



2025:AHC:168158-DB

Reserved on 18.7.2025

Delivered on 19.9.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1993 of 2015

Sunil

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Brajesh Kumar, Prabhat Kumar Srivastava
Counsel for Respondent(s)	:	Govt. Advocate

Court No. - 44

HON'BLE SAUMITRA DAYAL SINGH, J.

HON'BLE ANIL KUMAR-X, J.

(Per: Hon. Anil Kumar-X, J.)

1. This criminal appeal is directed against the judgment and order dated 14.4.2015/18.4.2015 passed by the Additional Sessions Judge, (Fast Track Court), Court No.1, Bulandshahr in Sessions Trial No.433 of 2010 (State vs. Sunil & Ors.) convicting the appellant under Sections 302, 201 IPC and Section 4/25 Arms Act. Under Section 302 IPC, appellant has been sentenced to undergo life imprisonment and fine of Rs.25,000 with default clause; under Section 201 IPC, three years R.I. and fine of Rs.5000/- with default clause; and under Section 4/25 Arms Act, three months' R.I. and fine of Rs.500/- with default clause.

2. It transpires from the order-sheet that three bail applications of appellant have been rejected earlier and appellant appears to be in jail for more than ten years. Since no counsel were appearing on behalf of the

appellant, this Court, by order dated 1.7.2025, had appointed Shri Ankit Srivastava, Advocate as Amicus Curiae to represent the appellant. Accordingly, he had made submissions on behalf of the appellant.

3. A written information (Exhibit Ka-1) addressed to S.H.O. P.S Khurja, Bulandshahar was submitted by Ram Gopal s/o Ganpat Singh, R/o village Mahiuddinpur, Police Station Khurja Dehat, Bulandshahr on 25.11.2009 that half burnt body of an unknown 25 year old woman possibly murdered is lying on the eastern side of his field. It seems that she was burned with intention to conceal her identity. It appears from Maroon coloured half burnt petticoat and half burnt blouse, a fine black pearl necklace around her neck that dead body is of a Hindu woman. The complaint, Exhibit Ka-1, was sent to the then Police Station Head, Khurja Dehat, Bulandshahr for information and action. In view of which, the concerned police station had registered an FIR, Exhibit Ka-4, under Section 302, 201 of the IPC against the unknown accused in the above mentioned crime. The copy of which has been registered in the G.D. registered case, Exhibit Ka-5, on 25.11.2009 at 8.50 pm. I/c inspector Ajay Kumar Agarwal along with Constables Narendra Singh and Vinod Kumar reached on spot and prepared Panchnama (Exhibit Ka-8) in the presence of witnesses Raj Kumar Singh, Ram Gopal, Sanjay Sudhish Kumar and Vijay. Exhibit Ka-9, letter by R/I, Exhibit Ka-10, letter of CMO, Exhibit Ka-11 Police Form No.13, Exhibit Ka-12 photo nash were prepared. Blood stained soil and plain soil Exhibit Ka-14 were collected from spot. Necklace (Ex. Ka-15) was sealed in presence of Ram Gopal and Rajkumar. A dagger (Katar) concealed inside a pit was recovered on pointing out of accused Sunil. In the same pit woollen clothes of new born baby were also recovered. Dagger and woollen clothes were marked as Ex. Ka. 19. Dead body was

sealed, given in the custody of constables Narendra and Vinod, and was sent to District Hospital Bulandshahr for postmortem report. Above noted formalities were completed on 25-11-2009. Postmortem (Ex. Ka-3) was conducted on 26-11-2009.

4. Later, on information given by Nanak, resident of Hasangarh, deceased's father Naubat Singh reached the mortuary, identified deceased and told she was his daughter Renu. Thereafter, he submitted an application (Ex.Ka-1) on 26-11-2009 that his 25-year-old daughter Renu, was married to Sunil, son of Meghraj alias Lekhraj, resident of Hasangarh, after giving sufficient dowry. But her in-laws started harassing her on ground of insufficient dowry. She often told her family about her sufferings of cruelty and harassment. Accused Sunil and his brother Bhoora worked in their elder brother Om Prakash's bookbinding factory in Delhi and lived there with their families. About a month and a half before the incident, deceased Renu was pregnant and sent to stay with her father-in-law Meghraj and mother-in-law Harpyari, who lived in the village. Three days after coming from Delhi, Renu gave birth to a son. On November 24, 2009 accused Om Prakash, his wife Kiran Devi, Sunil, Bhoora, father-in-law Meghraj, mother-in-law Har Pyari and sister-in-law Rajni had gathered and murdered Renu in the night with a sharp-edged weapon. They threw her body in the jungle and tried to burn it, resulting in the lower part of Renu's torso being burnt. In light of the above, an investigation under additional Sections 498A, 304B, 201 IPC, and $\frac{3}{4}$ D.P. Act was also initiated against the accused persons.

5. After investigation was over, charge sheet under Section 498A, 304B, 201, 302 IPC and $\frac{3}{4}$ D.P. Act was submitted against accused Sunil,

Meghraj @ Lekhraj, Harpyari and Kiran Devi. Charge-sheet under Section 4/25 Arms Act was also submitted against accused Sunil. Case was committed for trial before Sessions Court. Charges under Section 304B, 498A, 201, IPC and ¾ D.P. Act were framed against accused Sunil, Meghraj, Harpyari, Om Prakash, Kiran and Bhoora. Similarly, charge under 25/4 Arms Act and alternative charge under Section 148 IPC and 302 IPC were framed against accused Sunil. One of the accused Harpyari died during trial and proceedings in her respect abated.

6. Eight witnesses were examined by prosecution. Ram Gopal appeared as PW-1 and proved Ex.Ka 1. He stated that on 25.11.2009, he found that a half burned dead body of an unknown woman was lying near the ridges of his field. PW-2 Naubat Singh, father of the deceased Renu, stated that her marriage with accused Sunil was solemnized on 13.9.2004. Her in-laws were not satisfied by the dowry and were continuously torturing her and demanding additional dowry of Rs. 50,000/-, one colour T.V. and one motor cycle.

7. She used to share her sufferings with him and his son, Harsh, who often visited her matrimonial home. She gave birth to a male child after one year of marriage. He brought her at his home where she stayed for nearly seven months. In between Nanak, mediator of marriage, persuaded her in-laws and they assured that it won't happen in future. Nanak Chand informed him on 26.11.2009 that his daughter had been killed by her in-laws. When he approached his daughter's matrimonial home, he found their door locked and in-laws were not present. He came to know from the villagers that dead body of Renu was lying in the fields of Ram Gopal in the nearby village Nagla Mahiuddinpur and it was sent for postmortem.

He along with Nanak Chand reached police station. When he came to know that dead body was sent for postmortem, he along with his son Harsh and Nanak went to postmortem house and identified the dead body. Dead body, after postmortem, was handed over to him and he performed last rites. Injuries by sharp edged weapon were observed by him on neck of deceased. Lower portion of the body was totally burnt. Face was not burnt and was identifiable. He submitted an application before police station Khurja on 26.11.2009 in respect of the incident. This witness has further stated that new born baby of Renu remained untraced and he was told by police that dead body of new born was not found near the spot but some clothes of new born baby were found inside a pit. Said clothes were shown to him by police and he identified them.

8. PW-3 Pinku @ Harsh, brother of deceased, has made similar allegations against accused persons and has stated that they used to harass and torture his sister for demand of dowry. He has stated that his sister gave birth to a child, Rohan, after three years of marriage. She came at their home after delivery and stayed there for seven months. Thereafter, she was taken back by her in-laws at her matrimonial home. He elaborated that the accused—Om Prakash, Sunil, Bhoora, and Kiran—were living in Ghaziabad and working in bookbinding, though they occasionally travelled back to their village. His sister had been living in Delhi with the accused, Sunil, who had taken her there about one and a half years prior to her passing. Even during her time in Delhi, she faced harassment related to dowry demands. Three months before her death, her father provided a color television as part of those demands.

9. PW-4 Nanak Chand stated that marriage of deceased with accused

Sunil was solemnized three years prior to her death. He played the role of a mediator in the mentioned marriage. He tried to negotiate on issue of dowry with accused but they didn't concede and refused to keep Renu with them. At time of her death, he was not present, but came to know on next date that dead body of Renu was lying near the fields. When he received this information, he intimated it to father of deceased, Naubat Singh.

10. PW-5 Dr. Shivnath Singh has stated in his deposition that he received dead body of an unknown lady aged about 25 years on 26.11.2009 at about 2:30 pm. He stated that superficial to deep burns were found on the lower limbs of the deceased. Her both tibia bones and femur were found burned. Ante-mortem injuries on body of deceased were also mentioned. He has observed that incised wound of 2 cm. x 0.5 cm. was found on the upper side of neck. Injury no.2 has been described as a bone deep injury on chin. Injury no.3 is lacerated wound on the left side of eye. Injury no.4 is lacerated wound upon upper lips. Injury no.5 is an abrasion measuring 12 cm. x 8 cm. on the right side of head. Deceased was non-gravid. He has opined that deceased has died due to excessive bleeding which occurred as a result of ante mortem injuries. During his cross examination, he stated that he did postmortem of an unknown dead body and nobody came there to identify till postmortem was over.

11. PW-6 Head Constable Shivnandan Sharma has proved Ex. Ka-4, Ka-5 and Ka-6. PW-7 Ajay Kumar, Incharge SHO, has proved spot map (Ex. Ka-7), inquest report (Ex. Ka-8) and other documents sent with dead body for postmortem which were marked as Ex. Ka-13. He has also proved recoveries made from dead body which has been marked as Ex. Ka-14

and Ex. Ka-15. PW-8, Brijesh Kumar Srivastava, S.P. (Rural) Bareilly has proved before court about the recoveries of clothes allegedly to be that of new born baby alongwith recoveries of broken bangles which were marked as material Ex. Ka-4, Ex. Ka-5, and Ex. Ka-6. After the evidence of prosecution was over, statements of accused persons were recorded under Section 313 Cr.P.C. Appellant Sunil has denied all the allegations and has submitted that deceased was pregnant at the time of occurrence. On the date of occurrence she was coming alone from Delhi to visit at her matrimonial home. She was robbed and murdered in her way by some robbers. Other acquitted persons have also denied the evidences tendered against them during the trial.

Findings of the Trial Court

12. The prosecution's evidence to establish charges under Section 498-A, 304-B I.P.C, and 3/4 D.P. Act was dismissed. The court found that the accused, P.W.-2 Naubat Singh, was fully aware of the conduct of the accused demanding dowry and the tortures meted out to the deceased. But he has not disclosed that particular item and cash demanded by them in his application, but disclosed it for first time before court. The court held that such failure on part of this witness was not natural error. He has deposed that a colour TV was sent to the appellant through his son P.W.-3 Harsh, who gave it to him while he was residing in Delhi with the deceased. Trial court has discarded said testimony on the ground that P.W.-3 Harsh could not provide the name of the shop from where he had purchased the TV, and his response regarding the receipt of the TV was unsatisfactory. He had also admitted that in laws had not made any demand of dowry at the time when negotiations for marriage were

ongoing till the marriage took place. Considering this fact, the court held that the allegation regarding demand of dowry and deceased being subjected to cruelty is not tenable. Apart from the aforementioned facts, the trial court also examined other evidence presented by the prosecution witnesses. However, it was not convinced by the testimony regarding charges of dowry demand and acquitted all the accused persons of charges 498-A, 304-B I.P.C, and 3/4 D.P. Act.

13. After concluding that prosecution has failed to prove charges of dowry death, charges against accused persons under section 302/149 & 201 were considered by the trial court. The trial court has observed that incident was not witnessed by any of the witnesses examined before it. Therefore, it held that the case squarely rests upon circumstantial evidence. It has further observed that none of the prosecution witnesses have led any cogent evidence from which it can be presumed that all accused persons were present at their village Hasangarh on the date of occurrence. Thereafter, it considered the testimony of PW-4 Nanak Chand, who is neighbour of accused persons and also resident of Hasangarh. The trial court has observed that PW-4 Nanak Chand has stated that all accused persons were present at their village on the date of occurrence. However, this witness has also stated that one day before the incident, he had gone to visit at his daughter's matrimonial home and returned from there on next morning. But as this witness is neighbour of the accused persons and also a natural witness, his testimony regarding the presence of accused-appellant Sunil, his father Meghraj and mother Harpyari cannot be discarded. By taking note of the fact that body of deceased was found in petticoat and blouse, it was held that a married lady in all probabilities will only be with her husband in such a dress. It

was further observed that site plan has not indicated the place where accused Meghraj was present at the time of occurrence. Relying upon the above two facts, the trial court has held that participation of accused Meghraj in the foregoing circumstances is not possible.

14. The trial court found the appellant, Sunil, guilty on three grounds. Firstly, the deceased was found in a petticoat and blouse, suggesting she was likely with the appellant at the time of her murder. Secondly, the weapon of murder was discovered on the appellant's pointing, and the nature of the injuries on the deceased's body matched the weapon, proving that the murder was committed by the appellant. Lastly, the appellant's explanation in his statement under Section 313 Cr.P.C. that the deceased was robbed and murdered by robbers while returning from Delhi was considered. However, the court dismissed this explanation, stating it was unlikely that a pregnant woman with her newborn child would travel alone in such clothing.

Arguments on behalf of Appellant

15. Learned Amicus Curiae submitted that P.W.-2 Naubat Singh had informed P.W.-4 Nanak Chand on November 26, 2009, that the deceased was murdered by her in law's. However, when he visited the accused's house, it was locked. P.W.-4 Nanak Chand stated he heard from others about an unknown dead body found near the brick-kiln but hadn't gone there. He saw dead body of Renu for first time at postmortem house. Said circumstances suggest that the deceased was murdered by unknown robbers, and no one was aware of it until they got information from someone else. Testimony of P.W.-5 Dr. Shivnath Singh further corroborates this fact. He said in cross examination that no body appeared

at the time of postmortem to identify the deceased. Therefore, P.W.-2 Naubat's claim of identifying the deceased during postmortem is false.

16. Learned counsel further submitted that the alleged murder was not witnessed by anyone. It is well established from the testimony of P.W.-2 and P.W.-3 that appellant Sunil was not residing at his village but was living in Delhi with the deceased to earn living. P.W.-2 Naubat has admitted that before this incident, the deceased had returned from Delhi to stay with her in-laws at village Hasangarh. There is no evidence on record to suggest that appellant was also present in his village at the time of the occurrence. Moreover, it is not the case that the deceased was found murdered within four corners of a wall. Her dead body was found lying in the fields of the village. Not even single piece of evidence was led to suggest that the deceased and appellant were seen near the place of occurrence shortly before her murder.

17. The recovered broken bangles, knife, and clothes from the pit at the instance of appellant suggest that the entire recovery was planted and fabricated to falsely implicate the appellant and his family members. Investigating Officer, P.W.-8 Brijesh has admitted to breaking the locks of appellant's room but no memo of breaking lock or seizing lock was prepared by him. He did not find any blood stains in the alleged room of appellant where prosecution claims murder took place. Alleged knife used by appellant to commit murder was recovered by I.O. at the instance of appellant, but it was only sharp on one side. None of the recovery memos prepared by the I.O. of the articles recovered on the appellant's pointing out bear his signature.

18. It was submitted that manner of occurrence reflects that murder was

premeditated. In such murders, it is unusual to think that assailant will employ a single edge knife. Even if story is relied upon, then also it is highly improbable to think that murder was committed without any single drop of blood falling at spot. No blood stains were found on the alleged place (room) where murder took place. The entire prosecution story relies solely on circumstantial evidence. However, the prosecution has failed miserably to produce any concrete evidence linking the appellant to the alleged murder. The only evidence they have presented are recoveries made by the I.O., which are highly unreliable.

Arguments on behalf of State

19. The appellant's wife, who was also pregnant at the time of the incident, was found murdered outside her matrimonial home. Her body was discovered in fields. The place is approximately 2 kilometres away from her matrimonial home. Postmortem reports suggest that she was murdered and subsequently burnt. Neither the prosecution nor the appellant alleges that the deceased was residing with her parents at the time of the incident. This fact implies that she was living with her in-laws at the time of occurrence. If that's the case, how could a married woman with her unborn child be away from her matrimonial home, and her in-laws be unaware of her whereabouts? Therefore, burden lies upon the appellant to explain the circumstances under which his wife/deceased was found murdered outside his home. Explanation offered by appellant at the stage of Section 313 Cr.P.C fortifies his culpability. He has stated that his pregnant wife along with her newborn child were travelling from Delhi to her matrimonial home and was robbed and killed by robbers. Leaving alone a pregnant wife to travel from Delhi itself demonstrates complicity

of appellant in the given circumstances as dead body of deceased was found very near to the house of appellant. It is unnatural that a woman travelling from Delhi will be murdered by robbers near her home. Modus operandi of robbers is only to kill the victim in case of resistance. That act does not extend to destroy the evidence. Here the body of deceased was burned which indicates that she was murdered by a person known to deceased, who was impelled by a motive to eliminate her. Coupled with the above circumstances, recovery at the instance of appellant is sufficient to prove his guilt.

Conclusion

20. We have heard learned counsel at length and perused the records. The evidence presented before the trial court clearly indicates that the deceased's body was found in the fields. Her body was charred, and there were also assault injuries caused by a sharp-edged weapon. It suggests that she was murdered and burnt. It is undeniable that none of the prosecution witnesses witnessed the incident. The learned trial court itself has acknowledged that the prosecution failed to prove the charges of dowry death, and the case rests solely on circumstantial evidence. Considering that the case is based on circumstantial evidence, before holding the appellant guilty of murdering the deceased, the **trial court took four circumstances into consideration**. Each of these circumstances will be discussed briefly.

21. The trial court observed that the deceased's body was found just 1-2 kilometres away from the appellant's home. The clothing found on the body, including a petticoat and blouse, led the court to assume that the deceased was with her husband, the appellant, shortly before her death.

The court reasoned that a woman in such attire would likely be with her husband. Proximity of where dead body was found and the appellant's home has further strengthened the assumption.

22. The court also considered the possibility that the accused, Meghraj (deceased's father-in-law), could not be guilty because his presence in the appellant's house was not shown in the spot map. Despite the absence of evidence suggesting that appellant and his family members were residing in their village at the time of the incident, Trial Court held that in given circumstances, presence of appellant at his native home at time of occurrence cannot be ruled out. In light of these factors, the trial court concluded that the only conclusion that can be drawn from the circumstances surrounding the discovery of the deceased's body in petticoat and blouse is that she was murdered by the appellant.

23. As this case squarely rests upon circumstantial evidence, it will be relevant to reiterate the principle to be followed in cases based upon circumstantial evidence. It has been repeatedly held by Hon'ble Supreme Court that conviction can be based on circumstantial evidence only if (i) prosecution is able to establish a complete chain of events that points only to be guilt of the accused leaving no other reasonable explanation, (ii) the circumstances proved must be such that they exclude every hypothesis except for the guilt of the accused, establishing guilt beyond a reasonable doubt, and (iii) the circumstantial evidence must be of a conclusive nature, tending to prove the guilt of accused with moral certainty.

24. Now, it's relevant to consider whether the circumstances relied upon by the trial court were proven by the prosecution. **First circumstance** is the presence of appellant at his home at the time of incident. But

prosecution's story from the beginning was that the appellant, along with his elder brother Om Prakash, younger brother Bhoora, and his wife (the deceased), were residing at Delhi. They were all engaged in the work of bookbinding to earn their living. However, it's an admitted fact by both parties that the deceased had returned to her matrimonial home in the village of Hasangarh at that time. However, neither PW-2 Naubat Singh, nor PW-3 Pinku @ Harsh, who are father and brother of deceased respectively, have stated in their examination-in-chief that the appellant was present in his village at the time of the incident. To reach this conclusion, the trial court relied on the testimony of PW-4 Nanak Chand, who stated that the appellant, Sunil, had resided in his village before his marriage and continued to live there even after his marriage. Although trial court has disbelieved his testimony because he himself admitted that he was away on the day of incident and had gone at his daughter's maternal home, it held that his testimony cannot be dismissed because he is neighbour of the appellants.

25. It is settled law that testimony of witness necessarily has to be read as a whole and not one line in isolation of the rest. In this case, PW-4 Nanak Chand, who is relative of PW-2 Naubat Singh, and also mediator of marriage which took place between appellant and deceased, has not disclosed this fact earlier but stated it for the first time during his cross examination. If any witness discloses a material fact for the first time before court, his testimony cannot be relied upon. The presence of the appellant at his native home during incident is a material fact that was not mentioned by any witness, including P.W.-4 Nanak Chand, during their examination in chief. In such circumstances, testimony of this witness on this point cannot be considered by any stretch of imagination.

26. **Second circumstance** relied upon by Trial Court was recovery of dead body in petticoat and blouse on which it arrived at a conclusion that appellant was also present at the time of occurrence. In this context, it will be pertinent to mention that in any criminal trial based upon circumstantial evidence, particularly that of murder, if prosecution arraigns any person for charge of murder, then it is incumbent upon prosecution to prove (i) that accused was seen in company of deceased shortly before the death occurred, and (ii) that accused was impelled with a motive to kill the deceased. In order to rely upon said circumstance, it was incumbent upon prosecution to prove the aforementioned facts. As discussed above, prosecution has not come with a case that appellant was present at the time of occurrence. Hence, the fact that appellant was in company of deceased shortly before her death remained unsubstantiated. The prosecution couldn't prove a motive either. They tried to show the deceased was harassed and tortured by her in-laws for dowry, but evidence led by prosecution on this point was disbelieved by Trial Court. No other motive except murder for non-fulfilling the dowry demand can be deduced. Therefore, recovery of dead body of deceased near the house of appellant alone cannot be a ground to hold appellant guilty even by taking aid of Section 106 Indian Evidence Act.

27. Learned AGA for the State has vehemently argued that appellant was bound to explain the circumstances under which the dead body of deceased, charred and murdered, was found near the home of appellant. It is trite that before any explanation from accused is sought about the incriminating circumstances against him, it is the initial duty of prosecution to discharge its burden by proving that circumstance before burden is shifted upon accused. Hon'ble Supreme Court in **Anees v. The**

State Govt. of NCT: 2024 LiveLaw (SC) has held:-

"The court should apply Section 106 of the Evidence Act in criminal cases with care and caution...Section 106 of the Evidence Act cannot be invoked to make up the inability of the prosecution to produce evidence of circumstances pointing to the guilt of the accused. This section cannot be used to support a conviction unless the prosecution has discharged the onus by proving all the elements necessary to establish the offence,"

Therefore, above circumstance alone, without finding its corroboration from other circumstances, cannot be taken as a link to the culpability of appellant.

28. **Third circumstance** considered by the trial court to held appellant guilty is explanation put forth by him during his examination under Section 313 Cr.P.C. He stated that his pregnant wife alongwith new born baby, while returning from Delhi to his home, was robbed and murdered by some robbers. Trial Court concluded that said explanation is unusual as no one will leave his pregnant wife with newborn baby to travel alone. It will be relevant to refer that said statement was not tendered as a circumstance by prosecution. In plethora of judgments, it has been held that statement under Section 313 Cr.P.C. is recorded to meet the requirements of the principles of natural justice as it requires that an accused may be given an opportunity to furnish explanation of incriminating material which had come against him in the trial. Similarly, Hon'ble Supreme Court in **Raj Kumar Singh @ Raju @ Batya vs. State of Rajasthan, 2013 AD (SC) 433**, held that in case of a circumstantial evidence, statement under Section 313 Cr.P.C. is essential to decide whether or not the chain of circumstance is complete. But it has also cautioned that the circumstances which are not put to the accused in his

examination under Section 313 Cr.P.C., cannot be used against him and have to be excluded from consideration. It is evident in this case that above circumstance was never brought as an evidence by the prosecution during trial. Therefore, relying upon the said circumstance by trial court, which infact was not a circumstance, rather an answer by the appellant, is not tenable.

29. The **fourth and last circumstance**, upon which learned trial court has relied, is the recoveries which were made by the I.O. at the instance of appellant. The trial court has held that injuries which were found on the body of deceased matched with the knife which was recovered from appellant. Such hypothetical conclusion cannot be acknowledged. Any injury report or postmortem report while mentioning injury on the body of injured/deceased merely mentions the type of weapon/arm used to inflict the said injury. In absence of opinion by any forensic expert in such matters, one cannot assume that a particular injury was caused by a particular weapon. In this reference, it will be relevant to mention that mere recovery from an accused itself cannot form basis of conviction. Hon'ble Supreme Court in **State of U.P. vs. Sunil, AIR 2017 SC 2150**, held that judgment of conviction could not be founded on the sole circumstance that recovery of weapon and other articles were made at the instance of accused. Therefore, recoveries made at the instance of appellant cannot be considered to hold appellant guilty unless other circumstances are so clinching and cogent to link the appellant with the alleged crime.

30. Time and again Hon'ble Supreme Court has held that in case of circumstantial evidence, each circumstances must be proved beyond

reasonable doubt by independent evidence and the circumstances so proved, must form a complete chain without giving room to any other hypothesis and should be consistent only with the guilt of accused. In this case, none of the circumstances were proved by prosecution. All the circumstances relied upon by prosecution are based merely on conjectures and surmises.

31. In view of the foregoing discussions, the present **appeal is allowed** and the **appellant Sunil is acquitted** of the charges.

32. Accordingly, judgment of conviction and order of sentence is set aside. The appellant Sunil is in jail. He shall be released forthwith. However, appellant shall furnish bail bond in compliance of Section 437-A Cr.P.C. to the satisfaction of the Court concerned within two months from today.

33. The trial court's record be remitted back along with copy of this judgment. Compliance report be submitted to this Court at the earliest. Office is directed to keep the compliance report on record.

34. Amicus Curiae, Shri Ankit Srivastava, be paid a fee of Rs.25,000/-.

(Anil Kumar-X,J.)

September 19, 2025
SK

I agree.

(Saumitra Dayal Singh,J.)