GAHC030000932025

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRL.A(J)/7/2025

Sh. Vanlalramropuia
S/o Lalrinsanga (L)
Thuampui, Ainawn Section
Aizawl, Mizoram

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mrs. Emily L. Chhangte (Amicus Curiae)

Advocate for the Respondent : P.P./Addl.PP, Mizoram

BEFORE

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

Advocate for the appellant : Mrs. Emily L. Chhangte, Amicus Curiae
Advocate for the respondent : Ms. Vanneihsiami, Addl. PP

Date on which judgment is reserved : 11.06.2026

Date of pronouncement of judgment : 19.06.2026

Whether the pronouncement is of the operative part of the judgment? : No

Whether the full judgment has been pronounced ? : Yes

JUDGMENT AND ORDER (CAV)

(M. Zothankhuma, J)

1. Heard Mrs. Emily L. Chhangte, learned Amicus Curiae. Also heard Ms. Vanneihsiami, learned Additional Public Prosecutor.

2. This is an appeal against the impugned Judgment & Order dated 11.12.2019 passed by the District & Sessions Judge, Aizawl in Criminal Trial No. 674/2015, by which the appellant has been convicted under Sections 302/201/465/471/482/379 IPC.

3. The appellant has been sentenced to undergo Rigorous Imprisonment for life under Section 302 IPC with a fine of Rs. 10,000/, in default Simple Imprisonment for 1 year vide Sentence Order dated 13.12.2019. However, the appellant has not been sentenced under Sections 201/465/471/482/379 IPC.

4. The brief facts of the case is that a written information was received by the Sub-Inspector of Aizawl Police Station (PW-1) on 02.01.2015 at 8:00 pm from F. Lalliansanga (PW-6), to the effect that on the night of 31.12.2014 at around 10:00 pm, his cousin, i.e. Lalnunmawia Zadeng (deceased) left their residence by using a Scooty (Rodeo RZ) black colour, bearing Registration No. MZ-01/J-6893 to roam about. However, he did not return home. The written information was entered as Aizawl Police Station GDE No. 65 at 8:00 pm dated 02.01.2015. During enquiry and search of the missing person, the dead body of the deceased was recovered in a highly decomposed state in the Falkawn

Vengthar area on 08.01.2015 at around 4:00 pm. Inquest was conducted over the dead body and one suspected cut injury mark was found below the chin and a suspected injury was also found on the occipital region. The jacket of the deceased was stained with suspected blood. The dead body was thereafter forwarded to the Forensic Medicine and Toxicology Department, Civil Hospital, Aizawl, for conducting post mortem to ascertain the actual cause of death. The Post Mortem Report stated that in the opinion of the Doctor, the cause of death could not be ascertained, due to the body being decomposed and there being no bone fracture and no fatal injury. During the inquiry, it was found that the Scooty bearing Registration No. MZ-01/J-6893 (Rodeo RZ) driven by the victim on the night of 31.12.2014, was missing along with his Apple iPhone 5C having SIM No. 9774327911. As there was a strong suspicion that the deceased had been murdered and the culprit had fled with the victim's Scooty and Mobile Phone, a prayer was made by PW-1 to the OC of Bawngkawn Police Station in writing on 08.01.2015, for registering a case. Accordingly, Bawngkawn P.S. Case No. 5/2015 dated 08.01.2015 was registered under Section 302 IPC.

5. During further investigation, the iPhone belonging to the deceased was recovered from PW-3, who stated that the said iPhone had been given to her by the appellant. The iPhone was then seized by the Police. PW-3 also told the Police that she had been carried by the appellant in one Scooty (Rodeo RZ) black colour, wherein the back number plate was covered with paper and the number MZ-01/K-3085 was written there. When PW-3 asked the appellant as to who owned the Scooty, the appellant told PW-3 that he had purchased it, as he was working with Reliance.

6. The Scooty driven by the deceased on 31.12.2014 was recovered by the police from a kacha road in Thuampui locality on 09.01.2015 at around 7:40 pm, on the alleged disclosure statement made by the appellant. The Registration card of the black Scooty (Rodeo RZ) bearing Registration No. MZ-01/J-6893 was seized by the police from the owner of the Scooty, i.e. PW-21, on 27.01.2015.

7. A knife was also seized by the Police from the place where the dead body was recovered on 09.01.2015 at 11:00 am. After having the post mortem examination conducted on the body of the deceased, the Investigating Officer submitted the charge sheet, having found a *prima facie* case under Sections 302/201/465/471/482/379 IPC against the appellant.

8. The learned Trial Court thereafter framed charges against the appellant under Section 302/201/379/465/471/482 IPC, to which the appellant pleaded "not guilty". The learned Trial Court thereafter examined 37 prosecution witnesses and 2 defence witnesses. The appellant was also examined under Section 313 Cr.P.C. Thereafter, the learned Trial Court, vide the impugned Judgment & Order dated 11.12.2019, convicted the appellant under Sections 302/201/465/471/482/379 IPC. The appellant was however sentenced, vide Sentence Order dated 13.12.2019 only under Section 302 IPC, to suffer Rigorous Imprisonment for life with a fine of Rs. 10,000/-, i.d. S.I for 1 year. No sentence was awarded by the learned Trial Court in respect of the other sections of the IPC, in which he had been convicted.

9. The case of the appellant is that the circumstantial evidence did not

prove that the appellant was guilty of having murdered the deceased and that the cause of death had not been ascertained by the post mortem examination report. The learned Amicus Curiae thus submits that Section 302 IPC cannot be said to be attracted to the case in hand. She however submits, in the alternative, that even if the appellant is found to be guilty of having caused the death of the deceased, there was no intention on the part of the appellant to kill the deceased. As such, the conviction of the appellant could have, at best, been only made under Section 304 Part-II IPC.

10. The learned Amicus Curiae submits that the reason that the appellant should at best be convicted under Section 304 Part-II IPC, is due to the fact that the disclosure statement made by the appellant, which resulted in the recovery of the scooty and knife, with which an injury was inflicted upon the deceased, showed that the deceased had allegedly tried to make a move on the appellant by touching his private parts, as the appellant was allegedly gay. It was due to the appellant rejecting the advances of the deceased that they got into an alleged fight, which resulted in the death of the deceased.

11. The alleged disclosure statement made by the appellant is reproduced herein below as follows:-

> "*DISCLOSURE STATEMENT (u/s 27 of Evidence Act)*
>
> *Ref: BKN-PS C/No.5/15 Dt 8.1.2015 U/s 302 IPC*
>
> *Today dated 9.1.2015 in the presence of the following witnesses, I Vanlalramropuia Sailo S/o Lalrinsanga (L) of Thuampui Gorkhali Veng who was*

arrested in connection with the above mentioned case and now under Police Custody make the following disclosure on my own free will. On the night of 31.12.2014 late in the night my friends and I were just sitting outside Thuampui Market area and a certain person came on a scooty during this time. Henry spoke to him and he called me near them and they asked me where to purchase alcohol. I told them I was not certain as it was already late. He told me that he has two bottles of white rum and he asked me if I wanted to drink it with him. I went on his scooty to drink the alcohol with him. He asked me if I knew a secluded place at World Bank Road. We took turn near the stone chips machine and he parked his scooty on the side of the road. We went up ner a house that was green in color and we drank alcohol together. While drinking he made a move on me and he started touching my private part. He even took off his clothes. I rejected him and we had a fight. I decided to lock him and his body gets limp. I checked his pulse and upon realising that he was dead, I decided to slit his throat right under his chin so that it would appear as if he was being touched by others. I took his wallet, scooty and mobile phone and I left his scooty at Thuampui, below MULCO near a big concrete building owned by Mr. JL Thangluaia.

As for the mobile phone, I exchanged it with some drugs from a drug dealer that I do not know. I took off the scooty number plate and I do not remember where I threw it."

12. The learned Addl. Public Prosecutor, on the other hand submits that the circumstantial evidence formed a complete chain and proved that it was only the deceased who could have murdered the victim. Also, the appellant was last seen with the deceased. Further, the recovery of the phone of the deceased from PW-3, who stated that the same had been given to her by the appellant and the evidence that showed that the appellant was driving the Scooty first

driven by the deceased on 31.12.2014, proved that it was appellant who had killed the deceased.

13. We have heard the learned counsels for the parties.

14. There is no eye witness who had seen how the deceased had died. However, the evidence recorded by the learned Trial Court shows that the appellant and the deceased were last seen together and were together, when the appellant took away the black Scooty and iPhone of the deceased, as per the testimony of the appellant as DW-2. The appellant then pawned the iPhone with PW-3, who handed over the same to the Police. Further, on the night when they were last seen together, the appellant had given a ride to PWs- 15 & 16 on the black Scooty of the deceased, at around 3.00 a.m of 01/01/2015.

15. The evidence of PW-1 who is Sub-Inspector L. Ramgaihmawia, on whose written request an FIR was registered as Bawngkawn P.S Case No. 5 of 2015 on 08.01.2015, is to the effect that on the night of 02.01.2015 at around 8:00 p.m, while performing duty at Aizawl P.S. as duty officer, a written information was submitted by PW-6, to the effect that on 31.12.2014, Lalnunmawia Zadeng, also known as Mawitea, had left their residence by riding a Scooty (Rodeo, RZ) black color, bearing registration number MZ01/J-6893. As Lalnunmawia Zadeng did not return home, the police were requested to take necessary action. While the matter was being inquired into, one Zemabawk Branch YMA (NGO) leader, namely Lalrotluanga told PW-1 on 05.01.2015, that PW-2 had found one wallet containing (1) HDFC Bank Credit Card No. 461786400157665 (Platinum Plus), (2) Driving License No. MZ0120090036146 in respect of Lalnunmawia Zadeng (missing person), (3) HDFC Credit Card No.

4363030117214098 (Platinum), (4) ATM withdrawal slip of Rs. 1500/- dt.31.11.2014 @8:02 AM, (5) HDFC Bank Visiting Card in respect of Lalnunmawia Zadeng, (6) Emmanuel Joshua Sumo ticket dt.20.12.2014 in respect of Mawitea, and 6(six) different persons passport size photo including Lalnunmawia Zadeng (missing person) from the dumping ground.

16. On 08.01.2015 at 4:00 p.m, a phone call was received at the Aizawl Police Station that one dead body had been found below Falkland Church. PW-6 also reached the place where the dead body was found and identified the dead body to be that of Lalnunmawia Zadeng (missing person). Thereafter, an inquest was held over the dead body and a cut injury on the frontal neck portion and laceration on the occipital region was noticed. Thereafter, the dead body was sent for further medical examination to the Civil Hospital, Aizawl. PW-1 also stated that there were maggots in the body and clothes of the deceased.

17. The evidence of PW-2 is to the effect that he recovered one wallet on 03.01.2015 at around 11:00 a.m at Tuirial Dumping ground. On 05.01.2015, while watching TV, PW-2 came to know that one person was missing. He immediately remembered the photo which he recovered from the wallet, which was the same with the photo of the missing person shown in the TV. He immediately called the YMA leaders who informed the police. Thereafter, the police came and took away the wallet recovered by PW-2.

18. The evidence of PW-3 is to the effect that the appellant had given her one iPhone, which was black and white in color, which the police seized from her. Further, she rode pillion in one Scooty, Rodeo RZ, black color, driven by the appellant. The back number plate was covered with paper, with MZ 01/K-3085

written on the said paper. On asking the appellant as to who was the owner of the scooty, the appellant told PW-3 that he had purchased it as he was working with Reliance. She also identified the iPhone which was given to her by the appellant.

19. In her Section 164 Cr.P.C statement, PW-3 stated that the appellant had pawned his iphone for which he needed money to get it back. As PW-3 told him that he would loan the appellant money, the appellant had taken PW-3 to Bawngkawn ATM on his Scooty (Black Rodeo), wherein PW-3 withdrew Rs. 300/- from the ATM and gave it to him. Thereafter, the appellant mortgaged the iphone with PW-3 for Rs. 1500/- on 09.01.2015. On coming to learn that the appellant was a murderer, PW-3 became suspicious and the next morning, she looked at the phone. Then she took out the sim card using a knife. On inserting the sim card in her phone, she checked the phone book first. As there were things connected to HDFC, PW-3 suspected the phone to be that of the late Mawitea (deceased). PW-3 also deposed that on the eve of 10.01.2015, the police came to the shop above PW-3's house and on the police telling her that they were there to collect the iphone that the appellant had asked PW-3 to keep, PW-3 gave the iphone to the police. Further, PW-3 stated that she had also sat on the deceased Scooty, driven by the appellant on 04.01.2015. PW-3 also stated that the helmet which was found inside the Scooty of the deceased,

had been seized by the police vide seizure memo dated 09.01.2015 along with the front registration plate of the Scooty.

20. The evidence of PW-4 & 5 is to the effect that one woman accompanied by PW-2 informed them while they were having a YMA Executive meeting that PW-2 had recovered a wallet belonging to the missing person. The police were called and the O.C Bawngkawn Police Station, checked the wallet that had been recovered along with the driving license, HDFC Bank credit cards and some photos which were inside the wallet. The police then seized the wallet and the contents of the same. He identified the wallet and the contents of the same which had been produced in the Court.

21. The evidence of PW-6 is to the effect that as Lalnunmawia Zadeng went missing on 02.01.2015, he submitted an FIR at around 8:00 p.m. The Zarkawt Branch YMA (NGO) was also informed about the missing person. due to which a search was conducted. The dead body of the missing person was recovered on 08.01.2015 at Falkland locality, which he identified to be the body of Lalnunmawia Zadeng. While inquest was being conducted by PW-1, a number of articles were seized by the police. He stated that he identified the dead body from his jacket, wrist watch, silver ring and the bracelet he was wearing.

22. The evidence of PW-7 is to the effect that he was a seizure witness in respect of the seized articles i.e., the silver ring, jacket which covered the dead body, phone cover (silicon), blue color underpant, empty shopping bag (Poly) and Timex wrist watch (square gold and silver). The evidence of PW-7 is to the

effect that he did not see the following seized articles in the Court, i.e., (1) empty mineral water bottle (Kinley) (2) Disposable cup, (3) empty mineral water bottle (Kingfisher), (4) empty quarter bottle (glass), (5) bracelet steel and (6) syringes.

23. The evidence of PW-8 & 9, who are relatives of the deceased, are to the effect that they heard that the victim's body had been recovered in the Falkland area. They had also signed as witnesses to the inquest report made on the deceased.

24. The evidence of PW-10 is to the effect that on 08.01.2015 she noticed the dead body which emitted a foul smell. Thereafter, she told some three persons who were standing there about the discovery of the dead body. The said persons then informed the police.

25. The evidence of PW-11 is to the effect that he was a Constable posted at Bawngkawn Police Station on 09.01.2015. He along with other police persons and Inspector C. Zarzokima, went to where the dead body was found and started searching the area. After searching for a while they found a small knife, which was about 20 metres southwest from where the dead body was recovered. He also identified the seized knife in the Court.

26. The evidence of PW-12, who is the Assistant Director, FSL, Aizawl, is to the effect that they received a request on 08.01.2015 from Bawngkawn Police Station, to assist in the examination of the body of the deceased. Thereafter, on

09.01.2015 a small knife was recovered with a black handle and a small chain attached to the knife. The knife was a folded knife. Further, they also received a requisition to examine 3 exhibits which were as follows:-

> "*1. Jacket (Grey color) with suspected blood stains marked here as Exhibit-A.*
>
> *2. Knife (SAMURAI 2000) with suspected blood stains marked here as Exhibit-B.*
>
> *3. Helmet marked here as Exhibit-C."*

After careful analysis of the exhibits, the same showed the following results:-

> "*1. Blood of human origin belonging to Blood Group B were detected from the stains of Exhibit-A.*
>
> *2. Traces of blood were detected from the stains of Exhibit-B but the stains were insufficient for blood grouping.*
>
> *3. Blood was not detected from Exhibit-C."*

27. The evidence of PW-13, who is the Junior Scientific Officer in the FSL, Aizawl, is to the effect that a small knife was recovered on 09.01.2015, about 20 metres southwest from where the body of the deceased had been recovered.

28. The evidence of PW-14 is to the effect that the appellant was a good friend of his. At about 9 p.m while he was in the main road in front of his house at Thuampui locality, with his other friends, the appellant joined them. After that they all went towards CH. Chhunga Bus Terminal and sat there. At about 11:00

p.m on 01.01.2015 PW-14, PW-18 and two female friends left Thuampui Bazar and proceeded towards Pari's house. However, PW-15 and the appellant stayed back. At about 2:00 p.m on 01.01.2015, PW-15 came to the house of PW-14 and told him that the appellant had disappeared from Thuampui Bazar and did not tell him where he was going. At around 3:30 am on 01.01.2015, the friends of PW-14 left his residence. At about 7:00 am, on 01.01.2015, the appellant came to his house, asking him to provide him paper and a marker. On asking him as to why he needed a paper and a marker, the appellant told him while parking a scooty near his house, some persons removed the number plate and he needed a paper to write the scooty number. After giving him the paper and the marker, PW-14 then accompanied the appellant to the scooty. The appellant then started writing on the paper. PW-14 stated that he could only see up to MZ-01/K3. PW-14 also stated that when the appellant had come to his house, the appellant had told him that he had something good to show him. On PW-14 asking the appellant what it was, the appellant showed him an iPhone and told him that some people were having a quarrel at Chanmari locality and they had dropped the iPhone, which he took away. PW-14 also stated that after the appellant wrote the number of the scooty, the appellant took him on the scooty for some time and dropped him at about 10 AM. At about 2:00 pm, the appellant again came to the house of PW-14 and they went for a ride. He also stated that on 09.1.2015 the police came to his house and he accompanied them to the Police Station, where his statement was recorded. Further, his Judicial statement was also recorded by the Magistrate which was exhibited as EXTP-10.

29. The evidence of PW-15, who is a friend of the appellant, is to the effect

that while PW-15, Pari, Tetei and Lalvenhima were at Ch. Chhunga Bus Terminal at around 8:00 pm, the appellant along with PW-16 and one Venhima joined them. After moving to Thuampui Bazar at about 1:00 am on 01.01.2015, PW-16, Venpuia, Tetei and Pari left Thuampui Bazar and proceeded to Pari's house. PW-15 and the appellant stayed back at Thuampui Bazar. After sometime he found that the appellant had disappeared from where he was sitting. PW-15 then proceeded to Pari's house to join his friends. Later at about 3:00 am on 01.01.2015, while PW-15 was walking with PW-16 towards their respective homes, the appellant approached them with a scooty (Rodeo Black). On asking the appellant from where he got the scooter, he answered that the scooter belonged to his girlfriend from Kulikawn locality and had allowed him to use the scooter as the night was late. The appellant then took PW-15 & 16 on his scooty for a ride. After being dropped, the appellant went off alone. After a few days had passed, PW-14 & 15 came to learn about the Police searching for one missing person. PW-15 then stated that PW-16 told him that he suspected that this scooty which was kept by the appellant, might belong to the missing person. A few days later, PW-16's mother told him that the Police had summoned PW-16 and Venpuia. Further, PW-15 was also required to go to the Bawngkawn Police Station. While proceeding towards Bawngkawn Police Station, he met the appellant, who told him that he would accompany him to the Bawngkawn Police Station. While sitting on the bus bound for Bawngkawn Police Station, the appellant told him that the police might have called them because of the scooty. The appellant then told him that he had got the scooty from a man from Chanmari in exchange for heroin as security. After returning from the Police Station towards their homes, the appellant was apprehended by the police.

30. The evidence of PW-16 shows that the appellant and the deceased were last seen together on the night when the deceased was seen riding the black Scooty (Rodeo) and which was subsequently driven by the appellant at around 3:00 a.m on 01/01/2015. The evidence of PW-16 is to the effect that on 31.12.2014 at around 10:00 p.m, he along with Venpuia, Pari and Tetei were at Ch. Chhunga Bus Terminal and thereafter, they moved to Thuampui Bazar, where Daniel, the appellant and other friends were there. Then Mawitea i.e., the deceased Lalnunmawia Zadeng, came along in the black Scooty and called out PW-16. PW-16 then told his other friends that Mawitea (deceased) was gay. PW-16 asked the deceased to treat them to liquor. However, the deceased asked PW-16 to go along with him, which he refused. PW-16 then went along with his friends Pari, Tetei, Venpuia, leaving behind the appellant and the deceased. After going home, they prepared chow at Pari's home at Thuampui, and at around at 1:00 a.m of o the deceased Lalnunmawia Zadeng, came along and call out to PW-16 by saying friend PW-16 thenen Mawitea i.e., the name given01.01.2015, Daniel (PW-15) came to Pari's house and Pari asked him, if he had seen the appellant. However, PW-15 replied that he did not know the whereabouts of the appellant. At around 3:00 a.m of 01.01.2015, PW-16 left Pari's house along with PW-15. Before reaching their homes, the appellant approached them with a black Scooty (Rodeo). On asking the appellant as to how he got the Scooty, the appellant told them that the Scooty belonged to his girlfriend from Kulikawn locality and that she had allowed him to use the Scooty, as it was late night. Thereafter, the appellant took PW-15&16 on his Scooty for a ride upto Zodin Square. Thereafter, the appellant then dropped them near their houses and proceeded alone on the Scooty.

PW-16 further stated that on being told by Venpuia that the appellant had an iPhone, he asked the appellant if he had an iPhone, which the appellant denied. As he suspected the appellant, PW-16 told one Pu Chd-a, a Police Constable of Bawngkawn Police Station, if they were still searching for the missing person. On being told that they were still searching for him, PW-16 told the Police Constable to make an enquiry against the appellant, as he was having a Scooty on the night of 31.12.2014.

31. The evidence of PW-17 is to the effect that she along with her friend Tetei, Daniel and one Vena were at Ch. Chhunga Bus Terminal, when Henry(PW-16), Venpuia and the appellant joined them. Then one person came along in a two wheeler and PW-16 started talking to him. PW-16 then introduced PW-17 to the said person, saying that he was a very rich person. Then the said person left them. As they were planning to cook chow, they decided to go back to her house. At this time the appellant was not with them. Though some friends suggested that they wait for the appellant, they left without him, as he did not turn up. However, PW-15 waited for the appellant. After sometime, PW-15 came to the house of PW-17 and PW-17 then asked PW-15 where the appellant was. However, PW-15 told PW-17 that he could not wait for the appellant. PW-17 thereafter stated in her evidence that after having her morning meal on 01.01.2015, the appellant came to her house and on asking him where he had disappeared the night before, the appellant said he had gone on a ride with his girlfriend from Kulikawn. The other friends of PW-17 then came to her house and the appellant informed them that he kept his girlfriend's scooty. The

appellant then came to her (PW-17) house many times and he brought an Apple iPhone with him, which he was very proud of, saying that it cost him more than Rs. 10,000/-. PW-17 then states that she later came to know that the appellant had asked Venpuia that nothing remains hidden forever and that in the near future he would go away, due to which, Venpuia should look after his Grandmother. PW-17 also identified the iPhone in the Court, which was shown to her by the appellant.

In her cross-examination, PW-17 stated she later came to learn that the person who had ridden alone on a two wheeler and whom Henry had said was a very rich person, was the missing person who was found dead. This dead person had been introduced to them by Henry (PW-16).

32. The evidence of PW-18 is to the effect that while he was preparing for church service on 09.01.2015, the police came to his house and requested him to accompany them to the Police Station. In the Police Station, the disclosure statement of the appellant was recorded in his presence by Inspector Zarzokima. On being led by the appellant, the scooty along with the helmet and front registration plate of the scooty was recovered. The Forensic Experts then lifted 15 chance prints and three chance prints from helmet and the front registration plate number respectively.

33. The evidence of PW-19 is to the effect that he was a witness to the disclosure statement made by the appellant and that the scooty, helmet and number plate were recovered on the basis of the disclosure statement by the

appellant. He was made a seizure witness and he also saw the Officer from Forensic Department lifting 15 numbers of finger prints from the helmet and three from the front registration plate of the scooty.

34. The evidence of PW-20 is to the effect that the appellant was his friend since childhood. On 04.01.2015 at around 9:00 AM, before morning meal, he visited the residence of the appellant and went out in the scooty kept by the appellant. When PW-20 asked the appellant about the scooty, the appellant told him that the scooter belonged to his girlfriend. However, the appellant did not mention the name of his girlfriend. The scooty was Rodeo and was black in colour. PW-20 then stated that the appellant proposed to him that he should sell his mobile phone which was agreed to. The mobile phone of PW-20 was sold to Lalduhawma for Rs. 1500/-. Lalduhawma paid Rs. 1000/- and the balance Rs. 500/- was to be paid in the evening. As Rs. 1000/- was not sufficient for purchasing drugs, the appellant requested PW-3 to lend him Rs. 300/-. PW-3 then accompanied the appellant to the ATM at Bawngkawn locality and gave him the money. Thereafter, PW-20 and the appellant went to purchase drugs. As the appellant was not satisfied with the drugs consumed by them, the appellant proposed to pawn/pledge one iPhone kept by him, which he said belonged to his girlfriend. The appellant then pledged the iPhone with PW-3. PW 20 also stated that the appellant told him that PW-3 paid Rs. 1500/-. Thereafter, the appellant bought drugs. However, he did not know whether the appellant had spent all the money. PW-20 further stated that the police arrested the appellant on 09.01.2015 and in the evening, the police asked him to whom the iPhone had been pledged by the appellant. PW-20 then accompanied the police to the residence of PW-3 from where the iPhone was seized from PW-3. PW-20 stated

that the iPhone was in black & white in colour. He also identified the scooty in which he rode along with the appellant.

35. The evidence of PW-21 who is the Sister-in-law of the deceased Lalnunmawia Zadeng, is to the effect that she was the owner of the scooty Rodeo RZ bearing registration No. MZ 01 J 6893. On the night of 31.12.2014 at about 10:00 p.m, her brother-in-law, the late Lalnunmawia Zadeng, told her that as he would not stay in Aizawl for a long time, as he was working in HDFC Bank, Lawngtlai Branch, he wanted to visit his friends and requested her to lend him her scooty. He also said that he would come back soon and buy cold drinks on the way back. As the deceased did not return home even at 1:00 a.m on 01.01.2015, PW-1 sent a text message asking him as to whether he was going to come home. In reply, PW-1 received a message saying that the main door could be locked, as he would be staying in his friend's house. As the deceased did not return home for more than 2/3 days, the YMA (NGO) of the locality were informed along with the police. On 08.01.2015, they were informed by some person by whatsApp that one dead body had been recovered at Falkland. The body was identified to be that of the deceased Lalnunmawia Zadeng by her relatives. On 09.01.2015, police from Bawngkawn Police Station informed her that they recovered the scooty used by the deceased on 31.012.2014. On going to the Police Station, PW-21 identified her scooty. While identifying the scooty, she found that the original number plate was missing. On checking the chasis number of the scooty, she found the number to be the same as shown in the scooty registration certificate. On praying for release of the scooty on Zimmanama, she got the scooty released to her. PW-21 also stated that the deceased was the older brother of her husband.

36. The evidence of PW-22 is more or less in line with the evidence of his wife i.e., PW-21.

37. The evidence of PW-23 is to the effect that he was a seizure witness to the seizure of the certificate of registration of the scooty.

38. The evidence of PW-24 is to the effect that he worked as a Manager in Rainbow (Mobile shop) at Zarkawt main street near the traffic point. As per their record, the deceased had purchased one Apple iPhone 5C (8 GB) IMEI No. 358549052455866 from their shop. Further, they had also written down the mobile number of the deceased in their retail in-voice. On the request of a Police Officer, he had printed out the retail in-voice in respect of the purchased Apple iPhone bought by the deceased.

39. The evidence of PW-25, who is the Junior Scientific Officer in the Forensic & Science Laboratory, Aizawl, is to the effect that he had lifted and examined the finger prints on the seized Scooty, the helmet and the helmet visor which were found inside the Scooty. He also found that the Scooty was not having an original number plate. Instead a paper was pasted at the back of the Scooty, showing the Scooty number to be MZ 01/K-3085. PW- 25 also stated that they found the helmet with the visor from under the seat of the Scooty. On examining the finger prints lifted from the Scooty, helmet/helmet visor, which was compared to the finger prints of the appellant, they found that the finger prints from the helmet visor and the right ring finger impression of the appellant to be identical.

40. The evidence of PW-26 & 30, who also worked in Rainbow (mobile shop)

at Zarkawt main street, is also to the same effect as the evidence of PW-24.

41. The evidence of PW-27, who is the Assistant Director FSL, Mizoram is to the effect that she along with PW-25 examined the finger prints lifted from the seized Scooty, helmet/helmet visor. They compared them with the finger prints of the appellant. On examining the same, they found the finger print lifted from the helmet visor and right ring finger impression of the appellant to be identical.

42. The evidence of PW-28, who is the Assistant Director, FSL, Mizoram is to the effect that he examined the viscera of the victim. On examination, he found traces of ethyl alcohol present in the stomach, intestine, spleen and kidney of the victim.

43. The evidence of PW-29, who is the Branch Operation Manager, HDFC Bank, Lawngtlai, is to the effect that she came to know the deceased from the day she started working in the HDFC Bank Lawngtlai Branch, wherein the deceased was also working as Deputy Manager. PW-29 stated that the deceased had bought one mobile handset iPhone 5C from Rainbow Electronic Shop, Zarkawt in the month of December, 2014. Further, she had helped the deceased in setting up the iPhone by creating the Apple ID and screen lock and she had also put the phone name as Mawitea's iPhone 5C. Mawitea is the nickname of the deceased Lalnunmawia Zadeng. PW-29 further stated that after the dead body of the deceased was recovered by the Police and the iPhone of the deceased had been seized, she could trace the location of the iPhone when the Phone was activated, as she had set up the Apple ID and password of the deceased on the same. She also came to know that the Phone name had been

changed to Puipuia's iPhone instead of Mawitea's iPhone 5C. She also identified the iPhone in the Trial Court. Puipuia is the nickname/alias of the appellant.

44. The evidence of PW-31 is to the effect that he was the Head of Department of the Forensic Medicine & Toxicology Department, Civil Hospital, Aizawl on 08.01.2015. At around 7:00 p.m, he received a recquisition for postmortem examination of the dead body of Lalnunmawia Zadeng and the examination of the same showed that:-

> "*1. The dead body was decomposed with swollen abdomen and gloves stocking appearance all over the body.*
>
> *2. The deceased dress in black color round collar full sleeves t-shirt.*
>
> *3. Scalp (skin) of left parietal region measuring 4 cms in diameter, round in shape is absent with blood stain present on left parietal bone over the body.*
>
> *4. Skin deep incised wound of 9*3 cms present on front of the neck, 5 cms below the chin.*
>
> *5. Maggots crawling all over the body.*
>
> *6. Teeth loosen from the socket as soft tissues were decomposed. As the body is decomposed, the cause of death cannot be ascertained.*
>
> *Ext. P-25 is the requisition for PME and Ext. P-25(a) is my signature.*
>
> *Ext. P-26 is the PME Report and Ext. P-26(a) is my signature."*

Cross examination by the learned Defence Counsel:-

"*1. The PME was done by me.*

2. The evidence given by me under point no. 4 of my examination is not sufficient to cause death of the deceased.

3. There was no sign of injury from the body of the deceased except the statement made by me in my examination-in-chief.

4. It is not a fact that I have deposed falsely in the Court today."

The evidence of PW-31 thus basically states that as the body was decomposed, the cause of death could not be ascertained.

45. The examination of PW-32, who is the Inspector of the Bawngkawn P.S, is to the effect that on 02.01.2015, PW-6 submitted a report to the O.C Aizawl P.S, to the effect that on the night of 31/12/2014, his cousin Lalnunmawia Zadeng had left their residence with scooty Rodeo RZ (black color) bearing registration No. MZ 01 J 6893, but did not return home. PW-1 conducted a preliminary enquiry and on 08.01.2015, the dead body of Lalnunmawia Zadeng was found in a highly decomposed state in Falkland Vengthar area by PW-11. Inquest was done over the dead body and also postmortem examination was done by a doctor. On 09/01/2015, PW-32 re-visited the place where the dead body was found, where he recovered and seized one knife which had blood stain. The knife was seized. During further investigation, he came to learn from PW-16 and one Lalvenhima that the appellant had a black scooty in his possession unexpectedly, in the early hours of 01.01.2015. Further, they informed him that the appellant had forged the registration number of the seized scooty with a common marker. They also told him that the appellant had

in his possession one expensive mobile handset which they suspected belonged to the deceased. The appellant was apprehended and on interrogation, he confessed to killing the deceased by deadlocking his throat. He also stated that he recorded the disclosure statement of the appellant and found the scooty on the said basis. The appellant handed over the key of the scooty to the police and on opening the seat of the scooty, one helmet was found under the seat of the said scooty. The helmet and forged front registration plate where MZ01/K 3085 was hand written, was seized. The FSL experts lifted chance prints from the seized helmet and the forged registration plate of the said scooty in the presence of the witnesses. The FSL report showed that the right ring finger impression of the appellant was identical with the chance printed from the helmet visor recovered from the scooty. Further PW-15&16 had stated that in the early hours of 01.01.2015, they had taken a ride with the appellant on the said scooty. On PW-20 telling him that the appellant had taken Rs. 1500/- from PW-3, for which the appellant gave the stolen iPhone as security, he went to the house of PW-3 and seized the iPhone 5-C (IMEI No. 358549052455866) in the presence of two reliable witnesses. He also went to the Rainbow Multibrand Mobile Showroom, Zarkawt and had the retail invoice of the iPhone 5-C purchased by the deceased printed out. The IMEI number of the iPhone 5-C perfectly matched the IMEI number on the printed retail invoice. Further, PW- 3 had stated that the iPhone 5-C was given by the appellant to her as security, as she had initially lent him Rs. 300/-. However, as the appellant asked her to lend him Rs. 2,000/- more, PW-3 then lent him an additional Rs. 1,500/-.

46. The evidence of PW-32 is to the effect that he visited IRENE Info Media Zarkawt with the seized iPhone, as the iPhone battery was dead. On the iPhone

being charged, he printed out two photos of the appellant and the appellant's friend from the iPhone which were taken on 02.01.2015. The said iPhone was screen locked with number lock, which only a person with knowledge of the password would be able to open the lock screen. On contacting PW-29, who was a close friend of the deceased who had created a password for the victim, PW-29 gave him the password to the said iPhone. When the iPhone was opened, it was discovered that the appellant had changed the iPhone name to 'Puipuia iPhone 5C' and all the call details and SMS were found deleted. The photo taken by the appellant of himself and his friends by the said iPhone, showed them smiling and putting on the seized helmet, while apparently riding the seized scooty. After receiving the PME report he also came to learn that the real owner of the seized scooty was PW-21. He also forwarded 5 witnesses i.e., PW-3,14,15,16 & 20 before the CJM, Aizawl for recording their Judicial statements. He also seized the achievement certificate of the appellant which certified that the appellant had won a bronze medal in the 54-55kg weight category of the 14th MTI Senior National Muaythai Championship held at LB Stadium Complex, Hyderabad from 25-29 August, 2013, which proved that the appellant had the skill and capability to cause death of the deceased with his bare hands.

47. The evidence of PW-33, who was the CJM, Aizawl at the relevant time, is to the effect that on 26.02.2015, the judicial statements of PW-15,16&20 were recorded. On 30.03.2015, the judicial statements of PW-3 &14 were recorded.

48. The evidence of PW-34 is to the effect that the appellant was her son and on 13.03.2015, the police seized one achievement certificate of Muaythai

India (MTI) National Federation, awarded to the appellant from her possession.

49. The evidence of PW-35 is to the effect that on 30.03.2015 at around 12:10 p.m, while she was sitting in the house of the appellant's mother, the police came and seized one Muaythai certificate which was awarded to the appellant, for winning the bronze medal at Muaythai India National Federation championship.

50. The evidence of PW-36 & 37 are to the effect that they were seizure witnesses to the seizure of the Muaythai certificate awarded to the appellant. Further PW-37 stated that PW-37 had won 6 gold medals in the National Muaythai Championship and that a Muaythai fighter could kill a man easily with his bare hands.

51. The evidence of the defense witness No. 1 (DW-1) is to the effect that he was a Muaythai instructor. According to him, he knew that the appellant use to drink and smoke sometimes. However, he did not know that the appellant abused drugs. He also stated that Muaythai fighters could kill a man with bare hands.

52. The appellant gave his evidence as DW-2. He stated that he did not know the deceased previously. While planning to have a midnight ceremony at Thuampui area, to welcome the New Year on 31.12.2014, the deceased came over with a friend of his to the Bazar at around 10:00 p.m. He asked PW-16 where they could buy a liquor. As PW-16 did not know where liquor was

available, PW-16 called the appellant over. Thereafter, PW-16 left them. The deceased then asked the appellant where he could find liquor. The appellant answered saying it was late night and he did not know where to purchase liquor. The deceased then told the appellant that he had two bottles of white rum and that he would treat him. The appellant told the deceased that he did not plan to drink liquor that night. However, the deceased invited him again, saying that they could go to the World Bank Road and return soon, after having a quick drink. The appellant then agreed to the proposal of the deceased. The two of them sat on the scooty of the deceased and went to the World Bank Road. The deceased then asked the appellant where there could have some privacy. The appellant however told the deceased he did not know such a place. After passing a cement mixture machine by the road, the deceased got onto a diversion, which was a jeep road where there were about three houses. The deceased then stopped his scooty and parked it. Thereafter, the deceased took the appellant above an Assam type house, above the road level. They talked and drank the white rum of the deceased. As the appellant started getting drunk, he lay down holding his knees. The deceased then inserted his hands into the appellant's pants and touched his penis. The appellant pushed the deceased saying "Aren't you ashamed. Aren't you a man". While the appellant thought that the deceased would not assault him again, the deceased took off all his clothes, including his underwear and got on top of him. The appellant then punched the deceased saying that his behavior was surprising. The appellant then threatened the deceased, saying that if he did not behave, he would leave. The appellant started walking away. However, the deceased struck him with a stone weighing about 4 kgs. The appellant fell down. On getting up, the appellant punched the deceased. However, the appellant started falling

again. The deceased then called after him, saying that he would go to the police and accuse the appellant of stealing his iPhone and get him arrested. The appellant then said he was not scared of being arrested and punched the deceased, where-upon the deceased punched him back and throttled him. Believing that the deceased would kill him, the appellant held him in a lock. However, as the appellant did not want to kill the deceased, the appellant released him. After releasing him, the appellant got up and said that he was going home. He took the bag of the deceased wherein, the appellant had put his track jacket. He also took the scooty saying "*You brought me this far here so come and search for your scooty in my place if you like".*

53. The appellant as DW-1 thereafter stated that he left the deceased still alive. He then drove the scooty to his locality thinking that the deceased would come and collect his scooty. On 08.01.2015, he heard that the body of the deceased was found at the place where he had left him. The appellant further stated that the deceased was naked, but when he was found he had on all his clothes, except his underwear, which proved that he did not kill the deceased. He further stated that as he had a drug habit to support, he had kept the iPhone as security for a sum of Rs. 1,300/-, in relation to a loan taken from one of his friends, thinking that he would redeem the iPhone and return it when the deceased came for it. On 09.01.2015, the CID personnel came to Bawngkawn and asked him for the scooty key. He gave the scooty key to the police. On being asked in the Bawngkawn P.S whether he had killed the deceased, he had told them he had not killed the deceased. However, as he was being tortured by the police and as he had been told by the police that if he did not admit to killing the deceased, he would be left at the mercy of the public, he admitted to

having killed Lalnunmawia Zadeng. Further,. As he was taken into Police custody, he could not redeem the mobile phone kept as security by him. However, the police seized the phone from the person who had loaned him money.

54. In his cross-examination, the appellant as DW-2, agreed that he had gone with the deceased Lalnunmawia Zadeng to Falkland Veng (locality) on his scooty, without informing his other friends. The appellant also agreed that when he pledged the iPhone of the deceased with PW-3, PW-3 had asked as to who the owner of the phone was. He also stated that he knew the password of the deceased iPhone, because the deceased had told him the password, when they were together on the night of 31.12.2014. He also agreed that he had told PW-15 and PW-17 that the scooty of the deceased belonged to his girlfriend from Kulikawn. He also admitted he had written an incorrect number of the scooty on paper and pasted it on the scooty, as because the number plate had fallen off and he did not know the correct number. The appellant denied the suggestion of pasting the incorrect number of the scooty, to hide the true number of the scooty and to mislead others. He also agreed that the police recovered the scooty from the place revealed by him. He also agreed that the phone of the deceased was recovered by the police on the basis of the information given by him.

55. In the examination of the appellant under Section 313 Cr.PC, the appellant has denied knowing anything about the death of the deceased or with regard to the recovery of the iPhone and the Scooty on which PW-3 was carried

by the appellant. The appellant stated that he pledged the iPhone with PW-3, but did not remember how much money he received from her. He also stated that he found the iPhone on the black Scooty. The appellant in answer to question No. 7 has admitted that he was with the deceased on the fateful night, but he did not remember what kind of jacket, t-shirt and shoes the deceased was wearing. The appellant did not deny that he wrote the number of the Scooty on a piece of paper and stuck it on the Scooty. He has also stated that he was not sure whether he had taken Lalvenpuia in the Scooty for roaming around on the fateful night. He however denied that PW-16 and his other friends had left Thuampui Bazar before him. The appellant also stated that he did not remember what he had told PW-15 & 16 regarding the Scooty belonging to his girlfriend at Kulikawn or that she had allowed him to use it, as it was late night. He also stated that he did not remember whether he took PW-15 & 16 for a ride on the fateful night.

56. The appellant in his explanation under section 313 Cr.P.C. did not deny the fact that he had made a disclosure statement to the effect that he had held the deceased in a lock and on checking his pulse, he found that the deceased had died. On confirming that the deceased had died, he had cut the neck of the deceased below the chin to show that some person had killed him. He also did not deny the fact that he had taken the wallet, scooty and mobile of the deceased.

57. The evidence of PW-16 and DW-2 shows that the appellant and the victim had been left alone on the night of 31.12.2014 by PW-16 and the other people and that the last person to have seen the deceased was the appellant.

58. In the case of ***Rajendra Alias Rajesh Alias Raju Vs. State (NCT of Delhi),*** reported in ***(2019) 10 SCC 623***, the Supreme Court held that when a victim is last seen alive with the accused in a secluded area, the burden shifts to the accused to explain what happened as they have special knowledge of the facts. Para 12.2.4 of the said judgment further held that when the last seen together theory is applied, the accused has to show how and when he parted company with the deceased. The reasonableness of the explanation offered by the accused would have a direct bearing on the effect of the last seen in a case. In the case of ***Mohd. Firoz Vs. State of Madhya Pradesh*** reported in **(2022) 3 SCC (Cri) 165,** the Supreme Court had held that once the theory of "last seen together" is established, the accused is expected to offer some explanation as to under which circumstance he had parted the company of the victim. Though the entire burden of proving the guilt of an accused rest on the prosecution, if the accused does not throw any light upon the facts which is proved to be within his special knowledge in view of section 106 of the Evidence Act, such failure on the part of the accused may also provide an additional link in the chain of circumstances against him. Though section 106 of the Evidence Act does not shift the burden of the prosecution on the accused, nor requires the accused to furnish an explanation with regard to the facts which are especially within his knowledge, nonetheless, furnishing or non-furnishing of the explanation by the accused would be a very crucial fact, when the theory of last seen together is proved against him, to know as to how and when the accused parted the company of the victim. In the case of **Satpal Vs. State of Haryana**, reported in ***(2018) 6 SCC 610***, the Supreme Court has held that normally the last seen theory comes into play when the time gap between the point of time

when the accused and the deceased were last seen alive and when the deceased is found dead, is so small that the possibility of any person other than the accused being the perpetrator of the crime becomes impossible. Para 6 of the said judgement states as follows :-

"6. We have considered the respective submissions and the evidence on record. There is no eyewitness to the occurrence but only circumstances coupled with the fact of the deceased having been last seen with the appellant. Criminal jurisprudence and the plethora of judicial precedents leave little room for reconsideration of the basic principles for invocation of the last seen theory as a facet of circumstantial evidence. Succinctly stated, it may be a weak kind of evidence by itself to found conviction upon the same singularly. But when it is coupled with other circumstances such as the time when the deceased was last seen with the accused, and the recovery of the corpse being in very close proximity of time, the accused owes an explanation under Section 106 of the Evidence Act with regard to the circumstances under which death may have taken place. If the accused offers no explanation, or furnishes a wrong explanation, absconds, motive is established, and there is corroborative evidence available inter alia in the form of recovery or otherwise forming a chain of circumstances leading to the only inference for guilt of the accused, incompatible with any possible hypothesis of innocence, conviction can be based on the same. If there be any doubt or break in the link of chain of circumstances, the benefit of doubt must go to the accused. Each case will therefore have to be examined on its own facts for invocation of the doctrine."

In the case of ***Rajendra (Supra),*** the Supreme Court held that the reasonableness of the explanation offered by the accused as to how and when he parted company with the deceased has a bearing on the effect of the last seen in a case. He must furnish an explanation that appears to the Court to be probable and satisfactory. The Supreme Court also held that Section 106 of the Evidence Act only lays down the rule that when an accused does not throw any light upon facts which are especially within his/her knowledge and cannot

support any theory or hypothesis compatible with his innocence, the Court can consider his failure to adduce an explanation as an additional link which completes the chain of incriminating circumstances.

59. In the present case, the evidence of PWs- 15, 16 and 17 read with, the evidence of the appellant (DW-2), shows that the appellant was with the deceased in a secluded place and that some quarrel and fight had allegedly taken place between them. Whatever be the reason for the alleged quarrel and fight that had taken place between the appellant and the deceased, the evidence of the appellant as DW-2 shows that the appellant had taken away the iPhone and scooty of the deceased and left the deceased in the secluded place. Only the appellant and the deceased had apparently gone to the secluded place on the night of 31-12-2014/01-01-2015 on the scooty of the deceased. The wallet of the deceased was discovered on 03/01/2015 from Turial Dumping ground, which is around 20 Kms away from the World Bank Road/Falkland area. No one heard of the deceased or had seen him after the appellant (DW-2) had left him in the night/morning of 31-12-2014/01-01-2015, till the body of the deceased was discovered on 08/01/2015. During all this time, the appellant had kept quiet and had flaunted the iPhone of the deceased and had lastly kept it as security with PW-3, in lieu of a loan taken by the appellant from PW-3. The scooty which had been taken by the appellant in the early morning of 01/01/2015 from the deceased, had been used by him and he had even carried PWs-15 and 16 at around 3 a.m. of 01/01/2015. The appellant had told a lie by stating that this scooty belonged to his girlfriend in Kulikawn. The appellant had even carried PW-3 on his scooty on 04/01/2015 and had told PW- 3 that he had purchased the scooty. All these lies by the appellant clearly goes to show that

the appellant was hiding the fact that he had taken away the scooty that had been driven by the deceased on 31/12/2014.

60. On the recovery of the scooty on the basis of the alleged disclosure statement made by the appellant, fingerprints had been lifted from the helmet by the experts of the Forensic Department. The expert opinion showed that the fingerprints on the helmet visor were identical with the right ring finger impression of the appellant. The helmet had been recovered from under the seat of this scooty which actually belonged to PW-21, who is the sister-in-law of the deceased. It is also interesting to note that as per the evidence of PW-15, on PW-15 asking the appellant about the scooty, the appellant had told him that he had been given the scooty from a man from Chanmari locality, as security, in exchange of heroin, which is in contradiction with what he told the other Prosecution Witnesses.

61. The iPhone that had been kept as security by the appellant with PW-3, in lieu of a loan taken by him from PW-3, had been proved to be the iPhone that had been bought by the deceased from Rainbow, a mobile shop at Zarkawt locality. The evidence of PWs- 24, 26, 30 and 32 is to the effect that the said iPhone bearing IMEI no. 358549052455866 had been bought by the deceased from Rainbow and the same had been recovered from the house of PW-3. The appellant on being asked by PW-14 as to how he had got an iPhone, had told him that some people were having a quarrel at Chanmari locality and they had dropped the iPhone, which the appellant took away. On the other hand, on the being asked by PW-16, if he had an iPhone, the appellant denied the same. The evidence of PW-17 is to the effect that the appellant came over to her house

many times with an iPhone, with which he was very proud of, and told her that it costed more than Rs. 10,000/-, which implies that he had bought the phone. The said iPhone, which was the iPhone of the deceased, was also identified by PW-29, who was the Branch Operation Manager of HDFC Bank, Lawngtlai, where the deceased worked as Deputy Manager. She identified the iPhone as the one set up by her, where she had put the phone name as Mawitea's iPhone. Mawitea pertains to the deceased. The evidence of the appellant as DW-2, corroborates the fact that the name of the iPhone had been changed from Mawitea's iPhone to Puipuia's iPhone, as DW-2 had stated that he knew the password of the iPhone from the deceased, as the deceased had told him the password when they were together on the night of 31/12/2014. Further, the evidence of PW-32 also shows that the appellant had taken photos with the iPhone of the deceased and he had printed out two photos of the appellant, taken from the said iPhone. The photos had been taken by the appellant on 02/01/2015.

62. All the above evidence clearly proves that the iPhone of the deceased had been taken by the appellant, but not for the reasons stated by the appellant. The appellant, in his evidence, had stated that he had taken the iPhone to basically teach the deceased a lesson and he intended to give back the iPhone when the deceased asked for it. The evidence of the Prosecution Witnesses and the silence of the appellant with regard to leaving the deceased at night in a secluded place without his wallet, iPhone and scooter, belies the truthfulness of the reason given by the appellant for keeping the scooty and iPhone in his possession, which was subsequently given as security to PW-3 for a loan.

63. All the above facts, in our view, rather points to the fact that the appellant had stolen the wallet, iPhone and the scooty from the deceased, which could have been done only if he had killed the deceased. He had also pasted a new number over the original number of the scooty. This only shows the actions of a person with a guilty mind and a guilty conscience. The explanation given by the appellant as DW-2 in his evidence, regarding the reason and manner in which left the deceased, does not appear to be truthful. It is certainly not probable and satisfactory in leaving the deceased in a naked state, in the middle of the night, besides taking way the wallet, iPhone and scooty of the deceased.

64. The appellant is also a Muaythai fighter and has also been awarded certificates for his prowess as a Muaythai fighter. It also appears that the appellant had used his Muaythai skill upon the deceased in terms of his explanation given to question no. 33, during his examination under section 313 Cr. PC.

65. It is seen that a knife had also been seized by the Police. Though it is not clear as to how exactly the deceased had died, due to the highly decomposed state of the body of the deceased, it is quite apparent that the appellant was the last company that the deceased had. It is unbelievable that the appellant would have left the deceased alive in a secluded place, after taking his wallet, iPhone, scooty. The appellant not having explained the special knowledge he has with regard to how the deceased had died, lends a crucial link to the circumstantial evidence, pointing only to the appellant being the

person who killed the deceased. As such, we are of the view that the appellant was the person who had killed the deceased and had stolen his wallet, scooty and iPhone. Though the principle of "last seen together" may be a weak kind of evidence by itself, the same, coupled with the other circumstances, and the false explanation and lies given by the appellant with regard to the stolen iPhone and the scooty, which is corroborative evidence, form a complete chain of circumstances, incompatible with any possible hypothesis of the appellant's innocence. We thus find that the circumstances from which the conclusion of guilt has been drawn by the learned Trial Court is an unbroken chain of events, fulfilling the five golden principles laid down by the Supreme Court in the case of ***Sharad Birdhi Chand Sarda vs. State of Maharashtra,*** reported in ***(1984) 4 SCC 116.*** As such, we do not find any infirmity in the conviction of the appellant by the learned Trial Court.

66. In view of the reasons stated above, we do not find any reason to interfere with the conviction of the appellant under section 302/201/465/471/482/379 IPC. Having said that, we find that the learned Trial Court appears to have forgotten to pass any sentence with regard to other sections of law for which he was convicted, except under section 302 IPC. We are thus of the view that the appellant has to be sentenced under sections 201/465/471/482/379 IPC, inasmuch as, the appellant has caused disappearance of evidence of the offence and has given false information. He is found to have stolen the wallet, iPhone and scooty. The appellant is also found to have committed forgery, by giving a wrong number to the scooty and using the same as a genuine number. He is also found to have destroyed/thrown away

the original number plate of the scooty. Accordingly, the appellant is sentenced to undergo imprisonment for 2(two) years under section 201 IPC. He is also sentenced to undergo imprisonment for 3 (three) years for committing theft under section 379 IPC. He is also sentenced to undergo imprisonment for a period of 1(one) year under section 465 IPC and for a period of 2(two) years under section 471 IPC. He is also sentenced to undergo imprisonment for 1(one) year under section 482 IPC. All the above sentences, including the sentence awarded to him under section 302 IPC, shall run concurrently.

67. The appeal is accordingly dismissed.

68. Send back the TCR.

69. In appreciation of the assistance provided by Mrs. Emily L. Chhangte, learned Amicus Curiae, her fees shall be paid by the State Legal Service Authority.

JUDGE **CHIEF JUSTICE**

Comparing Assistant

Sukhamay Dey

Digitally signed by Sukhamay Dey
Date: 2026.06.19 14:12:46 +05'30'