

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN
&
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

CRL.A.No. 832 of 2010

AGAINST JUDGMENT IN SC 66/2008 of ADDITIONAL SESSIONS COURT-I,
THIRUVANANTHAPURAM DATED 25-03-2010

APPELLANT(S):

FRANCIS, C.NO.4917,
CENTRAL PRISON, THIRUVANANTHAPURAM.

BY ADVS.SRI.SAJEEV.T.P.
SMT.K.RAJANI
SRI.R.V.SUJIT KUMAR

RESPONDENT(S):

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY SMT.PRAICY JOSEPH, SPL. PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 08-
06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K.MOHANAN & RAJA VIJAYARAGHAVAN.V, JJ

Crl.Appeal.832 of 2010

Dated 8th June, 2015

JUDGMENT

Raja Vijayaraghavan.J.

1. The appellant is the accused in S.C.No.66 of 2008 on the file of the Court of Additional Sessions Judge-I, Thiruvananthapuram. He stands convicted under Section 302 of the IPC and has been sentenced to undergo rigorous imprisonment for life.

2. Before advertng to the contentions raised by the appellant, the case of the prosecution can be briefly stated as follows:

2(i). The deceased Santha is the daughter of PW1, Mary. Santha had fallen in love with the appellant and they

were living together without entering into any form of marriage. Out of the said wedlock, two girls were born to the couple, the eldest being Salini who was residing in a poor home at Cheruvarakonam near Parassala and the younger one being Malini who was staying with Santha.

2(ii). The appellant was a Cable layer by profession and was an infrequent visitor to the house. He is an alcoholic and there used to be frequent fights with Santha when she refused to part with money which he required for satisfying his drinking habits. While so, on 21.07.2006, when PW2-Malini had come back from School, she had occasion to see the appellant and the deceased Santha quarreling with each other. Malini went for tuition and when she came back, she found her mother crying. Malini had her supper and went to bed. She had fallen asleep and was woken up by the screams of her mother. She found her mother standing in the kitchen engulfed in fire. Santha was seen pouring water on her body. The accused was also present in the kitchen and he rushed out through

the front door and fled towards Pampukala. Aghast at seeing her mother in flames, PW2 rushed to the house of her grandmother, Mary, who was residing nearby. She, along with Mary, returned back to the home and on their way, they saw the deceased Santha running towards them and falling down near the electric post in front of the house of Appu Nadar. The clothes of the deceased were burnt and her hair was charred. There was smell of kerosene emanating from her body.

2(iii). A car was summoned and the deceased was taken to the Taluk hospital, Neyyattinkara, where she was examined by PW8, the Casualty Medical Officer. The deceased Santha was referred to the Medical College Hospital, Thiruvananthapuram. While undergoing treatment at the Medical College Hospital, Santha succumbed to her injuries on 20.08.2006 at 10.10 am. Thereafter, PW1 went to the Kanjiramkulam police station and gave a statement to PW14, the Sub Inspector of Police, at 5.30 pm on 20.08.2006 based on which Ext.P1

(a) FIR was registered. The same Officer proceeded to the Medical College Hospital mortuary and prepared Ext.P2 inquest over the dead body of the deceased Santha. The clothes worn by the deceased were seized. He obtained the treatment certificate of Santha from the Medical College hospital and thereafter, gave Ext.P15 report incorporating Section 302 of the IPC.

2(iv). Later investigation was taken over by PW13, the Circle Inspector of Police, Poovar police station, on 23.08.2006. He went to the scene of occurrence and prepared Ext.P9 scene mahazar and seized MO1 can containing kerosene found in the kitchen of the house. He arrested the accused on 30.08.2006 at 9.15 pm. The accused was produced before the Judicial First Class Magistrate Court-III, Neyyattinkara and he was remanded to judicial custody. Later investigation was handed over to PW15 , the Circle Inspector of Police, Poovar, who, on completion of Investigation, laid the final report before Court.

3. The learned Magistrate before whom the final report was laid initiated committal proceedings as CP number 50/07 and committed the case to the Court of Sessions Thiruvanthapuram. The learned Additional Sessions Judge, after hearing the prosecution and the accused, framed charge against the accused for the offense punishable under section 302 of the IPC. When the charge was read over to the accused he pleaded not guilty and hence trial was proceeded with.

4. In order to prove the case of the prosecution, PWs 1 to 15 were examined and Exts.P1 to P15 were marked. MOs were produced and identified as MO1 to 4. After the close of prosecution evidence the incriminating circumstances arising out of the evidence were put to the accused under Section 313 of the Code. The accused, after denying all incriminating circumstances, filed a statement in which he stated as follows:-

4(i). He had fallen in love with the deceased Santha and they were living together. He was employed as a Cable layer and had to work in far off places. He used to visit his family only once in a month and as and when he came, he used to bring money in excess of Rs.5,000/-. He became an alcoholic after the death of his wife and he is not an inveterate drinker. On the day on which Santha had sustained burn injuries, he and Santha had a fight over the habit of Santha in sending their children to live in the house of relatives and the Church. This fight occurred at about 6.00 pm. Thereafter, the accused left the house saying that he would never return. At that time, PW1- Mary , and Nalini had come and they took Santha to the house of PW1. At about 7.10 pm, he received information that Santha had sustained burn injuries and he rushed back home. The relatives of Santha behaved aggressively towards him and he was driven off. According to the appellant, after 6.00 pm on 21.07.2006, there was nobody in the house where Santha was residing with the appellant. According to him, Santha had not sustained

any burn injuries while she was in the house. He further stated that Santha had attempted to commit suicide while she was in some other place.

5. On the side of the defense, the case diary contradictions brought out when PW 1 and 2 were examined were marked as Exts.D1 and D2. The librarian of the Neyyattinkara Taluk hospital was summoned and he was examined as DW1 through whom Exts.X1, X1(a), X2, and X2(a) were marked.

6. The learned Sessions Judge, after appreciating the evidence let in and the various circumstances relied on by the prosecution, came to the conclusion that the prosecution was able to successfully prove the guilt of the accused. On that basis the accused was convicted and sentenced to undergo rigorous imprisonment for life under Section 302 IPC.

7. We have heard the learned counsel for the appellant

Sri.Sajeev T. Prabhakaran and Smt. Praicy Joseph, the learned Special Government Pleader appearing for the State.

8. The learned counsel for the appellant Sri. Sajeev T.Prabhakaran argued that indisputably the case against the appellant rests on circumstantial evidence. The learned Counsel attacked the judgment of the learned Sessions judge on the ground that the learned Judge has ignored this vital aspect and the principles of law relating to appreciation of circumstantial evidence were not adverted to. The learned Counsel argued that the prosecution failed to establish the circumstances from which the conclusion of guilt was to be drawn and further contended that the facts that have been established by the prosecution is totally inconsistent with the hypothesis of the guilt of the accused. It was pointed out that the witnesses examined are all related witnesses and their evidence did not inspire confidence. He took us through the evidence of PW1 and also P1 statement to

substantiate his contention that the role attributed to the appellant was not there when the First Information Statement was lodged, that too at a belated stage, on the 30th day of the occurrence .The learned counsel submitted that the child witness was tutored and the dying declaration is the handiwork of the investigating officer and no reliance could be placed on the same. He finally closed his arguments and prayed that the appellant be acquitted of all charges.

9. Per contra, the learned Special Government Pleader appearing for the State would contend that the evidence of PW1, PW2, PW5, PW11, PW12, would conclusively establish the circumstances linking the accused with the crime. She would also argue that Ext.P6 and P6(a) clinches the issue as the deceased had stated before the doctor who had examined her at 9.30 pm on 21.06.2006 that she had sustained injuries at the hands of her husband. The learned public prosecutor would further submit that the last seen theory would apply on all fours

in this case connecting the accused with the crime. It was finally submitted that there was no reason to disbelieve the case of the prosecution and the judgment, conviction and sentence passed by the learned Sessions Judge , passed after proper analysis of the facts and circumstances, is only to be confirmed.

10. We have been taken through the evidence, materials on record and also gone through the judgment of the Court below. We have heard the respective counsels in extenso.

11. Admittedly, there is no eye witness to the occurrence and the prosecution case is based on circumstantial evidence. After hearing the parties and after going through the judgment of the Court below it appears that the following are the circumstances with the aid of which the prosecution sought to establish that it was the accused and the accused alone who had committed the crime.

CIRCUMSTANCES

(i). The deceased had sustained 40% burns in the kitchen of her house where she was living with the appellant and PW2.

(ii). There were constant fights between the deceased and the accused

(iii). The presence of the accused in the house proximately at the time when the deceased sustained burn injuries.

(iv). The conduct of the accused in fleeing from the scene when the deceased was sustaining burns

(v). Oral dying declarations made by the deceased to PW5, PW8, PW11 and PW12 relating to the circumstances of the transaction resulting in her death.

(vi). Subsequent conduct of the accused.

(vii). Motive.

12. We deem it appropriate to evaluate the evidence afresh before adverting to the various circumstances.

13. PW1- Mary, is the mother of deceased Santha. PW1 had set the law in motion on 20.08.2006 , which incidentally is the 30th day of the occurrence. At the time of incident, PW1 was residing about three houses away from where Santha was residing. Santha was living with the accused and her younger daughter Malini (PW2). Santha's elder daughter Salini was living in a poor home at Cheruvarakonam. The incident had occurred on 21.07.2006. She was at her home on that day. Malini had come to her house and told that there is a fire. Malini and PW1 went rushing towards the house of Santha. They found Santha lying in front of the electric post near the house of PW 5 Appu. She along with others lifted Santha and made her to lie in the courtyard of the house of Appu. Her clothes were changed and one Thankamani (CW6) summoned a car. The deceased was taken to the Neyyattinkara taluk hospital and from there, she was referred to the Medical college hospital. The deceased had sustained extensive burns all over the body and her

hair was charred. Her clothes had all burnt off. There was a smell of kerosene on her body. She underwent treatment at the Medical college for one month and while undergoing treatment she succumbed to her injuries.

14. She had given Exhibit P1 statement before the Kanjiramkulam police station on 20.08.2006 at 5.30 pm. In her statement, she had stated that she suspected the involvement of Francis in the death of her daughter. In cross examination she stated that it was after the funeral of her daughter that she had given statement before the police. The defense had brought out Exhibit D1 contradiction in cross examination with reference to her earlier statement that on 21.07.2006 at 6.00 pm it was one of her neighbors, one Nalini, who had informed her about some ruckus happening in the house of her daughter. She admitted that she had given such a statement to the police. According to her, she was not present when the doctor attached to the Neyyattinkara Taluk Hospital had examined her daughter. She asserted

that, after the incident Santha had talked to her only once and that was on the next day. She stated that she had stated to the police all that she knew about the incident when she had given Ext.P1 statement. The learned Sessions Judge also put questions under Section 165 of the Evidence Act to the said witness as to whether she knew where Francis was after her daughter had sustained burn injuries. PW2 stated unequivocally that she was unaware as to where Francis was at that time.

15. PW2 is the younger daughter of the deceased and the appellant and she was aged nine years when the occurrence had taken place. When evidence was tendered she was 13 years old. The capability of the witness to give rational answers was inquired into by the learned Sessions Judge. PW2 gave evidence that she was residing with her father and mother and her elder sister Salini was staying elsewhere. She deposed that, on 21.07.2006 she had gone to the school. After returning back from school she went for tuition and when she returned had seen her

mother sitting in the kitchen and she was crying. Her house comprises of two rooms, one being the kitchen and the other being the place where they sleep and study. They take food sitting in the kitchen. Her father is a coolie and mother is a vegetable vendor. Her father does not come home often. Fight occurs between her mother and father when her mother refuses to part with her gold ornaments as demanded by her father. He demands these ornaments for consuming alcohol. After having dinner, she went to bed. She woke up hearing the cry of her mother. She saw her mother engulfed in fire. She could see her mother pouring water over her body to douse the fire. She saw her father coming out from the kitchen to her room and running out through the door towards Pambukala. She saw her mother in flames standing in the kitchen. Immediately she rushed towards the house of her grandmother and informed her about the incident. She along with her grandmother, and mother's sister Manju came running towards the house of Santha. On their way they saw Santha lying near to the house of PW5 Appu

Nadar. PW1 and Manju lifted the deceased up and laid her in the courtyard of the house of Appu Nadar. Clothes were all burnt and therefore she was made to wear some other dress. Her mother was taken to the hospital and PW1 went with her. Her mother died on 20.08.2006. While her mother was in the hospital, she stayed in the house of her mother's sister one Mini and went to school from that house. She was questioned by the police and according to her, the police seized MO1 can containing kerosene from the kitchen of her house. When the witness was cross examined it was brought out that the kitchen had a door towards the west and that it was possible to go out of the kitchen through the door as well. She admitted in cross examination that neither the roof nor the plastic partition in the kitchen caught fire and the kerosene can also was not damaged. Ext.D2 contradiction was brought out in cross examination to the effect that she had seen her mother crying when she had come from school.

16. PW3, is the ward member of the Karikulam

Panchayat, Ward No.5 and he was examined to prove Ext.P2 inquest. According to him. MO2 to 4 , clothes worn by the deceased were seized during the inquest.

17. PW4, was the peon attached to the Medical College hospital, Thiruvananthapuram . He was examined to prove Ext.P3 inventory which was prepared by PW 14 , the Sub Inspector after perusing the case records of the deceased Santha.

18. PW5 is one Appu Nadar, who is a near relative of deceased Santha. He deposed that he had seen Santha's daughter Malini crying and on hearing the cry, he came out of his house. Santha was crying and stood near the electric post in front of his house and requested for help. He asked Santha as to what happened. Then Santha responded by saying that her husband poured kerosene and set her on fire and that her husband had ran off. Several persons had assembled in the place. He stated that her clothes had burnt off and therefore he took

clothes from his house and put the same on the body of the deceased Santha. She was taken to the hospital and after one month, she succumbed to the injuries. In cross examination, he stated that when Santha had told him that it was her husband who had set her on fire after pouring kerosene on her body, no one was present there. It was thereafter that 10-50 persons had assembled. When a question was put as to whether Santha had told the assembled persons as to the complicity of her husband, he answered in the affirmative. On a pointed question as to why he had not intimated the police about the fact of incident, he stated that he was not aware of the legal formalities . According to him prior to the death of Santha no police man had come to record the statement. He also stated in cross examination that there used to be fights between Santha and her husband on a daily basis.

19. PW6 is the account section Junior Superintendent attached to the Medical College Hospital and he was

examined to prove Ext.P4 medical records relating to Santha.

20. PW7 is the Associate Professor of Forensic Medicine, Medical College, Thiruvananthapuram. She would say that on 21.8.2006 she was working as Associate Professor of forensic medicine, medical college, Trivandrum. She deposed that on 11.05 AM she had conducted the post-mortem examination on the body of Santha aged about 35 years involved in the case and issued exhibit P5 post-mortem certificate. She further deposed that -

“Body was that of a poorly nourished adult female of height 143 cm and weight 46 kg. Singeing of scalp hair was noted along the hairline of front at its middle. Conjunctivae were pale, cornea hazy. Ears and lips were affected by burns. Hymen was absent. Vaginal orifice admitted two fingers. Finger nails were pale. Rigor mortis was fully established and retained all over the body. Postmortem staining was faint on the back, not fixed. No sign of decomposition. Body was kept in old room.

Injuries (Antemortem)

(i). Infected burns, muscle deep,

involving right side of face, slough and the periphery hypo pigmented with spotty hyper pigmentation. Healing burns was present along the rim of left ear lobe, left side of face. Nose, lips, inner aspect of middle of left arm (7x4 cm) back of middle three fingers of left hand, inner quadrant of left breast (8x6cm) and front of abdomen in the middle (11x6 cm).

(ii). Infected surgical drainage wound on the front of left ankle.

Brain was congested and oedematous. Air passages were congested and lined by pus. Lungs were congested and oedematous. Stomach contained a few soft rice in mucoid fluid having no unusual smell. Mucosa pale. Spleen was friable, kidneys were pale and flabby with indistinct corticomedullary demarcation and with cortical haemorrhages. Urinary bladder was empty. Uterus was normal in size. Cavity empty, endometrium congested, fallop rings were present on both sides. All other internal organs were congested, otherwise normal. Opinion as to cause of death - Death was due to infected burns affecting approximately 40% of body surface.

21. She stated that the injuries noted in the body could be caused by lighting the body after pouring kerosene. She also deposed that even without the infection the injuries are sufficient enough to cause death in the ordinary course of nature.

22. PW8 was working as Casualty Medical Officer at Neyyattinkara Taluk hospital. On 21.07.2006 She had examined the deceased Santha at 9.20 pm. According to the said witness, Santha was brought by Mary, the mother of the injured. The injured was fully conscious and oriented and according to her on her inquiry the injured had stated to her that her husband had poured kerosene over her body and had set her on fire at 6.00 pm at Pambukala. The wound certificate prepared by the Medical Officer was marked as Ext.P6. The alleged cause of injury as stated by the injured, was separately marked as Ext.P6(a). According to PW8 the injured had burns involving whole face, whole neck, right arm, right forearm, left arm, whole abdomen, right thigh, right leg, left thigh, left leg, vulva and anterior chest (whole) and upper chest. Her hair was charred. In cross examination she had stated specifically that no intimation was given to the police by the doctor with respect to the above reported case.

23. PW9 was working as Scientific Assistant, Forensic Science Laboratory, Thiruvananthapuram during 24.10.2006. She issued Ext.P7 certificate after examining the liquid contained in MO1 can and she has deposed that the liquid was found to be kerosene.

24. PW10 was the Village Officer of the Karimkulam Village and according to him, he had gone to the scene occurrence and prepared scene plan which was marked as Ext.P8 series.

25. PW11 is the husband of the sister of deceased Santha. He is residing at Nellimoottil. On 21.07.2006 he received information that Santha had been taken to the Neyyattinkara Taluk Hospital. Thereafter he received information that she had been taken to the Medical College hospital. He went and met Santha at Medical College hospital and she was unconscious. On the next day when she regained her consciousness, Santha

divulged that her husband had poured kerosene over her body and had set her on fire.

26. In cross examination he stated that he did not inform the police about the incident because he was under the impression that the police will be intimidated from the hospital. He also stated that Santha was in a conscious stage for about ten minutes on the next day of the occurrence and it was during that period that Santha had disclosed to him that her husband is the perpetrator of the heinous act. He also stated in cross examination that he had gone to the police station and he received information that no crime had been registered in respect of the incident, but did not give any statement. He had come back from the police station at noon and it was thereafter that PW1 had gone to the station and gave the statement. Ext.P9 scene mahazar was marked through the witness and he also identified MO1 can which contained kerosene.

27. PW12 is the younger brother of PW11. He also resides at Nellimoottil. According to him, PW1 came to his house on their way to Neyyattinkara Taluk Hospital and Santha was brought by PW1 and two others in a White Ambassador car. His brother Madhu was not at home. The said witness along with his mother had gone along with PW1 to the Neyyattinkara Taluk Hospital and he had taken Santha to the examination room of the doctor. According to him, PW1 had come with him to the room. He stated further that the doctor had asked Santha as to how the incident had taken place and Santha stated that her husband had poured kerosene over her body and set her on fire. Thereafter according to the witness, the doctor asked PW1 and PW12 to get out of the room for the purpose of examining Santha. Thereafter Santha was taken to the Medical College hospital. PW12 called his brother over phone and informed him about the incident. In cross examination he admitted that Santha had told him that she sustained fire burns while at her home. The statement was given by Santha to her while she was

admitted in the hospital.

28. PW13, is the CI of police, Poovar police station. He took over investigation of the case on 23.08.2006. He prepared Ext.P9 scene mahazar and MO1 can containing 200 ml kerosene was seized by him as per Ext.P11 property list. He obtained Ext.P6 wound certificate from the Neyyattinkara Taluk hospital. It was on 30.08.2006 that the accused was arrested at 9.15 pm from a place called Kavadi and Ext.P12 series inspection memo, intimation memo and arrest memo were marked through him. According to him, he produced the accused before Court as per Ext.P13 remand report and the accused was remanded by the learned Magistrate. The kerosene found in MO1 was sent to the Forensic Science Lab. In cross examination, the said witness has stated that there are discrepancies in the version of the incident as revealed from Exhibit P 1 and the witness notes. He admitted in cross examination that PW1 had not given the name of the accused as having any positive role to play in the

incident when she had given the FI statement after a month after the date of occurrence. He also stated that he had not questioned the doctor who had prepared Ext.P6 wound certificate. He further stated that he did not find any remnants of fire anywhere in the kitchen area. A suggestive question was put in cross examination that Ext.P6 wound certificate was prepared at his instance which he promptly denied.

29. PW14 was the Sub Inspector of police Kanjiramkulam police station. On 20.08.2006 at 5.30 pm he had recorded the statement of PW1 and registered Ext.P1(a) FIR under S 174 of the Code of Criminal Procedure. Thereafter on 21.08.2006 he had gone to the Medical College hospital mortuary and had prepared Ext.P2 inquest report of the deceased Santha. MO2 to 4 which are lungi, towel and white dhoti worn by Santha was also seized as per Ext.P14 property list. Ext.P3 inventory was prepared in respect of the case sheet of the deceased. Later Ext.P15 report was submitted before Court adding Section 302 of

IPC. It is stated that further investigation was conducted by PW13, the CI of police, Poovar.

30. PW15 was the CI of Police, Poovar police station and he deposed before Court that he had forwarded Ext.P7 report and Ext.P8 series scene plan to the Court and also laid final report on completion of investigation. The Librarian attached to Neyyattinkara Taluk Hospital was summoned by the defense and examined , through whom, wound certificate of the deceased Santha and the intimation register was produced and the same was marked as Exts.X1 and X2 respectively.

31. It is not in dispute that the case against the appellant rests on circumstantial evidence and therefore, before advertng to the cogent circumstances against the appellant it would be advantages to recall the law relating to appreciation of evidence in a case based on circumstantial evidence.

32. The law relating to the appreciation of evidence in a case based on Circumstantial evidence was lucidly stated by the Apex Court is in **Hanumant v. State of Madhya Pradesh (AIR 1952 SC 343)** where the principle was laid down as follows:

It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. All the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused.

33. This decision was followed in **Tufail v. State of Uttar Pradesh (1969 3 SCC 198)** and in **Ramgopal v. State of Maharashtra (AIR 1972 SC 656)**. Analysing the decisions, a later Bench of the Apex Court in **Sharad**

Birdhichand Sarda v. State of Maharashtra (AIR

1984 SC 1622) has laid down the golden principles in a

case based on circumstantial evidence as follows:

"(1).The circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is only a grammatical but a legal distinction between may be proved and must be or should be proved as was held by this Court in **Shivaji Sahebrao Bobade v. State of Maharashtra, (1973) 2 SCC, 793; (AIR 1973 SC 2622)** where the following observations were made: certainly, it is a primary principle that the accused must be and not merely may be guilty before a Court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions".

(2). the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.

(3). the circumstances should be of a conclusive nature and tendency.

(4). there must be a chain of evidence so complete as not to leave any reasonable ground for that conclusion consistent with

the innocence of the accused and must show that in all human probability the act must have been done by the accused.

(5). there must be a chain of evidence so complete as not to leave any reasonable ground for that conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

34. Therefore, if appellant is to be convicted basing on the circumstantial evidence, the circumstances from which the conclusion of guilt is to be drawn should be fully established and the facts so established should be consistent only with the hypothesis of the guilt of the accused and the circumstances should be of a conclusive nature and tendency and should exclude every possible hypothesis except the one to be proved and the chain of evidence must be so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused. Therefore the circumstantial evidence must be

of such a character that it is wholly inconsistent with the innocence of the accused and is consistent only with his guilt. If the circumstances proved in the case are consistent either with the innocence of the accused or with his guilt, then an accused is entitled to benefit of doubt.

35. The Apex Court in **State of U.P v. Ashok Kumar Srivastava (AIR 1992 SC 840)** has cautioned the courts regarding application of circumstantial evidence as follows:

This Court has, time out of number, observed that while appreciating circumstantial evidence the Court must adopt a very cautious approach and should record a conviction only if all the links in the chain are complete pointing to the guilt of the accused and every hypothesis of innocence is capable of being negated on evidence. Great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted. The circumstance relied upon must be found to have been fully established and the cumulative effect of all the facts so

established must be consistent only with the hypothesis of guilt. But this is not to say that the prosecution must meet any and every hypothesis put forwarded by the accused, however, far fetched and fanciful it might be. Nor does it mean that prosecution evidence must be rejected on the slightest doubt because the law permits rejection if the doubt is reasonable and not otherwise. The circumstances ought to justify the inference of guilt from the incriminating facts and circumstances which are incompatible with the innocence of the accused or guilt of any other person."

36. Having noticed the principles governing the case based on circumstantial evidence we propose to consider the circumstances relied on by the prosecution.

37. The first circumstance relied on by the prosecution is that deceased Santha had died as a result of the burn injury sustained by her. It is not disputed by either side that Santha had died consequent to the burn injuries sustained by her but the question is whether it is a case of homicide as alleged by the prosecution or a case of suicide as contended by the appellant. It has come out

from exhibit P5 autopsy report prepared by PW 7 that the cause of death was due to infected burns affecting approximately 40% of body surface. According to the doctor all the injuries noted in the body can be caused by lighting the body after pouring kerosene. The evidence of PW 7 together with that of PW 1 and PW 2 would unmistakably prove that it was Santha who died of burns. There cannot be any dispute with regard to the said fact.

38. The second , third and fourth circumstances relied on by the prosecution are sought to be proved primarily through PW2 , the minor child of the deceased. These three circumstances hinges on the sanctity that can be attached to the evidence tendered by the child witness. The age of the witness at the time of occurrence was nine years and when she gave evidence before court she was 13 years of age.

39. The Indian evidence act, 1872, does not prescribe any particular age as a determinative factor to treat a witness

to be a competent one. On the contrary, section 118 of the evidence act envisages that all persons shall be competent to testify unless the court considers that they are prevented from understanding the questions put to them or from giving a rational answers to these questions because of tender years, extreme old age, deceased – whether of mind or any other cause of the same kind. It is also settled that a child of tender age can be allowed to testify if he/she has intellectual capacity to understand questions and to give rational answers thereto. It has been held that the evidence of a child witness is not required to be rejected per se, but the court as a rule of prudence considers such evidence with close scrutiny and only on being convinced about the quality thereof and reliability can record conviction, based thereon

40. In the decision reported in **K. Venkateshwarlu v. State of Andhra Pradesh, 2012 (8) SCC 73**, it was held as follows:

"The evidence of a child witness has to be subjected to closest scrutiny and can be accepted only if the court comes to the conclusion that the child understands the question put to him and he is capable of giving rational answers (see S.118 of the Evidence Act). A child witness, by reason of his tender age, is a pliable witness. He can be tutored easily either by threat, coercion or inducement. Therefore, the court must be satisfied that the attendant circumstances do not show that the child was acting under the influence of someone or was under a threat or coercion. Evidence of a child witness can be relied upon if the court, with its expertise and ability to evaluate the evidence, comes to the conclusion that the child is not tutored and his evidence has a ring of truth. It is safe and prudent to look for corroboration for the evidence of a child witness from the other evidence on record, because while giving evidence a child may give scope to his imagination and exaggerate his version or may develop cold feet and not tell the truth or may repeat what he has been asked to say not knowing the consequences of his deposition in the court. Careful evaluation of the evidence of a child witness in the background and context of other evidence on record is a must before the court decides to rely upon it."

41. The Apex Court in **State of Madhya Pradesh v. Ramesh and Another, 2011 (4) SCC 786**, after consid-

ering a large number of its judgments came to the conclusion as under:

"In view of the above, the law on the issue can be summarized to the effect that the deposition of a child witness may require corroboration, but in case his deposition inspires the confidence of the Court and there is no embellishment or improvement therein, the Court may rely upon his evidence. The evidence of a child witness must be evaluated more carefully with greater circumspection because he is susceptible to tutoring. Only in case there is evidence on record to show that a child has been tutored, the Court can reject his statement partly or fully. However, an inference as to whether child has been tutored or not, can be drawn from the contents of his deposition."

42. We have minutely and intensely scanned the evidence tendered by PW2. We also looked around for corroboration in material particulars of the evidence tendered by PW 2. The evidence of PW 1 will have to be simultaneously analyzed to assess the quality of the evidence tendered by the witness .The fate of her father hinges on whether we believe her in toto or discard her evidence as tutored.

Insofar as the facts of the instant case is concerned, according to PW 2 she was sleeping inside her house when she heard a loud cry and when she woke up she could see her mother standing in the kitchen engulfed in fire and pouring water over herself to douse it. She would also state that her father was seen running away through the front door. According to the witness she immediately went to the house of her grandmother and intimated her about the fact that her mother was immersed in fire. At this juncture one cannot ignore Exhibit P1 first information statement lodged after a month of the occurrence in which PW1, the mother of the deceased does not mention about this particular fact. On the contrary , according to her, it was one Nalini who had come to her house and told her about some noise in the house of the deceased. PW 1 even at the stage of evidence does not state that PW 2 had told her that the appellant was present inside the house, or that there occurred a fight between the appellant and the deceased, or that PW2 had seen the appellant after she had seen her mother on fire, or that the

child had seen the appellant fleeing from the scene immediately thereafter .

43. This very material aspect of this case cannot be ignored. In **Sujit Biswas v. State of Assam (AIR 2013 SC 3817)**, the Honourable Apex Court had held as follows:

“Undoubtedly, the FIR lodged has disclosed the previous statement of the informant which can only be used to either corroborate or contradict the maker of such statement. However, in the event that the informant is a person who claims to know the facts, and is also closely related to the victim, it is expected that he would have certainly mentioned in the FIR, all such relevant facts. The omission of important facts affecting the probability of the case is a relevant factor under Section 11 of the Evidence Act to judge the veracity of the case of the prosecution.

In **Ram Kumar Pandey v. State of Madhya Pradesh (AIR 1975 SC 1026)** which was relied on in **Sujit (supra)** it was held thus :

No doubt an F.I.R. is a previous statement which can, strictly speaking, be only used to corroborate or contradict the maker of it. But, in this

case, it had been made by the father of the murdered boy to whom all the important facts of the occurrence, so far as they were known up to 9.15 p.m. on 23-3-1970, were bound to have been communicated. If his daughters had seen the appellant inflicting a blow on Harbinder Singh, the father would certainly have mentioned it in the F.I.R. We think that omissions of such important facts, affecting the probabilities of the case, are relevant under S.11 of the Evidence Act in judging the veracity of the prosecution case.

44. The evidence given by PW1 on oath before court confutes the evidence tendered by PW2. If in fact the child had seen the appellant present there and playing a part in the unfortunate death of her mother she would definitely have shared this story with her grandmother either immediately or later when she had visited her mother at the Medical College Hospital as admitted by her. PW1 was with the deceased from the moment she had come out from the house seeped in fire till she had succumbed to the injury after a month. It was after that Exhibit P1 was lodged on 20.8.2006 .The improvement made by PW 2 at

the stage of evidence juxtaposed with the clean chit given to the appellant by PW1 in Exhibit P 1 statement as well as in evidence persuades us to hold that the evidence of PW 2 cannot be placed reliance upon to fix the culpability on the accused.

45. Delving deeper into the evidence tendered by PW2 , we notice that she has admitted , and as revealed from Exhibit P9 plan that the house where she was residing with the deceased consisted of two rooms. On the northern side was the kitchen and the southern side doubled as the bedroom. The roof was thatched and partitions were made of plastic sacks inside the kitchen. There is a door on the Western side of the kitchen providing ingress and egress. In the ordinary course it would be far fetched to believe that the accused after committing the heinous act instead of going out through the Western door decided to go through the front door after revealing his identity to his minor daughter, if he was indeed the perpetrator of the act. Moreover a perusal of exhibit P9 mahazer reveals

that there was no indication of any recent fire inside the kitchen area either in the thatched roof or on the partitions though nobody had set foot in the house after the incident. There was no indication anywhere on the floor as well and no damage was caused to the can containing kerosene which was seen inside the kitchen.

46. The evidence tendered by PW 2 does not have the ring of truth and cannot be termed as untutored as held by the learned Sessions Judge .We deem it unsafe to rely on the evidence without proper corroboration .We have grave doubt about the truthfulness of her version and cannot rule out the possibility of tutoring as she admittedly was residing with the younger sister of her deceased mother .

47. If the evidence tendered by PW2 is not relied on to prove the presence of the accused in the house of the deceased at the time when the incident had taken place, there is no other evidence to fix the accused other than

the oral dying declarations made by the deceased to PW5, PW8, PW11 and PW12.

48. The fifth circumstance relied on by the prosecution to connect the accused to the crime are the oral dying declarations made by the deceased to PW5, PW8, PW11, and PW12 relating to the circumstances of the transaction resulting in her death. The legal position with regard to the admissibility of Dying Declaration is no more Res Integra .

49. The Apex Court in **Atbir v. Government of NCT of Delhi, (2010 (9) SCC 1)** relying on several earlier precedents have laid down the law as follows :-

1. Dying declaration can be the sole basis of conviction if it inspires full confidence of the Court.
2. The Court should be satisfied that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination.
3. Where the Court is satisfied that the declaration is true and voluntary, it can base its conviction without any further corroboration.

4. It cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborative. The rule requiring corroboration is merely a rule of prudence.

5. Where the dying declaration is suspicious, it should not be acted upon without corroborative evidence.

6. A dying declaration which suffers from infirmities, such as the deceased was unconscious and could never make any statement cannot form the basis of conviction.

7. Merely because a dying declaration does not contain all the details as to the occurrence, it is not to be rejected.

8. Even if it is a brief statement, it is not to be discarded.

9. When the eye - witness affirms that the deceased was not in a fit and conscious state to make the dying declaration, medical opinion cannot prevail.

10. If after careful scrutiny the Court is satisfied that it is free from any effort to induce the deceased to make a false statement and if it is coherent and consistent, there shall be no legal impediment to make it basis of conviction, even if there is no corroboration.

50. In the light of the above legal position, we shall analyse the evidence of this case. PW5 is the father's elder brother of the deceased. PW11 is the brother-in-law of the deceased and PW 12 is the brother of PW11. PW5 states that on the date of occurrence he had heard the

cries of PW 2 and when he came out he saw the deceased running towards his house. Santa was crying loudly. According to him she came and stood near the electric post and pleaded with him to save her. He went near to her and inquired as to what happened and then Santha told him that her husband had poured kerosene over her body and had set her on fire. According to him PW5 further stated that her husband had fled the scene after that. He further stated that several persons had assembled there and it was he who had supplied the deceased with clothes. He unequivocally says in cross-examination that when Santha had told about the incident nobody was present at the scene and only after some time that about 10-50 persons had assembled. Remarkably, in his evidence, he does not mention about the presence of PW 1 or PW 2 . PW 1 on the other hand does not even mention about the presence of PW 5 at any point of time. On the other hand what PW1 stated before court was that she saw Santha running towards her and when she reached the electric post near to the house of Appu Nadar she had

fallen down. It was then that PW 1 had lifted her up and took her to the courtyard of the house of PW 5.

51. When PW1 does not have a case in her evidence that the deceased had stated anything implicating the accused, it would be far-fetched to believe the version of PW5. The evidence of PW5 becomes even more suspect considering the fact that even after hearing about the complicity of the appellant he did not care to set the law in motion by informing the police, being a near relative.

52. Similar is the case with PW11 and PW 12 who are brothers. According to PW 11 on hearing about the injury sustained by Santha he had gone to the medical college hospital on the same day itself but Santha was unconscious. He went and met Santha on the next day and according to him she was conscious for 10 minutes. At that time, according to the witness, Santha told them that her husband had poured kerosene over her body and set her on fire. This evidence cannot be believed since PW 1 does

not support this version .She was with the deceased all through and when her evidence is silent about any such disclosure it would be far fetched to place reliance on the evidence of PW 11. Moreover he was a responsible member of the family and he was expected, if such a disclosure was made by Santha, to inform the police and to get a crime registered as against the appellant. Absence of any such effort on the part of the witness will reveal that his intention is to introduce something to connect the accused with the crime.

53. PW 12 is the brother of PW 11 who is stated to have accompanied PW1 to take Santha to the Taluk Hospital Neyyattinkara. According to the said witness he along with PW 1 had taken Santha to the hospital and when the doctor asked Santha as to what had happened Santha had responded and said that husband had poured kerosene over her body and set her on fire. In fact it is admitted by PW 11 that PW1 was standing beside him all the time. If that be the case, omission on the part of PW 1

to state this particular aspect either in exhibit P1 statement or while tendering evidence before court will render the evidence tendered by PW 2 suspect. It can only be held that the so called dying declarations are brought into existence at a later stage.

54. PW 8 is the Medical officer attached to the Taluk Hospital Neyyattinkara who examined deceased Santa and issued exhibit P6 wound certificate. She stated that she had examined the deceased on 21.7. 2006 at 9:20 PM and the patient was fully conscious and oriented. She further stated that the patient had told that her husband had poured kerosene over her body and set her on fire at 6 PM at Pambukala. Exhibit P 6 (a) is the relevant portion. In cross examination the said witness has stated that she did not give any intimation to the police with respect to the above reported case. We have gone through exhibit P6 because an argument was raised by the counsel for the accused that exhibit P6 certificate was brought into existence at a later time by the investigating officer to cook up a false

case as against the accused. To substantiate this particular aspect it was pointed out that there is no endorsement in exhibit P6 as to when the said certificate was received in the Magistrate Court. The original records would reveal that the said certificate was not forwarded to the learned Magistrate as the initials of the magistrate is absent. S 253 of the Criminal Rules of Practice mandates that when any document is to be filed in court by the prosecution or the accused, the particulars of every such document shall be included in a list in Judicial Form No 15. The original and copy of form No 15 is tagged along with Exhibit P 6 and there is no endorsement in the said exhibit thus making it obvious that the same was never forwarded. This would probabalise the argument of the appellant that the said exhibit was brought into existence at a later stage .In all the other contemporaneous records produced before court there is an endorsement by the learned magistrate as to when the same was received in court. It was also brought out in cross-examination that the said witness was not questioned either by PW 13 or 14 at the stage of

investigation. Our doubts about the authenticity of Exhibit P 6 (a) is aggravated by the fact that PW1 , the mother of Santha, who took the injured to the Hospital and was with the injured when the doctor had seen her has no such case in her evidence . This leaves us with no other go but to arrive at the conclusion that a conviction cannot be sustained exclusively on Exhibit P 6 and Exhibit P 6 (a) as there are glitches here and there in respect of the credibility of the same .Exhibit P 6 (a), if was found to be free of blemish, would have been a strong circumstance against the accused.

55. There is yet another matter which persuades us to view Ext.P6 with caution. It has come out that the deceased was admitted in the Medical College hospital for a month. Neither the mother nor the near relatives had given any statement till her death implicating the accused as the perpetrator of the crime. If the deceased was in a fit state of mind, there was no reason why the matter was reported and her dying declaration was recorded with

proper certification from the treating doctor. The dying declaration in the instant matter which is canvassed by the Public Prosecutor with much eloquence will have to be viewed with suspicion. The absence of corroboration from the mother renders the evidence of PW5, PW11, PW12 and PW8 suspect. If the evidence of the relatives are believed, it would be opposed to the basic tenets of law. In this context, a decision rendered by a 'Three Judge' Bench of the Apex Court in **Papparambaka Rosamma v. State of A.P (1999 (7) SCC 695)** is quite relevant.

“It is true that the Medical Officer K.Vsh-nupriya Devi (PW10) at the end of the dying declaration had certified in open Court. Patient is conscious while recording the statement. It has come on record that the injured Smt.Venkata Ramana had sustained extensive injuries. Dr.P.Kottaramana Rao (PW9) who performed the post-mortem, stated that the injured had sustained 90% born injuries. In this case as stated earlier, the prosecution case solely rested on the dying declaration. It was therefore, necessary for the prosecution to prove that the dying declaration as being genuine, true and free from all doubts and it was recorded that when the injured was in a fit state of mind. In our opinion, the certificate appended to the dying declara-

tion at the end by Dr.K.Vishnupriya Devi (PW10) did not comply with the requirement in as much as she has failed to certify that the injured was in a fit state of mind at the time of recording the dying declaration. The certificate of the said expert at the end only says that the patient is conscious while recording the statement. In view of these material omission, it would not be safe to accept the dying declaration as true and genuine and has been made when the injured was in a fit state of mind. From the judgments of the Courts below, it appears that this aspect was not kept in mind and resultantly, they erred in accepting the said dying declaration as true, genuine and has made when the injured was in a fit state of mind. In medical science, two stages, namely conscious and fit state of mind are distinct and not synonymous. One may be conscious but not necessarily in a fit state of mind. This distinction was overlooked by the Courts below. This was considered and accepted by the Apex Court in **Aravind Singh v. State of Bihar (2001(3) BLJR 1728)**.

56. In Ext.P6 also, there is no endorsement of PW8 that the injured was in a fit state of mind. The prosecution has not recorded the dying declaration at any point of time during the whole span of one month with certification from the treating doctor of the Medical College hospital where she was undergoing treatment. According to us,

failure on these aspects coupled with the silence of PW 1 will make Ext.P6 suspect and not free from doubt. We are not satisfied that the dying declarations sought to be relied on by the prosecution is true and they can be considered as sufficient to base the conviction even without any further corroboration.

57. The next circumstance relied on by the prosecution is the conduct of the accused after the occurrence in not attending to his wife .The appellant had specifically stated in his statement that on hearing about the fact that his wife had sustained burn injuries he had come to visit his wife but the relatives of his wife had threatened them and had driven him away. In the said circumstances there is no reason to suspect the conduct of the accused and we do not think that the said circumstance would link the accused with the offense.

58. The learned Sessions Judge has held that the failure of the accused to give a probable and reasonable explana-

tion in respect of the circumstances under which his wife sustained injury is yet another incriminating circumstance pointing towards the guilt of the accused. The statement given by the accused at the stage of 313 statement has been extracted by us earlier. The appellant has totally denied his presence in the home of the deceased. This is probalised according to us, by Ext.P1 and also the evidence of PW1. In the said circumstances, the learned Sessions Judge ought not to have held that the appellant has not furnished a probable and reasonable explanation as to how his wife had sustained the injury. The fact of silence of the accused may, with all the other circumstances of the case, be taken into account in a proper case to fix him only if it is clearly born in the mind that an accused person always has a right to remain silent if he wishes. The silence of the accused and lack of proper explanation must never be allowed by any person to become substitute for the proof by the prosecution of its case. No presumption against the accused arises ipso facto from his silence.

59. Further in **Nagaraj V State represented by the SI of Police, Salem , Tamil Nadu, (2015 (3) SCALE 396**

) the Apex Court has held as follows :

In the context of this aspect of the law it is been held by this Court in **Parsuram Pandey v. State of Bihar, 2004 KHC 1937** that Section 313 Cr.P.C is imperative to enable an accused to explain away any incriminating circumstances proved by the prosecution. It is intended to benefit the accused, its corollary being to benefit the Court in reaching its final conclusion; its intention is not to nail the accused, but to comply with the most salutary and fundamental principle of natural justice i.e. audi alteram partem, as explained in **Arsaf Ali v. State of Assam, (2008 KHC 5081)**. In **Sher Singh v. State of Haryana, (2010 KHC 5010)** this Court has recently clarified that because of the language employed in Section 304B of the IPC, which deals with dowry death, the burden of proving innocence shifts to the accused which is in stark contrast and dissonance to a person's right not to incriminate himself. It is only in the backdrop of Section 304B that an accused must furnish credible evidence which is indicative of his innocence, either under Section 313 Cr PC or by examining himself in the witness box or through defense witnesses, as he may be best advised. Having made this clarification, refusal to answer any question

put to the accused by the Court in relation to any evidence that may have been presented against him by the prosecution or the accused giving an evasive or unsatisfactory answer, would not justify the Court to return a finding of guilt on this score. Even if it is assumed that his statements do not inspire acceptance, it must not be lost sight of that the burden is cast on the prosecution to prove its case beyond reasonable doubt. Once this burden is met, the Statements under Section 313 assume significance to the extent that the accused may cast some incredulity on the prosecution version. It is not the other way around; in our legal system the accused is not required to establish his innocence. We say this because we are unable to subscribe to the conclusion of the High Court that the substance of his examination under Section 313 was indicative of his guilt. If no explanation is forthcoming, or is unsatisfactory in quality, the effect will be that the conclusion that may reasonably be arrived at would not be dislodged, and would, therefore, subject to the quality of the defense evidence, seal his guilt. Article 20(3) of the Constitution declares that no person accused of any offense shall be compelled to be a witness against himself. In the case in hand, the High Court was not correct in drawing an adverse inference against the Accused because of what he has stated or what he has failed to state in his examination under Section 313 Cr.PC.

60. An adverse inference can be drawn against the accused only and only if the incriminating material stands fully established and the accused is not able to furnish any explanation for the same. Further, the accused has the right to remain silent as he cannot be forced to become a witness against himself. Analyzing the evidence in the proper perspective, we find that the evidence of PW2 is unbelievable. The so called dying declarations alleged to have been made by the victim to PW5, PW8, PW11 and PW12 as discussed earlier, does not inspire our confidence. The last seen theory cannot be applied to the facts of the case as we are not prepared to place implicit reliance on the evidence of PW2 holding her as a truthful witness. We feel that there is no acceptable evidence to conclusively hold that the death of Santha was a case of homicide and not a suicide.

61. For establishing the guilt on the basis of circumstantial evidence, it is also to be taken into account that the chain of circumstantial evidence must be

completed. It appears from the facts that the said chain of circumstantial evidence cannot be concluded in the manner sought to be done by the prosecution. The circumstances must be conclusive in nature. In the instant case, after analysing the facts, it appears to us that there is a gap between the circumstances tried to be relied upon to hold the appellant as guilty.

62. In **Dhyan Raj @ Chand V State of Haryana (2014 (6) SCC)** the Apex Court held thus .

Thus, we find many loopholes in the case of the prosecution and grounds on which the High Court has convicted the accused appellants. We would refer to the decision of this Court in **Munish Mubar v. State of Haryana (2012 KHC 4560) : (2012 (10) SCC 464) : (2013 CrILJ 56) : (AIR 2013 SC 912)** wherein Dr. Justice Chauhan has very aptly and succinctly stated the following:

"The circumstantial evidence is a close companion of factual matrix, creating a fine network through which there can be no escape for the accused, primarily because the said facts, when taken as a whole, do not permit us to arrive at any other inference but one indicating the guilt of the accused."

63. A Court has to examine the entire evidence in its entirety especially in case of circumstantial evidence and ensure that the only inference drawn from the evidence is the guilt of the accused. If more than one inference can be drawn then the accused must have the benefit of doubt as it is not the Court's job to assume and only when guilt beyond reasonable doubt is proved then it is fair to record conviction.

64. Therefore, we have no hesitation to hold that the prosecution has failed to establish that the appellant has caused the death of Santha by pouring kerosene over her body and setting her on fire. Consequently, we set aside the conviction and sentence passed by the learned Additional Sessions Judge-I, Thiruvananthapuram.

65. The Appeal is allowed. Conviction and sentence passed by the Additional Sessions Judge-I,

Thiruvananthapuram, in S.C.66 of 2008 is set aside. The appellant/accused is found not guilty of the offences charged. He is acquitted and set at liberty. He shall be released from prison forthwith, if not wanted in any other case.

Sd/-

V.K.MOHANAN
Judge

Sd/-

RAJA VIJAYARAGHAVAN. V
Judge

MrCs

//True Copy//

P.S.ToJudge