

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.310 of 2022

Arising Out of PS. Case No.-221 Year-2017 Thana- DARBHANGA SADAR District-
Darbhanga

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M. N @ Md Nehal, Son of M.M. @ Md. Murtuza, Resident of Village - Pura,
P.S.- Darbhanga Sadar, District- Darbhanga.

... .. Appellant

Versus

1. The State of Bihar
2. Binod Ram, Son of Late Parmeshwar Ram, Resident of Village- Pura, P.S.-
Sadar, District- Darbhanga.

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr. Krishna Prasad Singh, Senior Advocate Ms. Meena Singh, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, Special PP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 10-05-2024

Heard Mr. Krishna Prasad Singh, learned Senior
Counsel assisted by Ms. Meena Singh, learned Special Public
Prosecutor for the State.

2. The present appeal is arising out of the judgment of
conviction dated 15th February, 2022 and the order of sentence
dated 04.03.2022 passed by learned 1st Additional Sessions Judge-
cum-Children Court, Darbhanga (hereinafter referred to as the
'learned trial court') in P.C. Case No. 01/2018 by Registration No.
6 of 2021 whereby and whereunder the learned trial court has held
the appellant guilty for the offences punishable under Sections 302



and 376 of the Indian Penal Code (in short 'IPC') and Section 3(2) (v) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1999 (hereinafter referred to as the 'SC/ST Act') and ordered the appellant to suffer the following sentences:-

“(i) Rigorous imprisonment for life and also pay fine of Rs.10,000/- for the charge u/s 302 of the I.P.C. and in default of payment of fine to suffer simple imprisonment (S.I.) for six months.

(ii) Rigorous imprisonment for ten years and also pay fine of Rs.10,000/- for charge u/s 376 of the I.P.C. and in default of payment of fine to suffer simple imprisonment (S.I.) for six months.

(iii) Rigorous imprisonment for life and also pay fine of Rs.10,000/- for charge u/s 3(2)(v) of the S.C./S.T. (POA) Act and in default of payment of fine to suffer simple imprisonment (S.I.) for six months.

All the sentences awarded to CICLMN shall run concurrently.”

3. A translated version of the prosecution story as disclosed in the written information furnished by the father of the deceased (PW-2) is as under:-

On 28.05.2017, in the marriage of the informant's daughter, his elder daughter Mrs. X (deceased) had come from her *sasural* and when *Barat* arrived at 10:00 P.M., in the meantime, his daughter Mrs. X came out from the house for easement whereas the informant and others were engaged in serving of *Barat* Party and at the time of *Kanyadan*,



Victim/Mrs. X was searched then they came to know that she had gone for easement but not returned. Thereafter, all family members started searching the deceased and during the course of search they got information that dead body of the informant's daughter is lying in mango orchard behind the Primary School, Pura in semi-naked condition and then the informant and others reached there and found his daughter dead and it appeared that she has been killed after committing gang rape. The police was informed and the informant came to know that this appellant along with his 3-4 associates has committed this offence.

4. On the basis of the said written information, a case being Darbhanga Sadar P.S. Case No. 321 of 2017 under Section 376(D), 302/34 of the IPC and Section 3(2)(va) of the SC/ST Act was registered against the appellant. After investigation, a chargesheet bearing no. 226 of 2017 dated 05.08.2017 was submitted showing that in course of investigation, sufficient materials have been found to proceed against the appellant for the offences punishable under Sections 376 and 302 IPC and under Section 3(2)(va) of the SC/ST Act. Accordingly, the learned Special Judge took cognizance on 24.08.2017 for the aforesaid offences.

5. The appellant was read over and explained the charges in Hindi to which he pleaded not guilty and claimed to be



tried. The learned trial court framed charges for the offences punishable under Sections 376 and 302 IPC and Section 3(2)(va) of the SC/ST Act.

6. In course of trial, altogether eight witnesses deposed on behalf of the prosecution and as many as nine exhibits were marked. The name of the witnesses with their serial no. and details as also the list of the prosecution exhibits are being provided hereunder for a ready reference:-

List of Prosecution Witnesses:

Sl. No.	P.W. No.	Name of witnesses	Details of witnesses
1	P.W.1	Dipesh Kumar Ram	
2	P.W.2	Mr.Z	Informant-cum father of victim
3	P.W.3	Sikandar Ram	
4	P.W.4	Mrs. Y	Mother of victim
5	P.W.5	Jahuri Kumar Ram	
6	P.W.6	Ganga Sagar Singh	
7	P.W.7	Ravi Shankar Prasad	I.O. of this case
8	P.W.8	Dr. Ravi	Doctor

List of Exhibits:

Exhibit 1	Signature of Dipesh Kumar Ram (P.W.1) on the seizure list.
Exhibit 2	Signature of Jahuri Ram P.W.5) on the seizure list.
Exhibit 3	Test Identification Parade Report
Exhibit 4	Endorsement made by P.W.7 on the written report.
Exhibit 4/1	Formal F.I.R.
Exhibit 5	Charge sheet.
Exhibit 6	Production-cum-seizure list.
Exhibit 7	Signature of Ravi Shankar Prasad (P.W.7) on the production-cum-seizure list.



Exhibit 8	Seizure list of cloths made by S.I. Santosh Kumar Singh
Exhibit 9	Postmortem report of deceased.

List of Defence Witnesses:

Sl. No.	D.W. No.	Name of witnesses	Details of witnesses
1	D.W.1	Mrs. SHK	
2	D.W.2	Shakil Ahmad	

7. After closure of the prosecution evidences, the statement of the child in conflict with law (in short ‘CICL’) was recorded under Section 313 Cr.P.C. in which also he denied the circumstances put to him and claimed himself as innocent.

8. On behalf of the defence, two witnesses were produced. Ms. SHK and Mr. Shakil Ahmad both deposed as defence witnesses being DW-1 and DW-2 respectively.

Findings of the Trial Court

9. The learned trial court analyzed the evidences adduced on behalf of the prosecution as well as the defence and came to a conclusion that in this case there is no eye witness to the occurrence and the prosecution case is based on circumstantial evidences. In the opinion of the learned trial court, the prosecution has been able to prove in this case that the death was homicidal and this appellant was lastly seen with the deceased. The learned trial court found that there were certain incriminating articles such



as disposable syringe of 10 mm which was recovered from water hyacinth, mobile of the victim with broken SIM has been recovered from the house of the CICL and a plastic pipe was also found near the dead body of the deceased with a black color mobile cable wrapped around the neck of the deceased. The learned trial court found that in the extra judicial confession of the appellant before the mother of the deceased, he had stated that he committed rape with the victim and killed her. The appellant was in touch with the deceased telephonically and all these circumstances are completing the criminological chain which is required to be proved in the case based on circumstantial evidence. The learned trial court has relied on the judgment of the Hon'ble Supreme Court in the case of **Sharad Birdhichand Sarda Vs. State of Maharashtra** reported in **AIR 1984 SC 1622**; **Padala Veera Reddy Vs. State of A.P.** reported in **AIR 1990 SC 79** and **C. Chenga Reddy And Others Vs. State of A.P.** reported in **(1996) 10 SCC 193** wherein it has been held that in a case based on circumstantial evidence, the circumstances from which the conclusion of guilt is to be drawn should be fully proved and such circumstance must be conclusive in nature.

10. The learned trial court has analyzed the evidences on the “last seen theory” of the prosecution. It has been found that in



this regard, the evidences of PW-3 and PW-4 who are the father-in-law and mother respectively of the deceased would prove that the victim was last seen in the company of the appellant. The learned trial court has also found that the appellant was in contact with the deceased before the occurrence and this being a relevant fact has been proved by Ravi Shankar Prasad (PW-7), in paragraph '6' he has stated that on the date of alleged occurrence, the appellant was in contact with the victim through the mobile.

11. The learned trial court has examined the medical evidence such as the postmortem report (Exhibit '9') which would show that the cause of death was due to Asphyxia as a result of ligature strangulation obstructing air passages completely. The learned trial court, therefore, concluded that there is a positive evidence to suggest unnatural death of the victim. At the same time, the learned trial court found that there is positive evidence to suggest commission of recent sexual intercourse with emission with her.

12. The learned trial court further held that once the prosecution proved that the accused and the deceased were last seen alive, in the company of each other and within close proximity of time from the probable time of death, the failure of or absence of any explanation by the accused would be a relevant



fact. It has been held that in the present case, the appellant failed to offer an explanation at the stage of Section 313 Cr.P.C. He did not disclose the facts which were within his special knowledge and no explanation could be offered at his end. In this regard, the judgments of the Hon'ble Supreme Court in the case of **Sahadevam Vs. State** reported in (2003) 1 SCC 534; and **State of UP Vs. Satish** reported in (2005) 3 SCC 114 have been relied upon.

13. The learned trial court further found that the extra judicial confession of the appellant made before the mother of the deceased is a relevant and admissible fact. Referring to the judgment of the Hon'ble Supreme Court in the case of **Baskaran and Another Vs. State of Tamil Nadu** reported in (2014) 5 SCC 765, it has been held that if the extra judicial confession is found credible after being tested on the touchstone of credibility and acceptability, it can also solely form the basis of conviction.

Submissions on behalf of the Appellant

14. Ms. Meena Singh, learned counsel for the appellant has assailed the judgment of the learned trial court. It is submitted that the deceased was mother of three children. She was the eldest married daughter of the informant (PW-2), the place of occurrence



is the paternal house of the victim but there is no eye witness to the occurrence.

15. Learned counsel submits that in this case, the written information was furnished by the father of the deceased (PW-2) on the next day of the occurrence i.e. on 29.05.2017 at 15:30 Hours. According to learned counsel for the appellant, the prosecution witnesses have tried to develop a case based on last seen theory but in the process, the evidence of PW-3 (father-in-law) and PW-4 (mother of the deceased) have been contradicted by the informant (PW-2). It is her submission that the evidence of PW-3 and PW-4 do not support the prosecution story as disclosed by PW-2 in his written information but it is surprising that these two witnesses have not been declared hostile.

16. Learned counsel submits that from the written information, it would appear that according to PW-2, his daughter (the deceased) had gone to defecate. He deposed that he had suspicion that this appellant had committed the offence. In paragraph '4' of his deposition, PW-2 has come out with a statement that the appellant is innocent.

17. Learned counsel submits that the evidence of the father-in-law (PW-3) is not trustworthy for the reason that this witness is materially inconsistent with PW-2 which would amount



to a contradiction with the evidence of PW-2. In paragraph '5' of his evidence, PW-3 has stated that while leaving the house, the victim had stated that she was going to purchase medicine but PW-2 has stated that his daughter had gone to defecate.

18. Learned counsel submits that so far as the evidence of mother (PW-4) is concerned, again her statements would materially differ with that of her husband (PW-2). In her examination-in-chief, PW-4 has stated that at the time of *Barat*, this appellant and Murtuza came. She has stated that this appellant went taking her daughter together and at the time of *Kanyadan*, she did not find her daughter (the deceased) despite search. In the morning, this witness came to know that her daughter has been killed and is lying in the orchard. She has stated that the dead body was naked and her neck had been pressed by a pipe which is used for giving injection. This witness has stated that when police came, she had gone to the house of the appellant where the broken mobile and SIM of her daughter were found in the house of the appellant. In her presence, the appellant told that he had committed murder of the victim after committing rape on her.

19. Learned counsel for the appellant points out that PW-4 has contradicted her own statement in paragraph '4' of her cross-examination where she has stated that first of all, the



statement of the victim was recorded by *Daroga Ji* and thereafter the statement of this appellant was recorded and his thumb impression was taken. Learned counsel submits that the daughter of the informant whose name has been disclosed in paragraph '4' had already died, therefore, there was no question of recording of her statement by *Daroga Ji*. It is submitted that this witness is not a wholly reliable witness but the learned trial court has erred in attaching much evidenciary value to the evidence of PW-4.

20. Learned counsel has further submitted that the I.O. (PW-7) has though stated in his evidence that on the basis of the confessional statement of the appellant, he had conducted a search in the house of Murtuza and had seized a mobile phone of ITTEL Company, another mobile phone of Lava Company, one broken SIM of Idea Company and another broken SIM of Telenor Company which belonged to the deceased from the said house and prepared a seizure list but from his evidence in paragraph '5' of the deposition, it would appear that no seizure list has been proved by PW-7.

21. Learned counsel has submitted that PW-7 has stated about obtaining call detail report of the appellant and the victim and he has stated that both were talking to each other but the call detail report has not been proved.



22. It is further submitted that how the prosecution witnesses have identified the mobile phone of the appellant is not known. The appellant was medically examined on 30.05.2017 but the doctor did not find any sign of sexual act and further the confessional statement of the appellant was not recorded in presence of any independent witness.

23. Learned counsel, therefore, submits that in this case, the learned trial court has completely erred in appreciating the evidences on the record. His submission is that in a case of circumstantial evidence, the court must come to a conclusion that the criminological chain of events are complete and the forgone conclusion is that the accused who is being tried is guilty of the commission of the offence for which he has been charged. In the present case, learned counsel submits that the said criminological chain is not complete, still, the learned trial court has convicted the appellant who is a child in conflict with law.

Submissions on behalf of the State

24. On the other hand, Ms. Usha Kumari No.1, learned Special P.P. for the State submits that the present case has been proved by the prosecution by placing circumstantial evidences on the record. Learned counsel submits that though in course of trial, the father of the deceased (Mrs. X) seems to have been gained



over, the mother of the victim who has been examined as PW-4 has stated that this appellant along with his father came in the marriage ceremony of her daughter and it is this appellant who took her daughter (Mrs. X) with him. Learned counsel submits that on perusal of the deposition of PW-4, this Court would find that the defence has not at all been able to take any contradiction with regard to her statement that this appellant had come to the marriage ceremony of the younger daughter of PW-4 and from there he had taken the deceased (Mrs. X) with him. In paragraph '5' of her deposition, she has stated that her daughter had left her house at 08:00 P.M. In her statement before Police, she has made statement that this appellant had come to her house and had left with her daughter who was later on found dead. In paragraph '6' of her evidence, this witness has stated that she had told Daroga Ji that the mobile of her daughter was found with the appellant. PW-4 has not even been suggested by the defence that the appellant had not gone to the house of PW-4 and the victim (Mrs. X) had not left her house with him. No contradiction with reference to her previous statement before the I.O. could be pointed out by the defence.

25. It is submitted that in paragraph '4' of her cross-examination, though a statement is recorded that first of all the



statement of (Mrs. X) was recorded by Daroga Ji but the name of Mrs. X seems to have been wrongly typed in place of the name of her sister who was examined by Darogajee.

26. Learned Special P.P. further submits that PW-5 has proved his signature on the seizure list which has been marked as Exhibit '2'. It is submitted that PW-6 who was posted as Block Development Officer in Sadar Block had been deputed to conduct the TIP of the mobile phones and the two SIMs of the deceased. Three persons were called to identify them and in his presence, the TIP was conducted in which all the three persons had identified the mobile. He proved the TIP format which was marked Exhibit '3'.

27. Learned Special PP further submits that one of the identifier of the mobile phone is the mother of the victim (PW-4). She has not been questioned by the defence on the identification of the mobile in the TIP.

28. It is submitted that the Officer-in-Charge of the Sadar Police Station has deposed as PW-7 who has proved the endorsement made by him and his signature on the written information and has further proved the formal FIR (Exhibits '4' and '4/1' respectively). In paragraph '2' of his deposition, he has given the description of the place of occurrence. He had found one black colour cable of mobile tied with the neck of the deceased, he



had found one white colour plastic pipe which is used for administering glucose to a person. PW-7 had prepared the inquest report. PW-7 had recorded the confessional statement of the appellant and on that basis he conducted a search in the house of Murtuza, the father of the appellant and in course of that raid, PW-7 had seized two mobile phones of the deceased and two broken SIMs of Idea Company and Telenor Company. He had prepared a seizure list which has been marked as Exhibit '6'. PW-7 had recovered a 10 ml disposable syringe on the basis of the disclosure made by this appellant in his confessional statement. PW-7 has stated that he had obtained CDR of the mobile phone of this appellant from which it was found that on the date of occurrence, the appellant had talked to the deceased and four others. It is submitted by learned Special P.P. that even as some discrepancies may be found with the prosecution evidence and on certain point, Investigating Officer has not made investigation, that would not prove fatal to the prosecution case, the oral and documentary evidences which are available on the record would complete the criminological chain of the events and irresistible conclusion shall be reached that this appellant had committed the crime. The learned Special P.P. has also placed before this Court the deposition of Doctor (PW-8) to submit that the Doctor had found



that the death was due to asphyxia as a result of ligature strangulation occluding air passage completely. PW-8 has also opined that there is a positive evidence to suggest commission of recent sexual intercourse with emission with her.

29. Learned Special P.P. submits that on behalf of the defence, two witnesses, namely, Shahnaz Khatoon (DW-1) and Shakil Ahmad (DW-2) were brought but on a bare look on the deposition of these two defence witnesses, it would appear that these witnesses have not made any significant statement in defence. It is, thus, submitted that the learned trial court has rightly appreciated the evidences on the record and convicted the appellant.

Consideration

30. Having heard learned counsel for the appellant and learned Special P.P. for the State and upon perusal of the records, this Court finds that the star witness of this case is the mother of the victim (Mrs. X). In paragraph '12' of its judgment, the learned trial court has taken note of her deposition. This witness has stated that the victim (Mrs. X) had come in the marriage ceremony of her sister where at the time of arrival of *Barat*, this appellant and his father had also come. She has deposed that her daughter went with the appellant and at the time of *kanyadan* though the victim was



searched but could not be traced. In the morning, she came to know that the victim has been killed and dead body is lying in the orchard. It has been contended on behalf of the defence that the evidence of PW-4 is not in tune with the written information furnished by the father of the deceased (PW-2).

31. This Court finds that in the written information, the informant has stated that about 10:00 P.M. *barat* came to his house and in the meantime, his daughter (Mrs. X) had gone outside to ease out but she did not return even at the time of *kanyadan*. PW-2 and his whole family had been engaged in the reception of the *barati*, even after search they could not find the victim (Mrs. X) and they came to know in the morning from the villagers that the dead body of his daughter is lying in the mango orchard behind the Primary School. This informant has stated in his written information that the matter was reported to Police and the local Officer-in-Charge came with the forces and at this stage, the informant came to know that it is this appellant who along with his 3-4 accomplices had committed the occurrence. This Court finds that the statement of the informant that his daughter had left her house for easing out would not diminish the evidenciary value of the evidence of the mother of the victim who has stated in course of investigation as well as in course of trial that her daughter had



left her house with the appellant. The name of the appellant as main accused has been mentioned by the informant in the written information itself.

32. It appears from the deposition of PW-2 that this witness has been won over. In paragraph '2' of his deposition, he has stated that Daroga Ji had recorded his statement on which he had put his thumb impression. He expressed a suspicion that his daughter was killed by this appellant. In his cross-examination, PW-2 has stated that the appellant is his co-villager and he is innocent. Apparently, this witness has not supported the prosecution case but the Public Prosecutor did not declare him hostile and no cross-examination of this witness has been done with reference to his previous statement made before the I.O.

33. The prosecution case has been supported by the father-in-law of the victim (PW-3). This witness had gone to attend marriage of the younger daughter of PW-2 and was present in the village with his son Deepak Ram. This witness has stated that the appellant had committed rape on his daughter-in-law and killed her. This witness has stated that his daughter-in-law (Mrs. X) had left her house around 09:00-10:00 P.M., he had asked her then she told that she was going to bring medicines. This witness was suggested by the defence that he was wrongly saying that the



appellant had come to call the girl but the said suggestion was denied by PW-3.

34. This Court finds that the learned trial court has rightly rejected the contentions of the defence as regards the statement of PW-4 that the statement of Mrs. X (deceased) was recorded by Police on 29.05.2017 at 06:00 A.M. The court has opined that PW-1 to PW-8, all have stated in their evidence that they had seen the dead body of the deceased (Mrs. X), PW-4 is a rustic and an illiterate lady as she had put her thumb impression on the deposition. The court took a view that the witness who may be wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination made by the counsel and out of nervousness mix up facts, gets confused regarding sequence of details, to fill up details from imagination on the spur of the moment. This Court would add another reason for not taking the discrepancy in the statement of PW-4 seriously. This Court finds that in pronunciation the name of the younger sister of the deceased resembles the name of the deceased and this is the possible reason that in course of her cross-examination, in paragraph '4', in place of the name of her younger sister, the name of the deceased has been written. From the evidence of the I.O. (PW-7), it would appear that he reached the place of occurrence at



07:40 A.M. and had taken the restatement of the informant, prepared the inquest report of the deceased, prepared seizure list of the articles which were found at the place of occurrence and recorded the statement of the witness Ram Balak Yadav (not examined), Brajesh Yadav (not examined) and the mother of the deceased (PW-4). He had sent the dead body to DMCH with a challan. Thus, PW-7 has not stated that he had recorded the statement of the deceased. This Court, therefore, is of the view that the learned trial court has rightly held it a matter of minor discrepancy and did not attach much importance to the said part of deposition of PW-4.

35. The victim (Mrs. X) was subjected to rape has been proved by the prosecution. In this regard, the medical evidence i.e. the postmortem report (Exhibit '9') would show that cause of death was due to asphyxia as a result of ligature strangulation occluding the air passage completely and the Doctor has opined that the deceased died unnatural death and her death was homicide. The Doctor (PW-8) has observed that there is a positive evidence to suggest commission of recent sexual intercourse with emission with her.



36. From the evidences available on the record, this Court finds that the following circumstances have been proved by the prosecution:-

(i) the victim (Mrs. X) had come to her parent's village to attend marriage ceremony of her younger sister and on the said date of occurrence, this appellant had been in telephonic touch with the victim;

(ii) the appellant along with his father had visited the house of the victim on 28.05.2017 when the *barat* was about to arrive. The victim left her house with this appellant in the night but did not return and in the morning of 29.05.2017, her dead body was found in the mango orchard behind the Primary School. PW-4, who is the mother of the victim, has categorically stated that this appellant had taken the victim with him. She has withstood the test of cross-examination and the learned trial court has rightly taken her as a wholly reliable witness;

(iii) the I.O. has stated that from the call detail report, it was found that the appellant had talked to the victim and four other persons on the date of occurrence; and

(iv) the mobile phone and the SIM card of the victim were seized from the house of the appellant. In the TIP, the mobile phones were identified by PW-4.



37. The appellant is said to be working as a compounder, from the place of occurrence, Police seized a white colour plastic pipe with which glucose is administered to a patient. Later on, on the basis of the disclosure made by the appellant in his confessional statement, a 10 ml disposable syringe was also seized by PW-7. The postmortem report (Exhibit '9') shows that Doctor (PW-8) found two needle marks 1/3" over front of right arm 1" above the elbow. The I.O. (PW-7) has stated that on the basis of the disclosures made by the appellant, he had seized the disposable syringe of 10 ml from Jalkumbhi (a water body) near the house of Md. Heera.

38. The appellant was given an opportunity to explain all such circumstances which were brought by the prosecution to prove the charge against him. The appellant did not come out with any explanation save and except to say that "it is wrong".

39. To prove a case based on circumstantial evidence, the prosecution is required to prove the criminological chain of events which would consistently indicate that the crime has been committed by the accused charged for that. In the case of **Sharad Birdhi Chand (supra)**, the Hon'ble Supreme Court has laid down following five conditions which must be followed fully establish:-



“(i) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned ‘must’ or ‘should’ and not ‘may be’ established;

(ii) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;

(iii) the circumstances should be of a conclusive nature and tendency;

(iv) they should exclude every possible hypothesis except the one to be proved; and

(v) there must be a chain of evidence to complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

39. On a careful perusal of the evidences available on the record, this Court is of the considered opinion that no fault may be found with the appreciation of evidence by the learned trial court. In our opinion, the criminological chain of events have been well proved by the prosecution beyond all reasonable doubts and there is no reason for this Court to take a different view.



40. In result, we find no merit in this appeal. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

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AFR/NAFR	
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