

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.1254/2018

C/W

CRIMINAL APPEAL NO.988/2018

CRIMINAL APPEAL NO.1114/2018

CRIMINAL APPEAL NO.1153/2018

CRIMINAL APPEAL NO.1154/2018

IN CRIMINAL APPEAL NO.1254/2018:

BETWEEN:

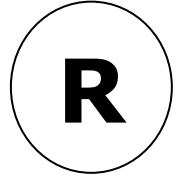
SMT. SUKANYA,
AGED ABOUT 23 YEARS,
RESIDING AT NELASANIPALLI,
KELAGHATTLA POST,
GANGAVARA MANDALA,
PALAMNER TALUK,
CHITTOR DISTRICT,
ANDHRA PRADESH STATE.

... APPELLANT

(BY SRI. K.S.NARESH SANTHOSH, ADVOCATE - THROUGH V.C.)

AND:

STATE BY RAMANAGARA RURAL POLICE,
RAMANAGARA DISTRICT,
REPRESENTED BY THE LEARNED
STATE PUBLIC PROSECUTOR,



HIGH COURT BUILDING,
BENGALURU-560 001.

... RESPONDENT

(BY SMT. RASHMI PATEL, HCGP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF SENTENCE DATED 28.05.2018, PASSED BY THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, RAMANAGARA, IN S.C.NO.68/2015, CONVICTING THE APPELLANT/ACCUSED NO.7 FOR THE OFFENCE PUNISHABLE UNDER SECTION 120B OF IPC.

IN CRIMINAL APPEAL NO.988/2018:

BETWEEN:

SRI. MANIRAJ @ MANI,
S/O ANJANEYALU,
AGED ABOUT 24 YEARS,
RESIDING AT NO.11-12,
TAPAL RAJ STREET,
NEAR ADARSHA SCHOOL,
KUPPAM POST AND TALUK,
CHITTOOR DISTRICT-517 001,
ANDHRA PRADESH STATE.

... APPELLANT

(BY SRI. P.P.HEGDE, SENIOR COUNSEL FOR
MS. SAMEEKSHA T.R., ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH INSPECTOR OF POLICE,
RAMANAGARA RURAL POLICE STATION,
RAMANAGARA DISTRICT,
REPRESENTED BY THE LEARNED

STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

... RESPONDENT

(BY SMT. RASHMI PATEL, HCGP)

THIS CRIMINAL APPEAL IS FILED UNDE SECTION 374(2) OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 28.05.2018 PASSED BY THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, RAMANAGARA IN S.C.NO.68/2015 - CONVICTING THE APPELLANT/ACCUSED NO.6 FOR THE OFFENCE PUNISHABLE UNDER SECTION 120(B) OF IPC.

IN CRIMINAL APPEAL NO.1114/2018:

BETWEEN:

SRI. BHARATHKUMAR,
S/O G.V. RAMANNA,
AGED ABOUT 22 YEARS,
R/AT D.K. PALLI,
NEAR RAILWAY STATION,
KUPPAM POST AND TALUK,
CHITTOOR DISTRICT-517 001,
ANDHRA PRADESH STATE.

... APPELLANT

(BY SRI. P.P. HEGDE, SENIOR COUNSEL FOR
SRI. ABHIRAM KUMAR P., ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH INSPECTOR OF POLICE,
RAMANAGARA RURAL POLICE STATION,
RAMANAGARA DISTRICT.
REPRESENTED BY THE LEARNED
STATE PUBLIC PROSECUTOR,

HIGH COURT BUILDING,
BENGALURU-560 001.

... RESPONDENT

(BY SMT. RASHMI PATEL, HCGP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 28.05.2018 PASSED BY THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, RAMANAGARA IN S.C.NO.68/2015 - CONVICTING THE APPELLANT/ACCUSED NO.1 FOR THE OFFENCE PUNISHABLE UNDER SECTION 120(B) OF IPC.

IN CRIMINAL APPEAL NO.1153/2018:

BETWEEN:

ABDUL RAZAQ @ RAZAQ,
S/O IKBAL PASHA,
AGED ABOUT 23 YEARS,
R/AT KOTTHA PETA,
GANGAMMANA TEMPLE,
KUPPAM TALUK, CHITTOOR DISTRICT,
ANDHRA PRADESH-517325.

... APPELLANT

(BY DR. S. NAGARAJ, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH INSPECTOR OF POLICE,
RAMANAGARA RURAL POLICE STATION,
RAMANAGARA DISTRICT,
REPRESENTED BY THE LEARNED
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001.

... RESPONDENT

(BY SMT. RASHMI PATEL, HCGP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 28.05.2018 PASSED BY THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, RAMANAGARA IN S.C.NO.68/2015 - CONVICTING THE APPELLANT/ACCUSED NO.3 FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 R/W SECTION 34 OF IPC.

IN CRIMINAL APPEAL NO.1154/2018:

BETWEEN:

VASU SAJJU @ SAJJU,
S/O. VASU,
AGED ABOUT 24 YEARS,
R/AT NO.2/94, GUTHUGAL PALLI,
GUDIPALLI MANDALAM,
KANAMANAPALLI POST,
KUPPAM TALUK,
CHITTOOR DISTRICT-517 325,
ANDHRA PRADESH STATE.

... APPELLANT

(BY DR. S. NAGARAJ, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH INSPECTOR OF POLICE,
RAMANAGARA RURAL POLICE STATION,
RAMANAGARA DISTRICT,
REPRESENTED BY THE LEARNED
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU)-560 001.

... RESPONDENT

(BY SMT. RASHMI PATEL, HCGP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF CR.P.C PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 28.05.2018 PASSED BY THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, RAMANAGARA IN S.C.NO.68/2015 - CONVICTING THE APPELLANT/ACCUSED NO.2 FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 R/W SECTION 34 OF IPC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 18.02.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

The Crl.A.No.1254/2018 is filed by accused No.7 - Sukanya; Crl.A.No.1114/2018 is filed by accused No.1 - Bharathkumar; Crl.A.No.1153/2018 is filed by accused No.3 - Abdul Razaq; Crl.A.No.1154/2018 is filed by accused No.2 - Vasu @ Sajju and Crl.A.No.988/2018 is filed by accused No.6 - Maniraj @ Mani challenging the judgment of conviction and sentence dated 28.05.2018 passed in S.C.No.68/2015 wherein accused Nos.1, 6 and 7 are convicted for the offence punishable under Section 120B of IPC; accused Nos.2 and 3 are convicted

for the offence punishable under Section 302 read with Section 34 of IPC and sentenced to undergo for rigorous imprisonment for life and to pay fine of Rs.25,000/- each and also imposed default sentence in case of non-payment of fine amount and accused No.4 - Somashekar and accused No.5 – Imran Khan are acquitted for the aforesaid offences.

2. Heard the learned counsel appearing for the respective appellants/accused persons and the learned counsel appearing for the State.

3. The factual matrix of case of the prosecution is that accused No.1-Bharathkumar was in love with accused No.7-Sukanya, who married the deceased-Ganesh. In the said wedlock, accused No.7 became pregnant. But, at the instance of accused No.1, accused No.7 got aborted fetus. Thereafter, accused Nos.1 and 7 decided to eliminate the said Ganesh as they have decided to marry. In this background, accused No.1 approached accused No.6 and in turn accused No.6 took the assistance of accused Nos.2 to 5 in eliminating the said Ganesh and supari amount of Rs.6,00,000/- was fixed for the same and

they have received a sum of Rs.10,000/- from accused No.1 as advance. After receiving supari, conspired on 05.04.2015 and thereafter accused Nos.2 to 5 called the said Ganesh under the guise of purchasing of nursery plants at 03.30 p.m. When the said Ganesh came near the Bengaluru-Mysuru railway track in front of Jain Mandir, accused No.2 – Vasu @ Sajju held the said Ganesh tightly and cut his throat by a knife; accused No.3 - Abdul Razak stabbed the Ganesh on his stomach by knife; accused No.4 – Somashekar and accused No.5 – Imram Khan have recklessly assaulted on the head, stomach and other parts of the body of Ganesh by knives and killed him. Thereafter, thrown the knife at the distance of 35 feet in the bush and fled away from the spot. Having noticed the dead body by the general public, police got the information and thereafter informed to PW1 who is the father of the deceased. PW1 came to the spot and gave the complaint in terms of Ex.P1 and case was registered and conducted the spot mahazar as per Ex.P2 and inquest mahazar as per Ex.P5. At the first instance, accused No.1 was apprehended and his voluntary statement was recorded. Thereafter, accused No.7 was arrested and her

voluntary statement was recorded. Then, accused Nos.2 and 3 were also arrested and their voluntary statements also recorded. In the presence of panch witnesses, recovery was made in terms of Ex.P4 at the instance of accused Nos.2 and 3 and thereafter, the Investigating Officer collected all materials including PM report, sketch, FSL report and having completed the investigation, filed the charge sheet.

4. Having received the charge sheet, the same was furnished to the accused and cognizance was taken. The accused persons did not plead guilty and claims the trial. The prosecution in order to prove the case, examined the witnesses as PW1 to PW15 and got marked the documents at Ex.P1 to P31 and seized the material objects at MO1 to MO14. The Trial Court having closed the prosecution evidence, recorded the statement of accused Nos.1 to 7 under Section 313 of Cr.P.C. and accused have denied the same. Accused have not led any defence evidence but filed concise written arguments. The Trial Court having considered both oral and documentary evidence available on record comes to the conclusion that prosecution has proved

the conspiracy among accused Nos.1, 6 and 7 and invoked Section 120B of IPC against them and found guilt of accused Nos.2 and 3 and invoked Section 302 read with Section 34 of IPC against them and did not find guilt of accused Nos.4 and 5 for the said offences and acquitted them.

5. Being aggrieved by the judgment of conviction and sentence of the Trial Court, these appeals are filed before this Court by the respective accused persons.

6. The counsel appearing for accused No.6 in his argument would vehemently contend that to connect accused No.6 along with accused Nos.1 and 7, no material is placed by the prosecution. The counsel would contend that case of the prosecution is that accused Nos.1 and 7 were having illicit relationship and hence, accused No.1 contacted accused No.6 and accused No.6, in turn, hired the services of accused Nos.2 to 5 to eliminate said Ganesh. The counsel would submit that accused No.6 is not disputing the homicide. But the case is rest upon the circumstantial evidence. PW1 is the father of the deceased. The dead body was found near the railway track and

the same was informed to PW1 by police. The counsel would vehemently contend that Ex.P2 is not proved by examining the witnesses and only examined the father of the deceased as PW1. The counsel also vehemently contend that prosecution mainly relies upon the confession statement and there was no recovery at the instance of accused Nos.1, 6 and 7 since, the voluntary statement is not admissible in view of no recovery at the instance of these accused persons. The counsel would vehemently contend that to connect accused Nos.1, 6 and 7, there is no material of conspiracy between these accused persons. In the absence of cogent material, the question of connecting these accused and invoking Section 120B of IPC does not arise. The counsel would vehemently contend that in order to prove the conspiracy, there must be a circumstantial evidence and Court also cannot expect the direct evidence. But no such circumstantial evidence also available before the Court to connect accused No.6 along with other accused persons.

7. The counsel appearing for accused Nos.1 and 7 also vehemently contend that in order to connect accused No.1 and 7

saying that they were having an illicit relationship, there is no material before the Court except the alleged voluntary statement and no one speaks about the same. The counsel would contend that Trial Court committed an error in accepting the case of prosecution with regard to proving of case of conspiracy. The counsel also adopts the arguments of counsel appearing for accused No.6 during the course of his arguments.

8. The counsel appearing for accused Nos.2 and 3 in his arguments would vehemently contend that all the accused persons are from Andhra Pradesh and Investigating Officer has not collected any material to show that they have travelled from Andhra Pradesh to Bengaluru. In order to prove the fact that they have come to Bangalore in any other mode of transport, nothing is placed on record. Even in order to go to the place where the incident was taken place also, no material is collected by the Investigating Officer to show that they have travelled from Bangalore to Ramanagar. It is also the case of the prosecution that accused went to the spot in an autorikshaw. But in which autorikshaw they went is not established placing cogent

material before the Court. The counsel also vehemently contend that no Test Identification parade is conducted. According to the prosecution, they have burnt the cloth at Kuppam. The place of incident is nearby the highway. The railway track is also very close to the highway that too, the place of incident is visible and place of incident is a cart road. The counsel would vehemently contend that PW1 deposes before the Court that he came to know about the love affair between accused Nos.1 and 7 through somebody else when they were talking, but no first information in this regard. The counsel submits that PW1 also categorically admits that he has not seen accused Nos.1 and 7 together.

9. The counsel would vehemently contend that it is the case of the prosecution that recovery was made at the instance of accused Nos.2 and 3 in between 01.30 to 02.00 p.m., but the said recovery at Ex.P4 is not proved even though examined PW2 and PW4 in this regard and their evidence is not consistent. The counsel also vehemently contends that PW2 and PW4 are close relatives of PW1 and they are not the local witnesses. The counsel would vehemently contend that when witnesses have

categorically admitted that there are number of persons at the time of drawing the mahazar, the police ought to have taken the assistance of local persons while drawing the mahazar. The counsel also admits that fingerprints on the knives at MO13 and MO14 were not taken. The counsel would vehemently contend that evidence of PW2 and PW4 not inspires the confidence of the Court. The counsel also would vehemently contend that Ex.P2 - spot mahazar was conducted at the spot and in order to prove Ex.P2, none of the independent witnesses were examined except PW1 who is the father of the deceased. The counsel also vehemently contend that though PW13 is examined, there is no evidence from him before the Court that which accused have used the mobile and though call details were collected, the same stands in the name of Karthik but he has not been examined to connect the accused. The counsel would submit that the very prosecution says that they are not relying upon the call details. The counsel would vehemently contend that the said SIM is not belongs to the accused and even not traced the location to know that whether the accused persons were there at the incident spot at the time of committing the murder. The counsel would submit

that no doubt, PW14 says that he arrested accused No.1 and thereafter arrested accused No.7 and other accused persons. The counsel also vehemently contend that Ex.P28 also not comes to the aid of the prosecution. The counsel vehemently contend that accused persons are not aware of Kannada language, but 313 statement was recorded in Kannada language and no details are given with regard to that whether accused were explained in the language known to them. The counsel also vehemently contend that in order to prove that accused No.1 and 7 have engaged the services of accused No.6 for supari killing, that supari amount was not seized. The counsel would submit that in order to connect accused No.6 along with accused Nos.2 to 5 also no material is placed before the Court. The counsel would vehemently contend that it is only a theory of conspiracy and committing the murder and the same is not substantiated by placing cogent material before Court.

10. The learned counsel appearing for the State would vehemently contend that the weapons which have been used by the accused have been recovered at the instance of accused

Nos.2 and 3 and the same have been marked as MO13 and MO14 and in respect recovery is concerned, the evidence of PW2 and PW4 is consistent. The Trial Court has taken note of the evidence with regard to the recovery from accused Nos.2 and 3 is concerned. The counsel also would vehemently contend that PW6 has given his opinion stating that Ex.P8 - PM report discloses nature of the injuries and these injuries could be caused by using MOs which have been seized at the instance of the accused Nos.2 and 3 and weapons were seized at the spot in terms of Ex.P2. Though other independent witnesses are not examined in respect of Ex.P2, the evidence of PW1 is very clear that the incriminating articles were also seized at the spot and the same are marked as material objects.

11. The learned counsel appearing for the State would vehemently contend that PW9, at the first instance, arrested accused No.1 and based on the statement of accused No.1, other accused persons were also arrested. The counsel would submit that Ex.P13 - FSL report is very clear that the weapon which was seized at the instance of the accused at the spot

stained with 'O' group blood and clothes of the accused were burnt as admitted by themselves in the voluntary statement. The counsel would submit that evidence of PW14 is very clear that it is not a case of suicide and it is a case of homicidal. The counsel would submit that though the prosecution collected the call details, the same is not relied upon by the prosecution and the same is discussed by the Trial Court in paragraph 66 of the judgment. The counsel would submit that MO3 and MO4 which were seized at the spot also stained with 'O' positive blood and MO7 to MO12 are the clothes of the deceased and the same also stained with 'O' group blood. Ex.P8 is also very clear that the time since death is 18 to 30 hours and the same matches with the timings of the incident. The counsel also would submit that PM report is very clear that there were 9 injuries and cause of death is also on account of shock and hemorrhage due to incised injury of neck. The counsel also would contend that the Trial Court discussed medical evidence in paragraphs 63 and 64 of the judgment. The counsel also would vehemently contend that confession statement made by accused Nos.1 and 7 is very clear that they are having illicit relationship and accused No.7 also

says that at the instance of accused No.1, she got aborted her pregnancy and both of them are having an intention to marry each other after eliminating the deceased-Ganesh. The counsel would submit that accused No.1 given supari to accused No.6 and accused No.6, in turn, engaged the services of accused Nos.2 to 5 and Trial Court acquitted accused Nos.4 and 5 having found no material against them. The counsel would submit that there is a clear case of conspiracy against accused Nos.1, 6 and 7 and witnesses have spoken about the same. The Trial Court considered all these materials while appreciating the evidence.

12. In reply to the arguments of the counsel for the State, the counsel appearing for accused Nos.2 and 3 would submit that on overall consideration of material, it discloses that there is no material with regard to the conspiracy and involvement of accused Nos.2 and 3 in committing the alleged murder. The counsel would submit that only on sole ground of recovery, they cannot be convicted. The counsel also would contend that in a case of circumstantial evidence, when there is no direct evidence, the prosecution has to prove each of the

circumstances. But in this case, no such circumstances are proved against the accused. Hence, it requires interference of this Court.

13. Having heard the learned counsel appearing for the respective parties and also on perusal of the material available on record, the Points that would arise for consideration of these appeals are:

1. Whether the Trial Court committed an error in convicting accused Nos.1, 6 and 7 for the offence punishable under Section 120B of IPC and whether it requires interference of this Court?
2. Whether the Trial Court committed an error in convicting accused Nos.2 and 3 for the offence punishable under Section 302 of IPC and whether it requires interference of this Court?
3. What order?

Point No.1:

14. Having considered the arguments of the learned counsel for the respective parties and on perusal of both oral and documentary evidence placed on record, it discloses that it is the

case of the prosecution that accused No.1 entrusted accused No.6 to eliminate the deceased-Ganesh by giving supari. It is also the allegation that accused Nos.1 and 7 were having illicit relationship; love affair and having an intention to get marry each other after eliminating Ganesh who is a husband of accused No.7. In order to prove the conspiracy, except the evidence of PW1 who is a father of the deceased, no one speaks about the same. PW1 deposed before the Court that he came to know about the relationship of accused Nos.1 and 7 from the persons who gathered at the spot but did not mention the name. PW1 though an attempt is made to say that both accused Nos.1 and 7 were used to meet, in order to prove the same, there is no evidence before the Court. None of the witnesses speak about the same except a half-hearted attempt was made by PW1 in his evidence. It is also to be noted that PW7-ASI who recorded the statement of accused No.7 deposed that accused Nos.1 and 7 are loving each other and accused No.1 only providing currency to accused No.7 and accused No.1 only gave medicine for abortion. As a result, accused No.7 got aborted her fetus on 05.04.2015. No doubt, the same is not denied during the course

of cross-examination. But the voluntary statement of accused No.7 cannot be relied upon since there is no recovery. If there is any recovery, then the same can be relied upon and marked. The other material and statement made by accused No.7 in her voluntary statement also cannot be relied upon since the same is inadmissible and there is no evidence to show that from which place, accused No.1 purchased tablet and the same was given to accused No.7 and not recorded the statement of any of the witnesses with regard to the fact that both accused Nos.1 and 7 were meeting.

15. The prosecution relies upon the evidence of PW13 regarding call details for the period from 01.04.2015 to 06.04.2015 and the same is marked as Ex.P15 and P16. Evidence of PW13 is very clear that the same stands in different name and not in the name of any of the accused persons. It has to be noted that the Trial Court in paragraph 66 discussed that the prosecution itself has not relied upon the call details. Apart from that, there is no material of location to show that accused persons were there along with the deceased in the incident place

on particular time. In the cross-examination, he categorically says that Ex.P16 stands in the name of one Karthik and the said Karthik is also not examined before the Court to elicit that whether the SIM was used by any of the accused persons. In the absence of connecting material before the Court to prove the conspiracy, it cannot be held that there is a material for conspiracy and conspiracy should be proved only based on the circumstances. Hence, we answer Point No.1 as affirmative in coming to the conclusion that Trial Court committed an error in convicting accused Nos.1, 6 and 7 for the offence punishable under Section 120B of IPC since there is no material before the Court to connect accused Nos.1, 6 and 7 showing that these accused have conspired each other and also availed the service of accused Nos.2 to 5. Though it is contended that accused No.1 gave supari to accused No.6, there is no material in this regard and supari amount is not seized. Apart from that even though accused No.7 is examined as DW1, during her cross-examination with regard to conspiracy, nothing is elicited and there is no material to connect each of the accused for conspiracy.

Point No.2:

16. This case is rest upon circumstantial evidence and hence, this Court has to keep in mind while appreciating both oral and documentary evidence whether the accused persons have committed the murder and whether the prosecution was able to prove the case against the accused persons. Hence, this Court has to rely upon the judgment of the Hon'ble Apex Court in the case of **SHARAD BIRDICHAND SARDA v. STATE OF MAHARASHTRA** reported in **(1984) 4 SCC 116**, wherein the Apex Court observed that in a case of circumstantial evidence, five steps should be satisfied, which read thus:

1. The circumstances from which the conclusion of guilt is to be drawn should be fully established.
2. The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.
3. The circumstances should be of a conclusive nature and tendency.

4. They should exclude every possible hypothesis except the one to be proved and
5. There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

17. This Court would also like to rely upon the judgment of the Hon'ble Apex Court in the case of **RAJA @ RAJINDER v. STATE OF HARYANA** reported in **(2015) 11 SCC 43**, wherein also the Apex Court reiterated that in a case of circumstantial evidence, the Court has to be satisfied with the following circumstances:

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.

18. This Court also would like to rely upon the recent judgment of the Hon'ble Apex Court in the case of **SUBRAMANYA v. STATE OF KARNATAKA** reported in **(2023) 11 SCC 255**, wherein also the Apex Court discussed with regard to the satisfaction of the Court in connection with circumstantial evidence is concerned in paragraph Nos.47 and 48, which reads thus:

"The following conditions must be fulfilled before a case against an accused can be said to be fully established by the prosecution:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The Supreme Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved". Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between "may be" and "must be" is long and divides vague conjectures from sure conclusions.

(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.

These five golden principles constitute the panchsheel of the proof of a case based on circumstantial evidence.

In a case of circumstantial evidence, the judgment remains essentially inferential. The inference is drawn from the established facts as the circumstances lead to particular inferences. The Court has to draw an inference with respect to whether the chain of circumstances is complete, and when the circumstances therein are collectively considered, the same must lead only to the irresistible conclusion that the accused alone is the perpetrator of the crime in question. All the circumstances so established must be of a conclusive nature, and consistent only with the hypothesis of the guilt of the accused."

19. Keeping in view the principles laid down in the judgments referred supra, this Court has to appreciate the evidence available on record.

20. P.W.1 is the father of the victim. In his evidence, he says that he came to know about the murder of his son through

police and in respect of these accused persons is concerned, the case of the prosecution is that accused No.6 availed the services of the accused persons on supari and these accused persons were part of the crime. P.W.1 says that on information he went and saw the dead body and he gave the complaint in terms of Ex.P.1. The police conducted the mahazar and seized the articles at the spot and he identifies M.Os.1 to 6 and identifies his signature on the cover of the M.Os. and also he identifies his signature on Ex.P.2. He says that the body was shifted to Rajarajeshwari Hospital and after post mortem the body was cremated in their native, wherein people were talking that accused Nos.1 and 7 were loitering with each other and the same was brought to the notice of the police. He identifies his signature on Ex.P.3 and also identified accused No.1. This witness was subjected to cross-examination.

21. In the cross-examination, it is elicited that the father of accused No.7 gave an amount of Rs.3,00,000/- at the time of marriage and both son and daughter-in-law were cordial. But the witness volunteers that they were cordial only for one month.

His son while going took 5 plants in TVS and he was also using the mobile. He does not know who all signed the mahazar and admits that more number of people were present at the time of drawing the mahazar. The knife which was found at the spot was blood stained and it was broken and the police seized the same at the spot. He admits that in M.O.3 and M.O.5 now there are no blood stains. It is suggested that he had signed the mahazar in the police station and the same was denied and says that next to the dead body mahazar was drawn. He admits that on the date of the incident his daughter-in-law was along with his wife at Palamaner.

22. In the further cross-examination, he admitted that he had never seen accused Nos.7 and 1 roaming around holding their hands. He says that he has not stated that they were talking over the mobile. He admits that C.W.2 to C.W.10 belongs to his village. He says that for the first time he had seen accused No.1 near the house of accused No.7 at Kuppam. He also admits that prior to registration of this case, he was not knowing accused No.1. He came to know about accused No.1

when he was shown in the police station. It is suggested that accused No.1 has not made any plan to commit the murder and the same was denied. He says that accused No.1 gave Rs.6 lakhs as supari. He claims that accused No.1 only made the statement before the police that he gave supari to kill his son. He admits that he had not seen the assailants. He claims that when they were arrested, they admitted that they only killed. He admits that the slips which were affixed on M.Os.6, 8, 9, 10, 11 and 12 does not bear any signature. It is suggested that P.W.2 and P.W.4 are the residents of Nelasanapally and the same was denied. However, witness volunteers that they are in Bengaluru, but they were the original residents of Nelasanapally. The witness volunteers that P.W.4 is residing in Bengaluru from the beginning.

23. P.W.2 is the panch witness for recovery of knife at the instance of accused Nos.2 and 3. He categorically says that at the time of recovery, himself and P.W.4 were present. When he came to know about the murder, he went to the police station. The accused revealed that they are going to show the

place where they committed the murder. The accused Vasu @ Sajju, Abdul Razak, himself and P.W.4 went to the spot and they showed the place where they committed the murder and they found blood on the tree. The three accused persons took them at the distance of 1 kilometer from that place near the railway track and they found two knives and the accused persons showed the same and removed the same from the bush. Those knives were blood stained and police seized the same, pasted the slip and mahazar was drawn in terms of Ex.P.4. He identifies M.O.13 and M.O.14 and his signature on M.O.13. This witness was subjected to cross-examination.

24. In the cross-examination, he admits that P.W.1 only brought him to the Court. He says that while drawing the mahazar, he himself and P.W.4 were present and he do not know the name of the Investigating Officer and also says that several persons were there. It is his evidence that cloth and chappal were not seized in his presence. He says that both the accused showed the knives and the Investigating Officer took the same to his custody. He again says that one of the accused

produced the same and he does not know his name. He admits that M.O.13 and M.O.14 will be available in the steel shop. When a suggestion was made that he is not aware of the contents of the mahazar, he says that the police explained the same. It is suggested that he had signed the mahazar in the police station and the same was denied. He says that he had signed at the spot. He made two signatures including seizure of knife. When a suggestion was made that he is falsely deposing, the witness replied that he has deposed what he has witnessed. He identifies his signature in M.O.13 as M.O.13(c). The signature in M.O.13(c) was confronted to him and asked there is a difference in his signature in M.O.13(c) and the signature before the Court and he says that at the time of signing M.O.13(c), his hands were shaking.

25. The other witness is P.W.3, who is an inquest witness to Ex.P.5 and seizure of pant and shirt. This witness is not material witness to connect accused Nos.2 and 3.

26. P.W.4 is another panch witness and he also gave the evidence similarly in the line of evidence of P.W.2 regarding

recovery and found the knife in a bush and the accused Vasu @ Sajju and Abdul Razak gave the same to the police and there were blood stains. He also identifies M.O.13 and M.O.14 and the same are seized at the spot. In the cross-examination, he admits that he is a permanent resident of Madamari and through police he came to know that the accused persons have committed the murder. When a question was put to him that when the mahazar was drawn and sealed at the police station whether he had signed and the witness says that seizure was made at the spot where knife was seized and cannot tell the location, since he is not aware of the boundary description. When a suggestion was made that M.O.13 and M.O.14 are in no way connected to the case, the same was denied and he says that accused only produced the same. He admits that in M.O.13 there are no blood stains. It is suggested that in M.O.14 there are no blood stains and the same was denied. It is suggested that in his presence knives were not seized and the same was denied. He admits that the police have not called him over phone, but he voluntarily went to the police station. He admits that he was having acquaintance with P.W.1 and hence, he went

to the police station. He admits that while conducting the panchanama, himself, P.W.2 and police were present.

27. P.W.5 is the engineer, who prepared the sketch with regard to the location. The learned counsel appearing for the appellants brought to the notice of this Court regarding location of the place where the murder was committed and the same was near the railway track, that too in a cart road and motorcycle, cart, tractor and pedestrians move in the said road, which is shown in the sketch at Ex.P.6.

28. P.W.6 is the doctor, who conducted the post mortem and issued the post mortem report in terms of Ex.P.8. He deposes that the knife could cause the injuries, which have been found in Ex.P.8 and also identifies his signatures in Exs.P.8, 9, 11 and 12. He categorically says that having examined the M.Os., he gave the report that injuries found in Ex.P.8 could be caused by use of M.Os.3, 4, 5, 13 and 14. This witness was subjected to cross-examination.

29. In the cross-examination, he admits that in Exs.P.8 and 10, witness signatures are not found. The defence got

elicited the answer from the mouth of this witness that it is not true that when a knife is stabbed, the outer part of the wound is 'V' shaped and the inner part is 'U' shaped. It is not true that when a knife is stabbed, the outer part of the wound is 'U' shaped and the inner part is 'V' shaped. He admits that M.O.7 was fully stained with blood. He admits that neck, chest, back, abdomen and waist are connected to each other. In the further cross-examination, he admits that M.O.11 belt appears to be old one. He admits that he did not mention how many buttons were there in the shirt, but all are in order. When a suggestion was made that shirt is in no way connected to the dead body, the same was denied. It is elicited that M.O.5 handle was straight and there are two curves in the lower portion. In Ex.P.10 report it is stated that there is a curve at the top and bottom of the knife handle. He admits that M.O.13 having curve and in the end also there is a slant cutting. He admits that signature is found in the slip affixed on M.O.14. He also admits that there are two curves in the lower portion and in the upper portion it was straight and also admits that there is slant cutting. The witness volunteers that he mentioned the same in his report

also. It is suggested that the opinion Ex.P.10 and M.Os.3, 4, 5, 13 and 14 are in no way connected to each other and the same is denied.

30. This Court already discussed the evidence of P.W.7 with regard to recording the statement of accused No.7. P.W.8 is the one who registered the case and issued the FIR. P.W.9 speaks about the arrest of accused No.1. P.W.10 speaks about collection of viscera and giving the same to the FSL. P.W.11 is the FSL witness who conducted the examination of blood stained mud and unstained mud and compared both soil and gave the report in terms of Ex.P.13.

31. P.W.12 is the FSL Officer, who received the seized articles and conducted the examination and in item No.1, stomach and its contents, portion of small intestine and its contents were there. In item No.2, portion of liver and kidney was there. In item No.3 preservative used saturated solution of sodium chloride was there and gave the report in terms of Ex.P.14. She says that as per her opinion, color tests and gas chromatographic methods have responded for the presence of

ethyl alcohol in article Nos.1 and 2, but no other poison was detected in all the articles. It is suggested that she has not given the report in terms of Ex.P.14 and the same was denied.

32. P.W.13 is the Nodal officer in respect of telephonic details collected for the period from 01.04.2015 to 06.04.2015. The prosecution also not relied upon the same before the Trial Court i.e., Ex.P.16 that it was not standing in the name of any of the accused, but it was standing in the name of one Karthik.

33. The other witness is P.W.14 spot pancha of Ex.P.2. He says that spot panchanama was conducted in terms of Ex.P.2 and found steel knife, another broken knife, broken handle of the knife and chappal and the same were seized at the spot. He identifies his signature in Ex.P.19 and also identifies M.O.1 to M.O.6. He is also a witness to the inquest in terms of Ex.P.5. He says that he went to Kuppam and arrested accused No.1 at Andhra Pradesh and recorded the voluntary statement of accused No.1 and also other accused Vasu @ Sajju, Abdul Razak and all of them made the statement that they are going to point out the knife. Voluntary statements are also marked as Exs.P.20

and 21. He recorded the voluntary statement of accused No.7 in terms of Ex.P.11. He says that accused Nos.2 and 3 led them to the incident spot and produced the knife at the distance of 35 feet from the place where the crime was taken place and mahazar was drawn in terms of Ex.P.4 and he identifies his signature in Ex.P.22 as well as M.O.13 and M.O.14. He says that he recorded the statement of witnesses and seized the clothes of the deceased in hospital by drawing the mahazar in terms of Ex.P.24 and obtained the post mortem report in terms of Ex.P.8. Having seized the knife, he sent the same to the FSL in terms of Ex.P.26 and also written letter to PWD as per Ex.P.27. He obtained the opinion in respect of knife and other articles and also obtained sketch in terms of Ex.P.6 and covering letter is marked as Ex.P.7. After the investigation, he filed the charge-sheet. The FSL reports are marked as Exs.P.14 and 30 and he identifies his signature as Ex.P.14(a) and Ex.P.30(a). This witness was subjected to cross-examination.

34. In the cross-examination, he says that Ex.P.6 shows the location of the incident and the same is a cart road. He

admits that the said place was at a distance of 200 feet from Voderahalli village and local witnesses were available. He admits that P.W.1 is a witness to Ex.P.2 and other two witnesses are from Andhra Pradesh. P.W.1 is a resident of Nelasanapally. It is suggested that Ex.P.10 not corresponds with M.O.3 to M.O.5 and the same was denied. He says that the deceased was having hefty personality. A suggestion was made that chappal and belt does not belong to the deceased and the same was denied. It was suggested that the witnesses Ramaiah, Bhoolakshamma and Sudhakara have not given any statement and the same was denied. He admits that all these witnesses are the residents of Nelasanapally. He admits that accused No.1 was young and was working at Andhra Pradesh. It is suggested that accused No.1 was not knowing Kannada language. But witness volunteers that he knows both Kannada and Telugu and hence, got it written in Kannada language. He admits that in terms of Ex.P.28, phone number belongs to Meghanathan. A suggestion was made that Meghanathan was not having any connection with the accused and the same was denied. He admits that there are no thick trees near the place of the incident. He also admits that in

Bengaluru-Mysore corridor road, more vehicle will move. A suggestion was made that in the FSL report, no report is received against the accused and the same is denied. He was further examined before the Court and got marked the documents at Exs.P.31, 31(a) to (d).

35. This witness was further cross-examined. A suggestion was made that accused Nos.1 and 7 were not having any illicit relationship or love affair and the same was denied. It is suggested that accused No.1 never called accused No.7 and the same was denied. It is suggested that the details given in Ex.P.31 is not connected to accused No.1 and no nexus and the same was denied. However, he admits that accused persons belong to different villages. It is not correct to say that there is no evidence to show that accused No.6 introduced accused No.1 to accused No.2 in order to commit the crime.

36. P.W.15 is FSL witness and on examination of the articles sent to FSL, he found bloodstains on article Nos.1, 3 to 8 and 12 to 17 and the same belongs to 'B' group. In article No.2 bloodstains were not found. The report is marked as Ex.P.30 and

he identifies the signature as Ex.P.30(c) and (d) and identifies M.O.1 to M.O.14. In the cross-examination, it is elicited that it is correct to say that it cannot be concluded that the bloodstains found in Ex.P.30 are related to the deceased Ganesh.

37. D.W.1 is accused No.7. In her evidence she says that she is in no way connected to the murder of her husband and her father gave an amount of Rs.3,00,000/- as dowry. She admits that herself and her father-in-law had good relationship and they were respecting each other. Accused No.1 is the resident of D.K.Palli and distance between her house and accused No.1 house is 1 kilometer. She is not aware of the mobile number of accused No.1 and she has not given her mobile number to accused No.1. Accused No.1 and herself studied in different college and there was no friendship or love affair between them. She says that she has been falsely implicated in the case. She says that she was pregnant and the same was naturally aborted and accused No.1 is in no way connected to her abortion and he has not given any tablet. She says that she has not conspired with any of the accused to

commit the murder of her husband. Ex.D.1 was got marked and this witness was subjected to cross-examination.

38. In the cross-examination, a suggestion was made that her husband was killed by cutting his neck and the witness says that she is not aware of the same. A suggestion was made that there were stab injuries in her husband's abdomen and she says that she is not aware of the same. However, she admits that at the time of cremation she was very much present. It is her evidence that abortion was taken place within three months of her marriage and at that time her husband was alive. It is suggested that herself and accused No.1 were studying in the same college and the same was denied. It is elicited that she has not given any complaint about her father-in-law receiving dowry of Rs.3,00,000/- during her marriage. It is also elicited that she has not given any complaint to the Judge or police officers about the police arresting her and harassing her in connection with this case.

39. This witness was further examined and she says that she had no friendship or any connection with accused Nos.2 to 6

and for the first time she saw accused Nos.2 to 6 in the Court. It is her evidence that her husband had a fight over financial matters in Chamarajanagara, Mysore and Ramanagara while he was running a nursery business and they might have killed her husband. This witness was further cross-examined. She says that her husband was murdered in 2015. She says that her husband was murdered the very day he died and she suspected murder might have been because of business quarrel, but not given any complaint to that effect. It is suggested that prior to abortion she was not having any health issues and the same was denied. It is suggested that she took tablet, which resulted in abortion and the same was denied.

40. Ex.P.1 is the statement of P.W.1, Ex.P.2 is the spot panchanama, Ex.P.3 is the further statement of P.W.1, Ex.P.4 is the seizure mahazar at the instance of accused Nos.2 and 3, Ex.P.5 is the inquest mahazar, Ex.P.6 is the spot sketch prepared by the PWD Engineer, Ex.P.7 is the letter written by Engineer to the Investigating Officer, Ex.P.8 is the post mortem report, Ex.P.9 is the final opinion as to the cause of death and

cause of death is due to shock and hemorrhage due to incise injury of neck, Ex.P.10 is the further opinion, Ex.P.11 is the voluntary statement of accused No.7, Ex.P.12 is the FIR, Ex.P.13 is the FSL report regarding soil test, Ex.P.14 is the FSL report in respect of examination of stomach, Ex.P.15 is the certificate under Section 65B(4)(c) of the Evidence Act, Exs.P.16 and 17 are the phone details of Karthik, Ex.P.18 is the voter ID of Karthik, Ex.P.19 is the PF, Ex.P.20 is the voluntary statement of accused No.2, Ex.P.21 is the voluntary statement of accused No.3, Ex.P.22 is P.F. form, Ex.P.23 is the call details, Ex.P.24 is the mahazar conducted in the hospital i.e., seizure of cloth, Ex.P.25 is the P.F., Ex.P.26 is the letter written to the FSL, Ex.P.27 is the letter written to the Engineer, Ex.P.28 is the report, Ex.P.29 is the acknowledgement, Ex.P.30 is the FSL report and Ex.P.31 is the voluntary confessional statement of accused No.1.

41. Having considered both oral and documentary evidence available on record and also the principles laid down in the judgments referred supra, it is clear that in a case of

circumstantial evidence, it is reiterated throughout that circumstances from which the conclusion of guilt is to be drawn should be fully established that circumstances should be of a conclusive nature and tendency and the circumstances should exclude every possible hypothesis except the one to be proved and 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 and the Panchasheela of circumstantial evidence is reiterated throughout.

42. This Court would like to rely upon the judgment of the Apex Court reported in **(2025) 3 SCC 314** in the case of **RAJA KHAN vs STATE OF CHHATTISGARH** wherein also the Apex Court reiterated where the case rests entirely on circumstantial evidence, the chain of evidence must be so far complete, such that every hypothesis is excluded but the one proposed to be proved. Further, such circumstances, held, must show that the act has been done by the appellant/accused within

all human probability and reiterated the five golden principles, which must be satisfied for circumstantial evidence to conclusively establish the guilt of the accused considering Section 3 of the Evidence Act.

43. This Court also would like to rely on the judgment of the Apex Court reported in **(2025) 9 SCC 31** in the case of **CHETAN vs STATE OF KARNATAKA** wherein the Apex Court while dealing with the circumstantial evidence, again reiterated that while confirming the judgment of the conviction held that circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. Therefore, their held must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused. It is further held that there must form a complete chain without any break to clearly point out to the guilt of the accused person. The court has to examine the cumulative effect of the existence of

these circumstances, which would point to the guilt of the accused, though any single circumstance may not in itself be sufficient to prove the offence. Thus, if the combined effect of all the circumstances, each of which has been independently proved, establishes the guilt of the accused, then the conviction based on such circumstances can be sustained. These circumstances so proved must be consistent only with the hypothesis of the guilt of the accused and should exclude every hypothesis except the one sought to be proved.

44. This Court also would like to rely upon the judgment of Apex Court in the case of **STATE OF RAJASTHAN vs. HANUMAN** reported in **2025 SCC ONLINE SC 1387** wherein, the Apex Court in paragraph 4 held that the High Court held that the prosecution could not prove the complete chain of circumstances required to bring home the guilt of the accused in the case which was based entirely on circumstantial evidence and further observed in paragraph 6 that incriminating circumstances relied upon by the prosecution i.e., the motive and the recovery of the blood stained weapon, even taken in

conjunction cannot constitute the complete chain of incriminating circumstances required to bring home the charges against the accused. Further, observation made that even if the FSL report is taken into account, then also, other than the fact that the weapon recovered at the instance of the accused tested positive for the same blood group as that of the deceased, nothing much turns on the said report and in paragraph 7, considered the judgment of **RAJA NAYKAR vs STATE OF CHHATTISGARH** reported in **(2024) 3 SCC 481**, wherein it is held that mere recovery of a blood-stained weapon even bearing the same blood group of the victim would not be sufficient to prove the charge of murder.

45. The Court also would like to rely upon the judgment of the Apex Court reported in **2025 SCC ONLINE SC 2148** in the case of **RAJENDRA SINGH AND OTHERS vs STATE OF UTTARANCHAL** wherein the Apex Court in paragraph 27 discussed with regard to the recovery of the weapons of crime to establish the identity of the appellants as the persons involved in the crime. On the basis of the recovery of the said weapons, we

have to determine if the said recoveries are good enough to connect the appellants with the crime. In paragraph 28, it is held that undoubtedly, the recovery of one of the swords was made from a garage, and the recovery of another sword and the Kanta was made from bushes in the sugarcane field, which was in open space. The weapons were no doubt recovered allegedly on the pointing out of the appellants. However, no effort was made to match the blood on the said weapons with that of the deceased. The weapons were sent for forensic examination but no report of the forensic laboratory was produced to establish that the weapons specific performance recovered were smeared with the blood of the deceased to prove that they were actually used in the murder of the deceased and did not accept the case of the prosecution. In paragraph 29, it is held that we are afraid that the submission of the State counsel, that as the appellants themselves stated that they took the police to the place where they hide the weapons, by which they committed the offence indicates that appellants admitted to have committed the offence with the above weapons, cannot be accepted and discussed the scope of Section 27 of the Indian Evidence Act in the light of

provisions of Sections 25 and 26 conjointly and comes to the conclusion that Section 27 provides an exception to the above provisions and even considered the judgment in the case of **PULUKURI KOTTAYA AND OTHERS vs THE KING EMPEROR** reported in **1947 MWN CR 45** with regard to the discovery, on information supplied by the accused is a relevant fact.

46. Having taken note of the principles laid down in the judgments throughout to till date, it is clear that each and every linking circumstances must be proved and there cannot be any breaking of link. In keeping the principles laid down in the judgments referred supra, this Court has to consider the material available on record. While answering Point No.1 in respect of accused Nos.1, 6 and 7 is concerned, this Court already comes to the conclusion that to prove the offence under Section 120B of IPC against all the accused, nothing suggested to this Court to come to the conclusion that conspiracy is proved. It is settled law that conspiracy should be proved only based on the circumstances and not on direct evidence and this Court comes to the conclusion that no such material available before

the Court and when conspiracy is not proved, then consideration of other material before the Court does not arise.

47. Now, coming to the case of accused Nos.2 and 3 is concerned, to connect these accused, this Court has to see the material on record. PW1 is the father of the deceased, who is a witness to Ex.P2 wherein other incriminating articles that is knives which were lying at the spot were also seized. The Trial Court comes to the conclusion that there is no material to connect the accused Nos.4 and 5 in the alleged crime and acquitted them. But the charge against accused Nos.2 to 5 as per the case of the prosecution is that all of them are the supari killers. The work was entrusted by accused No.1 to accused No.6. In turn, accused No.6 engaged the services of these sapari killers i.e., accused Nos.2 to 5. When the Trial Court comes to the conclusion that there is no evidence against accused Nos.4 and 5, but convicted accused Nos.2 and 3 mainly based on recovery of weapons at their instance i.e., MO13 and MO14. According to the prosecution, these accused Nos.2 and 3 have led the Investigating Officer as well as panch witnesses i.e., PW2

and PW4 to the spot and in their presence, produced both MO13 and MO14. The Trial Court accepted the evidence of PW2 and PW4 who are the witnesses to this panchanama i.e., Ex.P4. No doubt, the evidence of PW2 and PW4 is with regard to recovery of MO13 and MO14 at the instance of accused Nos.2 and 3 wherein they spoken that these two accused persons led the police as well as both of them to the spot and showed the knives which were blood stained and police have seized the same by drawing the mahazar at Ex.P4. The fact is that these two witnesses categorically admit that at the time of conducting the mahazar, local persons were also there, but, those local persons are not made as witnesses to the seizure. It is also important to note that this recovery is at the distance of 35 feet from the place where the incident had taken place and both knives were kept in the bush. PW2 and PW4 are the witnesses from Andhra Pradesh and not the locals and they belonged to the village of PW1.

48. It has to be noted that in chief evidence of PW2, he says that accused Nos.2 and 3 produced MO13 and MO14 and

mahazar was drawn. But in the cross-examination, he admits that this type of knives would be available in the shop. When suggestion was made that he has not aware of the contents of the mahazar, he categorically says that what had happened at the spot only written and also read the contents of the mahazar and identifies the signature. The other witness to the recovery is PW4 who reiterate the evidence in consonance with the evidence of PW2 deposing that there were blood stains when the knives were seized. PW4 deposed that through the police, he came to know that these accused persons have committed the murder. PW4 also disputes the fact that mahazar was drawn in the police station and categorically says that it was done at the spot itself. Hence, it clearly discloses that there is a consistent evidence of PW2 and PW4 with regard to the recovery is concerned. It is important to note that PW2 and PW4 deposed that they voluntarily went to the police station, police have not called them or given any notice. They categorically admits that they are having acquaintance with PW1 and voluntarily went to the police station.

49. It has to be noted that FSL report also discloses that weapon contains the blood stains, thus, there is a positive evidence before the Court. Now, the question before this Court is that only based on the recovery of knives at the instance of accused Nos.2 and 3 and also the FSL report, which is positive, whether the Court can connect accused Nos.2 and 3 in a case of circumstantial evidence. In view of the principles laid down in the judgments referred supra, it is very clear that only based on the recovery of weapon and FSL report, the Court cannot come to such a conclusion. In the case on hand, except the recovery at the instance of accused Nos.2 and 3, no other evidence available before the Court. It has to be noted that there is no last seen theory to show that the accused persons were found along with the deceased either with accused No.1 or with accused No.6. Apart from that these accused persons are from Andhra Pradesh and Investigating Officer did not collect any material that in which mode, they travelled from Andhra Pradesh to Bangalore. Though, it is case of the prosecution that accused went in an auto to the incident spot, not recorded the statement of auto driver. In order to connect accused Nos.1 and 6 to

establish the fact that accused No.1 was having the motive to commit the murder of the deceased, there is no cogent evidence and nothing is placed on record except the evidence of PW1. But PW1 deposed that he came to know about the relationship of accused Nos.1 and 7 at the spot through somebody and none of the witnesses were also examined to prove the fact that accused Nos.1 and 7 were meeting together and both of them are having love affair and illicit relationship. In order to connect accused Nos.1 and 6 also, there is no CDR or phone call details to establish that accused No.1 entrusted the work to accused No.6 to eliminate the deceased and in turn, accused No.6 availed the services of accused Nos.2 to 5 in the alleged act but there is no material before the Court to prove the said fact except the recovery at the instance of accused Nos.2 and 3. There is no chain link established by the prosecution to connect the accused persons. It is settled law that in a case of circumstances evidence, each circumstances must be proved and there must be no breaking of any link. Even though the evidence of PW2 and PW4 is consistent with regard to the recovery is concerned, the Court has to take note of the fact that those witnesses are

known to PW1 and they are not local witnesses and they are from Andhra Pradesh. In view of having acquaintance with PW1, they are arrayed as witnesses to the recovery. When there is no material before the Court to connect the accused persons and only based on the voluntary statement, they cannot be termed that they committed the murder unless the connection between accused No.6 and accused Nos.2 and 3 is established showing that they were in constant touch with each of them. Though, an attempt is made by the prosecution by examining the Nodal Officer-PW13 for marking of the CDR, it is very clear that the same stands in the name of one Karthik and not stands in the name of any of the accused persons. Thus, in order to connect all these accused, no such circumstances is proved and available evidence before the Court is recovery witnesses evidence. Hence, even the evidence of Nodal Officer in respect of telephonic details will not come to the aid of the prosecution and prosecution also not relies upon the same and same is discussed by the Trial Court regarding evidence of PW13-Nodal Officer.

50. No doubt, the prosecution mainly relies upon the evidence of PW6-doctor who conducted the post mortem and also PW12- Officer of FSL. No dispute with regard to the fact that cause of death is on account of the injuries found on the dead body and Ex.P8-PM report discloses the nature of injuries and it is a case of homicidal. Evidence of PW15 is also very clear that Article Nos.1, 3 to 8 and 12 to 17 contains 'B' group blood. But the fact is that no clothes of the accused were seized and seized cloth was belongs to the deceased and only 'B' group blood was found in MO13 and MO14. MO13 and MO14 are the only article which point out the role of accused Nos.2 and 3 since the same were seized at their instance as deposed by the witnesses PW2 and PW4 but PW2 and PW4 are not the independent witnesses of the local place and they known to PW1 and material is very clear that local persons were also present at the spot. When such being the case, only based on recovery of MO13 and MO14 at the instance of accused Nos.2 and 3, this Court cannot come to a conclusion that accused Nos.2 and 3 have committed the murder of the deceased at the instance of accused No.6 as there is no independent evidence of panch witnesses. This Court already

comes to the conclusion that no material is found with regard to the conspiracy and given the benefit of doubt in favour of accused Nos.1, 6 and 7. When the Trial Court also given benefit of doubt in favour of accused Nos.4 and 5, ought not to have convicted the accused Nos.2 and 3 only based on recovery of the weapons at their instance in considering the evidence of PW2 and PW4 who are the known persons to PW1 when no independent witnesses were examined regarding the recovery is concerned and those witnesses are also from Andhra Pradesh. No doubt, the prosecution has made an attempt that though PW2 and PW4 are from Andhra Pradesh, they are staying in Bangalore. But the fact is that both PW2 and PW4 are the known to PW1 is not in dispute. When such all materials available before the Court, the Trial Court committed an error in convicting accused Nos.2 and 3 only based on recovery and FSL report. The Panchasheela of circumstantial evidence which have been discussed above by referring the judgments of the Apex Court has not been proved.

51. Even in the case of **SHARAD BIRDICHAND SARDA** (referred supra), the Apex Court in 1984 itself with regard to the consideration of the circumstantial evidence have been discussed in paragraph 16 and so also in the case of **RAJA @ RAJINDER** (referred supra) and also in a case of **SUBRAMANYA** (referred supra) and also the other recent judgments which have been relied upon in a case of **CHETAN; HANUMAN** and **RAJA KHAN** (referred supra), it is very clear that based on only one circumstance, the accused cannot be convicted and all circumstances must point out that the role of the accused persons in committing the murder as per the Golden rule of Panchasheela. In the case on hand, five golden principles in a case of circumstantial evidence have not been proved. Hence, we answer Point No.2 as affirmative holding that Trial Court committed an error in convicting accused Nos.2 and 3 for the offence punishable under Section 302 of IPC.

52. This Court is of the view that it is a clear case of lapses on the part of the Investigating Officer in not collecting the material with regard to the circumstantial evidence to

connect the accused persons including the conspiracy. No doubt, it is a settled law that only based on the lapses on the part of the Investigating Officer, the Court cannot acquit the accused and there must be a material before the Court to accept the case of the prosecution. In the case on hand, no such material is found. It is a classic example of lapse on the Investigating Officer in not collecting linking evidence though the case is rest upon the circumstantial evidence and not on direct evidence. The Court cannot assume and presume the things that the accused persons only committed the murder and there must be a semblance of material before the Court to come to such a conclusion. In the absence of cogent material to establish the actual facts, benefit of doubt goes in favour of the accused. Hence, benefit of doubt is extended in favour of the accused persons which is not extended by the Trial Court. This Court is also in view of the fact that the Trial Court committed an error in marking the inadmissible evidence of voluntary statement made by the accused persons and voluntary statement can be taken as admissible if there is any recovery and other than the recovery,

the voluntary statement cannot be marked in respect of any statement and contents of the voluntary statement.

Point No.3:

53. In view of the discussions made above, we pass the following:

ORDER

- (i) The appeals filed by accused Nos.1, 6, 7 and so also accused Nos.2 and 3 in CrI.A.Nos.1114/2018, 988/2018, 1254/2018, 1154/2018 and 1153/2018 respectively are allowed.
- (ii) The judgment of conviction and sentence dated 28.05.2018 passed in S.C.No.68/2015 by the Trial Court is set aside and consequently, the appellants are acquitted from the charges leveled against them and set at liberty if they are not required in any other cases.
- (iii) If bail bond is executed by the accused persons, the same stands cancelled.

- (iv) If any fine amount is deposited, the same is ordered to be refunded on proper identification.

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

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

SN/MD