jail and they confessed their guilt. He further deposed that he recorded the statements /disclosure statements of accused Rohit vide Ex.PW-29/A, accused Parmod vide Ex.PW-29/B and accused Gaurav Sharma vide Ex.PW-29/C. He further deposed that accused Rohit had stated in his statement that he can get the goods of deceased recovered, hence he took police remand of accused Rohit from the court. He further deposed that accused Rohit had revealed in the disclosure statement that he can take the police to the location where crime was committed and can describe how and in what manner it was committed. He further deposed that statement of Sh. Subhash, his wife were recorded by him in Delhi on

22.10.2014 and statement of son of deceased and other family members were recorded by him on 23.10.2014. He further deposed that at the instance of accused Rohit they reached at Dwarka Metro Station where on pointing out of accused Rohit, site plan was drawn vide Ex.PW-29/D. He further deposed that thereafter, accused Rohit led them to near Baghroria School, at a vacant land of DDA and pointed out towards a narrow road which was having bushes on both the sides claiming the same to be spot where murder was committed. He further deposed that sketch in this regard was prepared vide Ex.PW-29/E. He further deposed that accused Rohit led the entire police team along with Mr. Prem Batra and his brother to an open dry drain covered with lots of bushes in Dwarka from where recovery of black bag containing mobile phone, certain documents in the form of power of attorney in favour of deceased having photo of deceased thereon, specs, surgical gloves, one gents watch, one box containing keys, lady's

wrist watch, artificial beads necklace, certain coins and ear rings were recovered. He further deposed that recovery memo was drawn vide Ex.PW-5/C. He further deposed that at the time of recovery of articles at the instance of accused Rohit, he had also prepared a site plan of place of recovery vide Ex.PW-29/F1. He further deposed that accused Rohit led them to place at Rama Park, Uttam Nagar where the dead body was shifted from front seat to dicky of car make Ford Figo and sketch in this regard was prepared vide Ex.PW-29/F. He further deposed that after recovery, the additional penal provisions were incorporated in the investigation of the present case and addition of Section 364/457/380/404/411/34 IPC was made and further judicial remand of accused persons was obtained under the aforesaid penal provisions in addition to Section 302/201 IPC. He further deposed that the statements of witnesses to the recovery were recorded by him and thereafter he was transferred and

investigation of present case was also transferred to Delhi. **Some leading questions were put to this witness by Ld. Additional PP after permission of the court and this witness further deposed that** CD was prepared on the day when the accused was taken to Metro Station and during proceedings of recovery were completed. He proved the CD as Ex.PW-29/G.

PW-29 Sh. Varun. This witness did not support the case of the prosecution and he was cross examined by the Ld. Addl.PP and despite that he denied the suggestion that he knew accused Gaurav Sharma for the last many years and three years back from the year 2015. He further denied the suggestion the he used to talk to accused Gaurav Sharma on mobile phone no. 9210750698 from mobile no. 9716144208. In voluntarily he deposed that he was not using mobile No. 9716144208. He further denied the suggestion that he is not deliberately deposing about talking accused Gaurav Sharma on mobile No. 9210750698.

PW-31 SI Ashok Kumar. He deposed that on 17.01.2015 he joined the investigation of the present case with IO/SHO Inspector Ashok Kumar Meena and during investigation accused Atul Kumar was arrested vide Ex.PW-31/A in Court Complex Dwarka by the IO in his presence and his personal search was conducted vide memo Ex.PW-31/B. He further deposed that accused Atul was interrogated and his disclosure statement was recorded by the IO vide memo Ex.PW-31/C. He further deposed that four days custody remand of the accused was obtained by the IO and during police custody remand on 18.01.2015 accused Atul pointed out the place at near parking Metro Station Dwarka where he had got parked the car of the deceased and got the deceased sit in his car vide memo Ex.PW-31/D. Accused also pointed out the place where the deceased was murdered vide pointing out memo Ex.PW-31/E. He further deposed that accused also pointed out the place near Janta Flats Sector-16B, Dwarka, New Delhi, where

the bag of the deceased was kept vide memo Ex.PW-31/F. He further deposed that on 19.01.2015 accused Atul led the police party including him and IO/Inspector Ashok Kumar Meena to a place in Sardhana District Meerut (UP) and pointed out that he had left the car of the deceased there. He further deposed that a pointing out memo was prepared by the IO at the instance of the accused vide Ex.PW-31/G and thereafter they went to PS Sardhana and the IO recorded the statements of the concerned Police Officials of PS Sardhana. He further deposed that on 20.01.2015 accused Atul pointed out the place vide Ex.PW-31/H at Rama Park, Uttam Nagar, New Delhi where the dead body of the deceased was shifted from inside the car to the dickey. He further deposed that accused also pointed out the house of the deceased at 40/126 CR Park, New Delhi vide Ex.PW-31/H1. He further deposed that on 16.04.2015, he along with Ct. Sunil had taken the Ford Figo car No. DL-1CM-9765 to FSL Rohini on the instructions

of the IO/SHO Inspector Ashok Kumar Meena. He further deposed that after inspection a piece of mat was cut by the FSL team. He further deposed that the said piece of mat was having blood stains and same was given to him by the team of FSL in a khaki colour envelope. He further deposed that the same was converted by him in a pullanda and was sealed with the seal of AK and seized vide memo Ex.PW-24/A. He further deposed that on 06.05.2015 he had taken the exhibits in sealed condition to FSL Rohini with specimen seal on the instructions of the IO/SHO Inspector Ashok Kumar Meena after receiving the same from the MHCM. He further deposed that he deposited the exhibits and specimen seal with FSL Rohini.

PW-32 Inspector Ashok Kumar Meena. He deposed that on 30.12.2014 a letter dt. 28.12.2014 of SP Shamli, UP addressed to Deputy Commissioner of Police, South West District Ex.PW-32/A was received at the police station through the office of DCP along

with the case file in original pertaining to case FIR No. 277/14 U/s 302/201 IPC registered at PS Babri, District Shamli upon which he made endorsement vide Ex.PW-32/B. He further deposed that he had gone through the entire record and made his endorsement on the letter of the SP Shamli. He further deposed that the investigation of the case was taken up by him and during investigation he got issued the production warrants of the accused who were arrested by the UP Police. He further deposed that on 07.01.2015, accused Parmod Kumar @ Pintu, Rohit Gupta @ Gulshan and Gaurav Sharma @ Guddu Pandit were produced in the court concerned. He further deposed that during investigation, he collected the documents of ownership of the car make Ford Figo bearing No. DL-1CM-9765 which was used in transporting the dead body. He further deposed that he also recorded statement of witnesses and on completion of investigation qua accused Parmod Kumar @ Pinntu, Rohit Gupta @ Gulshan and Gaurav Sharma @

Guddu Pandit charge sheet was filed. He further deposed that till the filling of the said charge-sheet the car of the deceased which was Maruti Wagon-R Car No. DL-3CBJ 3110 was not recovered. He further deposed that on 17.01.2015, he attended the anticipatory bail matter pertaining to accused Atul in District Court Dwarka and during the hearing of bail matter, the counsel for the accused Atul informed that the Maruti Wagon-R Car No. DL-3CBJ 3110 of the deceased was in PS Sardhana, District Meerut (UP). He further deposed that accused Atul had surrendered in the court on the same day i.e. 17.01.2015 and he was arrested vide memo Ex.PW-31A and his personal search was conducted vide memo Ex.PW-31/B and disclosure statement of accused Atul was recorded vide Ex.PW-31/C. He further deposed that the police custody remand of accused Atul was taken and during PC on 18.01.2015 accused Atul pointed out the place in parking Dwarka Metro Station vide Ex.PW-31/D stating that the car of the

deceased was parked there and thereafter the deceased was made to sit in Ford Figo Car. He further deposed that thereafter, accused Atul pointed out the place vide Ex.PW-31/E in Sector-17 Dwarka near N.K. Bagrodia School stating that the murder of deceased was committed there. He further deposed that thereafter accused Atul pointed out a place in Sector-16B Dwarka vide memo Ex.PW-31/F stating that the belonging of the deceased were kept by them in the bushes. He further deposed that on the same day i.e. 18.01.2015 Sh. Prem Kumar handed over the photocopy of RC and Insurance of Maruti Wagon-R car no. DL-3CBJ3110 and he seized the same vide Ex.PW-5/B. He further deposed that on 19.01.2015 he along with accused Atul and other police staff including SI Ashok Kumar went to the area of PS Sardhana, District Meerut, UP and accused Atul pointed out a place, near Shiv Chowk on the road leading towards Chabriya Village vide memo Ex.PW-31/G stating that the Maruti Wagon-R

car of the deceased was left by him on the Kacha Rasta near the field. He further deposed that they went to PS Sardhana and examined Ct. Ravinder and Ct. Veer Sain and recorded their statement and thereafter they returned to PS Dwarka North. He further deposed that on 20.01.2015 accused Atul pointed out a place in the parking of house No. C-129 Rama Park, Uttam Nagar, New Delhi vide Ex.PW-31/H stating that the dead body of the deceased was shifted in the dicky (boot space) of Ford Figo Car No. DL-1CM-9765 from the seat of the car. He further deposed that accused Atul led the police party to House No. 40/126 CR Park, New Delhi and stated that they had stolen bag containing the property documents and other belongings of the deceased. He further deposed that a pointing out memo was prepared at the instance of accused Atul vide memo Ex.PW-31/H1. He further deposed that during the aforesaid proceedings SI Ashok was also with him and during investigation he also recorded the statements

of witnesses and the case property i.e. the Ford Figo car and Maruti Wagon-R car were got transferred to Delhi. He further deposed that the Ford Figo car was sent to FSL for examination. He further deposed that he also collected the call details record of the mobile phones of the accused persons along with the relevant documents. He further deposed that after completion of investigation charge-sheet qua accused Atul was filed. He proved the FSL report and its Annexure as Ex.PW-32/C and Ex.PW-32/D respectively.

PW-33 ASI Vijay Kumar. He deposed that on 14.04.2015 the case property i.e. one Ford Figo Car bearing DL1CM9765 along with key, two sealed pulandas and one sample seal were deposited in Malkhana with him by HC Chaman Singh. He further deposed that entry to this effect was made in register No. 19 vide entry No. 1010 as Ex.PW-33/A. He further deposed that on 16.04.2014 one sealed pulanda sealed with the seal of AK was

deposited in Malkhana with him by SI Ashok and entry to this effect was made in register No. 19 vide entry no. 1013 as Ex.PW-33/B. He further deposed that on 06.05.2015 two sealed pulandas and one sample seal pertaining to this case were sent to FSL Rohini through SI Ashok Kumar vide RC No. 50/21/15 Ex.PW-33/C on the instructions of IO/SHO and after returning from FSL SI Ashok Kumar handed over him the receipt of FSL Ex.PW-33/D

7. Vide order dated 26.11.2019, prosecution evidence was closed on the submissions of Ld. Addl. PP as all the material witnesses were examined.

Statement U/s 313 Cr.P.C.

8. The statements of accused were persons recorded u/s 313 Cr.P.C. and the entire evidence was put to them which they denied and pleaded innocence. They denied their involvement in the murder of the deceased. Accused Atul wanted to lead

evidence in support of his case and rest of the accused did not wish to lead any evidence in their defence. However, later on one witness was produced by accused Rohit in his defence after permission of the court. The following DWs were examined.

DW-1 Sh. Kamal Sondhi. He deposed that he has a Mandir at L12 Mohan Garden, Uttam Nagar, Delhi since the year 2008 and used to go in the aforesaid Mandir daily at about 7 am for prayer. He further deposed that accused Rohit Gupta @ Gulshan was residing in a house in front of the aforesaid mandir. He further deposed that he does not remember the exact date, however, it was morning of either 14th or 15th of October, 2014, Uttar Pradesh Police along with one or two constables of Delhi police had come to the house of Rohit Gupta and had taken him with them and later on he came to know that accused Rohit Gupta has been implicated in a murder.

DW-2 Sh. Ajay Kumar. He deposed that he is practicing

advocate since the year 2008 and one day in the month of January 2015 accused Parmod Kumar (PO) was produced in the court of Ld. MM Dwarka. He deposed that he also appeared in the said court on the instructions of his client Sh. Atul and he had talked to accused Parmod Kumar and he told him that the Maruti Wagon -R car of white colour involved in this case was lying in PS Sardhana, District Meerut UP which was recovered by the police of PS Shamli, UP.

DW-3 Mrs. Fakhreshaba Khan, Manager Canara Bank. She proved statement of account pertaining to bank account no. 2823108001358 of one Atul vide Ex.DW-3/A. She further deposed that said account has been closed on 31.03.2016. She further proved certificate u/s 65 (b) of the Indian Evidence Act as Ex. DW-3/B.

9. I have heard the Addl. PP for the State and Sh. Parnav Gupta, Counsel for the complainant, Sh. D.S. Kohli, Counsel for

accused Atul, Sh. Manish Kumar Counsel for accused Rohit Gupta and Sh. Mukesh Sharma Counsel for accused Gaurav Sharma. The material on record has been perused.

ARGUMENTS OF PROSECUTION:

10. It is submitted by Ld. Addl. PP for the State that all the accused persons in furtherance of their common intention abducted Sh. Ratan Chand Papneja deceased on 13.10.2014 at about 2.30/ 3 pm from the parking of Metro Station Dwarka and took him to a vacant plot near N.K. Bagrodia School, Sector -17 Dwarka in Ford Figo Car and committed his murder and thereafter, shifted the dead body of deceased in the dicky of the car. It is further submitted that accused Parmod (PO), Rohit Gupta and Gaurav Sharma had carried the dead body of the deceased to Mujjaffar Nagar Road, UP and they were apprehended by the UP Police officials at Mujjaffar Nagar Shamli Road near Khedi Beragi Mandir on 13.10.2014 at about 10.30 pm,

who were present there for vehicle checking duty. It is further submitted that the dead body of the deceased was recovered from these three accused persons from the dicky of the car. It is further submitted that SIM Card of deceased was also recovered from the aforesaid Ford Figo car. It is further submitted that a case was registered at PS Babri District Shamli. It is further submitted that during the investigation of the case the accused persons were interrogated and they disclosed about the involvement of accused Atul in the commission of the murder. It is further submitted that at the instance of accused Rohit the belongings of deceased were recovered from a vacant plot near Bagrodia School, Sector-17, Dwarka. It is further submitted that all the accused persons were in contact with each other through their mobile phones, which shows that the murder of the deceased was committed by them in a planned manner to grab the shops of the deceased. It is further submitted that the accused persons had also stolen the property

documents from the house of deceased situated at house No. 40/126, CR Park, New Delhi with intention to execute their plan of grabbing the property. It is further submitted that all the witnesses have deposed categorically against all the accused persons with regard to the recovery of dead body, recovery of belongings of deceased and about the motive. It is further submitted that the fact of recovery of the car of deceased came to the knowledge of the investigating agency only after the disclosure by counsel for the accused Atul in the court while addressing the arguments on the application for anticipatory bail of accused Atul, so in these circumstances, the recovery of the car be deemed to have been effected on the information furnished by counsel for accused Atul on his instructions. It is further submitted that the matters are argued and the submissions are made before the court by the advocate on the basis of the information provided to them by their clients. It is further submitted that apart from the said information,

during investigation accused Atul had pointed out the place of murder, the place where the dead body was shifted in the dicky of the Ford Figo Car and also pointed out the place where he had left the car of the deceased. It is further submitted that the car from which the dead body was recovered was belonging to the wife of accused Atul. It is further submitted that sufficient evidence has come on record against accused Atul to connect him with the murder of deceased. It is further submitted that his subsequent conduct i.e. absent from duty also shows that he was involved in the present case in committing the murder of the deceased. It is further submitted that the PWs have categorically deposed about the recovery of dead body from the possession of accused persons, recovery of the belongings of the deceased and pointing out of the places by the accused persons.

It is further submitted that nothing has come in the cross examination of the witnesses to impeach their trustworthiness and

reliability. It is further submitted that from the evidence on record it has been established beyond any reasonable doubt that the accused persons had committed the murder of deceased Sh. Ratan Chand Papneja and had stolen the documents of property. It is further submitted that the all the accused persons are liable to be convicted for the offences charged.

The counsel for complainant has also addressed arguments on similar lines.

ARGUMENTS OF DEFENCE:

11. On the other hand, the respective counsels for accused Rohit and Gaurav submitted that the accused persons have been falsely implicated in this case. It is further submitted that dead body of deceased was not recovered from them and no recovery was effected at the instance of accused Rohit. It is further submitted that the accused persons were lifted from their houses and the alleged recovery of belongings of the deceased have

been planted. It is further submitted that the accused persons have not made any disclosure statements to the police. It is further argued that the motive in this case has not been established. It is further argued that the chain of circumstances in this case is broken and incomplete and there is no evidence on record to show that the deceased was seen with the accused persons at any point of time and the prosecution has failed to prove its case against the accused persons beyond any reasonable doubt and as such they deserve to be acquitted.

12. It is submitted by the counsel for accused Atul that there is no evidence on record against accused Atul to show or prove his involvement in the present case. It is further submitted that the car of wife of accused Atul was taken by accused Parmod on 13.10.2014 on pretext of attending some function. It is further submitted that the only evidence against accused Atul is that he had pointed out the places of alleged murder and recovery of the

car of the deceased which is not admissible in law as the said places were already in the knowledge of the police. It is further submitted that nothing was recovered from the possession of accused Atul nor at his instance. It is further submitted that the disclosure statements of the accused persons before the police are not admissible in law being hit by section 25 of the Indian Evidence Act. It is further submitted that in the testimonies of the prosecution witnesses nothing incriminating has come on record against accused Atul to connect him with the murder of deceased. It is further submitted that PW-7 Smt. Anjali Pahwa had concocted a story regarding the visit of accused Atul to the house of her father which she had not told to the police at any point of time during investigation and due to this reason the said fact does not reflect in her statement U/s 161 Cr.P.C. with which she was confronted during her cross examination. It is further submitted that in her cross examination she stated that she never knew

about the residential details of accused Atul. Attention has been drawn to the case titled as **“Raj Kumar Singh Vs. State” MANU/SC/0468/2013** decided by the Hon'ble Supreme Court where it has been held that **“the courts must be cautious and very particular, in their exercise of appreciating evidence”**. The counsel for the accused has also relied upon the judgment passed by Hon'ble Supreme Court in case titled as **“Mustkeem Vs. State of Rajasthan” MANU/SC/0019/2012** wherein it has been held that **“With regard to Section 27 of the Evidence Act, 1872, what is important is discovery of the material object at the disclosure of the accused but such disclosure alone would not automatically lead to the conclusion that the offence was also committed by the accused. In fact, thereafter, burden lies on the prosecution to establish a close link between discovery of the material objects and its use in**

the commission of the offence. What is admissibel under section 27 of the Act is the information leading to discovery and not any opinion formed on it by the prosecution". It is further submitted that accused Atul had nothing to do with the murder of the deceased and the recovery of belongings of the deceased. It is further submitted that prosecution has not been able to brought on record any legally admissible evidence against accused Atul and as such he deserves to be acquitted.

JUDGMENT RELIED UPON BY LD. APP FOR STATE.

- i) In Padala Veera Reddy v. State of A.P. and Ors. AIR 1990 SC 79***
- ii) 'Sharad Birdhichand Sarda Vs. State of Maharashtra, AIR 1984 SC 1622[(1984) 4 SCC 116.***
- iii) 'Ramreddy Rajesh Khanna Reddy and Anr. Vs. State of A.P." (2006) 10 SCC 17***

iv) "Bhagat Ram Vs. State of Punjab, AIR 1954 SC 621",

JUDGMENT RELIED UPON BY LD. DEFENCE COUNSEL.

- i) Raj Kumar Singh Vs. State of Rajasthan
MANU/SC/0468/2013.**
- ii) Nathiya & Ors Vs. State MANU/SC/1431/2016.**
- lii) Navaneethkrishnan Vs. The State by Inspector of
Police 2018 (3) JCC 1366.**
- iv) Sangli Vs. State of Tamil Nadu
MANU/SC/0795/2014.**
- v) Mustkeem Vs. sate of Rajasthan
MANU/SC/0795/2011**
- vi) Vinay Jain Vs. State & Ors. MANU/DE/0435/2015.**
- Vii) Pradeesh Vs. State of Kerala MANU/KE/2350/2018**
- viii) Faim & Ors Vs. The state of Maharashtra**

MANU/MH/3080/2015.

ix) Jose Vs The Sub-Inspector of Policem Koyilandy &

Ors. MANU/SC/1162/2016

xi) Harbeer Singh & Ors. Vs. Sheeshpal & Ors.

MANU/SC/1348/2016.

xii) Arjun Marik & Ors. MANU/SC/1037/1994.

xiii) Anter Singh Vs. State of Rajasthan

MANU/SC/0096/2004.

xiv) Madhu Vs. State of Kerala MANU/SC/0019/2012.

xv) Pradeep Saini & Ors Vs. State MANU/DE/2269/2009.

FINDINGS.

13. The case of prosecution is based on the circumstantial evidence and from the material put forward and the evidence brought on record it emerges that the prosecution intended to prove its case by showing the following circumstances:

(i) That the dead body of deceased was recovered from a Ford Figo car pertaining to wife of accused Atul and in possession of accused Parmod, Rohit Gupta and Gaurav Sharma within the area of PS Babri, UP and subsequently the belongings of the deceased were recovered at the instance of accused Rohit Gupta.

(ii) The other circumstance which the prosecution intended to prove is that the accused persons were in contact and touch with each other and there was a motive of grabbing the shops of deceased by them and that the information regarding the recovery of the car of deceased was derived from accused Atul.

(iii) The another circumstance which the prosecution intended to prove is that the place of commission of murder, the shifting of dead body in the dicky of the car from its front seat and the place from where the car of the deceased was

recovered were pointed out by accused persons. Apart from it the recoveries of belongings of deceased as pointed out by the accused Rohit Gupta @ Gulshan.

(iv) Another circumstance which the prosecution intended to prove against accused Atul is that he was absent from his office at the relevant period.

(v) That the blood of deceased was found on the mat of the car.

14. *In Padala Veera Reddy v. State of A.P. and Ors. AIR*

1990 SC 79 it was laid down that when a case rests upon circumstantial evidence, such evidence must satisfy the following tests :

"(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(2) those circumstances should be of a definite tendency

unerringly pointing towards guilt of the accused;

(3) the circumstances, taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

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

In Sharad Birdhichand Sarda v. State of Maharashtra, AIR 1984 SC 1622 [(1984) 4 SCC 116], it was held that:-

"the onus was on the prosecution to prove that the chain is complete and falsity or untenability of the defence set up by the accused cannot be made basis for ignoring serious infirmity or lacuna in the prosecution case. The Court then

proceeded to indicate the conditions which must be fully established before conviction can be based on circumstantial evidence. These are:

- (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned must or should and not may be established;*
- (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."*

Reliance is also placed on "**Ramreddy Rajesh Khanna Reddy and Anr. Vs. State of A.P.**" (2006) 10 SCC 17 wherein it was held that:

"It is now well settled that with a view to base a conviction on circumstantial evidence, the prosecution must establish all the pieces of incriminating circumstances by reliable and clinching evidence and the circumstances so proved must form such a chain of events as would permit no conclusion other than one of guilt of the accused. The circumstances cannot be on any other hypotheses. It is also well settled that suspicion, however grave it may be, cannot be a substitute for a proof and the courts shall take utmost precaution in finding an accused guilty only on the basis of the circumstantial evidence."

Reliance is further placed on "**Bhagat Ram Vs. State of Punjab, AIR 1954 SC 621**", wherein it was laid down that:-

"where the case depends upon the conclusion drawn from circumstances, the cumulative effect of circumstances must be such as to negate the innocence of the accused and bring the offence home beyond any reasonable doubt."

15. In order to prove the first circumstance the prosecution has examined PW-5 Sh. Prem Kumar Batra, PW-8 Sh. Naresh Batra, PW-11 SI Hari Ram Sharma, PW-17 Ct. Vineet Kumar, PW-26 Inspector K.K. Sharma & PW-29 Inspector Kunwar Pal Sharma. Out of which PW-11 SI Hari Ram Sharma, PW-17 Ct. Vineet and PW-26 Inspector K.K. Sharma are the witnesses of recovery of the dead body. These witnesses have categorically deposed about the recovery of the dead body from Ford Figo Car No. DL1CM9765 on 13.10.2014 at about 10.30 pm at near Kheri Beragi Tihraya at Shamli Babri Road, Near Mandir during the vehicle checking and accused Parmod Kumar, Rohit Gupta and Gaurav Sharma were found in the car and from the testimonies of these witnesses, it is crystal clear that the dead body was recovered from the dicky of the car which was in possession of these aforesaid three accused persons. PW-5 Sh. Prem Kumar

Batra, PW-8 Sh. Naresh Batra and PW-29 Inspector Kunwar Pal Sharma are the witnesses of recovery of the belongings of the deceased at the instance of accused Rohit Gupta. These witnesses have also categorically deposed about the recovery of the articles of the deceased at the instance of accused Rohit Gupta from a vacant plot near Bagrodia School Sector-17, Dwarka and the articles recovered were identified by PW-5 Prem Kumar Batra as that of deceased Sh. Ratan Chand Papneja. From the testimonies of these witnesses, it is clear that the articles of the deceased were recovered at the instance of accused Rohit Gupta. Nothing has come on record in the cross examination of the aforesaid witnesses to impeach their credibility and trustworthiness. The prosecution has been successful in proving the fact of recovery of the dead body from the possession of accused Parmod, Rohit Gupta and Gaurav Sharma from Ford Figo Car No. DL1CM9765 and that the articles of deceased were

recovered at the instance of accused Rohit Gupta.

16. In order to prove the second circumstance the prosecution has examined PW-4 Sh. Chander Shekhar, Nodal Officer, PW-7 Smt. Anjali Pahwa, PW-14 Sh. Sanjeev Bajaj, PW-15 Sh. Lalit, PW-16 Sh. Gaurav Kumar, PW-18 Sh. Rajat Kumar, PW-19 Sh. Surender Kumar, Nodal Officer, PW-25 Sh. Pawan Singh, Alternate Nodal Officer, PW-28 Sh. Amit Kumar Sharma, Alternate Nodal Officer, PW-30 Sh. Varun and PW-32 Inspector Ashok Kumar Meena. The Nodal officers who have been examined as witnesses has proved the documents related to the mobile phones and call details record. PW-14 Sh. Sanjeev Bajaj, PW-15 Sh. Lalit, PW-16 Sh. Gaurav Kumar, PW-18 Sh. Rajat Kumar and PW-30 Sh. Varun have not supported the case of the prosecution and as per the case of prosecution they were supposed to depose about the mobile phone numbers being used by accused Rohit Gupta and Gaurav Sharma. So the prosecution

has not been able to prove that these two accused persons were using any particular number. On this account the fact that all the accused persons were in contact and touch with each other has not been proved beyond reasonable doubt. In the testimony of PW-7 Smt. Anjali Pahwa, daughter of deceased, there are many improvements from her statement U/s 161 Cr.P.C. regarding the visit of accused Atul, Rohit Gupta, and Parmod together at the house of deceased 4-6 days before the murder. The statement given U/s 161 Cr.P.C. was the first hand information and she would have definitely told to the police about the said visit of the aforesaid accused persons in case they had in fact really visited in her presence. So on this account the testimony of PW-7 Smt. Anjali Pahwa does not inspire confidence. PW-7 Smt. Anjali Pahwa has deposed that her father wanted to sell his two shops situated in Mohan Garden Uttam Nagar and the talks were going on between him and accused Rohit Gupta. So the factum of

motive can be gathered from this part of her testimony. PW-32 Inspector Ashok Kumar Meena has deposed that on 17.01.2015 during the hearing of anticipatory bail matter of accused Atul, his counsel informed that the Maruti Wagon-R car No. DL-3CBJ3110 belonging to deceased was in PS Sardhana, District Meerut, UP. From the testimonies of PW-20 Ct. Ravinder and PW-21 Ct. Veer Sen it has come on record that the Maruti Wagon-R car of deceased was recovered on 19.01.2015 from a Kacha way alongside field of wheat crop about 1 km ahead of Shiv Chowk, Sardhana towards Chabariya and it was recovered abandoned. It is not the case of the prosecution that the said car was recovered from the possession of any person and that PW-20 Ct. Ravinder and PW-21 Ct. Veer Sen were having any prior information about the presence of the car when they were on patrolling. So in this account it can not be assumed that the said car was only recovered on the information derived from the counsel of accused

Atul. In view of the aforesaid discussion the prosecution has not been able to prove that all the accused persons were in contact and touch with each other and the recovery of the car of the deceased was effected in pursuance of the information derived from counsel of accused Atul.

17. The recovery of the dead body was effected from accused Parmod, Rohit Gupta and Gourav Sharma. The belongings of the deceased were recovered at the instance of accused Rohit Gupta. In these circumstances the onus was upon the accused persons to explain as to how the dead body and belongings of the deceased came in their possession.

18. As far as the third circumstance is concerned though the prosecution has proved the factum of pointing out of the places by the accused persons but since the said places were already in the knowledge of the police, the pointing out memos have no legally admissible evidentiary value in the

circumstances where the recoveries had already been effected from the possession and at the instance of other accused persons. However, the recoveries which have been effected at the instance of accused Rohit Gupta @ Gulshan are admissible because when they were effected the police has no clue about the bag which was hidden in bushes. Further, that was not visible from outside and was taken out from these bushes and thus it was within the specific knowledge of accused Rohit Gupta @ Gulshan and the presence of three accused except accused Atul together with dead body goes against them.

19. As far as the fourth circumstance is concerned by examining PW-9 Sh. Sanjay Kumar the prosecution has been successful in proving the fact that the accused Atul was absent from his duty on 11.10.2014 and thereafter. It has also been proved that the Ford Figo car from which the dead body of deceased was recovered belonged to the wife of accused Atul.

The factum of absent from duty can not be termed as a circumstance relating to the commission of offences pertaining to this case because a person can involve in the conspiracy even when he was on duty and present in his office and regarding the Ford Figo Car some explanation in the statement U/s 313 Cr.P.C. has come on record wherein it has been explained by the accused Atul that the car in question was taken by accused Parmod on the pretext of attending some function. Rather if the question of involvement of car is there then it was upon Ms. Kirti Anand wife of accused Atul to explain the same and only on this basis her husband is not liable for acquisition. It has come in the testimony of PW-10 Sh. Vikas Pahwa that the deceased wanted to sell out the said shops through accused Rohit Gupta @ Gulshan. This witness has not deposed anything about accused Atul regarding his being property dealer.

20. As far as the fact that the blood of deceased was found

on the mat of Ford Figo car. The prosecution has been able to prove this fact by way of FSL report which shows that the blood of deceased matched with the blood found on the mat piece.

21. The cause of death has also been duly proved by Dr. PW-2 Dr. Bipin Kumar Jain vide PM report Ex.PW-2/A. PW-2 Dr. Bipin Kumar Jain has opined that the cause of death in this case was asphyxia as a result of ante-mortem strangulation.

22. As far as the plea of accused Rohit Gupta that he was lifted by the police from his house is concerned, nothing has been shown or brought on record to show that the family members of accused Rohit Gupta had ever made any complaint to any authority regarding the alleged incident of lifting him from his house. The testimony of DW-1 Sh. Kamal Sondhi does not inspire any confidence. The plea of alibi has to be proved beyond reasonable doubt, which the accused Rohit Gupta @ Gulshan has not been able to prove in this case.

23. In view of the aforesaid discussion and circumstances that the dead body of deceased was recovered from the possession of accused Rohit Gupta, Gaurav Sharma and Parmod and the fact that the belongings of the deceased were recovered at the instance of accused Rohit Gupta, the prosecution has been able to prove its case against accused Parmod (**PO**), Rohit Gupta and Gaurav Sharma beyond any reasonable doubt for the commission of abduction, murder of deceased and retaining his belongings after murder. Accordingly, accused Rohit Gupta and Gaurav Sharma are held guilty and convicted for the offence U/s 364/302/201/34 IPC and accused Rohit Gupta is also convicted for the offence U/s 404 IPC. The prosecution has not been able to prove its case for the offence U/s 454/380 IPC against the accused persons namely Rohit Gupta and Atul Kumar as nothing has been brought on record that anybody has seen them trespassing in the house of deceased at CR Park, New Delhi and

committing theft of documents of property and cash and apart from this no chance prints were ever lifted from there to connect the culprits. It is settled law that in case of circumstantial evidence the inference is drawn from the established facts as the circumstances led to particular inferences. The court has to draw an inference with respect to whether the chain of circumstances is complete and when the circumstances therein are collectively considered, the same must lead only to the irresistible conclusion that the accused alone is the perpetrator of the crime in question. All the circumstances so established must be of a conclusive nature and consistent only with the hypotheses of the guilt of the accused. The chain of circumstances is not complete against accused Atul to connect him with the commission of murder of deceased. The prosecution has also not been able to prove its case against accused Atul for commission of the murder and abduction of deceased and the two circumstances on the basis

of which the prosecution tried to prove its case against him are not sufficient to connect him with the commission of murder of deceased beyond any reasonable doubt. Accordingly, accused Atul is acquitted for the offences U/s 364/302/201/404/454/380 IPC.

24. Bail bonds u/s 437A Cr. P. C. in the sum of Rs.25,000/- has been furnished on behalf of accused Atul which has been accepted and shall remain in force for a period of six months.

25. Case property is confiscated to the State and in case no appeal is filed within the prescribed time, the same may be disposed of as per rules. File be consigned to record room and be revived as and when accused Parmod is apprehended and brought before the Court of law.

Pronounced in the open court.
Dated: **20.12.2019**

(Ajay Goel)
Additional Sessions Judge
Special Judge (NDPS),
Dwarka Courts, New Delhi