



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

% Reserved on: 18th April, 2023
Decided on: 26th June, 2023

+ **CRL.A. 1163/2017**

UMAKANT alias ANIL KUMAR Appellant

Represented by: Mr.Kanhaiya Singhal, Mr. Ujwal
 Ghai, Mr. Prasang, Mr. Jasmeet
 Singh and Mr. Udit Bakshi, Advs.

versus

STATE (NCT OF DELHI) Respondent

Represented by: Ms.Shubhi Gupta, APP for the State.

+ **CRL.A. 36/2018**

SUMIT KUMAR Appellant

Represented by: Ms. Meena Chaudhary Sharma, Mr.
 Saurabh Goel and Mr. Tushar Ahuja,
 Advs.

versus

STATE (GOVT. OF NCT OF DELHI) Respondent

Represented by: Ms.Shubhi Gupta, APP for the State.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MS. JUSTICE POONAM A. BAMBA

MUKTA GUPTA, J.

1. In these appeals, the appellants challenge the common impugned judgment of the learned Trial Court dated 28th November, 2017 whereby the appellant Umakant @ Anil Kumar was held guilty for murder of Rachna @ Gyan Devi (“deceased”) and the appellant Sumit Kumar was held guilty for



aiding Umakant in disposing of the dead body of the deceased. The appellants also challenge the order on sentence dated 1st December, 2017, whereby appellant Umakant @ Anil Kumar was directed to undergo rigorous imprisonment for life alongwith fine of ₹25,000/- in default whereof to further undergo simple imprisonment for one year for offence punishable under Section 302 of the Indian Penal Code, 1860 ("IPC") and rigorous imprisonment for five years alongwith fine of ₹10,000/- in default whereof simple imprisonment for six months for offence punishable under Sections 201/34 IPC. Appellant Sumit Kumar was directed to undergo rigorous imprisonment for four years alongwith fine of ₹15,000/- in default whereof to further undergo simple imprisonment for six months for offence punishable under Sections 201/34 IPC.

2. Brief facts of the prosecution case are that on 19th June, 2012 at about 11:20 PM, Munna Kumar Sinha (PW-6) heard a noise from his galli outside his house where his neighbor Sharvan (PW-5) was present who told him that two persons had loaded a red colour big bag in silver colour Alto car and that foul smell was emanating from that bag. PW-6 himself also noticed the foul smell in the galli on which he made a call to the police at number 100 which was recorded vide DD No.27/A (Ex. PW-11/A). On receipt of this information SI Manoj Dalal (PW-20) reached the spot i.e. Flat No. 797, Pocket-6, Sector-2, Rohini alongwith Ct. Pushpender where blood was found scattered. SI Manoj met Sharvan at the spot and recorded his statement (Ex. PW-5/A) and thereafter, called the crime team at the spot. In the meanwhile SHO/Insp. Jai Prakash (PW-28) also reached the spot. He prepared the *rukka* (Ex. PW-20/B) on which FIR No.122/2012 dated 20th



June, 2012 under Sections 302/201/34 IPC was registered at P.S. South Rohini. While the proceedings were being carried out at the spot, Sharvan Kumar saw appellant Umakant coming towards the place of occurrence who was apprehended and thereafter arrested vide memo (Ex. PW-13/B) and on his personal search (Ex. PW-5/C), a duplicate key of car No.DL-8CQ-8177 was recovered. Disclosure statement of the appellant Umakant (Ex. PW-20/D) was also recorded in pursuance whereof, appellant Umakant led the police team to village Rasoi, District Sonapat, Haryana and on the side of G.T. Road, the appellant pointed towards one half burnt dead body and told the police officials that it was the same dead body he had burnt. Appellant Umakant also led the police party to Samrat Enclave at Pitampura where he identified appellant Sumit Kumar who was arrested vide memo (Ex. PW-20/N) and his disclosure statement (Ex. PW-20/O) was recorded. After completion of investigation, charge-sheet was filed against both the accused persons. Appellant Umakant @ Anil Kumar was charged for offence punishable under Section 302 IPC alongwith charge for offence punishable under Sections 201/34 IPC. Appellant Sumit Kumar was charged for offence punishable under Sections 201/34 IPC.

3. Dr. Yogesh Kumar (PW-22) conducted the post-mortem examination on the dead body of the deceased, and opined vide his report (Ex. PW-22/A) as under:

“II. CRANIUM AND SPINAL CORD

Scalp – was found missing on the right side and at other places it was cooked up and having heat ruptures as described.



Skull – no fracture was seen and sutures were not found on the inner sagittal area. The metopic suture was persisting and incabones were present in combined suture area on both sides.

Vertebrae – were easily separable in the neck area and at places partially cooked up tissue.

Membranes – were partially liquefied and lying in the separated from the skull.

Brain – was liquefied into grayish pasty material structures were not identifiable.

Spinal cord – cooked up.

The cut tissues were __ looking.

Teeth present x – teeth jallied, socket present.

Cusps were maintained well. Grinding $\pm$ __

All the epiphysis of long bones were

Body of sternum was ____ only.

III. THORAX

Walls – cooked up, exposed as described.

Ribs and cartilages – cartilages were easily separable in the cooked up tissues.

Pleurae – cooked up, papery.

Larynx and Trachea Hyoid – cooked up, tissues are not identifiable. Trachea in upper part was cooked up, in the lower part it was easily separable and not having carbon soot particles. Hyoid bone was intact with left corna calcified and right not calcified.

Lungs - both lungs were cooked up and burnt off at places

Pericardium – softened, cooked up.

Heart – soft, partially cooked up, having fluid inside (grayish), no foul smell was appreciated. On cut it was somewhat soft to firm.

Large vessels – _____and cooked up.



IV. ABDOMEN

Wall – described.

Peritoneum – burnt off at places on the sides in the middle area was identifiable.

Mouth - tongue was cooked up in anterior 1/3rd area

Pharynx and Oesophagus - cooked up.

Stomach and its contents

Small intestine & the contents

Large intestine & the contents

Liver

Spleen

Kidneys

Bladder

all cooked up – non

identifiable, non separable,

jumbled up and cooked up

mass and debris structures.

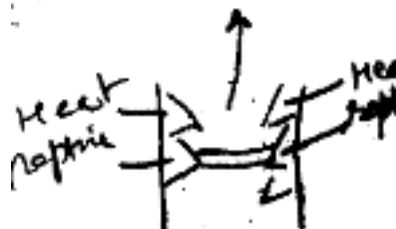
The available cooked up

abdominal organs were

preserved for chemical

analysis.

The skin in the middle front upper part of the neck was found somewhat intact under the debris of burnt off material on extending the neck and washing it and a area of about 1.5cm was in the form of a hard, parchment like which was preserved for histopathological examination as depicted in diagram.





Organs of generation - The genetalia were burnt off and internally uterus was identifiable in the lower, middle burnt off pelvic tissue.





VI. Remarks by medical officer (opinion as to the cause and manner of death) ;

No definite opinion can be given regarding cause of death at this stage as the available viscera has been sealed and preserved for chemical analysis and skin of neck area was preserved for histopathological examination. The burns were post-mortem in nature. The dead body was of a young adult female individual in burnt and cooked up stage.

<i>Probable time that elapsed :</i>	
<i>a) between injuries & death</i>	--
<i>b) between death & autopsy</i>	<i>About 1 to 2 days.</i>

4. Learned counsel appearing on behalf of appellant Umakant @ Anil Kumar assailed the impugned judgment on the ground that in cases pertaining to circumstantial evidence, motive is an essential ingredient which should be established to convict a person for the alleged offence. Benefit should accrue to the appellant/accused in the present case where the prosecution has failed to establish motive. It was submitted that from the perusal of the testimonies of PW-1, PW-4 and PW-5, it is evident that there was no enmity or dispute between the deceased and the appellant and, therefore, the motive for the appellant to commit the offence alleged is unknown. Reliance was placed on a decisions reported as 2022 SCC OnLine SC 1454 Nandu Singh Vs. State of Madhya Pradesh and 2022 SCC OnLine SC 1396 Ramanand @ Nand Lal Bharti Vs. State of Uttar Pradesh. It was further contended that the post-mortem report (Ex. PW-22/A) fails to ascertain the cause of death of the deceased and the doctor's opinion was



based entirely on the opinion of I.O., who had no knowledge of medical science and thus, the same cannot be relied upon. Even otherwise, as per the testimony of the said doctor, “*the cause of death in this case would have been constricting force around neck where exact manner could not be ascertained due to non-availability of intact skin consequent upon burns*”. Thus, possibility of suicide cannot be ruled out as constricting force around neck is possible by hanging as well. Reliance was placed on the decision in (1992) 3 SCC 547 Bhupendra Nath Prasad Vs. State of Bihar. It was further contended that there is material contradiction in the testimony of star witness of prosecution i.e. Sharvan Kumar (PW-5) with respect to the arrest of the appellant. It was further submitted that no T.I.P. of the appellant was conducted despite the fact that PW-5 saw the appellant for the first time on 19th/20th June, 2012. Reliance was placed on the decision in 2023 SCC OnLine SC 283 Udayakumar Vs. State of Tamil Nadu. Therefore, not much credence can be attributed to such a witness. It was pointed out by learned counsel for the appellant that it is unknown how no stain of blood was found on the staircase and the area between the staircase despite the fact that as per the case of prosecution, the appellant allegedly dragged the blood oozing bag from his flat to the Alto car. Presence of blood at the staircase nowhere finds mentioned in the statement under Section 161 of the Code of Criminal Procedure, 1973 (“Cr.P.C.”) of SI Manoj (PW-20), but in his testimony before the court, he improved his version and stated that blood was also found on the staircase, however, Ct. Pushpender (PW-26) and the photographs of the scene of crime do not show presence of any blood on the staircase. As per the case of the prosecution, appellant was seen wearing



gloves at the time of offence by PW-5 which were also recovered vide memo Ex.PW-20/E, however, it was pointed out that the same were never sent for FSL examination which was a deliberate attempt, for which an adverse inference must be drawn against the prosecution's case. Reliance was placed on the decision in (1972) 3 SCC 484 Satyannarain v. State of Maharashtra. It was also the case of the prosecution that the appellant had burnt the body of the deceased by using some inflammable substance, however, the same was not corroborated by the forensic evidence (Ex. PW-23/A) which clearly states that "*flammable petroleum products like petrol, kerosene, diesel etc. or their residual could not be detected.....*" and reliance in this regard was placed on the decision in (2017) 13 SCC 98 Krishnegowda Vs. State of Karnataka. Learned counsel also pointed out the discrepancies in the testimonies of PW-20 and PW-14 with respect to the time of recovery of dead body of the deceased. It was submitted that even the presence of Haryana police at the spot of recovery is doubtful as either they were not present or they have deliberately not been examined by the prosecution and either of these, dents the case of the prosecution. Learned counsel further contended that the fact that his finger print was found in the car would not point towards his guilt when the alleged car did in fact belong to the appellant. It was submitted that even as per the FSL report (Ex. PW-28/E), no conclusive opinion was given with respect to the blood group of the blood recovered from the said car and for some unknown reasons, DNA examination of the blood sample lifted from the car was never done. It was also pointed out that the said FSL report cannot be read into evidence as the same was authored by a senior scientific officer who is not an "officer" in



terms of Section 293 Cr.P.C. It was also contended by learned counsel for the appellant that even the intervention of a third person to commit the alleged offence was not ruled out by the prosecution for which benefit must accrue to the appellant. To buttress his submissions, reliance was also placed on the decisions in 2022 SCC OnLine SC 1007 Ram Niwas Vs. State of Haryana (1981) 2 SCC 35 Shankarala Gyarsilal Dixit Vs. State of Maharashtra. Learned counsel for the appellant also contended that irrespective of the merits and demerits of the case, the appellant is suffering from HIV AIDS which is an incurable and fatal disease and even the appellant's wife as well as one of his daughters are also suffering from the same and there is no one in the extended family to take care of these persons, thus, these facts may also be taken into account while deciding the present appeals.

5. Learned counsel appearing on behalf of appellant Sumit Kumar contended that the prosecution has failed to prove its case beyond reasonable doubts against the appellant and thus, the benefit of doubt must be given to the appellant and the impugned judgment should be set aside and the appellant should be acquitted. It was submitted that it is evident from the testimony of PW-5 that there are contradictory versions put forth by the witness with respect to identifying appellant Sumit Kumar in the police station where on one instance, he says that he had identified the appellant in the police station and on the other instance, he stated that he did not identify the appellant in the police station but only in the court. It was contended that therefore, the version of PW-5 cannot be relied upon and also that the appellant Sumit Kumar has rightly refused his T.I.P. It was



further contended that as per the testimony of W/Ct. Ritu (PW-10), information filled by her in the PCR form was “*Do Aadmi Hai Red Bag Me Dead Body Ho Sakti*”, from which, it is evident that no description of the appellant was provided in the absence of which identification of the appellant cannot be established with certainty. As per the case of the prosecution, the appellant dragged the bag while wearing rubber gloves. The said recovered gloves were recovered by the police from under Azadpur flyover, however, these gloves were never sent to FSL for examination and thus, the same cannot be read into evidence against the appellant. It was also pointed out that area near Azadpur flyover is a densely populated area and it is inconceivable as to how the rubber gloves were got recovered lying at an open place. Reliance was placed on the decision in AIR 2008 SC 1184 *Sattatiya @ Satish Rajanna Kartalla Vs. State of Maharashtra*. It was also pointed out that no CDR of either of the appellant was produced by the prosecution to connect both these appellants with each other. It was also the case of prosecution that appellant Sumit Kumar had purchased 5 ltrs. petrol from a petrol pump, but it was contended that the prosecution neither examined any person from the said petrol pump nor any bottle was recovered in which petrol was taken nor any trace of petrol was found on the remnants on the dead body. It was also contended that as per testimony of PW-20 and PW-28, Umakant had disclosed the name and address of appellant Sumit Kumar, however, appellant Sumit was neither arrested through the local police of his residential area nor the investigating team immediately rushed to apprehend him. It was submitted that appellant Sumit Kumar was not known to appellant Umakant and was wrongly and illegally



linked with the present offence. It was submitted that there is no direct or unambiguous evidence against the appellant Sumit Kumar to link him with the alleged offence. Learned counsel placed reliance on the decisions in (2012) 1 SCC 40 Sanjay Chandra Vs. CBI, 2015 SCC OnLine Del 12764 Ajay Madan Vs. State, 2015 SCC OnLine Del 8914 Rajat Sharma Vs. State of NCT of Delhi, 2015 SCC OnLine Del 13688 Ajay Tayal Vs. State of NCT of Delhi, Joginder @ Mintu Vs. State (Govt. of NCT of Delhi), Neutral Citation No-2018:DHC:7022-DB (of Delhi High Court) and 2018 SCC OnLine Del 12113 Deepak Sarna Vs. State (NCT of Delhi).

6. On the other hand, learned APP appearing on behalf of the State contended that the impugned judgment and order on sentence of the learned Trial Court is based on proper appreciation of facts and circumstances of the case and thus be upheld and consequently the present appeals be dismissed. To support the contention, learned APP relied upon the following facts :

- (i) That the appellant Umakant and deceased were in a live-in relationship which was proved by the father of the deceased (PW-1), husband (PW-2), mother (PW-4) and owner of H.No.797 (PW-3) as well as PW-5 and PW-8. Moreover, no suggestion was given to any of the said witnesses denying the fact that the appellant Umakant and the deceased were not living together.
- (ii) That it was duly proved that the appellant Umakant and deceased were residing together at Flat No.797 and, therefore, it was incumbent on the appellant to explain the circumstances in which the deceased was found dead in terms of Section 106



of the Evidence Act and reliance was placed on the decision in 2001 (1) MPHT 270 Jairaj Singh Vs. State of M.P.

- (iii) PW-5 categorically deposed to have seen both the appellants dragging a bag, from which blood was coming out, from the staircase and thereafter, the said bag was put in the Alto car. The said Alto car was in the name of appellant Umakant and the same was never disputed. There was no enmity or rivalry between the appellant and PW-5 and, therefore, no doubt can be cast on the testimony of PW-5.
- (iv) That since the morning of 19th June, 2012, the appellant Umakant was concocting a story which in itself was contradictory. Firstly, the appellant individually and separately called the parents of the deceased on the said date at about 10:00 AM and informed that the deceased was not opening the door of the house. However, PW-1 categorically stated that after about two hours, the appellant called him again and told him that he and the deceased were shopping together at Chandni Chowk. On the other hand, PW-4 stated that she had received a call from the appellant wherein the appellant told her that he was at Ghaziabad and that the deceased was not opening the door, and merely after about two minutes, PW-4 stated that she again received a call from the appellant that the deceased was with the appellant and they were shopping at Chandni Chowk. The appellant tried to create a false story which establishes his motive.



- (v) That both the appellants had refused to undergo TIP before the learned Magistrate for which an adverse inference must be drawn against them.
- (vi) That the appellant Umakant got recovered the half-burnt dead body alongwith two surgical gloves from Sonepat on 20th June, 2012.
- (vii) Appellant Sumit was identified by PW-5 in the police station and during his testimony before the Court as the person who was dragging the bag from which blood was coming out and kept the same in Alto car alongwith appellant Umakant. PW-5 neither knew appellant Sumit nor had seen him prior to the incident, nor had any rivalry/enmity with him and, therefore, PW-5 had no reason to falsely implicate him as an accused.

7. Learned APP for the State submitted that the fact that the exact manner of death could not be ascertained by the post-mortem examination would not be of any avail to the appellant as the doctor (PW-22) clearly opined that the same was because of non-availability of intact skin consequent upon burns. Learned APP relied upon the judgment in JCRL A. No.64/2016 dated 16th May, 2022, *Milan @ Makardhwaja Khadia Vs. State of Orissa* (of Orissa High Court). It was further submitted that traces of petrol could not be found on the dead body of the deceased as gasoline evaporates quickly within 18-36 hours when exposed to air and rarely leaves behind any residue. The present incident took place in the month of June,



2012 and the post-mortem examination was conducted after a gap of about 1-2 days.

8. Having heard both the parties at length and perusing the record, the following evidence emerges.

9. Sharvan (PW-5) deposed that he was residing on the first floor of H.No.800, Pocket-6, Sector 2, Rohini and that on 19th June, 2012 at about 11:00 PM, while he was parking his scooty, he saw appellant Umakant, who used to reside in the house in front of his house with his wife/deceased, alongwith another person dragging a bag in the staircase from which blood was coming out and a foul smell was coming from the bag. He stated that both the appellants were wearing gloves on their hands and they dragged the bag into an Alto car bearing No.DL-8CQ-8177. Thereafter, he went to Flat No.797 and found the door of the flat opened with blood inside and foul smell coming from the flat. He became suspicious and one Munna called the police and on arrival, his statement (Ex. PW-5/A) was recorded by the police. On the next day, he went to the police station where he identified appellant Umakant. Thereafter, he was declared hostile as he was resiling from his previous statement. In his cross-examination, he stated that he never heard any quarrel between appellant Umakant and the deceased. He stated that on 19th June, 2012, he had seen appellant Umakant knocking the door of the rented flat at about 11:00/12:00 noon. He stated that he had never seen appellant Umakant prior to the date of incident.

10. Munna Kumar Sinha (PW-6) deposed that on 19th June, 2012 at about 11:20 PM, he heard noise from outside of his house and in the galli, one Sarvan was present, who told him that two persons had loaded a red colour



big bag in a silver colour Alto car and also told that foul smell was emanating from the said bag. He stated that he also noticed the foul smell in the galli and thereafter, he made a call at number 100.

11. Balbir Singh (PW-1) deposed that the deceased was his daughter and was married to one Banarsi Dass and was blessed with a boy and a girl child. Pursuant to the dispute between his daughter and Banarsi Dass, his daughter/deceased started residing with appellant Umakant. He stated that on 20th June, 2012, he was informed by the police that Umakant was in their custody. Appellant Umakant led him and the police team near bus stand, village Rasoi, near Sonapat in front of GT Road where he had disposed of the body of the deceased. He identified the body of his daughter/deceased (Ex. PW-1/A). In his cross-examination, he stated that his daughter/deceased had left the house of her husband in December, 2011 and that on 22nd December, 2011, he went to Umakant's rental house i.e. Flat No.797, Pocket-6, Sector 2, Rohini to drop her daughter/deceased. He further stated that on 19th June, 2012 at about 10:00 AM, he received a call from Umakant that the deceased was not opening the door and her phone was switched off. However, after about two hours, he again received a call from appellant Umakant that he had met the deceased and was shopping with her at Chandni Chowk.

12. Dharamwati (PW-4) deposed that the deceased was her daughter and that she had given her blood sample at BSA Hospital. In her cross-examination, she stated that she does not remember the date but appellant Umakant had called her and told her that he was in Ghaziabad and that the deceased was not opening the door of the room and the appellant asked her



to check as to what had happened. However, after about two minutes appellant again called her and informed that he was shopping with the deceased at Chandni Chowk.

13. Asha Rani (PW-3) deposed that she was the owner of H.No.797, Pocket-6, Sector 2 Rohini and that she had given her house on rent to appellant Umakant vide the rent agreement (Ex. PW-3/A). She stated that she had seen the lady/deceased only once or twice and, therefore, cannot identify her.

14. SI Manoj Dalal (PW-20) deposed that on 19th June, 2012, he received DD No.27-A (Ex. PW-11/A) and he alongwith Ct. Pushpender reached at the spot i.e. Flat No.797, Pocket-6, Sector 2, Rohini, Delhi where blood was found scattered including at the stairs. He met Sharvan at the spot and recorded his statement (Ex. PW-5/A). He called the crime team at the spot and in the meanwhile, SHO also reached the spot. He prepared the rukka (Ex. PW-20/A) on which FIR was got registered and thereafter, the investigation was taken over by Insp. Jai Prakash.

15. Insp. Jai Prakash (PW-28) deposed that on 19th June, 2012, on receipt of information recorded vide DD No.27-A, he reached the spot where SI Manoj Kumar and crime team were present. On pointing of Sharvan Kumar, he inspected the spot and prepared a rough site plan (Ex. PW-28/A). One plastic lock of bag lying near the stair was seized (Ex. PW-20/B), blood-stained earth was lifted after breaking the floor and earth control was also lifted (Ex. PW-20/C). During the proceedings, Sharvan Kumar saw the appellant Umakant coming towards the spot, on which, the appellant was apprehended and arrested vide memo (Ex. PW-5/B) and from his personal



search (Ex. PW-5/C), a duplicate key of car No.DL-8CQ-8177 was recovered. Disclosure statement of appellant Umakant (Ex. PW-20/O) was also recorded in pursuance thereof, he got recovered two joint photographs of appellant himself alongwith the deceased which were seized (Ex. PW-20/P-1). Father and husband of the deceased were called at the spot and thereafter, appellant Umakant led the police team alongwith father and husband of the deceased to village Rasoi, District Sonapat, Haryana. On the side of GT Road at Sonapat, near Rasoi village, the appellant pointed towards one half-burnt dead body from which smoke was coming out. He informed the local police of PS Kundli. The appellant also got recovered a pair of surgical gloves lying near the dead body which were also seized (Ex. PW-20/E). In the meanwhile, ASI Surender from PS Kundli reached the spot, to whom, the spot was handed over and he alongwith his staff returned back to Delhi. The appellant Umakant got recovered on Alto car parked in front of C-6/112 of Sector 5, Rohini. Thereafter, the appellant led the police party to Radha Photo Studio, Vijay Vihar and informed that the photo of the appellant and the deceased was taken at the said Studio. As per the register of the studio, the said photographs were taken on 30th January, 2012, and the register kept at the studio was seized (Ex. PW-8/C). The crime team was called at the place where Alto was parked i.e. in front of H. No. C-6/112, Sector 5, Rohini and exhibits and chance-prints were lifted from the car. Thereafter, the appellant led the police team to Samrat Enclave, Pitampura and at the main gate, the appellant Umakant identified appellant Sumit who was apprehended and arrested vide arrest memo (Ex. PW-20/N). In pursuance of his disclosure statement (Ex. PW-20/O), appellant Sumit led



the police to a flyover at Azadpur and a pair of surgical gloves were recovered lying under the flyover which was seized (Ex. PW-20/P).

16. ASI Surender Singh (PW-7) who was posted at PS Kundli on 20th June, 2012 deposed that an information was received from Insp. Jai Prakash that on the bus stop of Rasoi, appellant Umakant had pointed a dead body of Rachna Sharma (deceased) which was recorded vide DD No.4A (Ex. PW-7/A). On reaching the spot, he found the dead body of the deceased in a partly burnt condition and Balbir Singh and Banarsi Dass had identified the dead body of the deceased. He further stated that the articles worn by deceased alongwith ash, wire and one iron patti were seized by him (Ex. PW-7/B). He stated that he did not seal the wire and the iron patti. Thereafter, the dead body was shifted to civil hospital at Sonapat from where it was shifted to PGI, Rohtak, where post-mortem was conducted and the dead body was handed over to the father and husband.

17. In his statement under Section 313 Cr.P.C., appellant Umakant stated that he was falsely implicated in the present case. He stated that there were some disputes between the deceased and her husband, however, he denied that the deceased was in a live-in relationship with her. He further stated that he was shown to the witnesses at the police station as well as outside the Court by the I.O. He stated that he helped the deceased to get a flat on rent on his ID and he was being falsely implicated by the I.O. on the basis of the rent agreement. He stated that he was happily married and was having two daughters and was residing with his family.

18. Appellant Sumit Kumar in his statement under Section 313 Cr.P.C. stated that nothing was recovered at his instance and that he was not muffled



at the time when he was produced before the learned MM. He further stated that he was already shown to the witnesses by the I.O. at the police station as well as outside the court. He further stated that he was innocent and he does not know appellant Umakant. He stated that he saw Umakant for the first time at PS South Rohini when he was arrested by the police.

19. As noted above, investigating agency was set into motion on receipt of PCR call Ex.PW-10/A recorded on 19th June, 2012 at 11.21 PM by W/Ct. Ritu, wherein the caller informed “*Do Aadmi Hai, Red Bag Me Dead Body Ho Sakti Hai*”. On reaching the spot, the PCR found Sharvan (PW-5) and Munna Kumar Sinha (PW-6) at the spot. Statement of Sharvan and Munna Kumar Sinha was recorded. Even before the Court, Sharvan deposed that on 19th June, 2011 at 11.00 PM while he was parking his scooty at the ground floor where he was residing on the first floor at the given address and appellant Anil Kumar @ Umakant was residing in front of his house along with his wife Rachna, Sharvan saw Umakant along with another person present in the Court dragging a bag in the staircase. Blood was coming out of the bag and foul smell was emanating. He became suspicious that somebody was inside the bag. He identified the two accused present in Court and that they were wearing gloves in their hands. He also informed that they took the bag by dragging it in the Alto Car No. DL-8CQ-8177. Thereafter he went to Flat No.797 and found the door of that flat opened and blood inside the same. Foul smell was also emanating. On hearing his noise, one public person Munna called the Police and Sharvan’s statement Ex.PW5/A was recorded. Though this witness was cross-examined by the learned APP, however only to the extent that in the night intervening 19/20th



June, 2012 at about 2.00 AM he identified Umakant @ Anil and that Umakant was arrested at that time. He volunteered that he had identified the appellant in the morning hours and not at midnight. He denied the suggestion that the duplicate key of the car was recovered from the right side pocket of the pant of Umakant, to which extent he was confronted and he also stated that he identified Sumit at the Police Station. In cross-examination on behalf of the appellant he stated that he had never seen Umakant prior to 19th June, 2012 as he had shifted to First Floor, Flat No. 800, Pocket 6, Sector-2, Rohini on 1st June, 2012 and the first time he saw the accused was while they were dragging the bag and leaving with the bag in the Alto Car, whereafter a PCR call was made.

20. Version of Sharvan (PW-5) is duly supported by Munna Kumar Sinha (PW-6) who stated that on the 19th June, 2012 at about 11.20 PM he and his family members were having meals, when he heard the noise outside his house. He came outside and found one Sharvan, his neighbour. He asked him about the noise. Sharvan told him that two persons had loaded a red colour big bag in silver colour Alto Car and also that foul smell was emanating from the bag. Munna Kumar Sinha also noted the foul smell in the gali and informed the PCR. He informed PCR from mobile No. 9811616881. Further, as noted this version is also duly recorded in the PCR form [Ex.PW-10/A]. Thus, the evidence of Sharvan is duly corroborated not only by Munna Kumar Sinha (PW-6) but also by the first PCR call made Ex.PW-10/A. The evidence of Sharvan is thus relevant and admissible under Section 8 of the Indian Evidence Act showing the conduct of the appellants in taking away the dead body in the red suitcase bag by putting it



in the Alto Car. It is also clear from the testimony of Sharvan that when the appellant came back to the flat, he identified him and on apprehension by the Police he made the disclosure statement, pursuant where to the dead body was recovered from Sonapat at the pointing out of the appellant/ Umakant, which evidence is admissible under Section 27 of the Indian Evidence Act. Version of Sharvan also gets confirmed by Crime Scene report which took the photographs of the room, which was on rent with the appellant/ Umakant. There were blood spots and other articles having blood stains which were collected.

21. Challenge has been laid to the alleged recovery from Sonapat at the pointing out of the appellant/ Umakant. In this regard ASI Surender Singh who was posted at PS Kundli entered the witness box as (PW-7) stating that DD No. 4A was recorded at PS Kundli District, Sonapat on an information received on telephone from Insp. Jai Prakash, SHO, PS South Rohini, Delhi that on the bus stop of Rasoi, appellant has pointed out the dead body of Rachna Sharma W/o Banarsi Dass and on receipt of the said DD No.4, which was exhibited as Ex.PW7/A, he reached the spot where he found the dead body of a lady, namely, Rachna @ Gyan Devi W/o Banarsi Dass in partly burnt condition. The body was identified by the husband and father of the deceased as also by the DNA profiling carried out by Mr. D.S. Paliwal (PW-17) and he recorded the statement of Banarsi Dass and Balbir Singh vide Ex.PW2/A and Ex.PW1/A respectively with regard to identification of the body. Not only was the Police of PS Kundli associated with the recovery of the dead body after pointing out by the appellant/ Umakant, the inquest proceedings were also carried out by ASI Surender



Singh vide Ex.PW-7/C and the articles found at the spot were seized vide Ex.PW-7/B, whereafter the dead body was first shifted to Civil Hospital, Sonapat and then to PGI, Rohtak for post-mortem, where the post-mortem was conducted.

22. Further recovery of the dead body at the pointing out of appellant/ Umakant is also proved not only by the investigating officer but also from the evidence of PW-1/Balbir Singh, father of the deceased who stated that on 20th June, 2012 he was informed telephonically by the Police that Umakant was in their custody. He led them to Sonapat near Bus Stand Village Rasoi in front of G.T. Road, where he identified the dead body of his daughter Gyan Devi @ Rachna and joined the inquest proceedings. Even Banarasi Dass who appeared as (PW-2) deposed about the pointing of the dead body of his wife Rachna @ Gyan Devi at the instance of Umakant @ Anil Kumar on 20th June, 2012, which he identified and joined inquest proceedings.

23. Learned counsel for the appellant Umakant has also contended that as no cause of death was given by the post-mortem Doctor, hence it cannot be said that the appellant committed the murder of the deceased and thus the appellant not was liable to be convicted for offence punishable under Section 302 IPC. As noted above, no definite opinion was given by the post-mortem Doctor regarding cause of death, initially awaiting histopathological and viscera report, however subsequently vide Ex.PW-22/B, PW-22/Dr. Yogesh Kumar opined that the cause of death in this case would have been constricting force around neck where exact manner could not be ascertained due to non-availability of intact skin consequent upon burns, and



the burns were post-mortem in nature. From this opinion, it is thus contended that the death could be suicidal or homicidal in nature and in the absence of proof of a homicidal death, the appellant cannot be convicted for offence punishable under Section 302 IPC.

24. It is trite law that in some cases there may be no direct evidence as to whether the death was homicidal or suicidal, however the said opinion can be formed on the basis of circumstantial evidence as well. In any case, death can be either natural or accidental or suicidal or homicidal. With the opinion of the Doctor that death was due to constricting force around neck, it is evident that the death was either suicidal or homicidal. However, the attending circumstances which show the manner in which the appellant took away the body of the deceased by packing it in a red colour bag in his Alto Car and thereafter burnt the same after taking the dead body to Sonapat, to conceal evidence, are in consistent with a suicidal death. Based on the circumstances proved by the prosecution it can be safely held that the appellant/ Umakant caused a homicidal death of Rachna @ Gyan Devi.

25. Dealing with similar situation, in the decision reported as 2001 (1) MPHT 270 Jairaj Singh Vs. State of M.P. it was held:

“10. Now the question is whether the appellant killed Kailashkunwar. As stated earlier, there is no direct evidence available on record. The dead-body had been burnt, therefore, the cause of death could not be known. The death could be natural, homicidal or suicidal. We agree with the learned counsel for the defence that the burden is on prosecution to prove that the appellant killed Kailashkunwar. In our opinion, the circumstances and the conduct of the appellant clearly proves that it was the appellant and appellant alone who killed Kailashkunwar. Had Kailashkunwar met natural death, the



appellant would have informed his family members, villagers, the relations of his wife and would have taken the dead-body to cremation ground and cremated her there. If she would have committed suicide or some other person would have killed her the appellant would have reported the matter to police and narrated the incident to the villagers. ... ”

26. Similarly, in the decision reported as JCRLA No. 64/2016 decided by the High Court of Orissa titled as “Milan @ Makardhwaja Khadia Vs. State of Orissa” it was held:

“10. It is to be remembered here that homicidal nature of death need not always be proved through direct evidence. It has to be inferred from the circumstances and the nature of injuries noticed on the dead body. The instant case is about the death of a wife committed by the husband within four walls of the house. In absence of any other adult member in the house except the deceased and Appellant, the commission of murder revealed late to the villagers. As such, three days passed before conducting the inquest and the dead body of the deceased which was recovered from the cow-dung pit had started putrefaction by the time of holding inquest. In addition to the same, the dead body was burnt partially. The external features of the dead body as seen during inquest and post mortem examination speaks of the same. Further, those two fractures noticed on the skull over temporo parietal bone and occipital bone support the prosecution case about assault on the head of the deceased by means of any blunt object. When the assailant is the husband and he tried best to screen the evidence by attempting to burn the dead body after committing the offence, it is difficult indeed to get direct evidence on the nature of injuries. It should not be forgotten here that, the inquest and post mortem examination were conducted after clear gap of three days of the occurrence and keeping the same in mind, the features noticed on the dead body of the deceased, external as well as internal, are found supportive with the conclusion of homicidal death of the



deceased. It is thus concluded that the deceased died homicidal nature of death.”

27. Even in cases where the dead body is not found thereby not proving the cause of death but there is sufficient evidence to prove that the appellant committed the murder, convictions have been upheld by the Supreme Court. In the decision reported as (2002) 7 SCC 157 Mani Kumar Thapa Vs. State of Sikkim, the Supreme Court held:

“4. It is a well-settled principle in law that in a trial for murder, it is neither an absolute necessity nor an essential ingredient to establish corpus delicti. The fact of the death of the deceased must be established like any other fact. Corpus delicti in some cases may not be possible to be traced or recovered. There are a number of possibilities where a dead body could be disposed of without a trace, therefore, if the recovery of the dead body is to be held to be mandatory to convict an accused, in many a case the accused would manage to see that the dead body is destroyed which would afford the accused complete immunity from being held guilty or from being punished. What is therefore required in law to base a conviction for an offence of murder is that there should be reliable and plausible evidence that the offence of murder like any other factum of death was committed and it must be proved by direct or circumstantial evidence albeit the dead body may not be traced. (See Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471 : 1991 SCC (Cri) 724]) Therefore, the argument that in the absence of corpus delicti the prosecution case should be rejected, cannot be accepted.”

28. Further, in the decision reported as (2013) 12 SCC 551 Rishipal Vs. State of Uttarakhand where there was no direct evidence to prove homicidal death and even the corpus delicti has not been recovered thereby proving



that the death was homicidal, Supreme Court upheld the conviction and held:

“10. Coming next to the question whether the prosecution has brought home the charge of murder levelled against the appellant, we must at the outset point out that the case is entirely based on circumstantial evidence. No direct evidence has been adduced to prove that Abdul Mabood, whose corpus delicti has not been recovered, was done to death, nor any evidence adduced to show where and when the same was disposed of by the appellant assuming that he had committed the crime alleged against him. The legal position regarding production of corpus delicti is well settled by a long line of decisions of this Court. We may briefly refer to some of those cases.

11. In Rama Nand v. State of H.P. [(1981) 1 SCC 511 : 1981 SCC (Cri) 197] this Court summed up the legal position on the subject as: (SCC pp. 522-23, paras 27-28)

“27. ... In other words, we would take it that the corpus delicti i.e. the dead body of the victim was not found in this case. But even on that assumption, the question remains whether the other circumstances established on record were sufficient to lead to the conclusion that within all human probability, she had been murdered by Rama Nand, appellant? It is true that one of the essential ingredients of the offence of culpable homicide required to be proved by the prosecution is that the accused ‘caused the death’ [Ed.: Emphasis in original.] of the person alleged to have been killed.

28. This means that before seeking to prove that the accused is the perpetrator of the murder, it must be established that homicidal death has been caused. Ordinarily, the recovery of the dead body of the victim or a vital part of it, bearing marks of violence, is sufficient proof of homicidal death of the victim. There was a time when under the old English Law, the finding of the body of the



deceased was held to be essential before a person was convicted of committing his culpable homicide. 'I would never convict', said Sir Mathew Hale, 'a person of murder or manslaughter unless the fact were proved to be done, or at least the body was found dead'. This was merely a rule of caution, and not of law. But in those times when execution was the only punishment for murder, the need for adhering to this cautionary rule was greater. Discovery of the dead body of the victim bearing physical evidence of violence, has never been considered as the only mode of proving the corpus delicti in murder. Indeed, very many cases are of such a nature where the discovery of the dead body is impossible. A blind adherence to this old 'body' doctrine would open the door wide open for many a heinous murderer to escape with impunity simply because they were cunning and clever enough to destroy the body of their victim. In the context of our law, Sir Hale's enunciation has to be interpreted no more than emphasising that where the dead body of the victim in a murder case is not found, other cogent and satisfactory proof of the homicidal death of the victim must be adduced by the prosecution. Such proof may be by the direct ocular account of an eyewitness, or by circumstantial evidence, or by both. But where the fact of corpus delicti i.e. 'homicidal death' is sought to be established by circumstantial evidence alone, the circumstances must be of a clinching and definitive character unerringly leading to the inference that the victim concerned has met a homicidal death. Even so, this principle of caution cannot be pushed too far as requiring absolute proof. Perfect proof is seldom to be had in this imperfect world, and absolute certainty is a myth. That is why under Section 3, Evidence Act, a fact is said to be 'proved', if the court considering the matters before it, considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. The corpus delicti or the fact of homicidal death, therefore, can be proved by telling



and inculcating circumstances which definitely lead to the conclusion that within all human probability, the victim has been murdered by the accused concerned.”

(emphasis supplied)

To the same effect is the decision in Ram Chandra v. State of U.P. [AIR 1957 SC 381 : 1957 Cri LJ 559] where this Court said: (AIR p. 387, para 6)

“6. ... It is true that in law a conviction for an offence does not necessarily depend upon the corpus delicti being found. There may be reliable evidence, direct or circumstantial, of the commission of the murder though the corpus delicti are not traceable.”

12. Reference may also be made to State of Karnataka v. M.V. Mahesh [(2003) 3 SCC 353 : 2003 SCC (Cri) 795] where this Court observed: (SCC p. 354, para 3)

“3. ... It is no doubt true that even in the absence of the corpus delicti it is possible to establish in an appropriate case commission of murder on appropriate material being made available to the court. In this case no such material is made available to the court.”

13. In Lakshmi v. State of U.P. [(2002) 7 SCC 198 : 2002 SCC (Cri) 1647] the legal position was reiterated thus: (SCC p. 205, para 16)

“16. Undoubtedly, the identification of the body, cause of death and recovery of weapon with which the injury may have been inflicted on the deceased are some of the important factors to be established by the prosecution in an ordinary given case to bring home the charge of offence under Section 302 IPC. This, however, is not an inflexible rule. It cannot be held as a general and broad proposition of law that where these aspects are not established, it would be fatal to the case of the prosecution and in all cases and eventualities, it ought to result in the acquittal of those who may be charged with the offence of murder. It would depend on the facts and circumstances of each case. A charge of murder may



stand established against an accused even in the absence of identification of the body and cause of the death.”

14. *In the absence of corpus delicti what the court looks for is clinching evidence that proves that the victim has been done to death. If the prosecution is successful in providing cogent and satisfactory proof of the victim having met a homicidal death, absence of corpus delicti will not by itself be fatal to a charge of murder. Failure of the prosecution to assemble such evidence will, however, result in failure of the most essential requirement in a case involving a charge of murder. That is precisely the position in the case at hand. There is no evidence either direct or circumstantial about Abdul Mabood having met a homicidal death. The charge of murder levelled against the appellant, therefore, rests on a rather tenuous ground of the two having been last seen together to which aspect we shall presently advert when we examine whether the two being last seen together is proved as a circumstance and can support a charge of murder.”*

29. There is yet another important aspect. Even if the prosecution has not been able to prove that the death was homicidal in nature, this fact being especially within the knowledge of the appellant, it was the duty of the appellant/ Umakant to have proved the same as the onus shifted to him under Section 106 of the Indian Evidence Act to explain the special circumstances. PW-1 clearly stated that the deceased though married to Banarsi Dass, however after the marriage between the deceased and Banarsi Dass some disputes arose and his daughter started living with the appellant/ Umakant. In cross-examination PW-1 clarified that the dispute between his daughter and Banarsi Dass was in respect of cash, work and children. He met Umakant one/ one and a half month prior to the death of his daughter and that his daughter had left the house of her husband in December, 2011.



Further on 22nd December, 2011 he had gone to Umakant's rental house to drop his daughter at Flat No. 797, Pocket 6, Sector-2, Rohini. Further, the rent agreement on the basis of which Umakant took the said flat on rent has also been exhibited as Ex.PW-3/A and in her deposition Ms. Asha Rani (PW-3) owner of the house said that she had given the house on rent for 11 months to appellant Umakant @ Anil Kumar. He used to live with his wife at the said place. In the tenancy verification form appellant/ Umakant filled the name of the lady as Deepmala being his wife. The prosecution having proved that the appellant was living with the deceased at the relevant time when her death took place, the onus shifted on him under Section 106 of the Indian Evidence Act to show how she died an unnatural death, as held by the Hon'ble Supreme Court in the decision reported as (2006) 10 SCC 681 Trimukh Maroti Kirkan Vs. State of Maharashtra as under:

"14. If an offence takes place inside the privacy of a house and in such circumstances where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence, as noticed above, is insisted upon by the courts. A judge does not preside over a criminal trial merely to see that no innocent man is punished. A judge also presides to see that a guilty man does not escape. Both are public duties. (See Stirland v. Director of Public Prosecutions [1944 AC 315 : (1944) 2 All ER 13 (HL)] — quoted with approval by Arijit Pasayat, J. in State of Punjab v. Karnail Singh [(2003) 11 SCC 271 : 2004 SCC (Cri) 135] .) The law does not enjoin a duty on the prosecution to lead evidence of such character which is almost impossible to be led or at any rate extremely difficult to be led. The duty on the prosecution is to lead such evidence which it is capable of



leading, having regard to the facts and circumstances of the case. Here it is necessary to keep in mind Section 106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (b) appended to this section throws some light on the content and scope of this provision and it reads:

“(b) A is charged with travelling on a railway without ticket. The burden of proving that he had a ticket is on him.”

15. *Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a comparatively lighter character. In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.*

22. *Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime they were seen together or the offence takes place in the dwelling home where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime. In Nika Ram v. State of H.P. [(1972) 2 SCC 80 : 1972 SCC (Cri) 635 : AIR 1972 SC 2077] it was observed that the fact that the accused alone was with his wife in the house when she was murdered there with “khukhri” and the fact that the relations of the accused with her were strained*



would, in the absence of any cogent explanation by him, point to his guilt. In *Ganeshlal v. State of Maharashtra* [(1992) 3 SCC 106 : 1993 SCC (Cri) 435] the appellant was prosecuted for the murder of his wife which took place inside his house. It was observed that when the death had occurred in his custody, the appellant is under an obligation to give a plausible explanation for the cause of her death in his statement under Section 313 CrPC. The mere denial of the prosecution case coupled with absence of any explanation was held to be inconsistent with the innocence of the accused, but consistent with the hypothesis that the appellant is a prime accused in the commission of murder of his wife. In *State of U.P. v. Dr. Ravindra Prakash Mittal* [(1992) 3 SCC 300 : 1992 SCC (Cri) 642 : AIR 1992 SC 2045] the medical evidence disclosed that the wife died of strangulation during late night hours or early morning and her body was set on fire after sprinkling kerosene. The defence of the husband was that the wife had committed suicide by burning herself and that he was not at home at that time. The letters written by the wife to her relatives showed that the husband ill-treated her and their relations were strained and further the evidence showed that both of them were in one room in the night. It was held that the chain of circumstances was complete and it was the husband who committed the murder of his wife by strangulation and accordingly this Court reversed the judgment of the High Court acquitting the accused and convicted him under Section 302 IPC. In *State of T.N. v. Rajendran* [(1999) 8 SCC 679 : 2000 SCC (Cri) 40] the wife was found dead in a hut which had caught fire. The evidence showed that the accused and his wife were seen together in the hut at about 9.00 p.m. and the accused came out in the morning through the roof when the hut had caught fire. His explanation was that it was a case of accidental fire which resulted in the death of his wife and a daughter. The medical evidence showed that the wife died due to asphyxia as a result of strangulation and not on account of burn injuries. It was held that there cannot be any hesitation to come to the conclusion that it was the accused (husband) who was the perpetrator of the crime.”



30. Further, the conduct of the appellant in misleading the family members is an additional link in the chain of circumstances. Deposition of Balbir Singh (PW-1) is relevant in this regard as he deposed that as on 19th June, 2012 at 10.00 AM he received a call from appellant stating that Rachna was not opening door and her phone was switched off, however after two hours he received a call from Umakant stating that they had met and were shopping in Chandni Chowk. This fact was also deposed to by Dharamwati, mother of the deceased, who appeared as (PW-4) in cross-examination wherein she stated that Umakant informed her that he was in Ghaziabad and Rachna was not opening the door and two minutes later he again called up saying that he was shopping with Rachna at Chandni Chowk.

31. Learned counsel for the appellant Umakant has also taken the plea that as no TIP of the appellant was conducted, the identification by Sharvan in the Court cannot be accepted. As noted above, appellant Umakant was apprehended at the pointing out of Sharvan and thus there was no need of any Test Identification Parade being carried out. Though it has been elicited in cross-examination from Sharvan on behalf of the appellant that he had not seen Umakant when he was apprehended on the intervening night of 19/20th June, 2012, however there is no dispute by Sharvan that appellant was not the person whom he had seen on the night along with Sumit taking away a red colour bag putting the same in Alto Car from which foul smell was emanating.



32. As regards appellant Sumit kumar is concerned, the only challenge is with respect to the identification for the reason he has been charged and convicted for offence punishable under Section 201 IPC only and his role is that he helped Umakant in disposing the body of the deceased as he was seen taking away the body with Umakant. Nothing has been elicited from the witness Sharvan that before the appellant Sumit Kumar refused TIP, he was shown in the Police Station. In fact, no suggestion has also been given to this witness on this count.

33. In view of the discussion aforesaid, the conviction and order on sentence of appellant/ Umakant @ Anil Kumar is upheld as the same warrants no interference. Consequently, CRL.A. 1163/2017 is dismissed.

34. As regards appellant/ Sumit Kumar is concerned, he has been convicted for the offence punishable under Section 201/34 IPC and awarded rigorous imprisonment for a period of four years and to pay a fine of ₹15,000/- in default whereof to undergo simple imprisonment for six months. It may be noted that from the gloves no finger prints were recovered. Thus the only evidence against Sumit Kumar was that he helped Umakant in bringing down the body of the deceased in suitcase and putting the same in the Alto Car and going along with him. There is no evidence on record that Sumit Kumar also participated in disposal of the body by burning the same except the disclosure statement, which is inadmissible in evidence. Hence to the extent role of Sumit Kumar is proved, this Court while upholding the conviction of appellant/ Sumit Kumar for offence punishable under Section 201/34 IPC modifies his sentence to rigorous imprisonment for a period of two years and to a pay a fine of ₹15,000/- in



default whereof to undergo simple imprisonment for three months. Consequently, CRL.A. 36/2018 is disposed of.

35. Copy of the judgment be uploaded on the website of this Court and be sent to the Superintendent Tihar Jail for updation of records, compliance and intimation to the appellants.

(MUKTA GUPTA)
JUDGE

(POONAM A. BAMBA)
JUDGE

JUNE 26, 2023
‘vg/ga’

