

IN THE COURT SESSIONS JUDGE NEEMUCH DISTRICT**NEEMUCH(M.P.)**(Present- **SUSHANT HUDDAR**, Sessions Judge)(**Date of Judgment- 06.12.2023**)Session Trial Case No.:-62/2021Registration No.:- ST/32/2021Filing No.:- ST/1777/2021C.N.R. No.:- MP4401-002178-2021Filing Date :- 16.07.2021**(details of First Information Report/Crime and Police Station)**

Prosecution-	State of Madhya Pradesh through, SHO, Police Station Jeeran, District Neemuch(M.P.)
Represented by-	Shri Imran Khan, Additional Public Prosecutor.
Accused -	Umrao Singh alias Rahul , Age about 23 years, S/o of Shri Manoharsingh Soundhiya Rajpoot, Occupation:- Labour, Resident:- Village Durwada, Police Station Narayangarh District Mandsaur(M.P.), Current Address- Mandfiya Railway Station, House of Ganeshlal Teli, In front of Balaji Mandir, Police Station Mangrope District Bhilwara(Rajasthan)(A.1)
Represented by	Shri Salim Durrani, Advocate.
Date of Offence-	28.03.2021
Date of First Information Report-	12.04.2021
Date of Charge-sheet-	16.07.2021
Date of framing of Charges-	05.08.2021
Date of commencement of evidence -	13.09.2021

Date on which judgment is reserved-	28.11.2023
Date of the Judgment-	06.12.2023
Date of the Sentencing Order, if any	06.12.2023

Detail of Accused

Rank of the Accused	Name of Accused	Date of arrest	Date of release on Bail	Offences charged with	Whether Acquitted of convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428 Cr.P.C.
01-	Umrao @rahul	13.04.2021	-	U/s 302, 201, 392 read with 397 of the I.P.C.	Convicted	According to Judgment's Para- 122	13.04.2021 to 06.12.2023

List of Prosecution Evidence :-

Rank	Name	Nature of Evidence (Eye witness, Police Witness, Expert Witness, Medical witness, Panch witness, other witness)
PW.01	Bharatsingh	Son of deceased Gangabai.
PW.02	Rajendra Singh	Panch Witness.
PW.03	Vishal Singh	Other witness.
PW.04	Shersingh Tomar	Panch Witness.
PW.05	Govind Singh	Grand son of deceased Gangabai.
PW.06	Shraddha Trivedi	Other witness/ Nayab Tesildar.
PW.07	Dr. Sajid ansari	Medical witness/ Medical Officer.
PW.08	Pradeep Sharma	Police witness/Head Constable.
PW.09	Dr. S.N.Husaini	Medical witness/Assistant Professor.
PW.10	Dr. Basantlal	Medical witness/ Demonstrator, Govt. Medical College Ratlam(MP)
PW.11	Mangal Rajora	Panch witness.
PW.12	Pradeep Kumar Vyas	Other witness/Advocate and Notary Bhilwara.
PW.13	Yashwant Karpainter	Police witness/ASI.
PW.14	Zakir Hussain	Police witness/ASI.
PW.15	Kansingh	Panch witness.
PW.16	Dr. Sanjay Meena	Medical witness/Medical Officer.
PW.17	Manishsingh Bhadoriya	Police witness/Sub Inspector Fingerprint Expert.
PW.18	MohanSingh	Panch witness.
PW.19	Virendra Singh Bisen	Police witness/ASI.

PW.20	Vikram Singh Shaktawat	Police witness/Constable.
PW.21	Rajesh singh Chouhan	Police witness/D.S.P., S.T.F. Indore.
PW.22	Shripal	Police witness/Constable.

List of Prosecution Exhibits :-

S.N.	Exhibit Number	Description
01-	Exhibit P.-01/PW.01	Missing person Registration.
02-	Exhibit P.-02/PW.01	The Panchnama/Memorandum of breaking of Lock.
03-	Exhibit P.-03/PW.01	Notice to witnesses for Inquest Panchnama/ Naksha Panchayatnama u/s 175 Cr.P.C.
04-	Exhibit P.-04/PW.01	Inquest Panchnama/Naksha Panchayatnama dated 10.04.2021.
05-	Exhibit P.-05/PW.01	Spot map.
06-	Exhibit P.-06/PW.01	Supurdginama/Bond of interim custody.
07-	Exhibit P.-06A/PW.01	Police statement of Bharat Singh(PW.01) u/s 161 Cr.P.C.
08-	Exhibit P.-08/PW.02	A Seizure Memo in respect of one broken wooden cloth beater/wash peddle, one brick, Iron Cheni(chisel) ,Iron Pestal(Dasta), blood stianed earth, simple earth and one piece of reddish beetel nut pouch and other articles.
09-	Exhibit P.-08A/PW.02	A Seizure Memo of A red stone, one butt of cigarette, old rusted steel lock
10-	Exhibit P.-09/PW.03	Police statement of Bablu @Vishal(PW.03) u/s 161 Cr.P.C.
11-	Exhibit P.-10/PW.06	Letter issued to Tehsildar Jeeran by SHO Jeeran for Identification of articles.
12-	Exhibit P.-11/PW.06	Identification Memo prepared by Tehsildar in respect of silver bangles.
13-	Exhibit P.-12/PW.06	A letter written by the Police Station Jeeran to Tehsildar Jeeran for verification of seized documents.
14-	Exhibit P.-13/PW.06	Computerized land records Khasra of deceased Gangabai's.
15-	Exhibit P.-14/PW.06	A verification report written by Office of the Tehsildar Jeeran to the Police Station Jeeran for verification to seized documents.
16-	Exhibit P.-15/PW.06	A Kishbandi Khatoni year 2012-13 of deceased Gangabai's land.
17-	Exhibit P.-16/PW.06	A Form P-II year 2012-2013 of deceased Gangabai's land.
18-	Exhibit P.-17/PW.06	Accused Umrao singh's DNA Identification form.
19-	Exhibit P.-18/PW.06	Registration of unnatural death u/s/ 174 Cr.P.C.
20-	Exhibit P.-19/PW.08	A seizure memo of accused Umrao's blood sample and a specimen seal of district hospital Neemuch seal.
21-	Exhibit P.-20/PW.09	Application by SHO Jeeran for Postmortem of Gangabai.
22-	Exhibit P.-21/PW.09	Postmortem report of deceased Gangabai
23-	Exhibit P.-22/PW.09	A letter written by the Police Station Jeeran to Medical Officer Forensic Medicine & Toxicology dept. G.M.C. Ratlam making queries about deceased Gangabai's injuries.

24-	Exhibit P.-23/PW.09	A opinion report of Forensic Medical and Toxicology Department, Govt. college Ratlam.
25-	Exhibit P.-24/PW.14	Arrest memo of accused Umrao@Rahul.
26-	Exhibit P.-25/PW.14	Accused memorandum u/s 27 evidence act.
27-	Exhibit P.-26/PW.14	A seizure memo of one four square cigarette packet.
28-	Exhibit P.-27/PW.14	Seizure memo of iron sickle/Darati, blood stained earth and simple earth.
29-	Exhibit P.-28/PW.14	Seizure memo of a pair of silver bangles, old key with thread, Form B-1 Kishtbandi khatoni form P-II and Gangabai's voter id card.
30-	Exhibit P.-29/PW.14	Seizure memo of matrimonial document.
31-	Exhibit P.-30/PW.11	Marriage document of accused.
32-	Exhibit P.-31C/PW.12	Excerpts of Notary Register belonging to Adv. Pradeep Kumar Vyas.
33-	Exhibit P.-32/PW.13	seizure memo of deceased Gangabai's clothes, her femur bone, teeth, specimen seal.
34-	Exhibit P.-33/PW.15	Dehati Nalisi u/s 174 Cr.P.C.
35-	Exhibit P.34/PW.15	First Information Report dated 12.04.2021.
36-	Exhibit P.-35/PW.16	Bharatsingh's(PW.01) identification Form for DNA test.
37-	Exhibit P.-36/PW.17	Inspection Note of for fingerprinting dated 11.04.2021.
38-	Exhibit P.-37/PW.17	Letter issued to fingerprint expert by SHO Jeeran.
39-	Exhibit P.-38/PW.17	A fingerprint search slip of accused Umraosingh.
40-	Exhibit P.-39/PW.17	A fingerprint search slip of accused Umraosingh.
41-	Exhibit P.-40/PW.17	A fingerprint search slip of accused Umraosingh.
42-	Exhibit P.-41/PW.17	Lifted Chance print proforma containing fingerprints of accused.
43-	Exhibit P.-42/PW.17	Large Chance fingerprint of accused.
44-	Exhibit P.-43/PW.17	Large Chance fingerprint of Index finger of right hand of accused.
45-	Exhibit P.-44/PW.17	Opinion of fingerprint Expert.
46-	Exhibit P.-45/PW.15	A voter card of deceased Gangabai.
47-	Exhibit P.-46/PW.21	Draft Memo written by SP Neemuch to Joint Director FSL Bhopal.
48-	Exhibit P.-47/PW.21	Forwarding note of Police station Jeeran.
49-	Exhibit P.-48/PW.21	Draft Memo of SP Neemuch to Joint Director FSL Bhopal.
50-	Exhibit P.-49/PW.21	Forwarding note of I.O./ SP Neemuch.
51-	Exhibit P.-50/PW.21	Draft of SP Neemuch addressed to Joint Director FSL Indore Rau.
52-	Exhibit P.-51/PW.21	Draft of SP Neemuch addressed to Joint Director FSL Sagar dated 21.06.2021.
53-	Exhibit P.-52/PW.21	Receipt from Regional FSL Bhopal dated 22.04.2021.
54-	Exhibit P.-53/PW.21	Receipt from Regional FSL Bhopal dated 22.06.2021.
55-	Exhibit P.-54/PW.21	Receipt from Regional FSL Indore dated 25.06.2021.
56-	Exhibit P.-55/PW.21	Receipt from Regional FSL Sagar dated 23.06.2021.

57-	Exhibit P.-56/PW.21	Notice issued by SHO Jeeran to Bharat singh dated 24.05.2021.
58-	Exhibit P.57/PW.21	Forensic Report of RFSL Rao Indore dated 30.09.2021.
59-	Exhibit P.58/PW.21	Forensic Report of RFSL Bhopal dated 29.07.2021.
60-	Exhibit P.59/PW.21	Forensic Report of RFSL Sagar dated 31.01.2021.

List of Defence Exhibits :-

S.N.	Exhibit Number	Description
01-	Exhibit D.-01/PW.02	Statement of Shersingh(PW.04) u/s 161 of Cr.P.C.

List of Prosecution Articles :-

S.N.	Article	Description
01-	Article A-01/PW.01	Silver Kada/bangles.
02-	Article A-02/PW.01	Original registry.
03-	Article A-03/PW.01	Original registry.
04-	Article A-04/PW.01	A copy of Khasare khata.
05-	Article A-05/PW.19	A photograph of deceased Gangabai's silver bangles.
06-	Article A-06/PW.19	A photograph of deceased Gangabai's silver bangles.
07-	Article A-07/PW.19	A photograph of deceased Gangabai's silver bangles.
08-	Article A-08/PW.19	A photograph of deceased Gangabai's silver bangles.
09-	Article A-09/PW.19	A key.
10-	Article A-10/PW.21	A Iron sickle/Darati.
11-	Article A-11/PW.21	One packet of cigarate.
12-	Article A-12/PW.21	One pouch of Nakhrali beetle nut.
13-	Article A-13/PW.14	One old Lock.
14-	Article A-14/PW.14	One another lock.
15-	Article A-15/PW.14	One Iron pistle/Chheni.
16-	Article A-16/PW.14	One Iron Tumbler.
17-	Article A-17/PW.14	One broken wooden cloths beater Bat.
18-	Article A-18/PW.14	One Brick.
19-	Article A-19/PW.14	One Red stone/rock.
20-	Article A-20/PW.14	seized simple earth at the incident.
21-	Article A-21/PW.14	seized blood-stained earth at the incident.
22-	Article A-22/PW.14	One beetle nut pouch at the incident.

This Sessions Trial has arisen out of the Order of Committal passed by the

Court of Judicial Magistrate First Class Neemuch(Shri M.A. Dehlavi), in Criminal case No.-376/2021, of that court dated 14.07.2021 involving Crime No.- 94/2021, u/s 302, 201, 392 read with 397 of I.P.C. at Jeeran Police Station. The details of the Criminal case in which order of committal came to be passed are; Regular Criminal Case No.- 376/2021 (Registration No.:- RCT/376/2021, Filing No.:- RCT/1764/2021, CNR No. :-MP44010021592019 & Date of Filing is:-14.07.2021) and the parties in which are; State of Madhya Pradesh through S.H.O. of Police Station Jeeran Vs. Umrao@Rahul.

:: JUDGMENT ::

(Pronounced this 06th day of December, 2023)

01- The accused Umrao Singh@Rahul stands charged U/s 302, 201, 392 and 397 IPC; that between the period of 28.02.2021 to 10.04.2021 at place, dwelling house of Gangabai at village Kairy within the local limits of police station Jeeran, accused intentionally or knowingly, caused the death of Gangabai and thereby, committed her Murder. During the same period, place and time, accused knowing or having reason to believe that an offence of Murder punishable with death has been committed, caused the evidence of such commission to disappear with the intention of screening himself from legal punishment. During the same period time and place accused committed robbery of Silver bangles belonging to deceased Gangabai and in order to the committing of this theft of Silver bangles, or in carrying away that property and for that end, voluntarily caused the death of deceased Gangabai and at the time of committing robbery, accused used deadly weapon/s.

02- The undisputed facts of this case are, accused is the son of Bharat Singh's(PW.01) sister and Gangabai is the mother of Bharat Singh(PW.01).

03- The prosecution story shorn of unnecessary details in brief is; that on Bharat Singh S/o Ram Singh 16.03.2021 lodged a missing person's complaint at Police station Jeeran, that his mother Gangabai is living separately from him since 15 years and she is recipient of widow's pension. She is healthy, hale and hearty and cooks her own food. She keeps silver bangles(Kade) and cash which she receives from pension, in her house. She is missing since last 15 days. After having searched for her, she could not be traced therefore this report is lodged. A missing person's registration was done at the Police Station Jeeran which was numbered as missing person number 22/2021. An inquiry in to missing person was launched by the police. During the search, the lock of the dwelling house of Gangabai was broken and opened in the presence of Gangabai's son, Bharat Singh and others. After entering the house, the dead body of Gangabai was found in a decomposed state and was mummified. The body was covered with a quilt and was stinking with foul smell. Both the toes of her body where amputated from ankles. Silver bangles which Gangabai used to wear in her legs were missing and some documents were also missing A large rock/stone, washing peddle, iron Chisel and Iron Pestle(Dasta) and a butt of used/doused cigarette was also found besides, Gangabai dead body. The body of Gangabai was identified by Bharatsingh, as that of his mother deceased Gangabai. The body was found infested with worms/insects. A sketch map of the house i.e. the place of occurrence was prepared by the police. A *Dehati Merg* on the spot was registered as 0/21 by ASI Zakir Hussain. A *Dehati Merg* at its original number 09/2021 was registered at police station Jeeran by Head Constable Pradeep Sharma. Subsequently, A first Information Report was lodged at Police Station Jeeran against unknown person to the effect, that he intruded into the house of Gangabai and severed her toes from ankle and after committing robbery, decamped with looted property, comprising of silver bangles valued at Rs. 50,000-00 and also carried away some documents after committing Murder of Gangabai. Consequent thereto, a Crime No.- 94/2021 U/s 302, 397 & 201 IPC was

registered at Police Station Jeeran and the matter was investigated by the Police.

04- During investigation, accused was arrested and on the basis of his disclosure statement, a sickle was recovered from the place pointed out by the accused in his disclosure statement. Similarly, pursuant to his statements Silver bangles, key and documents, which were kept in a bag in his house at village Mandfiya as also the notarized document of his marriage were recovered. Autopsy on the dead body of Gangabai was performed by a team of doctors of Department of forensic medicine and toxicology, Govt. Medical college, Ratlam. It was opined by this team that the body of Gangabai was in the advanced stage of putrefaction and mummification and was partly skeletonized. Antemortem head injury and intracranial haemorrhage along-with amputation of both feet at the level of ankle joint were found on the body of deceased. In the opinion of this team, these injuries were sufficient to cause death in ordinary course of nature. Articles, rock/stone, wooden cloths beater/wash peddle, iron sickle, pestle iron chisel, were sent to FSL laboratory for their forensic examination. Finger print Expert, Manish Singh Bhadoriya inspected the place of occurrence on 11.04.2021 and found one *paraatl*(high hippled platter) and one steel tumbler(Glass) in the house of deceased. Finger prints were lifted from these articles and were compared with specimen finger prints of accused and on examination were found to be of same person that is the accused. Blood sample of accused was collected for DNA analysis along-with the butt of cigarette found near the dead body of Gangabai. On forensic examination, butt of cigarette was found having male autosomal STR DNA profile, same as that obtained from the blood sample of accused Rahul@Umraosingh. Police was informed during the investigation that accused Umrao was found entering the house of deceased through gully leading to her house and thereafter Gangabai went missing. Accused was in need of money, as he had eloped with one Krishnabai and wanted to marry her. A notarized document of marriage was recovered from the possession of

accused subsequently. On the basis of conclusive circumstantial evidence against the accused, a charge-sheet was laid in the Court of JMFC against him under section 302, 201, 392 and 397 of Indian Penal Code. In the court of Judicial Magistrate First Class, who committed this case for trial to this court.

05- My predecessor framed charges against the accused as stated above. The charges were read over and explained to the accused. Accused abjured the guilt and claimed to be tried. His plea of 'not guilty' was recorded. The accused was examined U/s 313 Code of the Criminal Procedure(hereinafter referred to as Cr.P.C.) as to the circumstances appearing against him in the evidence of prosecution. The accused was made to enter into his defence U/s 233 Code of the Criminal Procedure. The defence of the accused is; he is innocent and pleaded false implication. It is the stand of the accused, that his Grand mother deceased Gangabai intended to give some land to him. His maternal Uncle and Aunt used to quarrel with his Grand-mother(deceased) and were also not on talking terms. He claims false implication by his maternal uncle, in connivance with the police. He has not examined any witness in his defence.

06- Following points for determination by this court arise in this case :-

:: Points for Determination ::

- 01- Whether the death of Gangabai is proved? If yes, whether it is proved that it is homicidal in nature?**
- 02- If yes, whether accused at place, the dwelling house of Gangabai at village Kairy situated within the local limits of jurisdiction of police station Jeeran, during the period from 28.02.2021 to 10.04.2021, knowingly, or intentionally, caused the death of Gangabai?**

- 03- Whether accused Umrao@Rahul at the aforementioned place and within that period/time, committed robbery of silver bangles belonging to deceased Gangabai?
- 04- If yes, whether in committing that robbery, accused used deadly weapons or caused grievous hurt to Gangabai ?
- 05- Whether accused at the same place and time/period, with intention of screening himself from the legal punishment for the offence of Murder and robbery caused disappearance of the evidence of commission of those offences ?
- 06- Sentence, if any?

:: Findings with Reasons ::

:: Discussion with conclusions on Point No.- 01 to 05 ::

07- Since, all the above-mentioned points for determination are inextricably mixed and connected with each other therefore, having regard to the convenience of marshalling and appreciation of evidence as also to avoid the repetition of evidence on one point, all the points of consideration are being dealt with together, one after the other.

08- Prosecution has examined as many as 21 witnesses to prove the charges against the accused Umrao.

09- Bharat Singh(PW.01) has deposed that his mother Gangabai had gone to Raju Master's house in the village for lunch, and on the same day, she had a cup of tea at his house. According to this witness his mother lives separately away from him and departed from his house after the tea. His son Govind Singh(PW.05) told him, that Grand-

mother(Gangabai) is missing from her house and a lock is placed in her house. This witness thought that, her mother(Gangabai) must have gone to her daughter's place as, she often used to visit her daughters for 10-15 days, at a stretch and would return. After some days, when his mother did not return, he conducted a search for her at the place of his sisters and when, after having searched her thoroughly at the residence of his sisters, as also at *Bhadwa Mata* area, *Pratap Gargh* area, she could not be found. Then he lodged a missing person report, at Police station (P.S. for brevity) Jeeran. The missing person's report is marked as Ex.P.-01 which as per this witness bears his signature within the portion, marked A to A on Ex.-P.-01

10- This witness Bharat Singh(PW.01), further states that one Police official Mansuri sahab visited his village in this connection and enquired about the lock installed on Gangabai's house. This witness apprised Zakir Hussain(PW.14) that his mother very often used to go out side the village and did not part with the keys. Then, the lock was broken opened by Zakir Hussain(PW.14). A Panchnama Ex.P.-02 to this effect was prepared, bearing his signature within A to A portion of this document.

11- Witness Bharat Singh(PW.01) states that, on opening the door to Gangabai's house, they found the dead body of his mother Gangabai which was covered with the quilt(Rajai) and her legs were cut off. His mother used to wear, silver bangles in her feet. One wooden clothes beater/washing peddle and pestle, was found near his mother's body. Gangabai's body was sent to District Hospital, and thereafter, to Ratlam for her postmortem. The police officer prepared inquest Panchnama, for which, he wrote an application, Ex.P.-03. He states that Panchnama drawn by the police his marked as Ex.P.-04, which bear his signature. Police also prepared a spot map at his instance, which is marked as Ex.P.-05 and bear his signature within the portion marked as A to A on this document.

12- Witness Bharat Singh(PW.01) was declared hostile by the prosecution and leading questions were put to him, by the prosecution. Bharat Singh(PW.01) admits, that he deposed to the police that there was one big rock/stone and wooden cloth beater/wash peddle was found lying near his mother's body and someone had severed his mother feet and removed her silver bangles and documents.

13- Bharat Singh(PW.01) also admits, that believing, that his mother may have gone to visit her daughters, he did not pay attention to the information that his mother's house was locked, but later on inquiring about her whereabouts, she could not be found anywhere. Her body was found in a decomposed condition and her mouth was stuffed with clothes.

14- Bharat Singh(PW.01) was cross-examined by the defence counsel. He admits in his cross-examination that his mother Gangabai resided away from him because, his wife and his mother Gangabai used to quarrel and bicker. He states, his house is one K.M. away from his mother's house.

15- No suggestion has been given to witness, Bharat Singh(PW.01), that his mother Gangabai could not be identified, or that the body discovered in her house was not that of Gangabai. No challenge is laid to his testimony on this count and also this part of his testimony remains unchallenged that aforementioned articles were found near the dead body. This fact has also not been challenged that, the feet of his mother were severed from toes. In short, no suggestion has been made to this witness that Gangabai died of natural death and there were no signs of violence on her dead body.

16- Zakir Hussain(PW.14) Assistant Sub-Inspector (hereinafter addressed at ASI) testified that, on being posted as such, he inquired into the missing person's report which was numbered -22/2021, regarding Gangabai which is Ex.P.-01. During the inquiry, he reached the dwelling house of Gangabai on 10.04.2021 which he found was locked

from out side and foul smell emanated from inside. He summoned Panch witnesses from the village and broke opened the lock in their presence. Pursuant thereto, a Panchnama Ex.P.-02 was prepared by him, bearing his signature between the part marked as D to D. On entering the dwelling house of Gangabai, he found her dead body which was covered by a quilt and the dead body was infested with worms/insects. This witness states that he prepared a Dehati Nalishi Ex.P.-33 on the spot itself, which bears his signature and forwarded the same for registration of original Merg No.- 09/2021 to Police Station Jeeran, through constable Pradeep Sharma(PW.08). He has deposed to, preparing of sketch map Ex.P.-05 of that place, at the instance of Bharat Singh(PW.01).

17- Zakir Husain(PW.14) has proved summoning of Panch witnesses for inquest Panchnama through Safina Ex.P.-03 and has also deposed to have conducted inquest Panchnama Ex.P.-04. He states that on 10.04.2021 he found one iron pestle, measuring 10 inches in length with blood like marks on it, one iron chisel, 4 inches long bearing blood like marks, one wooden cloth beater/washing peddle which was broken, one brick 7 inches long and 3 inches wide from the room of deceased Gangabai. He testifies that he collected 50 gms. blood laden earth and a pouch of beetle nut on which Kesar was written in english and a red stone along-with a used cigarette butt and a matchbox from the place of occurrence. He also deposed that these articles were preserved by him and a old rusted steel lock was seized by him from that place. Consequent thereto he prepared a seizure memo which is marked as Ex.P.-08 which bear his signature.

18- This witness Zakir Hussain(PW.14) testified that he brought the dead body of Gangabai to District Hospital for autopsy on her and prepared an application for the same which is Ex.P.-20. Since, Gangabai's body was mummified, the medical officers sent the body to Medical College Ratlam for autopsy. This witness states to have sent constable Dilip alongwith the body to Medical College Ratlam. He then, registered a crime under crime no.- 94/2021 U/s 302, 397, 201 against

unknown person. Ex.P.-34 is the First Information Report which bear his signature.

19- The seized articles were produced in the court and this witness has identified them as under:-

- (a)-** On opening the brown colored envelope, a lock was found inside. After inspecting the lock witness stated that it is the same lock which he recovered/seized from the spot/place of occurrence. This lock was marked as Article A-13 on which a slip was found pasted. This witness also identified his signature on that slip within the portion marked as A-A.
- (b)** On opening the other envelope, it was found containing a transparent bag in which another lock was found which, this witness identified as same lock which was seized by him from the spot and was marked as Article A-14.
- (c)-** Another envelope was found containing iron chisel, which was marked as Article A-15. This witness identified the chisel as same which was found near the dead body/place of occurrence and bore his signature.
- (d)-** An iron pestle was found from another envelope on which, a paper slip of Govt. Medical College Ratlam was found pasted. This iron pestle was marked as Article A-16.
- (e)-** A broken washing peddle/cloth beater was found from another envelope which was marked as Article A-17.
- (f)-** A brick was found from another envelope which was marked as Article A-18.
- (g)-** A rock/red stone was found from another envelope

which was marked as Article **A-19**.

- (h)- One plastic box was found from another envelope containing simple earth collected from the place of occurrence marked as Article A-20 and another plastic box was found containing blood stained earth and was marked as Article **A-21** where as one envelope found containing a beetle nut pouch marked as Article **A-22**.

20- Zakir Hussain(PW.14) has testified that all the above-mentioned articles were same, which were seized by him from the house/room of deceased Gangabai at village Kairy.

21- Zakir Hussain(PW.14) was cross-examined by the defense counsel. He admits in cross-examination that the butt of cigarette recovered by him from the spot was not produced today. He volunteers, that it has been sent for DNA test. He admitted that iron chisel, lock, wooden cloth beater/wash peddle, iron pestle and pouch of betel nut are easily available in the market and brick stone and mud are found everywhere. No question in cross-examination has been put to Zakir Hussain(PW.14) suggesting that Gangabai died a natural death and she did not suffer any violence on her person. He deposed that he summoned the villagers to identify the body of Gangabai. He denied the suggestion that the body in question was not that of Gangabai. He admits that the organs in the body of Gangabai were disintegrated and were infested with insects. He has emphatically stated that the Gangabai's body was recovered from her dwelling house. This witness could not be dislodged during cross-examination on the score that the body he recovered from Gangabai house was Gangabai' dead body.

22- Pradeep Sharma(PW.08) has testified that while he was posted as head constable at Police Station Jeeran on 11.04.2021,, Zakir Hussain (PW.14) had given Dehati Nalishi for registration on its original number. During the inquiry of missing person's report in relation to Gangabai, her body was found in the room of her house, after the lock

was broken opened. Dead body of Gangabai was covered with quilt and was infested with insects. He registered the Merg at P.S. Jeeran to its original number which is Ex.P.-18. On 15.04.2021 he accompanied Rajesh Chouhan ASI(PW.21) when accused was brought to District Hospital Neemuch for the collection of his blood sample for DNA test. Concerned doctor had handed over the blood sample so collected by him in sealed condition, which he handed over to town Inspector Rajesh Singh(PW.21) who in turn, seized the same and prepared a seizure memo marked as Ex.P.-19.

23- Mohan Singh(PW.18) has deposed that he is the resident of village Kairy and he knows Gangabai, who also was the resident of his village. He further deposed that on 10.04.2021 Police had called Panch witnesses when Gangabai had died in her dwelling house. Police had issued Safina form Ex.P.-03 and conducted an inquest in respect of Gangabai's dead body. Safina is marked as Ex.P.-03 and inquest Panchnama is marked as Ex.P.-04 which bears his signature. This witness states that the body was in a mangled states and had dried up. This body was recovered from Gangabai's house. No suggestion has been given to this witness that the body found in the house was not that of Gangabai. This witness denied that the body was transformed into mud.

24- Sher Singh(PW.04) has supported the version of Bharat Singh(PW.01), Mohan Singh(PW.18), Zakir Hussain(PW.14) and has testified that when police reached the spot to inquire about Gangabai, her body was found from her dwelling house, which was locked and was broken opened in his presence. A Panchnama Ex.P.-02 regarding the breaking of lock put on Gangabai's house was prepared. Foul smell emanated from the house. The legs of Gangabai were severed and her body was found putrefied. Her silver bangles which she wore in her legs were missing and articles of the house were scattered everywhere. Broken wooden wash peddle, one iron chisel, pliers and a big rock was found in the room as also, iron pestle, brick, blood stained earth, simple

earth reddish betel nut pouch, reddish stone, butt of cigarette, old lock an old steel rusted lock were recovered from that place. This witness was cross-examined by defence counsel but he remained firmly embedded in his version even in his cross-examination.

25- Dr. Basantlal, Demonstrator, Govt. Medical College Ratlam(PW.10) has deposed that while, he was posted as Demonstrator in Govt. Medical College Ratlam on 11.04.2021. He conducted autopsy on the body of Gangabai wife of Ramsingh resident of village Kairi along-with Dr. S.N. Hussaini(PW.09) and Dr. Priyal Jain, who were on the panel. This autopsy was conducted together by this panel. Autopsy report was prepared which is marked as Ex.P.-21 and which bears his signature on the portion marked as B to B. He has also testified that articles wooden bat peddle, chisel, Iron sickle, Iron pestle, were sent to the panel by Police station Jeeran with a query that, whether the injury sustained by the deceased could have been caused by these articles. This witness states that, as per their opinion, deceased Gangabai died of antemortem injuries, which were sufficient in the ordinary course of nature to cause death. This witness deposed that they had opined that such injuries could be caused by the articles sent to that team.

26- No serious challenge has been laid to the testimony of Dr. Basantlal(PW.10), who has remained firm in his testimony during his cross-examination.

27- Dr. S.N. Hussaini(PW.09) Assistant Professor, Forensic Medicine Govt. Medical Collage Ratlam, has deposed that, while posted as such, on the date 11.04.2021, the body of Gangabai wife of Ramsingh was brought from District Hospital Neemuch, which was forwarded by Civil Surgeon Neemuch for expert enquiry and opinion from forensic medicine and toxicology department medicale college Ratlam. The body was brought by constable Dilip Chandrawanshi of P.S. Jeeran with a request for postmortem. This request is marked as Ex.P.-20.

28- Dr. S.N.Hussaini(PW.09) has testified that he conducted autopsy on the body along-with the panel of Dr.Priyal Jain,

Assistant Professor, forensic medicine and toxicology department medical college Ratlam and Dr.Basantlal, Demonstrator(PW.10), of that department.

29- Dr. S.N.Hussaini(PW.09) has deposed that the body was deceased was rolled in a quilt. The body had undergone two kinds of decomposition, one; collective necrosis and other part was mummification and the skin of the part in which mummification was found had become dry, greasy and dark colored. The general configuration of the face of deceased was almost lost and owing to decomposition and mummification the skull of deceased and bones of lower jaw were visible. The maggots were developed and were in the larval stage. Bones of limbs were exposed.

30- Dr. S. N. Hussaini(PW.09) has deposed that There was a line of fracture besides sagittal suture line of length 7.5 cm and dark stains persisted even after washing them. Brain was liquefied. There was a fracture over anterior cranial fossa towards orbital plate. On the lower limbs the toes of both the legs were separated and the muscles of the severed part were hardened and cuts were irregular. Both the legs were cut off from ankle joint were ladies wear bangles(Kada).

31- Dr. Hussaini(PW.09) opined that body of the deceased had reached an advanced stage of putrefaction and mummification and was partly skeletonized and there was evidence of *antemortem* head injuries. Thus, in the opinion of this witness, there was fracture in the skull with intra cranial hemorrhage and amputation of both feet from ankle joint. According to this witness, these injuries were sufficient in ordinary course of nature to cause death and duration was death was fixed between 4 to 8 weeks from the date of autopsy. The clothes, femur bone and teeth of deceased were preserved and handed over to the police. This witness has testified that the report of autopsy prepared by the panel is Ex.P.-21 which bears his signature in the portion marked as A to A.

Where as the portion marked as B to B and C to C bears the signature of Dr. Priyal Jain and Dr. Basantlal(PW.10).

32- This witness Dr. Hussaini(PW.09) was cross-examined by the defence counsel. No suggestion has been given to the witness in cross-examination that the injuries found on the body of Gangabai were not *antemortem* in nature and were not sufficient in ordinary course of the nature to cause death. It is not challenged in cross-examination that the body of Gangabai suffered fractures in skulls and amputation in her feet. Although, it is suggested in cross-examination that the injury discovered in skull could be caused due to fall but, the same has been denied. It is also denied by this witness that an organ of the body may have got separated from the body during the lifting and handling of the body of deceased and he has also denied that the toes could have got severed from the body, during the lifting, falling or handling of the body. This suggestion has been denied that repeated striking by iron chisel would result in pulverising the bones into fine pieces. This witness has also denied the suggestion that the legs cannot get severed by the blows of sickle. This witness has denied that the articles referred to him in query could not have caused the injuries to the deceased as mentioned by him.

33- On the perusal and examination of the above prosecution evidence it would be abundantly explicit that the deceased Gangabai was found missing by her son Bharat Singh(PW.01) and subsequent thereto a missing person report was lodged and during the course of the inquiry into same the dead body of Gangabai was found in her dwelling house which was locked from outside. The lock was the broken opened and the body of deceased Gangabai was identified by her son Bharat(PW.01) and the villagers. The body was in advanced stage of putrefaction and decomposition. On autopsy of the body it was found, that Gangabai suffered ante-mortem injuries on her head and feet, which were sufficient in ordinary course of nature to cause death.

34- The circumstances under which the dead body was discovered and the injuries were inflicted thereon, would demonstrate

unequivocally that the injuries were caused by human effort with intention to cause injuries, and injuries intended to be caused were sufficient in ordinary course of nature to cause death. This leads to irresistible conclusion that deceased Gangabai died of antemortem injuries, that is, she died a homicidal death. Thus, it is held that the death of deceased Gangabai was homicidal in nature. Since, the injuries were sufficient to cause death in ordinary course of nature the prosecution has proved that deceased Gangabai died of homicidal death which is culpable homicide, amounting to Murder. The prosecution has proved beyond reasonable doubt that Gangabai's death is culpable homicide, which amounts to Murder.

35- Rajesh Chouhan(PW.21) has testified that while he was posted as Assistant Sub-inspector(A.S.I.) at Police Station Jeeran on 12.04.2021, Zakir Husain(A.S.I.)(PW.14) had conducted an enquiry in respect of missing person Gangabai, in which he received an information that foul smell was emanating from Gangabai's house at village Kairy. The dead body of Gangabai was found in a room of her house. Thereafter, Assistant Sub-Inspector Zakir Hussain(PW.14) recorded a *Dehati Nalisi*, which was forwarded to police station through, constable Pradeep(PW.08) on the basis of which Merg no. 09/2021 came to be registered at Jeeran police station. An inquest Panchnama in respect of the dead body of Gangabai was prepared by A.S.I. Zakir Hussain(PW.14) on 10.04.2021 on the spot itself.

36- Rajesh Singh(PW.21) has further stated that Zakir Hussain(PW.14) inquired into the Merg and the case diary consisting of the inquiry report in respect of Merg No. 09/2021 was submitted before him, on the basis of which he registered a Crime No. 94/2021 u/s 302, 397, 201 of the Indian Penal Code. The first Information Report in this regard is marked as Ex.P.-34 which bears his signature in the portion marked B to B on this Exhibit.

37- Rajesh Singh(PW.21) claims to have arrested accused Umrao Singh and prepared an arrest memo marked as Ex.P.-24 which

bears his signature. He further states, that during the course of investigation accused Umrao was interrogated in custody wherein, he stated that he has kept the silver bangles, the key of the room, documents relating to land, polythene bag and documents pertaining to his marriage with Krishna bai in his own house at village Mandfiya. He also disclosed that he has kept the sickle(दराती), outside his house, in the courtyard below the dry wooden logs/sticks. This witness states that accused told him that " come I will help you, recover the same." Accused Umrao also informed that he will show the place, where he had washed the blood stained silver bangles, then he amends; saying he will show the place, where he washed his blood stained hands and blood stained bangles.

38- Rajesh(PW.21) further deposed that, he will help recover the cigarette smoked/puffed by him as also, a pouch of beetle nut of brand Nakhrali, which he had thrown after consuming the same. These disclosure statements of accused were reduced into a memorandum by this witness, which is marked as Ex.P.-25. Rajesh(PW.21) further deposed that, pursuant to aforementioned disclosure, during interrogation he was taken to village Kairy where accused produced one sharp sickle from the Bada of his house having a wooden handle. He found blood on the sickle. Sickle was 14 inches long and the wooden handle measured 05 inches. This witness also states that blood stained earth from the place where, accused had washed his blood stained hands and blood stained bangles was also collected in a plastic box. Simple earth was also recovered from that spot. Consequent thereto, A seizure memo, marked as Ex.P.-27 was prepared by this witness which bears his signature. One packet of Four square brand cigarette and one beetle nut packet was also seized from the person of accused, as per this witness, Rajesh(PW.21). This seizure memo is marked as Ex.P.-26 which bears his signature.

39- Rajesh Singh Chouhan(PW.21) has testified that during the course of investigation, on 15.04.2021, constable Pradeep Sharma(PW.08) submitted one sealed packet of thermocol containing the

blood sample of accused and a sample seal before him, which was seized by this witness Rajesh(PW.21) and a seizure memo Ex.P.-20 was then prepared, which bears his signature.

40- Rajesh Chouhan(PW.21) has deposed that he wrote a letter to medical officer, forensic medicine Govt. Medical College Ratlam in relation to Crime no. 94/2021 u/s 302, 397 & 201 of the I.P.C. making queries, which is marked as Ex.P.-22 bearing his signature. In this letter, he asked inter alia, whether the injury to deceased could have been caused/inflicted by the seized rock, wash peddle and further also made a query as to, whether it was possible to sever both the legs of the deceased by seized iron sickle, iron chisel and the iron pestle? These articles were also forwarded to the forensic department along-with the abovementioned letter.

41- Rajesh Chouhan(PW.21) states that pursuant to his aforementioned query, a report was received from forensic medicine and toxicology department of Govt. Medical college Ratlam which is marked as Ex.P.-23.

42- Rajesh Chouhan(PW.21) has testified that during the course of investigation, he sent the seized articles for forensic examination in a sealed state to FSL Bhadbhada road Bhopal along-with the draft of Superintendent of Police (hereinafter referred to as SP) Neemuch by the hands of constable Ravindra. This draft is marked as Ex.P.-46, the A to A portion of which is signed by him. This witness further states that on 15.05.2021 an identification form marked as Ex.P.-17 to collect the blood sample of accused was prepared. This form was filled by Dr. Sajid Ansari(PW.07) in his presence. This witness identified the accused Umrao@Rahul because, this witness Rajesh was the one, who arrested this accused. He also adds, that additionally, one more witness Lalsingh had also identified the accused.

43- Rajesh Chouhan(PW.21) also claims to have taken witness Bharat Singh(PW.01) to District Hospital Neemuch to draw his

blood sample for DNA test and his blood was collected for DNA test. The identification form relating to Bharat Singh(PW.01) is Ex.P.-35. This witness states that on this very day i.e. a forwarding note Ex.P.37 was also sent by him to the FSL Bhopal, which is marked as Ex.P.-47. On 21.06.2021, during the course of investigation in Crime no. 94/2021, he forwarded the seized articles, in the sealed state vide the draft of SP Neemuch along-with constable Akib to the FSL for examination, the draft of which is marked as Ex.P.-48 which bears his signature. A forwarding note to the DNA unit Bhopal was also sent by him which is marked as Ex.P.-49.

44- Rajesh Chouhan(PW.21) states that he sent the articles seized in this Crime no. 94/2021, in a sealed state to FSL Indore for forensic examination vide, the draft of SP Neemuch, bearing the Exhibit mark P.-50 along-with constable Ramprasad. Similarly, this witness claims to have sent the seized articles in sealed stated to FSL Sagar on 21.06.2021 with regard to the same crime number for forensic examination vide draft Ex.P.-51. He has testified that he received the receipt regarding the submission/deposit of the seized articles, which is marked as Ex.P.52 to Ex.P.-55 respectively.

45- Investigating officer Rajesh Singh Chouhan(PW.21) has deposed that in the course of investigation, he wrote a letter marked Ex.P.-37 to fingerprint expert Neemuch on 13.04.2021, for comparison/ matching of the same. Pursuant to this request, fingerprint expert conducted examination of fingerprints and then prepared a report, which is mark as Ex.P.-38 to Ex.P.-44.

46- According to Rajesh Singh Chouhan(PW.21) the room where the body of deceased was lying, was sealed before the lifting of fingerprints by the fingerprint expert, so as to ensure that, the integrity of the site is preserved and maintained intact. This witness further testifies that he issued a letter to Tehsildar Jeeran on 22.04.2021 with reference to Crime no. 94/2021 to conduct proceedings for identification of silver

bangles, which were seized from the possession of accused Umrao. This letter is marked as Ex.P.-10 bearing his signature.

47- On 24.05.2021 this witness directed Bharat Singh(PW.01) to remain present in the office of Tehsildar Jeeran, which is marked as Ex.P.-56. Executive Magistrate Jeeran conducted the proceedings of identification of the above-mentioned articles and consequent thereto prepared a an identification memo which is marked as Ex.P.-11, which bear his signature .

48- Rajesh Singh(PW.21) has also deposed that he seized the documents in this matter pertaining to the land records of deceased Gangabai, which consisted of Kishtbandi, Khasara entries of the land held by deceased Gangabai. He also issued a letter to Tehsildar Jeeran marked as Ex.P.-12 for authentication/verification of those documents, pursuant to which, those documents where verified by the Tehsildar, confirming that as per the land records deceased Gangabai held the land bearing survey no. 117 area 0.27 hect. at village Kairy. The communication of Tehsildar in this respect is marked as Ex.P.-14.

49- As per the version of Rajesh Singh Chouhan(PW.21), the report received from FSL Indore is marked as Ex.P.-57, report obtained from FSL Bhopal is marked as Ex.P.-58. He further states, that it has been opined that the DNA profile as found in the butt of cigarette and as obtained from source, the blood sample of accused Umrao@Rahul are same. He also states that the lock seized in the instant matter, is capable of being opened properly by the key, seized by him.

50- The seized articles comprising of iron sickle and a cigarette packet of brand four square along-with one beetle nut pouch of brand Nakhrali were produced in the court. The iron sickle so produced was identified by this witness Rajesh(PW.21) as the same sickle which was produced by accused Umrao from beneath the dry wooden stick which was seized by this witness. The iron sickle/Darati was marked in the court as Article A-10 and a paper slip pasted on the sickle, bore the signature of accused Umrao Singh marked in the portion B to B.

Rajesh(PW.21) also confirmed that the packet of cigarette and pouch were same articles which were seized by him during the arrest of accused Umrao. The cigarette packet was marked as Article A-11 and pouch as Article A-12.

51- Witness Rajesh Singh Chouhan(PW.21) was subjected to cross-examination by the defence counsel. This witness has admitted that although, the disclosure statements were recorded by this witness, and he seized the sickle/Darati himself but since, he became ill during this period, he directed his subordinate to proceed for recovery of silver bangle from village Mandfiya of Bhilwara. He has denied the suggestion that he did not recover the sickle and no seizure of silver bangles was effected from the possession of accused. He admits, that A.S.I. Bisen(PW.19) did not produce any certificate issued by local Sarpanch or authority the effect that accused is a resident of village Mandfiya.

52- Witness Rajesh Singh Chouhan(PW.21) also admits that he has not obtained any certificate during the investigation to the effect that House in which the dead body of deceased Gangabai was found was owned by Gangabai but this witness clarified that the villagers apprised him that, the place where the dead body of Gangabai was discovered, belonged to Gangabai. This witness Rajesh(PW.21) has admitted that deceased Gangabai had three daughters and one son Bharat Singh(PW.01), her only son. He admits that Gangabai had a family discord with her daughter in law but denied that, it was a property dispute. He also denied that Bharat Singh(PW.01) and Bharat's wife used to indulge in quarreling and bickering with the deceased, the every other day, because Gangabai that she declined to give her property to them.

53- Rajesh Singh Chouhan(PW.21) has denied the suggestion that deceased Gangabai was not disposed in favour of Bharat Singh(PW.01) and his wife as she intended to give her property to her daughters. He admits that Bharat Singh(PW.01) and Gangabai lived in separate accommodations. He denies that, if someone shouts from

Gangabai's house, he would be heard in near by place. He further state that, only when someone shouts loudly, his voice could be heard but if room remains shut, it is not possible that the his voice would be heard outside.

54- Rajesh(PW.21) has denied that no statement or, recovery at the instance of accused Umrao was recorded or made by him. Suggestion made to this witness that he did not recover sickle/Darati at the instance of accused is denied by him. He has also denied all the adverse suggestions made to him in respect of his testimony made by him in his examination in chief.

55- Shripal(PW.22) has testified that on 12.04.2021 when he was posted as a constable in the police station Jeeran he obtained the fingerprint impression of accused Rahul on the Panchnama marked as Ex.P.-38 to Ex.P.-40 bearing his signature in the portion marked as A to A. After this, he prepared the memoranda and handed over the same to S.H.O. Rajesh(PW.21) who, in turn signed these memoranda Ex.P.-38 to Ex.P.-40 in his presence. This witness admitted that in his cross-examination, that he is not a fingerprint expert and has neither been trained as such. He admits that photographs of the accused is not pasted on Ex.P.-38 to Ex.P.-40. This witness states that accused was arrested at the time when fingerprints of the accused were obtained by him. He has denied the suggestion that fingerprints impression as appearing on Ex.P.38 to Ex.P.-40 are not that of accused Umrao@Rahul.

56- Virendra(PW.19) has testified that on 13.04.2021 he recovered a pair of silver bangles weighing 800 grams, one key, one Kishtbandi Khatoni, form P-II, Voter I card of deceased Gangabai issued from election commission and matrimonial document, at the instance of accused Umrao which were produced by accused Umrao. This witness states that these articles were recovered at the instance of accused who was residing in village Mandfiya in a rented house. This articles were produced from inside of the house of accused, which were kept in a bag. This witness states that when the above-mentioned articles were

produced by accused, they were seized vide seizure memo Ex.P.-28 & 29 the C to C part of which bears his signature. The documents seized by him are marked as Ex.P.-15 & Ex.P.-17. Kishtbandi and marriage document is marked as Ex.P.-30 and Voter ID of the deceased is marked as Ex.P.-45.

57- Bharat Singh(PW.01) in whose favour the interim custody of silver bangles was delivered appeared and produced the seized silver bangles for their identification in the court. Virendra Singh(PW.19) identified these silver bangles marked as Article A-1 as same bangles which were seized and recovered from the possession of accused Umrao. He also identified these bangles as same ones, as depicted in article A-5 to A-8.

58- A key was produced from Malkhana of the court in a sealed condition, tied along-with a thread. This witness Virendra Singh(PW.19) has also identified the key so produced from Malkhana as the same key which was recovered from the possession of accused Umrao. This key was marked in this court as Article A-09.

59- Virendra Singh(PW.19) has denied, that the silver bangles, which are produced today appear to be freshly purchased from the shop. He also denies that there is no identification marked on the silver bangles. On being questioned that, when ladies regularly use these silver bangles over a period of 25 years, then it is bound to have some marks on it, the witness answered that, these silver bangles are not routinely worn by women, but are only occasionally worn, therefore, marks are not necessarily to be found on them. He admits that the silver bangles do not have the marks of being hammered by chisel and hammer. He also admits that the seized bangles were not tested for presence of human blood. This witness has denied every suggestion imputing the falsity of the statement made by him in his examination in chief.

60- On a minute scrutiny of the evidence of this witness, Virendra(PW.17) it would appear, that he has remained firmly embedded

in his testimony as testified by him in his examination in chief. He stood by his testimony throughout his cross-examination. His testimony could not be discredited or his testimony could not be dented or dislodged during cross-examination. Nothing substantial has been elicited in his cross-examination which would tend to show that his testimony is not reliable or smacks of untruth. His testimony could not be demolished, even the least during the questioning by the defence side.

61- Manish Bhadoriya, Sub-Inspector, fingerprint expert (PW.17) has deposed that he was posted at Mandsaur as a fingerprint expert on 14.04.2021. He states that on 11.04.2021, he reached the spot of occurrence at village Kairy at the dwelling house of deceased Gangabai, and inspected the same. According to this witness, he developed the latent fingerprints after lifting them from steel platter and steel tumbler by sprinkling black powder and prepared an inspection report. He further states that, he submitted the copy of this inspection report to investigator S.H.O. Chouhan(PW.21). This inspection report is marked as Ex.P.-36 which bear his signature.

62- This witness Manish(PW.17) further states that he had received a letter No. 487/2021 along-with a copy of FIR and arrest memo in relation to accused Umrao Singh as also his ideal fingerprints in triplicate. This letter is marked as Ex.P.-37 which bears his signature, as a token of his receipt. He also received the fingerprints of accused in three copies which are marked as Ex.P.-38, 39 & Ex.P.-40. As per the version of this witness, he inspected the spot on 11.04.2021 and obtained the fingerprint from the steel platter and steel tumbler and then prepared a Panchnama Ex.P.-41 which bears his signature.

63- As per Manish Bhadoriya(PW.17) the large fingerprint of the accused lifted by him, as chance print, on proforma of Ex.P.-41 from the steel platter and tumbler are marked as Ex.P.-42 and his signature are appended within its A to A part. This witness states that the sample fingerprint of the index finger of accused is marked as Ex.P.-43, which is large fingerprint.

64- Manish Bhadoriya(PW.17) states that, latent fingerprint lifted from the steel platter was marked as A and the one lifted from the tumbler was marked as B. He says, this print B was clumsy/obscure and unclear therefore, was not fit for comparison

65- As per the testimony of Manish Singh(PW.17), the print 'A' which was lifted from steel platter/Paraat, matched with the fingerprint of accused lifted from his Index finger of his right hand. Therefore, the obvious conclusion was; both the fingerprints were of one and the same person. As per his examination he found 8 identical points of convergence. He says, that he has mentioned this in his report marked as Ex.P.-44 which bear his signature. He claims to have forwarded this report to police Headquarter Bhopal and the report Ex.P.-44 furnished by him, was verified by director fingerprint Laxmikant/ Laxminarayan Dubey. This witness states that he is familiar with his signature, which are appended within D to D portion of this Ex.P.-44.

66- Manish Singh Bhadoriya(PW.17) vouched safe for accuracy of his opinion to the extent of 100%. He deposed that, his opinion is accurate with regard to the fact that fingerprint marked 'A', match with that of the specimen fingerprint of the accused.

67- In his cross-examination, this witness Manish Singh Bhadoriya(PW.17) deposes that the S.H.O. apprised him of the place of occurrence. He further states that the villagers also accompanied him and also claims that he was accompanied by the S.D.O.P. and Town Inspector. He admits that the steel platter is easily obtainable in the market and he did not prepare a seizure memo in relation to the steel platter and tumbler. He volunteered that in this regard, he obtained signature of two witnesses on his inspection report. He denies the suggestion that the fingerprint of accused were obtained under coercion and threat. This witness Manish(PW.17) has further clarified, that he used black powder, magnifying glass and feather brush for the process of developing the fingerprints. This witness has denied all the suggestions, imputing lack of expertise, impropriety and want of genuineness in

executing the exercise of comparison of fingerprinting under taken by him.

68- Govind Singh(PW.05) has testified that accused is the son of his paternal aunt and this witness is resident of the village Kairy. Deceased Gangabai was his Grand-mother who lived separately from them for last 10 to 11 years. She used to her cook her own food and whenever she needed any item of grocery she would tell him and he would make it available. This witness states, that his father has three sisters and all of them used to visit his Grand-mother Gangabai. This witness was told by one Bablu that he had seen accused Rahul@Umrao entering the lane leading to Gangabai's house and asked him about his visit but Rahul alias Umrao did not answer and went into Gangabai's house after which Gangabai and Rahul were never seen and Gangabai was missing thereafter.

69- According to Govind(PW.05), he apprised Bharat Singh(PW.01) about the fact that Gangabai was missing and an consequently a report was lodged. This witness that testified that police broke opened the lock on the door of Gangabai's house where Gangabai dead body was found in a decomposed state. He says, someone killed his Grand-mother and robbed her and locked the house from outside. It was Rahul who entered his Grand-mother's house last and his Grand-mother Gangabai was missing since then. This witness admitted in his cross-examination that he did not personally see Rahul@Umrao entering Gangabai's house.

70- Vishal Singh(PW.03) has testified that he knows accused Rahul. The incident is of February 2021 when there was programme in his village. On that day he saw accused Rahul@Umrao at around 06 to 06:30 coming in the village who had covered his mouth with handkerchief. This witness asked him "where was he roaming"? to this question, Rahul@Umrao did not respond and went ahead in the lane/gully. 08 to 10 days later, this witness came to know that the deceased Gangabai was missing. This witness was declared hostile by

the prosecution and was confronted with his case dairy statement Ex.P.-09. On being confronted with this statement, Vishal Singh(PW.03) admitted to have given the statement of Ex.P.-09 to the police during his questioning. In his cross-examination by defence, this witness clarified that the gully is 75 feet away from the road. He also admitted that relations between deceased Gangabai and Bharatsingh(PW.01) were strained and were not on talking terms. They used to quarrel every other day. Bharat Singh(PW.01) did not use to visit his mother's house. He admits that Gangabai used to visit her daughters place for 10 to 15 days or even for a month. This witness has denied the suggestion that accused Rahul@Umrao did not enter the village on the day of incident. He admits that the pandemic of Corona was going on in April 2021 and putting on mask was necessary. This witness states that, despite the lockdown imposed in the area, people were still, moving around.

71- The testimony of Vishal Singh(PW.03) remained firm in his cross-examination on the point that he had witnessed accused entering the village with covered face during February 2021 and he did not respond to the query of this witness Vishal Singh(PW.03) about the purpose of visit and had seen the accused moving in the gully near Gangabai's house.

72- Shraddha Trivedi(PW.06) Naib Tehsildar has testified that she received a letter Ex.P.-10 from police station Jeeran on 22.04.2021 to identify a pair of silver bangles seized in Crime no.94/2021 of PS Jeeran. She states that pursuant to that request, she conducted an identification parade at Tehsil office Jeeran, during the process of which, she mixed three similar silver bangles weighing 800 gms. Out of which, Bharat Singh(PW.01) identified his mother's silver bangles by gesture of his hand. Pursuant thereto, this witness prepared an identification memorandum marked as Ex.P.-11 bearing his signature. This witness also testified to have verified that the seized documents relating to survey no. 117 area 0.27 hect. which was recorded in the name of deceased

Gangabai. This verification was done on the request letter marked as Ex.P.-12 received from police station Jeeran.

73- This witness Shraddha Trivedi(PW.06) was cross-examined by the defence counsel. She admits that the bangles which were mixed were made available by the police. This witness clarified in his cross-examination that the a person who owns a bangle has ability to identify the same on the basis of his experience. This witness admits that the bangles mixed during identification process did not have any mark. She denies that the bangles which were meant to be identified appeared new and were freshly brought from shop. This witness has denied all the adverse suggestions, assailing her process of executing the identification parade.

74- The perusal of the entire prosecution evidence would reveal that, the case of prosecution is fully based on circumstantial evidence. The first circumstance that prosecution relies on is, the presence of accused Rahul@Umrao at the place of occurrence, that is the house of deceased Gangabai. For this purpose, prosecution has relied on the testimony of prosecution witness Vishal Singh(PW.03).

75- It has emerged from the testimony of Vishal Singh that Vishal Singh(PW.03) had seen accused Rahul@Umrao entering the village in February 2021 under suspicious circumstances. He covered his mouth with a handkerchief and when he was casually questioned about the purpose of his movement by this witness, he kept mum and without responding went ahead in side the gully which according to spot map Ex.P.-05 is near the house of deceased Gangabai. This evidence of Vishal Singh(PW.03) could not be dislodged and remained unshaken in his cross-examination. Thus, it is established by this evidence that accused Umrao@Rahul was present in the village near the deceased's house at the time when she may have been Murdered. This also points out that accused had an opportunity to commit that crime, being in proximity with the place of incident. However, this solitary circumstance in

itself is not sufficient to fasten the guilt on accused, or to bring home the charge against him for committing.

76- Another circumstance on which prosecution has placed reliance to prove the offences charged against the accused is, his presence on the place of occurrence, i.e. the dwelling house of deceased Gangabai, near or about the time when she must have been killed. Prosecution has proposed to prove the presence of the accused by the way of establishing the fact, that accused entered the house of deceased at the relevant time and he must have touched the household articles lying in that house, which created his fingerprints on those articles. To explore this possibility, fingerprints were lifted from the utensils lying in the house.

77- Fingerprint which was lifted from steel platter found in the house by witness Manish Bhadoriya(PW.17) was marked as 'A'. He has already testified that he reached the spot of the dwelling house of deceased Gangabai and after having inspected the place, he developed the latent prints from the steel platter and tumbler. Out of these the prints, the print obtained from tumbler was not suitable, being unclear. The print as developed from that of steel platter marked as 'A' was taken into consideration as a chance print to match with the ideal or proved fingerprint of the accused Rahul@Umrao.

78- On this point prosecution witness Shripal(PW.22) has deposed that he obtained the fingerprint of accused on Ex.P.-38 to Ex.P.-40. He claims, to have undertaken this exercise himself. Nothing adverse has emerged in his testimony to doubt his version. It is therefore held that, Shripal(PW.22) had obtained the fingerprints of accused Umrao. This fingerprint would therefore serve as proved fingerprint of the accused Umrao as reference print to compare it with the chance print lifted from the steel platter as claimed by Manish Bhadoriya(PW.17).

79- Manish Singh Bhadoriya(PW.17) deposed that the print as obtained from the platter 'A' matched with that of the index fingerprint of accused obtained from his right hand. In other words the

chance print 'A' and fingerprint of accused obtained by Shripal(PW.22) were found to be identical and of, one and the same person. This has been elaborately mentioned and discussed by Manish Singh(PW.17) in his report marked as Ex.P.-44. Nothing could be pointed out during the cross-examination of this witness Manish (PW.17) which, could be said to have dented his version or rendered his testimony unreliable. On the contrary, this witness has asserted that he is 100% sure of his conclusions. It is therefore, found beyond reasonable doubt that the fingerprint found on the steel platter discovered in the deceased's house bore the fingerprints of accused Umrao. This logically confirms the presence of accused Umrao on the spot of occurrence.

80- Zakir Hussain(PW.14) has proved that while conducting an inquiry into missing person's report he found one butt of cigarette matchbox along-with other articles in Gangabai's room where the body of Gangabai was discovered. Host of other articles were also found along-with these articles. This witness has not been dislodged in his cross-examination on the point that the butt of cigarette was found near the dead body of Gangabai.

81- Rajendra Singh the Panch witness(PW.02) has also testified that the police after breaking open the lock on Gangabai's house prepared a Panchnama marked as Ex.P.-02 on which he has put his signature. He testifies that police recovered a doused cigarette from the house of deceased along-with other articles in his presence. A seizure memo marked as Ex.P.-08 bearing his signature was also prepared. No challenged has been made to the testimony of this witness in his cross-examination. Shersingh (PW.04) has also supported the testimony of witness Rajendra Singh(PW.02) who claims to have signed the seizure memo marked as Ex.P.-08. The testimony of this witness Shersingh has also remained unchallenged on the point of recovery of cigarette butt from the place where the dead body of Gangabai was found.

82- Zakir Hussain(PW.14) as mentioned above, testified that after the lock on the house of deceased Gangabai was broken

opened, the dead body of deceased Gangabai was found covered in quilt and this witness found host of articles along-with a cigarette which was doused. This witness prepared seizure memo Ex.P-08 to this effect. Nothing damaging has been brought in the cross-examination of this witness to doubt his testimony on the point that the cigarette butt was recovered near the dead body. Hence it is found prove that a cigarette butt/used cigarette was found near the dead body of deceased Gangabai.

83- Pradeep Sharma(PW.08) testified that he brought accused Umrao singh to District Hospital Neemuch for collection of his blood for DNA sample. The doctor handed over the blood sample of accused Umrao to him in sealed condition, which was produced by him before Rajesh Chouhan(PW.21) at the police station, who in turn prepared a seizure memo marked as Ex.P.-19. Rajesh Chouhan(PW.21) has corroborated this version. Rajesh Chouhan(PW.21) has deposed that he sent this article of blood sample of accused on 15.05.2021 vide the form Ex.P.-17, which is the identification form prepared by Dr. Sajid Ansari(PW.07). Sajid Ansari(PW.07) has also confirmed this fact in his testimony. Thus, it is proved that the seized blood sample vide Ex.P.-19 of the accused Umrao was sent to FSL Bhopal for DNA test for the butt of cigarette. This fact is evidenced by the draft Ex.P.-46 and forwarding note Ex.P.-47 of P.S. Jeeran. The report of FSL Bhopal received vide Ex.P.-58 would reveal that the packet 'A' containing cigarette butt recovered from the spot was tested for DNA profile of accused Umrao and it was opined in the DNA report marked Ex.P.-58, that cigarette butt recovered from the spot was found to contain male Autosomal STR DNA profile which is found identical to that of the DNA profile obtained from the source; blood sample of accused Rahul@Umrao. This establishes the fact that the cigarette found near the dead body of Gangabai was smoked/puffed by accused Umrao, confirming his presence in the house of Gangabai, where her dead body was found.

84- Another circumstance, yet a very material circumstance on which prosecution has relied upon to prove the charges

against the accused is the recovery of articles of theft from the possession of the accused. We shall now examine whether this circumstance has been established by cogent evidence or not.

85- Govind Singh(PW.05) has deposed on oath that, deceased Gangabai was his Grand-mother and she was residing away from his family for last 10 to 11 years. She used to wear silver bangles in her legs and when her dwelling house was opened by the police inspector, her dead body was found without those silver bangles and someone had stolen them. Shersingh(PW.04) states that when police broke open the door to Gangabai's house, he found both the legs of Gangabai were cut off and the silver bangles which, Gangabai used to wear, were missing. Bharatsingh, son of deceased Gangabai has also corroborated this version stating, that deceased Gangabai legs were severed and the silver bangles which she used to wear in the legs were missing (Para-11). As mentioned in the earlier part of this judgment, Dr. S.N. Qureshi, while conducting autopsy on the body of deceased Gangabai found that her toes were separated completely from their joint and the left toe was also separated.

86- The above-mentioned facts have not been challenged by the defence during cross-examination and there is overwhelming evidence, indicating the fact that the silver bangles which deceased Gangabai used to wear were stolen from her person that is they were removed from her legs by chopping them off from the joint of toes. Thus it is proved that silver bangles were stolen from the body of deceased Gangabai after cutting her legs off.

87- Rajesh singh(PW.21) has made a sworn statement that he investigated the Crime No. 94/2021 u/s 302, 397, and 201 and in the course of investigation arrested the accused Umrao vide the arrest memo marked as Ex.P.-24. As mentioned earlier, he interrogated accused Umrao Singh who disclosed him during the interrogation that he kept the silver bangles, the key of room(of Gangabai), the papers of land and documents pertaining to his marriage with Krishnabai in his dwelling

house at village Mandfiya and has kept the sickle in his outer courtyard beneath the dry logs of wood and he would help the police to recover this articles. These disclosure statement were made to Rajesh singh (PW.21) and accused was taken to village Kairy, from where, he produced a sharp edged sickle from beneath a wood which had a wooden handle and had blood like marks on it. This witness prepared the memorandum marked as Ex.P.-25 on the basis of those disclosure statements and pursuant there, to the sickle was seized by this witness, the dimension of which are 14 inches long and 05 inches wooden handle and thereafter a seizure memo Ex.P.-27 was prepared by him.

88- This witness also testified that accused revealed to him during the questioning that silver bangles and keys were kept by him in his own house at the above-mentioned place which were produced by him when he was taken to village Mandfiya. Consequent thereto he prepared the seizure memo marked as Ex.P.-27. This testimony of this witness Rajesh(PW.21) has not been shaken during his cross-examination even remotely.

89- Rajesh(PW.21) also deposed that accused deposed to him that he will show the place where he washed the blood laden silver bangles. Pursuant thereto he showed the place to the police where he washed those bangles. Subsequent thereto, he recovered the simple and blood stained earth from that place. These statements also remained unshaken in his cross-examination. As per Rajesh's(PW.21) version he himself effected the seizure of sickle pursuant to his memorandum but in this period owing to his illness he deputed his subordinate A.S.I. Bisen(PW.19) to execute the proceedings so far as the seizure of silver bangles was concerned. In this regard, Virendra singh Bisen(PW.19) has deposed that while he was posted at police station Jeeran on 13.04.2021 he recovered a pair of silver bangles, which are worn in the legs weighing 800 gms., one old key tied with a thread, one Kishtbandi, one Voter I Card and documents relating to the marriage of accused with Krishnabai, when these articles were taken out by accused Umrao and produced

before him. Thereafter, this witness Virendra(PW.19) seized these articles and consequent thereto seizure memo Ex.P.-28 and P.-29 were drawn up by this witness.

90- Virendra singh (PW.19) identified those articles which were produced in the court during his examination. He confirmed that Article A-01 are the same silver bangles which were recovered by him from the possession of accused Umrao. He also identified the photographs marked as Article A-05 to A-08 showing those bangles.

91- As observed earlier no infirmity is noticed in the testimony of Virendra singh(PW.19) on the point of his evidence relating to the seizure/ recovery of silver bangles and aforementioned articles from accused. There is no reason to look upon his testimony with suspicion. No reason has surfaced during his cross-examination which would even remotely indicate that he had an axe to grind with accused or to falsely implicate him. Considering his entire evidence, this court is unable to find any reason to not to accept his testimony. Therefore the testimony of Rajesh (PW.21) and that of Virendra singh(PW.19) are found to be fully reliable and cogent enough to base a conclusion on.

92- It is noticed that both the witnesses of memorandum and seizure Mangal(PW.11), Kansingh(PW.15) have turned hostile and have not supported the prosecution during their evidence in the court. However, it is settled law that notwithstanding the want of support by seizure and memorandum witnesses, the testimony of police officers cannot be discarded or thrown out merely because public witnesses chose to turn hostile. If the testimony of police witness is found to be convincing, cogent, reliable and inspiring confidence, then a finding can be base on the solitary evidence of police witness. Hon'ble Apex Court has held that the testimony of police officer cannot be viewed with suspicion only because they are police officers. It has been held that police officers also perform their duty honestly and only because Panch witnesses turned hostile the testimony of police officer cannot be

discarded, if it is otherwise found to be truthful and reliable. For this proposition the dicta of Hon'ble Supreme Court in the case of **Karamjeet Vs. Delhi Administration (2003) 5 S.C.C. 291**, **Yakoob Abdul Razzak Memon Vs. State of Maharashtra (2013) 13 S.C.C.-1**, **State, Govt. of NCT of Delhi Vs. Sunil and Another (2001) 1 S.C.C. 652**, **Giriraj Prasad Vs. M. P. State (2007) 7 S.C.C. 625**, **Baldev Singh Vs Hariyana State(2015)17 S.C.C. 554** and the Hon'ble High Court of Madhya Pradesh in the case of **Laxmikant Vs. State of MP 2015(1) M.P.L.J. (Cri.) 147** is of useful guidance.

93- This court after careful scrutiny of the evidence of police witness is of the considered view that the testimony of Rajesh Singh(PW.21) and Virendra(PW.19) is found to be truthful and inspires confidence and hence is relied on to hold that accused Umrao made disclosure statement to Rajesh(PW.21) upon which Rajesh(PW.21) recovered the sickle/Darati at the instance of accused. It is also found proved that pursuant to the disclosure statements of accused Umrao, Virendra Singh(PW.19) recovered silver bangles from the possession of accused Umrao, when this silver bangles were produced by accused Umrao on his own house. It is therefore found proved beyond reasonable doubt, that accused Umrao made discovery statement to Rajesh(PW.21) and pursuant thereto the silver bangles, keys and matrimonial documents were recovered from the house of accused Umrao on the production of same by him.

94- Naib Tehsildar Shraddha(PW.06) has in her testimony, proved that Bharat Singh(PW.01) duly identified the silver bangles of his Grand-mother, deceased Gangabai, during the identification parade held by her. Nothing adverse has been elicited in her cross-examination which could detract from the truth of her testimony. Her testimony is also found to be reliable and she has no reason to side with the prosecution. Hence, it is found proved that Bharat Singh (PW.01) had identified the silver bangles during the parade as same which were used/worn by his Grand-mother deceased Gangabai.

95- No explanation has been furnished by the accused in his examination under section 313 of the code of Criminal Procedure as to how the silver bangles, which were brutally stolen from Gangabai's legs after chopping them off, came to be in his possession. Accused has not been able to account for the possession of those bangles. Moreover, accused has also not furnished a plausible explanation for possession of the keys to the house of Gangabai. There is evidence on record that accused wanted to solemnize marriage during that period with one Krishnabai for which he was in dire need of money.

96- After having scrutinized the evidence on record, it is found that though, there is evidence on record that relations of Bharat Singh(PW.01) were not amicable with his mother deceased Ganga bai, there is no evidence that he could have framed or falsely implicated the accused, who happens to be his own sister's son. There is no evidence that deceased Ganga bai was favourably inclined to dispose her land in favour of the accused Umrao and that this fact, irked Bharat Singh(PW.01). No such suggestion has been given to Bharat Singh (PW.01) in his cross-examination. Even no suggestion to that effect that he is the person who has implicated the accused in this matter has been given to this witness and which is not found in accordance with the stated defence of the accused Umrao.

97- From the above conspectus of evidence of circumstance found proved against the accused, it would be discernible that, following circumstances are established against the accused Umrao :-

- A-** Gangabai died a homicidal death in her own house at village Kairy and was living alone and used to cook her own food.
- B-** She was found missing after 22.02.2021 and a missing person's report was lodged at Jeeran police station but

she could not be found anywhere, where she could have been located and the door to her house was found locked from outside.

- C-** The body of deceased Gangabai was found in decomposed and putrefied state on 28.02.2021.
- D-** There is evidence on record that accused Umrao/Rahul visited village Kairy in February 2021 in the evening at around 06-06:30 with his face covered by the handkerchief and when he was asked about the purpose of his movement, he avoided responding to the same and went away in the gully adjacent to the deceased Gangabai dwelling house. No explanation was offered by the accused for this visit, more so, even in his examination under section 313 Cr.P.C.
- E-** It is found proved that the silver bangles which deceased Gangabai used to wear in her legs were recovered from the possession of accused from his own house pursuant to his disclosure statements, without accounting for the same. It is also found proved that a sharp edged sickle was recovered from the possession of accused Umrao, which in the opinion of Doctor could have caused the injuries to the deceased Gangabai.
- F-** Presence of accused Umrao is established at the place of occurrence, that is, in the dwelling house of deceased Gangabai in the face of forensic evidence of smoking the cigarette which was found near the dead body of deceased Gangabai, by way of the DNA evidence.
- G-** It has been found that accused was in possession of the key to the lock, which was installed on the outer door of

deceased Gangabai without any explanation for that possession forthcoming from accused. This key was recovered pursuant to the disclosure statement made by the accused. It is found that this key fits into the lock put on the house of deceased and is capable of locking and unlocking the lock so found on the house of deceased Gangabai, from which her dead body was recovered.

H- The presence of accused Umrao stands established in the house of deceased Gangabai, by virtue of the fingerprint evidence, that is the fingerprints of accused Umrao were found on the steel platter found in Gangabai's house. No explanation on this count is forthcoming from the accused.

98- There is a presumption under section-114(a) Evidence Act that when a person is found in possession of stolen articles/goods soon after the theft the court may be presume that he is either thief or has received the goods knowing them to be stolen, unless he can account for his possession. Accused Umrao has failed to offer any explanation about the stolen bangles belonging to the deceased.

99- The above-mentioned circumstances indicate that accused visited the village and the dwelling house of the deceased at or about the time of her Murder. This would afford a ground to the court to believe that accused at least had an opportunity to commit the crime alleged against him. His presence at the scene of occurrence also stands established by the evidence on the records, further bolstering the case of prosecution about his complicity in the crime. The final bludgeon blow is dealt with, by the piece of evidence of recovery of the stolen bangles from the possession of accused. In the face of these circumstances, this court is of the opinion, that the prosecution has established by way of the unbroken chain of circumstances which unerringly point towards the guilt

of the accused and is a pointer to the fact, that nobody else but it is the accused who snuffed out the life, out of the deceased Gangabai.

100- It is contended on behalf of the accused by placing reliance on **Anwar Ali and another Vs. State of Himachal Pradesh 2021 (1) CCSC 317(SC)** that the disclosure statement alleged against the accused is suspicious and doubtful. He would contend, that the recovery alleged from the possession of accused of silver bangles, sickle and other incriminating articles are shrouded in grave suspicion and cannot be relied on. He submits, that prosecution has failed to establish a motive against the accused, which weighs in favour of accused. Hence, as per his submission prosecution has not established a unbroken chain of circumstances against the accused to sustain conviction. He argues, that circumstances in order to sustain a conviction should be complete and incapable of explanation of any other hypothesis other than the guilt of accused and such, evidence should be only be consistent with guilt of accused and should be inconsistent with his innocence.

101- Having examined the proven facts of instant case, it is eloquently clear, that there is no infirmity in the evidence of disclosure statement of accused and consequent recovery of the silver bangles, sickle, key to the lock that was found to have been put on the outer door of the house of deceased, as also, the documents of marriage of accused with one Krishnabai. This apart, when the circumstances which are proved against the accused are examined in the above back drop it is found that the dictum rendered in the case of **Anwar Ali**(Supra) is of no assistance to the accused. Moreover, it is held, in **Anwar ali's** case that absence of motive cannot be a ground to reject the prosecution case. Having observed so, this court is of considered opinion that prosecution has led evidence on the point that accused was in the dire need of money to solemnize marriage with his partner. Thus, it can be held that, this circumstance furnished a motive to the accused for commission of the offence charged.

102- Defence has relied on the dicta of **Navaneethakrishnan Vs. State, By Inspector of Police 2018(2) CCSC 961(SC)**, **Ashish Jain Vs. Makrand Singh and others 2019 (1) CCSC 412 (SC)**, **Devi Lal Vs. State of Rajasthan 2019(1) CCSC 482 (SC)**, **Chandrapal Vs. State of Chhattisgarh 2022(3) CCSC 1147(SC)** and **Shivaji Vs. State of Maharashtra 2021(3) CCSC 1160(SC)** for the proposition that none of circumstance alleged has been proved against the accused and the circumstances alleged do not constitute a complete chain against the accused and therefore, no conviction can be recorded on the strength of evidence brought on record.

103- It is held in the case of **Navaneethkrishnan(supra)** that in absence of any connecting link between crime and things recovered on behest of accused will not have any material bearing on the facts of the instant case and accused cannot be convicted solely on the evidence of last seen with deceased. It is further held that confessional statement should be admitted only if it leads to the discovery of some new facts. It is also observed that when prosecution rests on circumstantial evidence, prosecution must place and prove all necessary circumstances which would constitute complete chain without snap and pointing to hypothesis that except accused no one had committing offence.

104- In the instant case the recovery made at the instance of accused is of vital importance, being the bangles which were worn by the deceased and sickle as also the key to the door of deceased's house. The recovery of these articles cannot be brushed aside lightly as insignificant, having no bearing with the offence. On the contrary, they furnish a very strong circumstance against the accused connecting him with the offence. The discovery statement of accused led to the recovery of these articles and are hence, fully admissible so far as, the discovery of the articles are concerned. This dictum of **Shivaji(supra)** is of no help to the accused and on the contrary, furthers the case of prosecution.

105- **Chandrapal**(Supra) cited by the defence propounds that, suspicion howsoever strong cannot be a substitute for proof. It is settled law that suspicion however strong cannot take place of proof. However, the prosecution evidence which has been brought on record is not limited to raising of mere suspicion and the circumstances do indicate that they amount to the proof against the accused.

106- **Ashish Jain's** case(Supra) is authority for the proposition that recovery of incriminating material at the instance of accused if made under pressure or compulsion from investigating officer, then evidentiary value of such statement leading to recovery is nullified. Having considered this dictum, and examining the evidence on record, there is absolutely no evidence on record that the statements were made by accused under the threat duress or coercion, compulsion or pressure by the investigating officer. Hence, this case of **Ashish** (Supra) is inapplicable to the facts of instant case.

107- Hon'ble Supreme Court in a Catena of pronouncement laid down the law regarding recording of conviction on the basis of circumstantial evidence. It would be profitable to advert to some of these dicta so as to seek guidance.

108- It has been held in the case of **Bodhraj Vs. State of Jammu & Kashmir (2002) 8 SCC 45** by the Hon'ble Apex Court as under :-

10. It has been consistently laid down by this Court that where a case rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused or the guilt of any other person. (See *Hukam Singh v. State of Rajasthan*¹, *Eradu v. State of Hyderabad*, *Earabhadrapa v. State of Karnataka*¹, *State of U.P. v. Sukhbasi*, *Balwinder Singh v. State of Punjab* and *Ashok Kumar Chatterjee v. State of M.P.*) The circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances. In *Bhagat Ram v. State of Punjab* it was laid down that where the case

depends upon the conclusion drawn from circumstances the cumulative effect of the circumstances must be such as to negative the innocence of the accused and bring home the offences beyond any reasonable doubt.

11. We may also make a reference to a decision of this Court in *C.Chenga Reddy v. State of A.P.*, wherein it has been observed thus: (SCC pp. 206-07, para 21)

"21. In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further, the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence."

12. In *Padala Veera Reddy v. State of A.P.* it was laid down that when a case rests upon circumstantial evidence, such evidence must satisfy the following tests: (SCC pp. 710-11, para 10)

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

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

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

(4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of 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."

.....

16. In *Hanumant Govind Nargundkar v. State of M.P.* it was observed thus: (AIR pp. 345-46, para 10)

"10. ...It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

17. A reference may be made to a later decision in ***Sharad Birdhichand Sarda v. State of Maharashtra***. Therein, while dealing with circumstantial evidence, it has been held that the onus was on the prosecution to prove that the chain is complete and the infirmity of lacuna in the prosecution cannot be cured by a false defence or plea. The conditions precedent in the words of this Court, before conviction could be based on circumstantial evidence, must be fully established. They are: (SCC p. 185, para 153)

(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.

109- It was observed by the Hon'ble Apex Court in the celebrated case of ***Sharad Birdhichand Sarda v. State of Maharashtra***, which enunciated the law regarding recording of conviction solely on the basis of circumstantial evidence and propounded the principles for

guiding the court in this matter, which are famously known as five golden principles or *Panchsheel*. It is observed thus-

151. It is well settled that the prosecution must stand or fall on its own legs and it cannot derive any strength from the weakness of the defence. This is trite law and no decision has taken a contrary view. What some cases have held is only this: where various links in a chain are in themselves complete, then a false plea or a false defence may be called into aid only to lend assurance to the court. In other words, before using the additional link it must be proved that all the links in the chain are complete and do not suffer from any infirmity. It is not the law that where there is any infirmity or lacuna in the prosecution case, the same could be cured or supplied by a false defence or a plea which is not accepted by a court.

152. Before discussing the cases relied upon by the High Court we would like to cite a few decisions on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. The most fundamental and basic decision of this Court is *Hanumant v. State of Madhya Pradesh*, This case has been uniformly followed and applied by this Court in a large number of later decisions up-to-date, for instance, the cases of *Tufail (Allas) Simmi v. State of Uttar Pradesh* and *Ramgopal v. State of Maharashtra*, It may be useful to extract what Mahajan, J. has laid down in *Hanumant* case;

"It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

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

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra¹² where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

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

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

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

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

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

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

110- The circumstances alluded to in this judgment in **paragraph 97** are found to be proved beyond reasonable doubt against the accused. In other words, these circumstances are conclusively found to be established against the accused. On testing these circumstances on the anvil and touchstone of the above-mentioned authorities it is found that, the circumstances established by the prosecution against the accused have a tendency to unerringly point to the guilt of the accused. These circumstances do form a complete chain with no snags in between and therefore when this evidence is examined in the light of law laid down by the Hon'ble Apex Court in the case of **Sharad Birdhichand**(Supra) it would lead to inescapable and irresistible conclusion that no one except the accused is the author of the crime. The circumstances so established, are fully consistent with the guilt of accused and are inconsistent with his

innocence. These circumstances which are proved are not capable of any explanation other than the guilt of accused or the one that is sought to be prove and are inconsistent with any hypothesis compatible with the innocence of the accused Umrao.

111- Therefore, in the light of above discussion, this court is of considered opinion that prosecution has succeeded in bring home the charge under section 302 of the Indian Penal Code(I.P.C. for brevity) against the accused. The accused is hereby, held guilty for commission of Murder of deceased Gangabai at her dwelling house situated in village Kairy, which lies in the local limits of the jurisdiction of police station Jeeran. Thus, accused is convicted under section 302 of the I.P.C.

112- Now, other charge against the accused Umrao is that he caused disappearance of evidence of offence with intention of screening himself from legal punishment of the offence charged. There is evidence on record that accused was found in possession of the key to the lock which was put on the door of deceased Gangabai's house. Obviously, it will be presumed that this act was done with the intention that, the relatives and villagers would be misled into belief that there is no one inside the house and therefore would ward off any search of that place which could ultimately lead to *corpus delicti*. In other words, it would lead to discovery of the body of deceased Gangabai, who was already murdered inside the house. Since, accused was found in the possession of the key to the lock which was used to lock the outer door of Gangabai's house, he owes an explanation as to how and under what circumstances he came in the possession of the key. No such explanation has been furnished by the accused in his examination under section 313 of the Cr.P.C. At the cost of repetition, it is observed that, it is born out by evidence on record that key recovered from the possession of accused fits into the lock put on Gangabai's house. Therefore, in the face of such evidence of the recovery of key to that lock, the only inference would be that accused himself locked the door of Gangabai' house with intention to conceal/hide the fact that the dead body of Gangabai who was murdered

was lying in her house. This would eventually, stave off an inquiry or search in her house causing disappearance of the dead body or at any rate tinker with the biological condition of the dead body of Gangabai causing impairment of the evidence leading to the real culprit. Thus, it is established beyond reasonable doubt that accused knowing that an offence of murder has been committed in the dwelling house of deceased Gangabai placed a lock on her outer door to cause disappearance of evidence and to screen himself from the legal punishment of the offence of Murder.

113- The accused has also been charged under section 392 read with 397 of the I.P.C. It has been found proved that deceased Gangabai used to wear silver bangles/Kade in her legs and her legs were severed from her body and the bangles were found missing. These bangles were recovered on the basis of information furnished by accused Umrao recorded in the memorandum marked as Ex.P.-25 which were ultimately recovered and seized by Virendra Singh(PW.19). It is also found proved that accused was found in possession of the key to the lock placed on outer door of Gangabai. This key were sent to FSL Sagar vide Ex.P.-51 and it was found by the examiner of FSL Sagar vide Ex.P.-59 that the key sent to them along-with the lock were examined and it was concluded that the key fits into the key hole of that lock and the lock is easily unlocked by using that key and can be locked again. At the cost of repetition, it is pertinent to mentioned here, Shradhha trivedi Naib Tehsildar(PW.08) conducted an identification parade to ascertain and ensure that the silver bangles were the same silver bangles which were missing from the legs of deceased Gangabai. For this purpose, Bharat Singh(PW.01) son of Gangabai was roped in and he identified them as same silver bangles. Invoking, section- 114(a) of Indian Evidence Act it is presumed that it is the accused Umrao who committed the theft of those bangles after severing the legs of deceased Gangabai from her joints of toes. Obviously, such act could be committed only by a sharp edged object. Accused Umrao is found to be in possession of sharp edged sickle

in the prosecution evidence. Thus, the irresistible conclusion and finding would be, it was the accused who committed robbery in committing the theft of those silver bangles and for that end voluntarily caused death of deceased Gangabai. In committing this offence of robbery, it is held that accused at the time of committing robbery used deadly weapon and caused the death of deceased Gangabai. At any rate, accused is found proved to have used deadly weapon at the time of committing of the aforementioned robbery.

114- On the basis of forgoing discussion and analysis, it is held that prosecution has also succeeded in bringing home the charge against accused Umrao under section 201 and 392 read with 397 of the Indian Penal code. As a sequel thereto accused is held guilty of committing these offences and is hereby convicted under section 201 , 392 read with 397 of the I.P.C.

:: Discussion on Point No.-06 along-with sentence ::

115- The prosecution has successfully proved these charges against the accused beyond reasonable doubt. Thus, accused is convicted for commission of offences under section 302, 201, 392 read with 397 of the Indian Penal Code.

116- The accused needs to be heard on the question of sentence. To facilitate the hearing of accused and his counsel the dictation of this judgment is adjourned for sometime. The accused is already in custody. He shall now be heard on the question of sentence to be imposed on him.

Sd-

(SUSHANT HUDDAR)

Sessions Judge ,

Neemuch District Neemuch(M.P.)

Later on

117- Accused is heard on the question of sentence. The accused and his counsel submits that, accused is a young offender with no history of previous conviction. They submits that accused has never had a criminal history. He has a family which is dependent on him and in event of his long incarceration, his family would be ruined and they would suffer incalculable catastrophe. Therefore they pray, that a lenient view be taken against him. They also submits that accused is a person of insufficient means, living under literal state of penury and therefore, be accordingly dealt with.

118- Since, accused is found guilty of offence punishable with death therefore, the question of granting him the benefit of probation does not arise. The maximum punishment prescribed for the offence of Murder under section 302 of the I.P.C. is death sentence while the minimum sentence provided is life imprisonment. The submission of accused is taken into consideration. Though, it is found that deceased Gangabai was Murdered under the circumstances which can be termed as brutal, but there is no evidence on record which would bring the case under the category of the rare of the rarest as propounded in various judgment of the Hon'ble Apex Court. After carefully analyzing the circumstances in which the offence is found to be committed, this court is of considered opinion that, there is no warrant to inflict the maximum sentence i.e. death sentence against the accused. It would suffice, if accused is visited with the penalty of life imprisonment under section 302 for committing Murder of deceased Gangabai. Accused Umrao@Rahul is sentenced to imprisonment for life for the offence of Murder punishable under section 302 of the Indian Penal Code and shall also pay a fine of rupees 500-00. In default of the payment of this fine, accused shall further undergo an imprisonment for a period of 6 months.

119- Accused is also convicted section 201 of the I.P.C. and a sentence, for a period of 05 years of rigorous imprisonment under this

section would meet the ends of justice. Accused is accordingly sentenced for a period of 05 years of rigorous imprisonment under section 201 and with a further fine of rupees 500-00. He shall be made to suffer a further rigorous imprisonment of 3 months in default of payment of fine.

120- Accused has been held guilty under section 397 and 392 of the Indian Penal Code and stands convicted for offences under these sections. The offence under section 392 is a minor offence of section 397, and its ingredients are covered by this section, this court is of the considered opinion that having regard to the provision of section 71 of the Indian Penal Code, there is no need to award a separate sentence under section 392 of the I.P.C. Therefore, the accused is sentenced only under section 397 of the I.P.C. instead of both the above-mentioned sections. Accused is sentenced under section 397 of I.P.C. to rigorous imprisonment for a term of 07 years and also with a fine, to the tune of Rupees 1,000-00 (One Thousands rupees). In default of payment of this fine of one thousand rupees, accused shall further undergo a default sentence of rigorous imprisonment for a period of 3 months.

121- It is directed that all the above mentioned sentences of Life imprisonment, imprisonment for a term of 05 years and 07 years respectively, shall run concurrently against the accused and as such, accused be made to suffer these sentences concurrently.

122- The accused Umrao@Rahul is sentenced under various sections for the offences of which he stands convicted are as under :-

S.N.	Section (I.P.C.)	Quantum/ period of Imprisonment	Nature of Imprisonment	Amount of Fine.	Sentence in default of payment of fine.
01-	302	Life imprisonment	Rigorous	500-00	06 months

02-	201	05 years	Rigorous	500-00	02 months
03-	397	07 years	Rigorous	1,000-00	03 months

123- All the above sentences shall run concurrently.

124- The seized property in this matter consist of silver bangles, cloth beater/wooden peddle, iron chisel, iron sickle, rock/stone, blood-stained and simple earth, key lock. Brick, quilt, and clothing of deceased Gangabai, documents pertaining to Gangabai's land holding, viscera. Except silver bangles, all other seized articles are without any value and therefore, shall be disposed of, by destroying them after the period of appeal prescribed against this judgment. In the event of appeal being preferred against this judgment and sentence, the disposal of seized articles shall abide by the order of Hon'ble Appellate Court. Silver bangles have been released on Supurdginama/interim custody in favour of Bharatsingh. This supurdginama/bond of interim custody, shall stand discharged after the expiry of period of appeal prescribed against this judgment and if an appeal is preferred within this period, the supurdginama/interim custody bond pertaining to silver bangles shall be subject to the orders of Hon'ble Appellate Court.

125- It is found that registered sale deeds and Khasra entries were tendered in evidence during the recording the evidence of Bharat Singh (PW.01) and were marked as Exhibit of Articles A-02, A-03 and A-04. These sale deeds were returned back to this witness as per the record. No seizure memo is available on record as regards these documents/articles. Therefore, these articles be retained by Bharat Singh (PW.01) and in event of an appeal being preferred against this judgment, the disposal of these articles A-02, A-03 and A-04 shall be subject to the order of Hon'ble Appellate Court.

126- A statement regarding the period of custody during which, accused remained in detention, be prepared under section 428 of the Cr.P.C. forthwith and the period of detention undergone by him during

investigation, inquiry and trial of this case and before his conviction shall be set off, against the term of imprisonment imposed on him. The certificate so prepared under section 428 of the Cr.P.C. be annexed to the record of this case.

127- A warrant of execution of sentence imposed on the accused by this court be prepared forthwith, which shall be in accordance with the sentence awarded to him. Accused be sent to jail along-with the warrant of sentence, awarded to him and he be made to suffer/undergo the sentence/punishment so awarded. The warrant so prepared shall direct the jail authorities that, accused shall be made to suffer/undergo all the awarded jail sentences to him, concurrently.

128- A copy of this judgment be provided to the accused forthwith. A copy of the same be also forwarded to the District Magistrate Neemuch, in compliance of section 365 of the Code of the Criminal Procedure.

Judgment pronounced in open court. Typed on my direction and dictation

Sd-

(SUSHANT HUDDAR)
Sessions Judge ,
Neemuch District Neemuch(M.P.)

Sd-

(SUSHANT HUDDAR)
Sessions Judge ,
Neemuch District Neemuch(M.P.)
06.12.2023