

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. 3121 OF 2024**

**THE STATE OF MADHYA PRADESH**

**... APPELLANT(S)**

**VERSUS**

**RAM NARAYAN VAISHYA**

**...RESPONDENT(S)**

**O R D E R**

1. The appellant State is aggrieved by judgment and order dated 18<sup>th</sup> September 2019 passed in Criminal Appeal no.1231 of 2010 titled as Ram Narayan Vaishya v. State of Madhya Pradesh. The High Court reversed the findings of conviction and order of sentence entered by the Special Judge, Sidhi in Special Case No.74/2007 whereby, the respondent had been convicted of the offence under Section 302 Indian Penal Code, 1860 and acquitted of the offence under Section 3(2-5) of the Scheduled Castes and Scheduled Tribes Act (Prevention of Atrocities Act), 1989.

2. The matter concerns the death of one Pannu who has allegedly been killed by the Respondent in the intervening night of 21<sup>st</sup> and 22<sup>nd</sup> April 2007 on the latter's suspicion that the former was engaged in an extra marital affair with his wife. The son of the deceased, namely, Ramhradya was informed by one Tipan

Prajapati that his father had been killed. Upon reaching the spot, he found the deceased's neck to have been slit and accordingly informed the police, setting the criminal law in motion.

3. First Information Report bearing No. 72/07 dated 22<sup>nd</sup> April 2007 was registered at P.S. Mara, District Sidhi. After completion of the investigation, chargesheet was presented for trial which culminated in his conviction in terms as recorded above and he was sentenced to imprisonment for life and fine of Rs.100/- in default whereof additional rigorous imprisonment of one month was to be imposed.

4. A perusal of the Trial Court judgment reveals the following aspects which appear to be clinching evidence in the considered view of the Trial Court to arrive at a conclusion that it did-

- (a) The respondent accused was last seen with the deceased when they went to sleep in the outside area of the house of the respondent accused;
- (b) Recovery of incriminating material i.e axe and blood stained clothes, at the instance of the respondent accused;
- (c) The alleged extra marital affair being the emotive for the offence.

5. On appeal, the High Court differed. According to the learned Division Bench the motive was not established; the recovery of the incriminating material was called into question by the fact that PW7 (Sithal Parsad) and PW8 (Sukhlal) did not support the version

of the Investigating Officer (PW12). Further, there is also discrepancy between the versions of PW1 (Ramhradya) and PW2(Panau) inasmuch as the date on which the alleged recovery has been made by the Police is different- PW1 and PW2 testified that the incriminating material was recovered on the same day as the registration of the FIR but PW12 states to have recovered the material in the presence of PW1 and 2 on the next day i.e 23<sup>rd</sup> April 2007. Regarding the last seen theory, it was observed that the place where the respondent accused and the deceased were sleeping was out in the open and therefore accessible to everyone as such it could not be conclusively established that it was in fact the respondent accused who had put an end to Pannu's time on this earth.

6. The State is now before us challenging the findings, as summarised above. This is a case of circumstantial evidence and the principle of law in this regard is that the chain of circumstances should be so complete that it rules out any other hypothesis, other than the one that pin guilt on the accused. (See: *Sharad Birdichand Sharda v. State of Maharashtra 1984 4 SCC 116*). According to the Trial Court motive, last seen theory and recovery of incriminating evidence formed a complete chain. The High Court disagreed and found otherwise. We agree with the High Court. Recovery of incriminating material although is a relevant circumstance, the discrepancy cannot be ignored since the complainant and the Investigating Officer, who were both apparently present at the time of recovery themselves are not on the same page, the genesis

of the recovery itself is put in doubt. It was not a case where the recovery took place after a long period of time which would give way to the possibility of minor differences in terms of dates, location etc. In this case, the recovery was made either on the same day as the FIR or the next. In other words, the incident and its subsequent events were fresh in the minds of the IO as also the witnesses. Despite this, when there is material difference coupled with the fact that both witnesses to the recovery, other than PW1 & PW2, have turned hostile, such recovery in our view cannot be relied on.

7. With regard to the application of the last seen theory, the view taken by the High Court is entirely probable. The respondent accused and the deceased were sleeping out in the open. There is nothing on record which establishes a quarrel/disagreement having taken place at any time prior to the death of the deceased and so, the prosecution has failed to establish that it was only possible for the respondent accused to have killed the deceased person.

8. Motive, as we have already alluded to, was that the deceased had illicit relation with the wife of the respondent accused. The Trial Court held motive to be established primarily on two counts; one that PW1 (son of the deceased) had mentioned in the FIR and two that the I.O. had signalled the possibility of such an affair as per what he found in the investigation and such finding

was not challenged or attempted to be dislodged by the defence.

9. To say the least neither of these factors can establish motive. The Trial Court's reasoning for having found motive to be proved was only that a son would not make such allegations about his father and that too immediately after his death. This, is no reason known to law. It is well understood that such relationships by their very nature are kept under wraps however, even so, they cannot be taken to be a statement of fact only on the basis of allegations. That apart, the observations of the Trial Court no challenge was made to the finding of the IO in his investigation is curious. It is a cardinal principle in criminal law that the prosecution i.e. the one that alleges certain facts and a certain chronology of events is the one who has to, by way of credible evidence establish the same beyond reasonable doubt. Only when such burden is discharged is it incumbent upon the defence to cast doubt on such version of the prosecution case, enough to push it down from the pedestal of beyond reasonable doubt. That being the case, for the Trial Court to suggest that the defence ought to have challenged a finding of investigation, which was in no way proved in the court of law, is unacceptable. To sum up, it may be held that a mere allegation even of something as private as a relationship outside marriage, cannot be sufficient to establish motive.

10. Consequent to the above discussion, it is found that none of the circumstances in the chain of evidence can be demonstrated. As such, the findings of the High Court are affirmed, and the State's appeal is dismissed.

11. Pending application(s) if any are disposed of.

..... J.  
(SANJAY KAROL)

..... J.  
(MANMOHAN)

NEW DELHI;  
24<sup>TH</sup> SEPTEMBER 2025

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 3121/2024

THE STATE OF MADHYA PRADESH

Appellant(s)

VERSUS

RAM NARAYAN VAISHYA

Respondent(s)

Date : 24-09-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KAROL  
HON'BLE MR. JUSTICE MANMOHAN

For Appellant(s) :Mr. V.V.S.Puttabhiram, D.A.G.  
Mr. Yashraj Singh Bundela, AOR  
Mr. Amit Sharma, Adv.

For Respondent(s):Mr.R.N.Pareek, Adv. (Amicus Curiae)  
Mr. Shishir Kumar Saxena, Adv.  
Mr. Ankur Parihar, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

1. Appeal is dismissed in terms of signed order.
2. Pending application(s), if any, shall stand disposed of.

(RAJNI MUKHI)

ASTT. REGISTRAR-cum-PS

(Signed order is placed on the file)

(ANU BHALLA)

COURT MASTER (NSH)