

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026



PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO.1225 OF 2016 (A)

BETWEEN:

STATE OF KARNATAKA
BY R.T. NAGAR P.S.
BENGALURU CITY
REPRESENTED BY
STATE PUBLIC PROSECUTOR-560 032.

...APPELLANT

(BY SMT. RASHMI PATEL, H.C.G.P.)

AND:

1. DEEPAK HALDAR
S/O. GORANGO HALDAR
AGED ABOUT 35 YEARS
RESIDING AT SHYAMANAGAR
KRISHNACHANDPURA
KARANJALI POST
KULPI THANA, SOUTH 24, PARAGANA
WEST BENGAL-743 348.
2. SUCHITRA HALDAR
W/O. DEEPAK HALDAR
AGED ABOUT 31 YEARS
RESIDING AT SHYAMANAGAR
KRISHNACHANDPURA
KARANJALI POST, KULPI THANA
SOUTH 24, PARAGANA
WEST BENGAL-743 348.
3. MOHAMMED SARBAL @ RAJ
S/O. MOHAMMED KHASIM
AGED ABOUT 38 YEARS
RESIDING AT SRIRAM CHOWLTRY
4TH CROSS, JANATHA COLONY



OLD GUDDAHALLI ROAD
MYSORE ROAD
BENGALURU-560 060
PERMANENT ADDRESS
KAMALAPUR VILLAGE AND POST
PAROO THANA
MUZAFFUR NAGAR DISTRICT
BIHAR.

4. BIDAN SHIKARI
S/O. CHANDAN SHIKARI
AGED ABOUT 31 YEARS
RESIDING AT OPP. TO PASSPORT OFFICE
8TH BLOCK, KORAMANGALA
BENGALURU-560 034.

...RESPONDENTS

(BY SRI G.R. SHESHADRI, ADVOCATE FOR R-1 TO R-4)

* * *

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF THE CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF ACQUITTAL PASSED BY THE LXIV (CCH-65) ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY IN SESSIONS CASE NO.433 OF 2011 DATED 29-2-2016 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120B, 302, 201 R/W 34 OF IPC.

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED ON 10-2-2026, COMING ON FOR PRONOUNCEMENT, THIS DAY, **VENKATESH NAIK T. J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(HON'BLE MR. JUSTICE VENKATESH NAIK T)

This Appeal is filed by the State, being aggrieved by the judgment of acquittal passed by the learned LXIV Additional City Civil and Sessions Judge (CCH-65), Bengaluru, in S.C. No.433/2011 dated 29.02.2016 and prayed to convict accused Nos.1 to 4 for the offences punishable under Sections 120-B, 302 and 201 read with Section 34 of Indian Penal Code, 1860 (for short, "IPC").

2. For the sake of convenience, the parties herein are referred to as per their ranks before the trial Court. The appellant is the complainant-State and respondent Nos.1 to 4 are accused Nos.1 to 4.

3. Brief facts of the prosecution case is that:

Accused No.2, Suchitra Haldar, was working as a maid in the house of the deceased, namely Professor Purushotham Lal Sachidev, Rita Sachidev and their son Munna Sachidev. Accused No.1, Deepak Haldar, is the husband of accused No.2. Accused No.3, Mohammed Sarbal @ Raj, accused No.4, Bidan Shikari and accused No.5 Pradeep Naskar @ Mucche(absconding accused), are the friends of accused No.1.

They conspired together to rob cash, gold ornaments and valuable articles from the house of Purushotham Lal Sachidev, Rita Sachidev and their son Munna Sachidev, and hatched a plan to commit murder, accordingly, on 15.02.2009, in the early morning, accused Nos.3 and 4 alongwith absconding accused No.5 came near the gate of the house of deceased at 5.45 a.m. and called accused No.1. At that time, accused No.1 was waiting for the arrival of accused Nos.3 to 5 and he sent accused No.2 to bring accused Nos.3 to 5 inside the house and took them to a room. Thereafter, accused Nos.1 to 5 conspired together to commit the offences and accordingly, all the accused decided to send accused No.2 to watch near the gate in order to manage or guard, that no one should enter inside the house, accordingly, she went there. Accordingly, accused Nos.3 to 5 went near the house, accused No.1 knocked the house of the house. At that time, Smt. Rita Sachidev opened the door. Immediately, accused No.1, 3 to 5 caught hold Smt. Rita, accused No.4 closed her mouth, took her to a room, accused No.3 took to pin wire(M.O.8) and tied her neck, thereby committed her murder.

4. Thereafter, accused Nos.1 and 3 to 5 went inside the room of Purshotham Lal Sachidev and caught hold him.

Accused No.3 closed his mouth and prevented him from raising hue and cry, accused Nos.1 and 4 caught hold Purshotham and accused No.5 squeezed his neck with a dupatta(M.O.10) and thereby murdered him.

5. Thereafter, accused Nos.1 and 3 to 5 went inside the room of Deepak Sachidev @ Munna. Accused Nos.1, 3 and 4 caught hold Deepak, accused No.1 closed his mouth, accused No.4 took Nokia charger wire(M.O.9) and tied his neck and thereby murdered him.

6. Thereafter, accused Nos.1 to 5 robbed gold Mangalya chain, two gold bangles, one gold ring, cash of Rs.30,000/- kept in the almirah, seven silk sarees, a wall clock and two silver lamps and attempted to conceal the deadbodies. Soon after the incident, accused Nos.1 to 5 shared all the robbed articles. Accused No.3 took a gold bangle and cash of Rs.6,000/-. Accused No.4 took a gold bangle and cash of Rs.6,000/-. Accused No.5 took a gold ring and cash of Rs.6,000/-. Accused Nos.1 and 2 took cash of Rs.12,000/- together, gold mangalya chain, seven silk sarees, two silver lamps and a wall clock, as their share of robbed articles. Thus, they have committed murder of Purshotham Lal Sachidev, Rita

Sachidev and Deepak Sachidev @ Munna and robbed above articles.

7. This fact came to lime light on 16.02.2009, when the deceased's nephew, PW32-Anurag Sachidev, informed PW1-Rajesh Diwan that nobody was picking up his phone call though he called many times at the deceased's house and asked him to go and see what had happened. On hearing this, PW1 went to the house of the deceased and saw that the front door was locked from outside. When he was searching here and there, one chiranjeevi, the neighbour residing behind the house of the deceased Purushotham Lal Sachidev, also accompanied him. Both searched and opened the window and found that Munna was lying on the floor in his room. On seeing that, they informed the same to the police.

8. On receipt of the information, the R.T. Nagar Police, Bengaluru came to the spot, broke open the door and found that all the inmates of the house were dead. Thereafter, they received the first information from PW1 and registered the FIR-Ex.P47 against unknown persons, investigated the case. During the course of investigation, it was revealed that, soon after the incident, accused Nos.1 and 2, who were residing in the outhouse of deceased Purshotham Lal Sachidev absconded and

hence, the Investigating Officer traced accused Nos.1 and 2 in West Bengal, brought them to Bengaluru, enquired them and they confessed before the IO that they committed murder of deceased persons and robbed the aforesaid articles from their house in collusion with accused Nos.3 to 5. Hence, the IO arrested accused Nos.3 to 5, enquired them, gold, silver, seven sarees and a bag were recovered at their instance. After completion of the investigation, the IO submitted the charge sheet against the accused persons for the offences punishable under Sections 120-B, 302 and 201 read with Section 34 IPC.

9. The prosecution, in order to prove the case, has examined PWs.1 to 33 and got marked 78 documents as Exs.P1 to P78 and also identified MOs.1 to 45, whereas the accused has got marked Exs.D1 and D2.

10. The trial Court, after considering the oral and documentary evidences on record, acquitted the accused for the offences charged, holding that the prosecution has failed to prove the case. Aggrieved by the said judgment and order of acquittal passed by the trial Court, the State has preferred this appeal.

11. Heard Smt. Rashmi *Patel, learned *H.C.G.P appearing for the appellant-State and Sri G.R. Sheshadri, learned counsel for respondent Nos.1 to 4.

12. Learned *H.C.G.P appearing for the appellant-State contended that the impugned judgment and order of acquittal recorded by the learned Sessions Judge is contrary to law, the facts of the case and the evidence on record. The reasons assigned by the learned Sessions Judge while passing the impugned judgment and order of acquittal is erroneous one. The entire case rests on the circumstantial evidence. The last seen theory has been supported by PW 1 to 3, who are relatives of the deceased and they have categorically stated that they have seen accused Nos.1 and 2 in the house of deceased and they were residing in the outhouse of the deceased Purushotham Lal Sachidev. The oral testimony of these witnesses is supported by PW8-Vijayakumar, who is the paper vendor, and who has seen them on the date of incident, when he came to deliver the newspaper early in the morning on the date of the incident. Further, PW32, the adopted son of deceased Purushotham Lal Sachidev, also corroborated the evidence of these witnesses. These points ought to have been considered by the trial Court while assessing the evidence in

the case, and since the evidence is cogent, consistent and trustworthy, failure to consider all these points and acquitting the accused is not proper.

13. It is further contended that the trial Court ought to have considered the point that the motive behind the murder was for gain. This point has been established by the circumstances that the belongings of the entire house was looted, it was locked from outside, and some of the belongings were recovered at the instance of the accused. The prosecution has clearly established the motive behind the murder beyond all reasonable doubt, but the trial Court ignored it while considering the evidence.

14. It is contended that, so far as the recovery is concerned, certain items were said to have been recovered from the house of PW14-Kalpana Sardar at the instance of accused Nos.1 and 2, who is the relative of accused No.1 viz., cousin of accused No.1(accused No.1 is her aunt's son). PW14-Kalpana Sardar and PW15-Anjali Sardar are relatives of accused Nos.1 and 2. Soon after the incident, the accused kept the suitcase/bag in the house of PW14-Kalpana Sardar and went to their native place. When these accused were nabbed by

the police and brought to Bengaluru, on interrogation, accused Nos.1 and 2 showed the place where they had concealed the suit case and some of the items were recovered in the presence of panchas. The recovered articles are said to belong to family of deceased Purushotham Lal Sachidev. Hence, these points which are cogent and trustworthy, the trial Court could have taken into consideration the above mentioned points and convicted the accused.

15. It is also contended that, the gold bangles have also been seized from PW17-Janardhana Shetty at the instance of accused No.3-Mohammed Sarbal @ Raj and accused No.4-Bidan Shikari. Hence, the prosecution has proved the recovery and the complicity of the accused in the crime. These points ought to have been considered by the trial Court while assessing the evidence and ought to have convicted all the accused for having committed triple murder.

16. It is contended that, soon after the incident, all these accused absconded from the scene of occurrence. PW29-Sridhar Bhat, owner of the hotel, where accused No.1 was working, has stated that accused No.1 had worked only for one month in his hotel and he went away without informing him

after he received one month salary and advance of Rs.200/- from him. This evidence goes to show that, the accused persons have deliberately left Bengaluru after the incident. This absconding attitude strengthened the chain of circumstances, but the trial Court failed to consider the same.

17. It is contended that, the police have arrested accused Nos.1 and 2 from their native village; which is evident from the documents marked in this case. These are all the circumstances, which could have been considered by the trial Court. However, failure to consider these points, that too, in a triple murder case is highly improbable. The prosecution has proved the chain of circumstances viz., last seen theory, motive, recovery of gold, silver and other articles, conduct of the accused by reliable and cogent evidence beyond all reasonable doubt. The trial Court ignored these points and held that prosecution has failed to prove the case beyond all reasonable doubt, which is erroneous one. Hence, the impugned judgment is liable to be set aside and prayed for convicting accused Nos.1 to 4 for the aforesaid offences.

18. Learned counsel for respondents vehemently contended that, in the FIR, names of respondents were not

found place. Nobody had suspected the respondents. In fact, PW32, the adopted son of deceased Purushotham Lal Sachidev and Rita Sachidev, was an alcoholic person and addicted to drug etc., and he was having bad vices. Accordingly, PW32 was taken to police station on suspicion, he was in police station for almost 30 days and thereafter these respondents/accused have been falsely implicated in the case. It is contended that, Purushotham Lal Sachidev had executed a *Will* in favour of one Goutham Kotare, wherein he bequeathed his properties to Goutham Kotare and therefore, Goutham Kotare is beneficiary under the Will, thus the Investigating Officer ought to have suspected Goutham Kotare, on the ground that, he is beneficiary under the *Will* and in that line, investigation was not done. It is contended that, one Kalipodu Sardar, father-in-law of accused No.1 has not been examined. He further contended that, one Prabeer, Kalpana, Jamuna and Sumitra, who are material witnesses, have not been examined. He further contended that, the materials collected by Investigating Officer are all concocted documents to implicate the respondents in the crime. All witnesses have stated as per the instructions of the investigating officer and family members of the deceased persons. The chain of circumstances are not

completed. Therefore, the trial Court has rightly acquitted the accused persons and hence, no interference is called for in that regard. Thus, he prayed to dismiss the appeal filed by the State.

19. After hearing the learned counsel appearing for the respective parties and on examining the material on record, the following points would arise for our consideration:

"a. Whether the prosecution proved its case beyond reasonable doubt that death of Rita Sachidev, Purushotham Lal Sachidev and Deepak @ Munna Sachidev is homicidal?

b. Whether the prosecution proved beyond all reasonable doubt that accused Nos.1 to 4 along with absconding accused No.5 conspired to commit murder of deceased persons, in order to commit robbery of gold and other valuable articles from their house, thereby committed criminal conspiracy, murder and in order to cause disappearance of evidence of murder, they locked the main door of the house, robbed articles and kept few robbed articles in the house of PW14-Kalpana Sardar, in order to cause disappearance of evidence, thereby

committed offences punishable under Sections 120-B, 302, and 201 read with Section 34 of IPC?

c. Whether the judgment of acquittal passed by the trial Court requires interference at the hands of this Court?"

Point Nos.1 and 2:

20. Since point Nos.1 and 2 requires common discussion, these points are taken together. Before proceeding further in analysing the evidence led in the matter, it is to be borne in mind that this appeal is filed by the State against the judgment of acquittal of accused Nos.1 to 4 for the offences punishable under Sections 120-B, 302 and 201 read with Section 34 of IPC and hence, primarily accused Nos.1 to 4 have the double benefit. Firstly, the presumption under law is that, unless their guilt is proved, the accused have to be treated as innocent persons in the alleged crime. Secondly, the accused have already been enjoying the benefit of judgment of acquittal passed under the impugned judgment. As such, bearing the same in mind, the evidence placed by the prosecution in the matter is required to be analysed.

(a) The Hon'ble Apex Court, in its judgment in the case of **Chandrappa and others -v- State of Karnataka** reported in **(2007) 4 SCC 415**, while laying down the general principles regarding powers of the Appellate Court while dealing in an appeal against an order of acquittal, was pleased to observe at paragraph Nos.42(4) and 42(5) as below:

"42(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial Court.

42(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court."

(b) In the case of **Sudershan Kumar -v- State of Himachal Pradesh** reported in **(2014) 15 SCC 666**, while referring to Chandrappa's case (supra), the Hon'ble Apex Court at paragraph No.31 of its judgment was pleased to hold that, it is the cardinal principle in criminal jurisprudence that presumption of innocence of the accused is reinforced by an order of acquittal. The Appellate Court, in such a case, would interfere only for very substantial and compelling reasons.

(c) In the case of ***Jafarudheen and others -v- State of Kerala*** reported in **(2022) 8 SCC 440**, at paragraph No.25 of its judgment, the Hon'ble Apex Court was pleased to observe as below:

"25. While dealing with an appeal against acquittal by invoking Section 378 Cr.P.C, the appellate Court has to consider whether the trial Court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate Court has to be relatively slow in reversing the order of the trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

21. The above principle laid down by it in its previous case was reaffirmed by the Hon'ble Apex Court in the case of ***Ravi Sharma -v- State (Government of NCT of Delhi) and another*** reported in **(2022) 8 SCC 536** and also in the case of ***Roopwanti -v- State of Haryana and others*** reported in **2023 SCC OnLine SC 179**.

22. Keeping in mind the above principles laid down by the Hon'ble Apex Court, we proceed to analyse the evidence placed by the prosecution in the case:

23. PW1-Rajesh Diwan, has stated that deceased Rita Sachidev was his Aunt. The deceased persons were staying in a

house at R.T.Nagar main road, Bengaluru. Deceased Purushotham Lal Sachidev was a professor, their son deceased Munna and their adopted son Anurag Sachidev(PW.32) were residing in the said house. He further stated that, on 16.02.2009, at 9.45 a.m., when he was in his office, he received phone call from one Raju from Delhi, the nephew of Rita Sachidev stating that he tried to contact Rita Sachidev, but nobody was picking his call in the house of Rita Sachidev, accordingly, Raju requested him to visit the house of Rita Sachidev. Immediately, he went to the house of Rita Sachidev and her house was locked from outside. Hence, from the window, he saw a dead body lying on the floor. Accordingly, he informed the police, thus, police came to the spot, broke open the lock of the main door, thus, they entered the house and saw the deadbody of Deepak Sachidev in the bedroom near cot. They went to another bedroom, it was under lock, thus, the police broke open the lock and entered the room where they found the deadbody of Rita Sachidev. Thereafter, they went to another bedroom, where they did not found anything. At the same time, dog squad came and the dog started to bark in third bedroom, where there was a cot and below the cot, there were suitcases. Hence, the police removed those suitcases,

behind it, the dead body of Purshotham Lal Sachidev was found. Hence, he lodged the complaint as per Ex.P1 and seized MOs.1 to 7 i.e., 3 sample cotton, 3 blood stain cotton and a broken door piece(patti), on the spot under Ex-P2 spot panchanama. He further stated that in the month of November 2010, police called him to the police station, where, he saw accused Nos.1 to 4. He further stated that accused Nos.1 and 2 had came to the house of deceased persons recently prior to the incident, where he identified accused Nos.1 and 2.

PW.1 was cross examined. In the cross-examination, he has stated that prior to 5-6 days of the incident, he visited the house of CW.1 and at that time, he came to know about accused No. 2 who joined the house of deceased, prior to 15 days of the incident, as maid. At that time, he closely saw accused Nos.1 and 2. He further admitted that he was not talking with PW.32.

24. PW2-Dr. Rajkumar, the relative of deceased persons, has stated that soon after the incident, he also visited the house of deceased persons along with PW1 and saw the dead body of the deceased persons. Insofar as conduct of inquest

panchanama on the dead body of deceased persons, he turned hostile and did not support the prosecution case.

25. PW3-Raghuveer Rajkumar, the son of PW2 and also relative of deceased persons stated that, he visited the house of deceased along with his father, however, he did not see any dead bodies and police have not recorded his statement and he never saw accused Nos.1 to 4 in the house of accused. Hence, he turned hostile to the case of the prosecution and has not supported the case.

26. PWs.4 and 5 witnesses to inquest panchanama (Ex.P5) have stated that the police have conducted inquest panchanama on the dead body of deceased Purushotham Lal Sachidev.

27. PW6-Rajesh, witness to spot mahazar Ex.P2, has stated that the police have conducted spot panchanama in connection with the murder of deceased persons in their house. He further stated that, while conducting spot panchanama, he has seen electric wire on the neck of deceased Rita Sachidev, mobile charger wire on the neck of deceased Deepak Sachidev and duppatta on the neck of deceased Purushotham Lal Sachidev. Further, the police collected sample cotton,

bloodstained cotton, wire, charger and duppatta (shawl) as per MOs.1 to 6 and MOs.8 to 10.

28. PW7-Vasanth Kumar, witness to inquest panchanama - Ex.P6, has stated that the police have conducted inquest panchanama on the dead body of deceased Deepak Sachidev. He also has seen visible injury on the neck of deceased Deepak Sachidev and a Nokia charger wire. He partly turned hostile to the case of prosecution and in the cross-examination, he has not supported the case of prosecution.

29. PW8-Vijay Kumar, paper supplier to the house of deceased and is also last seen witness, has stated that he was supplying newspapers to the house of deceased persons, where four persons were staying viz., deceased Sachidev, his wife and his handicapped son and also his adopted son. He further stated that, on 15.02.2009 deceased Sachidev died. On the same day, at 6:45 a.m., he had supplied newspaper to the house of deceased, at that time, the maid servant of Sachidev collected newspaper and three persons were standing in front of the gate of the house of deceased, a person was standing inside the house of deceased. After supplying newspaper, he proceeded further on the following day of the incident he saw

police and public near the house of deceased and later, he came to know that Sachidev, his wife and son was murdered. Thereafter, on 04.12.2010, he saw the accused persons, who committed murder of Sachidev, his wife and son in television, who were arrested by the police, thus, he identified said persons, he also came to know that another accused was absconding. He came to know about the name of maid as Suchitra Haldar and the name of her husband is Deepak Haldar. Thus, he came to know that accused persons committed murder for gain. PW.8 was cross examined. He admitted that he has never seen the adopted son of deceased Purushotham Sachidev. He was not familiar with the maid servants and he never interacted with them. He saw maid servant in front of the gate alongwith three persons in front of the gate, he does not know as to how the incident occurred. Further, he admitted that, he cannot definitely identify that the maid servant and three accused persons who were standing in front of the gate of house of the deceased. Rest of the suggestions were denied by PW.8.

30. PW9-Smt. Chanchal Pahava, who is a witness to inquest panchanama-Ex.P7 conducted on the dead body of Rita Sachidev and seizure mahazar - Ex.P8 has stated that police

have conducted inquest panchanama on the deadbody of Rita Sachidev and seized M.O.8 wire from her neck under Ex-P8 panchanama. At that time, the police prepared list of 38 items with regard to valuable articles and documents such as FD bonds, NSC certificates, UTI certificate, property records as per M.O.9 to 35. The police also seized M.O.11 to 18 gold articles from the house.

31. PW10-Kunnaram, the pawn broker, has stated that the police conducted seizure panchanama as per Ex.P36 in his pawn shop and seized a gold bangle weighing 13.3 grams. He further stated that accused No.3 sold said bangle to him. In his cross-examination, he stated that police came to his shop with accused and took him to the police station and asked him to give the gold ornaments, which were sold by the accused.

32. PW11-Manohar is another seizure mahazar witness to Ex.P36, who has stated in line with PW10.

33. PW12-Ashwak Pasha, is witness to seizure mahazar Ex-P37 and P38 wherein, the police have seized saree, golden lamp and a chain.

34. PW13-Nagesh, a witness to spot panchanamas Exs.P39 and P40, has stated that on 27.11.2010, the police visited the scene of offence, where they have drawn mahazar as per Ex.P39 as shown by accused Nos.1, 3 and 4. After 15 to 20 days of the incident, the police conducted spot panchanama as per Ex-P40 at the instance of accused persons, where they alleged to have conspired together to commit the crime.

35. PW14-Kalpana Sardar, cousin of accused No.1, has stated that accused No.1 is her cousin; accused No.2 is wife of accused No.1. About 3 years ago, when she was residing at Vasanth Nagara, accused Nos.1 and 2 came to her house and kept two bags and went to their native place. She further stated that, later, accused Nos.1 and 2 were arrested by the police in connection with this case, they came to her house alongwith her sister Anjali Sardhar(PW.15). At that time, accused Nos.1 and 2 were in the custody of police, they showed a hand bag kept in her house which contained seven sarees, seven silver lamps and a mangalya chain. She came to know that accused Nos.1 and 2 in connivance with accused Nos.3 to 5 committed murder of three persons and took said black colour and mud colour bag to her house. She also stated that accused Nos.1 and 2 brought said bags from the house of the

said persons and told her that they were returning to their native place as the health conditions of their children were not good. Hence, she identified seven sarees as per M.Os.20 to 26 and silver lamp as M.O.27. She also identified wall clock as M.O.30. She was cross examined, however, nothing has been elicited from her mouth to discredit her testimony. Further, the accused has not brought any animosity of PW.14 with accused Nos.1 and 2.

36. PW15-Anjali Sardar, the sister of PW14 and relative of accused No. 1. She showed the police where PW14 was working and she identifies the sarees, silver lamps and mangalya chain and she reiterated the evidence of PW14 and corroborated her oral testimony.

37. PW16-Inayath Ulla Shariff, the owner of suitcase shop, where accused Nos.1 and 2 allegedly purchased suitcase, has stated that about 6 months ago, accused Nos.1 and 2 came to his shop and they purchased the suitcase for Rs.450/-. Hence, the police seized said suitcase under Ex.P38. Hence, PW16 identified accused Nos.1 and 2 before the Court.

38. PW17-D. Janardana Shetty, the owner of jewellery shop where accused No.4 sold a bangle, has stated that soon

after the incident, one day accused No.4 came to his shop and sold the golden bangle. Thereafter, the police and accused No.4 came to his shop, where accused No.4 identified the golden bangle, which was sold to him, in presence of police. Accordingly, the police seized the golden bangle vide Ex.P38, Amanath panchanama. PW17 identified the golden bangle vide MO.31.

39. PW18-Thousiff Pasha, in his evidence has stated that the police have conducted Exs.P37 and P38 - seizure panchanama and seized two silver lamps and Sarees under Exs.P37. Thereafter, the police took him alongwith accused to the jewellery shop, where he showed a golden bangle. Thus, same was seized under Ex.P38 amanath panchanama. The witness identified those articles as per MOs.20 to 27.

40. PW19-Vijaya Kumar, the police constable, has stated that on 16.02.2009, he accompanied the dog squad and he took one Doberman called Indra, went to the house of deceased. The dogs inspected the house of deceased. The dog took them to the outhouse, there the dog smelled and from the main gate, the dog came out of the gate and faced towards Mekri circle road. Hence, he submitted his report.

41. PW20-Govindappa, the Police Constable, in his evidence has stated that on 16.02.2009, he took the dead body of Purushottam Lal Sachidev to the Ambedkar Medical College for conducting post-mortem examination and after post-mortem examination, he took the dead body and handed over to one Alex Joseph, who is the relative of the deceased. He also stated that soon after post-mortem examination, the doctor handed over the clothes of deceased to him and later he handed over the said clothes to IO.

42. PW21-Dr.Nagaraj, conducted post mortem examination on the dead body of Deepak Sachidev, Rita Sachidev and Purshotham Lal Sachidev. In this regard, he issued post-mortem examination reports as per Exs.P41 to 43 respectively. As per the opinion of the doctor, the cause of death of deceased persons is due to respiratory failure, consequent to the ligature strangulation.

43. PW22-Nagaraj, the Head Constable, carried FIR to the Court.

44. PW23-Shashidhar H.E, Assistant Executive Engineer, PWD, has stated that, on 03.12.2010, as per the request of IO

and his higher authority, he visited the house of deceased and drew sketch as per Ex.P44.

45. PW24-Subash Chandrappa, the Nodal Officer, Airtel Company, Bengaluru, has stated that the IO requested the Airtel Company, Nodal Office, Bengaluru for issuance of the call details in respect of mobile number 9945617656 from 01.02.2009 till 15.02.2009. Accordingly, he submitted the call details in respect of the aforesaid mobile number as per Ex.P46.

46. PW25- Siddalingaiah, PSI, has stated that on 16.02.2009, at 11.45 a.m., when he was on duty, he came to know about the murder of deceased persons in R.T.Nagar area. Hence, after receipt of the information, he visited the house of deceased persons, where he saw the dead body of Purushottam Lal Sachidev, his wife Rita Sachidev and his son Munna @ Deepak Sachidev, they were murdered. Therefore, he informed said aspect to Police Inspector Prasad and visited the scene of offence along with PW26-Prasad and as per his directions, he conducted inquest panchanama on the dead body of Deepak Sachidev as per Ex.P6 and thereafter, he shifted the dead body of Munna Sachidev to Ambedkar Medical College for post-

mortem examination and insofar as two dead bodies are concerned, Head Constable No.3034 shifted the body to Ambedkar Medical College and Hospital, Bengaluru.

47. PW26-Prasad, Police Inspector, has stated that on 16.02.2009, Rajesh Diwan-PW1, visited the police station and lodged complaint as per Ex.P1. Hence, registered the FIR. Thereafter, he visited the scene of offence, drew spot panchanama, collected certain articles and secured FSL expert, fingerprint expert and dog squad, collected important and incriminating articles at the spot, recorded statements of the witnesses, sent the dead bodies to the hospital for post-mortem examination, collected the clothes of deceased and post-mortem reports and handed over further investigation to Police Inspector Poovaiah(PW.30).

48. PW27-Ankegowda, the Police Inspector, Finger Print Bureau, has stated that on 16.02.2009, he visited the scene of offence and took certain finger prints from 2 wooden cupboard, 1 steel almirah, 2 steel glass, 2 plastic covers. However, no finger impressions were taken from the articles. Thus, he submitted his report as per Ex.P48.

49. PW28-Shankara G. Kugatore, Police Constable, who secured accused Nos.1 and 2 on 16.11.2010 and produced them before the IO and on 25.11.2010, he secured accused Nos.3 and 4 and produced them before the IO.

50. PW29-Sridhar Bhat, the Owner of hotel at Jaymahal, has stated that, he has been running a hotel on Jayamaharoad since 22 years. During 2009, one Deepak-accused No.1 joined his hotel in the month of January and he was staying in R.T.Nagar. Accused No.1-Deepak worked for almost one month for a salary of Rs.2,400/- and thereafter he took Rs.200/- as advance and later he did not attend his work. Later, he contacted accused No.1, in turn, accused No.1 replied that due to health reasons, he cannot attend the work. Thereafter, the police came to enquire about accused No.1 in his hotel and after couple of months, the Police brought accused No.1 to his hotel, thus, he identified him and stated that during January 2009, he worked under him in the hotel.

51. PW30-Poovaiah, the Police Inspector, who investigated the matter and filed charge sheet against accused persons.

52. PW31-Rangegowda, Assistant Director, FSL, Madiwala, has stated that on 04.06.2009, he received 12 seized bottles from the IO containing viscera of three deceased persons, wherein Item Nos.1 to 4 belonged to deceased Purushotham Lal Sachidev, item Nos.5 to 8 belonged to Rita Sachidev and item No.9 to 12 belonged to Deepak Sachidev. He conducted examination on 29.06.2009 and found that there was no poisonous substance in Item Nos.1 to 12. Accordingly, he submitted his report as per Ex.P77.

53. PW32-Anurag Sachidev, the adopted son of deceased Purushotham Lal Sachidev and Rita Sachidev. He has stated that he know accused Nos.1 to 4. Accused Nos.1 and 2 were working as maid in the house of deceased prior to the incident. He stated that on 14.02.2009 at 12 noon, he requested his mother to give Rs.1,000/-, but his mother gave Rs.800/- only. Thus, he took quarrel with her and went along with his friends and on the same night, he did not return to the house and he stayed in the house of Josman and Alice. On the same day, at 10.00 p.m. he called up to his family members, but they did not pick up his call. He further stated that, on 16.02.2009, again he called to his home, but nobody had picked up his call. Therefore, he informed said aspect to one Amit Katari and

informed that something had happened in the house. Accordingly, he insisted him to visit the house and on the same day at 12.30 noon, he came to the house of deceased and people had gathered there, Police, media people and his relatives visited the house. He enquired with his relatives and he came to know that his father, mother and his brother were murdered. He further stated that, on 30.11.2010, police called him to the police station, enquired him. He further stated that accused Nos. 1 and 2 were working in his house as maid. He saw accused Nos.3 and 4 in the police station and police showed accused Nos.1 to 4, who committed murder of his father, mother and brother. He also identified seven sarees, silver lamp, suitcase, mangalya chain, wall clock, golden bangle as per MOs.1 to 31 and those articles belongs to his parents and he expressed his inability to state that he do not know as to whom MO.28 suitcase belongs to.

54. PW33-Malathi, the Scientific Officer, FSL, Madiwala, Bengaluru, has stated that on 04.06.2009, she received 17 articles for clinical examination. Accordingly, she conducted examination and found that:

"1. Presence of blood was detected in Article Nos.1, 3, 10 and 19

- 2. Presence of blood was not detected in Article Nos.2, 8, 11, 12, 17, 18, 20, 25 and 26*
- 3. The blood stains in item 3 are stained with 'AB' group blood determined by adopting absorption and elution method.*
- 4. Blood in items 7, 16 and 24 were disintegrated, hence, their origin could not be determined.*
- 5. The blood grouping of the blood stains in items 1, 10 and 19 could not be determined as the results of the test were inconclusive.*
- 6. Report on hairs could not be furnished since article Nos.9, 18 and 26 sent by the IO were cut hairs presence of skin was not detected in items 8, 17 and 25."*

55. In this case, the prosecution contended that it has relied upon the circumstantial evidence and hence, it has to prove that the accused persons committed the murder of deceased persons and none else. Where a case rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused. The question of motive of the accused assumes importance in the case based on circumstantial evidence. Hence, the prosecution has to prove the following circumstances:

1. Homicidal death of deceased, namely Purshotham Lal Sachidev, Deepak Sachidev and Rita Sachidev;
2. Motive;

3. Criminal Conspiracy;
4. Last seen theory;
5. Recovery of gold and other articles;
6. Conduct of the accused persons, and
7. Section 106 of the Indian Evidence Act;

56. In order to prove the '**homicidal death**' of the deceased, namely Purushotham Lal Sachidev, Deepak Sachidev and Rita Sachidev, the prosecution examined PW1, who saw the dead body of the deceased persons for the first time in the house of the deceased situated at R.T. Nagar, Bengaluru. He has stated that soon after the incident, he came to the house, opened the door of the house and saw the dead body of deceased Purushotham Lal Sachidev, Deepak Sachidev and Rita Sachidev, in the house. PW2-Dr. Rajkumar, relative of the deceased also, stated that he saw the dead body of the deceased persons in the house of the deceased. PW3-Raghuveer Rajkumar, relative of the deceased, and PW32-Anurag Sachidev, adopted son of the deceased Purushotham Lal Sachidev and Rita Sachidev, have stated that they saw the dead body of the deceased persons in the house of the deceased. In order to support the oral testimonies of these

witnesses, the prosecution examined PW4-Anand, in whose presence, the inquest mahazar was conducted on the dead body of deceased Purushotham Lal Sachidev. PW7-Vasanth Kumar has stated that the Police conducted inquest mahazar as per Ex.P6 on the dead body of Deepak Sachidev and PW9-Chanchal Pahava has stated that the Police have conducted inquest mahazar as per Ex.P7 in his presence on the dead body of Rita Sachidev.

57. Further, Dr. Nagaraj-PW21, who conducted post-mortem examination on the dead body of deceased Deepak Sachidev, Rita Sachidev and Purushotham Lal Sachidev, has stated that he conducted the post-mortem examination on the dead body of the deceased persons. The Doctor has noted the external injury on the dead body of Deepak Sachidev, and opined that death was due to respiratory failure consequent to the ligature strangulation. The material said to be used is NOKIA mobile charger wire.

58. Further, the doctor also conducted Post Mortem Examination on the dead body of Rita Sachidev and opined that death was due to respiratory failure consequent to the ligature strangulation. The material said to be used is two pin plug wire.

59. Further, the doctor also conducted Post Mortem Examination on the dead body of Purushotham Lal Sachidev and opined that death was due to respiratory failure consequent to the ligature strangulation. The material said to be used is maroon colour dupatta with multi colour design. Hence, the doctor issued Post Mortem Examination Report as per Exs.P41 to P43. It is further evidence of PW21 doctor that on the request of Investigating Officer, he examined the material objects, i.e., the two pin plug wire, Duppatta and Nokia Mobile Charger wire and opined that death could be caused by strangulation with the help of the plastic wires and Duppatta which were found on the dead body of accused persons.

60. The overall evidence of PW21-Dr.Nagaraj and the contents of Exs.P41 to P43 post-mortem examination reports revealed that the cause of death of deceased was due to asphyxia as a result of strangulation. Hence, as per the oral evidence of Doctor, who conducted the autopsy and the evidence of inquest mahazar witnesses and PW1 to PW3 and PW32, who are relatives of the deceased, who saw the dead body of the deceased persons goes to show that deceased Purushotham Lal Sachidev, Deepak Sachidev and Rita Sachidev

died due to strangulation. Thus, the oral evidence of PW1 to PW3, PW32 and PW21 is corroborated by medical evidence as to the cause of death of deceased. Hence, the homicidal death of Purushotham Lal Sachidev, Deepak Sachidev and Rita Sachidev stands proved.

61. The second ground on which the prosecution has placed reliance is the '**motive**'. So far as motive is concerned, where a case rests squarely on circumstantial evidence, the inference of guilt can be justified, only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused. The question of motive of the accused assumes importance in the case based on circumstantial evidence. Onus is on the prosecution to prove that the chain is complete, whereas in this case, it is the specific case of the prosecution that the accused persons were working as maid in the house of deceased persons and portraying as innocent persons in their family, they have taken undue advantage of the innocence of the deceased persons, they hatched a plan with accused Nos.3 and 4 to rob the gold and silver articles from their house.

62. In order to establish the motive aspect, it has come in the evidence that PW32-Anurag Sachidev, the adopted son of deceased persons, who has stated that accused Nos.1 and 2 were working in the house of deceased persons as house maid. The voluntary statement recorded by the Investigating Officer clearly reveals that accused Nos.1 and 2 hatched a criminal conspiracy to eliminate deceased persons with accused Nos.3 and 4. PW1 and 32 also clearly stated that accused Nos.1 and 2 were working as house maid in the house of deceased persons. Thus, soon after the incident, accused Nos.1 and 2 were arrested by the police and they have stated that after their arrest, the Investigating Officer recorded their confession statements and they confessed that, they have murdered 3 persons in the house of deceased by strangulating with two pin plug wire, Duppatta and Nokia Mobile Charger wire. In fact, these factual aspects are not disputed in defence.

63. Further, PWs.1 and 32, the relatives of deceased, have narrated the details as to how accused Nos.1 and 2 came into contact with the deceased persons, how accused Nos.1 and 2 made the deceased to believe them. It was stated by them that deceased persons were treated by accused Nos.1 and 2 as their family members. It has also come in the evidence that,

the son of deceased Purushotham Lal Sachidev and Rita Sachidev was physically challenged and hence they adopted PW32-Anurag Sachidev as their second son, who was addicted to alcohol. Therefore, taking undue advantage of the innocence of the deceased persons, they hatched a criminal conspiracy with accused Nos.3 and 4. Hence, they robbed the golden ornaments soon after the murder of deceased persons.

64. From the perusal of evidence of PW1 and PW32 and the investigating officer, it clearly establishes that the accused persons had a clear opportunity to execute their motive. They acquainted with deceased persons and they committed murder by strangulation with the mobile charger and robbed the gold ornaments, seven sarees and silver lamps and other valuable things of the deceased persons. It shows that the motive of the accused persons was to make wrongful gain by robbing the valuables of the deceased persons. As such the evidence on record would clearly establish the fact that the accused with an intention to rob, created an opportunity, strangled the deceased persons with mobile charger and committed murder. Therefore, the motive aspect adds a link as one of the circumstances in the prosecution case.

65. Here, the charge is against accused Nos.1 to 4 relating to ***criminal conspiracy*** under section 120B of IPC. In several decisions, it is held that 'it is difficult to prove offence of criminal conspiracy by direct evidence. In other words, hatching of conspiracy is done in secrecy. Prosecution is required to establish conspiracy by indirect evidence also i.e., by other circumstances.

66. In the present case, there is no direct or indirect evidence before the Court in respect of the criminal conspiracy of accused Nos.1 to 4 and on the basis of the said conspiracy, the robbery and murder has been committed. On 27.11.2010, the police visited the scene of offence at the instance of accused persons, where they hatched a plan to commit robbery. It was supported by independent witness PW13.

67. The fourth ground on which the prosecution has placed its evidence is the '***last seen theory***'. It is to be noted that PW32-Anurag Sachidev, the adopted son of Purushotham Lal Sachidev and Rita Sachidev, has stated that accused Nos.1 and 2 both were working as house maid in the house of deceased persons and he has witnessed that accused Nos.1 and 2 were last seen in the company of the deceased persons prior

to their death. The last seen theory comes into play where the time gap between the point of time when the accused and the deceased were last seen alive and when the deceased were found dead is so small that possibility of any person other than the accused persons being the author of the crime becomes impossible. It would be difficult in some cases to positively establish that the deceased persons were last seen with accused Nos.1 and 2, when there is a long gap and possibility of other person coming in between exists.

68. In order to prove the last seen theory, the prosecution examined PW8-Vijay Kumar, the paper supplier, who saw accused Nos.1 and 2 in the house of deceased prior to the incident and 3 more persons standing in front of the house. Further, PW32 also stated that accused Nos.1 and 2 were working in the house of the deceased. Thereafter, the dead body of deceased persons were found in the house. When PW32 tried to contact the deceased persons, their phone was switched off and they were not lifting his phone. Therefore, after 2 days of the incident, he informed PW.1. Accordingly, he visited the house of deceased persons along with PW32. It shows that accused Nos.1 and 2 were in the company of deceased persons prior to the incident and thereafter accused

Nos.1 and 2 fled away by locking the door of the house of deceased persons and did not return for almost 20 months.

69. Thus, in our opinion, the statement made by PWs.1, 8 and 32 and the evidence of Investigating Officer clearly establishes that naturally accused Nos.1 and 2 were in the company of deceased in the house. The surrounding circumstances would go to show that deceased and accused Nos.1 and 2 were together in R.T.Nagar house. The learned counsel for the accused persons though contended that absolutely there is no evidence to show that the accused and the deceased were together when they were residing in the R.T.Nagar house on the day of the incident, yet, we find from the evidence of PWs.14 and 15, who are none other than the cousins of accused No.1, who have clearly stated that prior to the incident, accused Nos.1 and 2 were working in the said house. Thus, these circumstances clearly corroborate the evidence of PW1, PW8 and PW32 that the deceased and accused were together in the house. The circumstances brought out in the evidence lead to the inference that on the pretext of innocent house maids in the house and taking undue advantage of the situation, accused No.1 and 2 in connivance with accused Nos.3 and 4 committed the murder of deceased persons.

70. The aforesaid conclusion gets fortified from the evidence of the above witnesses, which clearly establishes that as on the date of incident, accused Nos.1 and 2 were staying in the house of deceased persons. Nothing has been brought out in the cross-examination to suggest that they had any motive to depose against the accused or to falsely implicate them. From the perusal of evidence of PW1, PW8 and PW32, it appears that the accused and the deceased persons were in the house together and soon after the incident, the accused left the house of deceased persons by locking the door and seven silk sarees, gold articles and silver articles were missing. We do not find anything unusual in the evidence of these witnesses as to the deceased persons last seen in the company of accused Nos.1 and 2. Further, considering the evidence of these witnesses, as a whole, coupled with other circumstances, as discussed above, would go to show that the prosecution has convincingly established the fact that the accused and deceased were found together in the house of deceased persons.

71. So far as ***recovery of gold and other articles*** is concerned, the prosecution relied upon the evidence of PW10, PW11, PW12, PW14, PW15, PW17, PW18 and PW30. PW10-Kunnaram, the pawn broker, has stated that the police have

seized bangles from his pawn shop, as accused No.3 sold one gold bangle. Hence, the same was seized under Ex.P36, seizure panchanama.

72. PW11-Manohara, a witness to Ex.P36, has stated that, accused No.3 was under the custody of police, who took PW10, himself and the police officer to the shop of PW10, Pawn Broker, where accused No.3 had sold golden bangle. Hence, the police conducted Amanath panchanamma vide Ex.P36 and seized golden bangle. Further, PW10-Ashwak Pasha, has stated that the Investigating Officer called him to be a pancha. At that time, accused Nos.1 and 2 were in the custody of police. At the instance of accused Nos.1 and 2, they seized seven silk sarees, silver lamp, and golden chain under Ex.P37. PW14-Kalpana Sardar, who is none other than cousin of accused No.1 has stated that accused Nos. 1 and 2 both came to her house and they kept one bag/suitcase. After 20 months, soon after arrest of accused Nos. 1 and 2, they came along with police and they showed a bag containing seven silk sarees, silver lamp, and gold chain. Thus, the police conducted seizure panchanama and seized those articles in their presence.

73. PW15-Anjali Sardar, the sister of PW14 and relative of accused No.1, has reiterated the oral testimony of PW14 and corroborated her testimony and she categorically states that police have seized seven silk sarees, silver lamp and gold chain at the instance of accused Nos.1 and 2. The articles were kept in the bag in the house of PW14.

74. PW17-Janardana Shetty, owner of jewellery shop, has stated that accused No.4 came to his shop and sold one gold bangle. On 28.11.2010, accused No.4 and the police officer came to his shop and asked for the gold bangle. Accused No. 4 showed the said gold bangle. Hence, the police seized the gold bangle under Ex.P38 Amanath panchanama. PW18-Taushif Pasha, reiterated the oral testimony of PW12 and stated that he also accompanied the police officer at the time of conducting Ex.P37 seizure panchanama. At that time, accused Nos. 1 and 2 showed the house of PW14 Kalpana Sardar, where they had kept a bag/suitcase containing seven silk sarees, golden bangle, and silver lamps. Hence, the police seized these articles under Exs. P37 and P38 seizure panchanama.

75. PW30-Poovaiah, the Police Inspector and Investigating Officer, has stated that soon after the incident,

accused Nos.1 and 2 fled to West Bengal. They were traced and brought to Bengaluru, arrested them, recorded their voluntary statement and as per their voluntary statement, they disclosed that accused Nos.3 and 4 are also involved in this case. They conspired together and committed murder of deceased Purushotham Lal Sachidev, Rita Sachidev and Deepak @ Munna and they robbed gold articles, silver articles and other valuable materials from the house of the deceased persons. Hence, as per the voluntary statement of accused Nos.1 and 2, they took the Police to the house of PW14-Kalpana Sardar, who is none other than cousin of accused No.1, where they showed a bag containing seven silk sarees, silver lamps and gold bangle. Hence, he seized those articles under Ex.P37 Amanath panchanama. PW30 also stated that he seized Gold bangle which was sold to PW10 by accused No.3. Thus, he seized said articles under Ex.P36 Amanath panchanama. He also stated that these articles were identified by PW1 to PW3 and PW32, who are relatives of deceased persons.

76. From the perusal of the oral testimonies of PWs.10, 11, 12, 14, 15, 17, 18 and 30, it appears that the accused persons voluntarily confessed before the Investigating Officer while they were in custody, hence it is hit by Section 25 of the

Indian Evidence Act and becomes inadmissible to an extent of admission of crime. But, their statements are not barred by Section 25 of the Indian Evidence Act with regard to other information disclosed by them in that statements and the same is admissible under Section 8 of the Indian Evidence Act. As per the disclosure statements, the Investigating Officer discovered the facts pursuant to disclosure made by the accused persons and pursuant to their statements, material objects were discovered and recovered from the pawn broker shops and the house of PW14 respectively. This strengthens the prosecution case and it is one of the strong circumstances to corroborate the evidence of prosecution witnesses. It shows that the prosecution was able to prove the fact that on 15.02.2009, accused Nos.1 and 2 while working as house maid in the house of deceased persons, they conspired together with accused Nos.3 and 4 alongwith absconding accused No.5, committed murder and robbed the above golden and silver articles and silk sarees. The body of the deceased were found in the house of the deceased, and the accused persons locked the said house from outside and they fled away and soon after their arrest, these gold and silver articles and sarees were recovered at their instance, pursuant to the confession

statements made by the accused persons. Therefore, the recovery of incriminating articles at the instance of accused persons is one of the strong circumstances to establish the guilt of the accused persons.

77. In this regard, the only inference that can be drawn is that the accused persons have murdered the deceased persons to accomplish their motive and robbed the golden and silver articles, seven silk sarees, and a wall clock. Later, accused Nos.1 and 2 were arrested after 20 months from the date of incident by the police inspector at West Bengal. Further, the robbed articles belonged to the deceased persons were seized from the possession of the accused persons and those articles were identified by PW1 and PW32, who are relatives of the deceased persons.

78. So far as '**conduct of the accused**' is concerned, as per the case of prosecution, accused No.2 was working as house maid in the house of deceased persons. Accused No.1 is her husband. They made criminal conspiracy with accused Nos.3 and 4 alongwith absconding accused No.5, committed murder of deceased persons by taking undue advantage of the situation that deceased Deepak @ Munna was physically

challenged person and the adopted son of deceased Purushottam Lal Sachidev and Rita Sachidev i.e., PW32-Anurag Sachidev was an alcoholic, drug addict and addicted to bad vices. Therefore, they committed murder by strangulation and they committed robbery and fled to West Bengal. From the perusal of the evidence on record, it would clearly show that soon after the incident, they fled away and they were frequently changing their address and fortunately accused Nos.1 and 2 were arrested in West Bengal State, and they were brought to Bengaluru, the investigating Officer enquired them, recorded their voluntary statement. Pursuant to their voluntary statements, accused Nos.3 and 4 were also traced and their statements were also recorded and pursuant to their voluntary statements, the Investigating Officer seized gold, silver articles and 7 sarees under Exs.P36, 37, 38 and 39. Therefore, the antecedents of accused clearly establish that soon after the commission of murder of the deceased persons, they robbed the aforesaid articles. The conduct of accused persons clearly establishes from the evidence of PW14 and PW15, who are none other than cousins of accused No.1 that soon after the incident, they brought two bags containing mangalya chain, sarees and silver lamps. The defence has not established any

animosity of PW14 and PW15 with accused Nos.1 and 2. It shows that their intention, motive, *mens rea* to rob the belongings of the deceased persons after committing their murder. If at all they were not responsible for the death of the deceased, then there was no occasion for accused Nos.1 and 2 to disappear from the house of deceased persons. The investigating officer also seized the robbed articles soon after their arrest. The fact that accused Nos.1 and 2 had absconded from the scene of occurrence is an additional chain of circumstance, which further strengthens the case of the prosecution.

79. So far as invoking **Section 106 of the Indian Evidence Act**, the prosecution must first establish that there was any fact within the special knowledge of the accused persons. In a case of circumstantial evidence, the accused being the master of the crime alone knows the circumstances which lead to death. This Section mandates that facts that are within the exclusive knowledge of accused persons shall be explained by them. Non explanation of incriminating circumstances leads to an inference that the accused and the accused alone are the author of the crime. Once the prosecution is able to establish that at the relevant time,

accused No.2 was working as house maid in the house of deceased persons and accused Nos.1 and 2 were residing in the outhouse of the deceased persons, they conspired together with accused Nos.3 and 4 alongwith absconding accused No.5 to eliminate the deceased persons and subsequently the deceased persons were strangled, the burden of proof would lie upon the accused persons to show that under what circumstances, the deceased persons were done to death.

80. Further, if a person is last seen in the company of the deceased persons and if the facts convincingly establish as to their last seen together, the burden of proof would lie upon the accused persons to show under what circumstances the death had occurred. Whereas, in this case, the accused persons have not offered any explanation as to how and when the accused persons parted with the company of the deceased persons and their failure to offer reasonable explanation itself provide an additional link to the chain of circumstances.

81. In this case, accused Nos. 1 and 2 and deceased persons were in the house and their dead bodies were found later in the house. Soon after the incident, accused Nos.1 and 2 absconded. This fact was within the knowledge of accused

persons. But the accused persons failed to explain the circumstances as to how the death of deceased persons occurred and strangulation marks on the neck of the deceased persons. PW21-Dr.Nagraj, who conducted post-mortem examination on the dead body of deceased Deepak Sachidev, Rita Sachidev and Purshotham Lal Sachidev, vide Exs.P41 to P43, has opined that death was due to asphyxia as a result of strangulation and the death could be caused by strangulation with the help of the two pin plug wire, Duppatta and Nokia Mobile Charger wire. It has already been held that the death of deceased Deepak Sachidev, Rita Sachidev, Purushottam Lal Sachidev are homicidal one. The evidence on record also discloses that the incident had occurred two days prior to the lodging of the complaint and accused Nos.1 and 2 had absconded from the house and there is possibility of no person other than the accused persons to have remained in the contact with the deceased persons.

82. Except bare denial in their statements under Section 313 Cr.P.C, the accused persons have not offered any explanation as to how deceased Deepak Sachidev, Rita Sachidev and Purushottam Lal Sachidev were murdered. Obviously, this circumstance goes against accused Nos.1 to 4.

Section 114 of the Indian Evidence Act empowers the Court to presume the existence of any fact which it thinks is likely to have happened. From the perusal of evidence on record, the only reasonable inference that could be drawn is that the accused persons alone committed the murder of deceased persons.

83. It is now well settled that in a case based on a circumstantial evidence, the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. There should be no gap left in the chain of circumstances. Further, the proved circumstances must be consistent only with the hypothesis of the guilt of the accused persons and totally inconsistent with their innocence. The circumstances proved by the prosecution, in our opinion, form a complete chain unerringly pointing out the guilt of the accused persons for the murder of the deceased persons. It is established beyond pale of doubt that the accused persons committed the murder of deceased persons with plastic wire, duppata and mobile charger in the house of deceased persons and they fled away by robbing the gold, silver and other articles. The circumstance of the deceased persons last seen in the company of accused persons, as

already discussed above, in the absence of any explanation by the accused for unnatural death of the deceased would lead to an inevitable conclusion that the deceased persons were done to death by the accused persons alone. It is further proved that the death of the deceased is homicidal due to strangulation. The manner in which the accused persons committed the murder of the deceased persons, the place, the time of incident and sudden disappearance of accused Nos.1 and 2 from the house of the deceased persons are suggestive of the fact that the accused persons committed murder of deceased by strangulation and thereafter, escaped from the house of deceased persons without informing anybody including PW1 to PW3 and PW32.

84. The circumstances discussed above would clearly indicate that until the death of deceased persons, they were found in the company of accused Nos.1 and 2 and not found in the company of any person other than accused Nos.1 and 2. Therefore, the possibility of any other person strangulating the deceased persons and causing their death cannot be ruled out. The recovery of gold and silver ornaments and seven silk sarees at the instance of accused persons, establishes the fact that murder of deceased Deepak Sachidev, Rita Sachidev and

Purushottam Lal Sachidev was committed by accused Nos.1 to 4 for gain.

85. The prosecution has proved the *modus operandi* adopted by the accused persons which, in our opinion, proves the conduct of accused persons before and after the commission of the offence. The articles seized from the possession of accused establish the fact that those articles belonged to the deceased persons. Accused Nos.1 and 2 being house maid working in the house of the deceased persons, committed murder in connivance with accused Nos.3 and 4 alongwith absconding accused No.5 and robbed their valuables. Concealing their identity and disguising their person is a clear proof of the guilty intention and motive of the accused persons.

86. Thus, on overall consideration of all the above facts and circumstances, we are of the considered opinion that the prosecution has proved the guilt of the accused persons beyond reasonable doubt for the offence under Sections, 120B, 201 and 302 of IPC. The trial Court, therefore, was not justified in acquitting the accused persons for the said offences. Thus, we find glaring error and infirmity in the findings recorded by the trial Court.

87. Insofar as sentence is concerned, learned *H.C.G.P vehemently contended that the respondents/accused Nos.1 to 4 and absconding accused No.5 have committed three murders brutally and robbery. Hence, the facts of the case fall within the category of rarest of rare case and therefore, a death penalty can be imposed to the respondents/accused Nos.1 to 4.

88. On the other hand, learned counsel for respondents contended that since the chain of circumstances are not at all completed and the fact that the trial Court acquitted the accused persons and considering the manner in which the accused persons committed an offence will not attract the rarest of rare case.

89. The Hon'ble Apex Court has laid down in the Constitution Bench decision in **BACHAN SINGH v. STATE OF PUNJAB**, reported in **(1980) 2 SCC 684** as well as **MACHHI SINGH AND OTHERS v. STATE OF PUNJAB** reported in **(1983) 3 SCC 470**, wherein the Hon'ble Apex Court has considered the parameters and guidelines in respect of consideration of a case as **rarest of rare case**.

90. The Hon'ble Supreme Court, in the case of **Mohinder Singh v. State of Punjab** reported in **(2013) 3 SCC 294**, has

held that 'the rarest of the rare case' comes when a convict would be a menace and threat to the harmonious and peaceful coexistence of the society. The crime may be heinous or brutal but may not be in the category of 'the rarest of the rare case'. There must be no reason to believe that the accused cannot be reformed or rehabilitated and that he is likely to continue criminal acts of violence as would constitute a continuing threat to the society.

91. Taking into consideration all these factors, we find that the present case is not a case wherein it can be held that imposition of death penalty is the only alternative. Another reason that weighs from the evidence of the witnesses, it is not clear that the role attributed to the accused has been similar as that of the rarest of the rare case, but, in this case, the accused committed murder of three persons in the house by strangulation and robbed their belongings.

92. Applying the aforesaid principles as laid down by the Hon'ble Supreme Court in the case of **Bachan Singh's** case and **Machhi Singh's** case, it can be seen that, in the present case, accused Nos.1 and 2 came to the house of deceased persons as maid servant, they made criminal conspiracy with

accused Nos.3 to 5 and accordingly, they committed triple murder by strangulation with wire, mobile charger and duppatta and robbed gold, silver and other valuable articles. The prosecution is able to prove the chain of circumstances and as such, the instant case does not fall under rarest of rare case as enumerated in ***Bachan Singh's*** and ***Machi Singh's*** cited supra. We are therefore of the considered view that the act of accused persons would not fall in the category of rarest of rare cases.

93. It is seen in recent times, incidents have been reported where Inter-State migrant, who were engaged for domestic or construction work, have allegedly been involved in serious offences such as murder and robbery in the very premises where they were employed. In many such cases, the house owners or employers had engaged the workers without conducting any background verification, identity confirmation, or registration with the concerned authorities. Some of such migrant workers frequently committing crimes and fleeing away and as such, the same have to be streamlined by issuance of certain guidelines by the State Government. This situation highlights the urgent need for preventive safeguards through strict enforcement of existing labour and criminal regulatory

mechanisms. Further, a structured and mandatory police verification mechanism should be introduced before engaging workers who reside within private premises, similar to tenant verification systems, with simplified online registration portals accessible to the public. At the same time, widespread public awareness campaigns through print, electronic, and social media platforms should be undertaken to educate citizens about safe hiring practices. However, while strengthening preventive mechanisms, it is equally important to ensure that migrant workers are not stigmatized as a class, since criminal liability is individual in nature and the constitutional guarantees under Articles 14 and 21 of the Constitution of India protect the dignity and equality of all persons. Thus, balanced judicial directions aimed at regulation, awareness, and accountability without discrimination which would serve the larger interest of public safety and social justice.

94. In this case, the migrant labours who were from West Bengal came to Bengaluru in search of job, entered the house of deceased persons as maid, they made criminal conspiracy, committed murder of deceased persons (three deaths) and robbed gold, silver and other valuable properties in their house and fled away. They were arrested after twenty months of the incident. In spite of it, the prosecution was able to secure

accused Nos.1 and 2 from the State of West Bengal and as per their voluntary statement, accused Nos.3 and 4 were secured in Bengaluru. Thus, there was difficulty in tracing and securing the accused persons. In this regard, streamlining of the aforesaid guidelines is very much required. Thus, we hereby direct the State Government to take a call on this issue. Accordingly, we pass the following:

ORDER

- i) Appeal filed by the appellant-State is ***allowed***.
- ii) The Judgment of acquittal dated 29.02.2016 passed in S.C. No.433 of 2011 by learned LXIV Additional City Civil and Sessions Judge (CCH-65), Bengaluru, is hereby set aside.
- iii) Accused Nos.1 to 4 are convicted for the offence punishable under Sections 120B, 302 and 201 read with Section 34 of IPC.
- iv) Accused Nos.1 to 4 are sentenced to undergo imprisonment for life for the offence punishable under Section 120B of IPC and to pay fine of Rs.10,000/- each, in default, they shall undergo simple imprisonment for a period of three months.
- v) Accused Nos.1 to 4 are sentenced to undergo imprisonment for life for the offence punishable

under Section 302 of IPC, in respect of the murder of deceased Purushotham Lal Sachidev **on one count**, Rita Sachidev **on second count** and Deepak Sachidev @ Munna **on third count** and to pay fine of Rs.10,000/- each, in default, they shall undergo simple imprisonment for a period of three months.

- vi) Accused Nos.1 to 4 are sentenced to undergo rigorous imprisonment for a period of five years for the offence punishable under Section 201 of IPC and to pay fine of Rs.10,000/- each, in default, they shall undergo simple imprisonment for a period of three months
- vii) Out of the total fine amount, 80% of fine amount shall be given to PW32-Anurag Sachidev, adopted son of Late Purushotham Lal Sachidev (deceased), as compensation under Section 357 of Cr.P.C.
- viii) All sentences shall run concurrently.
- ix) Accused Nos.1 to 4 are directed to surrender before the Trial Court within two weeks from today, and in turn, the Trial Court shall send the accused persons

to prison to serve remaining part of sentence by issuing conviction warrant.

Registry is directed to send the trial Court records alongwith copy of this judgment, forthwith.

Registry is directed to send copy of this judgment, more particularly paragraph Nos.93 and 94 as mentioned above, to the Chief Secretary, Government of Karnataka for taking necessary action and implementation.

The trial Court is directed to retain the material objects marked in S.C.No.433/2011 in order to conduct trial in respect of absconding accused No.5

In view of disposal of main appeals, pending interlocutory applications, if any, stand dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

AM/MN