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HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 393 of 2026**

Chandan Singh S/o Mansay Kumeti Aged About 25 Years R/o Amodi
Badepara, Police Station - Durgukondal, District- Uttar Baster Kanker
(C.G.)

... Appellant(s)**versus**

The State Of Chhattisgarh Through The Station House Officer, Police
Station- Siksood, District- Uttar Baster Kanker (C.G.)

... Respondent(s)

For Appellant(s) : Mr. K.P.S. Gandhi, Advocate

For Respondent(s) : Mr. Ashish Shukla, Add. A.G.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Ravindra Kumar Agrawal, Judge****Judgment on Board****Per Ramesh Sinha, Chief Justice****29.07.2026**

1. Heard Mr. K.P.S. Gandhi, learned counsel for the appellant. Also
heard Mr. Ashish Shukla, learned Additional Advocate General,
appearing for the respondent/State.



2. This criminal appeal filed by the appellant/accused under Section 415(2) of the BNSS is directed against the impugned judgment of conviction and order of sentence dated 30.12.2025 passed by the learned First Additional Sessions Judge, Bhanupratappur, District- Uttar Bastar, Kanker (C.G.) in Session Trial No. 11/2020 by which the appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code (IPC) and sentenced to undergo imprisonment for life with fine amount of Rs. 1,000/-, in default of payment of fine additional rigorous imprisonment for 03 months and under Section 201 of the IPC and sentenced to undergo imprisonment for 05 years, 07 months and 08 days with fine amount of Rs.100/-, in default of payment of fine, additional R.I. for 01 month.

3. The prosecution case, in brief, is that on 06.03.2020, the Station House Officer, Police Station Jiskasod, received telephonic information regarding the presence of a freshly dug grave in the burial ground situated at village Amodi, Peripara. On receipt of the said information, Inspector Amit Padmashali proceeded to the spot along with the police staff and made inquiries from the villagers. During the course of inquiry, it was revealed that one Tansen Kumeti, a resident of village Amodi, had been missing since 04.03.2020 after a quarrel with accused Chandan Singh Kumeti. It also came to light that no person from the village had died during the preceding several days. However, on 05.03.2020, a village girl, namely Kumari Chamrin Koreti, while grazing goats near the burial ground, noticed a freshly dug grave and informed the villagers, thereby giving rise to suspicion.



4. The prosecution further alleges that on 04.03.2020, in the evening at about 5:00 p.m., accused Chandan Singh Kumeti had gone to the house of witness Asaru Ram, where, after some time, the deceased Tansen Kumeti also arrived. Both of them remained there till about 7:30 p.m. while sitting near the fire. During that time, accused Chandan was watching videos on his mobile phone. The deceased, who was unable to speak, allegedly poked Chandan with a burning piece of wood, causing him minor injuries. This led to an altercation between them, during which Chandan slapped the deceased and a scuffle ensued. Thereafter, both of them left the place together.

5. The prosecution further alleges that thereafter the deceased was not seen alive. When the villagers questioned accused Chandan regarding the whereabouts of Tansen, he allegedly gave evasive replies. The villagers then visited the burial ground where the parents of the deceased had earlier been buried and noticed a newly made grave adjacent to those graves, covered with a cot. On further questioning, accused Chandan is alleged to have made an extra-judicial confession before the villagers stating that after the quarrel at the house of Asaru Ram, the deceased ran towards his field (Ladi), where Chandan followed him and assaulted him with a bamboo stick on his head, face and other parts of the body, resulting in his death. Thereafter, according to the prosecution, Chandan returned home and informed his father, co-accused Mansay Kumeti. Both the accused allegedly dug a pit near the graves of the deceased's parents, buried the dead body there, and concealed the blood stains lying in the courtyard of their house by



smearing the place with cow dung.

6. On the basis of the complaint lodged by Shanturam Kumeti, a Dehati Merg Intimation (Ex.P/1) and Dehati Nalishi (Ex.P/2) were recorded at the spot. Subsequently, on 07.03.2020, Merg No.03/2020 was registered at Police Station Jiskasod and, on the basis of the Dehati Nalishi, Crime No.04/2020 was registered against accused Chandan Singh Kumeti and Mansay Kumeti for offences punishable under Sections 302, 201 and 34 of the Indian Penal Code. The Investigating Officer also intimated the Executive Magistrate for exhumation of the dead body and postmortem examination.

7. Pursuant thereto, the Naib Tahsildar conducted the exhumation proceedings in the presence of witnesses and prepared the exhumation panchnama, identification panchnama and inquest panchnama. The dead body was identified as that of Tansen Kumeti and was sent for postmortem examination.

8. During investigation, the Investigating Officer prepared the spot map and seized blood-stained soil, plain soil and broken pieces of bamboo from the place of occurrence under seizure memo. On 08.03.2020, memorandum statements of accused Chandan Singh Kumeti and co-accused Mansay Kumeti were recorded under Section 27 of the Indian Evidence Act. Pursuant to the memorandum statement of accused Chandan, a pickaxe, a spade, a bamboo stick allegedly used in the commission of the offence, and the clothes allegedly worn by him at the relevant time, namely a red shirt, blue checked lungi and



brown shorts, were recovered and seized. The clothes of the deceased were also seized after the postmortem examination.

9. The seized articles were forwarded to the Forensic Science Laboratory for chemical and serological examination. The prosecution further states that the FSL reports were received during the course of investigation. Statements of the material witnesses and other witnesses, were recorded under Section 161 of the Code of Criminal Procedure.

10. After completion of the investigation and upon finding sufficient material against the accused persons, the Investigating Officer filed the charge-sheet before the Court of the Judicial Magistrate First Class, Bhanupratappur. The learned Magistrate, finding the offences to be exclusively triable by the Court of Session, committed the case to the Court of Session under Section 209 of the Code of Criminal Procedure.

11. Charges were thereafter framed against accused Chandan Singh Kumeti for the offences punishable under Sections 302 and 201 of the Indian Penal Code and against co-accused Mansay Kumeti for the offence punishable under Section 201 read with Section 34 of the Indian Penal Code. Both the accused denied the charges, pleaded not guilty, and claimed to be tried. During their examination under Section 351 of the Bharatiya Nagarik Suraksha Sanhita (corresponding to Section 313 of the Code of Criminal Procedure), the accused denied the incriminating circumstances appearing against them, pleaded false implication, and did not adduce any evidence in defence.

12. The learned trial Court, upon appreciation of oral and



documentary evidence on record opining that it is the appellant who has committed the murder of his deceased, convicted and sentenced him under Section 302 & 201 of the IPC, against which the instant appeal under Section 415(2) of the BNSS has been preferred.

13. Mr. K.P.S. Gandhi, learned counsel for the appellant argued that the impugned judgment of conviction and order of sentence dated 30.12.2025 passed by the learned Trial Court is wholly illegal, arbitrary, perverse and contrary to the facts, evidence and settled principles of criminal jurisprudence and, therefore, deserves to be set aside. It is submitted that the conviction of the appellant rests entirely on circumstantial evidence and the prosecution has miserably failed to establish a complete and unbroken chain of circumstances pointing exclusively towards the guilt of the appellant. The alleged “last seen” circumstance is inherently weak and unreliable inasmuch as prosecution witness Asaru Ram merely stated that a minor altercation had taken place between the deceased and the appellant on the evening of 04.03.2020, after which he himself left the place, and there is no evidence whatsoever as to what transpired thereafter or that the appellant was last seen in the exclusive company of the deceased. It is further submitted that there is no direct eyewitness to the alleged occurrence and the entire prosecution case is founded merely upon suspicion and conjectures. Even according to the prosecution, the incident originated from a trivial quarrel and there is absolutely no evidence establishing any motive or intention on the part of the appellant to commit the murder of the deceased. The discovery of a



fresh grave at the cremation ground, by itself, does not establish the guilt of the appellant, as there is no reliable evidence connecting him with the digging of the grave or burial of the deceased. It is further submitted that although the Forensic Science Laboratory detected the presence of human blood on certain seized articles, the blood group could not be determined and no DNA profiling was conducted. Consequently, the prosecution has failed to establish that the blood detected was that of the deceased or that the seized articles were connected with the alleged offence, thereby rendering the forensic evidence wholly inconclusive. It is a settled principle of law that suspicion, however grave, can never substitute legal proof and every accused is entitled to the benefit of reasonable doubt. Learned counsel further submits that the investigation itself suffers from serious infirmities inasmuch as the inquest proceedings were initially recorded orally and were subsequently formalised, casting serious doubt upon the fairness and transparency of the investigation. It is further submitted that the appellant has been falsely implicated due to village rivalry and mere suspicion without any cogent or legally admissible evidence. Without prejudice to the aforesaid submissions, it is contended that even if the entire prosecution case is accepted in its entirety, the facts do not disclose the commission of an offence punishable under Section 302 of the Indian Penal Code and, at the highest, may constitute a lesser offence, therefore, the sentence of life imprisonment imposed upon the appellant is harsh, excessive and unsustainable. Learned counsel further submits that the material prosecution witnesses have turned



hostile and have not supported the prosecution case during trial. The learned Trial Court committed a grave error in placing reliance upon such hostile testimony without there being any independent, cogent and reliable corroborative evidence. It is well settled that where the prosecution relies upon circumstantial evidence, every incriminating circumstance must be proved beyond reasonable doubt and the chain of circumstances must be complete. In the present case, the hostility of the material witnesses completely demolishes the prosecution case and breaks the chain of circumstances. There is no clinching or unimpeachable evidence proving that the appellant either assaulted the deceased or directly participated in the commission of the alleged offence. The prosecution evidence is replete with material contradictions, omissions and inconsistencies, which strike at the very root of the prosecution story and render the testimonies of the witnesses wholly unreliable. The learned Trial Court failed to appreciate these glaring discrepancies and erroneously convicted the appellant by drawing unwarranted inferences unsupported by the evidence on record. The findings recorded by the Trial Court are thus based on surmises, conjectures and extraneous considerations rather than legally admissible evidence and are, therefore, perverse and contrary to the record. It is accordingly prayed that the impugned judgment of conviction and order of sentence be set aside and the appellant be acquitted of all the charges by extending to him the benefit of doubt

14. On the other hand, learned State counsel vehemently supported the impugned judgment of conviction and order of sentence passed by



the learned Trial Court and submitted that the same is legal, proper and based on a correct appreciation of the oral and documentary evidence available on record. It is contended that the prosecution has successfully established a complete chain of circumstances which unerringly points towards the guilt of the appellant and is inconsistent with any hypothesis of innocence. The evidence of the prosecution witnesses, the recovery of the incriminating articles at the instance of the appellant pursuant to his memorandum statement, the medical and forensic evidence, the recovery of the dead body from the place disclosed during investigation and the conduct of the appellant are all corroborative circumstances which clearly establish his involvement in the commission of the offence. It is further submitted that merely because some of the witnesses turned hostile, the prosecution case does not become doubtful, as the testimony of a hostile witness can be relied upon to the extent it supports the prosecution and finds corroboration from other reliable evidence. Learned State counsel further submits that the learned Trial Court has meticulously appreciated the entire evidence on record and has rightly held the appellant guilty of the offences proved against him beyond reasonable doubt. It is, therefore, prayed that the present appeal, being devoid of merit, deserves to be dismissed and the conviction and sentence awarded by the learned Trial Court be affirmed.

15. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original record of the learned trial Court with utmost circumspection.



16. In order to appreciate the arguments advanced on behalf of the parties, we have to examine the evidence adduced on behalf of the prosecution.

17. The first question which arises for consideration in the present appeal is whether the learned trial Court was justified in holding that the death of deceased Tansen Kumeti was homicidal in nature.

18. Learned counsel for the appellants has not seriously disputed the identity of the deceased, however, it has been contended that the prosecution has failed to establish beyond reasonable doubt that the death was homicidal. It has been argued that the body was recovered in a highly decomposed condition and the medical evidence does not support the prosecution case that the deceased was assaulted by a bamboo stick on his head. It is, therefore, necessary to examine the ocular and medical evidence available on record to ascertain whether the finding recorded by the learned trial Court is sustainable.

19. The prosecution has first sought to establish that the dead body exhumed from the freshly dug grave at the burial ground of village Amodi was that of deceased Tansen Kumeti. In this regard, PW-7 Akhilesh Kumar Dhruv, the then Naib Tahsildar, has deposed that on 07.03.2020, pursuant to the requisition received from Police Station Jiskasod in connection with Merg No.03/2020, he visited the burial ground at village Amodi, Peripara. In the presence of independent witnesses, namely Dhannuram Dehari, Shanturam Kumeti, Asau Ram Koreti, Sahdev Komra and Rajesingh Jade, the freshly dug grave was



excavated and the dead body was exhumed. He proved the Exhumation Panchnama (Ex.P/4), Identification Panchnama (Ex.P/5), notice issued under Section 175 Cr.P.C. (Ex.P/6) and the Inquest Panchnama (Ex.P/7). His testimony clearly establishes that the exhumation proceedings were conducted in accordance with law in the presence of independent witnesses. Nothing substantial has been elicited in his cross-examination to discredit his testimony.

20. The aforesaid evidence receives complete corroboration from the testimony of PW-13 Inspector Amit Padmashali, the Investigating Officer. He has stated that on 06.03.2020, upon receiving information regarding a freshly dug grave, he proceeded to village Amodi, recorded the Dehati Merg Intimation (Ex.P/1) and the Dehati Nalishi (Ex.P/2), and thereafter registered Merg No.03/2020 followed by Crime No.04/2020 under Sections 302, 201 and 34 of the Indian Penal Code. He further deposed that a requisition (Ex.P/31) was sent to the Sub-Divisional Magistrate for exhumation of the body and post-mortem examination. He also prepared the spot map (Ex.P/32) and sent the dead body for autopsy through Constable Satish Yadav. His evidence has remained substantially unshaken in cross-examination so far as the exhumation proceedings are concerned.

21. The prosecution version regarding exhumation of the dead body also stands corroborated by the evidence of PW-1 Shanturam Koreti, PW-2 Dhannuram Dehari, PW-3 Asau Ram and PW-5 Nirmal Tantia. PW-1 has categorically stated that after the police reached the village,



the grave pointed out by the accused persons was excavated and the dead body of Tansen Kumeti was recovered therefrom. He proved his signatures on Ex.P/1 to Ex.P/7. Likewise, PW-2 Dhannuram Dehari has stated that the Tahsildar, police officials, doctors and villagers were present when the grave was excavated and the body of the deceased was recovered. He has also proved the Exhumation Panchnama, Identification Panchnama, Inquest Panchnama and seizure memos. PW-3 Asau Ram and PW-5 Nirmal Tantia have also supported the prosecution by stating that they witnessed the exhumation of the dead body from the freshly dug grave. Their evidence is natural, consistent and inspires confidence. No material contradiction or omission has been brought on record so as to render their evidence unreliable.

22. The most crucial evidence on the aspect of homicidal death is that of PW-12 Dr. A.K. Sambhakar, who conducted the postmortem examination. He has stated that on 07.03.2020, the dead body of Tansen Kumeti was brought before him after exhumation. He noticed that the body was wearing a full-sleeved shirt and black full pant and was in an advanced stage of decomposition. According to him, the body emitted foul smell, the skin had peeled off, the scalp hair had become loose, the body was swollen and decomposition had considerably progressed. The advanced state of putrefaction was thus evident.

23. PW-12 has further deposed that on detailed examination he found blood clots in the right external auditory meatus, fracture of the left side of the jaw, fracture of the thyroid cartilage and bluish discolouration of



the soft tissues of the neck. The lower lobes of both lungs showed diffuse congestion and bruising. The brain matter had liquefied because of decomposition. The small and large intestines were distended with gases and other internal organs also showed changes consistent with decomposition. According to him, all the injuries were ante-mortem in nature.

24. The witness has categorically opined that the deceased died due to visceral injuries and shock resulting from diffuse contusion of the lungs and soft tissues of the neck coupled with fracture of the thyroid cartilage. He has further explained that because the body had undergone putrefaction after burial, the external injuries had disappeared and, therefore, only internal injuries could be clearly appreciated at the time of autopsy. He has specifically opined that the death was homicidal in nature and that it had occurred approximately 36 to 72 hours prior to the postmortem examination. The said opinion finds due reflection in the Postmortem Report (Ex.P/19) as well as the Brief Postmortem Report (Ex.P/20).

25. During his cross-examination, PW-12 admitted that no external injury over the head was noticed at the time of postmortem and that ordinarily a blow by a bamboo stick on the head may leave an external mark. However, he immediately clarified that internal injuries may exist even in the absence of visible external injuries and that in the present case the body had already undergone extensive decomposition. He further stated that the bamboo stick produced before him could have



caused the injuries noticed by him during autopsy. Significantly, the defence could not elicit anything from the witness to show that the injuries were postmortem or that the death could have been accidental, suicidal or natural. His expert opinion regarding the homicidal nature of death has remained intact.

26. It is well settled that the opinion of a medical expert is advisory in nature. Nevertheless, where such opinion is clear, cogent and supported by objective findings, and there is nothing in the cross-examination to discredit it, the Court can safely rely upon the same. In the present case, the evidence of PW-12 is consistent with the contemporaneous medical record, namely Ex.P/19 and Ex.P/20, and is further corroborated by the evidence relating to exhumation of the body. There is no material on record suggesting any possibility of natural or accidental death.

27. We are also unable to accept the submission of the learned counsel for the appellants that the absence of visible external injuries on the head demolishes the prosecution case. The medical expert has satisfactorily explained that the body was exhumed after burial and was in an advanced stage of putrefaction, due to which external injuries had become obscure. At the same time, the fractures of the jaw and thyroid cartilage and the diffuse contusions of the neck and lungs clearly indicate that the deceased had sustained ante-mortem violence. Merely because decomposition obliterated certain external signs of injury, the otherwise cogent medical evidence cannot be discarded.



28. Upon an independent re-appreciation of the evidence of PW-7, PW-12 and PW-13, duly corroborated by PW-1, PW-2, PW-3 and PW-5, we are satisfied that the prosecution has conclusively established that the body exhumed from the freshly dug grave was that of deceased Tansen Kumeti and that he died on account of ante-mortem injuries. The medical evidence unequivocally establishes that the death was not natural but homicidal.

29. We, therefore, concur with the finding recorded by the learned trial Court that the death of deceased Tansen Kumeti was homicidal in nature. The finding is based upon proper appreciation of the oral and documentary evidence and does not suffer from any perversity or illegality warranting interference in the present appeal.

30. Having held that the prosecution has successfully established that the death of deceased Tansen Kumeti was homicidal in nature, the next question which falls for consideration is whether the prosecution has further succeeded in proving, beyond reasonable doubt, that it was the appellant who committed the offence.

31. Admittedly, there is no eyewitness to the occurrence and the prosecution case rests entirely on circumstantial evidence. It is, therefore, necessary to examine whether the circumstances relied upon by the prosecution have been firmly established and whether they form a complete chain pointing unerringly towards the guilt of the appellants, excluding every hypothesis consistent with their innocence. The circumstances principally relied upon by the prosecution are: (i) the



motive arising out of the quarrel between appellant No.1 and the deceased on the evening of 04.03.2020; (ii) the deceased having been last seen in the company of appellant No.1; (iii) the alleged extra-judicial confession made by appellant No.1 before the villagers; (iv) the memorandum statements of the appellants and the recoveries allegedly made pursuant thereto; (v) the medical and forensic evidence; and (vi) the alleged concealment of the dead body by burying it in a freshly dug grave. We shall now examine each of these circumstances independently to ascertain whether the prosecution has succeeded in establishing a complete chain of circumstances so as to sustain the conviction recorded by the learned trial Court.

32. We may also make a reference to a decision of the Supreme Court in **C. Chenga Reddy and Ors. v. State of A.P., (1996) 10 SCC 193**, wherein it has been observed thus:

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

33. In **Padala Veera Reddy v. State of A.P. and Ors., AIR 1990 SC 79**, it was laid down by the Supreme Court that when a case rests upon circumstantial evidence, such evidence must satisfy the following tests:



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

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

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

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

34. In *State of U.P. v. Ashok Kumar Srivastava, (1992 CrLJ 1104)*, it was pointed out by the Supreme Court that great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted. It was also pointed out that the circumstances relied upon must be found to have been fully established and the cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt.

35. Sir Alfred Wills in his admirable book “Wills’ Circumstantial Evidence” (Chapter VI) lays down the following rules specially to be observed in the case of circumstantial evidence: (1) the facts alleged as the basis of any legal inference must be clearly proved and beyond



reasonable doubt connected with the factum probandum; (2) the burden of proof is always on the party who asserts the existence of any fact, which infers legal accountability; (3) in all cases, whether of direct or circumstantial evidence the best evidence must be adduced which the nature of the case admits; (4) in order to justify the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused and incapable of explanation, upon any other reasonable hypothesis than that of his guilt, (5) if there be any reasonable doubt of the guilt of the accused, he is entitled as of right to be acquitted”.

36. Five golden principles which constitute *Panchseel* of proof of case based on circumstantial evidence have been laid down by the Supreme Court in the matter of **Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116** which state as under :-

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

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

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

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



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

37. The Supreme Court in the matter of **Suresh and Another v State of Haryana, (2018) 18 SCC 654** has observed that cases of circumstantial evidence, the courts are called upon to make inferences from the available evidence, which may lead to the accused's guilt. The court at paras 41 and 42 has observed thus :

“41. The aforesaid tests are aptly referred as Panchsheel of proof in Circumstantial Cases (refer to Prakash v. State of Rajasthan). The expectation is that the prosecution case should reflect careful portrayal of the factual circumstances and inferences thereof and their compatibility with a singular hypothesis wherein all the intermediate facts and the case itself are proved beyond reasonable doubt.

42. Circumstantial evidence are those facts, which the court may infer further. There is a stark contrast between direct evidence and circumstantial evidence. In cases of circumstantial evidence, the courts are called upon to make inferences from the available evidence, which may lead to the accused's guilt. In majority of cases, the inference of guilt is usually drawn by establishing the case from its initiation to the point of commission wherein each factual link is ultimately based on evidence of a fact or an inference thereof. Therefore, the courts have to identify the facts in the first place so as to fit the case within the parameters of “chain link theory” and then



see whether the case is made out beyond reasonable doubt. In India we have for a long time followed the “chain link theory” since Hanumant case, which of course needs to be followed herein also.”

38. The Supreme Court in the matter of **Sailendra Rajdev Pasvan and Others vs. State of Gujarat Etc., AIR 2020 SC 180** observed that in a case of circumstantial evidence, law postulates two-fold requirements. Firstly, that every link in the chain of circumstances necessary to establish the guilt of the accused must be established by the prosecution beyond reasonable doubt and secondly, all the circumstances must be consistent pointing out only towards the guilt of the accused. We need not burden this judgment by referring to other judgments as the above principles have been consistently followed and approved by this Court time and again.

39. The prosecution has mainly relied upon the circumstances of the alleged extra-judicial confession made by appellant Chandan Singh before the villagers, the memorandum statements of the accused persons, the consequent recoveries, and the conduct of the appellants in allegedly concealing the dead body of the deceased. Therefore, the evidence of the witnesses who are stated to have received such information and witnessed the subsequent proceedings requires careful scrutiny.

(i) Motive arising out of the quarrel between appellant No.1 and the deceased.



40. The first circumstance relied upon by the prosecution is the existence of a quarrel between appellant/accused Chandan Singh Kumeti and the deceased Tamsingh on the evening of 04.03.2020. The evidence of the prosecution witnesses, particularly the testimony of Asadhu Ram (PW-3), assumes significance in this regard. He has stated that on the relevant night, the deceased Tamsingh and appellant had come to his house and were engaged in a quarrel. He intervened and asked both of them not to fight and to leave the place. Although in his cross-examination, the witness has admitted certain suggestions put forth by the defence regarding the nature of conversation between the deceased and appellant, the core fact that a dispute had taken place between them immediately preceding the disappearance of the deceased has remained unshaken.

41. The evidence of Dhannuram Dehari (PW-2) also assumes relevance inasmuch as he has stated that after the said incident, the deceased was not seen alive in the village. The defence has not been able to bring any material on record indicating that after the quarrel with appellant, the deceased had gone elsewhere or was in the company of any other person. Thus, the circumstance of the quarrel between appellant and the deceased immediately before the deceased went missing constitutes a relevant link in the chain of circumstances.

42. It is well settled that motive by itself may not be sufficient to establish guilt, particularly in a case based upon circumstantial evidence, however, where other circumstances have been proved, the



existence of motive lends assurance to the prosecution case. In the present case, the circumstance of prior dispute between appellant and the deceased, coupled with the subsequent disappearance and recovery of the dead body, assumes considerable importance.

(ii) Last seen circumstance

43. The next circumstance relied upon by the prosecution is that the deceased was last seen in the company of appellant shortly before his death. The prosecution has established through the evidence of Asadhu Ram (PW-3) that both appellant and the deceased were together at his house on the relevant night and that a quarrel had taken place between them. After being asked to leave, both of them went away. Thereafter, the deceased was not seen alive by any person from the village.

44. The defence has attempted to dilute this circumstance by suggesting that the deceased and appellant were merely having a conversation and that there was no serious dispute between them. However, the fact remains that the deceased was last seen in the company of appellant immediately before his disappearance. The appellant has failed to offer any explanation regarding the subsequent whereabouts of the deceased or the circumstances in which the deceased suffered homicidal death.

45. The doctrine of last seen assumes significance when the time gap between the deceased being last seen alive with the accused and the discovery of the dead body is so small that the possibility of any person other than the accused being the author of the crime becomes remote.



In the present case, the evidence establishes that after the deceased was seen with appellant, he disappeared and was subsequently found buried near the graveyard. No alternative explanation has been furnished by appellant. Therefore, this circumstance provides a strong incriminating link against him.

(iii) Extra-judicial confession made before villagers

46. The prosecution has further relied upon the extra-judicial confession allegedly made by appellant before the villagers. In this regard, the testimony of Heeralal Dehari (PW-4) is material. He has stated that after receiving information from Shanturam Kumeti (PW-1), he along with other villagers went to the place where the deceased had been buried. According to him, when appellant's father, Mansai Kumeti, was questioned, it was disclosed that they had killed the deceased and buried him.

47. The evidence of Shanturam Kumeti (PW-1) is also relevant, as he was one of the persons who participated in the initial proceedings after the villagers came to know about the suspicious grave. Though these witnesses have made certain admissions during cross-examination and have accepted some suggestions of the defence, their entire testimony cannot be discarded merely because they have not fully supported the prosecution version in every detail.

48. It is settled law that the testimony of a witness who has turned partly hostile is not required to be rejected in toto. The Court is entitled to rely upon that part of the testimony which is found to be credible and



corroborated by other evidence. In the present case, the broad circumstances emerging from the statements of the village witnesses, namely, discovery of the newly dug grave, involvement of the accused persons in explaining the circumstances, and recovery of the dead body pursuant thereto, receive corroboration from the subsequent investigation and medical evidence.

(iv) Memorandum statements and recoveries under Section 27 of the Evidence Act

49. The prosecution has placed considerable reliance upon the memorandum statements of appellant and his father Mansai Kumeti, marked as Ex.P/08 and Ex.P/09, respectively, and the consequent recoveries. The seizure witnesses, namely Shanturam Kumeti (PW-1), Nirmal Tandiya (PW-5), and Dhannuram Dehari (PW-2), have proved the seizure proceedings.

50. As per the prosecution case, pursuant to the memorandum statement of appellant, the weapon of assault, namely a bamboo stick, and the clothes allegedly worn by him at the time of occurrence were seized vide Ex.P/11. Further, articles recovered from the spot and the place of burial were seized under the relevant seizure memos including Ex.P/13 and Ex.P/14. The Investigating Officer Inspector Amit Padmashali (PW-13) has also proved the entire sequence of investigation, including recording of memorandum statements, preparation of seizure memos, and sending the seized articles for forensic examination.



51. The contention of the defence that the seizure witnesses have not fully supported the prosecution cannot, by itself, render the recoveries doubtful. The law does not require the testimony of police officers to be discarded merely because they belong to the investigating agency. Their evidence has to be assessed on the same parameters as that of any other witness. In the present case, no circumstance has been brought on record to show any animosity or reason for the Investigating Officer to falsely implicate the appellant.

(v) Medical and forensic evidence

52. The medical evidence provides substantial corroboration to the prosecution case. Dr. A.K. Sambhakar (PW-12), who conducted the postmortem examination, proved the postmortem report (Ex.P/20) and opined that the death of the deceased was homicidal in nature.

53. The forensic evidence also assumes importance. The articles seized during investigation were sent to the Regional Forensic Science Laboratory, Jagdalpur, and the FSL report was marked as Ex.P/42. The report indicates the presence of human blood on the bamboo stick seized pursuant to the memorandum statement of appellant and also on the clothes allegedly worn by appellant. Though the blood group could not be conclusively determined, the presence of human blood on the weapon and clothes of the accused is a relevant incriminating circumstance, particularly when considered along with the other proved circumstances.

54. The appellant has not offered any explanation as to how blood



came to be present on his clothes and the bamboo stick recovered at his instance. In the facts of the present case, where the deceased was found buried and the prosecution has established the circumstances leading to recovery, the absence of any explanation from appellant assumes significance.

(vi) Concealment and burial of the dead body

55. The most significant circumstance against the appellant is the concealment of the dead body by burying it in a freshly dug grave. The prosecution evidence establishes that after the deceased went missing, a newly prepared grave was noticed near the graveyard. On information being given to the police, the grave was dug in the presence of police officials, the Executive Magistrate, medical officer and villagers, and the dead body of the deceased Tamsingh was recovered.

56. The evidence of Dhannuram Dehari (PW-2), Shanturam Kumeti (PW-1), and other village witnesses establishes the discovery of the body from the newly dug grave. The conduct of appellant in causing disappearance of the dead body after committing the murder, with the assistance of his father, is a circumstance indicating consciousness of guilt.

57. The explanation furnished by the appellant regarding the presence of the dead body and the circumstances leading to its burial is completely absent. Once the prosecution established that the deceased was last seen with appellant, that he suffered homicidal death, that the weapon and bloodstained articles were recovered at the instance of



appellant, and that the dead body was concealed by burial, the burden shifted upon the appellant to explain the circumstances especially within their knowledge. Their failure to do so constitutes an additional link in the chain of circumstances.

58. Upon cumulative consideration of the entire evidence available on record, it is evident that the prosecution has successfully established the following circumstances:

- a) The deceased was last seen alive in the company of appellant after a quarrel between them.
- b) Immediately thereafter, the deceased disappeared and was found dead.
- c) The dead body was recovered from a freshly dug grave in the village.
- d) The appellant was connected with the concealment of the dead body.
- e) The weapon and clothes of appellant were recovered pursuant to his memorandum statement.
- f) Human blood was detected on the seized articles.
- g) The medical evidence conclusively established homicidal death.

59. Thus, there is unbreakable chain of circumstantial evidences against the accused appellant, which clearly indicate the guilt of accused/appellant and the circumstances clearly indicate that it was the appellant who had committed the murder of the deceased. Therefore, we are of the considered opinion that the prosecution has proved its



case beyond reasonable doubt and the trial Court has rightly convicted the accused/appellant for the offence punishable under Section 302 & 201 of the IPC. Thus, we do not find any illegality or irregularity in the findings recorded by the trial Court.

60. For the foregoing reasons, the criminal appeal being devoid of merit and is liable to be and is hereby **dismissed**.

61. It is stated at the Bar that the appellant is in jail, he shall serve out the sentence as ordered by the learned trial Court.

62. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the Appellant is undergoing the jail term, to serve the same on the Appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

63. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice