

FORM - A

IN THE COURT OF 8th ADDITIONAL SESSIONS COURT
VODADARA, AT - KARJAN.

Present M. B. Kotak, 8th Addl. Sessions Judge
(Date of the Judgment 14th August 2026)

SESSIONS CASE NO. 23 OF 2021

(Details of FIR/Crime and Police Station:- I. C. R. No.
1119700025211283 of 2021 registered with Karjan Police Station)
Exh. 643.

Complainant	Shri Jaydeepbhai Mahendrabhai Patel
Represented by	Addl. P.P. Mr. R. M. Gyanchandani
Accused	1. Ajaybhai Amrutbhai Desai Age : 39, Occupation : Service (P.I.) Residing at : C/5, Prayosha Society, Bhaktinagar New Bazar, Karjan, Dist.Vadodara. Permanent Residing at : C/201, Sardar Patel Nagar, beside Sashttrinagar char rasta, Naranpura, Ahmdabad and P/R. Bamosana village- Tal. Dist. Mahesana 2. Kiritsinh Dolubha Jadeja Age : 51, Occupation : Business Residing at : A/122, Pustidhwar society, Bapod Jakatnaka, Waghodiya road, Vadodara. Permanent Residing at : Moti khodai village, Tal. Anjar, Dist. Kucch.
REPRESENTED BY	Advocate Mr. K.M. Bhatt for accused No.1. Advocate Mr. R.D. Patel for accused No.2.

FORM - B

Date of offence	05/06/2021
Date of F.I.R.	25/07/2020
Date of charge-sheet	18/10/2021
Date of recording plea	16/05/2022
Date of commencement of evidence	15/12/2022
Date on which judgment is reserved	04/08/2026
Date of the Judgment	14/08/2026
Date of the Sentencing Order, if any	Convicted

Accused Details

Rank of the accused	Name of accused	Date of Arrest	Date of Release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during the Trial for purpose of section 428, Cr.P.C.
A-1	Ajaybhai Amrutbhai Desai	25/07/21	UTP	U/s. 302, 201,120(b) 114 of IPC	Convicted	Life imprisonment with fine	25/07/21 till date of Judgement (Except period of interim bail)
A-2	Kiritsinh Dolubha Jadeja	25/07/21	Bail out by Cr.M.A. No. 200 of 2021	U/s.302, 201,120 (b) 114 of IPC	Convicted	Five years R.I with fine	F. 25/07/21 to 30/10/2021

FORM -C**ORAL EVIDENCE**

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ORAL EVIDENCE OF DEFENCE AND DOCUMENTARY EVIDENCE

D.W.NO	NAME OF WITNESS	EXH.
NIL		

SR.NO.	DETAILS OF DOCUMENT	EXH.
NIL		

(D) MATERIAL OBJECTS

SR.No.	DETAILS	
01	Different types of clothes, bangles total nos. 1 to 140 Medicine - Lbuprofen, quantity -16	JJ/17/2021/MP/3
02	Box full of kapoor pieces	JJ/17/2021/MP/4
03	Half-burnt wood, neightie pants, a pieces of red brick, a small pieces of stone and burnt materild, grass blades, Bones and half-burnt pieces, Mark - B Half-burnt coals and small suspicious bones, Mark - C Half-burnt remains, blackened soil Mark - A Control soil Mark - D Half-burnt wood and scattered remains	
04	Mark - A One Mobile phone of Apple I - phone company Mark - B Mobile phone - Galaxy S 7 twenty altra LTE, Samsung company Mark - C & D, D.V.D. with box charger of CCTV camera	JJ/17/2021/MP/5
05	Small pieces of bone, Half bune of cloath Small pieces of bone, Half bune of cloath Blackened, half-burnt pieces of wood, plastic, and coal. White half-broken half-broken tooth, control sample soil	
06	DVR Box of black color	JJ/17/2021/MP/6

07	Mark - A Dulcoflex medicine - three Mark - B One pillow Mark - C One pillow Mark - D One pillow cover Mark - E Lady nicker Mark- F Two seperate pieces of cotton thread Mark - G Control sample Mark - H piece of washbasine pipe Mark - I Iron greel and pieces of sand, tiles and cement Mark - J pieces of cement concrict and more suspicious pieces of tiles Mark - K Control sampel tile Mark - L Old T - Shirt Mark - M Old lady salvar	341/2021
08	Small burnt bone fragments Small pieces of charcoal A broken metal bangle Sample soil A large piece of plywood ladder in the grass Pieces of half burnt wood and sample soil Control sample soil	342/2021
09	Two seal pack brown cover	347/2021
10	One I - phone of white colour of apple company One I - phone of black colour of apple company	
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12	Bone fragments found in some quantity	354/2021
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14	Two pieces of Mangalsutra of chain One golden ring	386/2021

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15	One DVD of Mozarbare company 1 - Bracelet photos (Four photographs) 2 - Mangalsutra photos (Nine photographs) 3 - Ring photos (Four photographs)	399/2021
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JUDGMENT

Introduction

1. The Police Sub Inspector, Crime Branch, Ahmedabad City has filed a charge-sheet against the present both accused to proceed with the trial for the offences punishable under sections 302, 201, 120(B) and 114 of the Indian Penal Code (for short IPC) after investigation of the F.I.R. registered vide Part-A, Cr. No. I-11197025211283/2021 with Karjan Police Station, in the court of Addl. Judicial Magistrate (F.C.), Karjan. It was registered vide Criminal Case No. 2317 of 2021. As the said criminal case was committed to this court to proceed with the trial, this Sessions case is instituted before this court.
2. The accused no. 1. **Ajaybhai Amrutbhai Desai** the than police inspector and accused no. 2. **Kiritsinh Dolubha Jadeja** an owner of hotels are herein after referred as **A1** and **A2** respectively for convenience and brevity. Likewise missing/died Sweetiben is referred as **S**
3. A1 is facing charges for the offences punishable under Section 302 read with Section 114 and 201 of the IPC,

whereas A2 is facing charges for the offences punishable under Section 201 read with Section 114 of the IPC. The charge is at Exh. 12.

Facts of the prosecution case

4. The police investigation was set into motion on the basis of information registered vide Karjan Police Station Station Diary No. 17/2021 on 11/06/2021. It was registered by Jaydeepbhai regarding his real sister Sweetyben going missing from her house No. C-5, Prayosha Society, Near Bhaktinagar Crossing Road, Karjan, in the midnight of 4-5 June 2021.
5. Sweetyben was residing with A1 at Karjan and she had one child, namely Ansh (aged 2 years), from A1. They were residing as husband and wife after exchanging garlands in the presence of a very few of their friends in a temple. A1 was serving as a Police Inspector (PI) at Karjan Police Station. At the time of the alleged crime, A1 was serving in the Special Operations Group (SOG), Vadodara. The Karjan Police initially investigated the missing person information, but even after a considerable time, no substantive progress was made. Subsequently, the investigation was transferred to the Crime Branch, Ahmedabad. After being entrusted with the investigation, the Crime Branch registered an FIR for the murder of Sweetyben and the destruction of evidence at the instance of Jaydeepbhai. The said FIR was registered vide Cr. No. 11197025211283/2021 with Karjan Police Station. It is the case of the prosecution that Sweetyben had eloped and

married Hetash Maheshbhai Pandiya in the year 2001. Her said marriage was not accepted by her paternal family for five years. Subsequently, her relations with her paternal family were normalized. From the said marriage, she became the mother of two sons, namely Ridham and Pranil. Hetash developed a relationship with Janvi while his marriage with Sweetyben was still subsisting. Therefore, in the year 2013, they ended their marital life by divorce. The custody of both children remained with Hetash. After the divorce, she resided in a rented house at Anand and then shifted to Ahmedabad.

6. It is further gathered from the prosecution case that Sweetyben came into contact with Kamalbhai through social media in the year 2014. Finally, she married him in 2015. Then, she went to the US in the year 2016. In the meantime, she came into contact with A1. She returned from the US after taking a divorce as their marital life was not settled. Then, in the year 2017, at the temple of Rupal Vardaini Mataji, she married A1 by exchanging garlands in the presence of very few persons. Thereafter, she resided with A1 at Gotri, Vadodara and then at Bungalow No. C-5, Prayosha Society, Karjan. From the said marriage, she became the mother of Master Ansh. They marked their presence in every social function of the first informant. It is the further case of the prosecution that A1 was already married. She insisted that A1 divorce his legally wedded wife and bring her to her matrimonial home.

7. It is the further case of the prosecution that on 5th June 2021 at about 11 o'clock, A1 called Jaydeep and inquired whether Sweety had come to his home. It was also disclosed that she had left the house at night due to a squabble. Also, A1 requested him to come to Karjan as Ansh was not calming down. Therefore, Jaydeep, his wife Manisha, and his brother Bhavdeep came to Karjan from Panshora village. They reached Prayosha Society at about 1 PM on 5th June. At about 4 PM, A1 informed them that while they resided at Vadodara, Sweety often visited the Radhakrishna Temple for worship, so he had gone there to inquire about her. Then, A1 returned to Karjan around 9:30 PM. He informed them that Sweety had not been found at Vadodara, so he had deployed persons to find her. A1 also advised them to take Ansh with them, stating that he would inquire about Sweety at Ahmedabad and at the homes of other relatives. Therefore, they took Ansh with them. Even after five days, as Sweetyben was not found, Jaydeep talked with A1. At that time, A1 suggested registering a missing report from Pansora. However, Jaydeep informed him that since she went missing from Karjan, the complaint must be registered with Karjan Police Station. Finally, the missing person information was registered with the assistance of A1 before the Karjan Police on 11/06/2021.
8. The Karjan police made an entry in the station diary of the Karjan police station regarding the missing person report of S. The investigation into the said aspect was carried out. The

statements of various passersby and local residents were recorded by showing photographs of S to get a clue about her movements. The DVRs of CCTV cameras installed at Prayosha Society as well as at the home of Krishna Farshkhana, situated opposite Prayosha Society, were collected and examined by the Karjan police. Also, the statements of various witnesses were recorded to get a clue about S. However, after a considerable time, as no gainful clue about S was found and no breakthrough was achieved, the investigation was ordered to be handed over to the Crime Branch, Ahmedabad, in view of the order passed by the Director General of Police.

9. Immediately after being entrusted with the investigation, the Crime Branch received the investigation papers of the missing entry conducted by the Karjan police. After analyzing the relevant papers, the investigation focused on A1. He was considered the prime suspect in the crime concerning the murder of S. The investigation proceeded from that viewpoint. A polygraph test (commonly known as a lie detector test) was conducted by FSL, Gandhinagar, on the basis of consent given by A1 on 13th June 2021. The report of the said test was received, which also raised suspicion against A1. The call details and CDR data were examined, on the basis of which the investigation led to the abandoned hotel of A2 situated at Atali village near Vaibhav Hotel, which was non-functional and under the control of A2. It was revealed during the investigation that S was killed by A1 at

midnight on 4-5 June 2021 at his home, triggered by S's persistent demand to be taken to the home of A1's family and for him to divorce his legally wedded wife, Pooja.

10. A1 and A2 were interrogated by the police, during which they confessed to the murder and the destruction of evidence. Meanwhile, A2 confessed before his brother-in-law about the murder of S. Finally, her brother Jaydeep, lodged an FIR against both accused for the murder of his sister and the destruction of her body.

11. During the investigation, the CDR data of the mobile phones of A1, A2, Sweetyben, A2's driver, and other persons was received. Upon close scrutiny of the said data with the aid of scientific experts, it appeared that A1 killed S and her dead body was cremated with the aid of A2 at the closed hotel of A2 situated at Atali village. The presence of both accused on the day after the incident was established at the said place. Various panchnamas of the said place were conducted, and burnt bones, teeth, and burnt pieces of cloth were recovered. DNA profiling was attempted on the said bones to match them with Ansh, but no result was obtained as the bones were totally burned. In the final panchnama, melted or molded gold parts were recovered from the said place. According to the FSL report, they matched the jewelry worn by S in photographs extracted from her mobile phone.

12. The statements of the near relatives and friends of A1, including the socially and legally wedded wife of A1, were recorded. The statements of near relatives of S, including her

first husband, children, and friends, were also recorded. The statements of witnesses were processed to be recorded before the Judicial Magistrate. Investigation was also conducted to rule out the explanation given by A1 that S left the house at midnight over a trivial issue. CCTV footage was recovered, which confirmed that a fight took place between A1 and S at midnight. Thereafter, both accused were arrested, and upon the conclusion of the investigation, a charge-sheet was filed to proceed with the trial for the offences of murder and destruction of evidence.

Details of committal of proceedings

13. The learned Judicial Magistrate First Class (JMFC), Karjan, took cognizance against both accused based on the police report submitted under Section 173 of the CrPC, registering the case as Criminal Case No. 2317 of 2021. After ensuring compliance with the provisions of Sections 207 and 208 of the CrPC regarding the supply of copies to the accused, the JMFC Court passed an order vide Exh. 5 dated 21/10/2021 to commit the case to the Court of Sessions, as the alleged offenses are exclusively triable by this Sessions Court. Consequently, this case was instituted as Sessions Case No. 23 of 2021 in this Court.

Detail of framing of charge

14. After ensuring compliance with the provisions of Sections 207, 208, and 240 of the CrPC, this Court (my predecessor) framed charges against the accused at Exh. 12 for offenses punishable under Sections 302 r/w section 201 and 114 of the

IPC. Accordingly, A1 is charged for murder of S and destruction of evidence with the aid of A2. Whereas, A2 is charged for aiding the A1 to cremated the dead body of S at his closed hotel situated at village Atali. The accused pleaded not guilty to the charges and claimed to be tried, as recorded in their statements at Exh. 13 to 16. Consequently, the matter was posted for recording the evidence of the prosecution.

Details of custody status (UTP & BAIL)

15. Accused no. 2 has been released on regular bail and are currently at liberty. Accused no. 1, however, remains in judicial custody as an Under Trial Prisoner (UTP).

Direction of the Hon'ble High Court for expediting trial

16. The Hon'ble High Court of Gujarat, vide its order dated 02/11/2023 passed in Criminal Misc. Application No. 14068/2023 (a successive regular bail application after the charge-sheet), directed to expedite the trial and conclude the same as expeditiously as possible, preferably within a period of 12 months from the receipt of said order. Subsequently, upon the request of this Court the time was extended time to time. Finally, vide order dated 20/03/2026 time to conclude the trial is extended for a further period of five months.

Details of prosecution evidence

17. To prove the guilt of the accused, the prosecution examined a total of 128 witnesses and produced numbers documents as stated above. Upon the conclusion of the evidence, the learned Additional Public Prosecutor (Addl.P.P.) submitted a

closing pursis at Exh. 612. It is further noted that the original complainant, remained absent after his deposition.

Details of further statements of the accused

18. Following the conclusion of the prosecution evidence, the further statements of the accused were recorded under Section 313 of the CrPC to enable them to explain the circumstances and evidence appearing against them in the record. The accused denied all incriminating circumstances and evidence brought forth by the prosecution witnesses. Furthermore, the accused declined to lead any defense evidence or to examine any witnesses in their defense. In their further statements, the accused maintained their innocence, stating that they have not committed any offense as alleged in the FIR and have been falsely implicated in the case.

Arguments of the prosecution's side

19. The learned Additional Public Prosecutor (Addl. P. P.) filed written arguments at Exh. 622 and also made oral submissions. He mainly argued that in the present case, A1 murdered his wife S and thereafter disposed of the dead body of S with the help of A2. In this case, the accused destroyed the evidence. It is also argued that at the time of the incident, A1 was residing with S in Bungalow No. C-5, Prayosha Society, Karjan, which is an admitted fact in this case. A1 and S had a child named Ansh from their marriage, regarding which there is oral evidence from various witnesses, including friends and close relatives of A1.

20. It is also argued that at the time of the incident, A1 desired to live with his first wife, Pooja, at Vadodara in Lilariya Flat, which was retained by A1 on rent. Therefore, quarrels took place between A1 and S. Thus, A1 had a motive to kill S, who was his third wife. This fact is duly proved by the prosecution on the basis of circumstantial and oral evidence of witnesses, along with CCTV footage. It is also argued that the CCTV footage of channel 20-21 around 20:57 to 22:30 on 4th June 2021 clearly shows that A1 and S, along with their son Ansh, went to sleep at night. The presence of A1, who carried Ansh in the morning, is captured in the CCTV footage, and it is also seen from the CCTV that A1 parked (reversed) his Compass Jeep inside the house. From this evidence, the "last seen together" theory is duly proved. The testimony of police personnel who came to the house in the morning to deliver some articles also proved the "last seen together" theory.

21. It is also argued that lastly, on 5th June 2021, Sweetiben was seen alive with A1 in a closed house. Since then, she has not been found, and nobody has heard of her. A1 was with S till midnight, which is duly proved from the evidence. It is not seen in the CCTV footage that S left the house. Therefore, the explanation given by A1 that S left the house at midnight is proved to be a false statement. In view of these proven facts and Section 106 of the Evidence Act, the burden to prove what happened to S at midnight inside the closed house between A1 and S remained on A1, wherein A1 totally failed

to give a proper explanation. On the contrary, A1 registered a false missing complaint regarding S through the brother of S to lead the investigation on the wrong track. Thus, it is proved that A1 murdered his wife S and also destroyed the evidence.

22. It is also argued that A1, being a responsible police officer, ought to have informed the police about S if she were truly missing, but such disclosure was made after 6 days. It is also argued that such conduct of A1, in view of Section 8 of the Evidence Act, is material as motive and subsequent conduct are relevant. A1 was present at Dhavat Four Roads at the time of the registration of the missing entry, as per the CDR data of A1's mobile and the statement of Bharat Chithar.

23. It is also argued that the conduct of the accused appeared suspicious in the CCTV footage on the day of the incident. A1 parked his Jeep in reverse inside his house solely to load the dead body into the said Jeep. The explanation given by A1 that he went to search for S does not match the CDR data. It is also found that A1 searched regarding a closed hotel at Atali to cremate the dead body of S. From the said place, the police recovered cremation marks and also received human bones. The presence of A1 at the said Atali hotel is duly proved from the cell tower location statistics of the mobile phone used by A1. These are not merely coincidences, but circumstances that complete the chain to connect the crime with A1.

24. It is also argued that the CDR of the mobile phone duly proves the presence of A1 and A2 on 5th June 2021 at Atali village, which is very relevant in view of Section 7 of the Indian Evidence Act. From the said place, human bones, ash, soot, and other articles were recovered. The presence of both accused at the said place was neither ordinary nor accidental, but indicates that they met there and destroyed the evidence. It is argued that from the testimony of the Investigating Officer and other witnesses, it is proved that relations between A1 and S had become sour and were not normal. A1 had been enjoying marital life with his socially wedded wife Pooja in addition to his relation with S. Therefore, A1 had a motive to kill S.

25. Learned Addl. P.P. Mr. R.M. Gyanchandani further argued that the deposition of the IO is self-sufficient to prove that A1 shifted the dead body in his Jeep to Atali village. The witness Babubhai Rathod had seen smoke at the said place, and his statement under Section 164 is also on record. It is also relevant that A2 was in touch with A1, and his presence at the said place at the relevant time is duly proved from CDR and tower locations. Therefore, it is duly proved that A1 killed S and then destroyed the evidence of the crime with the aid of A2. The dead body was cremated at the closed hotel of A2 at village Atali. From the said place, melted gold ornament parts worn by Sweetyben were recovered, and these recovered parts matched the photographs of Sweetyben wearing those ornaments. There is the doctrine of **corpus delicti**. Thus, it

is proved that Sweetiben was killed by A1 and that both accused committed the crime.

26. The learned Addl. P.P. for the State concluded his arguments with the submission that the prosecution has duly proved the charges faced by the accused, and both accused should be held guilty of the alleged charges. In support of his arguments, he relied upon the following pronouncements;

1. State of Goa Vs. Pandurang Mohite, AIR 2009 SC 1066,
2. Ramreddy Rajeshkhanna Reddy Vs. State of A.P., 2006 (10) SCC 172,
3. State of U.P. vs. Satish, 2005(3) SCC 114
4. Sardar Khan Vs. State of Karnataka, (2004) 2 SCC 442,
5. Mohibur Rahman Vs. State of Assam, 2002(2) JIC 972(SC),
6. Rohtas Kumar Vs. State of Haryana, 2013 (82) ACC 401(SC),
7. Sandeep Vs. State of U.P. (2012) 6 SCC 1071,
8. Prithipal Singh Vs. State of Punjab, 2012 (76) ACC 680(SC)
9. Jagdish Vs. U.P., 2009(67) ACC 295 (SC)
10. Daulatram Vs. State of Chhattisgarh, 2005 (63) ACC
11. Trimukh Maroti Kiekan Vs. State of Maharashtra, 2007 (57) ACC 938 (SC).
12. Chankya Dhibar Vs. State of W.B., (2004) 12 ACC 398
13. State of Punjab Vs. Karnail Singh, 2003 (47) ACC 654 (SC)
14. Madhu Vs. State of Karnataka, 2014 (84) ACC 329 (SC)
15. Ramjee Rai Vs. State of Bihar, 2007 (57) ACC 385 (SC)
16. Prithi Vs. State of Haryana, (2010) 8 SCC 536
17. Sevaka Perumal Vs. State of TN, (1991) 3 SCC 471
18. Prithipal Vs. State of Punjab, 2012 (76) ACC 680(SC)
19. Mani Kumar Thapa Vs. State of Sikkim, AIR 2002 SC 2920
20. G. Parshwanath Vs. State of Karnataka, AIR 2010 SC 2914
21. Jagdish Vs. State of M.P., 2009 (67) ACC 295 (SC)
22. Sanjeev Vs. State of Haryana, (2015) 4 SCC 387

Arguments of the defense's side

27. Learned Senior Advocate Mr. K.M. Bhatt, along with learned advocates Mr. R.D. Patel and Mr. Nehal V. Dave for the accused, argued the matter in great detail across numerous sessions, covering various aspects. Furthermore, written arguments and written statements on points of law have been submitted. They meticulously examined each line of the depositions of all witnesses, arguing that the chain of circumstances is incomplete and fails to connect any of the accused with the alleged crime. The crux of their arguments can be summarily stated as under:

1. He argued that this case rests entirely upon circumstantial evidence, with no eyewitness to the crime. On the contrary, it has not even been proved that the crime was committed by any of the accused. The charge-sheet and the prosecution's case hinge upon surmises, conjectures, and the presumptions of the Investigating Officer. The entire prosecution case is based on the whims and fancies of the Investigating Officer. It is argued that the five golden principles in a case resting on circumstantial evidence must be strictly proved by the prosecution. He drew the attention of this Court to relevant case law and pronouncements on this point. It is argued that in the present case, the prosecution failed to prove the said golden principles. On the contrary, no strong circumstances have been proved by the prosecution upon which it can be established that the crime was committed and that it was committed by none other than the accused. It is also argued

that the prosecution must prove its case beyond reasonable doubt.

2. It is argued that out of the 128 witnesses examined by the prosecution, except for police personnel and FSL officers, all either turned hostile or did not fully support the prosecution's case. Even the close relatives of S, including the so-called first informant, turned hostile and did not support the prosecution. It is further argued that PW 1 to PW 38 are panch witnesses for various panchnamas; however, none of them supported the prosecution's case. They all turned hostile, and apart from their signatures on the panchnamas, they resiled from the facts stated therein. The learned advocate read through the entire depositions of these witnesses and argued that the prosecution derived no support from their testimony.

3. Next, it is argued that PW 39 and PW 40 are Home Guard personnel who were on duty on the date of the incident near Prayosha Society. They testified that they did not find any suspicious facts regarding the missing of S on the said date. Therefore, the testimony of these witnesses is of no help to the prosecution case. Furthermore, they were not even asked by the Addl. P.P. whether or not they could identify S.

4. It is also argued, by drawing the attention of the Court to the depositions of PW 41 and PW 42 who are residents of Prayosha Society, that their testimony proves that the relationship between A1 and S was quite normal and cordial, thereby falsifying the prosecution's claim that A1 used to

fight with S. PW 43 to PW 56 are witnesses who were shown photographs and asked whether they had seen S on the date of the incident. They deposed accordingly, and no incriminating material was found in their testimony. It is also argued that PW 57 to PW 60 are friends of A1 and S, and none of them supported the prosecution case. Similarly, PW 83 to 91—consisting of the father, mother, brother-in-law of A1, and the socially wedded wife of A1—did not testify in support of the prosecution case that A1 killed S due to a strained relationship. It is also argued that other witnesses, including the brothers, sisters-in-law, first husband, and children of S from previous marriages, as well as friends and colleagues from the time she worked with her first husband, were examined by the prosecution, but no gainful material, facts, or evidence came on record to prove that the relationship between A1 and S was strained and that A1 had a motive to kill S as alleged. Instead, it came on record that S was happy with A1 and that she gave birth to a baby boy out of her relationship with A1.

5. It is further argued that the prosecution examined the dealer and persons who delivered the Jeep Compass, but no fruitful evidence emerged from these witnesses. The said jeep was purchased by a friend of A1, who also testified. A1 occasionally received the jeep for his use from his friend, who is the registered owner. It is the prosecution's case that the dead body was transported in this jeep and that vehicle wheel marks were found at the scene of the crime, namely the

abandoned closed hotel at Atali. However, there is no evidence to show that the tyre marks found matched the tyres of the Jeep Compass. The prosecution's case on this aspect remained devoid of evidence, rendering the testimony of these witnesses immaterial and unhelpful to the prosecution.

6. It is also argued that the testimony of PW 113, Bharat Chitharbhai, regarding the recovery of the phone and CCTV footage is not trustworthy. His testimony is unreliable as he failed to comply with the mandatory provisions governing the collection of electronic evidence. It is also argued that only selective footage was recovered, which is neither clear nor supportive of the prosecution case. Likewise, the testimony of police personnel PW 109 and PW 110 (Mr. Samiullakhan and Sachin Patel) is not worthy. It appears from their testimony that the recovery of CDR and other scientific evidence, such as location details, is inadmissible in a court of law because the prosecution failed to produce a certificate under Section 65B of the Indian Evidence Act from the person under whose control the system was operating. In the absence of compliance with these provisions, electronic evidence becomes inadmissible. It is also argued that the recovery of the mobile phones has not been duly proved, and the method and machinery used for analyzing the CDR data by witness Sachin Patel were not established. Therefore, the testimony of these witnesses has lost its credibility. In the absence of the requisite certificate from the person in charge

of the particular electronic system, such evidence remains inadmissible.

7. It is also argued that how the investigation reached the Atali hotel remains unexplained, and the prosecution failed to establish this link. It is also unnatural and unacceptable that A1 would search for the Atali location on his mobile phone. It is equally doubtful that the dead body remained inside the jeep, especially since A1 permitted police personnel to open the jeep independently, as per the prosecution's case. It is also argued that the entire house of A1 is not visible in the CCTV footage, and nothing was retrieved from the original DVR, as the footage was recovered from a copy of the DVR instead. This kind of story put forward by the prosecution is highly unacceptable. It is also argued that it is not proved by any evidence that A1 and A2 were in contact on the date of the alleged crime. Even their presence at the Atali hotel is not established by phone location data. On the contrary, the phone location data of A1 on the 5th refutes the prosecution's story. It is also argued that A2 is the owner of Vaibhav Hotel, which was fully functional. The presence of A2 at the said place is quite normal, yet the prosecution failed to prove his location with A1 on the alleged date of cremation at the Atali hotel.

8. It is also argued that the prosecution failed to produce the best available evidence, such as the CCTV footage of Vaibhav Hotel and the second camera of Prayosha Society. The prosecution intentionally withheld the latitude and

longitude data of the mobile phones of A1 and A2, which could have established their exact locations. It is also argued that very selective footage was collected randomly and haphazardly, without even recording the statements of the persons in charge of those systems. The footage from the second camera of Prayosha Society was intentionally not collected. None of the systems were under the control of A1. Furthermore, it is proved that the footage for the midnight hours of June 4-5 was not traced, which is crucial to proving that S left the house, consistent with A1's explanation. It is also argued that the home of A1 cannot be identified in any of the footage, and the faces of A1 and S cannot be recognized. Therefore, the chain of circumstances connecting A1 to the crime is broken. It is argued that S left A1's house at midnight; the compound wall of the house is only 3 feet high, making it easy for anyone to go outside, and it is on record that S might have left the house from the backyard. Had the footage from the second camera of Prayosha Society been recovered, it would have proved that S left the home at midnight, which is why the prosecution left it.

9. It is also argued that a polygraph test of A1 was conducted. As per the FSL report, A1 was categorized as a suspect, but the said test is not valid. The test was conducted without the valid consent of A1, without a court order, and in the absence of legal advice. The application seeking permission for the test was still pending when the test was carried out, and A1 was in police custody at the time. Therefore, any so-called

consent given by A1 cannot be considered free consent and is invalid in law. Furthermore, the results of such a test are not conclusive proof, though they may help guide the investigation in the proper direction. In view of this, it is argued that such a report cannot be considered valid and admissible evidence in the present crime.

10. It is also argued that numerous panchnamas were conducted at the Atali hotel premises, and in every single panchnama, the police purportedly recovered something. The bones, soot and other articles collected do not match the DNA and clothes of S. The recoveries made from the Atali hotel in the present case are highly doubtful, and the recovery story has been concocted by the police agency. It is argued that since the DNA from the bones and other articles did not match to confirm the death of S, another panchnama was subsequently carried out at the said place to show the recovery of ornament parts worn by S. Such recovery is highly doubtful and unbelievable.

11. It is also argued that the Investigating Officer, Barad, gathered selective evidence, presented half-truths, and ignored evidence that proved none of the accused committed the crime. The footage from the second camera of Prayosha Society was intentionally not recovered, even though it would have proved that S left the house at midnight from the backyard. Similarly, the footage of Vaibhav Hotel was not recovered, which would have been the best evidence to prove whether A2 was present at the said place on the date of the

cremation of the dead body in the compound of the closed hotel. The IO also intentionally failed to record the statements of any witnesses whose shops were situated near the Atali hotel. Therefore, the prosecution case has become doubtful and untrustworthy.

12. Learned counsel for the defense also argued that Section 106 of the Evidence Act does not cast a duty on the defense to prove innocence; rather, the prosecution must prove its case beyond all reasonable doubt by adducing the best evidence. Furthermore, any presumption under Section 106 of the Indian Evidence Act comes into play only when the prosecution has successfully proved the foundational facts. In this case, the prosecution failed to discharge that obligation. A1 maintained from the beginning that S left the house at midnight, and this possibility has not been totally ruled out by the prosecution. Therefore, the prosecution cannot take the aid of Section 106 of the Evidence Act.

13. It is also argued that the so-called place of the crime—an abandoned or non-functional hotel—was accessible, as admitted by the IO in his cross-examination. The testimony of the witness who claimed to have seen smoke at the Atali hotel is doubtful and unbelievable, as the witness could not even confirm the exact time and date when he saw the smoke. It is also argued that the investigation of the crime is very weak, faulty, and one-sided. The complainant and other material witnesses turned hostile. The electronic evidence collected and produced before the court is self-contradictory

and shakes the foundation of the prosecution case. Motive has not been proved, nor has it been proved that the relationship between A1 and S was strained. The dead body of S has not been recovered. It has neither been established that any of the accused committed the crime, nor has it been proved that S is murdered and no longer alive. It is on record that S had a nature wherein she could leave the house, just as she had left home previously. The ex-husband and children of S did not produce any substantive evidence to help the prosecution. After presenting all these arguments, the learned advocate for the defense urged that the prosecution has failed to prove the charges against both accused, and consequently, both of them should be acquitted of all charges. It is also argued that no witness testified to any fight taking place between A1 and S around midnight on June 4-5. It is clear from the FSL officer's testimony that the visibility of the CCTV footage is poor and the faces of individuals cannot be clearly identified. In support of his arguments, the learned advocate for the defense relied upon the following pronouncements::

1. Selvi Vs State of Karnataka, SC - 2010 (7) SCC - 263
2. Ritesh Sinha Vs State of Uttar Pradesh, SC-2019 (8)SCC 1
3. Ramkirat Munilal Vs State of Maharashtra, SC- 2025 AIR (SC) 3186
4. Papan Sarkar @ Pranab Vs State of West Bengal, SC- 2026 AIR (SC) 2733
5. Shivaji Chintappa Patil Vs State of Maharashtra, SC 2021 AIR (SC) 1249

- 6.** Rohit Jangde Vs State of Chhatisgarh SC 2026 AIR (SC) 1095
- 7.** Pooranmal Vs State of Rajasthan, SC 2026 (1) GLH 793
- 8.** Tomaso Bruno Vs State of Uttar Pradesh, SC 2015 (7) SCC 178
- 9.** Kshitijbhai Manubhai Patel Vs Dilipbhai Laxmanbhai Kanani GujHC, 2026 (0) AIJEL-HC 253311
- 10.** Bhartiben W\o Guneshbhai Premjibhai Gamit Vs State of Gujarat, GujHC 2026 (0) AIJEL-HC 252848
- 11.** Sujata @ Babita Suresh Ganpatrav Ahang Vs State of Gujarat, GujHC - 2025 (3) GLH 317
- 12.** Nagamma @ Nagarathna Vs State of Karnataka, SC - 2025 AIR (SC) 4695
- 13.** Vasantben Labhubhai Vs State of Gujarat, GujHC - 1996 (1) GLR 618
- 14.** State of Gujarat Vs Arvindbhai Bhailalbhai Khant, GujHC - 2020 (1) GLR 159
- 15.** Jilubhai Bhothabhai Dantani Vs State of Gujarat, GujHC - 2025 (4) GLR 2883
- 16.** State of Gujarat Vs Ashwinbhai Ishwarbhai Vankar, GujHC - 2025 (0) GUJHC 44582
- 17.** Gautam Satnami Vs State of Chhattisgarh, SC - 2026 AIR (SC) 1778
- 18.** Pulkit @ Monu Vs State of Madhya Pradesh, SC - 2026 (0) AIJEL-SC 77121
- 19.** State of Panjab Vs Kewal Krishnan, SC - 2023 AIR (SC) 3226
- 20.** Nasim @ Rajubhai Sahjadhusen Mansuri Vs State of Gujarat, GujHC - 2025 (0) AIJEL-HC 250335
- 21.** Rahul Vs State of Delhi Ministry of Home Affairs, SC - 2022 AIR (SC) 5661
- 22.** Jay Prakash Yadav Vs State of Jharkhand, SC - 2026 AIJEL_SC 76787

23. Dinubhai Bogabhai Vs State of Gujarat & Ors, SC - 2024 (0) AIJEL - HC - 248481

Points of determination and reply thereof

28. Having heard the arguments of both sides, I have perused the evidence on record along with the citations relied upon by either side. I have also gone through the record and proceedings, the relevant provisions of law, and the case diary of the IO. Therefore, the following points arise before me to determine the case:

1. Whether the prosecution has proved beyond a reasonable doubt that Sweetyben, the second wife of A-1, was last seen alive with A-1 in the closed house No. C-5, Prayosha Society on 4th–5th June, 2021, and that she is now no more, and that she was killed by A-1 by being strangled with the intention to kill, and as such that A-1 committed an offence punishable under Section 302 of the IPC?

2. Whether the prosecution has proved beyond a reasonable doubt that A-1, after murdering Sweetyben in the closed house, destroyed the evidence (disposed of the dead body of Sweetyben, etc.) of the crime with the aid of A-2, and as such both of them, in connivance with each other, committed an offence punishable under Section 201 read with Section 114 of the IPC?

3. What order ?

29. My reply of the above points on basis of above findings are as under;

1. In the affirmative.

2. In the affirmative.

3. As per final order.

-: REASONS :-**Point no. 1 :-**

30. It is the case of the prosecution that Sweetiben was murdered by A-1 in a closed house in the midnight of 4th–6th June and her dead body was disposed of by A-1 with the aid of A-2. The A-1 was a Police Inspector (PI) of Karjan, and at the time of the crime, he was working as PI of SOG, Vadodara. Sweetiben was his third wife and second living wife, as he had divorced his first wife, married Pooja, and also married secretly with Sweetiben in the presence of a very few persons at a temple. A-1's socially recognized wife delivered a girl, and Sweetiben delivered a baby boy, Ansh. A-1 was residing with Pooja, and Sweetiben with Ansh, at Prayosha Society, Karjan. Sweetiben insisted that A-1 divorce Pooja and give Sweetiben social acceptance as his wife. On this issue, a quarrel took place on the day of the crime between A-1 and Sweetiben; therefore, A-1 strangled Sweetiben in the house and then disposed of her dead body at Atali Hotel with the aid of A-2. This is the crux of the prosecution case. As against this, both accused pleaded innocent. A-1 submitted that S left the house in the midnight while he was sleeping, and no fight had taken place between them. In this case, the prosecution has examined in all 128 witnesses to prove the charge and produced numbers of documents as stated above in great detail. PW-1 to PW-38 are panch witnesses; they all have turned hostile, so their testimony is not of much worth and is not required to be discussed in

detail. But it is required to be noted that merely because panchas have turned hostile, it does not mean that the prosecution case becomes lame and loses its credibility. The recovery and other factual aspects of the panchnama can be considered in view of the testimony of the concerned IO. The law on this point is well settled. The Hon'ble Apex Court, in the case of **Upendra Khare versus State of Madhya Pradesh, 2026 (0) AIJEL-SC 77055**, held that;

18. Scene of the offence panchnama show that the syringes were found near the toilet seats. Though an attempt is made by the learned counsel for the appellant to submit before this Court that the recovery at the instance of the present appellant is not proved because the panch witnesses to the recovery panchnama turned hostile. We are unable to accept this submission of the learned counsel for the simple reason that this Court had consistently taken a view that merely on account of the panch witnesses turning hostile cannot be a ground to discard this important piece of evidence, if the recovery is proved through the investigating officer. On the backdrop of this fact, perusal of the record shows that the recovery at the instance of the present appellant is proved through the testimony of the investigating officer Arun Singh/PW 24. We may refer to the judgment of this Court in Rameshbhai Mohanbhai Koli v. State of Gujarat, (2011) 11 SCC 111 wherein this Court has reiterated the settled principle that recovery is not vitiated merely because the panch witnesses have turned hostile. The judgment read as follows:

“33. In Modan Singh v. State of Rajasthan [(1978) 4 SCC 435 : 1979 SCC (Cri) 56] it was observed (at SCC p. 438, para 9) that where the evidence of the investigating officer who recovered the material objects is convincing, the evidence as to recovery need not be rejected on the ground that seizure witnesses did not support the prosecution version. Similar view was expressed in Mohd. Aslam v. State of Maharashtra [(2001) 9 SCC 362 : 2002 SCC (Cri) 1024] . 34. In Anter Singh v. State of Rajasthan

[(2004) 10 SCC 657 : 2005 SCC (Cri) 597] , it was further held that: (SCC p. 661, para 10) “10. ... even if panch witnesses turn hostile, which happens very often in criminal cases, the evidence of the person who effected the recovery would not stand vitiated.”

35. This Court has held in a large number of cases that merely because the panch witnesses have turned hostile is no ground to reject the evidence if the same is based on the testimony of the investigating officer alone. In the instant case, it is not the case of defence that the testimony of the investigating officer suffers from any infirmity or doubt. (Vide Modan Singh case [(1978) 4 SCC 435 : 1979 SCC (Cri) 56] , Krishna Gopal case [(1988) 4 SCC 302 : 1988 SCC (Cri) 928] and Anter Singh case [(2004) 10 SCC 657 : 2005 SCC (Cri) 597] .

36. In view of the above principles and in the light of the discussion about the recovery as stated and concluded earlier, those materials produced by the prosecution are relevant, acceptable and rightly connected these circumstances with the appellants.”

31.It is also required to be noted, before diving into the evaluation of the evidence and legal aspects, that the near relatives of S — namely, her brother (the complainant), his wife, and her brother did not support the prosecution case in its true spirit. In this background, the evidence adduced by the prosecution is required to be evaluated. In this case, S, who was living with A-1 at C-5, Prayosha Society, was murdered by A-1, as per the prosecution case. Admittedly, the dead body of her is not found in this case. The DNA of her son Ansh, did not match the bones recovered from the Atali hotel. The DNA report of said examination is exhibited on the admission of the defence at Exh.-393. Thus, defence argued

that the prosecution case became fatal as the dead body was not found and it is not proved on the evidence that S is not alive. As against this, the Ld. Addl. P.P. argued that merely the non-recovery of the dead body would not prove fatal to the prosecution case in view of the principle of corpus delicti. However, in this case, certain melted gold articles were recovered from the Atali hotel, which matched the ornaments worn by her, as per the FSL report. This aspect will be discussed later.

32. The law on the corpus delicti point is very well settled by the Hon'ble Apex Court in various pronouncements. It is reiterated again in a recent judgment delivered in the case of Debojit Pankika Charaideo Sonari versus State of Assam, 2026 (0) AIJEL-SC 77299, the relevant paras are as under:

15. As stated above, the present case falls into the category of the cases of 'corpus delicti'. The 'corpus delicti' in murder has two components - death as the result, and criminal agency of another as the means. Where there is direct proof of the one, the other may be established by circumstantial evidence. 'Corpus delicti' means that the offence has been committed and not that the dead body of the murdered person has been recovered. A person can be convicted of murdering another even if the later's body has not been recovered. It may not be out of place to refer to the judgments of this Court. As some of the facts are identical, we must refer to the judgment of this Court in the matter of Prithi v. State of Haryana, (2010) 8 SCC 536 Prithipal Singh v. State of Punjab, (2012) 1 SCC 10 and Sevaka Perumal v. State of T.N., (1991) 3 SCC 471 . The relevant paragraph from the judgment of this Court in Sevaka Perumal (supra), is as follows:-

"5.....The fact of death of the deceased must be established like any other fact. Corpus delicti in some cases may not be possible to be traced or recovered. Take for instance that a murder was

committed and the dead body was thrown into flowing tidal river or stream or burnt out. It is unlikely that the dead body may be recovered. If recovery of the dead body, therefore, is an absolute necessity to convict an accused, in many a case the accused would manage to see that the dead body is destroyed etc. and would afford a complete immunity to the guilty from being punished and would escape even when the offence of murder is proved. What, therefore, is required to base a conviction for an offence of murder is that there should be reliable and acceptable evidence that the offence of murder, like any other factum of death was committed and it must be proved by direct or circumstantial evidence, although the dead body may not be traced.”

33. In view of the above, the argument of the Ld. Addl. P.P. that merely the non-recovery of the dead body of S and the turning hostile of the panchas would not prove fatal to the prosecution case is hereby accepted, by declining the argument of the defence that the prosecution case became vulnerable in the absence of the non-recovery of the dead body of S and the non-matching of the DNA. Of course, in this case, the recovery of molded/melted parts of ornaments worn by S was recovered from the site of Atali hotel. This is discussed in detail later on; at this stage, it is believed and held in the present case that the dead body of S was not recovered, but it does not mean that due to that the prosecution case lost its strength. Ultimately, it is material whether a crime was committed or not, and whether S was murdered, is alive, or missing. Same is required to be decided by this court before coming on any final decision.

34. In this case, no direct evidence has been found to connect any of the accused with the charge. The case rests solely on circumstantial evidence. Therefore, it is worth referring to the law relating to a case resting on circumstantial evidence. The Hon'ble Apex Court, in the case of ***Raja Khan v. State of Chhattisgarh (2025 INSC 167)***, held as under on this issue. The relevant paragraphs are as under :

"16. Having heard learned counsel for the parties, the entire case of the prosecution rests on circumstantial evidence, as there is neither any eye-witness nor any judicially admissible confession. It is well settled law that where the case rests entirely on circumstantial evidence, the chain of evidence must be so far complete, such that every hypothesis is excluded but the one proposed to be proved and such circumstances must show that the act has been done by the Appellant - accused within all human probability (See Hanumant vs. State of Madhya Pradesh, (1952) 2 SCC 71). In Sharad Birdhichand Sarda vs. State of Maharashtra, (1984) 4 SCC 116, this Court outlined five essential principles, often referred to as five golden principles, which must be satisfied for circumstantial evidence to conclusively establish the guilt of the Appellant- accused:

“(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established..... (2) the facts so established should be consistent 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.”

35. In view of the above, the evidence on record is required to be evaluated by this court. In this case a grave circumstance is that A-1 was with S at midnight in a closed house—meaning that S was seen alive last with A-1. Since then, no one has heard about her whereabouts. This fact is an undisputed fact. Even A-1 admitted that S was sleeping at night with him, and in the morning she was not found present. This means that presence of A1 with S on the last night is an admitted fact.

36. On the theory of last seen, in addition to the admission of A-1, there is worthy evidence on record to prove this fact beyond a reasonable doubt. The material witness for that aspect, out of many, is PW-102, Mr. Jaydeep Mahendrabhai Patel (Exh.-345), who is the brother of S. He testified that "S is his sister, who did a love marriage with A-1 and is residing at Prayosha Society, Karjan, in a rented premises. She has one son, namely Ansh, aged about 1 year. In the year 2021–22, his brother-in-law (Banevi) A-1 informed him telephonically that S had left the house at night. Therefore, he, with his wife and brother, came to Karjan in the morning. He inquired about S by calling his relatives. However, he did not get any information about her".

37. PW-102 also testified that when they came to Karjan in 2021, at that time A-1 did not inform them about what had happened between them. When they came to the home, A-1 and Ansh were there. Thereafter, it is deposed that A-1 went to search for S at Vadodara by Compass Jeep. It is also testified that thereafter he registered the complaint with the

police. It is also testified that he got information from the newspaper about the death of S, but he did not have any information as to how his sister S died. In his deposition, the First Information Report is exhibited at Exh.-346.

38. Surprisingly, this witness did not fully support the details of his FIR. Even after being declared hostile, he was asked leading questions by the Addl.P.P. However, this witness denied that A-1 informed him that there was a minor argument and a verbal spat between them at night. According to the prosecution case, A-1 confessed before this witness that he throttled S at night, but this witness denied said fact, even though it was disclosed in the FIR about the said confession.

39. But, it is proved and remained unchallenged in the cross-examination of the defence that S was living with A-1 at Prayosha Society and A-1 was with her at night, and since then she has been missing. It is pertinent to note that this witness filed an application in support of the investigation at the time of the arrest of A-1 and made severe allegations against A-1. The very same person totally turned hostile. This fact is also very crucial and signifies that the explanation submitted by A-1 that S left the house at midnight is not the real truth. It is also signified at whose behest this witness turned hostile. This witness was asked seven questions by the defence. The replies to all said questions were given in favour of the accused. These replies and the overall facts of the case suggest that the complainant turned hostile on the behest of

A-1. This is a very material circumstance which indicates the involvement of A-1 in the crime, and that the crime, as per the prosecution case, was committed.

40. PW-103, Manisha Jaydeep Patel (Exh.-347), is the wife of PW-102. She deposed in line with her husband in full support of the defence. She admitted all questions asked by the defence and denied the material facts of her statement in the leading questions asked by the Addl.P.P. This means that this witness also turned hostile and deposed in favour of A-1. Even these two witnesses admitted that S had left out alone for 20–22 days leaving Ansh behind.

41. Another close relative of S is her step brother, PW-104, Bhavdip Mahendrabhai Patel. He is examined at Exh.-348. His statement under Section 164 of the CrPC was recorded by the Ld. Judicial Magistrate; said statement is produced at Exh.-349. In the said statement, he disclosed that A-1 confessed that he strangulated S as a scuffle had taken place between them at night about doing their formal marriage. This witness did not support the prosecution case in line with his brother, PW-102. He favoured the defence in cross-examination by answering all questions in affirmative, including the admission that his sister used to leave the house for 20–22 days. In addition to the above facts, it emerges from the testimony of PW-102 and PW-103 that since the last night admittedly S was alive with A-1 in a closed house, they did not hear about her. Even no question was asked about the

hearing of S by these witnesses in this long period. This fact goes against A-1.

42. In the above upshot, it is material to examine the evidence on record to determine whether the prosecution has proved that S is no more. The A-1 gave the explanation that S was not found sleeping while he awoke in the morning, and even he had not found any clue or information about S though he searched all places where her presence was possible. This fact suggests that S is not alive.

43. Regarding the explanation given by A-1 that S was not found in the house in the morning, a thorough investigation was done. A-1 himself is a Police Inspector of a special wing of the district police and had been PI of the Karjan Police Station. Thus, it is enough to believe that the police and A-1 thoroughly searched for S. If S were alive or had left the house in the midnight or early morning, definitely clinching evidence would have been found by A-1. This is because A-1, being a senior police officer, very well knew the consequences of not finding S or the non-recovery of the dead body that it would be treated as if he killed her and destroyed the dead body.

44. On this point, the testimony of PW-39, Mr. Ranjitsinh Ishversinh Pathiyar (Exh.-178), and PW-40, Mr. Gulambhai Sultanbhai Ghachi (Exh.-179), is material. These two witnesses are home-guards, whose duty was at the cross road of Prayosha Society, Karjan, on the night of the incident. They testified that they did not observe any suspicious

circumstance on that night at the place of their duty. They also testified that they did not see S on that night. The defence successfully brought on record that the area of their duty was big and they could not observe the presence of all passers-by at night. The testimony of these two witnesses clarified that they did not see S during the night. This fact remains in favour of the prosecution.

45. The prosecution also examined PW-44 to PW-55 vide Exh.-189 to Exh.-205. They testified that the police, by showing the photographs of the lady, asked them whether they had seen her during the night or thereafter. They testified, as per the prosecution case, that none of them had seen S on the night of the incident or thereafter. The presence of these witnesses at night near the connected roads of Prayosha Society was quite normal. From their deposition, it proves that the police investigated very seriously into the aspect of the explanation given by A-1.

46. PW-123 and PW-124 are the former husband of S and her son, Ridham. They testified that S was living with A-1 and that information about her missing status was received from the brother of S after 4 to 5 days. It is also testified that she was not happy as A-1 would not marry her formally. From their testimony, it is found that these two witnesses were in touch with S. She was residing with A-1. None of them had heard about her being alive since the present case.

47. In the present case, there are other numerous witnesses who are friends of S with whom she was in regular touch; they

have also not heard about the whereabouts of her after this crime. In addition to the above, it is pertinent to note that CCTV footage of two systems working in various locations was recovered by the prosecution, which covered the view of A-1's house. The mode of recovery of said electronic evidence was very seriously challenged by the defence. It is also argued that the footage of the second camera of Prayosha Society was not collected by the IO intentionally. It means that the defence admitted that there were CCTV cameras which were functioning and covered A-1's house. In the CCTV footage, it is not captured that S left the house at night. Here, A-1 was a PI, and the initial investigation was conducted by his junior police officers, so he might have collected the footage of the second camera as well; if his explanation were genuine, he would have first examined the said footage and collected the relevant footage to prove that S left the house at night. According to the defence, A-1 himself searched for S after her disappearance independently with the aid of his police personnel prior to the registration of the missing complaint, which was registered after a delay of 6 days. This circumstance proves that the explanation given by A-1 was a false and concocted story.

48. It is also in evidence that S used a mobile phone, which was recovered during the investigation, and data was recovered. Various images were found stored in her mobile. I have seen all of the said images, clips, and other data of her mobile. Thus, it seems that S used a mobile phone regularly.

Admittedly, the said mobile phone remained in A-1's house. This means that she did not bring her mobile phone with her. It is not quite normal, but proves that S did not leave the house at night, but that she was killed, as per the prosecution case, in a closed house by A-1. The relation between A-1 and S was not quite normal, like an ordinary husband and wife, as A-1 already had a legally recognized wife and children from her. His said wife is socially married to A-1 in the presence of their elders. The blood relatives of A-1 and his socially recognized wife, Pooja, are also examined. They all testified that they did not know about the relation of A-1 with S, or that they were living with each other and the couple had a boy child. It means that A-1 had maintained a relation with S secretly and their relation was not socially accepted yet. Thus, this court believes that the relation of A-1 with S was not quite normal. This aspect is further examined in detail while discussing the motive of the crime.

49. Further, during the investigation of the crime, the passports and all other original documents of identity and education of S were recovered. The same are before this court. I have perused all of the said documents. The original passport of S was also examined by this court. This fact also proves that S did not leave the house at night and that she is no more.

50. PW-113, the initial investigating officer, Mr. Bharat Chithar, testified vide Exh.-447 that a press note regarding the missing status of S was given. In the very same line, the son of S, Ridham, deposed that he initiated a campaign for searching

for his mother S on social media. In support of the campaign on social media, PW-58, Sandip Prajapati, testified that he got information about the missing status of S through a Facebook post. These facts prove that the possibility that S merely is missing is totally ruled out by the prosecution.

51. With all the above evidence on record, I have perused the testimony of the police officers who conducted the initial investigation along with the case diary. Thus, it is believed that the explanation given by A-1 regarding the disappearance of S is not correct. The said possibility is totally ruled out. In view of all of the above, a prudent man would believe that S is no more, but that she was killed, and that her death was not normal, but a homicidal death amounting to murder. As such, this court believes this fact like a prudent man and holds that S was murdered on the said night in a closed house in Prayosha Society, Karjan. Hence, it is held that the prosecution has proved that the crime, as per the charge, was committed. But who the culprit is yet to be decided by examining the evidence on record.

52. This case rests on circumstantial evidence, and A-1 is facing the charge of murdering his wife in a closed house. From the above discussion, it is proved that A-1 gave a false explanation about S—that she left the house at night. The said possibility is totally ruled out by the investigation conducted on that line. A-1 was with S on the last night in a closed house. The relation between A-1 and S was not normal. The dead body of S was not found. These

circumstances are enough to believe that A-1 murdered S at midnight. Notwithstanding this, this court would like to refer to various circumstantial evidence which suggests that the culprit is none other than A-1. Section 106 of the Evidence Act also comes to the aid of the prosecution case. As per the said section, it is the duty of A-1 to prove the facts which are within his knowledge. Herein this case, A-1 is not even ready to accept that S insisted upon him to give social acceptance to their relation. PW-83 to PW-91 are near and dear ones of A-1 and his social wife, Pooja. They testified that they did not know about the relation of A-1 with S and that they have a baby boy. Their testimony on that issue has remained unshaken even after cross-examination. This means that A-1 never introduced S to his family. Therefore, naturally, a lady (S) living in such a relation would be worried about her status. In this regard, the testimony of PW-123, at Exh.-505, paragraph 10, is relevant. This witness testified that previously, during his conversations with S, she informed him that A-1 would not marry her and that she was tense about it. This testimony inspires confidence. Likewise, her son, Ridham (PW-124), testified that S was seen worried about her marital status with A-1. PW-70, Mr. Pratik Ashwin Dugrani (Exh.-221), testified that he is a friend of A-1 and often talked with S. He also testified (paragraph 5) that S was worried about her relation with A-1. This witness did not fully support the prosecution case, but the truth came out from his mouth in the natural course. This part of the

testimony proves that the relation between A-1 and S was not as quite happy as A-1 portrayed before the court. Of course, the neighbours of A-1 and the siblings of S did not testify about any sour relation between A-1 and S. But, in the absence of a proper explanation from A-1, the facts gathered from the evidence in piecemeal are sufficient to convince any prudent man that the relation between A-1 and S was not quite normal, but rather strained.

53. PW-70, Mr. Pratik Dugrana, is a close family friend of A-1.

His deposition is at Exh. - 221. His statement before the Magistrate during the investigation was recorded and is at Exh.-223. This witness was called by A-1 telephonically on 6th June—that is, the next morning following the crime, as per the prosecution case and the statement recorded by the Magistrate. This witness met A-1 and went to the house of A-1 at Prayosha Society. A-1 had collected his clothes and other household items under the guise of shifting his residence. A-1 disclosed before this witness that his relation with S was strained and that she had left the house, and that her brother had asked for monthly alimony with an FDR to the tune of INR 10 lakh. As per his statement, he was with A-1 at home and went to Hotel Honest with A-1. This witness deposed precisely all of these facts in paragraph 1 of his deposition (except for the facts stated about the demand for alimony and that A-1's relation with S had become strained). This witness did not specify the date in June 2021; however, this is cleared while reading the statement before the Magistrate along with

the testimony of this witness. From the deposition of this witness, it is proved that A-1 called this witness on the next day of the incident. He and A-1 went to the house of A-1 to collect clothes and other belongings. A-1 did not inform this witness about the disappearance of S, but instead gave a false explanation. This fact also constitutes one more incriminating circumstance to connect A-1 with the crime.

54. With the above facts, the conduct of A-1 both after and before the crime is very material in the present case. Herein this case, A-1 gave false information that S left the house at midnight. He failed to give a proper explanation for the disappearance of S. A-1 called the brother of S in the late morning, as per the deposition of the said witness. Even then, A-1 did not give any explanation for the disappearance of S after the brothers of S came to Karjan, as per their unchallenged testimony. A-1 was captured in CCTV footage with Ansh in the morning at Prayosha Society; the court has viewed the said footage independently and during the arguments of the defence. The defence challenged the recovery of the footage on procedural aspects, but they did not challenge that A-1 parked his jeep in reverse on the morning following the incident. It is also seen in the footage that a police vehicle came to the home of A-1. It is argued that the said police personnel came to deliver files to A-1, which were placed by a witness in the jeep. If the dead body had been kept in the said jeep, A-1 would not have permitted the police personnel to open the jeep to place the file. From

this argument and viewing the CCTV footage, it is proved that the defence admitted that the footage showing A-1 with his son, Ansh, is genuine, and that A-1 parked his jeep in reverse inside the house. Although the police personnel came with the vehicle to hand over files, food, and medicine to A-1 in the morning, A-1 did not take their help, nor did any of them suggest searching for S in the nearby area. This fact also indicates that the culprit is A-1.

55. It is the case of the prosecution that A-1 shifted the dead body of S in his Compass jeep. The said jeep is shown in CCTV footage, which was never challenged. The said jeep is registered with the RTO in the name of PW-77, Jay Kanubhai Patel. He is a friend of A-1 and turned hostile. As per the prosecution case, A-1 is the real owner of the said jeep, but it was purchased only in the name of his friend. The police personnel, PW-73 and PW-74, who were subordinates of A-1, testified that A-1, in addition to a police vehicle, used his private black-colored jeep. Their testimony on this aspect remained intact and unchallenged. Also, it is not seriously disputed by the defence that A-1 had used the black Compass jeep. However, no marks of the crime were found from the said jeep.

56. The Ld. Advocate for the defence argued at length regarding the non-recording and non-production of the requisite certificate (under Section 65B of the Evidence Act). Herein this case, A-1 was a police personnel. The initial investigation was totally surrendered to A-1. The missing information was

even registered by PW-113, as per his testimony, as it was dictated by A-1. To register the said complaint, this witness had to go to Dhavat Police Post as per the desire of A-1. Thus, the argument of the Ld. Advocate for the defence that, due to non-compliance with the procedure of collection of electronic evidence, said evidence became inadmissible is hereby declined in view of the particular facts of the case. Herein this case, the facts revealed from the footage were not challenged by the defence, except for the night view of the camera of Krishna Decoration. In the said footage, a late-night movement is found, but it was not clear, as per the testimony of the FSL officer; moreover, this court also observed that the said footage was not clear. Thus, the conduct of A-1 in keeping the jeep in reverse in the early morning, even though he noticed that S was not in the house, is abnormal and indicates the involvement of A-1 in the crime. Likewise, he did not seek the help of the police personnel immediately after noticing the absence of S in the home to search for her, even though he did take the help of police to bring food to him, those who came with a police vehicle. This fact also indicated that A-1 is the real culprit.

57.It is also the case of the prosecution that A-1 cremated the dead body of S at the compound of a closed hotel belonging to A-2, situated at Village Atali, near the fully functioning Hotel Vaibhav. The presence of A-1 at the said place is proved by the prosecution from scientific evidence. It will be discussed while deciding Point No. 2 in more detail. But all

of the above circumstances are not accidental or normal; rather, they indicate and are self-sufficient to convince any prudent man that A-1 killed his second wife, Sweetiben, at night on 4th–5th June 2021, at his house in Prayosha Society, Karjan.

58. Undoubtedly, as per Section 106 of the Evidence Act, the burden of proof lies on the person who has special knowledge of a specific fact. The entire theory of "last seen together" is based on Section 106 of the Evidence Act. It is also true that if the prosecution proves by leading reliable evidence that the accused was last seen with the deceased, the burden shifts onto the accused to explain the said incriminating evidence either in his statement under Section 313 of the Cr.P.C., or by leading evidence in his defence, or even by bringing out the facts during the course of cross-examination of the prosecution witnesses. The accused's failure to present evidence on his behalf may be treated by the court as confirming the presumptions that may arise therefrom; nonetheless, that presumption alone, taking recourse to Section 106, would not be sufficient to convict an accused.

59. The Ld. Advocate for the accused, Mr. Bhatt, argued in detail about the faulty investigation. Herein this case, the initial investigation of the present crime was conducted by subordinates of A-1. A-1 dictated the first information about the disappearance of S. The investigation was conducted on that aspect only for a considerable period. The investigation was set into true motion only after it was handed over to the

Crime Branch, Ahmedabad, as there was hue and cry, attention drawn to the incident in the media, and the son of S had posted on social media. Thus, on the ground of a faulty investigation, A-1 does not get any help, nor does the said fault prejudice him. On the contrary, the said fault was committed on the behest of A-1 to save him only. It is worthy to refer to the principle that a faulty investigation does not guarantee an acquittal to the accused. The Hon'ble Supreme Court, in the case of *Madan versus State of Uttar Pradesh* (2023 [0] AIJEL-SC 72755, Criminal Appeal Nos. 1381 and 1382 of 2017; decided on 09-11-2023), held as under regarding faulty investigation:

"47. Another submission on behalf of the appellants is with regard to faulty investigation. No doubt that there have been certain lacunae in the police investigation. However, the evidence of eye witnesses is consistent, reliable, trustworthy and cogent. Merely because there are certain lacunae in the investigation, it cannot be a ground to disbelieve the testimony of eye-witnesses. In this respect, we may refer to the observations of this Court in the case of Karnel Singh v. State of M.P., (1995) 5 SCC 518 which read thus:

"5. Notwithstanding our unhappiness regarding the nature of investigation, we have to consider whether the evidence on record, even on strict scrutiny, establishes the guilt. In cases of defective investigation the court has to be circumspect in evaluating the evidence but it would not be right in acquitting an accused person solely on account of the defect; to do so would

tantamount to playing into the hands of the investigating officer if the investigation is designedly defective.”

48. A similar view has been taken by this Court in the case of Shera Singh v. State of Punjab, (1996) 10 SCC 330

60. In view of the above, this court has examined the evidence on record very minutely and has arrived at the conclusion that the circumstances as noted above prove that A-1 murdered his wife, S. The Hon'ble Supreme Court, while upholding a conviction having identical facts and evidence on record to this case, in the case of ***Sukhpal Singh versus NCT of Delhi*** (Criminal Appeal No. 55 of 2015; decided on 07-05-2024, 2024 [0] AIJEL-SC 73633), held as under:

45. The Investigating Officer (PW-13) gave unimpeachable evidence proving the various steps taken by him for collection of evidence during investigation so as to link the accused appellant with murder of Usha. The fact that the accused appellant was present with Usha on the night preceding the murder is firmly established from the deposition of Ashok Kumar Pathak. He went absconding after the murder and could not be traced out for almost 10 years which is also a strong circumstance pointing towards his guilty state of mind.

46. The circumstances leading to murder of Usha were in the exclusive knowledge of the appellant. He has offered no explanation as to the manner in which Usha was strangled to death within the confines of the room where only he and the deceased were present. The bald plea of denial offered by the accused by way of an explanation to this gravely incriminating circumstance is not sufficient to absolve him of the burden cast

upon him by virtue of Section 106 of the Indian Evidence Act, 1872 .

47. As a consequence of the above discussion, we are of the rm view that the prosecution has established the following links in the chain of incriminating circumstantial evidence: -(i) Motive;

(ii) Last seen together;

(iii) Medical evidence establishing that the cause of death of the deceased was homicidal.

(iv) Confessional note;

(v) Abscondence for nearly 10 years;

(vi) Wrong explanation given by the accused in his statement under Section 313 CrPC;

(vii) Failure of the accused to offer explanation for the homicidal death of his wife in the night time when only the accused and deceased were present in the house leading to the interference of guilt by virtue of Section 106 of the Indian Evidence Act, 1872.

48. Connected together, all these facts form a clinching and complete chain of incriminating circumstances pointing exclusively towards the guilt of the accused appellant and totally inconsistent with his innocence or the involvement of any other person in the crime.

49. Consequently, we have no hesitation in confirming the view taken by the trial Court and the High Court in convicting and arming the conviction of the accused appellant for the charge of committing murder of Usha.

61. Herein this case, most of the above-noted circumstances, in addition to the other circumstances noted above, were found by this court. They are summarized as under:

1. S was last seen alive with A-1 in a closed house, and since then no one has heard about her whereabouts;

2. A-1 failed to give a satisfactory explanation about the incident that happened between them and the disappearance of S;

3. A-1 had a motive to kill, as his relation with S was not like that of an ordinary husband and wife;
 4. The relation between A-1 and S was not within the knowledge of A-1's family or his socially recognized wife;
 5. A-1 has a boy child with S and a girl child from his legally recognized wife;
 6. A-1 did not take any active steps to search for her;
 7. A-1 did not give any explanation to the brothers of S about the incident that happened at his home;
 8. The brothers & bhabhi of S turned hostile in favour of A-1;
 9. A-1's conduct of parking his jeep in reverse in the morning is significant and quite abnormal;
 10. A-1 asked for medicine and food items from his subordinate police personnel in the morning, but did not take their help to search for S;
 11. He failed to give details about the steps he took to search for her in the morning;
 12. The mobile phone of S was at home, even though she used her phone regularly, as appears from the photographs recovered from her mobile;
 13. The presence of A-1 at Atali also adds one more circumstance in addition to the above;
 14. A-1, being a Police Inspector, had control over the initial investigation and did not collect the footage of all cameras located at Krishna Decoration and Prayosha Society.
62. In view of above all, this court fully agrees with the arguments of the Ld. Addl. P.P. for the State that the

prosecution successfully proved the entire chain of circumstantial evidence on the basis of the said evidence, establishing beyond all reasonable doubt that A-1 murdered his wife, S, in his house. He had a motive for the crime. He destroyed the evidence of the crime. The evidence in the form of oral and documentary evidence proves that A-1 is the culprit - he and he alone committed this crime. The arguments of the Ld. Advocate for the accused are not acceptable in view of the particular facts of the present case and the evidence on record. Also, this court has discussed the law on the subject at hand, which supports the prosecution case. The case laws relied upon by the defence in support of their arguments that the prosecution failed to prove the charge against A-1 are not helpful to his case. The facts of the present case are totally different on material aspects; therefore, I am not inclined to accept the arguments of the Ld. Advocate for the defence and hold that, in view of the above reasons and citations cited by the Ld. Addl. P.P. for the State and this court, the case laws referred to by the defence are not helpful to their case. Hence, Point No. 1 is decided in the affirmative.

Point no. 2 :-

- 63.** On the basis of the findings of point no. 1, it is believed to be proven that A1 murdered his wife S and destroyed the evidence, including the dead body. Now, the question is whether A2 is involved in the crime and whether A2 provided the compound of his closed hotel at Atali to A1 to cremate the

dead body of S. During the investigation of the crime, various panchnamas of the Atali hotel were carried out in the presence of panchas, A1, the FSL officer, and police personnel. From the said place, human bones, marks of fire (cremation), soot, burned clothing parts, etc., were recovered, and the said muddamal was examined by the FSL. Admittedly, DNA could not be matched with the sample collected from Ansh to verify whether the burned bones belonged to S, as the bones were fully burned.

64.First of all, the investigating officer, PW 117 Mr. Damor Dalsingbhai, Rtd. PSI, visited the site of the closed hotel situated at Atali. He testified at Exh. 455 that on the instruction of his PI, he visited the said hotel with the FSL officer, police personnel, and panchas on 09.07.2021. He testified that he found tyre marks of a vehicle in the compound of the said hotel, including marks of fire, pieces of a burned nightgown of blue color, burned wood, etc. As per his deposition, the same were collected and sent for the FSL. The panchnama of the said place and recovery is produced at Exh. 76. The deposition of this witness is fully supported by the FSL officer Mr. Nitin Patel, PW 105, vide Exh. 353. This witness deposed that on 9th July he visited the Atali hotel, which was closed. He inspected the said place and found that tyre marks of a vehicle and burn marks were present. This means it is proven that burn marks were found in a particular part of the Atali hotel, and pieces of burned clothing were also recovered from the said place.

65. Again on 10th July 2021, PW 105, an officer of the FSL, visited the said Atali hotel with DySP Mr. Solanki, PW 121, whose testimony is at Exh. 464. The FSL officer testified that on the previous day they had examined the place, but due to darkness, they inspected the site again the next day, that is, 10th July. During the said inspection, burned bones were recovered. The IO, DySP M. Solanki, also testified in support of the said recovery vide Exh. 464, para 11. Admittedly, the burned bones recovered from the said hotel were certified to be the bones of an adult human. However, DNA profiling was not possible as they were fully burned. Nonetheless, once it is proven that two months after the crime, the police reached the Atali hotel, and from that place, burned human bones, signs of fire, cremation, and vehicle tyre marks were recovered, this evidence inspires confidence and is worthy of connecting the crime to this place.

66. Then, the investigation was entrusted to the Crime Branch, Ahmedabad. After the recovery of burned bones from the said hotel by DySP Solanki on 10.07.2021, the FIR was registered on 25th July. Thereafter, the investigation proceeded at full speed under the investigating officer, PI Darshansinh Barad, PW 126 (Exh. 512). This witness collected the DVR of the Vaibhav hotel, but no data was found. This witness deposed that on 10th August he inspected the said place with police personnel. The panchnama of the said inspection is at Exh. 103. It is in evidence that during the said inspection, this witness recovered burned ornaments, like

a Mangalsutra, ring, etc., which were sent for examination to the FSL. The said ornaments are before this court, and I have examined them. They were sent to the FSL along with photographs of S wherein she was wearing the said ornaments. The FSL officer, PW 108 Mr. Bhavinkumar Satvara (Exh. 377), examined the recovered burned ornaments against the photographs of S. He testified that the design of the recovered Mangalsutra and rings matched the ornaments worn by S. Reading the testimony of PI Barad conjointly with that of the FSL officer who examined the recovered ornaments, the said testimony inspires confidence and proves that S was cremated in the compound of the Atali hotel, as per the prosecution case.

67. It was argued in great detail by the defense that the recovery of the said ornaments from the compound of the Atali hotel is doubtful and is a story concocted by the investigating officer, Mr. Barad, to fit the prosecution's case. This argument is certainly attractive and seems logical to some extent. However, in this case, A1 is a senior police officer, and the investigation during a very crucial period remained under total control, necessitating that the investigation be handed over to one of the best investigative agencies of the State—the Crime Branch, Ahmedabad. Why would senior Police Inspector Mr. Barad plant ornaments to rope the accused into the crime? There are no substantive facts or material before this court on the basis of which it can be believed that the IO planted ornaments at the said place. Therefore, the argument

of the defense on this point is not accepted. Instead, it is believed that during the investigation, the police recovered the burned ornaments of S from the compound of the Atali hotel. This evidence proves the prosecution case in toto.

68. The material evidence in the present case proving the presence of both accused at the Atali hotel on the day of the crime is their mobile location data. The investigating officer, PI Barad, deposed in detail in paragraphs 49 and 50. As per his testimony, the tower location of the mobile numbers of both accused was at Atali on 5th June 2021 between 5:00 PM and 6:00 PM. PW 110, PSI Sachin Patel (Exh. 423), testified that the mobile phones of both accused were located at the Atali hotel on 5th June between 5:20 PM and 8:00 PM. Even the mobile location of A2's driver, Mr. Pradip Solanki, was traced to Atali. This witness testified that he examined the CDR data received from the mobile service providers for the mobile phones of both accused. He examined the data with the aid of software provided by the State, deposed in detail regarding the analysis of the data, and identified the reports he generated, which are exhibited at Exh. 424 to 441. I have examined the said reports and verified them with the testimony of PW 110. Thus, it is established that the mobile phones used and possessed by both accused and A2's driver were located at Atali on 5th June 2021 prior to and after 5:00 PM.

69. It was argued by learned advocate Mr. Bhatt that the testimony of PW 110, PSI Sachin Patel, is not admissible as

the validity of the system used by him is not proven, and a certificate under Section 65B in support of the testimony and the report generated by this witness has not been produced. He was under the control of the investigating officer, Barad. In support of this argument, learned advocate Mr. Dave, appearing for the accused, relied upon the judgment of the Hon'ble Gujarat High Court delivered in the case of Dinubhai Boghabhai Solanki v. State of Gujarat. All these arguments are not acceptable because, in the present case, PW 110 himself examined the data, the system was under his control, and he deposed in support of the said report on oath. It is also proven that the said software was provided by the State. In this background, the mere absence of a Section 65B certificate heading does not, by itself, render his testimony inadmissible.

70. In this case, A1 and A2 are not strangers; rather, they are friends—an admitted fact. A1 is the owner of a running and established hotel named Vaibhav, situated at Atali near the closed hotel referred to in this case as the Atali hotel. He is a politician and highly influential, as per the evidence on record. In his statement, A2 disclosed that he knows A1. In this background, the presence of A1 and A2 together at Atali on the day of the crime is not a routine coincidence.

71. It is pertinent to note that no CCTV footage was recovered from the system installed at the Vaibhav hotel. It is argued that since A2 is the owner of the Vaibhav hotel, his presence at the said place was routine. None of the accused claimed

that they were not at Atali on 5th June. They argued that the exact location of the Atali hotel was not established by the prosecution, but they did not challenge the location of their mobile phones at Atali because they knew their location was proven by the CDR data. In view of this, it is held that the prosecution has proven that both accused were present at Atali on 5th June. It is also proven that the dead body of S was cremated in the compound of the Atali hotel by A1, and A2 is the owner of the said place.

72. It is undisputed and proven by reliable evidence that human bones in a burned condition were recovered during the investigation from the unused hotel belonging to A2. Nearby to the said hotel, another hotel belonging to A2 was operational at Atali, and A2 admittedly visited his Vaibhav hotel regularly. Thus, it was incumbent upon A2 to offer a just and reasonable explanation regarding the burn marks and the recovery of burned human bones from the compound of his hotel, so as to discharge the adverse inference drawn against him with the aid of Section 106 of the Evidence Act. In this case, A2 failed to provide any proper explanation regarding all the incriminating material and circumstances found against him.

73. It was argued by the learned advocate for the accused that A2 owns multiple hotels, making his presence at every hotel even once a week impossible. Therefore, some justifiable ground and reason for A2's presence at the Atali hotel on the day of the crime was expected. It is also in evidence, through

the statement of witness Dugrana recorded by a Magistrate, that he had dinner at Honest Hotel with both accused on 5th June; however, the said witness did not support this part of his statement during his testimony.

74. Furthermore, the truth is also revealed through the testimony of PW 67, an ordinary witness, who testified that he saw smoke coming from the Atali hotel. Although his testimony is casual, but it serves to connect the accused with the crime.

75. It is also worth noting that A1 did not offer any justifiable or acceptable explanation for his presence in village Atali. The prosecution could have brought further strong evidence to prove guilt, such as recording the statements of concerned witnesses, residents, or business owners near the Atali hotel, in which the prosecution fell short, as argued in great detail by the learned defense counsel. However, evidence found against the accused that inspires confidence should not be neglected or rejected merely on the ground that other best available evidence was left out and not collected by the investigative agency. Ultimately, a criminal trial is not an examination of the competence of the investigative agency, nor is it a game of chance, hide, and seek; rather, it is a process to discover the truth.

76. In view of the above, it is held that any prudent man, based on the aforementioned incriminating circumstances, would believe that A1 cremated the dead body of S with the aid and assistance of A2 in the compound of the Atali hotel. Hence, point no. 2 is held in the affirmative.

77. Learned advocates Mr. Kaushik Bhatt, Mr. R.D. Patel, and Mr. Nehal Dave argued at length regarding lapses in the investigation and contended that the burden rests entirely on the prosecution to prove its case beyond all reasonable doubt. It was also argued that Section 106 of the Evidence Act does not cast a duty upon the accused to prove their innocence. This court has examined all these arguments in light of the evidence on record and finds that there is no legal force in the contentions raised by the defense. The standard of proof required to establish any fact in a court of law is that which satisfies a prudent man. A court should not approach the material produced by the prosecution in a cavalier or fault-finding manner; rather, its duty in a criminal trial is to examine the evidence before it as a prudent person would. In view of the foregoing, I am of the view that the prosecution has successfully proven point no. 2. Hence, it is decided in the affirmative.

78. In view of the above, A1 is hereby held guilty of the offence punishable under Section 302 read with Sections 201 and 114 of the IPC. Likewise, A2 is held guilty only of the offence punishable under Section 201 read with Section 114 of the IPC. Accordingly, the judgment is kept pending for a hearing of both accused on the aspect of the quantum of sentence and fine.

(Manoj Bhailalbhai Kotak)
8th Additional Sessions Judge,
Vadodara @ Karjan.
U.I.CODE NO. GJ00718

79. Both the accused and their learned advocate, Mr. Nehal Dave, were present. Ld. Additional P.P., Mr. R.M. Gyanchandani, was present for the State.
80. It was submitted on behalf of the accused that accused no. 2 is a businessman and may be sentenced to up to three years with a nominal fine. It was also argued that this is not a "rarest of the rare" case, and therefore A1 should be given the minimum sentence with a nominal fine.
81. On the other hand, the learned Additional P.P. for the State submitted that the accused committed a heinous crime and, considering the gravity and seriousness of the offence, maximum punishment should be imposed upon them.
82. Having heard the submissions of both sides and considering the nature of the offence—where A1, despite being a police officer, committed the murder of his wife S inside a closed house—it is a very serious matter, and no leniency should be shown in his favor. However, this is not a case for capital punishment, but rather one that deserves life imprisonment along with a penalty of Rs. 2 lakhs. Likewise, it is just and proper to sentence A2 to five years' imprisonment with a fine of Rs. 2 lakhs. Hence, the following order is passed:

FINAL ORDER

1. The accused, (1) **Ajaybhai Amrutbhai Desai**, is hereby convicted under Section 235(2) of the CrPC for the offences punishable under Sections 302 and 201 read with Section 114 of the IPC, for the murder of Sweetyben. Therefore, he is ordered to undergo life imprisonment with a fine of Rs. 2

lakhs. In default of payment of fine, he is ordered to undergo 3 years of simple imprisonment. For the offence punishable under Section 201 of the IPC, he is ordered to undergo 2 years of rigorous imprisonment with a fine of Rs. 1,000.

2. The accused, (2) Kiritsinh Dolubha Jadeja, is hereby convicted under Section 235(2) of the CrPC for the offences punishable under Section 201 read with Section 114 of the IPC, for helping A1 destroy the evidence of the murder of Sweetyben. Therefore, he is ordered to undergo 5 years of rigorous imprisonment with a fine of Rs. 2 lakhs. In default of payment of fine, he shall undergo 2 years of simple imprisonment.

3. Accused No. 1 is currently an Under Trial Prisoner (UTP), while A2 is on bail. The bail bonds of A2 stand cancelled. He is ordered to be sent to prison to serve the aforesaid sentences under appropriate warrants. Both accused are sent to judicial custody for serving the sentences as stated above.

4. The period already undergone by the accused during the trial shall be set off against the substantive sentences as per Section 428 of the CrPC.

5. All the aforesaid sentences shall run concurrently.

6. A copy of this judgment shall be provided free of cost to the accused as well as to the victim's family.

7. A copy of this judgment shall be sent to the District Magistrate for necessary action through the Hon'ble Sessions Court, Vadodara.

8. The muddamal articles that are valuable shall be forfeited to the State, whereas original documents, including the passport and other original documents of Sweetyben, are ordered to be handed over to Ridham, the son of Sweetyben. The rest of the muddamal, including electronic gadgets, are ordered to be disposed of as per rules.
9. The order regarding muddamal shall be effected after six months if an appeal is not filed, or otherwise in accordance with the order of the appellate court.
10. This judgment shall be communicated to the ex-husband of Sweetyben residing in Australia and to her son, Ridham.

Order pronounced in open court today, this 14th day of August, 2026.

(Manoj Bhailalbhai Kotak)
8th Additional Sessions Judge,
Vadodara @ Karjan.
U.I.CODE NO. GJ00718