

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

% Reserved on: 24th January, 2023
Decided on: 19th April, 2023

+ **CRL.A. 1226/2018**

AJAY DURLABH Appellant
 Represented by: Ms. Raminder Kaur and Ms.Naina
 Bajaj, Advocates.

versus

THE STATE Respondent
 Represented by: Mr.Laksh Khanna, APP for State
 with Insp. Yogendra Kumar, PS
 Govind Puri.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MS. JUSTICE POONAM A. BAMBA

MUKTA GUPTA, J.

1. By way of this appeal, the appellant challenges the judgment of the learned Trial Court dated 20th August, 2018, whereby the appellant was convicted for murder of one Rita (“deceased”) by strangulation; and also the order on sentence dated 11th September, 2018 whereby the appellant was directed to undergo rigorous imprisonment for life along with fine of Rs.1,000/- in default whereof, simple imprisonment for one month for offence punishable under Section 302 of the Indian Penal Code, 1860 (“IPC”).

2. Brief facts of the case are that on 17th June, 2014 at about 1.10 PM, an information was received at PS Govindpuri that a murder has been committed at H.No.204A, First Floor, Gali No.3, Govindpuri and the same was recorded vide DD No.13A which was marked to SI Hukum Vir Atri (PW-5), who on reaching the spot met two persons namely Ms.Rumki

Halder (PW-14) (addressed as “Rinki” by some witnesses) and Mr.Shakti Sharma (PW-1) who told SI Hukum Atri that a dead body of their friend Rita was lying in the room adjoining to their room. The dead body was inspected and a cable wire was found tied around the neck of the body, and in the kitchen, a mixer-grinder was lying with its wire cut. On enquiry, it was found, that the deceased used to reside with her friend/ appellant who was a resident of West Bengal. Thereafter, *rukka* (Ex.PW-17/A) was prepared by IO/Insp. Anand Swarup, on which FIR no. 645/2014 dated 17th June, 2014 under Section 302 IPC at PS Govind Puri (Ex.PW-2/B) was got registered. The dead body was sent for post-mortem examination to mortuary at AIIMS Hospital.

3. Dr.Mantaran Singh Bakshi (PW-11) conducted the post-mortem examination on the dead body and tendered his report (Ex.PW-11/A) and opined:

“INJURIES

Ligature material-a grey coloured electric wire having a single fixed knot is found encircling the neck. The knot is present over the left postero-lateral aspect of the neck. The ligature material is present in three loops encircling the neck having a circumference of 28 cm and another fourth loop is present in the oral cavity emerging and exiting from either angles of the mouth. The circumference of the loop in the mouth is 36 cm. The circumference of the closely approximated four wire loops is 4.5 cm and circumference of the ligature material is 0.7 cm. one end of the ligature material is having a cut end and the other end is having a grey two pin plug.

The ligature material was cut away from the knot and preserved by tying the cut ends.

Ligature mark- a reddish brown coloured ligature mark is present encircling around the neck completely in a horizontal direction. The ligature mark is of width 5 cm at anterior

midline of neck and 1.75 cm at posterior midline of neck is present at the middle one third of neck. The ligature mark is 5 cm below the mentum and 4.5 cm above suprasternal notch in another midline of neck. The ligature mark is 5 cm below the external occipital protuberance and 4.5 cm above the vertebral prominence on the posterior aspect of the neck. The ligature mark is 6 cm below right mastoid tip and 5 cm below left mastoid tip on lateral aspect of neck. The total neck circumference is 28 cm. The ligature mark is also found on the lower facial region on either aspect of angles of mouth. The width of ligature mark on face is 1 cm. On dissection the neck, there is a extravasation of blood into the soft tissues of the neck. There is a bluish contusion of size 2 x 1 cm on the base of the tongue on the left side. There is congestion of the submandibular lymph nodes and laryngeal mucosa. The thyrohyoid complex is intact. The tracheal mucosa is congested.

... ..

... ..

(J) TIME SINCE DEATH

About three and a half days.

(K) OPINION

The cause of death to the best of my knowledge and belief is asphyxia due to ligature strangulation. However viscera has been preserved to rule out concomitant intoxication."

4. During investigation Shakti Sharma and Rumki stated that they had last seen the deceased alive with the appellant. Search for the appellant was started in Delhi as also in West Bengal and on 17th July, 2014, IO/Insp. Anand Swarup (PW-17) arrested the appellant vide arrest memo Ex.PW-4/A from Aoul Danga, PS Bagdah, Dist. North 24 Pargana at West Bengal and his disclosure statement (Ex.PW-4/C) was also recorded.

5. Upon completion of investigation, charge-sheet was filed and the appellant was charged for offence punishable under Section 302 IPC for

committing murder of the deceased by using wire of mixer-grinder and strangulating her to death. To prove its case, the prosecution examined 17 witnesses.

6. Assailing the impugned judgment, learned counsel for the appellant contended that the learned Trial Court had convicted the appellant by relying upon the testimonies of PW-1 and PW-14 despite glaring contradictions in their depositions as well as conduct. It was submitted that as per PW-1, on the day of incident i.e. 16th June, 2014, Shakti (PW-1) alongwith Rumki (PW-14) and the deceased had gone to Sarojini Nagar Market and brought some T-shirts, however, it was pointed out that the day of incident was a Monday when the market remains closed. Further, PW-1 did not make any call to the police on 17th June, 2014 when he saw the body of the deceased rather he went to the police station along with PW-14 and informed the police about the murder, however, as per the FIR and HC Surender Kumar (PW-2), information was received from an anonymous caller at about 1.10 PM that a murder had been committed and that upon the said information the police officials directly reached the spot. Learned counsel for the appellant also contended that PW-1 was deceptive about the nature of his relationship with PW-14 and the husband of PW-14, and likewise, PW-14 also tried to conceal the nature of her relationship with PW-1 by pleading ignorance about his work and family although it was their own admission that they were sleeping in the same room and hence, this creates doubt on the creditworthiness of the testimony given by the two material witnesses. It was further pointed out by learned counsel that as per Rumki (PW-14), the outer door of her house was bolted from outside and thus it is contradictory to her version of immediately going to the police

station when no explanation whatsoever was given as to how the door was unlocked and how did she step outside the house. It was contended on behalf of the appellant that the investigation in the present case was conducted in an improper manner. It was pointed out that finger prints were neither found on the weapon of offence nor at the spot and therefore, there is no cogent evidence to link the appellant with the crime. As per Dr. Devanshu Bansal (PW-9), no injury marks or impressions were noticed on the person of the deceased and accordingly, no such recording finds mention in the MLC (Ex.PW-9/A) however, photographs of the deceased (Ex.PW-13/A-1 to A-13) show serious injuries on the face of the deceased. This fact of injuries also does not find any mention in the post-mortem report (Ex.PW-11/A), which casts doubt on the version of the prosecution. Further, as per the disclosure statement of the appellant (Ex.PW-4/C), the appellant confessed to have killed the deceased while she was sleeping in her bed, however, the dead body was in fact found lying on the floor with injury marks present on the person of the deceased which clearly indicate struggle at the time of commission of the offence. Furthermore, it was contended that the said disclosure statement is nothing but an attempt to establish a false motive because as per the disclosure statement, the appellant saw the deceased going into a room with a man at the house of PW-14 and on this issue the appellant and the deceased got into a fight, however, the presence of this “other man” nowhere finds mention in the testimony of either PW-1 or PW-14. And thus, it was contended that the said disclosure statement was fabricated by the IO to falsely implicate the appellant.

7. It was the case of the appellant that the prosecution miserably failed to establish the guilt of the appellant and there is nothing on record to connect the appellant with the murder of the deceased. The only fact duly proved by the prosecution was that the death of the deceased was due to asphyxiation by strangulation. Neither any finger prints nor any DNA impressions was found to connect the appellant with the crime. The deceased was last seen alive at 2.30 AM after the appellant had left for his native place in West Bengal and the statement of PW-1 and PW-14 that the appellant had come back on 17th June, 2014 at about 3.45 AM is a concocted story as there is no other witness who can provide uncontested evidence regarding the same. It was also submitted that the case of the appellant that PW-1 and PW-14 should have been the prime suspect in the present matter and at least should have been persons of interest instead of being made prosecution witnesses. Learned counsel for the appellant further contended that the learned Trial Court was in error in relying upon the fact that the appellant failed to establish a plea of alibi when the prosecution itself failed to establish the guilt of the appellant and in this regard reliance was placed in the decision reported as MANU/DE/2966/2018 Dharmender @ Kale vs. State. The learned counsel also contended that in totality of circumstances as aforesaid, the appellant is entitled to benefit of doubt and relied on the decision in MANU/SC/0468/2013 Raj Kumar Singh vs. State of Rajasthan.

8. On the other hand, learned APP for the State submitted that the prosecution was able to successfully establish the chain of circumstantial evidence and the learned Trial Court after proper appreciation of evidences rightly convicted the appellant and therefore, the present appeal be

dismissed. To support his argument, learned APP relied upon the following circumstances:

- i. That the death of the deceased was unnatural in nature and as per the post-mortem report (Ex.PW-11/A) the cause of death was opined to be asphyxia due to ligature strangulation and the report also notes that the ligature material was a grey coloured electric wire having single knot fixed found encircling the neck.
- ii. That SI Sajjan Kumar (PW-3) categorically deposed that on inspection of the scene of crime, one mixer-grinder was found in the kitchen with its wire cut and it was this cut wire which was found tied around the neck of the deceased. One *darant* (sickle used for cutting vegetables) was also found lying at the spot, both of which were seized vide seizure memo (Ex.PW-10/C) and both these articles also find mention in the crime scene report (Ex.PW-3/A). Further, the FSL (Physics) report (Ex.PW-16/A), it was opined that the cable wire of the mixer-grinder was cut using the *darant* and the ligature material and the connecting wire of the mixer was once part of the same mixer.
- iii. That as per the version of Shakti Sharma (PW-1) and Rumki Halder (PW-14), who found the dead body of the deceased, stated that the deceased was last seen with the appellant. Both these witnesses deposed that the appellant and the deceased were in an estranged relationship and on 16th June, 2014 at about 9.30 PM, PW-1, PW-14, the appellant and the deceased were all present at H.No.204A, First Floor, Gali No.3, Govindpuri, New Delhi and that all the four persons had consumed liquor and that quarrel took

place between the appellant and the deceased. Further, in the morning of 17th June, 2014, PW-1 and PW-14 noticed the main door of the house opened and found the dead body of the deceased with an electric wire strangulated around her neck where the deceased was sleeping and that the appellant was missing from the room.

- iv. That the motive of the appellant was also duly established as Rumki (PW-14) had categorically deposed that on the day of incident, the appellant was fighting with the deceased as he wanted to marry the deceased but the deceased had refused the same.
- v. That an adverse inference is to be drawn against the appellant when a false plea of alibi is taken in defence. In his statement under Section 313 of the Code of Criminal Procedure, 1973 (Cr.P.C.), the appellant stated that he had left the house where the deceased died as he had to leave for his native place, however, as per the testimonies of PW-1 and PW-14, the appellant was in fact present at the house where the body of the deceased was found and both these witnesses also stated that the appellant had first left the house and then again came back during late night hours when he was also seen entering the room of the deceased. Further, the appellant did not bring any evidence or witness to prove that he had gone to his native place on that night and in this regard reliance was placed on the decision reported as (2012) 13 SCC 213 Sahbuddin vs. State of Assam.

vi. Further conduct of the appellant is a relevant factor, as after the incident, the appellant was absconding for over a month and was arrested only on 17th July, 2014 (Ex.PW-4/A). In this regard reliance was placed on the decision in (2013) 9 SCC 778 Sahib Hussain vs. State of Rajasthan.

9. Learned APP for the State further submitted that although the initial burden to establish a case is upon the prosecution but in cases where murder is committed in secrecy of the house, the nature and amount of evidence to be established cannot be of the same degree as required in other cases of circumstantial evidences. In such cases, the burden would be comparatively lighter and in terms of Section 106 of the Indian Evidence Act, 1872, a corresponding burden would lie upon the accused to render a cogent explanation about the circumstances and keeping quiet or offering no or vague explanation would not help the accused. Reliance was placed on the decision of the Hon'ble Supreme Court in (2006) 10 SCC 681 Trimukh Maroti Kirkan vs. State of Maharashtra.

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

11. Shakti Sharma (PW-1) stated that on 16th June, 2014, he had gone to meet his friend Rinki (Rumki) who was residing at H.No.204A, First Floor, Gali No.3, Govind Puri, where he also met the deceased with her boyfriend/appellant. At about 5.30 PM, he alongwith Rinki and the deceased went to Sarojini Nagar Market and Ajay went out to meet his friend. After shopping, he returned to the house of Rinki, and the deceased and Rinki had gone for some personal shopping after which, the deceased and Rinki also came back. After sometime, the appellant also came back but in a drunken

condition. Thereafter, all of them saw a football match and consumed liquor. While having dinner, hot words were exchanged between the appellant and the deceased in Bengali language, which he could not understand, however Rinki told him that Rita had abused appellant as Ajay wanted to marry Rita but she was refusing. Thereafter, at about 12.30 AM, Rita and Ajay went to their bedroom and he remained in the room of Rinki. At about 2.30 AM, the appellant called him and told him that he wanted to go back to his house on which, he came out of his room and saw the appellant present there, after which, Ajay left and closed the main door of the first floor. Thereafter, at about 3.30-3.45 AM, the appellant again called him and told him that he was not able to find any auto, so he wanted to come back, on which, he opened the main door, and the appellant came inside and went to the room of Rita and he closed the main door. At about 11.30 AM, when he woke up and was in the washroom, Rinki informed him that the main door of the house was lying open and that Rinki was lying dead in her room. Ajay was not present in the room, on which, he and Rinki went to the police station and informed the police. In his cross examination, he stated that he alone consumed alcohol about 90 ml and that when Ajay returned back, he was over drunk. He stated that there was neither any window nor any ventilator between these two rooms and noise made in one room could not be heard in the other room as AC were on in the room. He stated that the appellant also knocked the door of the room at about 2.30 AM and at that time, Rinki was not sleeping and that Rita had also come and was standing on the gate of her bedroom, and after the appellant left, she went back to her bedroom. He stated to have not made any phone call to the police in the morning, after he woke up as he had panicked and went

straight to the police station with Rinki where, he met one Sub-Inspector who took him to the SHO and his statement was recorded. He stated that he came back to the spot with Insp. Anand Swarup and that Insp. Anand Swarup and SI Hukum Vir Atri reached at the same time.

12. Rumki (PW-14) deposed that on 14th June, 2014, she met Rita at Tara Apartment, from where she picked up her scooty and went to her friend Purnima's house where after having lunch, both of them came back to her house and Rita left. On 15th June, she went to India Gate with Rita and both of them returned back to her house and in the evening at about 7.30 PM, the appellant came to her house to take Rita with him. However, the appellant stayed back, and had dinner with them, after which Ajay left but Rita stayed with her. On 16th June, Shakti came to her house at about 2-3 PM and at about 4 PM Ajay also came but left after some time and she along with Rita and Shakti went to Sarojini Nagar Market and returned back at about 9.30 PM. She stated that she told Rita not to call Ajay but Ajay came to her house. Thereafter, Ajay and Rita started fighting and she pacified Rita. Thereafter, all four of them consumed liquor and Shakti and Ajay started watching match on TV and at that time Rita abused Ajay and Shakti pacified both of them. As it was late, she asked Ajay and Rita to sleep in one room and she and Shakti went to sleep in another room. Thereafter, late in the night, Ajay knocked her room and told her that he was leaving the house and he left and after sometime, Ajay made a call to Shakti and told him that he was coming back as he was not finding any auto, after which, Ajay came back and went in the room of Rita. On 17th June, she got up at about 8-8.30 AM and after using the washroom, she found the main door open. Thereafter, at about 10.30 AM, she called Rita as she had not gotten

up till that time, but her phone was switched off. Thereafter, she decided to open the door of Rita's room, wherein she found that Ajay was not present and that Rita was lying on the floor of the room. She tried to wake up Rita but found a wire around her neck and that Rita was not responding to her touch. Thereafter, she and Shakti went to the police station. In her cross examination, she stated that she knew Rita for the last two years and that Rita had stayed with her for the first time as her husband was out of Delhi. She stated that on Rita's request, she allowed Ajay to stay at her house on Sunday night. She stated that there was no window in her room. She further stated that on that day, there was some dispute regarding Ajay and Rita to marry each other but Rita had refused to marry with Ajay. She stated that she did not hear any cry or noise from the room of Rita and Ajay but that there was some abusive matter between Ajay and Rita which they overheard when they went to their room. She further stated that on finding Rita lying on the floor, she did not take Rita to any hospital and did not raise alarm. She further stated to have found the outer iron gate of her house bolted from outside. She stated that it did not occur in her mind to call the police at no. 100 at that time.

13. IO/ Insp. Anand Swarup (PW-17) deposed that on 17th June, 2014, he reached the spot with SHO PS Govindpuri where SI Hukum Atri and Ct. Sunil alongwith one Rumki and Shakti were present and a dead body of lady was found lying on the floor and her neck was tied with an electricity wire. Rumki Halidar identified the dead body of the deceased as Rita. Crime team was called at the spot and dead body was sent for post mortem examination. He seized one mixer-grinder and *darat* (Ex.PW-5/A) and thereafter, prepared the *rukka* (Ex.PW-17/A) and got the FIR registered. He also

prepared a rough site plan (Ex.PW-5/B). On 20th June, 2014, Pintu Datta and Bharti Mandal, brother and sister of the deceased respectively, identified the dead body (Ex.PW-17/B and C respectively), and after the post mortem, the dead body was handed over to the brother Pintu (Ex.PW-6/A). During investigation, it was found that the appellant belonged to West Bengal and accordingly, he searched the appellant in both Delhi and West Bengal and on 17th July, 2014, the appellant was arrested from Aoul Danga, PS Bagdah, Distt. North 24 Pargana at West Bengal, and thereafter, his disclosure statement was got recorded. In his cross examination, he admitted that he did not take any signatures of the police officials of PS Bagdah at West Bengal and also that no incriminating material was found in his possession.

14. SI Hukum Vir Atri (PW-5) deposed that on 17th June, 2014, at about 1.15 PM DD No. 13A was recived by him on which, he alongwith Ct. Sunil, reached H.No.204A, First Floor, Gali No.3, Govind Puri where he met Ms. Rinki and Shakti Sharma who informed him that a dead body was lying in the adjoining room to their room and the dead body was of their friend Rita. In the meantime, inspector Anand Swarup and other police officials from the PS reached at the spot.

15. The dead body was examined by Dr. Devanshu Bansal (PW-9) who prepared the MLC (Ex.PW-9/A) and found a ligature (tourniquet) around neck which was of three turns, which were two around neck and one around mouth. He also stated that there was facial puffiness with plethora seen and there was swelling on lips. In his cross examination, he stated that he did not notice any injury mark on the person of Rita otherwise the same must have been noted in the MLC.

16. Dr. Bharati Bhardwaj (PW-16) conducted the FSL (Physics) examination of the ligature material, the mixer and *daraat*, she found that the ligature and the cut end of the wire in the mixer matched with each other and *were once part of the same mixer*. She also opined that the cable wire was cut by use of *darat*.

17. In his statement under section 313 CrPC, the appellant Ajay admitted that on 15th June, 2014, he brought fish and had dinner with Rita and Rumki and thereafter, went back to his H.No.208, Gali No.5, T Extn. Govind Puri. He stated that on the night of incident he went to PW-14's residence after he received a call by them and that there was no fight between him and the deceased. He further stated that he had dinner with them on that night and saw football match on the TV but thereafter left as he had to leave for his native village. He further stated that he was falsely implicated in the matter and has no concern with the murder of the deceased and on the night of incident he had left for his native village. He admitted to have been arrested from Bengal after one month and was falsely implicated in the present case at the instance of PW-1 and PW-14.

18. From the evidence of the prosecution witnesses, namely, Shakti Sharma (PW-1) and Rumki (PW-14) it is evident that Rita, the deceased, and the appellant were living together in a live-in relationship and there was a dispute between two of them, as appellant wanted to marry Rita and she was not agreeable to the same. On the night intervening 16th and 17th June, 2014 appellant and Rita slept together in one room and appellant wanted to leave in the early morning and left the house, however came back as he did not get any vehicle and at about 10.30 AM, Rita was found lying in the bedroom. Even in his statement under Section 313 Cr.P.C., the appellant

admitted that on 15th June, 2014, he brought fish and had dinner with Rita and Rumki and that on the night of incident he went to the residence of PW-14 after he received a call and that there was no fight between them. According to him, after dinner he watched the match and thereafter left for his native village.

19. The contention on behalf of learned counsel for the appellant that the day of incident i.e. 16th June, 2014, was a Monday and hence the Sarojini Nagar Market remained closed, does not find any merit as it cannot be a case that the entire market remained closed on that day for all purposes. Further, the contention that PW-1 was deceptive about the nature of his relationship with PW-14 would also not be of any avail to the appellant as the same is not relevant for any purpose in the present case.

20. The appellant does not dispute being in the room with the deceased. The fact that the deceased died due to strangulation from the wire cut from the mixer grinder kept in the house which was seized along with daraat vide Ex.PW-5/A was proved by the opinion of the post-mortem Doctor that the strangulation could have been caused by the said cord and the scientific evidence that proves that the cord on the neck of the deceased was the one cut from the mixer grinder with the daraat kept. Appellant living in the house with the deceased at the relevant time when the death was caused has also been proved. Thus, the onus shifts on him under Section 106 of the Indian Evidence Act to prove that how the deceased died. In Trimukh Maroti Kirkan Vs. State of Maharashtra (2006) 10 SCC 681 Supreme Court held:

“22. Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading

evidence to show that shortly before the commission of crime they were seen together or the offence takes place in the dwelling home where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime. In *Nika Ram v. State of H.P.* [(1972) 2 SCC 80 : 1972 SCC (Cri) 635 : AIR 1972 SC 2077] it was observed that the fact that the accused alone was with his wife in the house when she was murdered there with “khukhri” and the fact that the relations of the accused with her were strained would, in the absence of any cogent explanation by him, point to his guilt. In *Ganeshlal v. State of Maharashtra* [(1992) 3 SCC 106 : 1993 SCC (Cri) 435] the appellant was prosecuted for the murder of his wife which took place inside his house. It was observed that when the death had occurred in his custody, the appellant is under an obligation to give a plausible explanation for the cause of her death in his statement under Section 313 CrPC. The mere denial of the prosecution case coupled with absence of any explanation was held to be inconsistent with the innocence of the accused, but consistent with the hypothesis that the appellant is a prime accused in the commission of murder of his wife. In *State of U.P. v. Dr. Ravindra Prakash Mittal* [(1992) 3 SCC 300 : 1992 SCC (Cri) 642 : AIR 1992 SC 2045] the medical evidence disclosed that the wife died of strangulation during late night hours or early morning and her body was set on fire after sprinkling kerosene. The defence of the husband was that the wife had committed suicide by burning herself and that he was not at home at that time. The letters written by the wife to her relatives showed that the husband ill-treated her and their relations were strained and further the evidence showed that both of them were in one room in the night. It was held that the chain of circumstances was complete and it was the husband who committed the murder of his wife by strangulation and accordingly this Court reversed the judgment of the High Court acquitting the accused and convicted him under Section 302 IPC. In *State of T.N. v. Rajendran* [(1999) 8

SCC 679 : 2000 SCC (Cri) 40] the wife was found dead in a hut which had caught fire. The evidence showed that the accused and his wife were seen together in the hut at about 9.00 p.m. and the accused came out in the morning through the roof when the hut had caught fire. His explanation was that it was a case of accidental fire which resulted in the death of his wife and a daughter. The medical evidence showed that the wife died due to asphyxia as a result of strangulation and not on account of burn injuries. It was held that there cannot be any hesitation to come to the conclusion that it was the accused (husband) who was the perpetrator of the crime.”

21. Thus, the short issue is whether the appellant left for the village after the deceased was strangled or before the same. The appellant admittedly went to West Bengal. Thus, he would have either travelled by a bus or train. This fact being specially within his knowledge, he was required to show how and what time he left for West Bengal on the night intervening 16th & 17th June 2014. Nothing has been brought on record to show the time at which he boarded the bus or train to dispel the fact that the appellant had left Delhi when the murder of the deceased took place. In Trimukh Maroti (Supra) Supreme Court also held:

“21. In a case based on circumstantial evidence where no eyewitness account is available, there is another principle of law which must be kept in mind. The principle is that when an incriminating circumstance is put to the accused and the said accused either offers no explanation or offers an explanation which is found to be untrue, then the same becomes an additional link in the chain of circumstances to make it complete. This view has been taken in a catena of decisions of this Court. [See State of T.N. v. Rajendran [(1999) 8 SCC 679 : 2000 SCC (Cri) 40] (SCC para 6); State of U.P. v. Dr. Ravindra Prakash Mittal [(1992) 3 SCC 300 : 1992 SCC (Cri) 642 : AIR 1992 SC 2045] (SCC para 39 : AIR para 40); State of Maharashtra v. Suresh [(2000) 1 SCC 471 : 2000 SCC (Cri)

263] (SCC para 27); Ganesh Lal v. State of Rajasthan [(2002) 1 SCC 731 : 2002 SCC (Cri) 247] (SCC para 15) and Gulab Chand v. State of M.P. [(1995) 3 SCC 574 : 1995 SCC (Cri) 552] (SCC para 4).]”

22. In view of the discussion above, this Court finds no error in the impugned judgment of conviction and order on sentence.

23. Appeal is accordingly dismissed.

24. Copy of the judgment be uploaded on the website and be sent to the Superintendent Jail for updation of record and intimation to the appellant.

(MUKTA GUPTA)
JUDGE

(POONAM A. BAMBA)
JUDGE

APRIL 19, 2023 /‘vn’