

IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

CRA (DB) 71 of 2022

With

CRAN 2 of 2022

Surajit Mullick

Vs.

The State of West Bengal

For the Appellant : Mr. Aniket Mitra, Adv.
Mr. Swarvanu Saha, Adv.
Mr. Sumon Pathak, Adv.

For the State : Mr. Nguive Ahmed, Ld. APP
Mr. B. Panda, Adv.
Ms. P. Saha, Adv.
Mrs. Trina Mitra, Adv.

Hearing Concluded on : April 10, 2023
Judgement on : April 19, 2023

DEBANGSU BASAK, J.:-

1. The appellant has assailed the judgement of conviction dated August 30, 2017 and the order of sentence dated August 31, 2017 passed by the learned Special Court cum Additional District Sessions Judge, Alipore, South 24 Parganas in Sessions Trial No. 01 (01) / 2012 arising out of Sessions Case No. 26 (06) / 2011.

2. Police had received a written complaint from Prosecution Witness (PW) 1 on February 4, 2011. Police had registered such written complaint as New Alipore Police Station F.I.R No. 17 dated February 4, 2011 under Section 302/201 of the Indian Penal Code, 1860. Police had investigated on such First Information Report and submitted a charge sheet against the appellant under Section 302 / 201 of the Indian Penal Code, 1860. Court had framed charges as against the appellant under Section 302 / 201 of the Indian Penal Code, 1860.

3. The case of the prosecution at the trial was that PW 1 had noticed a cartoon lying at the left side of the foot path in front of the main gate of the gym since morning. At about 9:45 A.M, he had noticed two police person standing at the side. He had reported to such police persons about the cartoon box. When the police personnel had come to the spot and opened the cartoon box, they found a female dead body. PW 1 had lodged a written complaint on the basis of which the police case was started. The appellant had strangled his wife at their residence and left the dead body of the victim in a cartoon at the place where such dead body inside the cartoon was discovered.

4. At the trial, the appellant had pleaded not guilty to the charges framed on January 5, 2012 by the Court and claimed to be tried. At the trial, the prosecution had relied upon 23 witnesses and various documentary and material exhibits to prove the charges against the appellant beyond reasonable doubt.

5. On conclusion of the evidences of the prosecution, the appellant had been examined under Section 313 of the Criminal Procedure Code where he claimed to be innocent and falsely implicated. He had declined to adduce any defence witness.

6. By the impugned judgement of conviction, the appellant had been found guilty under Section 302 and 201 of the Indian Penal Code, 1860. By the impugned order of sentence, the learned Trial Judge had sentenced rigorous imprisonment for life and to pay a fine of Rs. 10,000 for the offence punishable under Section 302 of the Indian Penal Code, 1860 and further rigorous imprisonment for five years and to pay fine of Rs. 2,000 for the offence punishable under Section 201 of the Indian Penal Code, 1860.

7. Learned advocate appearing for the appellant has submitted that, the prosecution did not produce any eye witness to the incident. The prosecution had relied upon circumstantial evidence to prove the charges. According to him, prosecution had failed to complete the chain of circumstances so as to establish the charges as against the appellant beyond all reasonable doubt. In support of such contention learned advocate appearing for the appellant has relied upon **1989 Supp 2 Supreme Court Cases 706 (Padala Veera Reddy vs. State of Andhra Pradesh and Others).**

8. Learned advocate appearing for the appellant has submitted that the test identification parade claimed to have been carried out to identify the appellant was vitiated. He has referred to the deposition of PW 6, PW 7, PW 8 and the learned Judicial Magistrate before whom, the test identification parade had been carried out in support of his contention.

9. Learned advocate appearing for the appellant has submitted that, PW 1 did not produce any document to prove that he worked in the gym and was present on that particular date and time to see the cartoon lying on the road for a long time. He has contended that, presence of PW 1 was doubtful

since no General Diary was lodged by the police officer. The officer-in-charge of the police station to whom PW 1 narrated the incident was not examined to elicit the truth. In addition thereto, PW 5 who had first opened the cartoon admitted in his cross-examination that he did not lodge any General Diary which is normally done by a reasonably prudent officer in a murder case. The police did not start any unnatural death case immediately after the identification of the dead body.

10. Learned advocate appearing for the appellant has submitted that, PW 17 who claimed that he saw both the victim and the appellant at 10 A.M was not trustworthy. He has referred to the cross-examination of such witness and contended that, PW 17 left his office at about 9/9:30 A.M and returned at 6:30 P.M. Therefore, his contention of having seen the appellant and the victim together at 10:30 A.M was an afterthought, concocted and manufactured story.

11. Learned advocate appearing for the appellant has submitted that, PW 10 claimed that on February 3, 2011 her daughter left for office at 6 A.M. When her daughter did not return she went to the office of her daughter where she had been informed by the darwan/gate keeper that the appellant took

her daughter out from the office. However, the darwan/gate keeper of the office had not been examined.

12. Learned advocate appearing for the appellant has contended that, the prosecution failed to prove the motive of the murder. None of the prosecution witnesses had alluded to any motive for the murder. In absence of motive, conviction for murder could not be sustained. At best it could be an offence under Section 304 Part II of the Indian Penal Code, 1860.

13. Learned advocate appearing for the appellant has submitted that, the post mortem report shows that there was smell of alcohol in the stomach of the victim. Prosecution has not alluded to such aspect at the trial.

14. Learned advocate appearing for the appellant has submitted that, when two views are possible the one favouring the accused should be taken. In support of such contention, he has relied upon **2023 SCC Online 275 (Pradeep Kumar vs. State of Chhattisgarh)**.

15. Learned advocate appearing for the State has contended that, the prosecution was able to establish the charges as against the appellant beyond all reasonable doubt. He has referred to the testimonies of the prosecution witnesses. He

has referred to the post mortem report of the victim and contended that the victim was murdered. The appellant and the victim had been last seen together. The appellant did not explain the unnatural death of the victim having been last seen together with the victim.

16. Learned advocate appearing for the State has submitted that, the appellant had murdered the victim, put the body of the victim in the TV cartoon, removed it from the place of occurrence, and placed it at the footpath from where it was discovered. Appellant had purchased the cartoon box of TV from a shop. He had taken the cartoon TV box containing the dead body of the victim to the footpath with the help of a driver of a taxi who was unaware of the contents of the cartoon box. He has contended that the judgement of conviction and the order of sentence should be affirmed.

17. The care taker of the gym had deposed as PW 1. He had stated that, he was the care taker of the Body Line Gym since December 2008 and that the gym opens at 6 A.M in the morning. On February 4, 2011, at about 6 A.M when the main gate of the gym was opened, he came out by such gate and found on the left side of the footpath in from of the gate one TV cartoon box. He did not give much importance then and

had engaged himself in different works. He had found that nobody had taken away the cartoon box even up to 9 A.M. At 9:45 A.M he had noticed two police personnel standing by the side of motorcycle on the opposite side of HDFC Bank. He had reported about the cartoon box to such police personnel. Then those police personnel had come there and saw the cartoon box and made telephone call. Thereafter, some other police personnel along with those two police had come to the spot and opened the cartoon box. He had been present there. After that a female dead body covered by a blood-stained bed sheet had been found inside the cartoon box. Police had surrounded such box. Police had recorded his statement over the matter. His statement was tendered in evidence and marked as Exhibit 1.

18.The police personnel who had prepared the rough sketch map where the TV cartoon box containing the dead body of the victim was found had deposed as PW 2. He narrated about the preparation of the rough sketch map and the final sketch map. He had tendered the rough sketch map and final sketch map in evidence which was marked as Exhibit 2 collectively.

19.The police constable who had taken the photographs on February 4, 2011 had deposed as PW 3. He had narrated

about the taking of the photographs of the TV box. He had taken photographs at B.F Siding Railway Quarter, 3rd floor, Flat No. 7, Building No. 106/A on February 9, 2011. Photographs taken by him had been tendered in evidence and marked as Material Exhibit I and II collectively.

20.The police constable who was informed by PW 1 with regard to the TV cartoon box on February 4, 2011 had deposed as PW 4. He had stated that, after PW 1 told them as to the TV cartoon box they went to the place and found the TV cartoon box and one blank key board box of computer lying on such cartoon box. He had searched near about to get the person who was the owner of the same but could not get any person claiming ownership.

21.At about 9:45 P.M PW 4 had informed the matter over phone to the duty officer of the police station. Such duty officer had first come alone and thereafter, the officer-in-charge of the police station along with other person had come to the spot. The duty officer had opened the cartoon box and dead body of the victim was noted inside. Thereafter, all those officers had opened the cartoon box and found a female dead body whose hands and legs were tied by a rope lying inside the cartoon box. The dead body had been covered by a plastic

first and thereafter by a bed sheet. Thereafter, the officers had taken the cartoon box along with the dead body to the hospital.

22.The duty officer of the police station on February 4, 2011 had deposed as PW 5. He had stated that he received one telephone call at about 9:45 A.M from PW 4 informing him of a TV cartoon box lying without any claimant in front of the gym. He had gone to the spot and found the TV cartoon box lying there. He had also seen some persons standing in scattered way. He had noticed one blank key board of a computer lying on the cartoon box. He had initially opened the T.V cartoon box and noticed one female dead body lying inside. He had stated that, the dead body was firstly covered by a plastic and thereafter by a bed sheet. He had informed the matter to the officer-in-charge who along with other police personnel came to the spot after sometime. Thereafter, the officer-in-charge had fully and carefully opened the TV cartoon box and they noticed that a female dead body whose hands and legs was tied by a rope was kept there inside. Thereafter, as per the order of the officer-in-charge he had taken the cartoon box and the dead body to SSKM Hospital who declared the victim brought dead.

23.A fruit selling shop owner had deposed as PW 6. He had stated that, he had a shop opposite the gym. On February 4, 2011 at about 5:35 A.M he had found one TV cartoon box was lying on the road in front of the gate of the gym. He had also found one person standing by the side of the cartoon box shorter in height than him. After sometime such person had gone away towards Sahapur Road. He had identified the appellant in Court as the person who he found on February 4, 2011. He had stated that, he identified the appellant at the Presidency Correctional Home in the test identification parade.

24.A car washer had deposed as PW 7. He had stated that, his profession is to wash motor vehicles of different owners in the area of NRS Avenue. On February 4, 2011 at about 5:30 A.M in the morning while he was passing by the side of the gym he had found one taxi coming there. Thereafter one boy and taxi driver had come down from the taxi. They had opened the back portion of the taxi and moved out one TV cartoon from the dicky and kept the same on the footpath in front of the gym. He had identified the appellant as the person. He had stated that he identified the appellant at Presidency Correctional Home in the test identification parade.

25.The taxi driver had deposed as PW 8. He had stated that, in the month of February 2011 he was standing along with his taxi at Santa Singh More, Howrah. At that time the appellant had come to him and asked him to accompany him to his house for bringing some materials for going to Mandirtala. The appellant had seated in his taxi and he took the appellant to a three storied building near the railway colony by the side of railway quarters. Thereafter going to the third floor he and the appellant had brought one cartoon containing computer and another cartoon containing the key pad of the computer as he told by the appellant to the taxi. The appellant had also told him that the appellant wants to take such articles for repairing purpose.

26.PW 8 had identified the cartoon box and the small cartoon in Court. The cartoon paper and the small empty cartoon had been tendered in evidence and marked as Material Exhibit I collectively. He had taken the articles in the dicky of the taxi and went to the bridge at Mandirtala and left the person at the bridge of Mandirtala. After receiving the fare, he had left the place. He had attended the test identification parade at the Presidency Correctional Home where he identified the appellant.

27.A betel shop owner had deposed as PW 9. He had stated that, on February 4, 2011 at about 11:30/12 O' Clock when he came to open his shop, he had noticed several police personnel standing on the footpath in front of the gym. He had gone to the place and noticed one big cartoon box and one small cartoon box lying over it on the footpath. Sometime later, police had opened the box in presence of several persons including him and inside the box one female body was recovered by the police in his presence. Thereafter, the police had taken away the female dead body on their vehicle and left the place. Police had recovered three bed sheets which were blood stained and some rope. Police had prepared one seizure list which he signed. He had identified his signature on the seizure list as also on the cartoon. The seizure list had been tendered in evidence and marked as Exhibit 2. He had identified his signatures on the various articles seized by the police on February 4, 2011 in front of the gym.

28.The mother of the victim had deposed as PW 10. She had stated that, the appellant is the stepson of his son. She had identified the appellant in Court. She had stated that, the victim used to reside with her. The victim used to leave the house for her office at about 6 AM in the morning and used to

return to the house after work at about 11 AM. On February 3, 2011, the victim had left the house for her office at about 6 AM but did not return. She had gone to the office of her daughter/victim when she was reported by the colleagues of the victim that the victim came to the office and after work left office. She had thereafter returned to her house. At 12 o'clock, she had received a telephone call from the appellant asking her to visit him at Shibpur Ghat but she said that she did not know the place. She had made a telephone call to the mother of the appellant and reported the matter. Thereafter, the mother of the appellant had come to her house and took her to Shibpur Ghat. Finding no person there, she and the mother of the appellant had returned to the house. At the evening, relatives had come and took her to the Shibpur police station to lodge a missing diary in respect of the victim. After about 3 days on February 6, 2011, her relatives had informed her for the first time that the victim was murdered and her dead body was kept in a cartoon box.

29. PW 10 had identified the ornaments of the victim in Court. Such ornaments had been seized by the police. She had stated that, her relatives suspected that the appellant committed the murder of the victim and that she believed that the appellant

did so. She had stated that, the victim was deaf and dumb and as such she used to go with the victim to her office regularly excepting the day when the victim became missing. The husband of the victim had died in the year 1999. When she had gone to the office of the victim on February 3, 2011, the gatekeeper had told her that the appellant came to the office and took the victim away from the office.

30.In cross-examination, PW 10 had stated that, the relation between her and the victim on one part and the appellant on the other was not at all good. The father of the appellant would have been the next person to claim the flat in which she was residing after her death and the death of her victim.

31.An acquaintance of the appellant had deposed as PW 11. He had stated that he knew the appellant. The appellant used to reside on the top floor of the same building where he used to reside at the ground floor. He had seen the police visit the flat of the appellant twice with an interval of 3/4 days between the 2 visits. On the first visit of the police, several persons had assembled in the flat of the appellant. He had also been there. Police had collected some articles and prepared a seizure is a list. He had signed such seizure list. He had identified his signature on the seizure list dated February 2, 2011 which

was tendered in evidence and marked as Exhibit 3. He had identified the material exhibits. He had stated that he was also present on the 2nd visit of the police on February 19, 2011 when the police seized some other articles. He had identified his signature on the seizure list dated February 19, 2011 which was tendered in evidence and marked as Exhibit 4. He had also identified the material exhibits.

32.The owner of a jewellery shop had deposed as PW 12. He had stated that, police seized various articles from a shop on February 11, 2011. He had identified the articles seized by the police on such date. He had identified his signature on such seizure list which was marked as Exhibit 5.

33.The mother of the appellant had deposed as PW 13. She had stated that, out of her first marriage, the appellant and her younger son were born. Subsequent to her divorce, she had married Sital. At about 7:30/8 AM on February 3, 2011 she and her younger son had gone out of the flat of the victim for going to Bagnan where at that time construction work for her house was going on. At about 11/11:30 AM on the same day the mother of the victim had called her over mobile phone and reported to her that the victim was missing from her flat and that she was not getting any trace of the victim. Thereafter,

she had received a telephone call from the appellant who wanted to know from her as to her whereabouts. After about 10/15 minutes the mother of the victim had called her over phone and reported to her that the appellant had told her to go to Shibpur Ghat but she told the mother of the victim not to go there and wait till she came. She had stated that the victim was deaf and dumb.

34.PW 13 had stated that about 6/7 months earlier than the incident of February 3, 2011, the victim was missing and was recovered from Santragachi Station weeping and showing towards the appellant indicating that the appellant took her there. She had stated that the relation between her 2 sons were not good. They could not tolerate each other. Even the relation between the appellant and the victim was also not proper/good.

35.PW 13 had stated that she had returned from Bagnan to the flat of the mother of the victim at about 3/3:30 PM. About one and half hour thereafter appellant had come to the flat. She has asked the appellant as to whether he knew the whereabouts of the victim when he declined to disclose anything or refused to say. He had also stated that he did not take the victim anyway. She and her 2 sons and another local

person had gone out for search of the victim at Shibpur Ghat and other places but failed to trace out the victim. They had returned to the flat of the mother of the victim in the evening. Thereafter, the mother of the victim along with others had gone to the police station to lodge a missing dairy in respect of the victim.

36. PW 13 had stated that, she and the appellant went to New Alipore police station on February 4, 2011 after getting news that one dead body of a woman had been found. They had failed to identify the victim on such date from the photograph shown to them. On the following day on February 6, 2011, she and others had gone to the hospital at about 12:30 PM as per the advice of the police. On being shown the dead body of the victim, they had identified her.

37. PW 13 had stated that, the appellant once kidnapped her youngest son to extract money from them and demanded a sum of Rs. 3 lakhs. The appellant had kept confined his younger brother for about 7 days. Ultimately on failing to succeed with his plan, appellant had returned with his brother to the house. She had stated that, the appellant was always in the habit of extracting money from them by different ways and making plans. The appellant was a very greedy

person and had extracted money and property from them. She had identified the appellant in Court.

38. PW 13 had stated that on the very day of the identification of the dead body, police took them to the police station and interrogated all of them. After some time, police had asked her to go to another room along with the appellant for making enquiry about the death of the victim. When she as a mother, discussed with her son, the appellant, and asked him several questions, the appellant ultimately admitted before her that he actually committed murder of the victim by strangulation with the help of a nylon string green in colour which was on the one the of the railway quarter for placing wet clothes to dry. Thereafter, police had arrested the appellant on the same evening of February 6, 2011 and released them from the police station. She had stated all such things to the police when she was interrogated during investigations. Police had seized the green colour plastic rope/string. She had identified the material exhibits.

39. The first Doctor who had attended to the victim on February 4, 2011 deposed as PW 14. He had tendered the injury report of the victim in evidence which was marked as Exhibit 7. He had stated that he found injuries on the body of the victim.

40.The police personnel who had held the inquest on the dead body of the victim on February 4, 2011 had deposed as PW 15. He had tendered the inquest report in evidence which was marked as Exhibit 8.

41.The doctor who had performed the post-mortem on the dead body of the victim had deposed as PW 16. He had opined that the death was due to the effects of strangulation by ligature as noted in the post-mortem report, antemortem and homicidal in nature. He had tendered the post-mortem report which was marked as Exhibit 9. He had stated that strangulation might be caused by using the type of nylon rope being material exhibit II. He had sent the wearing apparel for forensic examination. He had identified the signature upon the label which was marked as Exhibit 10/1.

42.A relative of the victim had deposed as PW 17. He had stated that on February 3, 2011 at about 10 AM in the morning he had noticed the victim and the appellant on the road at the place where the victim had one official quarter. On the same day at about 3/3:30 PM he had received a phone call of his wife stating that the victim was missing. On the same day at the evening when he had returned home from his office, he came to know that the victim left home in the

morning and did not return till the evening. He had then advised the mother of the victim to lodge the missing dairy with the police station. Thereafter he along with his wife and some local people and the mother of the victim had gone to the police station at about 7:55 PM and lodged a missing dairy about the victim. He had read about the finding of the dead body in the TV cartoon box on February 5, 2011. At about 4:30/5 PM on February 5, 2011 he had received a call from his wife stating that the dead body found was of the victim. On February 6, 2011 at about 12 noon being accompanied by the police he had gone to the morgue of the hospital and noticed the dead body of the victim. On February 7, 2011, the dead body of the victim had been received by a relative. He had identified the appellant in Court.

43.The relative of the victim who had received the dead body of the victim from the morgue deposed as PW 18. He had stated that he received such dead body and thereafter the victim was cremated. He had identified his signature on the carbon copy of the paper by which he was authorised by the police to receive the dead body of the victim. His signature had been tendered in evidence and marked as Exhibit 11/1.

44.An employee of the company which had sold a TV set to the appellant deposed as PW 18. He had identified his signature on the seizure list which was marked as Exhibit 12/1. He had identified the invoice in the name of the appellant for purchase of a TV set from the shop. He had identified his signature on the invoice. He had identified the signature of the other person appearing on the invoice which were tendered in evidence and marked as Exhibit 13/1 and 13/2.

45.A police personnel in presence of whom police seized articles on February 7, 2011 had deposed as PW 20. He had identified his signature in the seizure list which was marked as Exhibit 3/1 and 3/2. He had identified his signature on the next seizure list which was marked as Exhibit 4/1. He had identified his signature on the labels of various material exhibits. He had also identified the material exhibits. He had tendered the missing diary which was marked as Exhibit 15/1.

46.The Judicial Magistrate before whom the test identification parade of the appellant had been held on February 23, 2011 deposed as PW 21. He had narrated about the holding of the test identification parade. He had tendered the report of the

test identification parade dated February 23, 2011 which was marked as Exhibit 16.

47.The judicial Magistrate before whom test identification parade of the appellant had been held on March 25, 2011 deposed as PW 22. He had tendered the test identification parade which was marked as Exhibit 16/2.

48.The investigating officer had deposed as PW 23. He had narrated about the course of investigations. He had tendered various documents which were marked as exhibits. He had also identified various material exhibits.

49.On completion of the evidence of the prosecution, the appellant had been examined under section 313 of the Criminal Procedure Code where he claimed to be innocent and falsely implicated. He had declined to examine any defence witness.

50.Police had recovered the dead body of the victim from inside a TV cartoon box in front of a gym on February 4, 2011. The dead body of the victim had been taken to the hospital where the first doctor who attended to the dead body, being PW 12 stated that the victim was brought dead. He had found

injuries on the dead body of the victim. The injury report had been tendered in evidence and marked as Exhibit 7.

51.Post-mortem on the dead body of the victim had been conducted by PW 16. He had opined that the death was due to the effects of strangulation by ligature, antemortem and homicidal in nature. He had identified material exhibit II as the nylon rope which could have caused the strangulation. The defence did not cross examine PW 16 with regard to his opinion that the death of the victim was due to the effects of strangulation, antemortem and homicidal in nature.

52.Prosecution had established that the victim was murdered. The dead body of the victim had been discovered in a Samsung TV cartoon box. Appellant had been seen by PW 18 to be buying a 21 inches Samsung coloured TV. The purchase invoice bearing the signature of the appellant had been tendered in evidence and marked as Exhibit 13/1 and 13/2.

53.PW 6 had seen the appellant with in the Samsung TV cartoon box on February 4, 2011 at about 5:35 AM. PW 6 had identified the appellant in the Presidency Correctional Home during the test identification parade. PW 7 had seen the appellant to take out the TV cartoon box from the dicky of the taxi on February 4, 2011 at about 5:30 AM. He had also

identified the appellant at the Presidency Correctional Home during the test identification parade.

54.The taxi driver who was engaged by the appellant on February 4, 2011 had deposed as PW 8. He had stated that the appellant had come hire a taxi in the morning of February 4, 2011. Appellant had hired him. At the request of the appellant PW 8 had brought down the TV cartoon box along with another small box and placed it in the dicky of the taxi and carried the appellant and such articles to the place where the TV cartoon box had been removed from the taxi and kept on the footpath near the gym. He had identified the TV cartoon box being material exhibit II. He had also identified the appellant in the test identification parade held at the Presidency Correctional Home.

55.Save and except the bald assertion that the test identification parade was vitiated nothing of substance had been drawn to our attention regarding the invalidity thereof.

56.PW 1 had seen the subject TV cartoon box to be lying in front of the gate of the gym since 6 AM on February 4, 2011. He had noticed the same to be lying unattended till he informed to police personal at about 9:45 AM.

57. Prosecution has therefore established that, appellant brought the subject TV cartoon box from the railway quarter till the place where it was found. When the TV cartoon box had been opened, the dead body of the victim was discovered.

58. The appellant had pledged ornaments belonging to the victim with PW 12. PW 12 had identified the appellant as the person who had come to his shop to pledge the ornaments of the victim. The mother of the victim had identified the ornaments pledged by the appellant with PW 12 as those belonging to the victim. Appellant had pledged such ornaments with PW 12 on February 4, 2012 which is the date when the dead body of the victim had been discovered. Victim had gone missing since February 3, 2011. A missing dairy with regard thereto had been lodged with the police.

59. PW 17 had seen the appellant and the victim on February 3, 2011 at about 10 AM in the morning on the road near the railway quarter.

60. Significantly, the mother of the appellant had deposed as PW 13. She had stated that, the appellant confessed before her at the police station that he had murdered the victim. PW 13 had also stated that, the appellant had history of being greedy and demanding money and property. On one occasion

the appellant had kidnapped his younger brother and demanded ransom from PW 13. Appellant had returned with his younger brother after 7 days when the family did not meet the demands of the appellant.

61.The testimony of PW 13 with regard to the confession made by the appellant as to his guilt in the crime that he was charged with, is trustworthy and reliable. PW 13 is the mother of the appellant. Learned advocate appearing for the appellant has not drawn the attention of the Court to any material on record to disbelieve the testimony of PW 13 with regard to the extrajudicial confession of the appellant.

62.Extrajudicial confession if found to be reliable and trustworthy can form the basis of conviction. It is not a hard and fast rule of evidence that extrajudicial confession needs to be corroborated if it is otherwise trustworthy and reliable. In this regard reference can be made to **2010 volume 11 Supreme Court Cases 142 (Podyami Sukada versus State of Madhya Pradesh)**.

63.Prosecution has therefore completed the chain of circumstances leading to the irresistible conclusion that the appellant was the murderer of the victim and none else.

64. In ***Padala Veera Reddy (supra)*** the Court on appreciation of the evidence led by the prosecution has found that the circumstantial evidence established that the trial was not sufficient to conclusively establish the guilt of the accused persons. Facts and circumstances of the present case are different.

65. In ***Pradeep Kumar (supra)*** the Supreme Court has observed that, in cases where heavy reliance is placed on circumstantial evidence, and where 2 views are possible, one pointing to the guilt of the accused and the other towards his innocence, the one which is favourable to the accused must be accepted. In the facts of the present case, learned advocate appearing for the appellant has not drawn the attention of the Court to any fact which points to the innocence of the appellant on the basis that 2 views are possible on such fact established at the trial and that the view favourable to the appellant should be accepted. In such circumstances the ratio of ***Pradeep Kumar (supra)*** is not attracted to the present case.

66. In view of the discussions above, CRA (DB) 71 of 2022 is dismissed. The impugned judgement of conviction and the order of sentence are upheld.

67.In view of the dismissal of the appeal nothing survives in CRAN 2 of 2022 and the same is also dismissed.

68.The sentences awarded shall run concurrently.

69.The period of detention suffered by the appellant till date shall be set off against the sentences awarded.

70.Trial Court records along with a copy of this judgement and order be transmitted to the appropriate Court forthwith.

71.Urgent Photostat certified copy of this judgement and order if applied for the made available to the parties expeditiously.

[DEBANGSU BASAK, J.]

72.I agree.

[MD. SHABBAR RASHIDI, J]