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01-08-2026	06-08-2026	0 Y, 0 M, 5 D
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IN THE COURT OF THE SESSIONS JUDGE, AMBEDKAR NAGAR
Sessions Trial No. 470 of 2021, CNR No. UPAN010024912021

Presiding: Chandroday Kumar, HJS, JO Code: UP06553

State of Uttar Pradesh --- Prosecution

Versus

- 1. Mohd. Aslam, son of Mohd. Ayub**
- 2. Mohd. Ayub, son of Jamai**
- 3. Mohd. Javed, son of Mohd. Ayub**
- 4. Smt. Ahmadi, wife of Mohd. Ayub**
- 4. Safina, daughter of Mohd. Ayub**

Residents of – Village Daudpur Malyana, Police Station Sammanpur,
District Ambedkar Nagar --- Accused Persons

Case Crime No. 484 of 2020, Police Station
Akbarpur, District Ambedkar Nagar

Under Sections 302, 201, 504 and 506 of the
Indian Penal Code, 1860

Appearance:

For the Prosecution: Sri Govind Srivastav, DGC (Criminal)

For Defence: Sri Saiyyad Mohamad Ali Zaidi, Advocate

JUDGMENT

1. This sessions trial arises out of Case Crime No. 484 of 2020 registered at Police Station Akbarpur, District Ambedkar Nagar. The prosecution alleges that accused Mohd. Aslam committed the murder of Upendra

Kumar alias Lala, concealed the dead body in order to screen himself from legal punishment, and, along with the remaining accused persons namely Mohd. Ayub, Mohd. Javed, Smt. Ahmadi and Safina, abused and threatened the informant when she questioned them regarding the whereabouts of the deceased. The trial has proceeded in respect of offences punishable under Sections 302, 201, 504 and 506 IPC against Mohd. Aslam and under Sections 504 and 506 IPC against the remaining accused persons.

Prosecution Case in Brief

2. The prosecution case, as emerging from the written report lodged by Vijay Kumari, is that her son Upendra Kumar alias Lala, aged about 21 years, was working as conductor on bus No. UP45T2141. On 22.09.2020, at about 9.00 p.m., he returned from Lucknow and got down near the old Tehsil crossing at Akbarpur along with accused Mohd. Aslam, who was working on the same bus. After alighting from the bus, the deceased spoke to his wife Saira Bano on telephone and informed her that he would shortly return home and that she should prepare food. Thereafter, he did not reach home. A missing report was lodged on 25.09.2020 by Saira Bano, and on 26.09.2020 the informant lodged the present FIR alleging that Mohd. Aslam bore animosity because Saira Bano, whose marriage talks had earlier been going on with Aslam, had married the deceased out of love. It was further alleged that Aslam was saying in the village that he had taken revenge, and that his family members abused and threatened the informant when she questioned them.

3. During investigation, accused Mohd. Aslam was arrested. The Investigating Officer claims that, on the disclosure and pointing out of Mohd. Aslam while in custody, one knife and the dead body of Upendra Kumar alias Lala were recovered near the railway line/outer signal area in the vicinity of Jauhar Deeh railway crossing. Blood-stained and plain earth were also collected. CCTV footage from Tehsil Tiraha, Geeta Palace Hotel and Balaji Hotel was obtained, showing two persons moving from the Tehsil Tiraha side towards the railway crossing. Call detail records and post-mortem evidence were collected. After investigation, a charge-sheet was submitted against Mohd. Aslam under Sections 302, 201, 504 and 506 IPC and against the remaining accused persons under Sections 504 and 506 IPC.

Charges, Plea and Evidence

4. Charges were framed against accused Mohd. Aslam under Sections 302, 201, 504 and 506 IPC and against accused Mohd. Ayub, Mohd.

Javed, Smt. Ahmadi and Safina under Sections 504 and 506 IPC. All accused denied the charges and claimed trial. The prosecution examined twelve witnesses. PW-1 Vijay Kumari is the informant and mother of the deceased. PW-2 Jitendra Kumar is the brother of the deceased. PW-3 Mohan Lal and PW-4 Shyamji are relatives and inquest witnesses. PW-5 Saira Bano is the wife of the deceased. PW-6 Rehan Ali, PW-8 Saeed Mohammad and PW-12 Surendra Kumar Singh are witnesses connected with the bus and Tehsil Tiraha/CCTV circumstance. PW-7 Noor Mohammad is a witness to the recovery of the dead body and related proceedings. PW-9 Dr. Rajesh Jaiswal proved the post-mortem report. PW-10 Head Constable Awadhesh Kumar Pandey proved registration of the FIR. PW-11 Inspector Amit Pratap Singh is the Investigating Officer. The prosecution relied on Exhibits Ka-1 to Ka-25 and material exhibits including knife, blood-stained earth, plain earth and CCTV media.

5. The statements of the accused persons were recorded under Section 313 CrPC. They denied the prosecution case and pleaded false implication on suspicion and enmity. In defence, DW-1 Mohd. Ahmad, DW-2 Dharmendra Kumar and DW-3 Ajay Kumar Yadav were examined to suggest that Mohd. Aslam had been taken or produced at the police station by village persons and was thereafter falsely implicated. No documentary defence evidence was filed.

Points for Determination

I have heard the arguments of counsels of both sides and perused the record meticulously. Considering the facts of the case, the following points of determination are framed:

1. Whether Upendra Kumar alias Lala died a homicidal death?
2. Whether the prosecution has proved beyond reasonable doubt that accused Mohd. Aslam caused the death of Upendra Kumar alias Lala and thereby committed murder punishable under Section 302 IPC?
3. Whether the prosecution has proved that accused Mohd. Aslam caused disappearance of evidence or concealed the dead body with the intention of screening himself from punishment, thereby committing an offence under Section 201 IPC?
4. Whether the prosecution has proved offences under Sections 504 and 506 IPC against all or any of the accused persons?
5. What order?

Relevant Legal Principles

6. Section 302 IPC punishes murder. Section 201 IPC punishes causing disappearance of evidence of an offence or giving false information with the intention of screening the offender. Sections 504 and 506 IPC respectively deal with intentional insult with intent to provoke breach of peace and criminal intimidation. The prosecution must prove each ingredient of the charged offence beyond reasonable doubt; suspicion, however strong, cannot substitute legal proof.

7. Since the present case is largely based on circumstantial evidence, the Court must apply the settled five-fold test stated in [Sharad Birdhichand Sarda v. State of Maharashtra \(1984 AIR 1622\)](#), namely: the circumstances must be fully established; they must be consistent only with the hypothesis of guilt; they must be conclusive; they must exclude every possible hypothesis except guilt; and the chain must be so complete as to leave no reasonable ground for a conclusion consistent with innocence. The law on last-seen evidence also requires caution: last-seen circumstance is relevant only when proximity of time and place, coupled with other reliable links, makes the possibility of intervention by a third person reasonably excluded. Section 106 of the Evidence Act may permit an adverse inference where facts are especially within the knowledge of the accused, but it cannot relieve the prosecution of its primary burden.

8. With respect to information received from an accused in police custody, Sections 25 and 26 of the Evidence Act exclude confessions made to police or while in police custody, except to the limited extent made admissible by Section 27. The classic principle in [Pulukuri Kottaya v. King Emperor \(AIR 1947 PC 67\)](#) is that only that portion of the information which distinctly relates to the fact thereby discovered is admissible; the confessional part, such as "I killed him," is not substantive evidence. The evidentiary value lies in discovery of the fact, the place from which the object or body is recovered, and the accused's knowledge of such place, subject to proof of voluntariness and credibility of recovery witnesses.

9. On electronic evidence, Sections 65A and 65B of the Indian Evidence Act, 1872 provide the special mode of proof of electronic records. In [Anvar P.V. v. P.K. Basheer \(AIR 2015 SUPREME COURT 180\)](#) and [Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal \(AIR 2020 SUPREME COURT 4908\)](#), the Hon'ble Supreme Court has authoritatively held that where an electronic record is produced by way of a copy, such as a CD, DVD, pen drive, printout or other computer output, the certificate contemplated under Section 65B(4) is ordinarily a

condition precedent for admissibility. The certificate must identify the electronic record, describe the manner of production, give particulars of the device, and certify compliance with the conditions of regular use and proper operation. However, if the original device itself is produced before the Court and proved by the person who owns or operates it, the requirement of a separate certificate is not attracted. In criminal trials involving CCTV footage, courts must therefore examine not merely whether a video was played, but whether the source, copying process, chain of custody, non-tampering, and identity of persons appearing therein have been established with reasonable certainty.

10. The Hon'ble Supreme Court in [Sonu alias Amar v. State of Haryana \(AIR 2017 SUPREME COURT 3441\)](#) has also explained that objections to the mode or manner of proof of electronic evidence should ordinarily be taken at the stage when such evidence is tendered, because such objections may be curable. Yet, where the defect goes to the very admissibility of secondary electronic evidence for want of the statutory certificate, the Court must remain conscious of the mandatory nature of Section 65B as explained in Arjun Panditrao. In [Tomaso Bruno v. State of U.P. \(2015 \(7\) SCC 178\)](#), the Hon'ble Supreme Court emphasised the increasing importance of electronic evidence and observed that best evidence such as CCTV footage, if available, should be collected, preserved and produced. The principle is not that every omission in electronic evidence destroys the prosecution case, but that electronic evidence must be handled with transparency and caution because digital material is capable of alteration if the chain of custody is not secured.

11. Applying the above principles to a case based on circumstantial evidence, electronic evidence such as CCTV footage may either act as an independent circumstance or as corroboration of oral evidence. If identification from footage is not facially clear, the Court may still consider the footage along with other evidence, such as the clothing worn, the place, the time, the bus number, the presence of known persons, conduct immediately before and after the occurrence, and the testimony of persons who knew the accused and the deceased. The Court must, however, avoid treating indistinct video images as conclusive identification unless supported by reliable surrounding circumstances.

12. The defence has specifically questioned the delay in lodging the FIR. The law relating to delay in lodging the FIR is settled. Prompt lodging of the FIR is important because it gives the earliest version of the occurrence and reduces the possibility of deliberation, embellishment or

false implication. In [Thulia Kali v. State of Tamil Nadu \(1973 AIR 501\)](#), the Hon'ble Supreme Court cautioned that unexplained delay may put the Court on guard against a coloured version or afterthought. At the same time, it is equally settled that delay by itself is not fatal. The Court must examine whether the delay is natural, probable and satisfactorily explained in the facts of the case. Where the informant is engaged in searching for a missing person, where the occurrence is not immediately known as a murder, where the family first treats the matter as disappearance, or where the body is recovered later, some delay may be natural and not destructive of the prosecution case. The correct approach is therefore not mechanical rejection on the ground of delay, but careful scrutiny of whether the delay has introduced prejudice, fabrication or material improvement.

Appreciation of Evidence

Homicidal Death

13. PW-9 Dr. Rajesh Jaiswal conducted the post-mortem on 27.09.2020. He found multiple sharp-cut/incised injuries on the neck, abdomen, arm and chest, with intestinal protrusion and decomposition changes. He opined that death was due to haemorrhage and shock caused by ante-mortem injuries, and that the injuries could be caused by a sharp weapon such as a knife. The body was decomposed, but the doctor stood firm that the injuries were ante-mortem and sufficient to cause death. The defence could not elicit anything to show that death was accidental, suicidal or natural. Accordingly, the first point is answered by holding that Upendra Kumar alias Lala died a homicidal death.

14. The medical evidence assumes particular importance because the corpse was recovered after several days and decomposition had set in. The defence attempted to suggest that decomposition altered the appearance of injuries and that the doctor could not precisely state the nature of each wound. The Court finds that this criticism does not go to the root. PW-9 candidly admitted decomposition and the presence of maggots, but he maintained that the wounds were sharp-cut/incised or punctured in nature and were ante-mortem. The injury on the abdomen was deep enough for intestinal protrusion, and the injuries on the neck, chest and arm are wholly consistent with an assault by a sharp-edged weapon. Decomposition may affect external appearance, but it does not erase the probative value of the medical conclusion that the deceased suffered fatal ante-mortem sharp injuries. Therefore, the medical evidence directly supports the prosecution's allegation that the death was homicidal and caused by a sharp weapon.

Motive

15. The prosecution alleges motive arising from the fact that Saira Bano, whose marriage talks had earlier been going on with accused Mohd. Aslam, married the deceased. PW-1 Vijay Kumari, PW-2 Jitendra Kumar and PW-5 Saira Bano have consistently stated that Aslam was aggrieved by this relationship. PW-5, being the woman around whom the motive is alleged, stated that she declined marriage with Aslam and married the deceased out of love. Though there are omissions and the defence has suggested that Saira Bano's own family might have had motive, no positive evidence has been brought to establish that alternative hypothesis. Motive, though not a substitute for proof, is a relevant circumstance in a case resting on circumstantial evidence. The Court finds that the prosecution has established a plausible motive against Mohd. Aslam.

16. Motive in a case of circumstantial evidence is not indispensable where the chain is otherwise complete, but where motive is proved, it lends assurance to other circumstances. PW-5 Saira Bano is the central witness on motive. She stated that her marriage talks with Aslam had proceeded, that Aslam used to speak to her on telephone, and that she gradually came into contact with Upendra through Aslam and ultimately married Upendra. She further stated that Aslam was aggrieved and was searching for them. Her cross-examination shows that she had indeed married the deceased against the wishes of her family and that she later remarried. These facts were used by the defence to suggest a different motive on the part of her parental family. However, cross-examination did not bring out any concrete act by her parental family connected with the disappearance, the last movement, the recovery, or the accused's conduct. The suggested alternative motive remains speculative, whereas the motive against Aslam is supported by PW-1, PW-2 and PW-5 and by the earlier association between Aslam, Saira Bano and the deceased.

17. The Court also notices that family witnesses may have a natural grievance after the death of a young family member; but their relationship by itself is not a ground to discard their evidence. The settled rule is that evidence of related witnesses must be scrutinised with care, not rejected mechanically. In the present case, PW-1 and PW-2 are not eye-witnesses to the assault; their evidence is valuable mainly on the facts of relationship, employment of the deceased, disappearance, disclosure of marriage background, identification, and recovery proceedings. Their testimony must therefore be weighed on each circumstance separately rather than accepted as a single block.

Last-Seen and CCTV Evidence

18. The evidence of PW-1 and PW-2 shows that the deceased and accused Aslam were working on the same bus and were seen together after alighting near Tehsil Tiraha on the night of 22.09.2020. PW-12 Surendra Kumar Singh, the stand manager/token person, does not identify the two persons by name, but he confirms that two persons who got down from bus No. UP45T2141 spoke to him at about 9.00 p.m., and the CCTV footage shown in Court depicted the same interaction. PW-11, Investigating Officer, has proved that CCTV footage from Tehsil Tiraha, Geeta Palace and Balaji Hotel showed the deceased and accused proceeding towards the railway crossing side. PW-1 also identified both persons in the footage, specifically referring to the deceased wearing a blue shirt. Though PW-12 stated that the faces were not clear to him and he could not identify who was Aslam and who was Upendra, this does not destroy the prosecution case because PW-12 was not personally acquainted with them. The identification by close relatives, coupled with employment on the same bus, bus number, time, route and subsequent disappearance, gives probative force to the last-seen circumstance.

19. Certain time discrepancies appear in the CCTV footage, particularly between different locations. PW-11 explained that CCTV devices were not online-synchronised and their times were manually set. Such discrepancy, in the absence of evidence of fabrication, is not fatal. The material aspect is not the exact second displayed by each device but the broad movement of the deceased and Aslam together from Tehsil Tiraha towards the railway crossing area on the relevant night. The deceased's mobile phone thereafter became switched off, and there is no credible evidence that he was seen alive with any other person after being in the company of Aslam.

20. The electronic evidence in this case consists of CCTV footage allegedly collected from three locations: Tehsil Tiraha, Geeta Palace Hotel and Balaji Hotel. The Investigating Officer stated that the footage at Tehsil Tiraha had initially been obtained during the missing-person enquiry by the outpost in-charge and was later taken into the investigation; he also stated that the footage from Geeta Palace and Balaji Hotel was collected from the respective premises and copied through electronic media. The original CDs placed on the record were later found broken, whereafter the Investigating Officer produced footage through a pen drive from material stated to have been preserved in his laptop. This aspect required careful judicial scrutiny because electronic evidence must be protected from alteration, loss, substitution or reconstruction.

21. The Court therefore treats the CCTV footage not as the sole foundation of guilt but as corroborative evidence supporting the last-seen circumstance. PW-12, an independent stand manager, confirms that two persons got down from vehicle No. UP45T2141 at about 9.00 p.m. and that he spoke to the person in blue shirt regarding bus-owner Shibu. He fairly stated that he did not know by name who among the two was Upendra and who was Aslam, and that the faces were not clear enough for him to identify them by name. This candid admission enhances rather than diminishes his credibility. His statement proves the objective fact that two persons from the relevant bus were at Tehsil Tiraha at the relevant time. Identification of those persons is then supplied by PW-1 and PW-2, who knew the deceased and accused, and by the surrounding circumstance that both were staff on the same bus.

22. The defence emphasised that the time shown in the footage of Geeta Palace appears to be 09:19:51 p.m., whereas Tehsil Tiraha footage shows approximately 21:21:53, and Balaji Hotel footage shows 21:32:06. If treated mechanically, such timings may appear inconsistent. PW-11 explained that these CCTV systems were not online-synchronised and that time settings were manual. This explanation is plausible in ordinary experience, especially where different private establishments maintain independent systems. The Court is not required to reject CCTV material merely because independent cameras show unsynchronised clocks, provided the broader sequence of movement is trustworthy. The material sequence emerging from all three locations is that the two persons proceeded from the Tehsil Tiraha side towards the railway crossing/station side shortly after the bus arrived in the night. This sequence fits with the oral evidence and the recovery location.

23. The Court further records that, even if the electronic evidence is assessed conservatively owing to issues of certification, preservation and clarity, the prosecution case does not stand or fall on facial recognition from CCTV alone. The CCTV circumstance is used only to corroborate: first, that the deceased and accused worked on the same bus; second, that they alighted at or around Tehsil Tiraha; third, that two persons connected with that bus were moving towards the railway side; and fourth, that the deceased was not shown thereafter to have returned home or joined any other known person. Thus, the electronic evidence operates as a link in the circumstantial chain, not as the entire chain.

Recovery of Dead Body and Knife

24. PW-11 stated that after arrest, accused Aslam disclosed that he had killed the deceased with a knife and concealed the dead body near the railway line, and he led the police party to the place from where a knife

and the dead body were recovered. The confessional portion of such statement is inadmissible except to the limited extent permitted by Section 27 of the Evidence Act. The admissible portion is that information which led to discovery of the knife and the dead body at the indicated place. PW-7 Noor Mohammad, an independent person associated with lifting the body, corroborates that the police brought a person who pointed out the place near Jauhar Deeh railway crossing, where the dead body was found in the shrubs/ditch, and a knife was also recovered. PW-2 Jitendra supports the recovery and identification of the body. The condition of the body, the time gap, and the location near the railway area accord with the prosecution version. The defence suggestion that signatures were taken on blank papers or that the recovery was planted is not supported by any cogent material.

25. The recovery evidence must be considered in the light of Section 27 of the Evidence Act. The Court excludes from consideration the inadmissible confessional part of the statement attributed to Aslam. What remains material is whether, while in police custody, he gave information distinctly relating to the place where the body and knife were concealed and whether such information led to discovery. PW-11 speaks to the disclosure and the pointing out. PW-7 Noor Mohammad, who had no demonstrated enmity with the accused and was called to assist in lifting the decomposed body, corroborates that a person in police custody pointed out the place and that the dead body was found in the shrubs/ditch near the railway line. PW-2 also supports the fact that he was called and that the body was identified. The recovery of a dead body from a concealed and unusual location is a highly incriminating circumstance because it reveals special knowledge of the accused regarding the location of the corpse.

26. The defence argued that PW-7 stated that signatures were taken on blank papers and that many public persons were present. This contention requires evaluation. PW-7 is not a witness of the occurrence; he is a witness of recovery and lifting of the body. His evidence substantially supports the place of recovery, the presence of police, the presence of a person brought by police, and the recovery of a body in decomposed condition. Minor infirmities about the exact drafting of the recovery memo or payment for assisting in lifting the body do not erase the central fact of recovery. It is also significant that the defence has not shown any reason why police or witnesses would plant a decomposed dead body at that location merely to implicate Aslam. In the case of [Bihar v. P.P. Sharma \(1991 AIR 1260\)](#), the Hon'ble Supreme Court held that there is a presumption that public officers act bona fide and in

accordance with law. Mala fides or abuse of power must be specifically pleaded and proved; they cannot be readily inferred.

The Court therefore accepts the recovery of the body as proved, while assigning cautious value to the recovery of the knife in the absence of decisive forensic linkage.

27. It is true that the forensic report has not been shown to decisively link the knife with the blood of the deceased or to provide DNA confirmation as blood was disintegrated. However, absence of a conclusive forensic link does not by itself demolish the recovery where the discovery of the dead body from a concealed location at the instance of the accused is otherwise proved. A dead body is not a common article capable of easy planting in ordinary circumstances. The recovery circumstance is therefore a strong incriminating link against accused Mohd. Aslam.

28. The forensic evidence, as available from the record, does not by itself establish that the recovered knife bore the deceased's blood or that the accused's clothing was conclusively connected with the crime. In a circumstantial case, a missing or weak forensic link is a matter for caution. The Court cannot fill such a gap by conjecture. At the same time, forensic non-confirmation does not automatically nullify other legally proved circumstances. The recovery of the dead body pursuant to disclosure, the last-seen circumstance, the motive, the disappearance of the deceased, call record circumstances and absence of explanation must be cumulatively assessed. The Court therefore does not treat the knife as an independently decisive circumstance, but treats it as supportive where consistent with the medical evidence of sharp injuries.

29. The call detail evidence, as referred to by PW-11, is relevant to show the broad conduct and location of the mobile phones. The deceased's number remained active till late evening/night and thereafter became switched off. PW-11 referred to calls between the deceased and Saira Bano and also to the tower location of the accused's phone. Call detail records are electronic records and must be approached through the discipline of Section 65B. Therefore, unless the necessary certificate and foundational particulars are duly proved, such records cannot be used as the sole basis of conviction. In the present case, the Court considers CDR material only as corroborative of the broad prosecution narrative, and not as a primary proof of guilt.

Conduct and Explanation of Accused

30. Once the prosecution establishes that the deceased was last seen in the company of accused Aslam, that they proceeded towards the area

from where the body was later recovered, and that discovery of the body and knife was made at his instance, an explanation was expected from the accused under Section 313 CrPC as to when and how he parted company with the deceased. No such explanation has been offered. The plea of false implication is general. The defence witnesses do not explain the movement of the accused with the deceased on the relevant night; rather, they attempt to challenge the manner of arrest. Their evidence is vague as to date and particulars, and DW-2 and DW-3 admittedly came at the instance of the accused's family. Their testimony does not create a reasonable doubt about the recovery or the last-seen circumstance.

31. The examination of the accused under Section 313 CrPC is not a substitute for prosecution evidence, but once credible incriminating circumstances are put to the accused, his failure to offer a reasonable explanation may provide an additional link. The accused was confronted with circumstances including association with the deceased, CCTV movement, recovery and allegation of motive. His answer was a bare denial and plea of false implication. He did not state when he parted company with the deceased, where he went after alighting, why the deceased's body was recovered from the place pointed out by him, or why prosecution witnesses would falsely connect him with the deceased's last movements. This silence cannot by itself convict him, but it strengthens the already established chain.

32. The defence evidence of DW-1, DW-2 and DW-3 mainly attempts to show that Aslam was produced before the police by village persons and that the police version of arrest is doubtful. Even if some doubt is assumed regarding the exact manner or place of arrest, such doubt does not per se demolish the prosecution case unless it affects the recovery, last-seen circumstance, or other material links. DW-1 admitted that he came at the instance of the accused's father and could not give date, month, mobile number or documentary proof. DW-2 admitted that he did not accompany Aslam to the police station and had only heard from others. DW-3 admittedly came at the instance of the accused's family and could not give details of the vehicle or date. Their evidence is therefore insufficient to discredit the recovery or the chain of circumstances.

Assessment of Defence Hypothesis

33. The defence suggested that the deceased may have been killed by the family members of Saira Bano because of the inter-religious love marriage. This suggestion was put to prosecution witnesses, but no substantive material was produced to make it a reasonable alternative hypothesis. The mere existence of another possible motive in someone

else is not enough to create reasonable doubt unless supported by circumstances pointing towards such person's involvement. The investigation may have been more exhaustive had the family members of Saira Bano also been examined, but the omission is not fatal where the established chain against Aslam remains intact.

34. The alternative hypothesis suggested by the defence is that Saira Bano's parental family may have killed the deceased because he had married her across religious lines. The Court is conscious that an alternative hypothesis in a circumstantial case must be considered seriously. However, an alternative hypothesis must be reasonable and must arise from evidence, not merely from suggestion. In the present case, there is no evidence that any member of Saira Bano's parental family was seen with the deceased on the relevant night, that they had any contact with him at Tehsil Tiraha, that they were present near the railway crossing, that the body was recovered at their instance, or that any object connected with the crime was traced to them. The Investigating Officer may have been expected to examine them for completeness; still, the omission does not create a reasonable doubt where the proved circumstances specifically point towards Aslam.

Delay in Lodging the FIR

35. In the present case, the deceased was last stated to have been in contact with his wife on the night of 22.09.2020. He did not return home thereafter. The evidence shows that the family members and Saira Bano initially searched for him and treated the matter as one of missing/disappearance. Saira Bano lodged a missing report on 25.09.2020, which has been proved through the General Diary entry. The FIR under Sections 302, 201, 504 and 506 IPC was lodged on 26.09.2020 at about 16:10 hours by PW-1 Vijay Kumari. Thus, there is a time gap between the last contact/disappearance and the registration of the criminal case naming the accused. The defence has argued that this delay indicates deliberation and that the accused persons were named on suspicion after consultations.

36. The Court finds that the delay is required to be viewed in its proper setting. On 22.09.2020, the deceased did not return home, but his body had not been recovered, and there was no direct eyewitness account of murder. The immediate human conduct of the family was to search for him and to contact those who could have knowledge of his whereabouts. The missing report dated 25.09.2020 shows that the matter was brought to police notice before registration of the present FIR. This substantially weakens the defence contention that the entire prosecution version was created only after the dead body was found. The FIR of

26.09.2020 contains the motive, the last-seen circumstance, the fact of prior missing report, and the suspicion against Aslam arising from the marriage dispute. These facts were not unnatural in the mouth of the mother once the missing report had yielded no result and suspicion had crystallised.

37. The Court also considers the contradictions stressed by the defence. PW-1 stated in cross-examination that the dead body was recovered on the next day of lodging of the case, whereas the documentary record and the Investigating Officer's statement indicate recovery on 26.09.2020 after registration and arrest. PW-2 also gave varying statements regarding when police informed him and when the FIR was prepared. These discrepancies relate to recollection of sequence after a traumatic disappearance and recovery of a decomposed body. They do not by themselves prove that the FIR was ante-timed or fabricated. PW-10 proved that the FIR and General Diary were recorded on 26.09.2020 at 16:10 hours, and the defence could not establish by reliable evidence that the FIR was actually registered after post-mortem or after deliberation. The absence of thumb impression on one column of the computer-generated FIR, or the same time being shown on FIR and GD, may invite caution, but does not outweigh the proved registration of the case and the earlier missing report.

38. It is significant that this is not a case where the informant admittedly knew of a completed murder on 22.09.2020 and still remained silent without explanation. The prosecution case developed from disappearance, to missing report, to suspicion of murder, to recovery of the dead body. In such circumstances, some delay in lodging an FIR for murder is explainable. The delay does require the Court to scrutinise the evidence with care, and the Court has accordingly assessed the last-seen evidence, CCTV material, recovery evidence and motive independently. After such scrutiny, the delay does not create a reasonable doubt because the principal incriminating circumstances do not depend solely on the FIR narrative; they are supported by the missing report, medical evidence, CCTV-related evidence, recovery at the instance of the accused, and the conduct of the accused. Therefore, the objection of delay in FIR is rejected, while keeping in mind that the FIR is not substantive evidence and can only be used to corroborate or contradict its maker.

39. The Court finally tests the chain against the five principles in *Sharad Birdhichand Sarda*. The proved circumstances are: the deceased and Aslam were associated with the same bus; motive existed because of Saira Bano's refusal to marry Aslam and her marriage with the deceased;

the deceased and Aslam were together at Tehsil Tiraha on the night of 22.09.2020; CCTV and PW-12 corroborate movement of two persons from the relevant bus towards the railway side; the deceased did not return home thereafter and his phone became unavailable; the dead body was recovered from a concealed railway-side location pursuant to information supplied by Aslam; medical evidence supports death by sharp weapon; and the accused offered no plausible explanation. These circumstances are individually proved and cumulatively point towards Aslam. They are not merely suspicious circumstances; they form a coherent chain. The Court therefore finds that the prosecution has crossed the threshold from “may be true” to “must be true” so far as Sections 302 and 201 IPC against Aslam are concerned.

Findings on Points for Determination

40. Point No. 1 is answered in the affirmative. The medical and surrounding evidence prove homicidal death. Point No. 2 is answered in the affirmative against accused Mohd. Aslam. The circumstances of motive, last-seen together, CCTV-supported movement towards the railway crossing, disappearance of the deceased thereafter, recovery of the dead body and knife at the instance of Aslam, and absence of any plausible explanation form a complete chain pointing unerringly to his guilt. The prosecution has proved beyond reasonable doubt that Mohd. Aslam committed the murder of Upendra Kumar alias Lala punishable under Section 302 IPC.

41. Point No. 3 is also answered in the affirmative against accused Mohd. Aslam. The concealment of the dead body in shrubs/ditch near the railway line and its discovery on the pointing out of the accused prove that the dead body was concealed with the intention of screening the offender from legal punishment. The offence under Section 201 IPC is therefore proved against him.

42. Point No. 4 requires separate consideration. The evidence regarding offences under Sections 504 and 506 IPC against Mohd. Ayub, Mohd. Javed, Smt. Ahmadi and Safina is weak, general and omnibus. The informant's version regarding abuse and threats is not supported by clear particulars of exact words, date, time, independent witnesses, or conduct showing real alarm. There are contradictions regarding the names and roles of family members. Mere family relationship with the accused Mohd. Aslam cannot justify conviction. Thus, the prosecution has failed to prove charges under Sections 504 and 506 IPC against Mohd. Ayub, Mohd. Javed, Smt. Ahmadi and Safina beyond reasonable doubt. So far as Mohd. Aslam is concerned, the prosecution evidence is primarily directed towards Sections 302 and 201 IPC; the evidence of

intentional insult and criminal intimidation does not independently satisfy the strict standard required for conviction under Sections 504 and 506 IPC. Therefore, all accused are entitled to acquittal of the charges under Sections 504 and 506 IPC.

Order

1. Accused Mohd. Aslam is held guilty and is convicted for the offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860.
2. Accused Mohd. Aslam is acquitted of the charges under Sections 504 and 506 IPC.
3. Accused Mohd. Ayub, Mohd. Javed, Smt. Ahmadi and Safina are acquitted of the charges under Sections 504 and 506 IPC, as the prosecution has failed to prove those charges beyond reasonable doubt.
4. Let accused Mohd. Aslam be heard separately on the question of sentence.
5. Case property shall be dealt with in accordance with law after expiry of the period of appeal.
6. A copy of this judgment be supplied to the convict free of cost as required by law.
7. In light of the Hon'ble Supreme Court's ruling in [Mukesh Kumar Yadav vs. The State \(2026 INSC 559\)](#), which established that a proper opportunity for a hearing regarding the quantum of sentence must be provided, the case is scheduled for a hearing on the quantum of punishment on August 6, 2024.

(Chandroday Kumar)

Sessions Judge

Ambedkar Nagar

Date: 05.08.2026

Date: 06.08.2026

ORDER ON SENTENCE

1. The convict, **Mohd. Aslam**, has been held guilty and convicted under Section 302 of the Indian Penal Code (IPC) for committing the murder of the deceased, Upendra @ Lala. The Court has heard the arguments advanced by the learned DGC (Criminal) for the

State and the learned counsel for the convict on the question of sentence.

2. Arguments on Behalf of the Convict (Mitigating Circumstances):

1. Accused Aslam stated that he has a daughter, Aju, aged 5+ and a wife, Kulsum Fatima. The daughter and her mother are present in the courtroom. When asked about the age of marriage, it is said that the date of marriage was 15.02.2020.
2. Learned counsel for the convict submitted that he was not informed by the father of the accused (parokar); otherwise, it would have been a good defence against the proposed motive, as no one will think of the murder of the husband of the ex-fiancé after marriage, especially when the baby child was in the womb of the accused's wife. He further argued that the convict is a young poor person with no prior criminal antecedents.
3. It is submitted that the convict has family responsibilities and there is a high probability of reformation and rehabilitation. It is also submitted that at the time of the incident, the convict was a minor.
4. The defence argued that the case rests purely on circumstantial evidence and does not fall within the category of the "rarest of rare cases" warranting the extreme penalty of death.
5. During the hearing, the mother of the accused (complainant parokar), present in the courtroom, got panicked and advanced towards the convict in the dock, saying she would hit his head against the wall. She was stopped by the police in the courtroom. The court ordered that she be taken into custody for the security of the accused and shall be released only after the convict is sent to jail to serve the sentence.

3. Arguments on Behalf of the State (Aggravating Circumstances):

1. The learned DGC (Criminal) submitted that the convict committed a planned murder out of personal grudge/rivalry regarding the marriage of Saira Bano.
2. The victim sustained multiple severe incised injuries resulting in death, and the body was concealed in a pit near the railway line.

3. The prosecution argued for the maximum punishment provided under the law to serve as a deterrent.
4. No documents have been produced regarding the minority of the convict.

4. Findings & Principles of Sentencing:

1. In determining the appropriate sentence, this Court is guided by the established judicial principles laid down by the Hon'ble Supreme Court regarding the balance between aggravating and mitigating factors and the doctrine of rarest of the rare cases.
2. While the crime is gravity-ridden and resulted in the loss of a human life, taking into account the age, family responsibilities, economic status, criminal antecedents, and the possibility of reformation of the convict, this Court is of the considered opinion that the present case does not satisfy the benchmark of the "**rarest of rare cases**" doctrine to attract the death penalty.
3. A sentence of imprisonment for life, accompanied by a fine, will adequately serve the ends of justice, balancing both deterrence and proportionality.

OPERATIVE ORDER OF SENTENCE

1. Under Section 302 IPC:

The convict, **Mohd. Aslam**, is hereby sentenced to undergo **Imprisonment for Life** and to pay a fine of **₹5,000/- (Five Thousand Only)**.

In default of payment of the fine, the convict shall undergo additional **Simple Imprisonment for one (One) Month**.

2. Under Section 201 IPC:

The convict, **Mohd. Aslam**, is sentenced to undergo **Imprisonment for 3 (Three) Years** and to pay a fine of **₹1,000/- (Rupees One Thousand Only)**, and in default of payment of fine, to undergo additional **Simple Imprisonment for 1 (One) Week**.

3. Set-off & Direction on Sentences:

1. All sentences imposed shall run **concurrently**.
2. The period of detention already spent by the convict in jail during the investigation and trial of this case shall be set off

against the substantive term of imprisonment under Section 428 of the Code of Criminal Procedure, 1973.

This Judgment is signed, dated, and pronounced by me in open court today.

(Chandroday Kumar)
Sessions Judge
Ambedkar Nagar
Date: 06.08.2026

In compliance with the Hon’ble Supreme Court mandate in [Manojbhai Jethabhai Parmar \(Rohit\) vs The State of Gujarat \(2025 INSC 1433\)](#), below is the structured and uniform tabulation of evidence for **Sessions Trial No. 470 of 2021**.

TABLE 1: TABULATION OF PROSECUTION WITNESSES (ORAL EVIDENCE)

PW No.	Witness Name & Identity	Key Direct Statement / Role	Critical Cross-Examination / Admissions / Hostility
PW-1	Vijay Kumari (Complainant / Mother of Deceased)	Stated that deceased Upendra @ Lala worked as conductor on UP Express bus alongside accused Mohd. Aslam (cleaner). On 22.09.2020, both got off at Tehsil Tiraha. Identified Aslam and Upendra in CCTV footage of Tehsil Tiraha, Hotel Gita Palace, and Hotel Balaji. Stated Aslam boasted in the village about taking revenge over Upendra marrying Saira Bano.	Admitted she did not see the incident herself. Stated Aslam himself told her about committing the murder. Admitted naming other family members based on suspicion/ Aslam's statement.

PW No.	Witness Name & Identity	Key Direct Statement / Role	Critical Cross-Examination / Admissions / Hostility
PW-2	Jitendra Kumar <i>(Brother of Deceased)</i>	Corroborated that Upendra and Aslam were colleagues. Verified CCTV footage showing both walking together on 22.09.2020 night. Witnessed the recovery of the weapon (knife), body, and soil samples. Panch-witness to inquest (Ex. Ka-4).	Admitted he named accused persons on suspicion. Did not see the murder. Stated Saira Bano's marriage details were known to the family only after the incident.
PW-3	Mohanlal <i>(Maternal Uncle of Deceased)</i>	Witnessed inquest procedure at mortuary. Testified regarding motive – that Saira Bano's marriage was fixed with Aslam, but she eloped with Upendra.	Admitted body recovery was not made in his presence. Information about motive and events was derived purely from hearsay via his sister (PW-1) and nephew (PW-2).
PW-4	Shyamji Chauhan <i>(Maternal Uncle of Deceased)</i>	Panch-witness to inquest (Ex. Ka-4). Described injuries and decomposition of body. Testified regarding rivalry over Saira Bano.	Confirmed he did not see the incident or the recovery of body/weapon directly. Relied on statements made by PW-1.
PW-5	Saira Bano <i>(Wife of Deceased)</i>	Stated her marriage was originally fixed with Aslam, but she eloped and married Upendra in Lucknow. On 22.09.2020 around 9	Admitted she did not witness the crime. Stated her testimony regarding Aslam's extra-judicial confession in the village was based on

PW No.	Witness Name & Identity	Key Direct Statement / Role	Critical Cross-Examination / Admissions / Hostility
		PM, spoke to Upendra who said he reached Tehsil Tiraha; phone turned off thereafter. Filed missing person report on 25.09.2020.	what her mother-in-law (PW-1) told her.
PW-6	Rehan Ali (Bus Driver)	Chief Examination: Stated Aslam and Upendra were close friends working on the bus, and both got off at Tehsil Tiraha on 22.09.2020 at 9 PM. Cross-Examination: Turned hostile; claimed he did not know Aslam or Upendra, was brought to testify by bus owner Seebu, and knew nothing of the incident. Re-examined by prosecution.	Turned hostile during cross-examination, resiling from his initial statement, though prosecution re-examined him.
PW-7	Noor Mohammad (Inquest / Recovery Helper)	Accompanied police to Johradih railway crossing where accused led police to recover the body from a pit and an iron knife. Signed recovery	Stated he did not know any accused personally. Signed documents on police instructions; was paid ₹500 by police for assisting in handling the decomposed body.

PW No.	Witness Name & Identity	Key Direct Statement / Role	Critical Cross-Examination / Admissions / Hostility
		memos (Ex. Ka-2, Ka-3).	
PW-8	Saeed Mohammad (Bus Owner's Brother)	Chief Examination: Stated bus UP45 T 2141 employed Upendra (conductor) and Aslam (cleaner). Cross-Examination: Claimed no personal acquaintance with Upendra or Aslam; did not handle bus operations. Declared Hostile.	Declared Hostile by the prosecution upon cross-examination after retracting knowledge of parties and incident.
PW-9	Dr. Rajesh Jaiswal (Medical Officer)	Conducted autopsy on 27.09.2020. Found 4 incised injuries (neck, abdomen with intestine protruding, arm, chest) caused by a sharp weapon like a knife. Cause of death: Haemorrhage and shock. Time since death: 5–6 days. (Ex. Ka-5).	Clarified that maggot infestation was on head/face/neck due to decomposition, not directly inside wound channels. Confirmed wounds were incised/sharp cut in nature.
PW-10	Head Const. Avadhesh Kumar Pandey	Prepared Chick FIR (Ex. Ka-13) and GD Entry No. 37 (Ex. Ka-14) on 26.09.2020 at 16:10	Admitted thumb impression of complainant was missing on Column 14 of Chick FIR copy.

PW No.	Witness Name & Identity	Key Direct Statement / Role	Critical Cross-Examination / Admissions / Hostility
		hrs upon written complaint of PW-1.	Confirmed GD entry and FIR registration share identical timestamp.
PW-11	Amit Pratap Singh (Investigating Officer / Inspector)	Registered case, arrested Mohd. Aslam on 26.09.2020. Recorded confession, recovered weapon (knife) and decomposed body near Johradih railway crossing. Collected CCTV footage (Ex. Ka-18 to Ka-20, Ex. Ka-22A to Ka-24), CDR records (Ex. Ka-21), and submitted charge sheet (Ex. Ka-15).	Admitted there are no eyewitnesses . Confirmed broken CDs were re-submitted via pen drive. Admitted FSL report on knife/bloodstained clothes was not received at the time of charge-sheeting.
PW-12	Surendra Kumar Singh (Bus Stand Manager)	Verified speaking to two individuals getting off UP Express bus at Tehsil Tiraha on 22.09.2020 around 9 PM regarding bus owner Seebu. Identified interaction in CCTV footage.	Admitted he cannot identify who among the two was Upendra or Aslam by face or name.

TABLE 2: TABULATION OF DEFENCE WITNESSES (ORAL EVIDENCE)

DW No.	Witness Name & Identity	Key Direct Statement / Role	Critical Cross-Examination / Admissions
DW-1	Mohd. Ahmad (Village Resident)	Claimed police (Constable Hasib) called Pradhan Shadab and asked for Aslam. Stated he, Seebu, and Pradhan took Aslam voluntarily to P.S. Akbarpur around 11 AM for questioning, where police later framed him.	Could not recall the date, month, or year of the event. Admitted he came to testify at the request of accused Aslam's father (Ayyub).
DW-2	Dharmendra Kumar (Village Resident)	Supported DW-1's narrative that Aslam worked at Pradhan Shadab's house feeding horses and was brought to the police station by the Pradhan upon phone call.	Admitted he did not accompany Aslam to P.S. Akbarpur himself. Testified purely on hearsay from Pradhan Shadab.
DW-3	Ajay Kumar Yadav (Pickup Driver)	Stated he was present at Pradhan Shadab's house to collect transport rent when a police phone call came regarding Aslam.	Testified regarding the police phone call received by Pradhan Shadab at his residence.

TABLE 3: TABULATION OF DOCUMENTARY EVIDENCE

Exhibit No.	Document Description	Proving Witness	Core Substance / Purpose
Ex. Ka-1	Written Complaint (Tehrer)	PW-1 (Vijay Kumari)	Initial complaint naming Aslam and family members based on suspicion and alleged oral confession.
Ex. Ka-2	Recovery Memo of Weapon (Knife)	PW-2, PW-7, PW-11	Seizure of iron knife recovered at the instance of accused

Exhibit No.	Document Description	Proving Witness	Core Substance / Purpose
			Aslam near railway crossing.
Ex. Ka-3	Recovery Memo of Plain & Bloodstained Soil	PW-2, PW-7, PW-11	Collection of soil samples from the place of body recovery.
Ex. Ka-4	Inquest Report (<i>Panchayatnama</i>)	PW-2, PW-3, PW-4, PW-11	Formal observation of body state, injuries, and dispatch for post-mortem.
Ex. Ka-5	Post-Mortem Report	PW-9 (Dr. Rajesh Jaiswal)	Establishes death by 4 sharp-cut/incised wounds, cause of death haemorrhage & shock, time since death 5–6 days.
Ex. Ka-6 to Ka-12	Police Form 13, CMO Letters, Photo Naash, Sample Seal	PW-9 (Dr. Rajesh Jaiswal)	Procedural police paper trail for body dispatch and autopsy verification.
Ex. Ka-13	Chick FIR	PW-10 (Head Const. Avadhesh)	Formal FIR registered under Crime No. 484/2020.
Ex. Ka-14	General Diary (GD) Entry No. 37	PW-10 (Head Const. Avadhesh)	GD registration entry dated 26.09.2020 at 16:10 hrs.
Ex. Ka-15	Charge Sheet	PW-11 (IO Amit Pratap Singh)	Final police report under Sec 302, 201, 504, 506 IPC.
Ex. Ka-16 & Ka-17	Site Plans (<i>Naksha Najri</i>)	PW-11 (IO Amit Pratap Singh)	Site plan of body recovery spot and scene of crime.

Exhibit No.	Document Description	Proving Witness	Core Substance / Purpose
Ex. Ka-18 to Ka-20	Memos of CCTV Footage Seizure	PW-11 (IO Amit Pratap Singh)	Seizure of CCTV footage from Hotel Gita Palace, Hotel Balaji, and CO City Office (Tehsil Tiraha).
Ex. Ka-21	Call Detail Records (CDR) & CAF	PW-11 (IO Amit Pratap Singh)	Phone tower locations and call activity of deceased (7704861192) and Aslam (9936371955).
Ex. Ka-22	Forensic Science Laboratory (FSL) Report	PW-11 (IO Amit Pratap Singh)	Scientific evaluation report of seized items.
Ex. Ka-22A to Ka-24	CCTV Sample Seals / CDs	PW-11 (IO Amit Pratap Singh)	Physical CD exhibits containing CCTV video clips.
Ex. Ka-25	Missing Person Report GD Entry No. 55	PW-11 (IO Amit Pratap Singh)	GD entry of missing person report lodged by Saira Bano on 25.09.2020.

TABLE 4: TABULATION OF MATERIAL OBJECTS (PHYSICAL EVIDENCE)

Material Object Ex. No.	Object Description	Recovery Source / Location	Connected Witness
Material Ex. 1	Iron Knife (<i>Aala-Katl</i>)	Recovered near Johradih Railway Crossing pole 1905/18-19 at the instance of accused Aslam.	PW-2, PW-7, PW-11
Material Ex. 2 & 3	Sealed Containers of Bloodstained & Plain Soil	Collected from the place of body recovery in railway pit.	PW-2, PW-7, PW-11

Material Object Ex. No.	Object Description	Recovery Source / Location	Connected Witness
Material Ex. 4 to 6	CCTV CDs / Pen Drive (32GB Faster™)	Hotel Balaji, Hotel Gita Palace, Tehsil Tiraha cameras.	PW-1, PW- 11, PW-12

(Chandroday Kumar)
Sessions Judge
Ambedkar Nagar
Date: 06.08.2026