

State Vs. Sunil @ Sunny

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***IN THE COURT OF JAIBIR SINGH,
ADDITIONAL SESSIONS JUDGE, JIND
(UID-HR0137)***

HRJN010072452019



Sessions Case (RBT) No. : 17 of 2019
Date of Registration : 29.11.2019/28.04.2025
CIS No. : 290 of 2019
Date of Decision : 16.07.2025

S T A T E

Versus

Sunil @ Sunny son of Rattan Singh, resident of Patel Nagar, Narwana,
Police Station: City, Narwana, District: Jind.

...Accused

FIR No.195 dated 18.07.2019

Under Sections :302, 346, 201 read with Section 34 of the Indian

Penal Code

Police Station : City, Narwana.

*(Case was committed to the Court of Session by the
Court of Sh. Munish Nagar, the then learned Sub
Divisional Judicial Magistrate, Narwana vide order dated
15.11.2019 against accused Sunil @ Sunny.*

* * * * *

Argued by: Sh. Surender Khatkar, Public Prosecutor for the State.

Sh. Nand Mohan Sharma, Chief Legal Aid Defence Counsel for
accused Sunil @ Sunny.

JUDGMENT

1. The aforesaid accused has been sent to face trial for the commission of offences punishable under Sections 302, 201, 346 read with Section 34 of the Indian Penal Code (hereinafter to be referred to as 'IPC') by the Station House Officer, Police Station: City, Narwana.

2. In brief, facts of the prosecution case are that on 18.07.2019, Mende Devi wife of late Sh. Dhan Singh, resident of Patel Nagar, Narwana, District: Jind (hereinafter to be referred to as complainant) came in the Police Station and presented an application to the effect that on 15.07.2019 at about 5.00 P.M., her son Mahabir had gone with his neighbourer Sunil to Vishwakarma Chowk, Narwana, from where, her son had gone with some other person on a motorcycle but he did not return home till late night. She searched her son but did not find any clue. The mobile phone of her son Mahabir bearing SIM Nos.79888-97445 and 94164-20654 was switched off.

3. On the basis of this application, FIR under Section 346 of IPC was registered. Investigation was carried out by ASI Dilbag Singh No.525, Police Station:City, Narwana. Statements of the witnesses were recorded and call detail records of mobile phone of Mahabir and others were obtained. Thereafter, investigation was carried out by ASI Roshan Lal. On 05.08.2019, ASI Roshan Lal alongwith HC Hardeep Singh, complainant and her relatives reached Police Station:Sadar, Fatehabad where Head Constable Jaibir Singh

No.115, Police Station:Sadar, Fatehabad produced before them case property belonging to an unknown deceased pertaining to FIR No.290 dated 20.07.2019 under Sections 302 and 201 IPC, Police Station: Sadar, Fatehabad. On seeing the case property i.e. one torn T-shirt of gray and orange colour (marka Addidas), one blue coloured lower and one blue coloured underwear, Rajesh son of Diwana, Bhagwanti wife of Man Singh, resident of Dhaba Tek Singh had identified the same as that of Mahabir. Thereafter, statements of witnesses were recorded and Sections 302 and 201 read with Section 34 IPC were added to the case. On 06.08.2019, accused Sunil @ Sunny son of Rattan Singh, resident of Patel Nagar, Narwana was joined into investigation and arrested in this case. On interrogation, he suffered disclosure statement that on 15.07.2019, he alongwith co- accused Ramil Bihari son of Ram Bharoshe, resident of village Jardah, District: Motihari, Police Station: Patahi, Bihar in pick-up bearing registration No.HR-56B-5120 committed the murder of Mahabir son of Dhan Singh, resident of Patel Nagar, Narwana by strangulating his throat with a rope (*rassa*) in village Samain and dead body was tied with a rope and thrown in the Tohana canal. Accused Sunil was produced in the Court. Six days police remand of the accused Sunil was obtained from the Court. In pursuance of his disclosure statement, accused Sunil @ Sunny got demarcated the place of occurrence and got recovered rope (*Rassa*), Pickup vehicle bearing registration No.HR-56B-5120 alongwith its registration certificate (RC), used in the commission of murder of Mahabir. Site plan of the place of

occurrence and site plan of the place of recovery were prepared and statements of relevant witnesses were recorded. Thereafter, matter was investigated by SI Bhoop Singh. Co accused Ramil Bihari could not be arrested. On 13.08.2019, accused Sunil @ Sunny was produced in the Court. The incriminating materials and the documents of case FIR No.290 dated 20.07.2019 under Sections 302 and 201 IPC, Police Station: Fatehabad were obtained. After completion of investigation, report under Section 173 Cr.P.C. qua accused Sunil @ Sunny was prepared and presented in the Court for putting the accused on trial.

4. Complete copy of final report alongwith all other relevant documents was supplied to the accused free of cost as envisaged under Section 207 Cr.P.C.

5. On finding prima-facie case made out against accused, he was charge-sheeted for the commission of offence punishable under Sections 302 and 201 read with Section 34 of IPC vide order dated 11.12.2019 by Sh. Baljeet Singh, the then learned Sessions Judge, Jind, to which accused pleaded not guilty and claimed trial.

6. In order to prove its case, prosecution examined as many as 27 witnesses and produced following documents:-

Exhibts	Documents
Ex.P1	Scaled site plan of the place of occurrence i.e. Hansi-Tohana Road in the area of village Smain
Ex.P2	Scaled site plan of Sidhmukh canal where accused had thrown dead body of Mahabir
Ex.P3	Call details record of Mobile phone No.8168270814 which was issued in the name of Ram Bharoshe son of Harbans

Ex.P4	Call details record of Mobile phone No.7988897445 which was issued in the name of Bhagat Ram son of Puran Chand
Ex.P5	Call Details Record of Mobile phone No.9671063717 which was issued in the name of Sunil Kumar son of Rattan Lal
Ex.P6	Tower locations of mobile phones
Ex.P7	Customer Application Form of mobile phone No. 8168270814 which was issued in the name of Ram Bharoshe son of Harbans
Ex.P8	Customer Application Form of mobile phone No. 7988897445 which was issued in the name of Bhagat Ram son of Puran Chand
Ex.P9	Customer Application Form of mobile phone No. 9671063717 which was issued in the name of Sunil Kumar son of Rattan Lal
Ex.P10	Certificate under Section 65-B(4) (c) of Indian Evidence Act, 1872 regarding data produced pertaining to mobile phone Nos. 8168270814, 7988897445 and 9671063717 issued by Nodal Officer, Reliance JIO Infocomm Limited, B-93, Phase-VIII, Industrial Area, Mohali
Ex.P11	Affidavit of ESI Veer Bhan Singh, Police Station: City, Narwana the then Malkhana Moharar in Police Station: City, Narwana regarding depositing of the case property by Inspector/SHO Sanjay Kumar in the malkhana with him and depositing the same in FSL, Madhuban by him.
Ex.P12	Written request/application of Investigating Officer for obtaining call details record pertaining to mobile phone Nos.7988897445, 9671063717, 8168648911, 9588130603 and 9416420654 for the period from 13.07.2019 to 22.07.2019 alongwith its tower locations from concerned companies.
Ex.P13 and Ex.P13/A	Call details record and tower location of mobile phone No. 7988897445
Ex.P14 and Ex.P14/A	Call details record and tower location of mobile phone No.9671063717
Ex.P15 and Ex.P15/A	Call details record and tower location of mobile phone No. 8168648911
Ex.P16 and Ex.P16/A	Call details record and tower location of mobile phone No. 9588130603
Ex.P17 and Ex.P17/A	Call details record and tower location of mobile phone No. 9416420654
Ex.P18	Written request/application of Investigating Officer for obtaining call details record pertaining to mobile phone Nos.8168270814, 9992186912 and 8744877144 for the period from 15.07.2019 to 16.07.2019 alongwith its tower locations from concerned companies.
Ex.P19 and	Call details record and tower location of mobile phone No.

Ex.P19/A	8168270814
Ex.P20 and Ex.P20/A	Call details record and tower location of mobile phone No. 9812792468
Ex.P21 and Ex.P21A	Call details record and tower location of mobile phone No. 9992186912
Ex.P22	Ownership record of mobile phone No. 9992186912
Ex.P23	Call details record of mobile phone No. 8744877144
Ex.P24	Ownership record of mobile phone No. 8744877144
Ex.P25	Crime Scene Visit Report
Ex.P26	FIR
Ex.P26/A	Endorsement on complaint Ex.P27 moved by complainant
Ex.P27	Application moved by the complainant Mende Devi regarding missing of her son in the Police Station: City, Narwana
Ex.P28	Identification memo of clothes of deceased Mahabir by relatives of deceased Rajesh and Bhagwanti
Ex.P29	Identification memo of a rope which was used in the commission of murder of deceased Mahabir by accused Sunil
Ex.P30	Recovery memo of case property recovered in case FIR No.290 dated 20.07.2019 under Sections 302, 201 IPC, Police Station: Sadar, Fatehabad which were handed over by ASI Jaivir Singh to the Inspector Sanjay Kumar, the Investigating Officer of the present case.
Ex.P31	Application moved by police before Medical Officer, Government Hospital, Fatehabad regarding conducting the postmortem examination of deceased Mahabir
Ex.P32	Postmortem Examination report of deceased Mahabir
Ex.P33	Affidavit of Dr. Harish Aggarwal, Associate Professor, Madharaja Aggarsain Medical College, Agroha regarding conducting the postmortem examination of the deceased Mahabir
Ex.P34	Inquest report
Ex.P35	Report of FSL, Madhuban, Karnal
Ex.P36	Certified copy of order dated 28.08.2019 passed by learned ACJM Ms. ArchanaYadav regarding transfer of case property in case FIR No.195 dated 18.07.2019 under Sections 302, 201 read with Section 34 of IPC, Police Station: City, Narwana from case FIR No.290 dated 20.07.2019 under Sections 302, 201 IPC, Police Station: Sadar, Fatehabad
Ex.P37	Disclosure statement of accused Sunil alias Sunny dated 07.08.2019
Ex.P38	Demarcation memo of the place of occurrence where accused had committed the murder of deceased Mahabir i.e. at village

	Samain, Tohana Road, District: Fatehabad by accused Sunil
Ex.P39	Demarcation memo of the place where the dead body was thrown by accused Sunil in a canal situated at Tohana Road, Tohana
Ex.P40	Registration Certification (RC) of the car marka pick-up bearing registration No.HR-56B-5120
Ex.P41	Recovery memo of car marka pick-up bearing registration No.HR-56B-5120 and its Registration Certification (RC)
Ex.P42	Affidavit of SPO, Ashok Kumar, Police Station: Sadar, Fatehabad regarding depositing of the case property before Chemical Examiner, Karnal which was handed over to him by HC Jaibir Singh, Malkhana Moharar of Police Station: Sadar, Fatehabad
Ex.P43	Copy of FIR No.290 dated 20.07.2019 under Sections 302, 201 IPC, Police Station: Sadar, Fatehabad
Ex.P44 to Ex.P48	Photographs of dead body of deceased Mahabir
Ex.P49	Recovery memo of photographs, documents, postmortem examination of deceased Mahabir and inquest papers
Ex.P50	Reoport of FSL, Madhuban Karnal(DNA report)
Ex.P51	Report of Chemical Examiner, Karnal
Ex.P52	Rough site plan of the place of occurence where the murder of deceased Mahabir was committed
Ex.P53	Rough site plan of the place where the dead body of deceased Mahabir was thrown in a canal
Ex.P54	Rough site plan of the place of recovery of vehicle one car marka pickup bearing registration No.HR-56B-5120 which was used in the commission of offence
Ex.P55	Application moved before Medical Officer, Government Hospital, Narwana for obtaining blood sample of Mande Devi for DNA test
Ex.P55/A	Report of doctor vide which, he handed over the blood sample of Mende Devi, complainant to the police for DNA comparision
Ex.P56	Affidavit of EASI Ram Kumar, Police Station: City, Narwana the then Malkhana Moharar in Police Station: City, Narwana regarding depositing of the case property by PSI Rajender in the malkhana with him in the malkhana and handing over the same to Constable Rajbir for depositing the same in R/FSL, Madhuban
Ex.P57	Affidavit of Constable Rajvir, Police Station: City, Narwana regarding depositing of the case property in R/FSL, Madhuban, which was handed over to him by ESI Ram Kumar, Malkhana Moharar of Police Station: City, Narwana

Ex.P58	Application moved by the police before Medical Officer, Government Hospital, Narwana for seeking opinion regarding cause of death of deceased Mahabir
Ex.P58/A	Report of doctor regarding cause of death of deceased Mahabir
Ex.P59	Inquest papers in case FIR No.FIR No.290 dated 20.07.2019 under Sections 302, 201 IPC, Police Station: Sadar, Fatehabad
Ex.P59	Application moved by the police before Medical Officer, Government Hospital, Fatehabad for conducting the postmortem examination of deceased Mahabir and for making parcels for DNA Test

7. Learned Public Prosecutor for the State has given up witness Bhagwanti on 08.09.2021, PW Inspector Ram Niwas on 02.08.2023 and PW Director FSL, Madhuban on 11.01.2023 and has tendered DNA Reports Ex.P50 and Ex.P51 on 11.01.2023 vide separate statements on those dates and closed the prosecution evidence on 08.11.2023 vide making his separate statement.

8. After closure of the prosecution evidence, the entire incriminating material/evidence appearing on record against accused, was put to him in order to afford him an opportunity to render explanation thereof by recording his statement under Section 313 Cr.P.C. to which he pleaded false implication and claimed innocence.

9. Accused had opted to led evidence in defence. In defence, accused has examined four witnesses, which are as under:-

DW1 Sunil alias Sunny (accused himself) has deposed that on 15.07.2019, he had received a mobile phone call from Mahabir (since deceased). He was his neighbourer. He called him in his house and requested him to drop him near Vishawkarma Chowk, Narwna. He dropped him from

where he went along with his relatives. He had handed over his mobile phone without SIM to him. He had no money transaction with him. He had been falsely implicated in the present case by the mother and nephew of deceased Mahabir. He had neither seen his nephew nor he ever met him. There was no altercation between him and deceased Mahabir. He only helped him as a neighbourer. Police had obtained his signatures on some blank papers while sitting in the Police Station.

DW2 Ashok has deposed that he knows accused Sunil since childhood, who is his neighbourer. He used to supply electrical generators on rent and is also a generator mechanic. Mother of Mahabir (since deceased) had moved an application on 18.05.2019 regarding missing of Mahabir, who could not be found for 3-4 days. Accused Sunil and Mahabir were friends and they had good visiting terms and used to speak to each other on telephone also. On 15.07.2019, he had gone to his shop at 4.00 P.M. and accused Sunil was already present there and he had remained there upto 8.00 P.M. He did not remember whether Sunil and Mahabir had talked to each other on telephone on that day or not or whether Mahabir had made a phone call to Sunil or not. Accused Sunil has not committed the murder of Mahabir and he has been falsely implicated in the present case.

DW3 Santro Devi wife of Rattan Lal has deposed that accused Sunil is her son who has two sons and one daughter. He is generator mechanic and also runs a shop for repair of generators and for giving generators on rent. He was having mobile phone No.9671063717. Sunil had

told him that on 15.07.2019, Mahabir(since deceased) had called him and that he had dropped Mahabir at Vishwakarma Chowk from where he went with his relatives. On the same day, Sunil returned to home in the evening. Her son has been falsely implicated in this case by mother and nephew of Mahabir. Mahabir (since deceased) was not doing any job and he was of quarrelsome nature and he used to have quarrels with the people quite often. Police had not taken any action against him on the complaints of many persons as he was a muscle man. Her son Sunil had purchased one pick-up vehicle bearing registration No.HR-56B-5120 from Sanjay. The aforesaid vehicle was recovered by the police from the house of deceased Mahabir. Mahabir had not borrowed ₹80,000/- from her son. Her son Sunil and Mahabir were friends and were neighbours.

DW4 Raju Kumar son of Ram Kumar has deposed that on 15.07.2019 at about 5.30 P.M., he was coming from village Dumerkhan and reached at Vishwakarma Chowk, Narwana. Mahabir and Sunil were standing there, who stopped him. They were having conversation with each other. After five minutes, one person came on a motorcycle make Splendor, colour black and took Mahabir from there. Mahabir(since deceased) had asked for a mobile phone from accused Sunil because his mobile had not been recharged. Thereafter, he went to his house.

10. Learned defence counsel has given up defence witnesses i.e. Dilbag Singh on 15.05.2024, DWs Sandeep Panchal and Shubham Sharma on 06.06.2024 and DWs Dalel son of Mam Chand and Baljeet son of Rattan

Singh on 08.04.2024 vide separate statements on those dates. However, document i.e. statement of PW4 ASI Navdeep Kumar under Section 161 Cr.P.C. Ex.DA was tendered in his cross-examination. Thereafter, defence evidence was closed by the learned Chief Legal Aid Defence counsel vide his separate statement dated 11.07.2025.

11. Before adverting to rival contentions of both the sides, a brief resume of evidence adduced by the prosecution would be relevant at this stage.

PW1 Kuldeep Gupta, Draftsman has deposed that on 06.10.2019, he alongwith ASI Roshan Lal had visited the place of occurrence i.e. Hisar-Tohana Road in the area of village Smain and had prepared scaled site plan Ex.P1 on the demarcation of ASI Roshan Lal. Thereafter, on the same day, they reached at Sidhmukh Canal and had prepared another scaled site plan Ex.P2 on the demarcation of ASI Roshan Lal.

PW2 Sandeep Sharma, Nodal Officer, Reliance JIO Infocomm Ltd., B-93, Phase-8, Industrial Area, Mohali, Punjab has deposed that he has brought the original customer application form of mobile phone No.8168270814 issued in the name of Ram Bharose son of Harbans, resident of Dharam Singh Colony, Narwana, Jind and call details record for the period from 15.07.2019 to 16.07.2019, customer application form of mobile phone No.79888897445 issued in the name of Bhagat Ram son of Puran Chand, resident of Patel Nagar, Narwana and call details record for

the period from 13.07.2019 to 19.07.2019 and Customer application form of mobile No.9671063717 issued in the name of Sunil Kumar son of Rattan Lal, resident of Patel Nagar, Narwana, Jind and call details for the period from 13.07.2019 to 19.07.2019 alongwith its tower location, which are Ex.P3, Ex.P4, Ex.P5 and Ex.P6 respectively and same have been generated from their office computer and handed over to the Investigating Officer. Attested copies of Customer Applications Forms are Ex.P7 to Ex.P9. He had also brought Certificate under Section 65-B(4)(c) of the Indian Evidence Act, 1872 Ex.P10, which bears his signatures.

PW3 ESI Veer Bhan Singh No.760, Police Station: City, Narwana has tendered his duly sworn affidavit Ex.P11 in his evidence and has deposed that on 07.08.2019, he was posted as *Malkhana Moharar* in Police Station: City, Narwana. On that day, Inspector/SHO Sanjay Kumar had deposited case property i.e. one vehicle Pickup bearing registration No.HR-56B-5120 with him in the Malkhana. On 28.08.2019, Inspector/SHO Sanjay Kumar had deposited one bottle of water taken from the canal, one parcel of jar containing molar teeth (clavicle bone), one envelop handed over by the doctor, one parcel of jar containing Diatom test, one envelop of documents, one parcel of rope (*rassi*), one T-shirt of Grey colour and blue colour lower of deceased with him in the malkhana. On 01.10.2019, he had deposited one bottle of canal water, one parcel of jar containing diatom test and one parcel of envelop containing documents in FSL, Madhuban.

PW4 ASI Navdeep Kumar No.789, Incharge Cyber Cell, Jind

has deposed that on 22.07.2019, on written request Ex.P12 of Investigating Officer, he had obtained call details record pertaining to mobile phone Nos.7988897445, 9671063717, 8168648911, 9588130603 and 9416420654 for the period from 13.07.2019 to 22.07.2019 alongwith their tower locations from concerned companies which are Ex.P13, Ex.P13/A, Ex.P14, Ex.P14/A, Ex.P15, Ex.P15/A, Ex.P16, Ex.P16/A, Ex.P17 and Ex.P17/A and handed over the same to the Investigating Officer who had taken the same into police possession.

On 03.08.2019, on written request Ex.P18 of Investigating Officer, he had obtained call details record pertaining to mobile phone Nos.8168270814, 9812792468, 9992186912 and 8744877144 for the period from 15.07.2019 to 16.07.2019 alongwith their tower locations from the concerned companies which are Ex.P19, Ex.P19/A, Ex.P20, Ex.P20/A, Ex.P21, Ex.P21/A, ownership record Ex.P22 pertaining to mobile phone No.9992186912, Ex.P23 Call details record of mobile phone No.8744877144, ownership record Ex.P24 pertaining to mobile phone No.8744877144 and handed over the same to the Investigating Officer who had taken the same into police possession.

PW5 Dr. Joginder Singh, Senior Scientific Officer, Incharge, Scene of Crime Team, District: Fatehabad has deposed that on 20.07.2019, on the request of ASI Ravinder Kumar, he alongwith his team reached at the spot i.e. Adampur Minor near field of Vinod Kumar, resident of Dharania where he found an unidentified dead body of a male person, aged about 40-

45 years. Thereafter, he had examined the dead body at the spot and had prepared his report Ex.P25.

PW6 SI Bhoop Singh No.427/H, presently posted at SIT, Dera Sacha Soda, Sirsa has deposed that on 18.07.2019, he was posted as Sub Inspector at Police Station: City, Narwana. On that day, complainant Mende Devi came in the Police Station and moved an application, upon which, he had registered formal FIR Ex.P26 and made endorsement Ex.P26/A upon the complaint, which bears his signature.

On 12.08.2019, present case file was handed over to him for further investigation of the present case. On that day, accused Sunil, in pursuance of his disclosure statement, led the police party at village Jerdah, District: Mottihari, Bihar for search of co-accused Ramil but he was not found there. On 13.08.2019, accused Sunil was produced before the learned Illaqua Magistrate.

PW7 Mende Devi, the complainant, has deposed that on 15.07.2020, her son Mahabir, aged about 25 years went to Vishwkarma Chowk with their neighbourer Sunil at about 5.00 P.M. and from there he went on another motorcycle. He did not return till night. They inquired in their neighborhood but no clue was found. They tried to contact him on his mobile phone number but his phone was switched off. After three days, when he was not traced out in their relations or neighborhood, she moved a complaint Ex.P27 to the police regarding missing of her son, which bears her thumb impression.

PW8 ASI Dilbag Singh No.525, presently posted at Police Station: Pillukhera has deposed that on 18.07.2019, he was posted as ASI in Police Post: HUDA, Narwana. He is partly Investigating Officer of the present case and has deposed about the steps taken and documents collected by him during the investigation of the present case. He has further deposed that on that day, he had received case file of present FIR for the investigation of this case. He had moved an application Ex.P2 for obtaining the call details record of mobile phone numbers of Mahabir, Sunil, Tarsem and Kavita on 19.07.2019. After 2-3 days, he had obtained call details record of mobile phone Nos.7988897445, 9671063712, 8168648911, 9588130603 and 9416420654.

PW9 Rajesh Kumar son of Diwan Singh has deposed that Mahabir (since deceased) was his maternal uncle. He had visiting terms with his neighbour Sunil son of Rattan Singh and some times, Ramil used to come in the house of Sunil, who was doing Fishery work. Ramil used to take fishes in the pick up vehicle of Sunil. Sunil had borrowed ₹80,000/- from Mahabir for his personal use. His maternal uncle Mahabir had to take ₹80,000/- from accused Sunil about which he (Mahabir) had informed him. Mahabir demanded his amount from Sunil but he did not return that amount. He came to know that on 15.07.2019 at about 06/06.30 P.M. accused Sunil came to the house of Mahabir in his pick up vehicle and took Mahabir from his house in his vehicle and from near Bus Stand Narwana, Ramil loaded the fishes in the vehicle and went towards village Uklana but he did not return.

After 10-12 days, he had received a message to reach at Police Station: Sadar, Fatehabad. On this information, he alongwith his maternal aunt Bhagwanti wife of Maan Singh went to Police Station: Sadar, Fatehabad where they had identified the clothes of his maternal uncle Mahabir and identified the dead body of his maternal uncle Mahabir by seeing the photographs. Identification memo Ex.P28 bears his signatures. Accused Sunil and Ramil had killed his maternal uncle Mahabir due to money transaction between them.

PW10 ASI Jaivir Singh No.115/Fatehabad, presently posted at S.P. Office, Hisar has deposed that on 05.08.2019, he was posted as MHC at Police Station: Sadar, Fatehabad. Case property pertaining to case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad was deposited with him. On that day, ASI Roshan Lal came to the Police Station: Sadar, Fatehabad in connection with present case i.e. FIR No.195 dated 18.07.2019 under Sections 346, 302, 201 read with Section 34 of IPC, Police Station: City, Narwana. Roshan Lal was also accompanied by family members of deceased Mahabir and showed them the clothes which were deposited with him. Rajesh and Bhagwanti relative of deceased Mahabir had identified the clothes of deceased Mahabir i.e. torn T-shirt of grey and orange colour having label of Addidas, one blue colour lower and one blue colour underwear and same were taken into police possession vide memo Ex.P28. On 07.08.2019, Inspector Sanjay Kumar came at Police Station: Sadar, Fatehabad alongwith accused Sunil and

showed him parcel containing rope, which was recovered in case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad with him and accused Sunil had identified the said rope which was used by him in the commission of crime and same was taken into police possession vide recovery memo Ex.P29.

Case property i.e. sealed parcels handed over by the concerned doctor after conducting postmortem examination of the dead body in case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad were deposited with him by the Investigating Officer. On 28.08.2019, Inspector Sanjay Kumar again came at Police Station: Sadar, Fatehabad and he had handed over the case property to Inspector Sanjay Kumar as per the order of the then learned ACJM, Fatehabad and same were taken into possession vide memo Ex.P30.

PW11 Dr. Harish Aggarwal, Associate Professor, Maharaja Aggarsain, Medical College, Agroha has tendered his duly sworn affidavit Ex.P33 in his evidence and has deposed that on 23.07.2019, he was posted as Assistant Professor at MAMC, Agroha. On that day, on the requisition Ex.P31 of police, he had conducted postmortem examination on a referred case from Government Hospital, Fatehabad of an unknown person and had prepared postmortem examination report Ex.P32. He had handed over viscera to the police for further examination. Inquest report Ex.P34 bears his signature. Report of Diatom Examination is Ex.P35 and Chemical Examiner Report is Ex.P41. As per his opinion, cause of death in this case is

due to asphyxia which is ante mortem strangulation, which is sufficient to cause death in ordinary course of nature.

PW12 Amit Kumar, Criminal Ahlmad from the Court of Shri Ishwar Dutt, the then learned ACJM, Jind has deposed that on 28.08.2019, he was posted as Criminal Ahlmad in the Court of the then learned ACJM Ms. Archana Yadav. He had identified the signature of the then learned ACJM Ms. Archana Yadav on order Ex.P36 regarding transfer of case property in present case i.e. FIR No.195 dated 18.07.2019 under Sections 346, 302, 201 read with Section 34 of IPC, Police Station: City, Narwana from the case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad.

PW13 HC Hardeep Singh No.632/Jind, presently posted at CIA Staff, Narwana has deposed that on 05.08.2019, he was posted at Police Station: City, Narwana and had remained associated in the investigation of the present case with Investigating Officer ASI Roshan Lal and has deposed that on that day, he alongwith ASI Roshan Lal reached at Police Station: Sadar, Fatehabad. Relative of Mahabir namely Rajesh and Bhagwanti on the information of Investigating Officer reached there. MHC Jaibir of Police Station: Sadar, Fatehabad had shown clothes of deceased Mahabir i.e. torn T-shirt of grey and orange colour having labele of Addidas, one blue colour lower and one blue colour underwear, which were recovered in case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad and also shown photographs of deceased to Bhagwanti and

Rajesh who had identified the same as belongings to Mahabir. Investigating Officer had also prepared identification memo Ex.P28.

PW14 HC Rajesh No.343, presently posted at Police Post: Naguran has deposed that on 07.08.2019, he was posted at Police Station: City, Narwana. On that day, he had remained associated in the investigation of the present case with Investigating Officer Inspector Sanjay Kumar. He has further deposed that on that day, accused Sunil @ Sunny was interrogated by the Investigating Officer in his presence. Accused suffered his disclosure statement Ex.P37 regarding his involvement in the commission of crime. Six days police remand of accused was obtained from the court. Thereafter, he alongwith Inspector Sanjay Kumar and accused Sunil reached at Police Station: Sadar, Fatehabad and one parcel containing rope, which was recovered in case. Rajesh and Bhagwanti relatives of deceased Mahabir had identified the clothes of deceased Mahabir i.e. torn T-shirt of grey and orange colour having label of Addidas, one blue colour lower and one blue colour underwear vide identification memo Ex.P28. On 07.08.2019, Inspector Sanjay Kumar came at Police Station: Sadar, Fatehabad alongwith accused Sunil and showed him parcel containing rope which was recovered in case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad and was shown to accused Sunil who had identified the same vide identification memo Ex.P29. In pursuance of the disclosure statement, accused got demarcated the place of occurrence vide memo Ex.P38 and Investigating Officer had prepared rough

site plan of the place of demarcation. In pursuance of disclosure statement, accused got demarcated the place i.e. canal situated at Tohana Road, Tohana where the dead body was thrown by accused and Investigating Officer had prepared rough site plan of the place of demarcation. Thereafter, accused got recovered one car marka pick-up bearing registration No.HR-56B-5120 alongwith its Registration Certificate (RC) from near Kali Mai Mandir, Dharodi Mod, Tohana Road crossing (*Fatak*) and same was taken into police possession vide recovery memo Ex.P41. Investigating Officer had prepared rough site plan of the place of recovery. Case property was deposited with *Malkhana Moharar* of Police Station: City, Narwana.

PW15 SPO Ashok Kumar No.56/Fatehabad, presently posted at Police Station: Sadar, Fatehabad has tendered his duly sworn affidavit Ex.P42 in his evidence and has deposed that on 02.08.2019, Malkhana Moharar HC Jaibir Singh No.115, Fatehabad had handed over viscera and documents in case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad for depositing with Chemical Examiner, Karnal and he had deposited the same with Chemical Examiner, Karnal and had handed over the receipt to *Malkhana Moharar* on the same day.

PW16 HC Ram Niwas No.297, presently posted at Police Station: City, Narwana has deposed that on 28.08.2019, he had remained associated in the investigation of the present case with Investigating Officer Inspector Sanjay Kumar. He had further deposed that on that day, he

alongwith Inspector Sanjay Kumar reached at Police Station: Sadar, Fatehabad where HC Jaibir had handed over case property i.e. sealed bottle containing water, sealed parcel containing molar teeth and clavicle bone, one sealed jar containing sternum bone and one envelop containing documents of case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad which were taken into police possession vide recovery memo Ex.P30. On the same day, ASI Ravinder Kumar, Investigating Officer of case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad had handed over inquest report Ex.P34, postmortem examination report of Mahabir Ex.P32 and photocopy of FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad Ex.P43 and photographs Ex.P44 to Ex.P48, which were taken into police possession vide recovery memo Ex.P49.

PW17 SI Roshan No.438, presently posted at Police Station: Sadar, Safidon has deposed that on 26.07.2019, he was posted at Police Station: City, Narwana. He is the partly Investigating Officer of the present case and has deposed about the steps taken and documents collected by him during the investigation of the present case. He has deposed regarding receiving of information from MHC of Police Station: Sadar, Fatehabad that proceedings under Section 174 Cr.P.C. was conducted of an unknown dead body at Fatehabad, giving information to namely Bhagwanti and nephew namely Rajesh of deceased Mahabir to reach at Police Station: Sadar,

Fatehabad, identification of clothes and photographs of deceased Mahabir in case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad by Bhagwanti and Rajesh vide identification memo Ex.P28 and addition of Sections 302 and 201 of IPC.

PW18 ASI Ravinder Kumar No.100/Fatehabad, presently posted at SCRB, Panchkula has deposed that on 20.07.2019, he was posted at Police Station: Sadar, Fatehabad. He is the Investigating Officer of case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad and has deposed about the steps taken and documents collected by him during the investigation of that case. He has deposed regarding receiving of information from MHC, Police Station: Sadar, Fatehabad to the effect that dead body of an unknown person was lying at Adampur, minor (canal) near village Dharnia, reaching at the spot and lying the dead body at Canal, presence of Ramesh Bharti, *Sarpanch* of village Dharnia at the spot, recording his statement, sending the same to the Police Station: Sadar, Fatehabad for registration of FIR, registration of FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad, conducting the police proceedings under Section 171 Cr.P.C, preparation of inquest report Ex.P34, clicking of photographs Ex.P44 to Ex.P48 of the dead body, shifting of dead body to MAMC, Agroha for conducting postmortem examination, moving of application Ex.P31 before Medical Officer, MAMC, Agroha for conducting post mortem examination, lifting of water in a bottle from the spot, depositing of the case property in

Malkhana, Police Station: Sadar, Fatehabad, conducting of the postmortem examination of deceased on 23.07.2019, handing over of the parcel containing rope, parcel containing viscera of deceased and parcel containing teeth, sealed parcel containing documents and clothes of deceased to him by the concerned doctor, same were taken into police possession, depositing of the case property in Malkhana, Police Station: Sadar, Fatehabad, handing over the relevant documents related to FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad i.e. inquest report Ex.P34, postmortem examination report Ex.P32, copy of FIR Ex.43, photographs Ex.P44 to Ex.P48 to the Investigating Officer of the present case Inspector Sanjay Kumar, who took the same into police possession vide recovery memo Ex.P49.

PW19 Inspector Sanjay Kumar, presently posted at Police Lines, Jind has deposed that on 05.08.2019, he was posted at Police Station: City, Narwana. He is the Investigating Officer of the present case and has deposed about the steps taken and documents collected by him during the investigation of the present case. He has deposed regarding arrest of accused Sunil from Dharodi Mod, Narwana on 06.08.2019, recording disclosure statement of accused Ex.P37, demarcation memo of the place of occurrence vide memo Ex.P38, preparation of the rough site plan of the place of demarcation Ex.P52; demarcation of the place where dead body of Mahabir was thrown by accused in a canal vide memo Ex.P39, preparation of rough site plan of the demarcated place Ex.P53, reaching at Police Station: Sadar,

Fatehabad, producing of one sealed parcel containing rope which was recovered in case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad by MHC of Police Station: Sadar, Fatehabad, producing of the same before accused Sunil, who had identified the same vide memo Ex.P29, recovery of one car make pick-up alongwith its Registration Certificate (RC) Ex.41 from Dharodi Mod, Narwana on the demarcation of accused Sunil and same was taken into police possession vide recovery memo Ex.P41, preparation of the rough site plan Ex.P54 of the place of recovery, depositing of the case property in Malkhana of Police Station: City, Narwana, producing of photographs Ex.P44 to Ex.P48 and inquest papers of deceased before him by Investigating Officer ASI Ravinder of case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad and same were taken into police possession vide memo Ex.P49 and recording of the statements of relevant witnesses at relevant witnesses.

PW20 Dr. Mohit, Medical Officer, Civil Hospital, Narwana has deposed that on 12.05.2022, Investigating Officer SI Rajender produced Mainde Devi wife of Dhan Singh, resident of Patel Nagar, Narwana and also moved an application Ex.P55 for obtaining blood sample of Mende Devi. He had taken out the blood sample from Mende Devi and same was put into an EDTA vial and converted the same into sealed parcel and gave his report Ex.P55/A, which bears his signature. He had handed over his report alongwith forwarding letter and sample seal to the Investigating

Officer. His report also bears the signature of Mende Devi.

PW21 EASI Ram Kumar No.568, presently posted at Police Station: City, Narwana has tendered his duly sworn affidavit Ex.P56 in his evidence and has deposed that on 12.05.2022, he was posted as Malkhana Moharar in Police Station: City, Narwana. On that day, PSI Rajender had deposited case property i.e. one parcel of jar and one parcel of slice blood alongwith sample seal with him in the malkhana. On 24.05.2022, he had handed over the same to Constable Rajbir No.1099 for depositing the same in R/FSL, Madhuban and he(Constable Rajbir No.1099) had deposited the same in R/FSL, Madhuban on the same day and had handed over the receipt to him(Malkhana Moharar) on the same day.

PW22 Constable Rajvir No.1099, presently posted at Police Station: City, Narwana has tendered his duly sworn affidavit Ex.P57 in his evidence and has deposed that on 24.05.2022, Malkhana Moharar ESI Ram Kumar had handed one parcel of jar and one parcel of slice blood for depositing the same in R/FSL, Madhuban and he had deposited the same in R/FSL, Madhuban and had handed over the receipt to Malkhana Moharar on the same day.

PW23 Retired Inspector, Yad Ram has deposed that on 16.09.2019, he was posted as Inspector/SHO in Police Station: City, Narwana. He recorded the statement of relevant witnesses at relevant stages under Section 161 Cr.P.C. On 28.10.2019, he had prepared report under Section 173 Cr.P.C. qua accused Sunny and same was submitted before the

court.

PW24 PSI Rajender Kumar, presently posted as Incharge, Police Post: HUDA, Sirsa has deposed that on 31.08.2022, he was posted as Incharge at Police Post: HUDA Market, Narwana. He is the Investigating Officer of the present case and has deposed about the steps taken and documents collected by him during the investigation of the present case. He has deposed that on 12.05.2022, he had produced Mende Devi before Medical Officer, Government Hospital, Narwana for obtaining blood sample and also moved an application Ex.P55. Concerned doctor had taken the blood sample of Mende Devi and converted the same into sealed parcel and gave his report Ex.P55/A and handed over one sealed parcel containing blood sample alongwith report and sample seal to him. He deposited the same with Malkhana Moharar, Police Station: City, Narwana. On 24.05.2022, HC Gurnaib had obtained relevant record of case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad from MHC of Police Station: Sadar, Fatehabad and handed over to him. On 09.06.2022, HC Gurnaib moved an application Ex.P58 before Medical Officer, MAMC Agroha for seeking his opinion regarding cause of death, upon which, concerned doctor gave his report Ex.P58/A. He had identified the signature of Inspector Ram Niwas on supplementary statement under Section 173(8) Cr.P.C. He recorded the statement of relevant witnesses at relevant stages under Section 161 Cr.P.C.

PW25 ASI Gurnaib Singh No.751, presently posted at MHC at

Police Station: Garhi has deposed that on 24.05.2022, he was posted at Police Post: HUDA Market, Narwana and obtained record Ex.P59 of case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad from MHC, Police Station: Sadar, Fatehabad and he had handed over the same to the Investigating Officer PSI Rajender. On 09.06.2022, he had moved an application Ex.P58 before Medical Officer, MAMC, Agroha for seeking his opinion regarding cause of death, upon which, concerned doctor gave his report Ex.P58/A.

PW26 HC Ram Kishan No.128/Fatehabad, presently posted as MHC, Police Station: Sadar, Fatehabad has deposed that on 24.05.2022, he had handed over photocopy of inquest paper Ex.P59 of case FIR No.290 dated 18.07.2019 under Sections 302, 201 of IPC, Police Station: Sadar, Fatehabad to HC Gurnaib.

PW27 Sanjay son of Arun Singh has deposed that he was the owner of Mahindra Pick-up bearing registration No.HR-56B-5120, colour white, Model 2017 and had sold the said vehicle to Sunil alias Sunny son of Rattan Singh, resident of Patel Nagar, Narwana at about four months before from the place of occurrence. He did not get registered the above said vehicle in his name. He had also handed over all documents of above said vehicle to Sunil alias Sunny. Police had recorded his statement. He came to know that Sunil alias Sunny had used the said vehicle in the commission of crime.

12. Rival contentions of both the sides have been heard at length

and the case file has been perused carefully and thoroughly.

13. Learned Chief Legal Aid Defence counsel for accused has argued that in the present case, accused has been charge-sheeted for the commission of offences punishable under Sections 302 read with Section 34 of IPC on the allegations that he alongwith his co-accused Ramil Bihari had committed the murder of deceased Mahabir son of Dhan Singh. He has also been charge-sheeted for the commission of offence punishable under Section 201 of IPC on the allegation that after commission of murder, the dead body of deceased Mahabir was thrown in a canal to conceal their offence. To prove the charges, the prosecution has examined total 27 witnesses but despite that the case against the accused has not been proved. Most of the witnesses examined by the prosecution are not material witnesses as PW1 Kuldeep Gupta, Draftsman had prepared the scaled site plan Ex.P1 of the place of occurrence i.e. Hisar-Tohana Road in the area of village Smain and scaled site plan Ex.P2 of the place where dead body of deceased Mahabir was thrown in a canal i.e. Sidhmukh canal only. PW2 Sandeep Sharma, Nodal Officer, Reliance JIO Infocomm Ltd., B-93, phase-8, Industrial Area, Mohali, Punjab from whom customer application form of mobile phone No.8168270814 and call details record period from 15.07.2019 to 16.07.2019, customer application form of mobile phone No.79888897445 issued in the name of Bhagat Ram son of Puran Chand, resident of Patel Nagar, Narwana and call details record for the period from 13.07.2019 to 19.07.2019 and Customer application form of mobile

No.9671063717 issued in the name of Sunil Kumar son of Rattan Lal, resident of Patel Nagar, Narwana, Jind and call details for the period from 13.07.2019 to 19.07.2019 alongwith its tower location, which are Ex.P3, Ex.P4, Ex.P5 and Ex.P6 respectively of accused and deceased etc., were collected. PW3 ESI Veer Bhan is the Malkhana Moharar with whom the case property was deposited. PW4 ASI Navdeep Kumar is the witness who had obtained the call details record etc. from the companies. PW5 Dr. Joginder Singh, Senior Scientific Officer, Incharge Scene of Crime Team, District: Fatehabad has proved his report Ex.P25. PW6 SI Bhoop Singh is the witness who lodged formal FIR Ex.P26 and made endorsement upon the complaint Ex.P26/A. PW7 Mende Devi is the complainant of the case and has proved her complaint Ex.P27. None of these witnesses has deposed anything against the accused and even the complainant had lodged the FIR in respect of missing of her son.

14. PW8 ASI Dilbag Singh is the partly Investigating Officer of the case. He by moving application Ex.P2 had collected the call details record of mobile phone Nos.7988897445, 9671063717, 8168648911, 9588130603 and 9416420654. PW9 Rajesh Kumar is nephew of deceased Mahabir and this witness has tried to involve the accused by stating that his maternal uncle deceased Mahabir used to visit the accused and co-accused Ramil. Ramil also used to come in the house of present accused Sunil. As per this witness, accused had borrowed a sum of ₹80,000/- from his deceased uncle. In respect of this money dealing, there is no documentary

evidence led by the prosecution. After recovery of dead body of deceased from canal by Fatehabad Police, he had identified the dead body from the clothes and the photographs. PW10 ASI Jaivir Singh is the MHC of Police Station: Sadar, Fatehabad who had shown the clothes deposited with him to the relatives of deceased Mahabir.

15. It was argued that prosecution has tried to involve the accused on the ground that accused had identified the rope deposited with him as the rope with which the accused had strangled the deceased but with that rope, no connection of the deceased or the accused could be established by the prosecution. PW11 Dr. Harish Aggarwal is the witness who had conducted the postmortem examination of the deceased and has proved the postmortem examination report Ex.32. After going through the Chemical Examiner Report Ex.P51, he had opined that cause of death in this case is Asphyxia which is ante mortem strangulation which is sufficient to cause death in the ordinary course of nature. PW12 Amit Kumar, Criminal Ahlmad has deposed in respect of the transfer of the case property from FIR No.290 dated 20.07.2019 under Sections 302, 201 IPC, Police Station: Sadar, Fatehabad in the present case. Witness PW13 HC Hardeep Singh had remained associated in the investigation of the present case with ASI Roshan Lal in whose presence the belongings of the deceased were shown to the relatives of the deceased. PW14 HC Rajesh had remained associated in the investigation of the present case with Investigating Officer, Inspector Sanjay Kumar when Investigating Officer had obtained six days police remand of

accused. In his presence, accused had identified the alleged rope which was deposited with MHC of Police Station: Sadar, Fatehabad. He also got demarcated the place of occurrence and the place of throwing the dead body in canal. He also got recovered one car marka pick-up bearing registration No.HR-56B-5120 alongwith his registration certificate (RC). However, his version does not repose confidence because at no stage any independent witness despite availability was joined. Even the car is not in the name of accused. The recovery thereof has been effected from an open place accessible to all. PW15 SPO Ashok Kumar had taken the case property i.e. viscera and document for examination by Chemical Examiner from Fatehabad. PW16 HC Ram Niwas has deposed in respect of the transfer of case property from Police Station: Fatehabad in this case on 28.08.2019.

16. PW17 SI Roshan Lal is the partly Investigating Officer of the case who had received information on 05.08.2019 that proceedings under Section 174 Cr.P.C. had been conducted of unknown dead body at Fatedhabad and on this, he reached there and through the relatives of the deceased got identified the belongings of the deceased. On 06.08.2019, he had arrested accused. On 07.08.2019, he recorded his disclosure statement Ex.P37 and got demarcated the place of occurrence, place of throwing the dead body, recovery of the vehicle etc. It is pertinent to mention that admittedly no independent witness was joined either at the time of interrogation or at the time of alleged demarcation. PW18 ASI Ravinder Kumar on 20.07.2019, had recovered the dead body of the deceased from

canal and got registered FIR No.290 dated 20.07.2019, Police Station: Sadar, Fatehabad. He conducted the proceedings under Section 171 Cr.P.C. and prepared inquest report Ex.P34. He also clicked photographs Ex.P44 to Ex.P48 of the dead body of deceased and got the dead body of the deceased postmortmed from MAMC, Agroha. On 28.08.2019, he had handed over the relevant documents related to case FIR No.290 dated 20.07.2019, Police Station: Sadar, Fatehabad to the Investigating Officer of the present case. PW19 Inspector Sanjay Kumar, the Investigating Officer of the case has stated about arrest of accused, his disclosure statement, demarcation memo of the place of occurrence and place of throwing of dead body through accused, recovery of car and taking of the case property from Police Station: Sadar, Safidon in this case.

17. PW20 Dr. Mohit had taken the blood sample of Mende Devi, complainant apparently for the purpose of DNA matching. PW21 EASI Ram Kumar is the Malkhana Moharar with whom the case property was deposited and who had sent the same to RFSL. PW22 Constable Rajvir had deposited the case property to R/FSL, Madhuban. PW23 Yad Ram had prepared final report under Section 173 Cr.P.C. qua accused Sunny. PW24 PSI Rajender Kumar is also the Investigating officer of the present case and had moved an application Ex.P55 before doctor for obtaining the blood sample of Mende Devi, complainant on 12.05.2022. On 24.05.2022, he had obtained the relevant record of FIR No.290 dated 20.07.2019, under Sections 302, 201 IPC, Police Station: Sadar, Fatehabad. On 09.06.2022, he obtained the

opinion from the doctor regarding cause of death of deceased. PW25 ASI Gurnaib Singh had obtained the record Ex.59 of case FIR No.290 dated 20.07.2019, under Sections 302, 201 IPC, Police Station: Sadar, Fatehabad and handed over the same to the Investigating Officer, PSI Rajender on 24.05.2022. On 09.06.2022, he moved application Ex.P58 before Medical Officer, MAMC, Agroha and obtained the opinion of the doctor Ex.P58/A regarding the cause of death of deceased Mahabir. PW26 HC Ramkishan had handed over the record Ex.P59 of case FIR No.290 dated 20.07.2019, under Sections 302, 201 IPC, Police Station: Sadar, Fatehabad to HC Gurnaib. PW27 Sanjay is the owner of the Mahindra Pick-up car bearing registration No.HR-56B-5120 and he had sold same to accused Sunil alias Sunny son of Rattan about four months prior to the occurrence.

18. On the other hand, the learned Public Prosecutor for the State has argued that from 27 witnesses examined by the prosecution, the case of prosecution is fully established. It was his argument that accused Sunil as DW1 has also corroborated the case of the prosecution to the great extent. He has stated that on 15.07.2019, he had received mobile phone call from deceased. He has also stated that he had taken the deceased in his vehicle upto Vishawkarma Chowk, Narwana. During cross-examination, he has denied purchasing of Mahendra Pick-up bearing registration No.HR-56B-5120 from PW27 Sanjay whereas from the evidence of PW27 Sanjay, this fact is proved. He has admitted his mobile phone number as well as the mobile phone number of the deceased Mahabir. He has not denied making

phone call to co-accused Ramil. The police had cracked this case on the basis of phone call details and tower locations. This accused with the help of co-accused Ramil had committed murder of deceased Mahabir as he was demanding his money back, which was advanced to the accused in the shape of loan. DW2 Ashok, the friend of accused has also stated that accused and deceased Mahabir were friends and were on good visiting terms. During cross-examination, this witness has admitted that he is facing two cases one hurt case and another under Section 307 of IPC. It is an important fact that even this witness could not deny Sunil and Mahabir were having financial dealings.

19. Referring to the statement of DW3 Santro Devi, the mother of accused, it was argued that this lady, to save her son, has gone to this extent that deceased Mahabir was not doing any job and was of quarrelsome nature and he used to have quarrels with people quite often. Accused has denied purchasing pick-up bearing registration No.HR-56B-5120 from PW27 Sanjay whereas, his mother as DW3 has admitted this fact rather she stated this fact even in her examination-in-chief. She has stated that accused and deceased were friends. During cross-examination, she has cooked up a story that her son Sunil dropped Mahabir at Vishwakarma Chowk in a three-wheeler whereas, it is not the case of the accused that he plies or owns any three-wheeler. It is a separate matter that she could not dare to state that she had seen the accused taking deceased Mahabir in three-wheeler from her house. She has stated that she had restrained her son from joining the

company of the deceased as he was a miscreant.

20. It was his argument that DW4 Raju Kumar is also the friend of accused and has come to support him. He has tried to state that on 15.07.2019, at Vishwakarma Chowk, Narwana, Mahabir and Sunil were standing and they had stopped him when he had come there from village Dumerkhan. He conversed with them for five minutes and thereafter, one person came on a motorcycle and took Mahabir from there. Mahabir asked the cell phone from accused Sunil because his mobile phone had not been recharged. This witness even after registration of the case did not inform the police that some person at Vishwakarma Chowk had taken deceased Mahabir on his motorcycle. He could not even disclose the registration number of that motorcycle. He could not disclose the name of that person.

21. It was his argument that when presence of accused and deceased at the same point of time is proved at the place of occurrence, it is the duty of accused to explain about the death of the deceased Mahabir. Not only this, even from the scientific evidence, it has been established that deceased had died due to strangulation. Not only this, even the rope with which the murder had been committed was recovered and accused had identified the same. Even accused has demarcated the place where murder was committed and the dead body was thrown in the canal correctly. The dead body was recovered by the police of Police Station: Sadar, Fatehabad in case FIR No.290 dated 20.07.2019, under Sections 302, 201 IPC, Police Station: Sadar, Fatehabad and case property from that case was taken in

possession by the Investigating Officer in this case after getting the identity of the deceased established through the family members of the deceased. Ultimately, he prayed for conviction of accused for the offences, with which, he has been charge-sheeted.

22. In view of the above discussion and after careful perusal of the case file, this Court is of the considered opinion that though the present case is based on circumstantial evidence yet the prosecution has been successful in establishing the circumstances, in such a manner, that there is no escape for the accused from it. The present case had commenced on the complaint Ex.P27 of Mende Devi, the mother of deceased Mahabir. This complaint was moved by the complainant on 18.07.2019 and on the basis of that complaint, initially, the FIR was registered under Section 346 of IPC. In this complaint Ex.P27, the complainant had mentioned that on 15.07.2019, her son deceased Mahabir, aged 35 years had gone with accused Sunil at about 5.00 P.M. upto Vishavkarma Chowk and from there, he went somewhere on the motorcycle of some other person. Thereafter, he did not return and they had made search of him in the relations as well as neighborhood but could not find any clue about him. She had given the mobile phone numbers of deceased Mahabir and stated that those mobile phone numbers were also switched off. From this complaint, it is proved that deceased had gone with accused Sunil on 15.07.2019. It is pertinent to mention that the evidence of the prosecution witnesses has already been discussed above and the matter had been investigated by the police of two Districts under two FIRs. Against

none of the police officials the accused has leveled any allegation of ill-will or malafide and thus, there arises no question of doubting the testimony of the official witnesses.

23. These arguments of the learned defence counsel that complainant had not shown any suspicion against accused in her complaint are not sustainable because at that time, she had no suspicion that accused could have murdered her son, however, she had given detail, which was in her knowledge that deceased had left house with accused. So far as the mentioning of Vishavkarma Chowk in the complaint is concerned, either it might be mentioned after confirming the fact that from the accused or the deceased might have been taken by the accused saying that he was going upto Vishavkarma Chowk.

24. The dead body of the deceased Mahabir was found in the area of village Dharania in the Adampur minor. It was taken out from the minor was photographed and was got postmortmed. Witness PW18 ASI Ravinder Kumar on 20.07.2019, had moved an application Ex.P31 in the name of Medical Officer, Government Hospital, Fatehabad, however, the Board of doctors opined that as the dead body was in advanced stage of putrefaction, so, it was referred to MAMC, Agroha for postmortem examination by experts. The postmortem examination of the deceased was conducted at MAMC, Agroha and postmortem examination report Ex.P36 is there on the record. The important fact, which is mentioned in this postmortem examination report is that the death of deceased had occurred 5-7 days back.

At the time of recovery, there was a rope tied around the neck of the deceased and the hands and legs of the deceased were also found tied with the rope. It is pertinent to mention that as per evidence of prosecution and statement of PW18 ASI Ravinder Kumar, it is clear that till that time even identity of the deceased was not known to the police or anybody else.

25. The clothes which were worn by the deceased, the rope with which the hands and legs of the deceased had been tied and which was used for strangulation etc. were handed over to the Police by the doctors and when the police of Police Station: City, Narwana received such information that dead body of some unknown person had been found by the police of Police Station: Sadar, Fatehabad in FIR No.290 dated 20.07.2019 under Sections 302 and 201 IPC, the family members of the deceased were informed and were taken to Fatehabad where vide identification memo Ex.P28, Rajesh and Bhagwanti, the relatives of the deceased, had identified the clothes of the deceased on 05.08.2019. Even from the side of the accused, there is no dispute that the said dead body was not of deceased Mahabir.

26. The police carried out the scientific investigation in the present case and obtained call details record of the mobile phones numbers of the deceased and accused alongwith their locations. In this respect, the evidence of the police officials and the Nodal Officers is there on the record which has been discussed above. It is pertinent to mention that the police had even obtained the call details record and location of the mobile phone number

being used by the estranged wife of deceased Mahabir. When the police found that deceased was in the company of accused and his friend Ramil upto the time of his death then on the basis of that evidence, accused was arrested and he made a disclosure statement Ex.P37. In this disclosure statement, accused had described in detail the manner, in which, deceased was murdered and his dead body was thrown in the minor after tying its hands and legs. He had stated that he owns a pick-up vehicle bearing registration No.HR-56B-5120 and had purchased the same from PW27 Sanjay but the same is at finance, so, it is in the name of Sanjay only. That vehicle is plied by him on rent. He had friendship with his neighborer deceased Mahabir and had also obtained a sum of ₹80,000/- on interest from him. He also named his co-accused Ramil Bihari in this disclosure statement and stated that he used to take his vehicle for selling fishes. On 15.07.2019, at about 6.00/6.30 P.M., he alongwith Ramil and Mahabir had taken the fishes in his pick-up vehicle to Uklana. The fishes were loaded from near Bus Stand, Narwana. The fishes were unloaded at Uklana. Whey they started back from Uklana to Narwana, near Surewala Chowk Mahabir asked that they should go to Narwana via Kalwan where his friend resides. However, near village Samain, a quarrel had taken place between him and Mahabir regarding money. He and Ramil Bihari after stopping the vehicle on the side of the road strangulated Mahabir with a rope lying in the vehicle and he and Ramil tied the hands and legs of Mahabir with the same rope and to conceal their involvement made a plan to throw the dead body in the canal.

Thereafter, he and Ramil Bihari took the dead body in the same vehicle at Tohana minor where they had thrown the dead body in the canal. Not only this, he had even identified the rope with which deceased was strangled and tied. Here, it is pertinent to mention that the learned defence counsel has advanced arguments to the effect that version of the prosecution is not possible because as per version of the prosecution, the hands and legs of the deceased were tied with the same rope with which, he was strangled whereas in the photographs, the rope around the neck of the deceased was still visible. In the considered opinion of the Court, the rope used by the accused and his friend was the rope which is usually kept by the truck drivers in their vehicles and such ropes are very long. If with the same rope, the strangulation was done and the hands and legs were tied, it cannot be said that it was an impossible act.

27. The pick-up vehicle bearing registration No.HR-56B-5120 had been recovered at the instance of the accused. One more very important fact is that accused as DW1 has denied his ownership over this vehicle but the prosecution witness PW27 Sanjay stated that the said vehicle was purchased from him by this accused. The Court would have seen the statement of prosecution witness with suspicion if the mother of the accused herself would not have stated this fact. The mother of the accused Santro Devi as DW3 has stated that fact and thus, the denial of ownership of this vehicle by the accused is clearly reflective of the fact that he was trying to conceal his crime. Accused as DW1 has also stated that he had handed over his cell

phone to the deceased at Vishavkarma Chowk, Narwana, upto which place, he has admitted his company with the deceased. Even this version of the accused that he had handed over cell phone without SIM to the deceased had been stated by him to escape from the legal punishment for the crime committed by him because his own witness DW4 Raju Kumar has stated that deceased Mahabir had asked for cell phone from Sunil because his mobile phone was not re-charged. Meaning thereby, even this story has been concocted by the accused to escape from legal punishment knowing fully well that his presence with the deceased upto the time of his death shall be established from the call details record and to conceal his involvement in the murder, he concocted the story that his mobile phone was taken by the deceased from him but in fact no mobile phone was handed over by the accused to deceased. The call details record and the location charts proved by the prosecution are proving the fact beyond doubt that accused, his friend Ramil and deceased had traveled from their village to Narwana and thereafter, to Uklana. Their locations at the same point of time are of the same place. In this respect, the call details record and the location charts Ex.P13, Ex.P13/A, Ex.P14, Ex.P14/A, Ex.P15, Ex.P15/A, Ex.P16, Ex.P16/A, Ex.P17, Ex.P17/A, Ex.P19, Ex.P19/A, Ex.P20, Ex.P20A and Ex.P21, Ex.P21/A can be referred to.

28. Learned defence counsel has even tried to argue that in respect of money transaction between accused and deceased there is no evidence and this fact is not established and the prosecution has not been successful in

explaining the fact that how alcohol was found in the dead body of deceased. In the considered opinion of the Court, it is proved that accused and his friend Ramil were present with the deceased at the time of his murder then they were to explain where they had consumed liquor and what had transpired between them, for it the prosecution cannot be blamed if accused has tried to conceal the facts from the police and the Court. When the involvement of the accused in the commission of murder of deceased is established on the case file beyond doubt, this fact will not make any difference if the prosecution has failed to prove the money transaction between accused and deceased because when the commission of offence is established the motive pales into insignificance. Here it is pertinent to mention that PW9 Rajesh Kumar has even stated on oath that deceased had disclosed to him about lending ₹80,000/- to accused. False statements made by accused on oath in the Court are also reflective of his guilt because he has stated that he had gone from his house to Vishavkarma Chowk in three-wheeler but who was owner of that three-wheeler, what was its registration number and if he plies any three-wheeler etc., are such facts which have not been explained by accused. Moreover, when it is proved that they had traveled in pick-up vehicle of accused upto Uklana then it does not make any difference, if the money transaction is proved or not. Here, it is also pertinent to mention that accused as DW1 and his witness Raju Kumar as DW4 have tried to state that deceased had accompanied from Vishavkarma Chowk over some motorcycle with a motorcyclist but who was that person,

what was colour, marka and registration number of that motorcycle have not been explained. This clearly points towards the guilt of accused.

29. In these circumstances, the prosecution has been successful in proving the fact that on 15.07.2019, in the area of village Samain, accused Sunil @ Sunny alongwith co-accused Ramil Bihari (yet to be arrested) in furtherance of their common intention committed the murder of Mahabir son of Dhan Singh by strangulating him with rope. It is also established beyond doubt that accused Sunil @ Sunny alongwith co-accused Ramil Bihari (yet to be arrested) had caused disappearance of the evidence by throwing the dead body in a canal to screen themselves from the legal punishment. Accordingly, accused Sunil @ Sunny is held guilty for the commission of offence punishable under Sections 302 and 201 read with Section 34 of IPC. He is accordingly convicted thereunder. Accused Sunil @ Sunny is in custody in this case. For hearing arguments on quantum of sentence to come up on 17.07.2025.

Announced in open Court:
Dated : 16.07.2025

(Jaibir Singh)
Additional Sessions Judge,
Jind (UID No. HR-0137)

Note: All the 43 pages of this judgment have been checked and signed by me.

(Jaibir Singh)
Additional Sessions Judge
Jind (UID No. HR-0137)

Anju Walia
Stenographer Gr-I