

**HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A**

Crl. A(J) No. 42 of 2022

Sri Sugrib Tripura (Age....years), son of late Pransish Tripura,
resident of Siddhinagar (Taal Tilla), P.S. P.R. Bari, District-
South Tripura.

.....Appellant

-VERSUS-

The State of Tripura.

..... Respondent.

**B_E_F_O_R_E
HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

For Appellant(s)	:	Mr. D. J. Saha, Advocate. Ms. S. Deb, Advocate.
For Respondent(s)	:	Mr. S. Debnath, Addl. P.P.
Date of hearing	:	13.12.2023
Date of delivery of judgment and order	:	19.12.2023
Whether fit for reporting	:	YES/NO

JUDGMENT & ORDER

[T. Amarnath Goud, J]

Heard Mr. D. J. Saha, learned counsel and Ms. S. Deb,
learned counsel appearing for the appellant also heard Mr. S. Debnath,
learned Addl. P.P. appearing for the respondents.

[2] This criminal appeal under Section-374 of the Code of Criminal Procedure is directed against the judgment and order dated 27.09.2022 passed in Special 22 (POCSO) of 2021 by the learned Special Judge, South Tripura Belonia, whereby and whereunder, the learned trial Court sentenced the appellant under Section-302 and 201 of IPC to suffer rigorous imprisonment for life and also to pay a fine of Rs.10,000/- and in default to make payment of fine money to suffer rigorous imprisonment for a further period of three months and RI for

three months and also to pay a fine of Rs.2,000/- for the offence punishable under Section-201 of IPC, in default to suffer RI for one month.

[3] The facts which set the criminal law in motion, in short, are that on 12.05.2021 at about 0900 hours the minor son and daughter of the informant went to Bagachatal area with their cattle but till the evening they did not return back to their house, though their cattle have returned. Thereafter, the informant with the help of some villagers started to search for both the children and during searching they came to know that on the same day at about 1230 hours both the minor son and daughter of the informant were lastly seen with the accused Sugrib Tripura. The informant and along with other villagers conducted search for whole night but the missing children were not found. On the next day i.e. on 13.05.2021 the villagers again started searching for both the children and at about 1000 hours they found the dead bodies of the minor son and daughter of the informant in a lake of Bagachatal deep jungle area. The informant believes that the accused Sugrib Tripura has committed murder of his minor children and concealed their dead bodies in the lake of the jungle.

[4] On this, P.R. Bari P.S. Case No.2021/PRB/022 under Sections-302/201 of IPC was registered against the accused person and the case was endorsed to Sri Ujjal Chowdhury, SI of police. The case was investigated and on completion of the investigation, I/O Sri Ujjal Chowdhury filed charge sheet against the accused person for commission of offence punishable under Sections-366/376(AB)/302/201 of IPC and Section-6 of the POCSO Act.

[5] Having received the charge sheet cognizance was taken under Sec. 366/376(AB)/302/201 of IPC and Section-6 of POCSO Act against accused person. Thereafter, charges were framed against the accused for commission of offence punishable under Sections-366, 376AB, 302 and 201 of IPC and section & of POCSO Act. The contents

of the charges read over and explained to the accused person, to which, he pleaded not guilty and desired to stand the trial. In total twenty-seven witnesses were examined by the prosecution to prove the charges against the accused person. After the process of recording the evidence of witnesses so adduced from the side of the prosecution was concluded, the accused person was subjected to examination as warranted U/S 313(1) (b) of Cr.P.C. with respect to the incriminating circumstances that surfaced against him in the evidence on record. His plea is of total denial and false implication. However, he declined to adduce any witness on his defence.

[6] Having heard the learned counsel appearing for the parties, the learned trial Court convicted the appellant and sentenced him and observed as under:

“In the result, I find that, the prosecution has failed to prove the charges framed under section 366 and 376AB of IPC and section 6 of POCSO Act against the accused Sugrib Tripura beyond reasonable shadow of doubt. As such, he is acquitted from the charges framed under Sec. 366 and 376AB of IPC and section 6 of POCSO Act. But prosecution has successfully proved the charges framed under Sec. 302 and 201 of IPC against the accused Sugrib Tripura. Accordingly, accused Sri Sugrib Tripura is hereby convicted for commission of offence punishable under Sec. 302 and 201 of IPC. He is already in custody. Sentence will be pronounced after hearing the convict on 29.09.2022. Dictated and corrected by me.”

[7] Mr. D. J. Saha, learned counsel appearing for the appellant has submitted that the impugned judgment, passed by the special court below is perverse and contrary to the evidence on record and hence liable to be set aside. It has been further contended that the court below has failed to appreciate the evidence on record, which suffers from serious contradictions casting doubt on the truthfulness of the prosecution case. The informant alleged that on the night of 12.05.2021 at about 0900 hours the minor son and daughter of the informant went to Bagachatal area with their cattle but till evening they did not return back to their house, though their cattle have returned.

[8] Thereafter, the informant, with the help of some villagers started to search for both the children and during searching they came to know that on the same day at about 12:30 hours both the minor son and daughter of the informant were lastly seen with Sugrib Tripura. The informant along with other villagers conducted search for night but the missing children were not found. On the next day i.e. on 13.05.2021 the villagers again started searching for both the children and about 1000 hours they found the dead bodies of the minor son and daughter of the informant in a lake of Bagachatal deep jungle area. The informant believed that Sugrib Tripura had committed murder of his minor children and concealed their dead bodies in the lake of the jungle.

[9] According to Mr. Saha, learned counsel, PW-1, the informant of the case, the children of the informant went missing on 12.05.2021, and the informant understood it at around 3.30 pm when his cows returned to his house but his children did not. However, the FIR was lodged on 13.05.2021, it was never explained as to why a missing report, in the list, was also not filed with the police. A bare perusal of the whole record would show that the conviction is based on the theory of 'last seen' with the convict, which is not anywhere near to the proximity of the time of the death and therefore, the order of sentence suffers from perversity.

[10] The learned trial Court has failed to appreciate the fact that the prosecution had put forward the story of killing by way of strangulation by a 'gamcha', however, the post-mortem tells a different story that the victims had died due to ante-mortem drowning. This fact completely changes the story and also brings out a possibility that the daughter had jumped in the Pond and the son got drowned trying to save her. From the record itself it appears that the scribe wrote the FIR in presence of the police officers so there is a complete chance that the police authority created the story to fit the present case and the prepare the FIR accordingly.

[11] The prosecution story is also that one Priyanranjan Das (PW-2) had seen the instant Appellant talking with two appellants. Therefore, the episode of last seen creates serious doubt. It also apparent from the statement of PW-2 that the son was sitting with the appellant and the minor girl was little bit away from them. Therefore the claim of the prosecution that the appellant wanted to abuse the daughter is doubtful as he was not interested to speak with the daughter.

[12] It has been further averred that from the statement of PW-26, the medical officer who examined the appellant on 13.05.2021 that he gave question mark with words 'nail scratch' in the examination report, because it could not be exactly ascertained that those scratch were given by nail. PW-12 also deposed that one of the neighbours of the informant, namely Litan Das, had also seen the victims with the convicted appellant. However, Litan Das was not brought by the prosecution at the time of trial, which could have strengthened the case. Therefore a presumption under Section- 114 of Evidence Act can easily be brought.

[13] The theory of 'last seen' is an offshoot of circumstantial evidence and a case to be brought against a person, the law is pretty clear that in circumstantial evidence, the chain has to be completed and there can be no broken end. The learned trial Court has failed to appreciate that the whole chain of facts and circumstances of the case should be so complete from which the existence of principal fact can be legally or inferred or presumed that there should be no suspicious, conjectures in the minds of Court regarding the guilt of the accused then the person can be convicted on the basis of circumstantial evidence. Accordingly, the impugned judgment and order of conviction and sentence is liable to be interfered with so far the evidences available in the record, are inconsistent apparent on the face of the records.

[14] In view of above contentions, learned counsel appearing for the accused-appellant relied upon a decision of the Apex Court *Jabir*

and Others v. State of Uttarakhand, reported in *AIR (2023) SC 488*, wherein it has been held thus:

“21. A basic principle of criminal jurisprudence is that in circumstantial evidence cases, the prosecution is obliged to prove each circumstance, beyond reasonable doubt, as well as the links between all circumstances; such 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; further, the facts so proved should unerringly point towards the guilt of the accused. 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.⁵ These were so stated in *Sarad Birdichand Sarda* (supra) where the court, after quoting from *Hanumanant*, observed that:

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an Accused can be said to be fully established:

(1) The circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this 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" as was held by this Court in [Shivaji Sahabrao Bobade v. State of Maharashtra](#) (1973) 2 SCC 793 where the following observations were made: [SCC para 19, p. 807: SCC (Cri.) p. 1047] 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 5 Ibid 3 the Accused and must show that in all human probability the act must have been done by the Accused.”

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.” These panchsheel precepts, so to say, are now fundamental rules, iterated time and again, and require adherence not only for their precedential weight, but as the only safe bases upon which conviction in circumstantial evidence cases can soundly rest.

23. There is unexplained delay of six days in lodging the FIR. As per prosecution story the deceased Manikandan was last seen on 4-4-2004 at Vadakkumelur Village during Panguni Uthiram Festival at Mariyamman Temple. The body of the deceased was taken from the borewell by the fire service personnel after more than seven days. There is no other positive material on record to show that the deceased was last seen together with the accused and in the intervening period of seven days there was nobody in contact with the deceased.

24. In *Jaswant Gir v. State of Punjab* (2005) 12 SCC 438, this Court held that in the absence of any other links in the chain of circumstantial evidence, the Appellant cannot be convicted solely on the basis of "last seen together" even if version of the prosecution witness in this regard is believed."

[15] He has relied on another decision of the Apex Court in *State of Madhya Pradesh v. Phoolchand Rathore*, reported in (2023) SCC Online SC 537, wherein, it has been held thus:

"24. We shall now examine as to what were the circumstances relied by the prosecution and as to how they were sought to be proved. Additionally, we shall examine as to how the High Court dealt with the evidence on those circumstances with a view to find out whether there is any perversity in its view/ reasoning warranting an interference. In the instant case, the prosecution relied on the following circumstances: (a) Motive; (b) Disclosure Statement and Recovery; (c) Extra Judicial Confession; and (d) Accused taking the deceased with him and soon thereafter the deceased was found in an injured state. We shall examine each of these circumstances, separately, herein below:

(i) Motive:

According to the prosecution, the appellant and the deceased used to quarrel because the deceased had kept her jewellery with her sister. However, the above reason for the quarrel was not found proved because the prosecution evidence led revealed that the jewellery had already been returned back much before the date of the incident. Therefore, to prove motive, during trial, prosecution developed another story, which is, that the appellant desired his wife to claim a share in her ancestral property which resulted in quarrels. This motive neither appealed to the High Court nor to us because, firstly, it was an improvement in the prosecution story; secondly, not much evidence was laid to substantiate the same; and, thirdly, if the wife is killed how could her husband derive interest in the property. Thus, in our view, the prosecution failed to prove the motive set out by it. No doubt absence of motive by itself may not be sufficient to dislodge the prosecution case if the other proven circumstances could form a chain so complete as to indicate that in all human probability it is the accused and no one else who committed the crime but, in a case based on circumstantial evidence, motive plays an important part. Because, not only it makes the story believable but also helps the court in fortifying an inference which may be drawn against the accused from other attending circumstances.

(ii) Disclosure Statement and Recovery The prosecution placed heavy reliance on recovery of blood-stained clothes and stones from the hut of the accused on the basis of disclosure made by him. The disclosure as well as recovery has been refuted by the accused as also by PW-6 who is a witness to it. The High Court has noticed that there is material contradiction in the statement of prosecution witnesses with regard to the time when the accused was arrested. The public witnesses examined by the prosecution indicated that the accused was arrested in the night of 01.02.2010 itself, whereas the police witnesses/documents disclosed his arrest on 02.02.2010 at 1240 hours at Seoni Trisection. What may be interesting is the time sequence of arrest, recording of disclosure statement and preparing of recovery memos.

According to police witnesses and papers, the arrest was effected on 02.02.2010 at 1240 hours; the disclosure statement was recorded on 02.02.2010 at 1300 hours and recovery was effected on 02.02.2010 at 1400 hours. The arrest of the accused was shown from a place known as Seoni Trisection whereas the public witnesses including PW4 stated that the accused was arrested in the night of 01.02.2010 from a Nala (drain) where he was hiding with an axe. The disclosure statement, as per the memorandum (Ex.P-9), was prepared at Seoni Trisection and witnessed by PW6; the recovery memo (Ex.P-10), as per memorandum, was prepared at Phoolchand's (accused's) hut near railway line in Model village at 1400 hours and the same too, was witnessed by PW6. Interestingly, PW6 is the only public witness of disclosure and recovery to be examined and he has not supported the prosecution case. What is even more interesting is that the other seizure memorandum prepared in respect of lifting blood-stained saree, gravel, slippers etc. from near the railway line, that is the spot from where the deceased was lifted, was prepared at 1400 hours on 02.02.2010. How could it be possible that the police prepared two memorandums at the same time at different places. The answer to it lies in the testimony of PW6, a witness to both, who stated that he was made to sign the papers at the police station. Meaning thereby that all papers were prepared at one go rendering the entire exercise of disclosure and consequential discovery/recovery doubtful. Not only that, there appears no cogent reason for the accused to carry stones from the spot and hide them in his hut while leaving several blood-stained stones near the railway line. In such circumstances, it appears to us that those stones were picked from the spot near the railway track to show recovery from the hut. Insofar as the recovery of blood-stained clothes is concerned, in addition to the above reasons, the same is doubtful also because of the statement of PW4 (Madhuri) that her father on return had washed those clothes and had spread them to dry over the cattle shed in the house therefore, how could they be recovered from the hut. It be noted that the house is shown located in the village, whereas the hut is shown in the field at quite a distance from the house. For all the reasons above, the High Court was justified in doubting the recovery of blood-stained clothes etc. at the instance of the accused from the hut and on the basis of a disclosure statement made by him."

[16] Mr. S. Debnath, learned Addl. P.P. appearing for the respondent-State has submitted that all the witnesses have supported the case of the prosecution. The informant and other material witnesses have

fully supported the prosecution case and they corroborated each other. PW-2 is the main witness and he has corroborated his 164(5), Cr.P.C. statement also. The accused was last time seen with the victims by PW-2 and at that time there was no any injury mark on the face and neck of the accused, but later on when PW-2 and others went to the house of the accused, they noticed the injury marks on the face and neck of the accused. The I/O has also deposed that on the arrest of the accused he noticed scratch mark on the neck of the accused and the accused did not give clear reply of such scratch mark on his neck. The doctor who examined the accused has also confirmed the injury mark found on the neck of the accused caused by nail. He also submits that this a case based on circumstantial evidence and last seen theory and the prosecution has completely prove the case beyond any reasonable doubt and the accused must be convicted for giving message in the society that which type of crime he has committed and what is the consequence thereof.

[17] In view of above and have gone through the material evidence on record, for a definite conclusion, let us revisit the evidence once again. In this case the informant is the father of the victim boy and girl and he has been examined in this case as PW-1. He has filed the FIR against the accused and deposed that this is the incident of 12.05.2021. His son, namely Hridaya Dey, aged about 11 years and his victim daughter, aged about 9 years, went to the forest with cows for grazing. At about 3/3.30 pm the cows returned to the house, but his son and daughter did not return with the cows. Then he along with his wife (PW-3) and other co-villagers started to search them. They did not get trace of his son and daughter. One co-villager namely, Priya Ranjan Das PW-2) informed him that he noticed that his son and daughter were with Sugrib Tripura in the forest near Bogachetol. When Priya Ranjan Das informed this fact to him, at that time, pradhan of his locality namely, Bikram Tripura (PW-24), Suman Dey (PW-4), Rupak Karmakar, Amar Datta (PW-5) and others were also present.

[18] He along with others of his locality went to the house of Sugrib Tripura where he noticed the injury mark on the face and neck of Sugrib Tripura. They started to search with the help of other local people. They noticed his both children in a pond near Bogachetol. Both were found dead. Police of PR Bari came and the bodies were taken out from the pond and the bodies were brought to Belonia hospital for postmortem. He also deposed that he is of the firm opinion that his son and daughter were killed by Sugrib Tripura. One Dinesh Das (PW-8) of his village wrote the ejahar as per his dictation and he read over the contents of the ejahar to him and thereafter, he (PW- 1) put his signature on the ejahar. He identified his signature on the ejahar as Exbt.P-1/PW-1. Before killing his son and daughter, Sugrib Tripura also raped his daughter. He further deposed that the inquest report was prepared by Ujjal Choudhury of his son Hriday Dey before him and he put his signature on the inquest report and he identified his signature on the inquest report as Exbt.P-3/PW-1. Police also prepared the inquest report of his daughter before him and he put his signature on the inquest report which has been marked as Exbt.P-4/PW-1. Dead bodies were received by him after postmortem and this is his declaration given by him where he put his signature and he identified his signature on the declaration as Exbt.P-5/PW-1. He also deposed that earlier he was not aware with Sugrib Tripura, but later on he identified him and he identified the accused Sugrib Tripura in the dock.

[19] PW-2, Sri Priyaranjan Das is the only witness who has last seen both the victims with the accused Sugrib Tripura together. He has deposed that this is the incident of 12.05.2021. On that day, at about 11 am he went to his field. He was in his field for sometime. He immediately noticed that 8/9 cows came to his paddy field. He forced the cows to leave his paddy field. All the cows went to the side of Bogachetol in the field of some other. He noticed that Sugrib Tripura was sitting with Hriday Dey, about 11 years and the victim girl, aged about 9 years at Bogachetol. Hriday Dey was with Sugrib Tripura and

the victim girl was a little bit away from both of them. He heard that the victim girl was shouting to her brother that she is not identifying her cows and after that, she seated in the side of cashew-nut tree.

[20] At the time of returning, he asked Sugrib Tripura that who is the owner of these cattle. Sugrib Tripura informed him that these cattle are of Sudhir Tripura. He requested him to inform Sudhir Tripura to control his cattle as these cattle were destroying his paddy field. After saying this to Sugrib Tripura, he returned to his house. Later on, he came to know that Hriday and the victim girl were not found and this fact was informed to him by the informant (PW-1). They started to search them. He informed PW-1 that he noticed Hriday Dey and the victim girl with Sugrib Tripura near his paddy field in the afternoon at about 12/12.30 pm. At that time, Hriday Dey was with Sugrib Tripura and the victim girl was a little bit away from them. When he informed this fact to the informant (PW-1), at that time, Suman Dey (PW-4), Amar Datta (PW-5), Bikram Tripura, pradhan of the locality (PW-24) and one Rupak Karmakar were also present. They all went to the house of Sugrib Tripura and at that time, he noticed injury mark on his face. He also deposed that when he first saw Sugrib Tripura, at that time, he did not notice such injury mark on his face. Police brought him to the court for recording of his statement and his statement was recorded by one Judicial Officer and he put his signatures on his statement which were recorded in three pages. He identified his signatures on three pages as Exbt.P-6/PW-2. Later on, the dead bodies of Hriday Dey and the victim girl were recovered from a pond.

[21] PW-26, Dr. Subhrajit Bhattacharjee has deposed that on 13.05.21 he was posted as medical officer at Rajnagar CHC. On that day SI Ujjal Choudhury made one prayer for formal medical examination of Sugrib Tripura and he was brought before him. On local examination, found multiple small abrasion (question mark-nail scratch), one (5 x 0.5) cm over right postero-lateral aspect of neck, (3 x 0.5) cm over right

aspect of neck, (2 x 0.5) cm back of neck, (1 x 0.5) cm over right anterior aspect of neck and all the injury marks are apparently fresh, less than 48 hours. Hence, otherwise apparently normal in formal medical examination. He proved his report as Exbt.P-29/PW-26. He also put his signature on the blood authentication form and he identified his signature as Exbt.P.30/PW-26.

[22] PW-10, Sri Swarup Kr. Pal has deposed that on 20.05.2021 he was posted at Rajnagar as BDO and Executive Magistrate. He got information from the SDM, Belonia about the missing and allegedly murder of two children. He enquired from the O/C PR Bari PS about the exact location of the place and he went to the spot at Bogachetol. He found there that SDPO, Belonia and Addl. SP, South Tripura, Belonia were already present. He was shown the place where the dead bodies were recovered and dead bodies were brought to Nihamagar PHC where inquest was prepared. He prepared the inquest and inquest was prepared under Sec. 176 of Cr.P.C at Niharnagar PHC. After 2/3 days he cannot exactly remember the date, but probably after 1-2 days one scene was created for re-construction of the incident in presence of accused and Addl. SP.

[23] He was also present at that time. Accused informed before the team in his presence that how he made with both the children. Both the children were collecting the cashew-nut and at that time, accused asked them that accused has more cashew-nut and he asked them to follow him. Both the children followed the accused. The motto of the accused was to commit wrong with the child. Accused also disclosed that he did not rape her, but molested her. Another male boy obstructed the accused at the time of molestation of the female child. The accused first of all killed the male boy and also accused was in apprehension that this fact will be known by the people of the locality. So he also killed both the children by strangulation by one gamchha (big napkin). He also disclosed that he disposed of the bodies at Bogachetol lake. He identified

the voluntarily disclosure statement of the accused written by IO in his presence and same was videographed also. He identified his signature with seal on the disclosure statement which has been marked as Exbt.P-7/PW-10. He also deposed that the leading to discovery was also prepared by Ujjal Choudhury in his presence and in presence of witnesses and he put his signature with his observation.

[24] PW-11, Sri Basudeb Debnath has deposed that this is the incident of one year back and incident was of his locality at Bogachetol. He also deposed that when Sugrib Tripura was brought to his house, at that time, he was also called from his house by police. Sugrib Tripura in his house shown one gamchha in his presence to the police and disclosed that he strangulated both the children by this gamchha. That gamchha was seized by police in his presence and he put his signature on the seizure list. He identified his signature on the seizure list as Exbt. P-9/PW-11. He also put his signature on the leading to discovery paper and he identified his signature which has been marked as Exbt.P-18/1/PW-11. He further deposed that he cannot exactly remember the colour of the gamcha, but length and size is the same. He partially identifies Exbt.P-MO(iii) only for length and size, but not of the colour.

[25] PW-18, Dr. Sabyasachi Nath, Senior Scientific Officer-cum- Asst. Chemical Examiner), SFSL, Narsingarh, Agartala has deposed that on 17.05.2021 his office received one sealed parcel containing twenty- three exhibits marked as Exbt. A to W in connection with PR Bari PS case No.2021/PRB/022. On being endorsed by his Director, he conducted examination in Biological and Serological Division on the exhibits during the period from 24.05.2021 to 03.07.2021. On examination, he opined that (i) seminal stain or spermatozoa of human origin could not be detected in the exhibits marked as D, G, J, K, P and Q, (ii) seminal stain/spermatozoa/blood/flesh/skin/hair of human original could not be detected in the exhibits-B and R, (iii) scanty blood stains were detected

in the exhibits-G and J, but their origin and group could not be determined, (iv) blood could not be detected in the exhibits-D, H, I, K, L, M, N, P and Q, (v) diatoms could not be detected in the exhibits-A and O. After examination/sub-sampling of the exhibits in Biology/Serology Division, stained portions of five exhibits marked as RF, G, J, T and Vs were forwarded to DNA Typing Division for generation of DNA profile and report. He identified his report along with the forwarding as Exbt.P-25/PW-18.

[26] From the discussion of above depositions of PW-1, PW-2, PW-3, PW-4, PW-5 and PW-24 this court finds that PW-1 has filed FIR against the accused Sugrib Tripura and the accused was seen on 12.05.2021 with the victims by PW-2 in the agricultural field. When he saw the accused first time there was no any injury mark on his face. But later on when this witness came to know that Hriday Dey and the victim child are being searched, he informed the fact of last seen of the victims with accused Sugrib Tripura to PW-4, PW-5 and PW-24. In the search the death bodies were found near 'Triveni lake. As per the deposition of I/O, the accused did not explained the injury mark on his neck, thereafter the accused was arrested and brought to Rajnagar CHC for medical examination. PW-26, the medical officer found multiple small abrasion on the neck of the accused and all the injuries were apparently fresh and less than 48 hours. The doctor in cross has admitted that he has given the question mark with nail scratch because on examination it appears that scratch was given by nail but it cannot be exactly ascertained without any basis. He has written nail mark on his assumption because there is similarity of 0.5 cm on all the abrasions. He also found the injuries were straight.

[27] The accused has admitted in his examination under Sec. 313, Cr.P.C. that he was seen by PW-2 with the victims near the agricultural field of PW-2. When the victims did not return in the home, the search was started and the body were found on the next day in the

lake. There was no other person except the accused with the victims. The abrasion injuries found on the neck of the accused was of the nails as per report of PW-26. However, the accused in his examination under Sec. 313, Cr.P.C. has denied the injury on his neck caused by nail, rather, he has stated that it was caused by bamboo in the forest.

[28] At the time of cross-examination of PW-2 and PW-26 the defence has not taken such plea. On the above observation, this court comes to the conclusion that accused was last seen with both the victims without any injury mark, but later on fresh injury mark was noticed on the neck of the accused by the witnesses. The dead body was found near the place where the accused was last seen with the victims. So, this court is of the opinion that the accused has committed the murder of both the victims and concealed the body in the lake. Accordingly, the accused is found guilty for committing the offence punishable under Sections-302 and 201 of IPC. But no evidence is found for commission of offence punishable under Section-366 of IPC.

[29] After giving our anxious consideration to the facts and circumstances of the case and the evidence adduced by the prosecution, we find that the prosecution proved all the circumstances and linked them with each other in such a manner that those circumstances lead to only one conclusion i.e. the guilt of accused appellant in regard to the alleged offence and after perusal of evidences placed on record, we find no chance of any doubt that any other persons except the accused-appellant, had committed the crime. The judgments upon which the learned counsel appearing for the appeal has placed reliance have no relevance with the facts and circumstances of the present case.

[30] In our ultimate analysis, it is crystal clear that there is no reason as to why the continuity of the chain of circumstances and the complaint made against the accused-appellant to be disbelieved. All the witnesses supported the entire case of the prosecution with regard to

commission of offence by the accused-person. Hence, the conviction and sentence as held by the learned Court below stands affirmed.

[31] In the result, the appeal stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed. Send down the LCRs forthwith.

B. PALIT, J

T. AMARNATH GOUD, J

A.Ghash

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