

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

GOVERNMENT CRIMINAL APPEAL No. 1 of 2024

The State of Manipur represented by the Joint
Secretary (Home), Government of Manipur

.... Appellant

- Versus -

Laishram Ibomcha Meitei, aged about 55
years, S/o L. Bira Meitei of Khoirom Mathak
Leikai, P.O. & P.S. Yairipok, Thoubal District,
Manipur – 795149.

.... Respondent

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. KEMPAIAH SOMASHEKAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the Appellant : Mr. Athouba Khaidem, Public Prosecutor
For the Respondent : Mr. Ch. Bimolchandra, Advocate
Date of Hearing : 28.08.2025
Date of Judgment &
Order : 28.08.2025

JUDGMENT & ORDER
(ORAL)
[K. Somashekar, CJ]

[1] The appeal is directed against the judgment of acquittal rendered by the Fast Track Special Court No. 2, Manipur at Lamphelpat in Sessions Trial Case No. 01/2016/90/2020 dated 20.01.2023 whereby the accused was acquitted for the offence under Section 376 and inclusive of Section 302 of Indian Penal Code, 1860.

[2] Heard the learned Public Prosecutor for the State/appellant Mr. Athouba Khaidem and also learned counsel for the respondent, Mr. Ch. Bimolchandra.

[3] Perused the impugned judgment of acquittal in the aforesaid Special Trial Case No. 1/2016/90/2020 wherein, the impugned judgment of acquittal is consisting of evidence of PW No. 1 to 49, inclusive of exhibits/documents P – 1 to 37 and also M.O. - 1 to 27 and evidence on the part of defence DW – 1 to 5.

[4] The factual matrix of the appeal are as under.

It is stated in the complaint filed by the PW No. 1 namely, Lourembam Loken Singh that his wife namely, Lourembam Ranjita Devi was murdered by a person being alleged as accused. But, it is only on suspicious circumstances, the complaint is filed by the complainant and on the basis of the complaint, criminal law was set for motion by referring to FIR No. 72(8) 2014 YPK – PS. It is stated in the complaint that he knew

the accused person who was sitting in the dock. The deceased was his wife and was killed on 02.08.2021 at Mana Loukon.

[5] It is further stated that the complainant being a permanent resident of Yairipok Khoirom Leikai, is a farmer agriculturist by occupation and also layer by occupation. He cultivated a piece of agricultural land located at Mana Loukon which is about 6/7 Km from his house toward the east. He along with his deceased wife used to work in the said agricultural land located in the Mana Loukon.

[6] On 02.08.2014 at about 01:30 p.m. which was Saturday, his deceased wife went from his house on a cycle/captain cycle, black in colour to their agricultural land for weeding work. On the very day at about 07:10 p.m. he came to know that his wife had not returned back from their agricultural land. Then, he went to search for her on his Activa (Scooter) towards Mana Loukon. When he searched at Mana Loukon, he found their bicycle which was taken by his deceased wife at a canal of Mana Loukon. By then, it was very dark and visibility was very low. So, he went to the house of brother-in-law namely, Moirangthem Suranjoy Singh of Kakmayai to take a torch light. The said Suranjoy Singh said that he had no torch light except his mobile handset which could be used as torch light. He along with Suranjoy Singh came back to the Mana Loukon for searching his deceased wife. He parked his Activa (Scooter) at Heibi Makhong Lampak near Mana Loukon and both of them proceeded to search his deceased wife. There lies a fish farm of Luwangthem Gouro Sigh, on the south of the paddy field under their possession, from the farm

he called out his wife as "Pi Pi Pi" which is the name of his wife used by him in their house. And the said accused namely, Laishram Ibomcha Singh had answered his calls three times by saying "Ui Ui Ui". He called repeatedly in spite of going nearer to the sound and after that, the accused Laishram Ibomcha Singh asked him what was happening with the change of his sound. The said accused Ibomcha Singh also participated in searching of his wife. The complainant tried to search his deceased wife towards the western side of his paddy field but the accused Ibomcha Singh told him not to search towards the west and also said that his deceased wife could have been bitten by snake inside their paddy field and she could be found inside their paddy field. However, he proceeded towards the west of their paddy field in search of his wife. At the relevant time, some relatives and local residents also came and joined in the search of his wife. However, his wife could not be found and he took a lighter from his younger brother namely, Hemanta Singh and rushed towards their paddy field, at the usual place where they used to keep their things at their paddy field, he found sandal and other clothes of his wife inside polythene bag and an umbrella. It is stated in Manipuri language and the said averment is given in the deposition during the course of trial. When he tried to touch those articles belonging to his wife, the accused Ibomcha Singh told him not to touch them saying if his wife was taken away by evil spirits, she cannot be found. At the relevant time, the accused Ibomcha Singh appeared to have called someone in his mobile phone. Then, the accused Ibomcha Singh told him that his wife was seen cutting grass (Louri Haiba).

Thereafter, he started to search about the place where cutting of grass (Louri Haiba) was likely to be done. He along with Suranjoy Singh were searching inside the paddy field and the accused was on slightly elevated dry land. The said Suranjoy Singh shouted that there lies a bag (bora) at their paddy field. The accused Ibomcha Singh lighted his torch light and said that the dead body of his wife was lying there. He tried to proceed near the dead body but the accused Ibomcha Singh told him not to go near the dead body as some incriminating weapons may be found and it is for the police to collect any incriminating articles.

[6] The written report of the informant is shown to the witness. Exhibit PW - 1/1 is the original ejahar dated 02.08.2014 filed by the husband of the deceased and his signature is marked as Ext. PW - 1/1(1).

[7] A criminal law was set for motion by referring to FIR by the investigating agency and thereafter, the investigating officer has proceeded for investigating the accused under the provision of Sections 161 & 162 of CrPC. Subsequently, on completion of the investigation charge sheet has been filed before the committal Court for the offences under Sections 376 and 302 of Indian Penal Code, 1860.

[8] Subsequent to filing of charge sheet against the accused, the Court has secured the accused and thereafter, passed the acquittal order under Section 209 of CrPC and the case was committed to the Court of Sessions for trial. Subsequent to receipt of acquittal order which entailed filing of charge sheet, the Trial Court heard the argument

advanced by the learned Public Prosecutor and defence counsel and thereafter, framed charges against the accused for the offence under Sections 376 & 302 of Indian Penal Code, 1860.

[9] Subsequent to recording of pleas that the prosecution has led in evidences being subjected to examination of PW – 1 to 49, exhibits/documents P – 1 to 37 and also M.O. - 1 to 27 and evidence on the part of defence DW – 1 to 5. On completion of evidence on the part of prosecution, the accused is examined under Section 313 of CrPC and wherein, the accused has declined the evidence of prosecution witness and the same has been recorded separately.

[10] Subsequently, recording of incriminating statement under Section 313 of CrPC whereby, the accused was called upon to adduce evidence in detail as contemplated under Section 232 of CrPC whereby the accused adduced defence evidence as DW – 1 to 5 but, no document has been found on the part of the defence side. The defence witnesses are as under:

- (a) Lamabam Imocha Meitei (DW – 1)
- (b) Pangabam Premjit Meitei (DW – 2)
- (c) Laishram Chandrabir Meitei (DW – 3)
- (d) Laishram Kenedy Meitei (DW – 4)
- (e) Hoabam Amarjit Singh (DW – 5)

[11] Subsequent to the closure of evidence of prosecution witness and also on the side of defence counsel and whereby, the Trial Court heard the argument of the learned Public Prosecutor and learned defence counsel.

[12] The aforesaid PW – 1 has given his evidence even though he has filed a complaint as per Exhibit P – 1 and he has referred to the evidence before the Court of law relating to murder of his wife but based on the complaint, a criminal law was set in motion by referring to the FIR and thereafter, the Investigation Officer has taken up the case for investigation.

[13] Having gone through the evidence of PW – 1 wherein it has been stated that the distance between where the dead body of his deceased wife was found lying and the brick farm of the accused may be about 200 – 220 metres wherein, it is denied the suggestion made by the said accused person namely, Laishram Ibomcha Singh that he never found the sandal and other clothes of his deceased wife inside the polythene and an umbrella. These all the evidences have been made by the PW – 1 during the course of evidence. The Exhibit PW – 1 also denies the suggestion that false complaint has been initiated and fabricated document has been produced. PW – 1 has been subjected to cross-examination thoroughly and the same has been indicted in the evidence itself.

[14] PW – 2 namely, Thongram Muna Khuman is brother-in-law of the complainant and brother of the deceased, has been informed that the deceased was lying death at the scene of crime. On receiving the information, the PW – 2 went to the Mana Loukon thereby, the O.C. Yairipok Police Station conducted inquest examination of the dead body. The dead body was identified by one, Lourembam Deben Singh and the

inquest examination was conducted in presence of Chingakham Jiten Singh, Thongram Sanatomba and himself. The inquest on the dead body was conducted in the presence of witnesses as well as Exhibit PW – 2 and he has subscribed signature at the Exhibit PW -2/2(1). This PW – 2 has been subjected to the cross examination on the part of defence counsel, he had denied the suggestion that the dead body was never identified by L. Deben Sigh and also denied that the inquest examination was conducted by the O.C. Yairipok Police Station in the presence of Shri Sanatomba Singh and other witnesses. He came to know that the said paddy field belonged to Yumkhaibam Tomba Singh only told by his brother-in-law, L. Loken Singh.

[15] PW – 3 namely, Thongram Sanatomba Singh, brother of the deceased got information on 02.08.2014 at about 08:20 p.m. that his sister has not returned to her house from the paddy field and thereafter, he made in search of her at the paddy field but, could not find her at the scene of crime. However, in the presence of PW – 3, the dead body was conducted for inquest examination. The body was smeared with mud and there was also injury marks on the left side of neck of the dead body and on the other side of the face of the dead body. The O.C. Yairipok Police Station took seriously the inquest examination on the dead body and also made inquest report of the dead body and the same has been marked as Exhibit as PW – 2/2(2) and subscribed his signature.

[16] PW – 4 namely, Chingakham Jiten Singh, a farmer by profession in his evidence stated that he got information on 02.08.2014

at about 08:00 p.m. that the deceased was lying at Mana Loukon, thereby he saw the O.C. Yairipok Police Station conducted examination of the dead body. The dead body was covered with mud and was wearing a phanek covered with mud and tied with a Khwangchet and a full shirt covered with mud. There was also injury mark on the left side of the face and some injury marks were found on the back side neck which could have been caused by a sharp article/weapon. The same has been found place in the evidence of PW – 4 wherein the evidence has been maintained by the prosecution.

[17] The witness of PW – 5 namely, Lourembam Deben Singh has been secured during the course of investigation and in his presence, the O.C. Yairipok Police Station conducted seizure mahazar. Exhibit PW – 5/3 is seizure memo and Exhibit PW – 5/3(1) is the signature. The PW – 5 denies the suggestion that the I.O. of the case never found Dao from the place of occurrence. He further also denied that the O.C. Yairipok Police Station never took out the Dao and never seized the same and never made seizure memo and never put his signature on the seizure memo as seizure witness. The same has been found place in the evidence of PW – 5.

[18] PW – 7 namely, Leishangthem Amuthou Meitei is also a witness secured by the Investigation Officer relating to the making seizure mahazar in his presence. Exhibit PW – 6/4 is the seizure memo and Exhibit PW – 6/4(1) is the signature. Exhibit MO – 1 is the seized pair of sandal shown to the witness. This witness is subjected for cross-examination at length. The PW – 7 denied the suggestion that he was called by the

Investigation Officer of the case for seizure witness. It is true that he was not present on 02.08.2014 at the place of occurrence. It is also true that Shri Laishram Ibomcha Singh was arrested by the Police Personnel of Yairipok Police Station on 03.08.2014 in connection with the case and the same has been found place in the evidence of PW – 7.

[19] PW – 9 namely, Dr. Moirangthem Basantakumar conducted autopsy on the dead body of Lourembam Ranjita Devi, w/o Lourembam Loken Singh on the following injuries found :

1. *Incised wound, 7 cm x 1 cm x bone on back of neck, horizontally placed at the level of C6 vertebra, extending from just right to mid-line to the left side. The margins were red. Clean cut and bruised with fracture of C6 vertebra.*
2. *Incised wound, 6.4 cm x 1 cm x bone, on back of neck, horizontally placed at level of C5 vertebra, extending from 2 cm right to mid-line to the left side and placed parallel 2 cm above injury No. 1. The margins were red, clean cut and bruised.*
3. *Incised wound 8 cm x 2 cm x muscle, placed obliquely 2 cm behind left ear. The lower end starting from left angle of Mandible, goes upwards, obliquely and ends at occipital region, 3 cm from lower end. The margins were red, clean cut and bruised.*
4. *Incised wound 8 cm x 2 cm x bone, on left face horizontally placed, extending from 4 cm left to mid-line just below level of nose and ending laterally 1 cm below left ear with tailing for a distance of 3 cm. The margins were red, clear cut and bruised. Fracture of maxilla and mandible present.*
5. *Left ear lobule missing. Margins were red and clean cut.*
6. *Right ear lobule missing. Margins were red and clean cut.*

7. *Incised wound 3.5 cm x 1 cm x muscle, horizontally placed on front of neck at level of thyroid cartilage, the medial end 3 cm right to mid-line with tailing for a distance of 5.5 cm. The margins were red and clean cut.*
8. *Incised wound 6 cm x 0.2 cm x dermis, front of neck, horizontally placed 2 cm below injury No. 7. The left end starting 1 cm left to mid-line and the right end curving up and ending at the lower margin of injury No. 7. The margins were red and clean cut.*
9. *Scratch abrasion, 6 cm long, horizontally placed on right side of neck, 1 cm below injury No. 8, medial end 1 cm right to mid-line, red in colour.*
10. *Incised wound 7 cm x 1.5 cm x muscle, anteromedial aspect right arm, upper lateral end 3 cm below apex of axilla, lower medial end 7 cm below apex of axilla with red, clean cut, bruised margins.*
11. *Incised wound 5 cm x 1 cm x muscle, vertically placed on back of right forearm, upper end 2 cm below right elbow with red, clean cut margins.*
12. *Incised wound, 1 cm x 0.3 cm x subcutaneous tissue, on anterior aspect of right shoulder just above apex of axilla, with red, clean cut margins.*
13. *Incised wound 3.5 cm x 0.5 cm x muscle, on medial aspect palm of left hand, obliquely placed, medial lower end just above base of left little finger with red, clean cut margins.*
14. *Incised wound 1 cm x 0.5 cm x muscle, web of 3 and 4 left fingers with red, clean cut margins.*
15. *Bruise, 2 cm x 1.3 cm front of right side chest, 5 cm below tip of shoulder, red in colour.*
16. *Scratch abrasion, 4 cm long, horizontally placed front of neck, 1.5 cm below injury No. 9 medial end starting 1 cm left to mid-line, red in colour.*
17. *Scratch abrasion, 4 cm long, horizontally placed front of neck, 2 cm above injury No. 7, left side, medial end starting 1 cm left to mid-line, red in colour.*

[20] The autopsy report has been issued as Exhibit PW – 9/5; Exhibit PW – 9/5(1) to Exhibit PW – 9/5(3) are the initials. In opinion of the witness, the cause of death is due to shock and haemorrhage resulting from multiple chop wounds on the body, homicidal in nature. Time since death was about 1 – 2 days. The injuries were ante-mortem in nature and fresh at the time of death.

[21] PW – 10 namely, Yumnam Khelesh Singh is Record Clerk, Department of Forensic Medicine, JNIMS, Porompat who received the samples which are as under:

- 1. One maroon coloured Long T-shirt*
- 2. One green coloured phanek*
- 3. One multi-coloured half T-shirt*
- 4. One blue coloured bra*
- 5. One tube containing vaginal swap*
- 6. Sample of blood one piece of white cloth contained in a light green coloured envelope*
- 7. Sample of scalp hair contained in a light green coloured envelop*
- 8. One red coloured cloth used as waist tie.*

It is subjected to analyse the materials which have been forwarded by the investigating agency to the Forensic Science Laboratory authority. PW – 12 deposed before Court that she was working as Demonstrator-cum-Police Surgeon in the Department of Forensic Medicine, RIMS and issued report. Exhibit P-7/3 is her signature. Exhibit P-8 is the seizure memo dated 20.08.2014 at 04:20 p.m. For seizure of medico legal articles collected from the alleged accused on production by her. P-8/1 is her signature.

[21] PW – 11 namely, Apigam Tangkhul being an employee of the accused at the brick farm and wherein the PW – 11 is subjected for examination. But, based upon the statement as given by the said PW before the Investigating Agency, nothing was found elicited. However, the PW-11 is the vital witness subjected to the examination from proving guilt against the accused.

[22] However, the learned Public Prosecutor in this matter is facilitating some of citations :

- [1] Padala Veera Reddy Vs. State of Andhra Pradesh & Ors. [(1989) Supp (2) SCC 706]
- [2] Iqbal Moosa Patel Vs. State of Gujarat [(2011) 2 SCC 198]
- [3] Trimukh Maroti Kirkan Vs. State of Maharashtra [(2006) 10 SCC 681]
- [4] Inspector of Police, Tamil Nadu Vs. John David [(2011) 5 SCC 509]

[23] Based on the reliance facilitated by the learned Public Prosecutor in this matter, and also keeping in view of the provision of Section 27 of the Indian Evidence Act, 1872 relating to recording of disclosure statement.

[24] However, PW – 29, 32 & 37 have been subjected examination on the part of prosecution in respect of proving facts as disclosed statements have been given by the accused under Section 27 of the Indian Evidence Act, 1872 and the same has been recorded by the Investigating Officer during the course of investigation even though the PW – 29, 32 & 37 are subjected examination at length. But, nothing was found elicited on the part of prosecution proving guilt against the accused

for the offence under Sections 376 and 302 of the Indian Penal Code, 1860.

[25] Even though disclosure of statement marked as Exhibit P – 29 has been brought marked on the part of the prosecution, nothing has been found elicited by the prosecution from the guilt against the accused. It is based on the disclosure statement given by the accused before the Investigating Officer. However, disclosure of statement has been granted marked for the prosecution but, the contents therein have not been brought by the prosecution to prove the guilt against the accused under Section 302 of the Indian Penal Code, 1860 even though the charges have been framed against him. However, in the disclosure statement, the weapons have been used for the offences, the accused did not specifically mention that the weapon was discovered and seized at his instance. Even though the seizure mazahar has been conducted by the Investigation Officer, but the same has not been proved by the prosecution by facilitating evidence.

[26] The learned Public Prosecutor in this matter referred to the order dated 03.08.2014 issued by the DC/District Magistrate, Thoubal District, Manipur hereby detailing the SDO/Sub Divisional Magistrate, Thoubal District, Manipur for conducting inquest over the dead body of Lourembam Ranjita Devi relating to FIR No. 72(8) 2014 YPK-PS u/s 302 IPC. Accordingly, the inquest was conducted in the presence of witnesses at JNIMS, Porompat, Imphal and he prepared an inquest report of the dead body which is marked as Exhibit P-10.

[27] PW – 20 namely, Yumnam Herojit being a police constable, the team of the PS led by SDPO S. Hemanta on reaching the Yairipok Bazar to arrest the accused person, Laishram Ibomcha Singh, 6 (six) personnel including the said SDPO, scattered around the area. One of the team members, namely Somananda (Constable) happened to recognize the accused person and saw him proceeding towards Yairipok Pechi Road and apprehended the accused by the police team. After arresting the accused person, personal search was made by the police team but, nothing was found. The said PW saw preparing an arrest memo by the SDPO and subscribed his signature on the memo. Thereafter, the accused was taken to police station. Exhibit P-16 is the arrest memo of the accused dated 07.08.2014 at 05:04 p.m. and Exhibit P-16/1 is his signature.

[28] PW – 21 namely, Sorokhaibam Suraj, being a police constable, about 3 – 4 years back, went to the scene of crime led by O.C., Dhananjay Singh, Yairipok Police Station. On reaching the place where the dead body was lying, a lot of people gathered there. The people gathered there gave them a gunny bag and they put the dead body on the gunny bag and carried the body upto the place where the vehicle was parked. The same has been stated in the evidence and subjected examination for the prosecution. This witness is subjected to the examination for the prosecution on the part of the defence side. Exhibit P-17 is the seizure memo dated 02.08.2014 at 10:45 a.m. for the seizure of one lady bicycle and his signatory is found placed in the evidence as Exhibit P – 17/1.

[29] PW – 22 namely, Leitanthem Somorjit, being a police constable has taken his statement as evidence that on 02.08.2024, he along with a police team lead by O.C. of the case went to the Kak Mayai, Yairipok for inspection as there was a dead body lying on the paddy field. A captain bicycle was lying on the roadside near the paddy field where the dead body was lying. The people gathered at the place informed the police that the bicycle belonged to the deceased. The said bicycle was seized by their team and the Investigating Officer prepared a seizure memo and his signatory is found placed in the seizure memo. Exhibit P-7 is the seizure memo dated 02.08.2014 and Exhibit P-7/2 is his signature.

[30] PW – 23 namely, Thokchom Khamba Singh, is a police constable posted at SDPO, Yairipok Police Station. On 14.08.2014, the said SDPO seized one special case diary on production by Sub Inspector, Irom Ayingbi of Yairipok Police Station in connection with the case. Accordingly, the SDPO prepared a seizure memo and made him one of the seizure witness and put his signature on the seizure memo. Exhibit P-18 is the seizure memo dated 14.08.2014 for the seizure of one special case diary. Exhibit P-18/1 is his signature. Exhibit P-19 is the Special Case Diary. Exhibit P-19/1 is the signature of the Sub Inspector, Irom Ayingbi.

[31] PW – 26 namely, Ningombam Ranjit Singh, being a service provider in YCTV (Yairipok Cable TV), a branch of ISTV. As summoned by the O.C. for video recording of the dead body of the deceased Ranjit Devi, on reaching the scene of crime, where the incident was done in a paddy field situated at Kakyai Loukon, they found a Dao at the ground where

some water were found as he stumbled upon it while video graphing the scene where the incident occurred. Thereafter, the police seized the said Dao in presence of him and police personnel. As requested by the police, post mortem proceeding was also videographed and video cassette contained in a sealed cover in light green colour envelope was handed over. The Investigating Officer prepared a seizure memo subscribing his signature on it. The witness identifies the same before the Court. Exhibit P-15 is the seizure memo dated 03.08.2014 at 02:25 p.m. for the seizure of video cassette and Exhibit P-15/2 is his signature. Exhibit MO – 20 is the said cassette mentioned in Exhibit P-15 and Exhibit MO – 20/A and MO – 20/B are his signatures put on the cassette and envelope.

[32] However, the learned Public Prosecutor is submitting in this matter that even though the witnesses have been examined as PW – 1 to 49, PW – 41 being the Investigation Officer who had filed the charge sheet against the accused as stated in the evidence that in the year 2014, he was posted in Thoubal District as SDPO, Yairipok. On 03.08.2014 as per order of S.P. TBL vide order No. 5/2/2014/SP-TBL/2744 dated 03.08.2014, the case FIR No. 72(8) 2014 YPK, PS under Section 302/34 IPC was entrusted to him for further investigation. On examination of the case record, he found that the said case was investigated previously by Inspector K. Dhananjoy, the then O.C. of Yairipok, Police Station.

[33] He has taken up the investigation and visited the place of occurrence on 04.08.2014. The place of occurrence was located at the middle vast area of paddy field surrounded by Yairipok Chandakhong Road

in north, Kakamayai – IV Road in the west and sought and Ningen – IV Road in the east. There was thick under road of long grasses and eucalyptus trees in some area with uneven landscape. It is further stated that it took approximately 10 (ten) minutes to reach the place of occurrence from the western side of paddy field. Recording the statement under Section 161 of CrPC is included in the charge sheet.

In the seizure memo, the member of witnesses were present and seized the following incriminating articles:

- [1] Two nos. of sickles (wooden handle of length 5 and half inch, blade portion 11 inch),*
- [2] One knife with wooden handle of length 5 inch, blade portion of 6 inch,*
- [3] One big knife with broken wooden handle of length 5 iche and blade portion 10 inch,*
- [4] Four nos. of blades,*
- [5] One full sleeve shirt, greenish in colour with blood stain,*
- [6] One long pant, light green in colour blood stand,*
- [7] One phone, hitch G15 bearing No. 9862446297 from the possession of Laishram Kenedy and*
- [8] One bangle, golden in colour of 2 and half inch in diameter with white and red stone.*

These all the materials have been seized by the aforesaid Investigation Officer in presence of the witnesses, as stated in the evidence relating to conducting seizure mazahar in presence of witnesses for the offences under Sections 376 and 302 of Indian Penal Code, 1860. The Investigation Office thoroughly cross-examined DWs on the part of defence. But, these evidences have not corroborated by any independent witness.

[34] However, the learned Public Prosecutor in this matter is submitting that there shall be evidence which has been led on the part of the prosecution and the evidence has not been appreciated by the Trial Court on a proper perspective manner and therefore, it is referred to the impugned acquittal judgment rendered by the Trial Court relating to the offences under Sections 376 and 302 of Indian Penal Code, 1860. The Investigation Officer recorded the FIR No. 72(8) 2014 YPK-PS u/s 302 IPC, but subsequently thorough investigation has been done by the Investigation Officer under the provision of Section 376 of Indian Penal Code.

[35] The learned Public Prosecutor has taken through the disclosure statement recorded by the Investigation Officer as Exhibit P – 29 for the seizure of Dao. The seminal stain could be detected from the original swap of the deceased. The accused was found present at Mana Loukon on 02.08.2014 till 03:00 p.m. whereas, the P-32 is the seizure memo dated 04.08.2014 at 01:00 p.m. of the seizure of articles No. 1 – 8.

[36] All these evidences have been taken by the prosecution to prove the guilt against the accused, but the Trial Court has not appreciated the evidence on a proper perspective manner and whereby rendering the acquittal judgment. On this only premises, the learned Public Prosecutor in this matter is submitting that the acquittal judgment seeking for allowing the appeal and setting aside the acquittal judgment. Therefore, reliance has been made citing the judgments passed in **(2011) 5 SCC 509** regarding the Court of Appellate Court's power relating to acquittal

judgment and reversion. It is also relied upon the judgment passed in **(2006) 10 SCC 681** regarding in respect of Section 106 of Indian Evidence Act, 1872. Further, it is also relied upon the judgment passed in **(2011) 2 SCC 198** relating to doctrine of reasonable doubt and another in **1989 Supp (2) SCC 706** in respect of circumstantial evidence. All the reliance have been facilitated by the learned Public Prosecutor seeking intervention of impugned acquittal judgment rendered by the Ld. Trial Court. Therefore, the learned Public Prosecutor is submitting to set aside the impugned acquittal judgment of the Ld. Trial Court and consequently for considering and sentencing the accused under Section 376 and 302 of the Indian Penal Code, 1860.

Inspector of Police, Tamil Nadu Vs. John David
[(2011) 5 SCC 509]

A. *Criminal Trial – Identification of dead body/corpus delicti – Methods for – (i) DNA fingerprinting, (ii) Dental examination, and (iii) Superimposition technique – Skull, too and some other limbs recovered from different places – DA tests performed on these parts and also on father and mother of suspected deceased – Medical opinion was hat all deceased also established on the basis of DNA test performed on father and mother – Identity of deceased further established by conducting dental examination wherein silver filing was found in right upper first molar – This matched with evidence of dentist who had done filing – Superimposition technique performed on skull also establishing identity of deceased – Opinions of forensic experts accepted to sustain conviction of respondent/accused on the basis of circumstantial evidence – Criminal Trial – clues and Tell-Tale Signs / Forensics – Forensic techniques – Forensic Odontology / Dental Examination – Medical Jurisprudence/Evidence – DNA Test – Evidence Act, 1872, S. 45*

(Paras 59 to 61)

B. *Penal Code, 1860 – Ss. 302, 364, 342 and 201 – Circumstantial Evidence – Murder proved – Conviction restored – Ragging in Medical College leading to murder of junior student by senior – Murder held proved because : (i) motive established being*

ill will nurtured by senior because deceased student refused to succumb to ragging demands of accused, (ii) deceased before his disappearance was last seen alive in company of respondent – accused, (iii) conduct of respondent – accused after crime was suspicious, (iv) commission of crime was confessed by respondent-accused after 13 days, (v) various incriminating articles were also recovered based on above said confession, and (vi) identity of dead body was scientifically established even though parts of body were recovered from different locations – Senior student of a medical college alleged to have killed his juniors – killing taking place in senior's hostel room – severed head recovered from a canal in university area on basis of information disclosed by respondent/accused – Torso found in a different city – Three bones of legs found at seashore – Medical examination pointing out that all these parts belonged to same person – Deceased last seen with respondent/accused on 06.11.1996 between 12.45 pm to 2 pm by several witness and thereafter deceased not seen alive – Accused's subsequent conduct was suspicious inasmuch as he left hostel with two suitcases at about 8.00 pm on 6.11.1996 and returned on 8.11.1996 early morning at 4.00 am with those suitcases – on next day (9.11.1996), respondent/accused did not take lunch in mess and was also found in sad mood – Foul smell coming from his hostel room – On 9.11.1996 itself, respondent/accused again seen back in hostel – At about 8.10 pm on 10.11.1996 respondent/accused seen along with another person in a hotel and both of them vacating room on 12.11.1996 at odd hours (3.15 a.) – Respondent surrendering to Judicial Magistrate on 14.11.1996 – He voluntarily confessing his crime on 19.11.1996 while in police custody in presence of independent witness – Skull of deceased recovered on basis of information given by respondent/accused – three knives also recovered from hostel room – skull, torso and other limbs though recovered from different places, medically proved as belonging to deceased – blood found in suitcases found to be of same group as of deceased – held, circumstantial evidence was sufficient to prove that it was respondent/accused who killed deceased – High Court's order of acquittal set aside and trial Court's order of conviction restored – sentence of live imprisonment, confirmed – education and Universities – Ragging – Murder arising out of

(Paras 41 and 69 to 74)

- C. *Criminal Trial – Circumstantial evidence – Motive – Relevance – Malice against a junior student due to his refusal to concede to demands of his senior – Junior student in a medical college alleged to have been killed by his senior – Ill will nurtured by senior because deceased student refused to succumb to ragging demands of accused – Held on facts, such feeling was*

a relevant motive for killing junior student – Education and Universities – Ragging – Undesirable effects If
(Paras 37 to 41)

D. Criminal Trial – Circumstantial evidence – Recovery of incriminating evidence on the basis of information disclosed by accused – Incriminating value – Held, only such information which is found proximate to cause of discovery of material objects, alone is taken as admissible in law – Several incriminating objects recovered on basis of extra-judicial confession made by respondent/accused – Evidence so collected, held, rightly used against accused to convict him – Extra judicial confession/hearsay – Conviction based on, and on recovery of incriminating articles based thereon, restored – Evidence Act, 1872, S. 27

(Paras 54 to 68, 71 and 72)

E. Criminal Trial – Appeal – Appeal against acquittal – Scope of consideration by appellate court – Held, appellate court can review entire evidence and can also consider manner in which evidence was dealt with by lower court – If lower court has ignored material facts or has misread evidence or has overlooked scientific documents, decision of lower court can be set aside – Criminal Procedure Code, 1973, S. 378

(Paras 30 and 31)

F. Criminal Trial – Circumstantial evidence – Generally – Standard of proof in a case based solely on circumstantial evidence – Every incriminating circumstance, held, has to be established by cogent evidence – Circumstances so proved must form a chain of events pointing to guilt of accused person beyond all reasonable doubt without there being possibility of any other hypothesis

(Paras 33 and 34)

G. Criminal Trial – Circumstantial evidence – Generally - Cumulative effect of entire evidence to be assessed – Held, if circumstantial evidence logically and rationally points towards guilt of accused, minor loopholes and irregularities cannot defeat conviction – Failure to explain one of circumstances cannot be fatal to prosecution case – Appreciation of Evidence – Contradictions, inconsistencies, exaggerations or embellishments

(Paras 72 and 75)

H. Criminal Procedure Code, 1973 – S. 31(2) – Concurrent running of sentences – Trial Court ordering that sentences awarded to run consecutively – High Court acquitting respondent/accused – Supreme Court while restoring conviction, ordering that sentences run concurrently

(Para 75)

Trimukh Maroti Kirkan Vs. State of Maharashtra
[(2006) 10 SCC 681]

- A. Penal Code, 1860 – S. 304 – B [S. 302] – Dowry death – Circumstantial evidence – Burden of proof – Nature of – Held, is of a lighter character where the offence is committed in secrecy inside a house – In view of S. 106, Evidence Act there is also a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed – They cannot get away by keeping quiet and on the premise that the prosecution must discharge its burden of proving the case – Evidence Act, 1872, S. 106
- B. Penal Code, 1860 – S. 302 – Circumstantial evidence – Burden of proof – No explanation or false explanation against incriminating circumstance(s) – If accused fails to offer any cogent explanation or offers an explanation which is untrue, then it can be treated as an additional link in the chain of circumstances against the accused to make it complete – Evidence Act, 1872, S.106 and Ill.(b)
- C. Criminal Trial – Circumstantial evidence – Last seen together – Dowry death – Prosecution of the husband for – Where prosecution succeeds in leading evidence to show that (i) either the husband and wife were last seen together, or (ii) the offence was committed in the dwelling house, where the husband also resided, and if the accused husband offers no explanation as to the injuries received by his wife or if the explanation is false, held, there is strong circumstance which indicates that he committed the crime – Burden of proof – Penal Code, 1860, S. 304 – B
- D. Criminal Trial – Circumstantial evidence – When can conviction be solely based on – Principle restated

Iqbal Moosa Patel Vs. State of Gujarat [(2011) 2 SCC 198]

- A. Narcotic Drugs and Psychotropic Substances Act, 1985 – S. 8(c) r/w Ss. 21 & 29 and S.67 – Search and seizure – Recovery of contraband clearly established – Conviction confirmed – Search of truck, driven by A/4, who was accompanied by A-3, led to seizure of bag containing psychotropic drugs from these persons, who revealed that consignment was supplied by A-2 and whose buyer was A-1 – disclosure of A-3 and A-4, led to arrest of A-1, whose statement under S.67, furthered to raid of A-1's residence, leading to seizure of large quantity of heroin and cash – High Court affirming conviction of A-2 and appellant/accused (A-1, A-3 and A-4) – Sustainability – Held, both Courts below concurrently came to conclusion that statements of all accused persons, except A-1, were voluntary and reliable – Courts below also held that recovery of narcotic

substance from truck driven by A-4, in which A-3 was also travelling, was clearly established – Again, recovery of narcotic substance from house of A-1, also held by Courts below to have been proved beyond reasonable doubt – Assertion of A-1 that said substance was planted to implicate him was rejected by trial court – There is no error or perversity in view taken by courts below – Prosecution case stands established based on depositions of witnesses examined by it and documents produced at trial – Evidence on record totally belies version belatedly advanced by A-3 and A-4, that both or any one of them were / was unaware of presence of bag or its contents – So also argument of A-1 that house from where recovery was made was not in his exclusive possession as other members of his family were also living in the same, correctly repelled – No case made out by appellants for grant of benefit of doubt – Moreover, as appeal arising out of same judgment and order of High Court, filed by A-2, already having been dismissed by Supreme Court, hence, there is no reason to strike a discordant note – In facts and circumstances, conviction of appellants, confirmed – Criminal Trial – Co-accused – Parity between co-accused

(Paras 17 to 26)

B. Criminal Trial – Proof – Proof beyond reasonable doubt – Degree of proof required – Held, it is true that prosecution is required to establish its case beyond a reasonable doubt, but that does not mean that the decree of proof must be beyond a shadow of doubt

(Paras 23 and 24)

Padala Veera Reddy Vs. State of Andhra Pradesh & Ors.
[1989 Supp (2) SCC 706]

Criminal Trial – Circumstantial evidence – Held, on facts, circumstantial evidence not sufficient to conclusively establish guilt of accused persons – Conduct of the accused must be seen in its entirety – Mere suspicion not enough – Penal Code, 1860, Sections 302/34 and Section 498-A – Evidence Act, 1872, Section 8

Evidence Act, 1872 – Section 45 – Handwriting – Alleged letters written by deceased not sent to handwriting expert – No adverse inference could be drawn on the basis of such letters

[37] On the other hand, learned counsel for the respondent/accused is submitting the written argument in detail wherein he has taken through the Trial framed charge against the accused for the offence under Sections 376 and 302 of Indian Penal Code, 1860. But, the

entire case is based on the circumstantial evidence. There is no witnesses to commission the crime, there is definite requirement of law that heavy onus lies upon the prosecution from proving guilt against the accused but the complete of chain of events on circumstances have not been established by the prosecution even though they have been subject to the examination of several witness of PW – 1 to 49, several documents as Exhibit P – 1 to 37 and inclusive of MO – 1 to 27.

[38] The settled principle of criminal jurisprudence is that the burden of proof lies on the prosecution and it has to prove a charge beyond reasonable doubt. Wherein, the learned counsel for the respondent/accused is referring the judgment passed in ***Sharad Birdhi Chand Sard vs. State of Maharashtra (1984) 4 SCC 116*** regarding the 5(five) golden principles to prove a criminal case based on circumstantial evidence:

- (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, 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 with the innocence of the accused and must show that in all human probability the act must have been done by the accused.*

[39] It is further, contended that the judgment in ***Sattatia vs. State of Maharashtra (2008) 3 SCC 210*** it was held in paragraph No. 10 and 17 of the judgment as follows :

"10. We have thoughtfully considered the entire matter. It is settled law that an offence can be proved not only by direct evidence but also by circumstantial evidence where there is no direct evidence. The Court can draw an inference of guilt when all the incriminating facts and circumstances are found to be totally incompatible with the innocence of the accused. Of course, the circumstances from which a inference as to the guilt is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principle fact sought to be inferred from those circumstances....."

17. At this stage, we also deem it proper to observe that in exercise of power under Article 136 of the Constitution, this Court will be extremely loath to upset the judgment of conviction which is confirmed in appeal. However, if it is found that the appreciation of evidence in a case, which is entirely based on circumstantial evidence, is vitiated by serious errors and on that account miscarriage of justice has been occasioned, then the Court will

certainly interfere even with the concurrent findings recorded by the trial court and the High Court (Bharat vs. State of M.P. (2003) 3 SCC 106. In the light of the above, this Court shall now consider whether in the present case the prosecution succeeded in establishing the chain of circumstances leading to an inescapable conclusion that the appellant and committed the crime.”

[40] Keeping in view of the aforesaid legal principle laid down by the Hon'ble Supreme Court, in the mind of this Court has to analyse the present prosecution evidence as follows:

1. *The facts of having last seen the victim/deceased with the accused to a place or to the place of occurrence on 02/08/2014 in between 11:30 am to 08:20 pm has not proved from the testimony of prosecution witnesses.*
2. *The victim left alone her house at Yairipok Khoirom Mathak Leikai at about 11:00 am on 02/08/2014 the victim by riding a captain bicycle to reach the paddy field located at Mana Loukon Kak Mayai. The victim had brought a Thangjou with her.*
3. *The name of the accused did not find place in the FIR lodged by the complainant.*
4. *The brick field belonging to the accused and a fish rearing pond are also located near the place of occurrence. On the date of occurrence in the relevant time, the accused and Apigam Tangkhul (PW 11) and also the family members of the accused were in the said brick field.*
5. *The occurrence was on 02/08/2014 and arrested the accused on 07/08/2014 as per charge sheet (Ext. P/37) there is delay in medico legal examination of the accused by the doctor (PW 12) on 20/08/2014 which affected the credibility of the prosecution case.*

[41] All these contentions have been taken by the learned counsel for the respondent/accused in this matter and also is submitting

that there is no chain of circumstances pointing towards the commission of offence under Sections 376 and 302 of IPC, 1860. The FSL report exhibited as Exhibit P – 10 has not been corroborated with the case of prosecution and no facility of DNA profiling for individual identification and the exhibit has been referred to a competent authority where the DNA profiling facility is available. No step has been taken for further DNA profiling to a competent laboratory.

[42] All these contentions have been taken by the learned counsel for the respondent/accused and proper action is taken relating to evidences have been led in by the prosecution to prove the serious offence under Sections 376 and 302 of the Indian Penal Code, 1860 and therefore, seeking for consideration of contentions made in the written submission note and the acquittal judgment rendered by the Trial Court is found to be justifiable and acceptable and consequently, the appeal is liable to be dismissed and confirmed the judgment of acquittal.

[43] With the background of the said argument advanced by learned Public Prosecutor for the appellant/State and equally the argument advanced by the learned counsel for the respondent/accused, but it is relevant to refer the judgment rendered by the Hon'ble Supreme Court of India reported in **AIR 2017 SC 804** that trial by a Court without jurisdiction, serious irregularities in trial due to misconception of nature of proceedings or irregularities, that result in miscarriage of justice are circumstances justifying order of retrial. The same has been reflected in

the aforesaid judgment of ***Ajay Kr. Ghoshal vs. State of Bihar [AIR 2017 SC 804]***.

[44] It is also to refer the judgment of the Hon'ble Supreme Court of India reported in ***AIR 2005 SC 119 [State of West Bengal Vs. Kailash Chandra Pandey]*** wherein, the appellate Courts should not normally re-appreciate evidence.

[45] It is duty of an Appellate Court to look into the evidence adduced in the case and arrive at an independent conclusion as to whether the said evidence can be relied upon or not and even it can be relied upon the then whether the prosecution can be said to have proved beyond reasonable doubt on the said evidence. The credibility of a witness has to be adjudged by Appellate Court in drawing inference from proved and admitted facts. The same has been reflected in the judgment of Hon'ble Supreme Court of India reported in ***AIR 2000 SC 361 [Padam Singh vs. State of Uttar Pradesh]***.

[46] In the judgment of Hon'ble Supreme Court reported in ***(1997) 3 Crimes 102 (Raj) [Mahendra Singh vs. State of Rajasthan]***, it has been held that the law clearly expects the Appellate Court to dispose of the appeal on merits not merely by perusing the reasoning of the Trial Court in the judgment, but by cross-checking the reasoning with the evidence on record with a view to satisfying itself that the reasoning and findings recorded by the Trial Court are consistent with the material on record.

[47] The Hon'ble Supreme Court of India in the judgment of ***Lalit Kumar Sharma Vs. Superintendent and Remembrancer of Legal Affairs, Government of West Bengal [(1989) Cr LJ 2297 : AIR 1989 SC 2134]***, held that the power of an Appellate Court to review evidence in appeal against acquittal is as extensive as its powers in appeal against convictions but Appellate Court should be slow in interfering with the order of acquittal.

[48] In an appeal against acquittal the appellate court has the undoubted power to review the entire evidence and to come to its own conclusion, but, in doing so, it should not only consider every matter on record having a bearing on the question of fact and the reasons given by the Court below in support of its order of acquittal but also should express the reasons in its judgment which let it to hold that the acquittal was not justified. The Bombay High Court held the aforesaid in the judgment of ***State of Maharashtra vs. Josheph Mingel Koli [(1997) 2 Crimes 228 (Bom)]***.

[49] In the instant case at hand is concerned, it is relevant to refer the judgment of ***Raja vs. State [(1997) 2 Crimes 175 (Del)]*** wherein the Delhi High Court held that it is well known principle of law that reliance can be based on the solitary statement of a witness if the Court comes to the conclusion that the said statement is the true and correct version of the case of the prosecution. In the aforesaid judgment, it has also been held that the Courts are concerned with the merit of the statement of a

particular witness. They are not concerned with the number of witnesses examined by the prosecution.

[50] In the judgment of ***State of Uttar Pradesh Vs. Kishanpal [2008 (8) JT 650 : 2008 (11) Scale 233]***, the Hon'ble Supreme Court of India held that it is the quality of the evidence and not the quantity of the evidence which is required to be judged by the Court to place credence on the statement.

[51] It is also relevant to refer the judgment of Hon'ble Supreme Court in ***Laxmibai (Dead) through LRs vs. Bhagwabura (Dead) through LRs, [AIR 2013 SC 1204]*** wherein it has been held that in the matter of appreciation of evidence of witnesses, it is not number of witnesses, but quality of their evidence which is important, as there is no requirement in law of evidence that any particular number of witnesses is to be examined to prove / disprove a fact. It is a time-honoured principle, that evidence must be weighed and not counted. The test is whether the evidence has a ring of trust, is cogent, credible and trustworthy or otherwise. The legal system has laid emphasis on value provided by each witness, rather than the multiplicity or plurality of witnesses. It is quality and not quantity, which determines the adequacy of evidence as has been provided by Section 134 of the Act.

[52] In the judgment of ***Lallu Manjhi vs. State of Jharkhand [AIR 2003 SC 854]*** in relating to the present case, the Hon'ble Supreme Court observed that the law of evidence does not require any particular

number of witness to be examined in proof of a given fact. However, faced with the testimony of a single witness. The Court may classify the oral testimony of single witness, the Court may classify the oral testimony into three categories, namely, (i) wholly reliable, (ii) wholly unreliable and (iii) neither wholly reliable nor wholly unreliable. In the first two categories, there may be no difficulty in accepting or discarding the testimony of the single witness. The difficulty arises in the third category of cases. The Court as to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial, before acting upon testimony of a single witness.

[53] However, in the instant case, the prosecution has been subjected examination of PW – 1 to 49 and several documents have been exhibited as Exhibit P – 1 to 37 and inclusive of MO – 1 to 27. Several witnesses have been subjected examination but, keeping in view of the contents in the Exhibit P – 1 of the complaint, under complaint has been filed by the PW – 1 who is no other than, the husband of the deceased. But, the prosecution has not been done beyond the reasonable doubt.

[54] The learned Public Prosecutor has facilitated several citations relating to seeking for reversion of the acquittal judgment rendered by the Trial Court. However, the Trial Court has rendered the said judgment based on the witnesses adduced and even though the relying upon the evidence of DW – 1 to 5 and inclusive of the contents in the Exhibit P – 1 of the complaint, but the FIR has been recorded by the Investigating Agency which is based on the information by the PW – 1

who is no other than the husband of the deceased. Subsequent to the investigation has been done by the Investigating Agency and added the provision of Section 376 of IPC. The accused was facing trial for the offence under Section 376 and inclusive of Section 302 of IPC, but the prosecution has not been able to establish any guilty against the accused by facilitating evidence and the same has been seen in the evidence which has been facilitated in the prosecution.

[55] In the given case is concerned, it is relevant to refer the judgment of Hon'ble Supreme Court in ***Ram Niwas Vs. State of Haryana [(2022) 15 SCC 306]***;

Criminal Trial – Confession – Extra Judicial confession/Hearsay – Extra Judicial confession – it can be used in limited circumstances and should be corroborated – but, one made in police custody cannot be utilised – utmost caution required if case hangs on extra-judicial confession corroborated only by circumstantial evidence – Evidence Act, 1872 Section 6 and 24. In the aforesaid judgment, it has been held that the concept of extra-judicial confession is primarily a judicial creation, and must be used with restraint. Such a confession must be used only in limited circumstances, and should also be corroborated by way of abundant caution. However, an extra-judicial confession while in police custody cannot be allowed. Moreover, when there is a case hanging on the extra-judicial confession, corroborated only by circumstantial evidence, then the Courts must treat the same with utmost caution.

Criminal Trial – Proof – Suspicion – Conviction on ground of – Impermissibility of – Held, it is settled law that suspicion, however strong it may be cannot take place of proof beyond reasonable doubt – Accused cannot be convicted on ground of suspicion, no matter how strong it is – Accused is presumed to be innocent unless proved guilty beyond reasonable doubt. The same has been addressed in detail in para No. 26 of the aforesaid judgment as thus :

In para No. 24, 25 and 26 of the aforesaid judgment, it has been held thus -

"24. The prosecution case rests on circumstantial evidence. The law with regard to conviction on the basis of circumstantial evidence has very well been crystallised in the judgment of this Court in **Sharad Birdhichand Sarda Vs. State of Maharashtra**, wherein this Court held thus : (SCC pp. 184 – 85, paras 152 – 54).

"152. Before discussing the cases relied upon by the High Court we would like to cite a few decisions on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. The most fundamental and basic decision of this Court is **Hanumant Vs. State of M.P.** This case has been uniformly followed and applied by this Court in a large number of later decisions up-to-date, for instance, the cases of **Tufail Vs. State of U.P.** and **Ram Gopal Vs. State of Maharashtra**. It may be useful to extract that **Mahajan, J.** has laid down in **Hanumant case** (Hanumant case, SCC pp 76-77, para 12).

"12. It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the 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. In other words, there 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."

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 Vs. State of Maharashtra** where the observations were made: [SCC p. 807, para 19 : SCC (Cri) p. 1047].*

"19. 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 with the innocence of 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.

(emphasis in original)

25. This Court has held that there has to be a chain of evidence so complete so as not to leave any reasonable ground for a 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. It has been held that the circumstances should be of a conclusive nature and tendency. This Court has held that the circumstances should exclude every possible hypothesis except the one to be guilty. It has been held that the accused "must be" and not merely "may be" guilty, before a Court can convict.

26. It is settled law that the suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt."

[56] Keeping in view of the reliance rendered by the Hon'ble Supreme Court of India, in the instant case, it is deemed to appropriate to state that the prosecution has miserably failed to prove the guilt against the respondent/accused by facilitating the positive evidence, corroborative evidence and acceptable evidence, even though several witnesses have been examined in view of the above said reasons and observations, we have to proceed to pass the following order:

The present appeal preferred by the appellant/State under Section 378 of CrPC is hereby dismissed and consequently, the judgment of acquittal rendered by the Ld. Fast Track Special Court No. 2, Manipur at Lamphelpat in Special Trial Case No. 01/2016/90/2020 dated 20.01.2023 is hereby confirmed.

JUDGE

CHIEF JUSTICE

FR/NFR

Bipin