

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 185 OF 2011

Kiran Raju Pujari,

Age : 28 years, Occ : Business,
R/a : Plot No. 8, Heera Complex,
Kharalwadi, Pimpri, Pune.
(Presently lodged at Yerwada Central
Jail, Pune.)

...Appellant
(Orig. Accused)

Versus

The State of Maharashtra

Respondents
(Orig. Complainant)

Mr. Prakash L. Shetty, a/w Mr. Sarthak P. Shetty, Mr. Krishna Sarkate & Mr. Advait Shukla for the Appellant.

Mrs. M.M. Deshmukh, APP for Respondent – State.

**CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.**

**RESERVED ON : MARCH 01, 2021.
PRONOUNCED ON : AUGUST 13, 2021.**

JUDGMENT (PER PRASANNA B. VARALE, J)

1. Being aggrieved by the judgment and order passed by the learned Sessions Judge, Pune, in Sessions Case No. 500/2009, dated 21st January, 2011, whereby Appellant herein (Original Accused) who was convicted for the offences punishable under Sections 302, 379, 436, 201 read with 511 of the

Indian Penal Code (for short “**IPC**”), and sentenced to suffer rigorous imprisonment ranging for the period of six months to three years as well life imprisonment along with fine as per the operative order of the learned Trial Court, preferred the present Appeal.

2. The case of prosecution, in brief, can be summarized as under:

The couple, namely, Vidya Deepak Ghorpade and Deepak Bhanudas Ghorpade was blessed with a son namely, Om and at the time of incident, Om was of five years of age. Vidya as well as her husband Deepak were working in private companies. Vidya used to work in a company named and styled as Fijitsu company at Pune, whereas, Deepak was working in a company namely, SAP at Bangalore. Deepak used to visit his family i.e. Vidya and his son Om intermittently. Family of Vidya consisting of her brother Pravin Prataprao Mandhare and his two mothers were residing in Pune city itself in an area known as Ajmera Housing Society, Pimpri. Vidya was residing in an area known as Empire Society, Chinchwad, Pune in ‘G’ building. It was routine of Vidya to visit her paternal home while leaving for her workplace. She used to pickup tiffin from her parental home at 08.00 a.m.

3. On the fateful day i.e. 13.03.2009, as Vidya did not reach to her parental home at 08.00 a.m., as per her routine, her mother made a phone call

on her mobile bearing no. 9890569222. As there was no reply from Vidya, mother of Vidya woke up her brother Pravin Mandhare. Pravin also made attempts to establish contact with Vidya on her mobile phone, but there was no response to the phone call made by Pravin. Pravin then with his mother Kusum proceeded to Empire estate complex. On reaching empire estate complex, Pravin noted that the Santro car bearing no. MH-12/AF-8893 of Vidya was not there in the parking area. He then proceeded to the flat of his sister i.e. Vidya and find that the flat was closed. Pravin then made inquiry with the neighbours but the neighbours were unable to provide any information of whereabouts of Vidya to him. Though, the neighbours were unable to provide any information/whereabouts of Vidya but it was told by them to Pravin that the electric lights in the flat of Vidya were on in the night. Pravin then made phone call to one Rupali Pimple friend of Vidya so as to seek some information about Vidya but Rupali was also not aware of whereabouts of Vidya. Pravin and his mother then returned back to the house of Pravin. On return of Pravin, his elder mother Lilavati informed him that the second key of flat of Vidya is available.

4. Accordingly, Pravin took that second key and picked up one of his friend Vijay Kalgatkar and reached to the flat of Vidya in empire society again. As Pravin was suspecting some foul play, he took the security supervisor

Mr. Kanitkar to the flat of Vidya and flat of Vidya was opened with the second key. On the entry in the said flat, Pravin found pool of blood in the hall and also smell the LPG gas therefore, he immediately locked the flat and from the mobile phone of Kanitkar contacted the Chinchwad police station. On receiving the information the Senior Police Inspector Shri. Mahesh Joshi attached to Chinchwad Police Station made the entry of information in the station diary and immediately rushed to the empire society along with his colleague PI Rajendra Sawant. PI Joshi then gave a call to I-Car unit. The I-Car unit consisting of finger print inspector, police photographer as well as PI of crime branch unit Mr. Sunil Pawar arrived at the spot.

5. When the police staff opened the flat they found blood and dragging marks from the hall to one of the bedrooms which was in front of kitchen. The police staff also found that knob of the LPG cylinder was on as such, the knob of LPG cylinder was immediately switched off. As ventilators were also closed the ventilators were opened immediately for ventilation. When the police staff reached in the bedroom they found heap of clothes in the bedroom and feet of a women was seen protruding from the heap of clothes. When the clothes from the heap were removed they found that Vidya and Om were in critical condition. They also found that Vidya and Om were brutally attacked. Intestine of Om was seen protruding from his stomach. The

situation and circumstance at that place warranted immediate action of shifting Vidya and Om to hospital. As such, by arranging an ambulance Vidya and Om were shifted to YCM Hospital, Pimpri. Brother of Vidya Pravin filed his complaint at Chinchwad Police Station at about 04.15 p.m. The police staff completed the certain formalities of investigation such as, drawing the panchnama of spot of occurrence, seizure of clothes, etc.

6. Though, it was a fact made known that Vidya and her son Om are the victims of serious offence of murder but it was not known as to who is the author of crime. The investigating agency continued the process of investigation and in that process recorded the statement of Pravin. While giving statement, Pravin made reference to an incident. It was stated by Pravin that Vidya was frequently visiting her parental house in Ajmera housing society and used to purchase medicines etc from one Kundan medical store situated in Ajmera housing society. Owner of the medical shop is one Babulal Chaudhari was well known to her. Husband of Vidya Deepak had seen deceased Vidya and Babulal Chaudhari talking to each other. On that count, Deepak raised a quarrel with Babulal Chaudhari. Pravin intervened and mediated and due to his intervention and mediation quarrel between Deepak and Babulal was pacified. Then he stated that there used to be minor disputes between Vidya and her husband Deepak on family issues / problems.

7. Though Vidya and Om were immediately shifted to YCM Hospital, Pimpri and PSI Todale was deputed with them, Mr. Todale informed that Vidya and Om were declared dead before their admission in the hospital. Accordingly, PSI Todale has drawn inquest panchnama. At a parallel process of investigation PI Joshi while drawing panchnama of spot of occurrence seized various articles on the spot including a mobile hand set bearing no. 9890569222 used by Vidya. Vidya was also using another mobile phone bearing no. 9049240945 but this mobile as well the Santro car of Vidya were missing. On 14.03.2009, Mr. Joshi proceeded to complete other usual formalities of the investigation such as, recording the statement of various persons such as, Babulal Chaudhari, the medical shop owner. He made a phone call to Deepak Ghorpade husband of Vidya who was at Bangalore. He also made phone call to the employer of Deepak Ghorpade. The photographs of finger prints and foot prints were taken.

8. As it was revealed that deceased Vidya was using two mobile phones PI Sunil Pawar of crime branch collected the call detail records from service provider. From the CDRs, he found that in the night of the incident, i.e., on 12th March, 2009, four outgoing calls were made to mobile no. 9822813490. The timings of the outgoing calls were 23.05, 23.11, 23.19 and 23.43, while one incoming call at 23.00 hours from the mobile no.

9766878023 was received on this missing mobile phone. PI Sunil Pawar had, therefore, contacted on both these two another numbers. It was found that mobile no. 9822813490 was in the use of Prashant Hegade while the next of the mobile number, i.e. 9766878023 was in the use of his father. Therefore, PI Sunil Pawar made inquiry with Prashant Hegade. In the process of investigation it further revealed that accused Kiran had contacted Prakash Hegade and confessed that he committed murder of his girlfriend i.e. Vidya and he was leaving Maharashtra. From the CDR it further revealed that the missing phone of Vidya was taken away to Mumbai. It also revealed that on 14.03.2009 at about 07.30 a.m. Prashant Hegade had received a call from a landline phone number on his mobile and accused Kiran told Prashant that he was in Uttar Pradesh. He further told that as he is feeling drowsy he will make a phone call after 1 and half hour. On receiving phone from accused Kiran, Prashant immediately went to crime branch along with his mobile phone. When he was in the crime branch office he received the second call from landline from accused Kiran. During the conversation accused Kiran again confessed that he had killed his girlfriend and her small child Om and further told that he is going to commit suicide. Prashant persuaded him not to take extreme step and further advised accused Kiran to surrender himself before the police. In reply, accused Kiran told Prashant that he would take a decision

by evening. From landline phone number it was revealed that the caller i.e. accused Kiran was in Kanpur city of Uttar Pradesh at that time. On establishing contact with accused Kiran, accused told Prashant that he is going to Lucknow police station in order to surrender.

9. Meantime, PI Pawar had already deputed API Gadhave to Kanpur. An information was received that accused Kiran would meet his friend Ravi Yadav at Lucknow. Accordingly, a trap was laid at Lucknow for effecting arrest of the accused. API Gadhave with the help of Special Task Force of Lucknow police arrested accused Kiran at a place namely, Kapurthala Square on 15.03.2009. It was revealed that the one of the mobile phone used by Vidya was taken away by the accused and he had thrown that mobile phone on his way to Mumbai airport. The statement of brother of accused Kishor Raju Pujari was recorded. Kishor stated that he received certain messages on his mobile bearing no. 9860899969. It was further revealed that those messages were forwarded by accused Kiran. API Gadhave produced accused Kiran before PI Sunil Pawar, crime branch and in turn, he handed over the accused to Chinchwad police station. The statement of Prashant Hegade friend of accused was recorded. There was a reference in his statement about the extra judicial confession made by the accused to Prashant Hegade. Accordingly, PI Mahesh Joshi made arrangements for recording statement of

Prashant Hegade before JMFC under Section 164 of Code of Criminal Procedure. Then statement of some other witnesses were also recorded including Vaishali maid servant of deceased Vidya, Dheeraj Kapur, Superior Officer (Boss) of deceased Vidya. Certain articles namely, knife and clothes were recovered at the instance of accused Kiran by drawing necessary recovery panchnama.

10. On conclusion of the investigation, accused Kiran was committed to the judicial custody and on 30.04.2009 father of accused Kiran received a letter sent from jail. As the letter including certain admission regarding commission of offence the specimen handwriting of the accused was collected and the letter along with specimen handwriting was sent to handwriting expert. It may be noted at this stage itself that opinion of the handwriting expert was inconclusive.

11. In the process of investigation, it was further revealed that one of the mobile was in the name of one Dadabhau Sandbhor. As such, his statement was also recorded. In response to query, an official of SAP Company, Bangalore informed PI Mahesh Joshi that on the day of incident Deepak Ghorpade husband of Vidya has attended his duty. This letter dated 23.12.2009 was added in the case papers. Charge-sheet was filed with JMFC,

Pimpri on 05.06.2009. The case being exclusively triable by the Court of Sessions, the case was committed to the Court of Sessions. The accused pleaded not guilty and his defence was of total denial and even to the extent that he did not know Vidya. He had also no occasion to visit her flat and had no relations whatsoever with her and he is falsely implicated in the crime. It was also the defence of accused that he had some dispute with Prashant Hegade over some financial transaction and Prashant Hegade is a setup witness who is supporting the case of prosecution on the basis of a false extra judicial confession.

12. Learned Trial Judge, on the basis of material presented before him framed the following points for determination:

- (1) Whether prosecution has proved that deceased Vidya w/o Deepak Ghorpade met with homicidal death?
- (2) Whether the prosecution has proved that deceased Om s/o Deepak Ghorpade met with homicidal death?
- (3) Whether in the night between 12th March 2009 and 13th March 2009, accused Kiran committed house trespass in Flat No. G-102 of Empire Estate Complex, Chinchwad, Pune, in order to commit the offence of murder of deceased Vidya Deepak Ghorpade and her son Om Deepak Ghorpade?
- (4) Whether the prosecution has proved that on the given date, time and place and during the same course of transaction, accused Kiran intentionally and knowingly caused the death of deceased Vidya?

- (5) Whether the prosecution has proved that on the given date, time and place; and during the same course of transaction, accused Kiran intentionally and knowingly caused the death of deceased Om Deepak Ghorpade?
- (6) Whether the prosecution has proved that on the given date, time and place and during the course of the same transaction, accused Kiran committed mischief by opening the knob of L.P.G. cylinder and gas stove in the flat used as a human dwelling and thereby attempted to commit mischief?
- (7) Whether the prosecution has proved that on the given date, time and place and during the course of the same transaction, accused Kiran caused theft of mobile of deceased Vidya and Santro car bearing No. MH-12/AF-8893?
- (8) Whether the prosecution has proved that on the given date, time and place, after committing the murder of deceased Vidya and Om, accused Kiran attempted to cause disappearance of evidence of the murder by wrapping them under the bed-sheet and by opening knob of LPG cylinder and gas stove by closing the windows of the flat?

13. On appreciation of the evidence, the learned Trial Judge answers the points in affirmative and recorded the judgment and order of holding the accused Kiran guilty and convicted the accused to suffer sentence as recorded in the judgment and order.

14. Learned Counsel, Mr. Shetty submitted that the case of prosecution against the Appellant rests on circumstantial evidence. It was submitted by learned Counsel Mr. Shetty that the prosecution firstly, failed to

establish the any of the alleged circumstance against the appellant and secondly, there is a considerable break in the chain of circumstance as such, the prosecution failed to complete the chain of circumstances against the appellant so as to establish the authorship of the crime at the instance of appellant. Learned Counsel Mr. Shetty further submitted that the prosecution heavily relied on the circumstances such as the alleged communication on mobile phone by the appellant to Prashant Hegade (PW 4) firstly to show that the appellant was in the flat of deceased Vidya at the relevant time and secondly, it also falls too short to prove that the appellant accused made any statement to Prashant Hegade (PW 4) which cane be treated as an extra-judicial confession. It was also the submission of learned Counsel Mr. Shetty that the prosecution even failed to establish that deceased Vidya was possessing the mobile phone which is allegedly handed over to her by Dadabhau Sandbhor (PW 18) as there was no relationship between deceased Vidya and Dadabhau Sandbhor (PW 18).

15. Learned Counsel Mr. Shetty then submitted that the case of the prosecution that the appellant made a disclosure statement in the form of confession to Prashant Hegade (PW 4), the investigating agency for the reasons best known to them recorded the statement of this witness belatedly when in fact the record show that this witness was available in the police

station for giving statement on 13th March, 2009. Thus, it was the submission of learned Counsel Mr. Shetty is that this witness is tutored witness and his statement is recorded only to suit the purposes. Mr. Shetty also vehemently submitted that the so called CDRs is not a reliable piece of evidence to establish that the appellant accused was either at the flat of deceased Vidya or proceeded towards the airport after the incident and on the basis of such weak evidence, it cannot be said that it was only the appellant who visited deceased Vidya at her flat on the day of incident. Learned Counsel Mr. Shetty further submitted that the two persons who suffered homicidal death in a flat of a society and considering the location of the society, which is in a busy area, it is difficult to believe that any overt-act against deceased Vidya would not have been resisted by her and in that process there could have been some hue and cry and it was not possible that such hue and cry would have gone unnoticed in the society.

16. Learned Counsel Mr. Shetty further submitted that the case of prosecution that the accused had been to Kanpur and stayed in a hotel and further gave certain clothes for washing in the hotel and the attendant / washer man identified the accused cannot be accepted as the prosecution failed to conduct the test identification parade of these two witnesses namely, Mahendrasingh Thakur (PW 10) and Vicky Kanojiya (PW 11), manager of

the hotel an attendant / washer man respectively of the hotel. It was also the submission of learned Counsel Mr. Shetty that the prosecution alleged that the accused alone committed murder of Vidya and her son Om, and the body was dragged from one place to another from flat. Learned Counsel Mr. Shetty further submitted that on the backdrop of the injuries caused to the victims and theory put up by the prosecution that the dead body was dragged from one room to another, it is difficult to believe that appellant accused alone could have done the alleged act. Mr. Shetty further submitted that as per the evidence of prosecution the relations between deceased Vidya and her husband Deepak Ghorpade (PW 16) were strained and it is also part of evidence brought by the prosecution that Dheeraj Kapur (PW 5) who was the senior to deceased Vidya in the company had also developed an association with Vidya and there were frequent communications between Vidya and Dheeraj Kapur and Dheeraj Kapur was also on visiting terms with Vidya. Mr. Shetty further submitted that the prosecution alleged that appellant accused committed theft of mobile phone of deceased but the evidence brought on record and the alleged recovery falls to short to establish the case of prosecution against the appellant and as such, it also fails to establish the prosecution theory that some phone calls were received by the accused while he was in possession of mobile phone of deceased Vidya. Learned Counsel Mr.

Shetty also submitted that as deceased Vidya was residing in a society and there were other flats adjacent to flat of deceased Vidya, the prosecution ought to have examined the independent witnesses such as, neighboring flat owners or some residents from the society but the case of prosecution rests only on the version of interested witnesses. Learned Counsel, Mr. Shetty in support of his submissions placed reliance on following judgments : Anwar Ali and Another vs. State of Himachal Pradesh¹, Sahadevand and Ors. vs. State of Tamil Nadu², Dilawar Singh vs. State of Delhi³, Anand Ramchandra Chougule and Ors vs. Sidarai Laxman Chougala and Ors⁴. Learned Counsel Mr. Shetty submits that the evidence of the prosecution falls too short to establish any case against the accused and learned Trial Judge committed an error in accepting the evidence against the accused and thereby passed the judgment and order of conviction and sentence as such, learned Counsel prayed for allowing the appeal by setting aside the judgment.

17. *Per contra*, Mrs. Deshmukh, learned APP admitted that case of prosecution rests on circumstantial evidence and submitted that the prosecution with most reliable and trustworthy evidence established all the circumstances and was further successful in completing chain of all these

1 (2021) 1 SCC (Cri) 295

2 Criminal Appeal No. 1405 of 2008, decided on 08.05.2012

3 Criminal Appeal No. 491 of 2002, decided on 05.09.2007

4 Criminal Appeal Nos. 1006 and 1007 of 2010, decided on 06.08.2019.

circumstances pointing out that it is the only accused appellant who had committed brutal act of murder of deceased Vidya and her minor son Om by causing successive blows to Vidya and Om and accused also committed an act of screening the offence and destroying the evidence by opening the gas cylinder and closing the windows in the flat. Learned APP vehemently submitted that the prosecution witnesses fully supports the case of prosecution and even assuming that there are certain omissions, these omissions are minor in nature and they do not discredit version of witnesses. Learned APP further submitted that the defence has admitted the CDRs and when this material was exhibited before the Court and now the appellant cannot take the somersault to submit that the evidence in the form of CDRs are unreliable. Learned APP then submitted that the prosecution has established that appellant had a long association with deceased Vidya, he has attended the marriage of brother of Vidya and the prosecution witness namely, Vaishali Gaikwad (PW 2) maid clearly states that the appellant was frequent visitor of flat of deceased Vidya. Pravin Mandhare (PW 1) brother of Vidya and Complainant also stated before the Court that the appellant accused was introduced to him by Vidya and it was told by her to him that the accused helps her in some domestic issues. Learned APP then submitted that Prashant Hegade (PW 4) was the schoolmate of the accused and after reunion, he was in constant touch with the

accused. Learned APP then submitted that the prosecution with the help of version of Prashant Hegade (PW 4), in addition to CDR firmly established that the accused was constantly in touch with Prashant Hegade (PW 4) as such, the disclosure in the form of confession to this witness is natural and assumes an importance being a trustworthy piece of evidence. Learned APP then submitted that the prosecution successfully established the entire sequence of events namely, the accused was the person available in the flat of deceased Vidya at the time of unfortunate incident, then accused took away the Santro car of deceased Vidya, proceeded to airport, meantime the accused was in touch with Prashant Hegade (PW 4), then accused proceeded towards the State of Uttar Pradesh, he stayed in hotel at Kanpur, at that time also he was in touch of Prashant Hegade (PW 4), in turn, he advised the accused to surrender himself to the police, and face legal consequences, then accused was accosted to Kanpur and on instruction of PSI Gadhave, who had been to Uttar Pradesh and apprehended accused with the help of local police. The fact that the State of Uttar Pradesh police associated Maharashtra State police is established and reflected in the version of Shivbahadur Singh (PW 12), the police head constable. Learned APP then submitted that as it was the case of double murder the investigating agency took immediate steps and conducted a thorough investigation. It was also submitted by learned APP that the

investigating agency made an attempt to collect the evidence as early as possible and assuming there was some delay in recording statement of witnesses including the statement of Prashant Hegade (PW 4) to whom the appellant accused made a disclosure in the form of confession. The delay by itself is not so fatal to disbelieve the entire case of prosecution. Learned APP also submitted that the prosecution has brought on record the clinching and trustworthy evidence to establish that the deceased and accused were having a close association, the accused was frequently visiting to deceased, the accused had carried grudge against the deceased on account of her association being developed with Dheeraj Kapur (PW 5) and in spite of these material accused in his statement under Section 313 of Code of Criminal Procedure went to the extent that he even denied knowing deceased Vidya. Learned APP by inviting our attention to the CDRs vehemently submitted that this data show that the location of accused while making phone calls to Prashant Hegade (PW 4) was Empire Society i.e. area where deceased was residing. Learned APP then submitted that Prashant Hegade (PW 4) being a schoolmate and thereafter the association of accused and was continued after reunion and as such, Prashant Hegade (PW 4) was a person of confidence and disclosure to Prashant Hegade (PW 4) by accused is natural, reliable and trustworthy. Learned APP also submitted that the accused had stayed in Kanpur in a hotel for a very brief

period, the manager of the hotel i.e. Mahendrasingh Thakur (PW 10) identified the accused when his photo was shown to him and attendant / washer man who collected the clothes from accused and when he came to return the clothes he found that the accused was not in his room, both these witnesses have identified the accused who was sitting in the Court and non conducting of test identification parade of accused by these witnesses cannot be a reason to discard the case of prosecution. It is also the submission of learned APP that these two witnesses who hail from State of Uttar Pradesh are independent witnesses and version of these witnesses would assume an importance so as to establish the case of prosecution against the appellant accused. Learned APP in support of his submissions placed reliance on following judgments : Sidhartha Vashisht Alias Manu Sharma vs. State (NCT of Delhi)⁵ and Vice-Chairman, Kendriya Vidyalaya Sangathan and Another vs. Girdharilal Yadav⁶. Learned APP submitted that as there is sufficient, reliable, trustworthy and clinching evidence against the accused, the Criminal appeal be dismissed.

18. With the assistance of both the learned Counsel appearing for the respective parties, we have gone through the entire evidence, record and proceedings.

5 (2010) 6 SCC 1

6 (2004) 6 SCC 325

19. The prosecution in support of its case examined as many as 23 witnesses.

20. It may not be out of place to state at the outset that, the case of prosecution rests on circumstantial evidence. The circumstances are: the communication by way of mobile phone calls between deceased Vidya and her Superior officer Dheeraj Kapoor, the mobile phone calls between the deceased and the accused, accused reaching to the airport and parking the car, accused staying in a hotel at Lucknow, the room boy or attendant in the hotel to whom accused gave pair of clothes for washing and did not collect it, the recovery at the instance of the accused, etc.

21. Before assessing the other evidence, we may deal with the first point for consideration i.e., whether the death of Vidya and minor son Om is homicidal ?

22. There cannot be two opinions to state that Vidya and Om suffered a brutal death. Dr. Milind Sonawane (PW 14) is the autopsy surgeon who had performed the postmortem examination of the dead bodies on 13.03.2009 from 05.15 p.m. to 07.30 p.m. In so far as the deceased Vidya is concerned, he found following external and internal injuries:

Sr. No	Nature of Injury	Site of Injury	Position location and extent	Size	Shape	Corresponding internal injury
1.	Puncture wound (stab)	Right side of chest	Oblique, over supra mammary region, 7 cm above and medial to Right nipple, margins sharp	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue tissue muscle coat cut, # 3 rd rib Right side, pleura and lung upper lobe punctured 1 cm x 0.5 cm x 0.5 cm deep.
2.	Puncture wound (stab)	Right side of chest	Vertical below and downwards to the injury No. 1	3 cm x 2 cm x deep inside the cavity	Spindle	Sub-cut tissue tissue muscle coat cut, # 3 rd rib Right side, pleura and lung Upper lobe punctured 1 cm x 0.5 cm x 0.5 cm deep
3.	Puncture wound (stab)	Left side of chest	Vertical Supra mammary region, 7 cm above and medial to sterno calvicular joint	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue tissue muscle coat cut, # 3 rd rib left side, pleura and lung Upper lobe punctured 1 cm x 0.5 cm x 0.5 cm deep.
4.	Puncture wound (stab)	Left side of chest	Vertical supra mammary region, 3 cm below injury no. 3 and 2.5 cm above and medial to left nipple	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue tissue muscle coat cut, # 4 th rib left side, pleura and lung Upper lobe punctured 1 cm x 0.5 cm x 0.5 cm deep.
5.	Puncture wound (stab)	Right side of chest	Vertically oblique over the right lower chest adjacent to xiphisterum	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue tissue muscle coat cut, # 8 th rib right side, pleura and lung lower lobe punctured 1 cm x 0.5 cm x 0.5 cm deep.
6.	Puncture wound (stab)	Right side of chest	1 cm medial to injury No. 5 vertically	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue tissue muscle coat cut, # 9 th rib right side, pleura and lung lower lobe punctured 1 cm x 0.5 cm x 0.5 cm deep.
7.	Puncture wound (stab)	Right side of the chest	Along the xiphisternum	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue tissue muscle coat cut, #7 th rib right side, pleura and lung lower lobe punctured 1 cm x 0.5

						cm x 0.5 cm deep.
8.	Puncture wound (stab)	Left side of chest	Vertical, 1 cm lateral to xipisternum over lower thoracic cage.	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue and muscle coat cut, #8 th rib fracture, left side, pleuracut and lung lower lobe medial aspect shows puncture wound of size 1 cm x 0.5 cm x 1 cm.
9.	Puncture wound (stab)	Left side of chest	Obliquely vertical 1.5 cms above and lateral to injury no. 8	3 cm x 2 cm x Deep inside the cavity	Spindle	Sub-cut tissue and muscle coat cut, # 10 th rib, Puncturing diaphragm and upper wall of stomach.
10.	Puncture wound (stab)	Left side of chest	Vertical 2 cms above injury No. 9	3 cm x 1.5 cm X Deep inside the cavity	Spindle	Sub-cut tissue muscle coat cut, Puncturing diaphragm and upper wall of stomach (thru and thru)
11.	Puncture Wound (stab)	Abdo men right side	Over the hypochondriac region vertically oblique 2 cms medial to injury No. 5	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue muscle coat cut, rupture Rt. Lobe of Liver size : 1 cm x 1.5 cm x 0.5 cm deep
12.	Puncture Wound (stab)	Abdo men right side	Over the hypochondriac region vertically oblique adjacent and medial to injury No. 11.	4 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue muscle coat cut, Rupture Rt. Lobe of Liver
13.	Puncture Wound (stab)	Abdo men right side	Over the hypochondriac region adjacent injury No. 12 medially horizontal	8 cm x 2 cm x Deep inside the cavity	Spindle	Sub-cut tissue muscle coat cut, Rupture Rt. Lobe Liver
14.	Puncture Wound (stab)	Abdo men right side	2 cm below injury No. 13 over the hypochondriac region	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue muscle coat cut, Rupture Rt. Lobe of Liver
15.	Puncture Wound	Right side of	Over the lumbar region	2 cm x 2 cm x Deep inside	Spindle	Sub-cut tissue, muscle coat cut, peritoneum

	(stab)	abdomen	perpendicular to injury No. 14, obliquely vertical	the cavity		cut, small intestine rupture size cm x 0.5 cms
16.	Puncture Wound (stab)	Right side of abdomen	Below umbilicus horizontally 3 cms below injury No. 15.	3 cm x 2 cm x Deep inside the cavity	Spindle	Sub-cut tissue, muscle coat cut, peritoneum cut, small intestine rupture (thru and thru)
17.	Puncture Wound (stab)	Right side of abdomen	Over the right iliac fossa vertically	2 cm x 1.5 cm Deep inside the cavity	Spindle	Sub-cut tissue, muscle coat cut, peritoneum cut, rupture large intestine cut, margins sharp
18.	Puncture Wound (stab)	Left side of abdomen	Left aspect of umbilicus	4 cm x 4 cm Deep inside the cavity	Circular	Sub-cut tissue, muscle coat cut, peritoneum cut, rupture small intestine, margins sharp
19.	Puncture Wound (stab)	Midline of abdomen	6 cms above umbilicus horizontal	3 cm x 1.5 cms Deep inside the cavity	Spindle	Sub-cut tissue, muscle coat cut, peritoneum cut, rupture small intestine, margins cut.
20.	Puncture Wound (stab)	Left side of abdomen	Horizontal 4 cm above umbilicus and 2 cms below injury no. 19 herniation of the small bowel noted	3 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue, muscle coat cut, peritoneum cut, rupture small intestine, margins cut.
21.	Puncture Wound (stab)	Left side of Abdomen	2 cms lateral along the injury No. 20 vertical	3.5 cms x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue, muscle coat cut, small bowels cut
22.	Puncture Wound (stab)	Left side of abdomen	Vertical 3 cms away to the left injury Nos. 21, 22	3 cm x 1.5 cm Deep inside the cavity	Spindle	Sub-cut tissue, muscle coat cut, Large bowels cut, (thru and thru) margins clear cut
23.	Puncture Wound (stab)	Left side of abdomen	Vertical 7 cms and lateral to umbilicus	3 cm x 1.5 cm Deep inside the cavity	Spindle	Sub-cut tissue, muscle coat cut, large bowels cut, (thru and thru) margins clear cut.
24.	Puncture Wound	Left side of	Vertical 1.5 cms lateral to injury	3 cm x 1.5 cm Deep inside	Spindle	Sub-cut tissue, muscle coat cut, peritoneum

	(stab)	abdomen	No. 23	the cavity		cut, mesentery rupture, large bowels rupture.
25.	Puncture Wound (stab)	Left side of abdomen	Vertically oblique 3 cms lateral and above to injury No. 24	4 cm x 2 cm Deep inside the cavity	Spindle	Sub-cut tissue, muscle coat cut, peritoneum cut, mesentery rupture, large bowels rupture
26.	Puncture Wound (stab)	Left side of abdomen	Over the left iliac fossa 3 cms above the anterior superior iliac spine vertical	3.5 cm x 2 cm Deep inside the cavity	Spindle	Sub-cut tissue, muscle coat cut, peritoneum cut, Descending colon cut, margins sharp
27.	Incised wound	Left hand	Over the forearm flexor aspect, 8 cms above wrist vertical obliquely tail end downwards	5 cm x 1.5 cm muscle deep	Spindle	Sub-cut tissue muscle coat cut with haematoma seen around it
28.	Incised wound	Left hand	2 cm below injury No. 27, over the forearm flexor aspect, vertical obliquely	3 cm x 0.25 cm subcutaneous deep	Spindle	Sub-cut tissue cut, tissue muscle coat cut peritoneum cut, large bowel rupture
29.	Incised wound	Right hand	Over the forearm flexor aspect, 14 cms below elbow, vertical obliquely, tail tapering end downwards	5 cm x 2 cm muscle deep	Spindle	Sub-cut tissue and muscle coat cut haematoma in and around the wound seen
30.	Incised wound	Right hand	3 cms below injury no. 29 over the forearm, flexor aspect, 4 cms above the wrist, vertically oblique, tail tapering end downwards	4 cm x 1 cm x muscle deep	Spindle	Sub-cut tissue and muscle coat cut, haematoma in and around the wound seen.

23. The above-referred tabular chart show that Vidya suffered 30 injuries on nearly all parts of the body and out of these 30 injuries, there are as many as 26 stab injuries.

24. In so far as the minor son Om is concerned, Dr. Sonawane (PW

14) found the following external as well as internal injuries:

Sr. No	Nature of Injury	Site of Injury	Position location and extent	Size	Shape	Corresponding internal injury
1.	Puncture wound (stab)	Mid abdomen	6 cms above umbilicus, slightly Right side horizontal, small Intestine seen purged out, margins clear cut	4 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue muscle coat cut, Peritoneum rupture, jejunum (small intestine) purged out, margins sharp and clear cut.
2.	Puncture wound (stab)	Right lower chest	Over costal margin, obliquely vertical 5 cm below and lateral to xipisternum edges sharp	5 cm x 2 cm x deep inside the cavity	Spindle	Sub-cut tissue muscle coat cut, Underlying 9 th rib fracture, peritoneum rupture, Liver Lt lobe rupture, size 3.5 cm x 2 mm x 3.5 cm deep, margins sharp and clear cut
3.	Puncture wound (stab)	Left lower chest	Adjacent and opposite to injury No. 2, obliquely vertical, Over costal margin, 5 cm below and lateral to xipisternum, margins sharp	4 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue muscle coat cut, Underlying 9 th rib fracture, peritoneum rupture, lesser curvature of stomach rupture, size 2.5 cm x 2 x deep inside stomach cavity, margins clear cut.
4.	Puncture wound (stab)	Left upper abdomen	1 cm below injury NO. 3, exactly parallel, obliquely vertical margins sharp	4 cm x 1.5 cm x Deep inside the cavity	Spindle	Sub-cut tissue muscle coat cut, Underlying 10 th rib fracture, peritoneum rupture, lesser curvature of stomach rupture, size 2 cm x 2 cm x deep inside stomach cavity margins sharp and clear cut.
5.	Puncture wound (stab)	Right Lat. Abdome	Vertical, 7 cm below and lat to injury No. 2,	1.5 cm x 1 cm x Muscle deep	Spindle shape	Sub-cut tissue muscle coat cut, Haematoma seen at its floor,

		n	margins sharp			margins clear cut size 1 cm x 0.5 cm
6.	Puncture wound (stab)	Right Lat. Abdomen	Vertical, 1.5 cm below to injury No. 5 and 4 cm lat to injury No. 8, Margins sharp	2.5 cm x 1 cm x muscle deep	Spindle shape	Sub-cut tissue muscle coat cut, Haemjatoema seen at its floor, margins clear cut size 1.5 cm x 0.5 cm
7.	Puncture wound (stab)	Right upper abdomen	Vertical, 4 cm below to injury no. 2 and 4 cm medical and above to injury No. 5, margins sharp	1.5 cm x 1 cm x Deep inside the cavity	Spindle shape	Sub-cut tissue muscle coat cut, fracture 11 th rib peritoneum rupture, liver Rt lobe lower border rupture size 1 cm x 0.5 cm x 2 cm deep margins clear cut
8.	Puncture wound (stab)	Right mid abdomen	Vertical, 2 cm below to injury no. 7 and 4 cm medical and slightly above to injury No. 6, margins sharp	1 cm x 1 cm x Deep inside the cavity	Spindle shape	Sub-cut tissue, muscle coat cut, peritoneum rupture, Rupture Duodenum, size 1 cm x 0.5 cm x deep inside intestinal lumen, margins clear cut
9.	Puncture wound (stab)	Left lower abdomen	Vertical, 9 cm below to injury no. 4 and lateral and below to umbilicus, margins sharp	3 cm x 1.5 cm x Deep inside the cavity	Spindle shape	Sub-cut tissue muscle coat cut, peritoneum rupture, Rupture jejunum, Size 2 cm x 1.5 cm x deep inside intestinal lumen, margins clear cut
10. 11. 12.	Puncture wound (stab) (Three in number)	Lt lower abdomen (Adjacent to each other)	Over Lt. Iliac fossa, 2 cm apart to each other, vertical 3 cm below to injury No. 9 margins sharp	i) 3 cm x 1 cm. ii) 1 cm iii) 2 cm x 1 cm All deep inside the cavity	All Spindle shape	Sub-cut tissue, muscle coat cut, peritoneum rupture, descending colon and sigmoid colon shows puncture wounds of size 1.5 cm x 2 cm x deep inside the lumen, margins clear cut.
13. 14. 15.	Puncture Wound (stab) (three in number)	Lt. lower Back (Adjacent to each other)	Obliquely vertical, adjacent to each other, 3 cm above iliac crest, margins sharp	i) 3 cm x 1.5 cm ii) 2 cm x 0.5 cm iii) 2.5 cm x 1 cm	All Spindle shape	Sub-cut muscle coat cut, peritoneum rupture, descending colon and sigmoid colon shows puncture wounds of size 1 cm x

				All deep inside the cavity		1 cm x deep inside the lumen (Averagely) margins clear cut.
16. 17. 18.	Puncture Wound (stab) (Three in number)	Rt. lower Back (Adjacent to each other)	Vertical, adjacent to each other, 3 cm above iliac crest, margins sharp	i) 2 cm x 1.5 cm ii) 3 cm x 1 cm iii) 5 cm x 3 cm x All Deep inside the cavity	All Spindle shape	Sub-cut muscle coat cut, peritoneum rupture, ascending colon and caecum shows puncture wounds of size 1.5 cm x 1 cm x deep inside the lumen (Averagely) margins clear cut.
19. 20. 21.	Puncture Wound (stab) (Three in number)	Mid middle back (One above another)	Extending towards left side, obliquely horizontal 4 cm above injury No. 18, margin sharp	i) 3 cm x 2 cm ii) 0.25 cm x 2 cm Deep inside the cavity	All Spindle shape	Sub-cut muscle coat cut, peritoneum rupture, jejunum puncture wounds of size 1.5 cm x 2 cm each x deep inside the lumen.
22. 23.	Puncture Wound (stab) (Two in number)	Rt mid lateral back (one below and adjacent to each other)	Vertical, 5 cm above and medial to injury No. 17, 3 cm lateral to vertebral column, margins sharp	i) 2.5 cm x 2 cm ii) 2.5 cm x 1.5 cm Deep inside the cavity	All Spindle shape	Sub-cut muscle coat cut, peritoneum rupture, Rt. Perinefric tissue shows cut wounds, Rt kidney capsule shows haematoma, margin sharp
24	Incised wound	Lt hand (Horizontal)	Over forearm 8 cm below elbow, 7 cm above wrist margins sharp	5 cm x 2 cm muscle deep	Spindle	Sub-cut tissue, muscle coat cut, floor shows haematoma margin sharp
25.	Incised wound	Left hand (Vertical)	Over arm Lateral aspect margins sharp, Tail downloads.	0.5 cm x 0.75 cm x muscle deep	Spindle	Sub-cut tissue, muscle coat cut, floor shows haematoma, margin sharp
26.	Puncture Wound (stab)	Mid Abdomen	Horizontal, 2 cm above umbilicus and 1 cm below injury No. 1 margin sharp	1.5 cm x 2 cm x muscle deep	Spindle	Sub-cut tissue, muscle coat cut, floor shows haematoma, margin sharp.

25. Master Om also received as many as 26 injuries. Out of these 26 injuries, 25 injuries are stab injuries. The medical officer Shri. Sonawane opined that both the deceased died due to traumatic and hemorrhagic shock due to the multiple stab injuries on their vital organs. The opinion of the medical officer was unshaken as it was not seriously challenged by the defence. The defence made no attempt to suggest that it was an homicidal death.

26. On the backdrop of these facts, in our opinion, learned Trial Judge committed no error in arriving at the conclusion that Vidya and Om both have died homicidal death.

27. Now we may refer to the other evidence. Pravin Mandhare (PW 1) is the brother of deceased Vidya and at his instance first information report is lodged. Pravin (PW 1) set the investigating agency in motion. Pravin Mandhare (PW 1) in his version before the Court provides all necessary details. Pravin Mandhare (PW 1) deposed before the Court that he is engaged in a private job and resides in an area known as Ajmera Society, Pimpri along with his two mothers, his wife and children. Then he stated that deceased Vidya was his elder sister. She was married with Deepak Ghorpade on 8th June, 2001 and the couple was blessed with a child namely, Om and at the time of incident Om was 5 years of age. Deceased Vidya was serving in a

private company namely, Fijithsu Company, Talvade, Pune, whereas, her husband Deepak Ghorpade was serving at Bangalore. Vidya used to reside with her son in a flat number G-105, Empire Society, near Premier Company, Chinchwad. Pravin Mandhare (PW 1) then stated that deceased Vidya was having two mobile phones with her. The first mobile phone was bearing no. 9890569222, and the other mobile phone was having last three digits as 945. Pravin Mandhare (PW 1) further stated that on 12.03.2009, Vidya visited his house in the evening and before he return to his house from work Vidya left his house. It was usual practice / routine of Vidya to come to house at 08.00 am in the morning to collect tiffin. However, on 13.03.2009 as Vidya did not turn up, his mother made phone call to Vidya on her mobile phone from the landline phone. As there was no response to phone calls his mother woke him up and asked him to make a phone call to Vidya from his mobile phone. Pravin Mandhare (PW 1) accordingly made an attempt to contact Vidya by making mobile phone call. As there was no response from Vidya, Pravin Mandhare (PW 1) and his mother Kusum went to Empire Estate. It was noted by them that in the parking area of the building Santro car owned by Vidya bearing no. MH-12/AF-8893 was not available. The said Santro car was in the name of husband of Vidya i.e. Deepak Ghorpade. Then Pravin Mandhare (PW 1) and his mother went to the flat of deceased Vidya and rang the door

bell. As there was no response, they made an inquiry with the neighbours. Neighbours were unable to give any information of whereabouts of Vidya but was told by the neighbours to them that they had seen the lights in the flat of Vidya in the night time. The duo i.e. Pravin Mandhare (PW 1) and his mother came down and again searched for Santo car of Vidya in the parking area but, they were unable to find out the Santo car. Pravin Mandhare (PW 1) then made a phone call to one friend of Vidya i.e. Rupali Pimple. Rupali was also unable to give any whereabouts of deceased Vidya. Pravin Mandhare (PW 1) and his younger mother returned back to his home and made inquiry with elder mother. It was told to Pravin Mandhare (PW 1) that there is another key of flat of Vidya is kept in the house.

Accordingly, Pravin Mandhare (PW 1) collected the other key and proceeded to flat of Vidya along with his friend Vijay Kalgatkar. Pravin Mandhare (PW 1) sensed that there is something fishy as such, he contacted the security supervisor of the building Mr. Kanitkar and took him towards the flat. On opening the front door of the flat, Pravin Mandhare (PW 1) noted pool of blood and smell of LPG therefore, he immediately closed the door and a phone call was made to Chinchwad police station from the phone of security supervisor Mr. Kanitkar. After sometime police staff of Chinchwad reached to the spot. Door of the flat again opened. The police personnel switched off the

knob of LPG stove. All the doors and windows of the flat were opened. They saw some blood marks of dragging somebody from kitchen towards bedroom. When they entered in one of the bedroom, they found Vidya and Om under heap of clothes. They found Vidya and Om were severely injured. Intestine of Om were found protruding from stomach. Police personnel collected the dead bodies and they were sent for postmortem and it was accordingly informed to Pravin Mandhare (PW 1). Then Pravin Mandhare (PW 1) was taken to Chinchwad police station so as to lodge the first information report. In the police station Pravin Mandhare (PW 1) made an oral complaint and the same was reduced in writing by the police. The contents of the report were read over to him. Pravin Mandhare (PW 1) then made his signatures. The FIR was shown to him. Pravin Mandhare (PW 1) then identified the accused in the Court. Pravin Mandhare (PW 1) further stated that he had seen the accused in the marriage of Vidya as the accused had attended marriage of Vidya. He had also seen accused doing some repair works in the flat of Vidya. On an inquiry with Vidya by Pravin Mandhare (PW 1), Vidya told him that accused is nephew of one of her friend Gauri Saliyan. He further stated that the photograph taken at the time of marriage where accused was seen was handed over by him to police. He also handed over one of the photograph of his marriage reception to the police where accused was seen. Pravin Mandhare (PW 1) further stated

that he also handed over one of the photograph wherein the accused was seen after Gauri Saliyan. He further stated that he had handed over the photo album of his marriage to the police and in this photo album in photographs no. 5, 6, 8, 9, 10, 11, 12, 14 and 15 accused Kiran is seen in participating various rites by sitting in the hall. These photographs are exhibited as Exhibit 25-33. Then he identified the photographs of dead bodies of Vidya and Om taken in the flat by the police. Pravin Mandhare (PW 1) then identified the clothes worn by the deceased and Om at the time of incident.

In the cross-examination, an attempt was made to suggest that relations between Vidya and her husband were not cordial and were strained, an attempt was also made to suggest that husband of Vidya i.e. Deepak did not attend his marriage and Deepak is not seen in photographs, these suggestions were flatly denied by the witness by stating that Deepak himself was looking after certain arrangements in the marriage and there are some photographs where Deepak is seen attending the function. An attempt was made by suggesting the witness that as husband of Vidya Deepak had seen Vidya talking with one medical shop owner namely, Babulal Chaudhari and there was dispute in the couple, Pravin Mandhare (PW 1) though admitted this fact, but clearly stated that apart from small disputes which takes place in day to day marital life, the relationship between Vidya and her husband Deepak was

normal. Pravin Mandhare (PW 1) then stated about the various steps taken by the police personnel after reaching the spot on 13.03.2009 such as, collecting finger prints, taking photographs, etc. Pravin Mandhare (PW 1) further stated that assistance of the dog squad was also taken in the process of investigation. Then he stated that one mobile phone was in the flat and sim card bearing no. 9890569222. He further stated that the said mobile phone was seized under a panchnama but he was unable to tell the name of the panchas. He further stated before the Court that as there were many persons present in civil dress, he is unable to tell who were the panch witnesses or police personnel. He further stated that he would be able to identify the panch witness by their faces.

28. Smt. Vaishali Gaikwad (PW 2) was working as maid servant in the house of deceased Vidya at the relevant time. She deposed before the Court that Vidya used to reside with her son Om in the said flat. Her husband used to reside in Bangalore and used to visit Vidya once or twice in month as per availability of leave. She further deposed that she used to visit house of Vidya at about 08.00 am in the morning and after completing her usual work she used to go at about 11.30 am. This witness then identified the accused in the Court. She further deposed before the Court that the accused was frequently visiting house of Vidya as he was her friend and used to carry some miscellaneous work for Vidya. She further deposed that Vidya used to call

accused Kiran as Gopal whereas her son Om used to call him as Dada. She further deposed that on 13.03.2009 she had been to the flat of Vidya at about 08.00 am. As usual she rang the door bell of the flat however, there was no response. Then she came down from the building, at that time she met with brother of deceased Vidya who told him she may go to her home. Accordingly, she returned to her home. She further deposed that at about 12.00 in the noon police came to her house and take her to the flat of Vidya and at that time she came to know that Vidya and her son Om were murdered.

In the cross-examination, an attempt was made to suggest that there always used to quarrel between deceased Vidya and her husband and this suggestion was flatly denied by this witness. This witness was confronted with her statement and she stated that the reference in her statement dispute between Vidya and her husband is about one or two occasions when she saw dispute between Vidya and her husband. A suggestion was also given to the witness that the cause of dispute between the Vidya and her husband was accused Kiran, the witness denied the suggestion.

29. Rupali Pimple (PW 3) is the friend of Vidya. She deposed before the Court that she serving in a private company and she had an old acquaintance with Vidya as she was her school days' friend. She further deposed that she had also attended marriage of Vidya and she was acquainted

with her son Om. She further deposed that Vidya had introduced accused Kiran to her as her friend. Vidya also told Rupali that accused is regular visitor of her house and he also provided financial assistance to Vidya on some occasions. She further deposed that 5 to 6 months prior to the death of Vidya, she was avoiding Kiran and though she was avoiding accused Kiran he was visiting to her home. She further deposed that on 13.03.2009, she received a phone call from brother of Vidya i.e. Pravin Mandhare (PW 1) informing her that Vidya was murdered. Thereafter she came to know through newspaper that Vidya and her son were killed by accused. She further stated that her statement was recorded by the police on 02.04.2009.

In the cross-examination, this witness admitted that relations between Vidya and her husband were strained and Vidya was thinking of giving divorce to her husband. It may not be out of place to state here that Rupali though admits that the relations between Vidya and her husband were strained and cause is of not giving money to Vidya.

30. Prashant Hegade (PW 4) is an important witness of the prosecution. He deposed before the Court that he is residing in Ajmera Housing Society since last 15 years with his parents. He is engaged in catering business. He further deposed that he is having mobile bearing no. 9822813490 and his father was also having a mobile phone about one year

ago. He further deposed that though he is not recollecting the entire mobile number of his father, he stated that the last digits are 8023. (In the paper book, by way of a typographic error, it is typed as last digits as 823, whereas, the perusal of original record shows that the last digits are 8023). Then he further deposed that he knows accused Kiran being his school mate. He further deposed that sometime in the year 2006 a reunion was organized by the school and at that time he met with accused once again and since then he himself, accused Kiran and some other used to meet frequently in Ajmera Housing Society. He further deposed that as they used to do chit-chatting, in one of such chat / talk accused Kiran told that he had one girlfriend. However, at that time this witness did not ask in detail about his girlfriend.

He further deposed before the Court that on 12.03.2009 in the evening he made a phone call to accused Kiran on his mobile phone and though he is not remembering the entire mobile number of Kiran, the last digits of the mobile number were 161. Accused Kiran made casual chat with him and told him that he is busy in a party. At about 09.30 again he made a phone call to accused (asking him to meet) but it was told by the accused that he is busy and he is unable to meet him. At about 11.30 to 11.40 in the night, he received a phone call from an unknown mobile number. He further deposed that as there was no balance in his account of mobile phone he

diverted the call to the mobile number of his father and on receiving the same he found that it was call from accused Kiran. Then he made an inquiry with Kiran as to where he was, to which accused replied him stating 'sun na' and further said 'maine mere girlfriend ka khoon kiya'. (Hear, I have committed murder of my girlfriend). Then this witness made an inquiry as to why he killed his girlfriend to which the accused told him that his girlfriend had an affair with her boss and he had made sms from his mobile phone. Accused further told him that on this subject there was an argument between him and his girlfriend and he committed murder of his girlfriend. Prashant Hegade (PW 4) then inquired as to who was his girlfriend and in a frightened tone accused Kiran told the name as Vidya.

This witness then inquired with accused Kiran as to where he was, accused did not tell his whereabouts and told him that he is going out of Maharashtra state. Prashant Hegade (PW 4) then asked accused as to what reason he had given reason to his family for going away from Pune city to which the accused told him that he will tell his family members that he was going to Satara as his 'Sir met with an accident'. Prashant Hegade (PW 4) then advised accused to tell the fact at least to his brother and further asked him as to where he has kept his mobile phone. In turn, accused told him that he had kept his mobile phone in one ATM Centre of Cosmos Bank at Akurdi (Nigdi)

and asked this witness to collect mobile phone from ATM centre. Prashant Hegade (PW 4) then told the accused that he will not go to ATM Centre to collect the mobile phone as it was night time. Prashant Hegade (PW 4) further deposed that in the next morning between 07.30-08.30 am he again received call from Kiran but the phone call was disconnected immediately within one minute as such, no conversation could take place between him and accused. He further deposed that in the evening the police from Crime Branch, Pune came to him and seized the mobile phone of his father. Then he was taken to office of Crime Branch and made inquiry with him. He told police about the conversation between himself and accused. He further stated that in the next morning at about 07.30 he received phone call to his mobile phone from a landline number and it was a call from accused. Accused told Prashant Hegade (PW 4) that he was in UP and then told him to call him after 1 and ½ hour. Then Prashant Hegade (PW 4) rushed to the Crime Branch along with mobile phone. After sometime he received a call from same landline number. He kept the mobile phone on speaker mode.

In the meantime, accused stated that from the newspaper report it came to his knowledge one lady and his son from Empire Estate building were murdered in the relevant night. He further deposed that on receiving the call from Kiran in anger he questioned accused as to why he had killed a small

child, accused Kiran in reply made an attempt to explain by saying that he had an affair with the deceased for five years and a kid would not have survived without his mother. Accused Kiran then told to Prashant Hegade (PW 4) that he is going to commit suicide. Prashant Hegade (PW 4) then tried to convince accused by saying that if he commits suicide he himself and his parents would land in difficulty and he further advised accused Kiran to surrender before police. Accused then told Prashant Hegade (PW 4) that he think over his advice and would tell him about his decision in the evening. Prashant Hegade (PW 4) was with the police of Crime Branch for the whole day and he made an attempt to contact accused Kiran at the unknown mobile number from which he made phone call to Prashant Hegade (PW 4) in the night of the incident but he was unable to establish any contact. Lastly in the evening at about 05.30 to 06.00 pm he made phone call to phone number of accused Kiran and accused Kiran told him that he was in auto-rickshaw and was going to Lucknow police station in order to surrender. Then his statement was recorded by Chinchwad police station on 15.03.2009.

He was again called in the next day for recording the statement but it could not recorded on next day i.e. 16.03.2009 and his statement was recorded in the Court on 17.03.2009. The witness was confronted with the documents namely, application for mobile phone along with the attested

copies of the documents. He was also confronted with CDR of his mobile phone. It would be very important to note at this stage that the defence Counsel appearing for the accused had no objection for exhibiting the certified copy of application form as well as CDR and to read the same in the evidence. (Emphasis supplied).

31. This witness was subjected to a detailed cross-examination. By giving certain suggestions, an attempt was made to submit that this witness was having acquaintance with ex corporator and he is also friend of one Salim Pathan, an attempt was made to suggest that this witness was a tutored witness and was acting under the influence of the police personnel, these suggestions were clearly denied by this witness. Then there were certain omissions brought on record but these omissions were minor in nature and were not affecting material version of the witness. Certain suggestions were also given on the backdrop of CDR to submit that this witness has not received the phone calls from the accused thus, an attempt was made to submit that the case of prosecution in respect of disclosure by accused to this witness and the theory of prosecution of a confession by accused to this witness is untrue.

32. Dheeraj Kapur (PW 5) is the superior officer (Boss) of Vidya. Dheeraj Kapur (PW 5) deposed before the Court that since from last at about

5 years he resides in Konark Campur Vimannagar along with his wife and daughter. In the year 2009 he used to work with Fijustu Consulting India Co. Pvt. Ltd. situated in Talwade, Pune. He further deposed that he was working in the said company since the year 2004. He further deposed that during the said period he had mobile bearing no. 9765400195, which was given to him by the said company. He further deposed that he was acquainted with deceased Vidya. In the year 2007 deceased Vidya had joined the said company as a customer care executive. He further deposed that from the month of August 2008, she was transferred to sales corporation department in the said company. He further deposed that deceased Vidya was having two mobile phones. He further deposed that he remember some last digits of both the mobile phones. He further deposed that on one of the mobile phone he always used to talk with Vidya. He further deposed that the last digit of one of the said mobile phone were 222 and the other is 0945. He further deposed that on the first of mobile having 222 last digits they used to communicate either by call or through SMSes. He further deposed that between the period of February and March 2009 they had communicated for about 390 times which included calls as well as sms. He further deposed that he had contacted Vidya for four time in February and one time in March, 2009 on mobile phone having last digits 0945. He further deposed that when he heard the news of

murder of deceased Vidya he was scared therefore, he deleted both the phone numbers from his mobile phone. He further deposed that he could not recollect the mobile number of deceased Vidya at the time of recording his statement. He further deposed that when the statements of mobile came to him at that time he recollected the mobile phone numbers. He further deposed before the Court that most of their communications were relating to the official work. He further deposed that on 13.03.2009 one of his colleague Shiva Nagila told him that there was some problem relating to deceased Vidya. Therefore, on that count he made phone call to deceased on her mobile phone but, deceased did not respond the same. Therefore, he made a phone call to her colleague Gita Sonawane inquiring about Vidya. At that time Gita Sonawane told him that Vidya was murdered. Therefore, he along with some colleagues went to the house of deceased. He further deposed that when he reached to the house of Vidya there were some policemen present. He further deposed that after sometime i.e. at about 12.30 pm they returned to their office. He further deposed that on the same day at about 02.30 pm he received call from Crime Branch, Pune stating that he was called for the purpose of interrogation. He further called by police personnel of Crime Branch on 13th, 14th and 15th March, 2009. He further deposed that on 15th March, 2009 he came to know from the police that accused was arrested and on 16th March,

2009, through newspaper report he came to know that the said person was one Kiran Pujari. His statement was recorded at Chinchwad Police Station on 23rd March, 2009. It would be very important to note at this stage that the defence Counsel appearing for the accused had no objection for exhibiting the certified copies of ownership details and call details record of mobile numbers 9765400195 and 9890569222 and read these documents in evidence. (Emphasis supplied).

In the cross-examination, this witness stated that Gita Sonawane and Manish Gaikwad were also colleagues of deceased Vidya and therefore, they were well acquainted with her. He further stated in the cross-examination that on 23.03.2009 he was called to Chinchwad Police Station. He went there and his statement was recorded. He further stated that he do not recollect as to whether he had deleted mobile numbers of deceased Vidya from his mobile phone before proceeding to house of Vidya or thereafter on the day of her murder. He further stated that he has deleted those phone number on 13.03.2009 itself. He further stated that on 13.03.2009 he was in the office of Crime Branch, from 02.30 to 06.30 pm. He further stated that he had seen the CDR of both the mobile numbers i.e. of himself and deceased on 23.03.2009 at the time of recording his statement. He further stated that deceased had given him the second mobile number having last digits as 0945,

in case of her regular mobile phone could not be connected. He further stated in the cross-examination that from 13.03.2009 till 23.03.2009 he did not make inquiry about deceased to find out as to whether in which shift she worked on 12.03.2009, which transport facility was provided to her and at what time she left the company. He further stated that he heard the name of Prashant Hegde while he was in Court premises. He further stated that during interrogation on 13.03.2009 he told the police personnel about the sms from deceased when the message was given 'I like you'. He further stated that deceased at any time did not tell him about relations with her husband. He further admitted in the cross-examination that he did not make any such statement before the police that deceased made such statement before him that she was not on good terms with her husband.

This witness was further examined by the prosecution vide order below Exh. 115. He further deposed that his mobile number during the relevant period and today also in 9765400195.

In the cross-examination this witness stated that he left Fijitsu Consulting India Pvt. Ltd, Pune in March, 2010. He further stated that in first of sms put to him, the term 'Sweetu' is used by him as an alias for deceased. He further stated that deceased Vidya and himself were working on a specific project. He further stated that he do not remember as to whom he sent

messages on 12.03.2009 besides deceased Vidya. He further stated that his mobile bearing no. 9765400195 given by company to him was not produced before the police.

33. Sanjay Vasant More (PW 6) is the panch to spot panchnama. In the examination-in-chief, he deposed that on 13.03.2009 while he was at Empire Estate Building, he was called by the police on the ground below 'J' building of Empire Estate at about 12.00 to 12.30 noon. At that time PI Sawant told him that one panchnama regarding the spot has to be prepared and asked him as to whether he would be ready to act as a panch witness. He further deposed that another panch namely, Gajanan Gaikwad also present there. He further deposed that they were taken to flat No. 102 of 'J' building. He further deposed that at that time Pravin Madhare and police personnel were accompanied them. Then both of them entered in the first room of the flat which is called as hall. Then they saw floor as well as on some places of wall blood was seen. Then marks of blood of being dragged were seen by them. He further deposed that then they entered in the small room which was near by the kitchen. There they found some bed sheets. From those bed sheets small as well as large feet were seen protruding. He further deposed that when all those bed sheets were taken away, at that time a small child and a lady were seen. Both of them were seen in injured condition. He further deposed that

the intestines of the child were seen protruding. Then they came in the hall where they saw one mobile over showcase of the T.V. of Nokia make, one diary and some chit was there in the diary. He further deposed that after about 10-15 minutes, PI Sawant received a phone on his mobile. Thereafter PI Sawant told them that he had received a message that the small child as well as lady had died. He further deposed that PI Sawant asked Pravin Mandhare about mobile phone that was found in the flat, to which Pravin Mandhare told that it was mobile phone was of his sister i.e. deceased. Then Pravin Mandhare told the phone number. He further deposed that he remember only last three digits of the said mobile number were 222. He further deposed that PI Sawant seized Nokia make phone, diary, chit and some samples and as well as clothes. He further deposed that work of panchnama was carried up to about 03.00 pm in the noon and it bears his signature.

In the cross-examination, this witness stated that at the time of seizure of the articles, Pravin Mandhare was not there. He further stated that there was difference of about 10 to 15 minutes from showing of the articles to him and thereafter writing of the panchnama.

34. Ashok Bardiya (PW 7) is the another panch witness. He deposed before the Court that on 14th September, 2009, after closing his shop in the night at about 08.00 p.m. he was proceeding towards Dange Chowk.

Chinchwad Police Station is on his way. When he reached near the police station, one constable stopped him. He further deposed that constable then told him that he was called by the police officer in the police Station. Therefore, he went in the police station. At that time, PI Mahesh Joshi, police staff and one Kishor Pujari was there. He further deposed that at that time PI Mahesh Joshi told him that a mobile phone of brother of Kishor Pujari was to be seized from said Kishor Pujari. He further deposed that another panch was also present there. He further deposed that at that time, one mobile was produced by said Kishor. He further deposed that police put the said mobile in a packet and thereafter fixed with the labels bearing signatures of panch witnesses.

In the cross-examination, this witness stated that he runs grocery shop and his shop is at about five minutes distance on foot from Chinchwad police station. He further stated that he had not seen any Deepak Ghorpade in the corridors of the Court-hall. A suggestion was given to him that no mobile was seized in his presence, this suggestion is denied.

35. Raju Shankar Shetty (PW 8) is the Supervisor with Domestic Airport, Santacruz, Mumbai. In examination-in-chief he deposed that since the year 2009 he was serving as Supervisor with Domestic Airport, Santacruz, Mumbai and he was appointed through Building Control Solution India Co.

Ltd. He used to work in three shifts and he was supervisor over the car parking area. He further deposed before the Court that there are four car-parking areas namely, General, Premium, Commercial and King Fisher Air for staff. He further deposed that he was working on the entry counter of the said parking area and his job is to give entry token once the car enters the parking area. He further deposed that on 18th March, 2009, he reached his office at about 03.00 p.m. At about 06.30 to 07.00 p.m. in the evening, the police came with the finger print expert and the accused, who is sitting in the dock of the Court hall. He further deposed that when police personnel made inquiry with him regarding the car bearing no. MH-12/AF-8893, he told that he was watching the said car from 13th March, 2009 and at that time he had given entry pass to the accused. He further deposed that the accused has parked the car and thereafter he went to the ticker counter. He further deposed that the car was parked in the said parking area from 13th March, 2009, till the police came on 18th March, 2009.

In the cross-examination, this witness admitted that entry receipt is computerized receipt and the record of the same is maintained in the ticket machine. He further admitted in the cross-examination that there is no recording of the time of the entry of any car in the parking area and the record is maintained about the date and time of the entry of a car in the parking area.

He further stated that when the police came to him, at that time, he showed record to them. He further stated that he would be able to produce before the Court recording containing the initial of the police officer in the Court, if directed by the Court. He further admitted in the cross-examination that there is a continuous flow of cars in the parking area and his job is to pass the entry receipt. He further stated that he himself stated to the police that the accused went towards the ticket / enquiry counter, is came on record by way of an omission.

36. Sharad Kshatriya (PW 9) is the Assistant Photographer with Investigating Car Unit with Forensic Department of Commissioner of Police, Pune and this unit is called as I Car unit i.e. Investigating Car Unit. He further deposed that they have round the clock duty as they have to attend the call as and when they receive. He further deposed that on 13.03.2009 at about 11.35 a.m. they received call of Chinchwad Police Station and they were called in Flat No. J-102 of Empire Estate at Chinchwad. Therefore, the members of I-Car unit went there. Then police officer showed the scene of offence and dead body of women and child in one room. He further deposed that the blood was seen in some places of flat. Then he took the photographs of relevant places of scene of offence and of both the dead bodies from different angles. He further deposed that the finger print expert and scientific assistant also inspected the

scene of offence. He further deposed that thereafter on the instructions of finger prints expert, he took the photographs of the finger prints those were available on refrigerator and a plastic bottle. Thereafter they proceeded to Yashvantrao Chavan Memorial Hospital, Chinchwad. He further deposed that there at in the dead house he took the photographs of the deceased and child as regards their injuries and the faces. Then he took all these photographs through Government Digital Camera and downloaded those photographs in the computer and through the computer he prepared one compact disc(R). He further deposed that again on 18.03.2009 I-Car unit received a call from Chinchwad Police Station. Police Officer Sawant told him to follow the car by which he along with the accused were proceeding. Then they reached to Dehu Road toll naka. There PI Sawant stopped for sometime. Thereafter they proceeded from Pune Mumbai Express and went up to Talegaon. He further deposed that then near Khandala Ghat again the vehicle was stopped. The accused led the police party to a slope by the side of expressway and therefrom accused recovered a knife and a t-shirt. Then he took the photographs of all the activities. He further deposed that they went to the Air Port at Mumbai. Then at that place they took photographs of a car which was parked there. The finger print expert examined the car. The finger print expert found finger prints on the rear view mirror and wind-sheet (front

glass) of the car and on his direction he took the photographs of those finger prints. He further deposed that scientific assistant found some stains of blood over the car. Therefore, he took the photographs of the blood stains.

In the cross-examination, this witness stated that at the request of defence Counsel, he has shown all the photographs to him which are stored in CD(R). He further stated in the cross-examination that his statement was not recorded by the police officer on the same day i.e. on 18.03.2009 and his statement was recorded on 20.03.2009. He further stated that at the Air-port initially the police jeep entered the premises and their car followed the said jeep. He further stated that when he took the photographs of the finger prints and blood stains of the car, at that time the accused was near by him. He further stated that he did not take photographs from inside portion of the car and in his presence the door of the car was not opened. He further stated that in his presence only one knife and one t-shirt was seized near Khandala. He further stated that the area from where the knife and t-shirt were recovered is an open place. He further stated that he took the photographs in the flat in Empire Estate Building from about 12.15 in the noon.

37. Mahendrasingh Chandrashekharsingh Thakur (PW 10) was working as Manager at Laxmi Hotel, Near Apsara Talkies, Kanpur, U.P. at the relevant time. He deposed before the Court that on 14.03.2009 he was in the

said hotel and then by identifying the accused who was sitting in the dock by pointing out a finger to him, this witness stated that accused came to said hotel. He disclosed his identify as Sandesh Agrawal. He further deposed that the accused visited the hotel at about 07.30 am and made inquiry about availability of single room. This witness informed accused that the single room is available and handed over the register to fill up necessary information. Then accused wrote his name and address in the register as Sandesh Agrawal, resident of Empire Garden, Pahadganj, New Delhi. Then he made signature against the entry. This witness further deposed that these entries were made as entry no. 2542, in the handwriting of accused himself in presence of this witness. This witness made available the original register for comparing the photocopy of the entry. The photocopy was then compared with the original and the same was found to be correct as per the original record. Then accused deposited an amount of Rs. 400/-. Receipt towards the deposit amount was given to the accused. This witness further stated that the photocopy of the receipt was handed over to Maharashtra police by him when the police attended hotel in the court of investigation. This witness further deposed that the accused has left the hotel on the same day i.e. 14.03.2009 at about 02.30 p.m. The accused clear the bill of his stay. This witness further deposed that when the accused was in the hotel he made inquiry in respect of availability of

washer man. When the washer man came to the hotel, this witness directed him to go to accused and the accused handed over a pair of clothes i.e. one pant and shirt to the washer man. He further deposed that on 22.03.2009 the police from Maharashtra State visited the hotel and made inquiry as to any person by name Sandesh Agrawal stayed in the hotel. This witness further deposed that the police had also shown him the photograph of the person Sandesh Agrawal. Then on demand of the police this witness handed over the photocopies of relevant papers to the police. He further stated before the Court that Sandesh Agrawal is the same person i.e. accused who is sitting in the dock of the Court hall.

In the cross-examination, this witness admitted that at the relevant time there was no strict adherence to assurance of identify of the customer. This witness further stated before the Court that due to recent incidents now the verification of identify of the customers is strictly followed. This witness further admitted in the cross-examination that he did not make any inquiry with the person Sandesh Agrawal about his mobile number. An omission to the effect that the accused gave his clothes to washer man is brought on record.

38. Vicky Laxman Kanojiya (PW 11) who was carrying out the laundry work in the Laxmi hotel at the relevant time. He had deposed before

the Court that on 14.03.2009 as per his usual routine he visited Laxmi Hotel for collecting the clothes for washing and made inquiry with the manager Mahendrasingh Thakur about availability of clothes for washing. In turn, Mahendrasingh Thakur told him that customer of room No. 216 wanted to give some clothes for washing and accordingly, this witness attended room No. 216. The customer in room no. 216 gave him one trouser / pant and one shirt for washing. Then this witness identified the accused who is present in the Court hall as a person who gave him clothes for washing. He further deposed that in the evening when he returned to hotel for delivery of the clothes after washing, he found that room no. 216 was closed. Therefore, he handed over the clothes at the counter and went away. Then the clothes (Article Nos. 27 and 28) were shown to the witness and the witness identified those clothes. He further deposed that on 22.03.2009 police from Maharashtra State came to him and made inquiry and he gave the necessary information to the police.

Though, this witness was subjected to the cross-examination and though an attempt was made to submit that at the instance of Maharashtra State police who had shown the photographs of the accused to this witness, he was deposing before the Court in support of the prosecution case, this witness denied the suggestion and version of this witness was unshaken and the witness stood firm on his version before the Court.

39. Shivbahadur Singh (PW 12) is the police head constable who has assisted the Maharashtra State police in Lucknow. This witness deposed before the Court that in March 2009 he was posted as head constable with Special Task Force, headquarter of Mahanagar Lucknow. He further deposed that on 15.03.2009, while he was in the office, PSI Gadhave of Pune City Police had been there and one Head Constable Sundaram was also with him. Then PSI Gadhave had a meeting with his superiors. He further deposed that thereafter he came to know from his superiors that a double murder of one Vidya Ghorpade and her child had occurred at Pune. It was further informed to him that accused in this case was informed to be in Lucknow, therefore, a team of officers to arrest him was formed and this witness was one of the member of the said team. He further deposed that they came to know that accused was to meet someone at Kapurthala Square, hence, by police vehicle, their team and other police personnel went to Kapurthala Square. He further deposed that during the said period one person was seen near Sahara Building. PSI Gadhave made inquiry with him and at that time the said person told him his name as Kiran Pujari and gave the information about the incident. Accused Kiran was arrested there. The writing about the same took place and thereafter accused Kiran was taken to Aliganj Police Station. He further deposed that this witness identified the accused who was sitting in the dock of Court hall by pointing

out finger as he is the same person who was attested by them at that time. This witness further deposed that his statement was recorded on 23.03.2009 by PSI Jatak of Pune Police.

In the cross-examination, this witness stated that he gave the information to PSI Jatak in his own handwriting in Hindi and he put his signature below the said information. A suggestion was given to this witness that accused Kiran was not arrested in any joint operation with PSI Gadhave, this suggestion was denied.

40. Amitkumar Shivkumar Avasthi (PW 13) is a panch witness to recovery of articles, namely, jean pant and one shirt. This witness deposed before the Court that on 22.03.2009 Mahendrasing Thakur, the Manager of Laxmi Hotel produced a blue colour jean pant and one pink colour shirt in his presence before the police and the police seized the same. Then police prepared the panchnama and interpreted the same in Hindi. He further deposed that on finding the contents to be true and correct, he put his signature over the same panchnama.

In the cross-examination, this witness stated that Rajeshkumar Sharma is the first signatory of present panchnama. A suggestion was given to this witness that clothes were not at all seized by the police in his presence, this suggestion was denied by this witness.

41. Mahesh Mirajkar (PW 15) is a panch witness to recovery of articles, namely, knife and t-shirt and recovery of Santro car. This witness deposed before the Court that on 18.03.2009 he went to Chinchwad Police Station in order to lodge complaint as his sim card of the mobile was lost. At that time PI Rajendra Sawant inquired with him as to whether he had time and this witness answered in affirmative. Then PI Sawant requested him to be witness to the statement made by accused. At that time one boy named as Pujari was there. Then police officer asked me to listen the statement that would be made by said Pujari. Then this witness identified the accused who was present in the Court hall by pointing out finger towards him. He further deposed that at that time one another panch named as Chouhan was present. He further deposed that at that time the accused in one of this statement told that on the date of the offence he went to Mumbai by the car of the lady and thereafter he went to Kanpur and further made a statement that the knife used in the offence and t-shirt worn by him were thrown on the way near Khandala. Then he further deposed that statement of accused was recorded in his presence and after recording the statement the same was read over to them. Then police obtained their signatures over the said statement. Thereafter they proceeded in the Tata sumo vehicle of the police along with other police personnel. Then accused showed the direction to proceed by old Mumbai

Pune National highway. Then accused led police personnel towards Mumbai Pune expressway. On the way in the ghat between Lonavala to Khandala, the accused asked to stop the vehicle. Thereafter near barricade to the road, the accused said that he had thrown one t-shirt and knife. Thereafter as per the direction given by the accused they started for searching of articles as told by accused. He further deposed that in one bushes a t-shirt was found. After search of about 5-10 minutes accused discovered knife. Then police seized the t-shirt and knife. He further deposed that the t-shirt was of gray in colour and some blood stains were found on it. He further deposed that a t-shirt and knife were shown to him and he identified the same which was recovered by accused. Thereafter, they proceeded towards Mumbai. As per the statement made by the accused, they proceeded towards Santacruz Airport, Mumbai. At the Santacruz Airport in the parking area accused pointed towards the Santro car which was parked in the said area. He further deposed that the accused made statement that the key of the car were thrown by him while he was proceeding by railway towards Kanpur. He further deposed that PI Rajendra Sawant provided a key to the finger print experts. The car was opened. Inside the car there was a rear view mirror, which was in the middle of the car. Some finger prints were found over the said mirror and beside that receipt of Dehu Road toll naka was also found and one R.C. book in red cover was also found

in the car. He further deposed that all the articles were seized by the police in the packets. The blood particles found over the car and inside the car were collected through cotton swabs. Then the panchnama was drawn. It bears his signature.

In the cross-examination, this witness stated that in the police station, before they proceed no inquiry was made regarding the key of car with accused. He further stated that he is not acquainted with any person by name Deepak Ghorpade. He further stated that he knows the surname of the husband of deceased as Ghorpade. He further stated that the statement made by accused that he had thrown the key of the car, on the way while he was proceeding to railway to Kanpur is not included in the panchnama. Further the fact that PI Sawant gave the key of the car for opening the same is also not included in the panchnama. A suggestion was given to the effect that at the time of drawing panchnama a person by name Deepak Ghorpade was present there, this suggestion was denied. He further stated that all the statement those were made in the police station were recorded in the disclosure statement at Exh. 8. He further stated that the recording of the panchnama was carried at the place where the t-shirt and knife were recovered, where they put their signatures. He further admitted that in the panchnama Exh. 83, it is not recited that the t-shirt and the knife were sealed. Certain suggestion were given

to the effect that, no articles were recovered by accused in his presence and those articles were not seized and sealed in his presence, these suggestions were denied.

42. Deepak Ghorpade (PW 16) is the husband of deceased Vidya. This witness deposed before the Court that Since February 2007, he was working as Information Technology Consultant with SAP company at Bangalore. He further deposed that deceased Vidya was his wife, while deceased Om was his son. He further deposed that at the time of incident, deceased Om was six years old. During the period of the incident, he was residing in Bangalore in view of his employment. He further deposed that he married with deceased in the month of June, 2001. He further deposed that deceased was having two mobiles with two sim card numbers i.e. 9890569222 and 9049240945. He further deposed that he usually used to call deceased on both mobile numbers. He further deposed that before shifting the flat in Empire Estate Building, his family used to reside in Chinchwad and thereafter, in Ajmera Building in Pimpri area. He further deposed that Santo car bearing no. MH-12/AF-8893 was owned by him and deceased was using the said car in Pune. He further deposed that one set of the keys of the car used to be with deceased and another set of keys used to remain with him. He further deposed that the flat in Empire Estate Building was purchased by him in the joint name

of himself and deceased Vidya. He further deposed that he used to visit his family at Pune from Bangalore within a period of one month of six weeks depending on his work load at his office. He further deposed that in absence of deceased, their maid servant Vaishali used to look after child Om. He further deposed that usually after return from school Om used to be under care of Kusum Mandhare i.e. mother of deceased Vidya. He further deposed that after office, deceased Vidya used to visit her mother's house and used to bring deceased Om to their flat. He further deposed that complainant Pravin Mandhare is his wife's brother. He further deposed that marriage of complainant Pravin Mandhare took place in the month of May 2007 and this witness was present in the marriage. Then this witness deposed that he is acquainted with accused who was sitting in the Court. He further deposed that accused was introduced by deceased to him in the marriage of complainant Pravin by saying that accused resides in the vicinity of Ajmera Building, where they resided earlier. He further deposed that on 12th and 13th March, 2009 he was in Bangalore carrying his usual work in the office. On 13th March, 2009 he received a phone call from complainant communicating that his wife and son were murdered in their own flat. Immediately on the same day he came to Pune by plane at about 10.30 to 11.00 pm. He further deposed that as the parental relatives of deceased reside in Ajmera Housing Society, he went to

their house. He further deposed that after sometime upon receipt of dead bodies of deceased and Om, they took those dead bodied to his native place along with others for funeral. He further deposed that after return to Pune, in the newspaper he read that deceased and Om were murdered by accused out of love-affair between deceased and accused. He further deposed that he was not aware of such affair. He further deposed that on 18th March, 2009 he got the message from Chinchwad Police Station whereby inquiry was made about the availability of the keys of the Santro car. He further deposed that he was staying in the house of his in-laws at that time he handed over the keys to the police officer Rajendra Sawant in the police station. He further deposed that the officials of the company where he work, had sent a letter to the police inspector of Chinchwad Police Station communicating that this witness was present in the office at Bangalore on 12th and 13th March, 2009. Then one mobile of Nokia make having the model no. as N-76 is shown to him. This witness stated that that was the same mobile which was possessed by deceased Vidya.

This witness handed over certain articles to the police in the process of investigation namely, keys of car, photographs from the album, a CD concerning the marriage of complainant Pravin. This witness also stated about the recording of his statement by police. In the cross-examination, an

attempt was to suggest that Deepak was carrying grudge against the shop owner namely, Babulal Chaudhari. This witness though admitted that on one occasion he had questioned Babulal Chaudhari regarding the dialogue between him and deceased Vidya but, he further denied the suggestion of having any quarrel with Babulal Chaudhari. This witness also denied the suggestion that the relations between him and Vidya were strained and Vidya had taken a decision to take divorce from him.

43. Sanjay Bhorade (PW 17) is the finger print expert. This witness deposed before the Court that he is a master of Arts and have passed All India Finger Print Examination of NCRB in the year 1998. He further deposed that since the year 1998 he is serving as a Finger Print Expert with Investigating Car Unit of Maharashtra and he is posted with Pune Finger Print Expert Bueau since the year 2008. He further deposed that on 13th March, 2009 their unit received a call from Control Room for inspection of finger prints in Crime No. 61/2009 with Chinchwad Police Station. Accordingly, they went to the spot of occurrence, i.e., Empire Estate Building along with scientific assistant Mr. Binwade, photographer Mr. Kshatriya and Mr. Kulkarni. He further deposed that one chance with print each over the plastic bottle and over the outer side of the refrigerator was found. However, those chance finger prints were unfit for comparison. Then they took photographs of those chance

prints. He further deposed that thereafter on 18.03.2009 their unit was again called in the same crime. Then their unit went to Chinchwad Police Station and thereafter, they went to Domestic Airport Santacruz, Mumbai. There at a Santro Car bearing No. MH-12/AF-8893 was inspected by him from outer side as well as inner side by taking key from the police officer. From the outer side to the right side doors sliding window, a chance finger print was found. He further deposed that in front of the driver seat, there was rear view mirror. Over the said mirror a chance finger print was seen. The said finger print was developed with the aid of necessary powder and photographs were also obtained. He further deposed that he has submitted photographs of four finger prints bearing chance print on each of the page as well as the specimen finger print. Then he made demand of specimen finger prints to Chinchwad Police Station and thereafter from Modus Operendi Bureau he received specimen finger prints, denoted as A-1 and B-1, on the right side of the pages. He further deposed that when he received specimen finger prints from modus operendi bureau, he carried the comparison of these specimen finger prints with chance finger prints received from the car.

This witness was also subjected to a very lengthy cross-examination. Certain suggestions were given to the witness to submit that the witness was acting under the influence of police personnel, an attempt was

also made to submit that the witness was not in receipt of the entire finger prints and on only certain partial impression of the finger prints and to support the investigating agency, this witness deposed untrue facts before the Court, all these suggestions were denied by this witness.

44. Dadabhau Bhikaji Sandbhor (PW 18). This witness deposed before the Court that he was serving as a wireman in Maharashtra State Electricity Distribution Company for considerable length of period i.e. for last 30 years. He had obtained a mobile sim card no. 9049240945 of Vodafone Company. He further deposed before the Court that due to unavailability of range he was not using the sim card and ultimately he handed over the sim card to deceased Vidya Ghorpade. He also deposed before the Court that he was treating deceased Vidya as his sister. Certain suggestions were given to the witness to submit that this witness had no acquaintance with Vidya, the witness was not knowing the Deepak Ghorpade i.e. husband of Vidya, the suggestions were denied and the witness identified the Deepak Ghorpade who was present in the Court as the husband of Vidya.

45. Dattatraya Ganpati Gadhave (PW 19) attached to Crime Branch Unit No. 3 Pune as a PSI. This witness deposed before the Court that on 14.03.2009 he was present in the office of Crime Branch. In C.R. No.

61/2009 he was directed by then in-charge of Crime Branch PI Sunil Pawar to trace and arrest accused Kiran from Kanpur and directed him to immediately proceed by plane to Kanpur. One constable namely, Steven Sundaram was also deputed with him to assist him. He further deposed that before he proceeded to Kanpur, the PI also gave him further information that the accused had moved to Lucknow and therefore, he should also proceed to Lucknow with the constable. He further deposed that on 14.03.2009 at about 09.00 p.m. initially he went by plane to Delhi but, as there was no plane available for Lucknow in Delhi, he proceeded to Lucknow in next morning with said head constable. Then he reached to Lucknow on 15.03.2009 at about 07.00 a.m. He further deposed that he had carried photograph of accused with him. PI Pawar had informed him that he had already sent photograph of accused to personnel of STF i.e. PI Mishra and Deputy Superintendent of Police Mr. Chaturvedi. At Lucknow, he met with these officers. He further deposed that the STF personnel had watched the movements of accused. They had in contact with PI Sunil Pawar. He further deposed that he came to know from STF personnel and PI Pawar that accused would come to square namely, Kapurthala Square. He further deposed that at about 11.30 a.m. they found movements of one person in the square. He further deposed that when the said person climbed down from the rickshaw, on the basis of photographs

available with them they found that the said person was accused Kiran. Hence, they caught accused. Then this witness prepared the arrest panchnama and put his signature and also obtained signatures of STF personnel over the said panchnama. He further deposed that then he took accused Kiran to Aliganj Police Station, Lucknow. He recorded detailed statement of accused in the police station. The necessary arrest form was filled by this witness. Then this witness made remand application to concerned JMFC at Lucknow to secure transit warrant for moving accused Kiran from Lucknow to Pune. He further deposed that on the basis of said remand application the concerned JMFC, granted transit warrant and custody of accused Kiran till 29.09.2009. He further deposed that thereafter on 16.03.2009 they took accused by plane initially to Delhi and from Delhi on the same day they came to Mumbai and on the same day from Mumbai by road they came to Pune. He further deposed that on the same day he handed over the custody of accused along with all necessary documents to PI Sunil Pawar. Then PI Sunil Pawar interrogated accused Kiran and thereafter PI Sunil Pawar directed him to hand over accused and documents to Chinchwad Police Station where the crime was registered. He further deposed that in their presence he seized all the articles which were previously found on the person of the accused. He further deposed that he recorded the said panchnama and obtained the signatures of panch

witness.

In the cross-examination, certain suggestions were given to the witness about any disclosure of the facts to PI Sunil Pawar who was the investigating officer attached to Crime Branch at the relevant time, a suggestion was also given to the witness that the sim card used by deceased Vidya as well as mobile hand set being used by deceased Vidya was not seized by this witness in Lucknow, these suggestions were denied by this witness.

46. Sunil Pawar (PW 20) is the Sr. PI attached to Crime Branch, Unit No. 4 of Pune City. This witness deposed before the Court that from 13.03.2009 he received an additional charge of Crime Branch, Unit No. 3 of Pune City. He further deposed that on 13.03.2009 he received information that murder of Vidya Ghorpade and her son Om had taken place. Therefore, he immediately visited the spot. Therefore, he started parallel investigation in the said case, which was registered with Chinchwad Police Station as Crime No. 61/2009. He further deposed that on the spot of occurrence he came to know that the mobile bearing no. 9449240945 and Santro car bearing no. MH-12/AF 8893 of deceased were missing. Therefore, he made requisition of call details record of the said mobile number. Then this witness deposed that upon perusal of those record he came to know that four outgoing calls were made to 9833813490 from mobile number 9049240945. He further deposed

that he came to know that mobile no. 9822813490 was in use of Prashant Hegade while mobile no. 9766878023 was in use of Prashant's father. He further deposed that when he made inquiry with said Prashant Hegade, he told him that those four mobile calls from his mobile phone were made by his friend i.e. accused Kiran. He further deposed that on 13th March, 2009, he took the location of the mobile from the mobile company and found that missing mobile of deceased Vidya was located in Mumbai. The CDR shows that the last from Prashant Hegade was made lastly at 09.06 a.m. on 13th March, 2009. Then this witness given account of details of PSI Gadhave laid trap at the place in Lucknow and accused arrested by him and STF personnel. He further deposed that on 16th March, 2009 PSI Gadhave produced accused before him and he handed over the custody of accused along with CDR and articles seized from accused to Chinchwad Police Station.

In the cross-examination, a suggestion was given to the effect that he himself visited Ventura Call Centre at about 02.00 p.m. and made inquiry about Prashant Hegade. He further stated that he had seen arrest report cum panchnama produced by PSI Gadhave. He further stated that probably on 14th March, 2009 he came to know from brother of Ravi Yadav that accused was to come at Lucknow.

47. Bhagwan Sandanshiv (PW 21) is the jail officer of Central Jail,

Yeravada, Pune. This witness deposed before the Court that on 25.03.2009 in due course of business he opened letter box in which the letters were put by the prisoners and accordingly, he made entries of all letters in the register. He further deposed that he had also prepared photocopy, certified to be true under his signature, of the relevant extract on 25.03.2009. He further deposed that at Sr. No. 5 of dt. 25.03.2009 there is entry regarding letter addressed to Raju Pujari and the true copy of the relevant date signed by him is at Exh. 135

This witness had submitted original register upon request made by the defence Counsel. This witness stated that there is no separate forms provided in the Jail Manual for maintenance of the register. The original register is meant for muster roll of the labours. He further stated that on 25.03.2009 in all 40 letters were found in the box.

48. Mahesh Madhukar Joshi (PW 22) is the Senior Police Inspector attached to Chinchwad Police Station at the relevant time. This witness deposed before the Court that on 13th March, 2009, he as well as the other police personnel were present in the Chinchwad Police Station. He further deposed that at about 11.05 a.m. PSI Todle told him that the duty officer had received a phone call of one Pravin Mandhare communicating thereby that in the flat of his sister blood was seen. Therefore, he along with other police personnel reached in the said building at about 11.30 a.m. Then Security

Officer Mr. Kanitkar took them to the said flat where Pravin Mandhare also present with some other persons. He made inquiry with him. To which Pravin told him the sequence of events in detail. He further deposed that after hearing information from Pravin, upon the direction of this witness Pravin opened the flat with key. Then this witness further deposed about entering in the flat, then saw pool of blood in drawing room itself, then a strip of blood was seen leading upto the bed room. Then they inspected the bed room which was in front of the kitchen. Then they saw two human feet were protruding from heap of clothes from said bedroom. Then he removed the heap clothes and found that deceased and Om were seriously injured. Then this witness deposed about the action taken by him in the process of investigation namely, drawing inquest panchnama, drawing seizure panchnama of articles, effecting arrest of the accused, lodgment of FIR etc, then recording statement of witnesses, forwarding communication, then forwarding the dead bodies for postmortem, sending property / article involed in the crime to the forensic science laboratory along with report for the purpose of CA, then obtaining report from CA as well as forensic science laboratory, obtaining CDR report from companies, etc. He further deposed that on the basis of investigation, he found that the Kiran Pujari is the accused. He further stated that as sufficient evidence was collected against accused, he filed charge-sheet against accused

with Judicial Magistrate F. C., Pimpri-Chinchwad, on 05.06.2009.

In the cross-examination, this witness volunteers that parallel investigation remains confidential investigation. Omission in the version of witnesses are proved through this witness. Certain suggestions were given to this witness to the effect that he himself and P.I. Sunil Pawar compelled Prashand Hegade to make statement before Judicial Magistrate F.C., Pimpri, under Section 164 of Cr.P.C. as suitable to them and he has made one sided investigation in the case only in order to implicate accused falsely in the present case, these suggestion were denied by this witness.

49. Rajendra Anant Sawant (PW 23) is the police inspector (crime) with Chinchwad Police Station at the relevant time. This witness deposed before the Court that on 13.03.2009 in the morning complainant Pravin Mandhare made a phone call to the police station and it was informed to the police that the blood was seen in the flat owned by his sister in Empire Estate Building. Therefore, along with Senior P.I. Mr. Joshi and other staff member, they went to the spot. Then this witness given details about visiting the flat, smelling leaking of gas of LPG, thereafter opening of windows, then he examined the entire flat, the two panch witnesses were called at the place, then entire flat was inspected. At that time deceased and Om were found in pool of blood on the mattress covered with heap of clothes in one room of the flat. He

further deposed that details of the spot of occurrence were noted in the panchnanama in presence of panchas. Then he stated about the steps taken by him in the process of investigation.

In the cross-examination, this witness stated about the recording of statement of accused by him. This witness stated in the cross-examination that on 18.03.2009 in the morning he himself took the decision to call for the key from Deepak Ghorpade. Certain suggestions were given to this witness that place where articles were found was visible from the expressway, accused Kiran did not make any statement before him disclosing the place of knife and t-shirt, and he did not recover any of these articles from the place, these suggestion were denied by this witness. Another suggestion was given to this witness that it was not revealed during his investigation that the car was parked from 13.03.2009 till 18.03.2009 in the said parking area, the said suggestion was denied by this witness.

50. As the evidence against the accused consist a version of 23 witnesses and the data in the form of compilation running in 250 pages, it may not be necessary for us to refer the entire evidence again and we may refer the only relevant and material factors in the evidence.

51. In so far as the complainant – Pravin Mandhare (PW 1) is

concerned, the facts emerged from his version are that the relationship between deceased Vidya and him i.e. sister and brother, the routine of Vidya, Vidya was having two mobile phone for establishing contact. When the complainant visited the flat of Vidya and opened it on 13.03.2009, he found Vidya and her son Om were brutally murdered and LPG cylinder was kept open in the flat. This witness in clear terms stated that accused was introduced to him by deceased Vidya and acquaintance between Vidya and accused, as well as the accused was frequently visiting to Vidya and was providing some help to her for minor repairs of household articles. Vidya and minor son Om died homicidal death is also established by the version of this witness.

52. It is very important to note that Vaishali Gaikwad (PW 2), maid servant of Vidya in her deposition before the Court clearly stated that the accused Kiran used to visit flat of deceased Vidya and also used to carry miscellaneous works for deceased. She also stated that minor son Om used to call accused Kiran as 'dada'. It is also important to note that an attempt was made to submit that there used to be frequent quarrels between Vidya and her husband but the suggestion was denied and she has stated that there used to be dispute between the couple and she saw once or twice disputes between the couple. Now merely because there were certain dispute between the couple on some occasions, cannot be a reason to jump to a conclusion that husband of

Vidya was either carrying a grudge or ill-motive against Vidya. Apart from this, there is another important material on record in the form of communication forwarded to the investigating agency in reply to the availability of Deepak Ghorpade (PW 16) husband of Vidya on the day of incident. In the communication it is clearly stated that Deepak Ghorpade (PW 16) had attended duty on that day in Bangalore.

53. Rupali Pimple (PW 3) also supports the case of prosecution that accused Kiran had a friendly relations with deceased Vidya and he was frequently visiting to Vidya. She further stated that though Vidya was trying to avoid visiting accused Kiran but, he was insisting upon to visit Vidya in her flat.

54. Prashant Hegade (PW 4) is the most important witness of the prosecution and we have referred to him in the earlier part of the judgment in detail. As the schoolmate of the accused and association of this witness and accused was continued and strengthen after reunion of the school batch. We may refer to the details of the phone call reflected in CDR at later part of the judgment.

55. Dheeraj Kapur (PW 5) is the superior officer of deceased Vidya. Though learned Counsel appearing for the appellant vehemently submitted

that this witness was constantly in touch of Vidya and relied on an exchange of message of sms between Vidya and this witness. Learned Counsel for the Appellant further submitted that this witness stated before the Court that the relations between deceased and him was only as office colleagues but the messages shows otherwise. After going through the material on record, we may say that the association between deceased Vidya and this witness was more than official colleagues but by itself it cannot be a reason to attribute any ill-motive against this witness. This witness then provides details of two mobile phone by which contact with deceased Vidya was established. It may not be out of place to state here that sms inbox mobile phone of this witness was opened in the Court at the time of examination-in-chief of this witness upon recalling this witness. Perusal of sms only reiterates that the association between deceased Vidya and this witness was closed and it was more than official colleagues. Perusal of record further show that this witness was giving emotional support to deceased Vidya.

56. Sanjay More (PW 6) and Ashok Bardiya (PW 7) are the panch witnesses.

57. Raju Shetty (PW 8) is the security guard. This witness supports the case of prosecution that the accused took away the Santro car in the night

of the incident and reached at Domestic Airport, Santacruz, Mumbai. The car was parked in the parking area. Parking receipt was issued by this witness to the accused.

58. Sharad Kshatriya (PW 9) is the member of I-Car unit. We have already referred to the version of this witness in detail.

59. As we have already referred to the version of witnesses, it may not be necessary for us to refer version of witnesses again except the version of Mr. Joshi (PW 22) who took over the investigation and carried it by complying necessary formalities of the investigation.

60. Mr. Joshi (PW 22) stated that he collected the information of mobile phone numbers of Vidya from her brother Pravin. Then he makes a reference to a mobile handset produced by the accused having sim card bearing no. 9860899969 and the same was seized by drawing panchnama. A reference was also made to IMEI number of the mobile i.e. 354552/01/386287/07. Then there is a reference of the mobile numbers which were revealed in the process of investigation and accordingly CDRs sought for and for reference we may produce the same :

32. On 21st March, 2009 I sent a report to ACP Pimpri in order to call details record of eight mobile numbers, i.e.

(i) 9890569222

- (ii) 9049240945
- (iii) 9890807554
- (iv) 9890230161
- (v) 9822819490
- (vi) 9766878023
- (vii) 9890814645
- (viii) 9765400195

61. It may not be out of place to state there that one of the phone being used by Vidya was handed over to her by Dadabhau Sandbhor (PW 18). Though, learned Counsel appearing for the Appellant submitted that as there was no relations between Vidya and this witness, the theory of the mobile phone of this witness being used by Vidya is not sustainable. We are unable to accept these submissions of learned Counsel for the reason that Dadabhau Sandbhor (PW 18) in his testimony before the Court specifically stated that he was knowing Vidya and was treating her as his sister. He further stated before the Court that he was not using the said mobile phone therefore, he handed over the same to Vidya.

62. Though it was vehemently submitted by learned Counsel for the Appellant that the prosecution failed to establish that the accused was in the flat of Vidya on 13.03.2009 and he received certain phone calls and also forwarded phone calls to Prashant Hegade (PW 4), we are unable to accept the

submissions of learned Counsel for more than one reason. Firstly, the appellant accused admitted the CDR and permitted the same to be exhibited before the Court and those forming the part of the evidence. Secondly, the necessary reference to mobile phone calls of receiving phone calls or forwarding the calls and the location of the person at the relevant time, in our opinion, clearly supports the case of prosecution.

63. A separate compilation of the CDRs was placed before this Court by the learned Counsel appearing for the Appellant along with photocopies of certain documents such as, the application form for mobile phone, copies of text of sms between Vidya and Dheeraj Kapur, etc. As compilation runs in more than 250 pages, it may not be necessary for us to refer the compilation in detail. Suffice it to say that, on perusal of these CDRs, it is noticed by us that there was a contact between deceased and accused and then accused forwarded certain calls to Prashant Hegade (PW 4) on his number as well as on the phone number of his father. As an illustration, we may refer to certain entries as follows:

Sr. No.	Mobile No.	IMEI_No	Call Time	Call Type	Called_Calling No.	Duration_in_Sec.	Cell Id.
120	9890569222	353954011064790	3/4/2009 8:32:23 AM	INCOMING CALL	9049240945	53	51362
121	9890569222	353954011064790	3/4/2009 8:37:47 AM	OUTGOING CALL	9049240945	220	51362
837	9890569222	353954011064790	3/11/2009 7:08:54 AM	INCOMING SMS	9765400195	1	3253
841	9890569222	353954011064790	3/11/2009	INCOMING	9765400195	16	51363

			9:01:21 AM	CALL			
843	9890569222	353954011064790	3/12/2009 8:29:03 AM	INCOMING CALL	9765400195	16	51362

We may also refer to an entry from the compilation under the caption CDR from date 03/03/2009 from 03/17/2009 and mobile no. 9890230161

Sr. No.	Mobile No.	IMEI_No	Call Time	Call Type	Called_Calling No.	Duration_ in_Sec.	Cell Id.
227	9890230161	351870010016980	3/12/2009 6:30:45 PM	INCOMING CALL	05224030100	28	51362

64. CDR reports placed on record show that Prashant Hegade (PW 4) used the mobile phone of his father bearing no. 9766878023 to establish contact with the accused as initial call received by him initiated on his mobile phone no. 9822813490 could not be completed because of insufficient balance. Then Prashant Hegade (PW 4) made a phone call to accused on mobile phone no. 9049240945 and as per CDR record this call lasted for 636 seconds. Prashant Hegade (PW 4) deposed before the Court that in this conversation accused made disclosure i.e. extra-judicial confession in the words “maine mere girlfriend ka khoon kiya”. It is not in dispute that CDR of the mobile phone no. 9049240945 is admitted by the defence which is at Exhibit 112. Exhibit 42 the another CDR is indicative of the phone calls made by Prashant Hegade (PW 4) on the mobile phone of deceased Vidya as well as to the accused on his phone number 9049240945 on 12th and 13th March,

2009. CDR further show that two phone calls were made from landline number.

At the cost of repetition, it may be stated that the CDR of all above-referred mobile numbers and landline number were admitted by the defence.

65. CDR report further show that the accused who was possessing two mobile phone i.e. his phone and deceased Vidya's phone (mobile phone no. 9049240945) have shown location on 12.03.2009 at 23.23 hours passing through Dehu Road toll naka. The prosecution has already placed on record the receipt Exh. 85 of Dehu Road toll naka which was seized from Santro car under panchnama Exh. 82. The CDR and the receipt of toll naka, these documents were admitted by the defence. There is a reference of phone call from a phone number 9860899969. This mobile phone was of brother of accused and the CDR exhibit nos. 148 and 140 show exchange of calls between mobile phone no. 9890230161 i.e. of the accused and mobile phone no. 9860899969 i.e. brother of accused.

66. As stated above, the accused in his statement under Section 313 of the Code of Criminal Procedure replied to question no. 04 stating that he attended the marriage of complainant to accompany his sister, and in question

no. 10 he stated that he was not knowing deceased Vidya, but in the photographs produced by the complainant - Pravin Mandhare (PW 1), it is seen that the accused had participated in many functions and complainant – Pravin Mandhare (PW 1) specifically deposed before the Court that the accused was introduced to him by his sister and he had attended the marriage.

67. An attempt was made by the learned Counsel for Appellant to submit before this Court that there is no positive evidence before the Court to show that Prashant Hegade (PW 4) had a conversation with accused Kiran. We have gone through the vernacular version of this witness and he has stated before the Court as “मी किरण शी बोललो”. This clearly establishes the fact that the accused had established contact with his friend Prashant Hegade (PW 4). In view of this material, we are unable to accept the submissions of learned Counsel Mr. Shetty that the prosecution failed to establish that there was any conversation between accused and Prashant Hegade (PW 4).

68. An attempt was also made to submit before this Court that no mobile phone was seized from the appellant at Lucknow. Perusal of record clearly show that the mobile phone of accused was seized at the time of his arrest and this reflected in the version of PSI Gadhave. On perusal of evidence, we are also unable to accept the submission of learned Counsel Mr. Shetty that

as no independent witnesses examined by the prosecution becomes doubtful. As stated above, though neighboring flat owners or the residents of the society were not examined by the prosecution, but the prosecution has examined certain other important witnesses in support of its case and merely because some of the witnesses either in relation with Vidya or having some association with Vidya cannot be a reason to doubt their version, if their version is a truthful account. It is also settled principle that it is the quality of witnesses and not the quantity of witnesses which assumes importance.

69. We are also unable to accept the submission of learned Counsel Mr. Shetty that as it was a case of double murder and as there were successive blows it was not an act of one person only, this submission of the learned Counsel would be only on assumptions and presumption and we cannot accept the same as gospel truth. Learned Counsel for the Appellant submitted that the prosecution failed to establish the alleged recovery at the instance of accused.

On perusal of the evidence, we are of the opinion, that even though the prosecution was not successful in establishing the recovery of the weapon at the instance of the accused, the same cannot be a reason to throw out the entire prosecution case as a doubtful and suspicious case.

70. As referred to above, learned Counsel Mr. Shetty in support of its submission relied on certain judgments. Though, there cannot be any dispute on the legal proposition reflected in the judgments. Considering the facts and the evidence referred to above, judgments relied on by learned Counsel appearing for the Appellant are not applicable in the present case. On the contrary, we find considerable merit in the submission of learned APP. Learned APP was justified in placing reliance on the judgment of the Apex Court in the matter of Vice-Chairman, Kendriya Vidyalaya Sanghathan and Another vs. Girdharilal Yadav (supra). In paragraph 11 of the said judgment the Hon'ble the Apex Court observed thus:

11. The admitted facts remain that the respondent is a permanent resident of Haryana. It further stands admitted that at the relevant time, Ahirs/Yadavs of Haryana were not treated as OBC. It further stands admitted that the respondent obtained a certificate showing that he was a resident of Rajasthan, which he was not. It is not disputed that a detailed enquiry was conducted by the District Magistrate, Kota, wherein the respondent had been given an opportunity of hearing. It is also not in dispute that he had given an opportunity to show cause as to why his appointment should not be cancelled not only by the appointing authority but also by the Appellate Authority. **In terms of Section 58 of the Indian Evidence Act, 1872 facts admitted need not be proved. It is also a well-settled**

principle of law that the principles of natural justice should not be stretched too far and the same cannot be put in a straitjacket formula. (Emphasis supplied)

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71. On minute scrutiny of the above referred material, we find considerable merit in the submissions of learned APP. We are of the opinion that the prosecution with reliable and trustworthy evidence, established its case against the appellant beyond reasonable doubt. Appeal, thus, being meritless, deserves to be dismissed. Accordingly, Criminal Appeal is dismissed.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)