

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 9th October, 2018

Decided on: 1st November, 2018

+ **CRL.A. 775/2018 & Crl.M.B.No. 1184/2018**

RAJU KHAN @ ANISH

.....Appellant

Through: Mr. Vidur Kamra and Ms. Lavisha
Kamra, Advocates.

versus

STATE

....Respondent

Through: Mr. Hirein Sharma, APP for the State

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE VINOD GOEL**

J U D G M E N T

Dr. S. Muralidhar, J.:

1. This appeal is directed against the judgment dated 30th May, 2018 passed by the learned Additional Sessions Judge-04, North West District, Rohini Courts in Sessions Case No.85/2001 arising out of FIR No.353/2011 registered at Police Station (PS) Subhash Place convicting the Appellant of the offence under Section 302 IPC. The appeal is also directed against the order on sentence dated 2nd July, 2018 whereby the Appellant was sentenced to Rigorous Imprisonment ('RI') for life and fine of Rs.10000/- in default to undergo Simple Imprisonment ('SI') for one year for the aforementioned offence.

2. The Appellant was sent up for trial for the aforementioned offence having been charged with committing the murder of Sunil @ Sona @ Sujata (deceased) on the intervening night of 15/16th September, 2011 in the DDA park at Sandesh Vihar, Delhi.

Finding the dead body

3. The criminal justice process was activated when Head Constable (HC) Abhimanyu (PW-3) who was on night picket duty on the intervening night of 15/16th September, 2011 was approached by one Shyam Lal (PW-1) at around 7.15 am on 16th September 2011 informing him that a person was lying dead on a bench in the NDPL park at Sandesh Vihar. This is corroborated by PW-1 who deposed that when he went for his morning walk at 7 am he noticed a young boy lying dead on a cement concrete bench.

4. PW-3 then accompanied PW-1 to the park and after finding the dead person having “half of the neck was found in cut position” made a call to the duty officer at PS Subhash Place. This was then noted down as DD No.9A (Ex.PW-4/A) and a *rukka* drawn up which led to the registration of the FIR.

Articles at the scene of crime

5. The above DD was handed over to Inspector Chander Bhan (PW-30). Accompanied by Constable Manjeet and Constable Parveen (PW-24), PW-30 reached the park. There he found four empty pouches of ‘Haldiram Khatta Meetha namkeen’ and three caps of Kingfisher beer bottles lying beneath the bench. One Jai Kishan, S/o Ram Swaroop (PW-11) the resident of Shakur Pur arrived at the spot and identified the body as being that of his nephew (*Bhanja*) Sunil, S/o Rajender Singh (PW-12).

6. The crime team was called. Inspector Satish Kumar (PW-29) who was then the Inspector (Investigation) PS Subhash Place reached the spot. Inspector Vipin Kumar Bhatia (PW-28), the Station House Officer (SHO) of PS Subhash Place, also reached at the spot.

7. PW-29 lifted the exhibits on the spot which included, apart from the aforementioned objects, a pair of slippers of yellow and green colour having blood stains which were on the feet of the Deceased. PW-29, who was the Investigating Officer ('IO') also lifted the blood stained earth and earth control from the spot. All these articles were kept in separate *pullandas*/containers and sealed. The dead body was then shifted to the mortuary of the BSA Hospital.

8. PW-30 along with PW-29 and other staff reached the house of PW-11 and his wife Smt. Roshni Devi (PW-2), who was an aunt of the deceased. PW-2 produced a ladies purse of the deceased which the deceased never used to permit anyone to see. On checking the purse PW-29 found that it contained two paper envelopes of SIM cards of Airtel, one bearing mobile number ending with 7190 and the other of mobile number ending with 0188. There were twenty passport size photographs found in the purse. Nine were of the deceased. Seven were of one Honey @ Manish Babbar (PW-13) whom the deceased had allegedly married as a gay person. Four photographs were of other persons. There was also "One photo frame containing photographs of the deceased and Honey and one photo frame containing photo of Honey, one pink colour top having two artificial mammary glands, with two small size pieces of clothes, one small mirror and comb with one forcep and

fevigum, three strips of medicine namely dexona having 20 tablets each, one small purse containing PAN card in the name of. Sona Chauhan and a coin of Rs.2/-.”

9. All the above articles were seized by PW-30 under separate seizure memos. Statements of both PW-2 and PW-11 were recorded under Section 161 Cr.PC.

10. At the mortuary Rajender Singh (PW-12), the father of the deceased and Ravi Kumar (PW-10), his brother, met the Police. They helped to identify the dead body. Their statements under Section 161 were also recorded by PW-29.

Post mortem

11. The post mortem of the Deceased was conducted by Dr. J.V. Kiran Kumar (PW-31) on 17th September, 2011 between 10 and 11am. The cause of the death was noted as haemorrhagic shock consequent upon the injury to the neck caused by heavy sharp cutting weapon. The post mortem report (Ex.PW-31/A) noticed the injury as under:

“a Chop wound 14cm x 13 cm x vertebral column deep present on front of neck obliquely placed extending from right ear lobe across front of neck upto 5 cm below left angle of mandible measuring 14 cm in the horizontal plane. In the vertical plane the wound measured 13 cm with the upper margin placed 5 cm below the chin and the lower margin placed 9 cm above the upper end of manubrium sternii. The vertebral column and the muscles of neck are exposed. The trachea oesophagus and the carotid vessels on the right side are completely cut at level of epiglottis. Blood clots were present at the base of wound. The body of 2nd and 4th cervical vertebrae showed fissure fractures. The transverse processes on either side of the 4th cervical

vertebra were also cut. The margins of the wound appear irregular.”

12. It was further noted in the post mortem report as under:

“i. Tailing was present at two places along the left margin of the wound described above. Two skin deep tails each about 2 cm long were present at the upper end of the left margin of the wound criss-crossing each other placed 3.5 cm below the left angle of mandible. A second tail 3 cm long and skin deep present at the middle of left margin of the wound placed 5 cm below the left angle of mandible.

ii. A defect measuring 3 cm x 2 cm x vertebrae deep present on inner front of left side of neck separated from the left margin of the above wound by 2 cm. This defect appears to be in continuity with the fracture groove in the body of the 4th cervical vertebra.”

2. Incised wound 2 cm x 0.5 cm x bone deep present over the distal phalanx of index finger of right hand. The underlying phalanx was fractured.”

13. On the internal examination of the head and neck, the following observations were noted:

“i. Head

Extravasation of blood was present in the midline of parieto occipital region on reflection of scalp. No fractures of skull bones were present. Brain was pale.

ii. Neck

Blood clots were present at the base of injury no.1 mentioned under the external examination.

The trachea and the esophagus were cut at the level of larynx, the epiglottis pulled up the rest of the trachea pulled down.

Hyoid Bone and Thyroid Cartilage were intact.

The carotid vessels were cut on the right side at the level of epiglottis.”

Collecting the CDRs

14. The initial investigation was taken up by PW-29. However, on 17th September, 2011 he had to go to Chandigarh for a course and PW-28 took over the investigation. On 17th September, 2011 itself PW-28 analysed the Call Detail Records (‘CDR’) of the mobile numbers of the Deceased i.e. ending in 7190 and 0188. The CDR of 0188 was Ex.PW-5/B and that of 7190 Ex.PW-5/D.

15. From the CDR of Mobile 0188, PW-28 noticed that three calls had been made from the mobile number ending in 9565 on 15th September, 2011 at 13:53:02 hrs, 19:33:07 hrs, and 20:14:43 hours. PW-28 also obtained the Cell ID Chart of Bharti Airtel (Ex.PW-36/A) which showed the location of the Deceased at the time of those calls at Samrat Enclave, Pitam Pura, which was adjacent to his own residence at L-Block, Shakurpur.

16. In terms of CDR of 9565 as per the Cell ID Chart of Vodafone (Ex.PW-6/G) the location was at Ashok Vihar at 13.53 hrs as well as 19.33 hrs. At the time of the third call i.e. 20.14:43 hrs it was Siddhartha Apartments, Raj Nagar Colony in Shakurpur which was near the residence of the Deceased.

17. The last call received on the mobile of the Deceased was 21.14:05 hrs. As per the Cell ID chart his location was at Nishant Kunj, Pitam Pura i.e. the colony in front of the Sandesh Vihar. Thereafter the mobile phone of the deceased was switched off.

Arrest, disclosure and seizures

18. On 17th September, 2011 on the basis of the analysis of the CDRs of the mobile of the deceased and location of the calls received therein, PW-28 questioned Kusum (PW-15), Vinod (PW-26) and Manish Babbar @ Honey (PW-13). On the basis of these statements, the present Appellant was called for interrogation on 18th September, 2011. During interrogation the Appellant produced his mobile phones one ending in 9565 and the other in 9701. Purportedly on the basis of his disclosure about his involvement the Appellant was arrested at around 5.00 p.m. and his personal search conducted. Rs.170/- in cash, the aforementioned mobile phone and a wrist watch was recovered.

19. The Appellant is stated to have led the police party to Netaji Subhash Place where he pointed out a wine shop situated in KLJ Tower. He is supposed to have disclosed that he had purchased three beer bottles from that shop on 15th September, 2011 between 8.30 p.m. to 8.45 p.m. Pankaj Rohilla (PW-16) the owner of the wine shop handed over to the police the CCTV Footage in the pen drive. In that footage the Appellant was seen purchasing the three beer bottles at 8.37 p.m. The CCTV Footage was seized under Seizure Memo Ex.PW-16/E.

20. Thereafter the Appellant led the Police party to a *rehri* (cart) near Fun Cinema from where he had purchased the Namkeen packets. Vanshraj (PW-27), the *rehri* owner was examined by the IO. PW-27 identified the Appellant as the person who had purchased the Namkeen packets from his *rehri* on 15th September, 2011. PW-27 also identified the deceased from the

photographs and confirmed that he was the same person accompanying the Appellant on 15th September, 2011 at the time of purchase of the *namkeen* packets from his *rehri*.

21. According to the IO, he asked the passersby to join the investigation but they refused without disclosing the names and addresses. The Appellant took the Police party to a room situated on the top floor of his residence in JJ Colony, Shakurpur. He lifted a knife (*churra*) which contained blood spots from the loft of his room. The length of the blade was 20.5 cm and the length of the handle was 12 cm and the maximum width was 5.5 cm. The knife was seized under seizure memo Ex.PW-25/H.

22. The Appellant also purportedly took out a half sleeve shirt of LEE make of green, black and white colour checks having two front pockets on the flaps. Blood was present on the right front side near the pocket. From diwan type bed a jeans pant PICRIC make was also seized. According to the Appellant these were the very clothes he was wearing at the time of the commission of the offence. All these articles were seized, sealed and then deposited in the police *malkhana*.

23. Apparently on 19th September, 2011 along with the accused they went in search of the person from whom the accused purchased the knife but could not trace him. The Appellant also led them to a *ganda nala* near the Britannia Chowk and pointed to a place where he had thrown the mobile phone of the deceased. Despite efforts the mobile phone could not be recovered.

24. The IO received the FSL report Ex.PW-23/A dated 28th September, 2011 analysing the video frames on the CCTV Footage of the wine shop to confirm its authenticity.

25. On the completion of the investigation the charge sheet was filed. By an order dated 10th February, 2012 charges were framed against the Appellant in the manner indicated hereinbefore.

Trial

26. For the prosecution, 36 witnesses were examined. When incriminating circumstances were put to the Appellant, he denied all of them. He admitted that one of his mobile numbers ended with '9701'. He denied that he was arrested in the manner indicated by the police. According to him, he was lifted from his house and falsely implicated. He also claimed that the recoveries were planted upon him. He claimed not to be aware about the deceased at all.

27. There were two questions to which he answered in the affirmative – one was about his working in the saloon of 'Mind and Soul Fitness Pvt. Ltd.' of which Mr Rajesh Gupta (PW-32) was the manager. He also admitted as correct the copy of the attendance register, driving license, identification certification to him and the biometric attendance-sheet. He maintained that he had been falsely implicated by the police and also in order to save Manish Babbar @ Honey (PW-13), who, according to him, had the motive to commit the offence.

Impugned judgment of the trial Court

28. In the impugned judgment, the trial Court first discussed the question of motive. It was noticed that PW-13 deposed that Biju @ Manisha (PW-14), who was a transgender, was residing with the Appellant on rent and had introduced the Appellant as her husband. The deceased also used to visit PW-14 and was in a relationship with the Appellant. It was further noted that the Appellant was afraid that the deceased, who knew about the Appellant's relationship with PW-14 and other persons of third gender might disclose it to his family, thus causing him embarrassment and insult.

29. The trial Court also discussed Section 106 of the Indian Evidence Act ('IEA') and noted that the Appellant could not bring on record any plausible defence to the effect that he had no connection either with the deceased or with PW-14. The trial Court was, therefore, satisfied that there was motive for the Appellant to commit the crime.

30. The trial Court next discussed the medical evidence and concluded that the death was homicidal. The trial Court took note of the subsequent opinion of PW-28 that the fatal injury was possible by the knife recovered at the instance of the Appellant.

31. The trial Court next discussed the forensic evidence, and in particular, the three video files of the CCTV footage of the visit by the Appellant to the wine and beer shop on 19th September, 2011. The serological report of the FSL confirmed that the bloodstains on the knife were of human origin. Likewise, blood of human origin was detected on the clothes of the Appellant. This was found to be of 'AB' group. This also linked the

Appellant with the crime.

32. As far as the analysis of the CDRs, while the number ending with '9565' was indeed issued in the name of one Rajeshwari, the other ending with '9701' was issued in the name of the Appellant. The Appellant had failed to provide any satisfactory explanation for using the mobile of Rajeshwari ending with '9565'. Further, the CDRs and the Customer Application Form ('CAF') did establish that the aforementioned two mobiles were being used by the Appellant and that he was in regular touch with the Deceased.

33. According to the trial Court, the following circumstances stood firmly established by the prosecution:

- “1. That the deceased and accused are known to each other.
2. They are also known to one Ms. Manisha.
3. The deceased used to wear the girlish cloths and behaves like a girl which is clear from the photographs recovered from the house of deceased produced by his aunt and the photograph depicting the deceased and Honey as boy and girl.
4. The location of the deceased at the wine shop in the evening which is clear from the CD produced by the prosecution and duly proved by forensic expert.
5. The CDR and CAF regarding the mobile numbers and their locations in the evening of 15.09.2011 around the spot of incident.
6. The articles i.e. Beer bottle cap and namkeen wrapper recover by the police from the spot.
7. Earth control having blood stains of human blood as opined by the forensic expert.
8. The weapon of offence i.e. knife recovered having blood stains of human blood.
9. The fact that the injuries can be caused by the same weapon.

10. The blood stained clothes of the accused and weapon of offence was recovered at his instance where the human blood has been detected by the forensic expert vide their detailed report.”

34. The trial Court concluded that the above circumstances formed the complete chain and unmistakably pointed to the guilt of the Appellant alone. The failure to associate public witnesses in the recoveries was not fatal to the case of the prosecution. As far as the ocular testimony was concerned, the trial Court observed that the contradictions therein were minor and did not affect the credibility of the witnesses. By a separate order on sentence, the trial Court proceeded to sentence the Appellant in the manner indicated hereinbefore.

35. This Court has heard the submissions of Mr Vinod Kamra and Ms Amisha Kamra, learned counsel appearing for the Appellant and Mr Hirein Sharma, learned APP appearing for the State.

Last seen

36. This is a case based on circumstantial evidence. It is pointed out by learned counsel for the Appellant that PW-27 had turned hostile and failed to recognize the Appellant and, therefore, there was no evidence of ‘last seen’.

37. The Court is unable to agree with the above submission. While indeed PW-27, who was the vendor of the *namkeen* packets, turned hostile, the evidence of Pankaj Rohilla (PW-16) confirmed that the Appellant came to his shop on 15th September, 2011 at around 8.37 pm to purchase three

bottles of 'kingfisher' beer. This was visible in the CCTV footage, the genuineness of which was proved by the FSL report which analysed it. This was proximate to the time around which the CDR established the presence of the Appellant and the deceased in the same area.

38. The submission of learned counsel for the Appellant in this regard is that the mobile number ending in '9565' was registered in the name of one Rajeshwari who has not stepped into the witness box. It is further submitted that while the personal search memo of the Appellant did not mention the said mobile phone, the seizure memo of the phone which was exhibited did. This, according to counsel, raised a doubt on the seizure memo itself. It is further sought to be contended that the phone of the deceased and the phone of the Appellant were never shown to be at the same place. While the location of the Appellant was Siddhartha Apartments, that of the deceased was at Samrat Enclave.

39. The CDRs have been thoroughly analyzed by the trial Court which noted as under:

“The service providers had filed the CDRs and CAP on record to establish that the aforesaid two mobiles were being used by the accused and he was in regular touch with the Deceased. The call details further established that in the Ex.PW 6/D at Sr. No. 82 and 84, a call has been made by the accused from his mobile no. 9711049565 at the mobile number of the Deceased bearing mobile no. 8527470188 at around 19:33:38 PM and he had conversation with the Sunil @ Sujata for 52 seconds. Again at 20:14:43 PM for 11 seconds he had the conversation with the Deceased on 15.09.2011 on the fateful night of the incident. On the very same day at entry. No. 77, accused has also made a call to the Deceased from the same number at around 13:53:03 and

have conversation with the Deceased for 161 seconds. This fact has been proved by PW 28 Insp. Vipin Kumar, one of the 10 of this case and as per the CDR, the location of the Mobile of Deceased was around at Gupta Plaza, Plot No. B-2, Pocket-E, LSC, Samrat Enclave, Pitam Pura, Delhi and at 14 Chanderlok, Pitam Pura which was adjacent to the residence of the Deceased i.e. L Block, Shakur Pur. As per the CDR, the location of the accused with his mobile number 9711049565 was at Ashok Vihar at 13:53:03 hrs, and at the time of second call which was made at 19:33:38 hrs, the location of the accused was at Ashok Vihar i.e. his work place Saloon and at the time of third call i.e. at 20:14:43 hrs, it was at Sidharth Apartment which was also near the residence of the Deceased. Thereafter, at the time last call which was received on the mobile phone of the Deceased at 21:14:05 hrs on 15.09.2011, the location was at Nishant Kunj, Pitam Pura i.e. colony in front of Sandesh Vihar Park.”

40. In the trial records at page 495 is a cell location detail which indicates the proximity of both the Appellant and the deceased at around the time of the meeting at the park. The Appellant has not been able to offer any convincing explanation for the several call details appearing in the CDRs which have been satisfactorily explained by the prosecution through the evidence of nodal officers who issued certification under Section 65-B of the IEA. This Court, therefore, is unable to find any error committed by the trial Court in its analysis of the CDRs in the manner extracted hereinbefore. There is sufficient evidence, therefore, to show that on the intervening night of 15th/16th September, 2011, the Appellant was present with the Deceased.

Recovery of beer bottle caps

41. The other clinching piece of evidence is the recovery of the beer bottle lids and the *Haldiram namkeen* packets from the scene of crime. The beer bottles caps did indicate that they were *Kingfisher* beer bottle caps and the

CCTV footage of the liquor shop corroborated this fact. Merely because the park may have been otherwise used for illegal activities, cannot discount the finding of the three beer bottle caps below the bench on which the dead body was found. This is another clinching piece of evidence to connect the Appellant with the crime.

42. The fact that the deceased was probably drinking, is established by the post-mortem report where the stomach was shown to contain 200 ml of yellowish fluid and “smell suggestive of alcohol was present”. Although there was a request for the IO to retain blood samples for testing alcohol, it was not done for some reason. However, that by itself *per se* does not weaken the case of the prosecution. The above observation in the post mortem report does support the case of the prosecution that the deceased was consuming alcohol soon before his death. While it is correct that the MLC of the Appellant was not placed on record, this does not otherwise weaken the case of the prosecution.

43. Reliance is placed by the learned counsel for the Appellant on the judgment in ***Raj Kumar @ Raju v. State ILR (2010) Supp.(1) Delhi 389*** to submit that the recovery of clothes and weapon of offence is a weak piece of evidence. In the present case, the prosecution is not relying only on the recoveries made, but on other evidence including the CCTV footage of the liquor shop, the CDRs and the medical evidence which strengthen the case of the prosecution about the deceased being in the company of the Appellant, prior to the occurrence.

Evidence of PW-13

44. Motive was another important link in the chain of circumstances. Here, the evidence of some of the key prosecution witnesses, namely, PWs 13, 14 and even to some extent, PW-26, was relevant. As far as PW-13 is concerned, his acquaintance with the Appellant was more than adequately proved through the CDRs of his mobile ending in '2996'. He states in his deposition that he came to know the deceased through the Appellant and Manisha (PW-14) and he developed friendly relations with deceased. PW-13 and the deceased started residing in a tenanted room in Shakurpur for about one week. During his stay, he came to know that the deceased was gay and was having relations with some other boys. He had an altercation with the deceased leading to his leaving the tenanted premises and returning to his parents.

45. PW-13 was unable to be discredited in his cross-examination. Although repeated suggestions were made to PW-13 that he was probably harbouring a motive to eliminate the deceased, and that he in fact was the assailant, he was firm and convincing in his denial. Further, the pattern of the calls made, as emerging from the CDRs, suggests otherwise. His calls to the phone of the deceased at around 9 pm on 15th September, 2011, indicates that he was not in the same location as the deceased at that time.

46. Having carefully perused the evidence of PW-13, the Court is satisfied that his account is truthful and that he is a reliable witness and he has stood firm in his cross-examination.

Evidence of PW-14

47. Turning now to the evidence of PW-14. This witness speaks about the Appellant and PW-14 staying together in the tenanted premises and to this extent, it fully corroborates the evidence of PW-13. PW-14 has spoken about the deceased visiting the said tenanted premises and the meetings with the Appellant and with PW-13. PW-14 also spoke about the deceased and PW-13 developing intimacy; their eloping after October/November; about PW-14 vacating the premises taken on rent and PW-14 and the Appellant shifting to another premises. The numbers used by the Appellant have been consistently spoken by PWs 13 and 14.

48. These relationships *inter se* between the deceased, the Appellant, and PWs 13 and 14 were complicated. Clearly it led to a lot of misgivings among the parties. To the extent that PWs 13 and 14 have fully corroborated each other, both come across as truthful and reliable witnesses.

PWs 15 and 26

49. Kusum (PW-15) also confirmed that the deceased was a transgender. Vinod (PW-26) also confirmed that the deceased had a friendship with PW-13. He denied the suggestion that the deceased used to tell him that PW-13 had threatened to eliminate the deceased. Therefore, even PW-26 did not help the case of the Appellant as such.

50. The Court on an analysis of the above evidence is inclined to concur with the trial Court that the Appellant did have a motive to eliminate the deceased and that the Appellant apprehended that the Deceased might disclose to the parents of the Appellant and his family about his physical

relationships with transgenders. Thus, an important link in the chain of circumstances, viz., the motive for the commission of the crime was satisfactorily proved by the prosecution. The Court has already noted that the medical and forensic evidence also link the Appellant to the crime.

Law relating to circumstantial evidence

51. The following key principles of evaluation of circumstantial evidence, were set out in ***Padala Veera Reddy v. State of Andhra Pradesh 1989 Supp (2) SCC 706***:

- (1) The circumstances from which an inference of guilt is sought to be drawn must be cogently and firmly established;
- (2) Those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;
- (3) The circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability, the crime was committed by the accused and none else; and
- (4) The circumstantial evidence, in order to sustain conviction, must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.

52. In *C. Chenga Reddy v. State of Andhra Pradesh (1996) 10 SCC 193* the above principles were reiterated and it was held:

“21. In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further, the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence. In the present case the courts below have overlooked these settled principles and allowed suspicion to take the place of proof besides relying upon some inadmissible evidence.”

53. The following observations in *Sattatiya v. State of Maharashtra (2008) 3 SCC 210* are also relevant in this context:

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

Conclusion

54. The above threshold has, in the considered view of this Court, been met by the prosecution in the present case. In other words, the links delineated by the prosecution do form a continuous chain and have been conclusively established by credible evidence. These links when viewed as a whole do

unerringly point to the guilt of the Appellant and none else.

55. This Court is unable to find any error in the impugned judgment and the consequent order on sentence of the trial Court. The appeal is accordingly dismissed. The pending application is also dismissed. The trial Court record be returned forthwith together with a certified copy of this judgment.

S. MURALIDHAR, J.

VINOD GOEL, J.

November 01, 2018

mw/rd