



In The High Court for the States of Punjab and Haryana
At Chandigarh

CRA-D-228-DB-2005 (O&M)
Date of Decision:- 07.02.2025

Ramesh Kumar ... Appellant
Versus
State of Haryana ... Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Arnav Sood, Advocate, Amicus Curiae,
for the appellant.

Mr. Munish Sharma, DAG, Haryana.

GURVINDER SINGH GILL, J.

1. Appellant Ramesh Kumar assails judgment dated 23.02.2005 and order dated 25.02.2005 passed by Additional Sessions Judge, Gurgaon whereby he has been held guilty and sentenced as under:-

Section	Sentence
302 IPC	To undergo life imprisonment and to pay a fine of Rs.2000/-. In default of payment of fine he shall further undergo rigorous imprisonment for four months
364 IPC	To undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.1000/-. In default of payment of fine he shall further undergo rigorous imprisonment for two months
201 IPC	To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1000/-. In default of payment of fine he shall further undergo rigorous imprisonment for two months

2. The matter arises out of FIR No.548, dated 17.5.1997, Police Station City, Gurgaon, under Sections 364, 302, 201/34 IPC (Ex.PE/1) lodged



on the statement of complainant Dinesh Kataria (Ex.PE), wherein he stated that he was having a white coloured Maruti car bearing registration No.HR-26-C-1516 which was being used as a 'taxi' and that he had employed Sanjiv Kumar as a driver since the last three months. Complainant alleged that his car had been hired by Jayant etc. on 13.5.1997 for travelling from Gurgaon to Rohtak, but neither his car nor his driver had returned back till date (17.5.1997). Complainant suspected that Jayant etc. may have killed his driver Sanjiv Kumar by taking his vehicle somewhere away from Rohtak.

3. It is the case of prosecution that on 16.5.1997 a dead body lying in the pits on the straw of mustard crop was noticed by Duli Chand, Chowkidar of village Shahpur, District Panipat (PW-2) at about 6.30 pm and he accordingly gave information to the police. On the basis of said information DDR No.26 dated 16.5.1997 came to be recorded.
4. SI Ramphal SHO, Police Station Israna (PW-1) went to the spot where the dead body was stated to be lying which was got photographed. Inquest report was prepared. The dead body was sent for post mortem examination to General Hospital, Panipat, but since body had decomposed, the same was sent to Medical College and Hospital, Rohtak where post mortem examination was conducted.
5. Some relevant developments which had taken place are stated herein-under chronologically:



20.05.1997: As per prosecution, Ramesh Kumar was arrested by the police in Madhya Pradesh while in possession of car bearing registration No. HR-26-C-1516 as he could not furnish satisfactory information regarding ownership and consequently intimation was sent to Superintendent of Police, Gurgaon.

25.5.1997: As per prosecution, the complainant upon getting information regarding recovery of dead body in the area of Police Station Israna went to the police station along with Manjit Singh brother of deceased where the photographs of dead body and the clothes of the deceased were shown to Manjit Singh which were identified by him to be that of Sanjiv Kumar. Accordingly, Section 302 and 201 IPC were added in the FIR.

29.5.1997: Accused Jayant was arrested and upon interrogation he made disclosure statement Ex.PH and identified the place of occurrence on 01.06.1997 regarding which identification memo Ex.PC was prepared. Site plan of occurrence was prepared vide Ex.PJ.

14.6.1997: Appellant Ramesh Kumar who had been arrested by the police of Madhya Pradesh was formally arrested in the instant FIR. During the course of interrogation he



suffered a disclosure statement Ex.PK and identified the place of occurrence on 16.6.1997 in respect of which identification memo was prepared.

6. Investigation was conducted in the matter during the course of which statement of witnesses were recorded in terms of Section 161 Cr.P.C. Upon completion of investigation a challan was presented against the accused in the Court of Chief Judicial Magistrate, Gurgaon, who committed the case to the Court of Sessions vide order dated 16.08.2002. Charges were framed against the accused for offence punishable under Sections 364, 302 and 201 of IPC by learned Additional Sessions Judge, Gurgaon on 25.09.2002 to which accused pleaded not guilty and claimed trial.
7. The prosecution in order to substantiate its case examined as many as 16 PWs. The gist of their testimonies is being briefly referred to herein under:-

PW-1 SI Ram Phal stated that on 16.5.1997 while he was posted as SHO Police Station Israna, the chowkidar of village Shahpur furnished information regarding a dead body lying by the side of Shahpur-Gohana road. He stated that he recorded the said information in DDR (Mark A) and proceeded to the spot where the dead body was photographed and inquest report was prepared and thereafter the dead body was sent for post mortem examination to the hospital. He further stated that on 25.8.1997 (in fact 25.5.1997) ASI



Ved Parkash came to police station Israna accompanied by Manjit Singh brother of deceased who identified the clothes and the photographs of the deceased to be that of Manjit Singh's brother namely Sanjiv Kumar in respect of which identification memo Ex.PB was prepared.

PW-2 Duli Chand stated that he had remained Chowkidar of village Shahpur and that 5 ½ years back he had come across a dead body lying by the side of road leading from Shahpur to Gohana and had furnished information to the police.

PW-3 ASI Nand Lal stated that on 16.5.1997 he was posted as MHC at Police Station Israna and that on 18.5.1997 SI Ramphal deposited the clothes of an unknown deceased with him. He further stated that on 25.5.1997 ASI Ved Parkash, Police Station City, Gurgaon came along with Manjit Singh and before whom the aforesaid articles and photographs of the dead body were produced and that Manjit Singh identified the said articles to be that of his brother Sanjiv Kumar.

PW-4 Manjit Singh stated that Sanjiv Kumar was his brother and was working as a driver for Maruti car bearing registration No. HR-26-C-1516 and that the said car had been hired by someone on 13.6.1997 for travelling from Gurgaon to Rohtak, but his brother did not come back. He stated that on 25.6.1997 the police brought the accused in the police station and in his presence the accused took them to a place situated in District Panipat and pointed out a place to be the place of



murder of his brother and in respect of which the police had prepared a memo Ex.PJ which he had duly attested along with Yash Pal. He further stated with respect to identification of the clothes of his brother and the photographs of the dead body which had been shown to him at the police Station Israna.

PW-5 Dinesh Kataria stated that he is owner of Maruti car bearing registration No.HR-26-C-1516 and that deceased Sanjiv Kumar had been employed by him as a driver for the said car in the month of May, 1997. He stated that on 13.5.1997 his car had been hired by one Jayant for the purpose of travelling from Gurgaon to Rohtak and that his driver Sanjiv Kumar left for Rohtak on 13.5.1997 along with the person who had hired his car, but did not return back and consequently he lodged report Ex.PE on 17.5.1997. He further stated that after about a month, his car was recovered by the police from Madhya Pradesh.

PW-6 Satish Kumar stated that on 16.5.1997 he had taken photographs of the dead body lying in the area of village Shahpur and after getting the same developed he had handed over the photographs and the negatives to the police, but the same were not available on the police file.

PW-7 Dr. Vijay Pal Khanagwal, Reader Department of Forensic Medicine, PGIMS Rohtak stated that on 18.5.1997 he had conducted post mortem examination on an unidentified body. He described the



14 injuries found on the dead body. He further stated that body was emitting foul smell and maggots were crawling all over the body. He opined that the cause of death due to injuries having been caused by some hard and blunt objects and that probable time that had elapsed between death and post mortem was between 4 to 7 days.

PW-8 Mahender Singh Gaur, SHO Police Station Jiwajiganj, District Ujjain, stated that on 20.5.1997 he was posted as SHO Police Station Maksi District Shahjapur, Madhya Pradesh and on the said day during the course of patrolling a Maruti car bearing registration No.HR-26C-1516 had been seized from accused Ramesh who was accompanied by Rakesh Kumar as he could not furnish satisfactory information regarding ownership of the vehicle and that both of them were arrested under the provisions of Section 41(i)(d) Cr.P.C./379 IPC and were produced before the Court at Shahjapur and intimation was sent to District Superintendent of Gurgaon.

PW-9 Javed Khan, retired Inspector, stated that on 26.8.1997 he was posted as SHO Police Station Gurgaon and that upon completion of investigation in the present case he had prepared the final report under Section 173 Cr.P.C.

PW-10 Vijay Singh, retired Sub Inspector, stated that on 17.5.1997 he was posted as ASI in Police Station City Gurgaon and that upon receipt of an application Ex.PE, he had registered formal FIR Ex.PE/1.



PW-11 SI Ved Parkash stated that on 25.5.1997 he was posted as ASI at Police Station Gurgaon and that upon receipt of information regarding a dead body he had visited Police Station Israna along with Manjit Singh brother of deceased and that upon seeing the clothes of the deceased and photographs of the dead body Manjit Singh identified the same to be of his brother Sanjiv Kumar.

PW-12 Inspector Bharat Singh stated that on 26.5.1997 he was posted as Sub Inspector at Police Station Gurgaon and that on the said day complainant Dinesh Kataria reported that two persons along with his Maruti car had been arrested in Madhya Pradesh and that he proceeded to the police station in Madhya Pradesh and took into possession the car bearing registration No.HR-26-C-1516. He further stated that on 29.5.1997 he arrested accused Jayant and upon his interrogation he made a disclosure statement Ex.PH. On 01.06.1997 Jayant led the police to the place of occurrence where identification memo Ex.PC and that a site plan Ex.PJ were prepared.

PW-13 Mahender stated that on 15.6.1997 he along with Manjit Singh went to police station Gurgaon where accused Ramesh was interrogated by the police during the course of which he made a disclosure statement Ex.PK disclosing that the dead body had been buried under 'toori' of 'Sarson' (straw of mustard crop) at Village Sarana.



PW-14 Raj Kumar stated that on 29.5.1997 he and his brother Lilu Ram had gone to police station City Gurgaon and had informed that Jayant had been seen going towards Patel Nagar. He stated that upon receipt of said information ASI Bharat Singh and other police officials, his brother and Dinesh Kataria went to Patel Nagar from where Jayant was arrested by the police. He further stated that upon interrogation Jayant suffered disclosure statement Ex.PH to the effect that he and Ramesh Kumar had concealed the dead body of Sanjeev Kumar under '*toori*' of '*Sarson*' (straw of mustard crop).

PW-15 Ramkishan stated that on 16.6.1997 he had accompanied police officials, accused Ramesh Kumar and Manjit to village Shahpur where Ramesh led the police party to the place where dead body of Sanjiv Kumar had been buried under '*toori*' and accordingly identification memo Ex.PD was prepared.

PW-16 Head Constable Shri Ram Verma stated that on 27.5.1997 he was posted as Head Constable at Police Station Maksi (Madhya Pradesh) and that on the said day he had handed over Maruti car bearing registration No.HR-26-C-1516 including RC to SI Police Station City Gurgaon.

8. Upon conclusion of prosecution evidence, the entire incriminating evidence was put to the accused in terms of Section 313 Cr.P.C. to enable them to explain the same, but the accused denied the entire



prosecution case in toto and pleaded false implication. The accused however, did not lead any evidence in their defence.

9. The trial Court upon considering the evidence on record returned its finding to the effect that while the prosecution had failed to establish charges framed against accused Jayant, but found accused Ramesh Kumar guilty for offence under Sections 302, 364 and 201 IPC vide judgment dated 23.02.2005 which is assailed in this appeal.
10. Learned counsel for the appellant submitted that he has falsely been implicated in the present case and that it is a case based totally on circumstantial evidence wherein the prosecution has miserably failed to establish its case. It has further been submitted that the appellant is neither named in the FIR nor the complainant has stated a word against him while in the witness box and nor did he have any motive to eliminate the deceased and that the only evidence alleged against him is that he along with Rakesh Kumar were found travelling in a car bearing No.HR-26-C-1516 in Madhya Pradesh and that co-accused Jayant who had been arrested by the police had suffered a disclosure statement Ex.PH wherein he had disclosed about concealment of the dead body by him as well as by Ramesh Kumar.
11. It has been submitted that the aforesaid disclosure statement cannot be said to be inculpatory qua appellant-Ramesh Kumar as a statement made in terms of Section 27 of Evidence Act can at best be used against the maker of such statement qua the limited factum of any



recovery made pursuant thereto and by no stretch of imagination can be used against a co-accused. Since, co-accused Jayant at whose disclosure statement the prosecution is relying has already been acquitted by the trial Court, the appellant in any case would deserve to be acquitted.

12. Opposing the appeal, learned State counsel submitted that since it is a case where the appellant alongwith Rakesh was found in possession of the car of complainant and could not furnish any explanation in respect of their possession, a strong presumption could safely be drawn against the appellant particularly when co-accused Jayant had also made a disclosure statement regarding involvement of the appellant. Learned State counsel thus prayed for dismissal of the appeal.
13. This Court has considered rival submissions and have also perused the record of the case.
14. Before proceeding to examine the evidence collected by the prosecution against the appellant to establish the allegations of having murdered the deceased, it is apposite to first of all briefly refer to the medical evidence led by the prosecution as regards the death of Sanjiv Kumar. The prosecution has examined PW-7 Dr. Viay Pal Khanagwal who had conducted the post mortem examination who while in the witness box described the injuries found on the dead body as under:



- “1. A reddish contusion of size 5 x 3 cm present over right side of forehead at its centre at a level 2 cm. away from mid line and 2.5 cms. above medial extremity of right supraorbital margin. On dissection the underlying tissues were ecchymosed.
2. A lacerated wound having reddish margins and of size 2.5x1 cm. over right side of forehead 7 cm. away from midline 4 cms. Above lateral margin of right superorbital ridge in transversely oblique direction. On dissection, the underlying tissues were ecchymosed.
3. A lacerated wound having reddish margins and of size 3 x 1.5 over right side of forehead. 7.5 cm. away from mid line and 5 cm above lateral margin of right supraorbital ridge and 1 cm. superolateral to injury No.2. On dissection the underlying tissues were ecchymosed.
4. A lacerated wound of size 3 x 1 cm. having reddish margins present over scalp at a level 5 cms. anterior to vertex and 9 cm. above glabella i.e. situated over right frontal region in transverse plane at a level 1 cm. away from midline. On dissection the underlying scalp was ecchymosed.
5. A lacerated wound having reddish margins and of size 2.5 x 1 present over right parietal region of scalp in coronal plane (transverse) situated 5 cms. lateral to midline and 13.5 cm. above mastoid process. On dissection the underlying tissues were ecchymosed.
6. A lacerated wound having reddish margins and of size 2.5 x 1 cm over the right parietal region of scalp situated 4.5 cms. away from mid line and 13 cms. above mastoid process. On dissection the underlying tissues were ecchymosed.
7. A lacerated wound of size 2.5 x 1 cm. having reddish margins present over right parietal region of scalp situated at a level 7 cms. away from mastoid process and 6 cms. Away from midline. On dissection underlying tissues were ecchymosed.
8. A lacerated wound of size 3 x 1.5 cm. present in sagittal reddish margins plane at the level of vertex. It had dissection margins. On dissection underlying tissues were ecchymosed.
9. A lacerated wound having reddish margins and of size 3.5 x 3 cm present over right parietal eminence at a level 7.5 cm. away from mastoid process and 2.5 cms. posterolateral to injury no.8. on disec-



tion, the underlying scalp was ecchymosed and an irregular haemotoma of size 9 x 6 cms. present outside the duramater in the region overlying the right parietal lobe of cerebral hemisphere, whereas the brain matter was liquified and consisted of bloody pasty material more so on the right side.

10. A lacerated wound of size 5 x 3.5 cms. present over right parietooccipital region of scalp in coronal plane situated at a level 4 cm. away from midline along the right limb of lamboid suture. On dissection the underlying scalp was ecchymosed and infiltration of blood present in the pericranium.
11. A lacerated wound of reddish margins measuring 5 x 3.5 cms. over right side of occipital region of scalp 1 cm. away from mid line and 1 cm. below occipital protuberance in vertical plane. The underlying scalp was ecchymosed.
12. A lacerated wound of size 2 x 1 cm. present over right occipital region of scalp 2-5 cm. away from mid line and 4 cms. below occipital protuberance. On dissection, the underlying scalp was ecchymosed.
13. A lacerated wound of size 2 x 1 cm. present over left occipital region of scalp situated 1 cm. Away from midline and at the level of occipital protuberance. The underlying tissues were ecchymosed.
14. A lacerated wound of size 5 x 3.5 cms. present over the scalp at the level of left parietal eminence and situated 6.5 cm. away from mid line on the left side. It was present along the sagittal plane. On dissection, the underlying tissues were ecchymosed and an extradural haemotoma measuring 8 x 4 cm. was present over the duramater covering the left cerebral hemisphere in the middle cranial fossa.”
15. PW-7 further recorded some observations and also opined about the cause of death while stating as under:

“..... The body was emitting foul smell. Maggots of size 0.5-1 cm. were crawling all over the body more so over the



face inside mouth over trunk and perineal
region.....

In my opinion the dead body was of a young adult male in advance stage of putrification. The cause of death was head injury, which was caused by hard and blunt objects. The injuries were antemortem in nature and sufficient to cause death in ordinary course of nature.”

- 16. PW-7 was briefly examined, but nothing could be elicited so as to doubt either the veracity or the opinion of the said doctor. Thus, it goes without saying that it is a case of homicidal death.
- 17. Since, there is no direct evidence to establish as to who had killed the deceased, the prosecution banks upon circumstantial evidence. As per prosecution, on 20.05.1997 the car in question was found in possession of appellant Ramesh Kumar and one Rakesh in Madhya Pradesh and that they could not furnish any satisfactory information regarding ownership. The prosecution also banks on disclosure statement made by co-accused Jayant who was arrested on 29.5.1997 and who upon interrogation suffered disclosure statement Ex.PH wherein he stated as under:

“On 13.5.1997, I and Ramesh Kumar son of Latoori Lal Bansal resident of Garhi partapur now of Gurgaon, we both hired from Bus Stand Gurgaon. Maruti Car No. HR-26 C/1516 whose driver was Sanjeev Kumar son of Leelu Ram Saini resident of Gurgaon Village for Rs. 800/- for going to Rohtak and from Rohtak I had to go to meet my sister Babita living in Bandh (Panipat) and after reaching Rohtak Sanjeev Kumar driver refused to go further and from Rohtak city we purchased half bottle of English wine from some unknown person and we made Sanjeev Kumar to consume



the same and after that he became ready to go further with the Car and we started from Rohtak. I and Ramesh Kumar while sitting on back seat thought to kill Sanjeev Kumar Driver loot the Maruti Car Sanjeev Kumar was driver the vehicle and when we reached ahead of Gohana at about 1.00 PM 9(night) near village Shahpur, there was lying an Iron rod in the vehicle which I picked up the same and started giving blows to Sanjeev Kumar from backside on his head continuously and there after I handed over the said rod to Ramesh Kumar and then I caught hold of Sanjeev Kumar on front seat and then Ramesh Kumar also by giving continuous blows again and again on his head seriously injured him and ultimately finished him and thereafter dead body of Sanjeev Kumar was placed in the back portion of the Maruti Car and after driving the car further and then burrying the dead body in the wood/fodder of mustered oil seed lying in a field we returned to Gurgaom and we had to go to attend marriage of cousin(son of sister of mother) of Ravi kumar their friend at Agra and from Gurgaon, I Ramesh Kumar and our friend Ravi Kumar and Rajesh Kumar reached Agra alongwith them in same Maruti Car and till reaching Agra we did not disclose anything to anybody and on 18.5.97, I and Ramesh Kumar thought to sell the said Maruti Car and for that reason Ravi Kumar was left at Agra and on 18.5.97 I and Ramesh Kumar left for Indore along with the Maruti Car. I know how to drive and when we started, our friend Rajesh son of Nanwa Harijan resident of Gurgaon village also pressed for accompanying us and he sat in the Maruti Car. We both pressed him not to accompany us as we would be returning back very early but he did not agree and we all three left for Indore in that Maruti Car. neither we told anything to Rajesh Kumar nor he know anything. When we reached 20/25 Kilometer ahead from Sajampur (MP) in the Maruti Car, then police of police Station Maksi (MP) stopped our car and we all the three were apprehended on 20.5.97 and the Maruti Car was also seized. When we were in custody in police station Maksi I pretended to urinate and under that excuse I fled from the Police station and Ramesh Kumar and Rajesh remained in the police station Maksi. I had with me one Pager (Telephone) belonging to deceased Sanjeev Kumar which was also taken into possession from me by the police and I returned



to Gurgaon by Rail and today when I was going to my house in Power House Patel Nagar, I have been apprehended by you. I and Ramesh Kumar only know about the murder of Sanjeev Kumar son of Leelu Ram Saini resident of Gurgaon village and none else. The Rod with which we had killed Sanjeev Kumar the same remained in the vehicle and while it was moving the said rod was thrown on the road. I and Ramesh Kumar had killed Sanjeev Kumar in moving car by giving him blows with rod. Where we had buried dead body of Sanjeev Kumar under the wood/fodder of mustered oil seed in the field can be pointed out by me.”

18. Pursuant to disclosure statement Ex.PH, Jayant led the police party to a place pointing out that it was there that he along with appellant had concealed the dead body of Sanjeev Kumar. Apart from the above referred disclosure statement, the prosecution banks upon the disclosure statement Ex.PK made by the appellant Ramesh Kumar when he came to be arrested in the present case by Gurgaon police, wherein he confessed having killed the deceased along with Jayant on 13.5.1997.
19. Thus, it is broadly the disclosure statement of co-accused Jayant and of the appellant himself on which the prosecution mainly relies to establish charges framed against the accused.
20. In a case, based on circumstantial evidence, the inference of guilt can be drawn only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused. The law with regard to appreciation of circumstantial evidence has been clearly enunciated in the case of Hanumant v. State of Madhya



Pradesh, AIR 1952 Supreme Court 343, wherein it was held as follows:

"10. 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."

21. The aforesaid principles have consistently been followed and have been affirmed in catena of authorities. Recently, a three Judges Bench of Hon'ble Apex Court reiterated the aforesaid position of law in 2025(1) RCR(Criminal) 12, Vishwajeet Kerba Masalkar v. State of Maharashtra, and while doing so also referred to the case of Sharad Birdhichand Sharda v. State of Maharashtra (1984) 4 SCC 116 1984 INSC 121, wherein it has been held 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.



- (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
 - (3) the circumstances should be of a conclusive nature and tendency,
 - (4) they should exclude every possible hypothesis except the one to be proved, and
 - (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused
22. The above referred five conditions are the golden principles on which any case based on circumstantial evidence would rest. It can thus clearly be seen that it is necessary for the prosecution that the circumstances from which the conclusion of guilt is to be drawn should be fully established and the chain of evidence should be so complete that the facts so established should be consisted only with the guilt of the accused.
23. As far as the value of a disclosure statement made by an accused is concerned it is well settled that a disclosure statement made by the accused to the police cannot be treated as a confession and can at best be used only for a limited purpose as regards the factum of recovery if any made pursuant to such disclosure statement. Hon'ble Supreme Court in Manoj Soni vs. State of M.P, AIR 2023(Supreme Court) 3857,



while elaborating on the evidentiary value of disclosure statement made by accused, held as under:

“21. A doubt looms: can disclosure statements per se, unaccompanied by any supporting evidence, be deemed adequate to secure a conviction? We find it implausible. Although disclosure statements hold significance as a contributing factor in unriddling a case, in our opinion, they are not so strong a piece of evidence sufficient on its own and without anything more to bring home the charges beyond reasonable doubt.

*22. The law on the evidentiary value of disclosure statements under Section 27, Evidence Act made by the accused himself seems to be well-established. The decision of the Privy Council in **Pulukuri Kotayya and others v. King-Emperor 1946 SCC OnLine PC 47; AIR 1947 PC 67** holds the field even today wherein it was held that the provided information must be directly relevant to the discovered fact, including details about the physical object, its place of origin, and the accused person's awareness of these aspects. The Privy Council observed: The difficulty, however great, of proving that a fact discovered on information supplied by the accused is a relevant fact can afford no justification for reading into s. 27 something which is not there, and admitting in evidence a confession barred by s. 26. Except in cases in which the possession, or concealment, of an object constitutes the gist of the offence charged, it can seldom happen that information relating to the discovery of a fact forms the foundation of the prosecution case. It is only one link in the chain of proof, and the other links must be forged in manner allowed by law.*

*23. The law on the evidentiary value of disclosure statements of co-accused too is settled; the courts have hesitated to place reliance solely on disclosure statements of co-accused and used them merely to support the conviction or, as Sir Lawrence Jenkins observed in **Emperor v. Lalit Mohan Chuckerburty (1911) ILR 38 Cal 559**, page 588, to "lend assurance to other evidence against a co-accused". In **Haricharan Kurmi v. State of Bihar AIR 1964 SC 1184**, this Court, speaking through the Constitution Bench, elaborated upon the approach to be adopted by courts when dealing with disclosure statements:*



‘13. ...In dealing with a criminal case where the prosecution relies upon the confession of one accused person against another accused person, the proper approach to adopt is to consider the other evidence against such an accused person, and if the said evidence appears to be satisfactory and the court is inclined to hold that the said evidence may sustain the charge framed against the said accused person, the court turns to the confession with a view to assure itself that the conclusion which it is inclined to draw from the other evidence is right.’ ”

24. In the present case no recovery whatsoever was effected pursuant to the disclosure statements made by co-accused Jayant or by the appellant. The accused are alleged to have identified the place where they had concealed the dead body, but the said disclosure would lose significance on account of the fact that the dead body had been recovered much prior to the said disclosure and such being the case the alleged disclosure would become all the more suspect. Jayant in any case already stands acquitted. While it could be said that the appellant in Madhya Pradesh was found in possession of a vehicle of the complainant and in respect of which he could not furnish any satisfactory explanation, but the said factum itself is not sufficient to draw a presumption of guilt against the appellant qua the murder of deceased Sanjiv Kumar as there is no other evidence on record to connect him with the said murder. The factum of recovery of car at best could be used qua him for having been found in possession of a stolen vehicle. It appears that some FIR was lodged in State of Madhya Pradesh for offence under Section 41(i)(d) of Cr.P.C./379



IPC, as has been stated by PW-8 Mahender Singh Gaur. Since no charges were framed against the appellant in the present case either for offence under Sections 379 or 411 IPC, it will not be appropriate to observe anything further in the present case. In any case since there is absolute dearth of evidence, direct or circumstantial, to show that it is the accused who had murdered the deceased, he cannot be held liable for the murder.

25. The findings of the trial Court holding the appellant guilty for having committed offence under Sections 302, 364 and 201 IPC cannot sustain and deserve to be set aside. Consequently, the appeal thus merits acceptance and is hereby accepted and while setting aside the impugned judgment dated 23.02.2005 and order dated 25.02.2005, the appellant is acquitted of all the charges framed against him.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

07.02.2025
Mohan

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No