

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak
&
The Hon'ble Justice Prasenjit Biswas**

**DR 3 of 2024
State of West Bengal
Vs.
Sagarika Pandit**

With

C.R.A.(DB) 33 of 2025

Sushila Majhi

-Versus-

The State of West Bengal & Anr.

With

C.R.A.(DB) 364 of 2024

Sagarika Pandit

-Versus-

The State of West Bengal & Anr.

For the Appellant : Mr. Kaushik Gupta, Sr. Adv.
[CRA(DB) 33 of 2025] Mr. Arijit Bhusan Bagchi, Adv.

For the Appellant : Mr. Niladri Sekhar Ghosh, Adv.
[CRA(DB) 364 of 2024) Ms. Sompurna Chatterjee, Adv.
Mr. Sourov Mondal, Adv.
Ms. Laboni Sikdar, Adv.
Mr. Souvik Dey, Adv.

For the State : Mr. Debasish Roy, Ld. P.P.
Mrs. Anasuya Sinha, Ld. A.P.P.
Mr. Nahid Ahmed, Adv.

Hearing concluded on : 28th July, 2025

Judgment On : 27th August, 2025

Prasenjit Biswas, J:-

1. Both the appeals are filed challenging the impugned judgment and order dated 30.09.2024 and 01.10.2024 passed by the learned Judge POCSO Act-cum-Additional Sessions Judge, 1st Court, Arambagh, Hooghly in connection with POCSO Case No. 6 of 2018.

2. By passing the impugned judgment both the convicts namely, Sagarika Pandit and Sushila Majhi are found guilty for committing the offence punishable under Section 302/363/365/201 of the Indian Penal Code and were sentenced to death under Section 302 of the Indian Penal Code. These appellants were sentenced to suffer rigorous imprisonment for

seven years under Section 363, 365 and 201 of the Indian Penal Code along with fine of Rs. 5000/- in each of the offences and in default of payment of fine to suffer further imprisonment for one month.

3. Being aggrieved by and dissatisfied with the said impugned judgment and order of conviction, the present appeal is preferred at the behest of the appellants.

4. The story of the prosecution in nutshell is that:

“A complaint was lodged on 03.02.2018 at 3.35 P.M. by the defacto complainant before Khanakul Police Station to the effect that on 02.02.2018 at about 7:00 P.M. his minor daughter (victim) who was aged about 4 years 3 months at that point of time left their house with her mother but did not return. The defacto complainant and others started searching for her everywhere but did not find her. Subsequently, on 07.02.2018 the dead body of the said minor victim girl was found in the bathroom chamber of one Ghantu Singh. These appellants along with other accused Murari Pandit

(since deceased) were detained by the local people and it was confessed that they murdered the victim. The accused Murari along with his wife Sagarika was arrested on 09.02.2018 by the Investigating Officer and thereafter on 14.02.2018 the other appellant Sushila Maji, who happens to be the maternal grandfather of the deceased was arrested on the basis of the statement made by other two accused i.e. Murari Pandit and Sagarika Pandit. On the basis of that complaint a police case bearing Khanakul P.S. Case No. 31/18 dated 03.02.2018 was registered and after completion of investigation charge-sheet was submitted by the prosecuting agency against these appellants along with other deceased accused Murari Pandit under Section 363/365/302/201/376AB/34 of the Indian Penal Code and under Section 4/6 of the POCSO Act.”

- 5.** During trial of the case, the accused Murari Pandit died and as such, the case against that accused was ‘filed for ever’.

6. During trial, prosecution had examined sixteen witnesses and produced documents and materials which were marked as exhibits 1 to 17 and MAT Exhibit I and II in this case. Neither any oral, nor any documentary evidence was adduced on behalf of the appellants.

7. Mr. Kaushik Gupta, learned Senior Advocate for the appellant has said that the present case is based on circumstantial evidence and no circumstance has been established or placed on record to connect these appellants with the offence alleged. It is said by the learned Advocate that the prosecution claims that the victim was sacrificed to a “Deity” for “Tantra Sadhana” but the dead body of the victim did not bear any precise cut injuries to establish that blood was offered to a “Deity” for “Tantra Sadhana”. It is said that during the trial or investigation no witness has ever claimed any incident of rape by anyone or rape by the deceased accused. The present appellants are women and thus the allegation of rape is not sustainable against them. The learned Advocate further contended that the prosecution claimed that there was an extra judicial confession by

the appellant Sagarika Pandit and her husband before the villagers who allegedly suspected them to commit the offence. On the contrary, during trial no witness claimed that any such extra-judicial confession was ever made to them. It is further said by the learned Advocate that such confession was made before Anil Dhank (PW12), Becharam Bag (PW10), and Haru Pakira (PW-13), but these witness at the time of deposing before the Trial Court did not confirm or claimed such confession.

8. The attention of this Court is drawn to the deposition of the PW12 and PW13 who are the witnesses to the seizure. It is said that PW12 in his evidence that the police prepared documents at the police station and obtained his signature, once in front of the house of the appellant. Whereas PW13 did not mention about seizing of 'chappal', during his examination and that seizure witness admitted that he signed a seizure list on asking of police. So, as per submission of the learned Advocate that the claim of the prosecution regarding seizure of "chappal" (sleepers) from the cowshed of the one of the appellants is not at all believable. Moreover, no witnesses including the mother of the victim (PW2)

mentioned the “chappal” during their depositions. So, it is said by the learned Advocate that chain of circumstances in connection with this case is not proved beyond reasonable doubt.

9. As per submission of the learned Advocate there is not a single iota of evidence, far less, a clinching piece of evidence, to link these appellants with the death of the child. Reliance has been placed by the learned Advocate upon the decision rendered by the Apex Court in the Case of **Hanumant -vs- State of Madhya Pradesh**¹ and in the case of **State of Punjab -vs- Kewal Krishan**². It is further said by the learned Advocate that the conviction cannot be justified solely on the basis of the statement of a co-accused regarding the involvement of the other accused in the crime. It is said that PW16 (Investigating Officer) has stated in his evidence that the other co-accused persons revealed the name of the appellant Sushila Maji regarding her involvement in the alleged crime and the appellant Sushila Maji was arrested on 14.02.2018 from the residential house of PW1. In support of his

¹ **(1951) 2 SCC 71**

² **2023 SCC OnLine SC 746**

contention, he placed reliance upon the decision rendered by the Hon'ble Apex Court in the case of **Dipakbhai Jagdishchandra Patel -vs- The State of Gujrat**³. So, it is said by the learned Advocate that the learned Trial Judge failed and/ or neglected to appreciate the aforesaid aspects as per the law laid down by the Apex Court and proceeded to arrive at a finding of guilt against these appellants thereby causing serious prejudice to them. So, it is said that the impugned judgment and order of conviction passed by the learned Trial Court may be set aside.

10. Per contra, learned Advocate representing the State submitted that the prosecution has proved its case beyond reasonable doubt by adducing prosecution witnesses through reliable cogent, oral and documentary evidence. There is nothing material and in the record for which the findings of the Trial Court may be interfered with. It is said by the learned Advocate that the offence committed by the appellant in a diabolical manner and the victim girl who was aged about four years was murdered by these appellants.

³ (2019) 16 SCC 547

11. We have considered the rival submissions advanced by both the parties and have gone through all the materials on record.

12. Undoubtedly, this case was based on circumstantial evidence and there is no witness to the incident. It is now well settled that when a case is based solely on circumstantial evidence, the circumstances from which the conclusion of guilt is to be drawn must be fully established, and as such circumstances must be consistent only with the hypothesis of the guilt of the accused and wholly incompatible with any other reasonable hypothesis. The chain of circumstances must be so complete as to exclude every possible hypothesis except that of the guilt of the accused. The prosecution is obliged to prove each link in the chain by reliable and cogent evidence, a missing link or a broken chain inevitably enures to the benefit of the accused. Suspicion, however, strong cannot take the place of proof. It is also trite law that the circumstances proved must be of conclusive nature and must unerringly point towards the accused as the perpetrator of the offence. In the absence of such a complete and unbroken chain, it would be wholly unsafe to sustain a conviction.

13. PW1 has stated in his evidence that on the date of incident he went outside for the purpose of the work and returned to his residence at about 7 P.M. after purchasing food for the victim. But on return to his house this witness could not see the victim and thereafter he searched for her daughter but could not find her. On the next day, this witness went to the police station in the morning and lodged written complainant at Khanakul Police Station. It is said by this witness that after five days of the incident PW11 Ghantu Singh called him on saying that some bad smell was coming out from his latrine chamber and when the lid of the chamber was opened, the dead body of the victim was found therein, police was informed and the dead body of the victim was picked up from the chamber. It is said by this witness that sometimes after they came to know the deceased accused Murari @ Kochi and his wife Sagarika (one of the appellants) surrendered at police station. So, this witness did not see the victim with the appellants on the fateful date of incident.

14. PW2, mother of the victim girl has stated in his evidence that on the date of incident at about 7 P.M. a quarrel was going on in

the house of her neighbour and she went there to see the matter. It is said by this witness that at that time the appellant Sushila Maji was at their house and after returning home, her husband (PW1) could not see the victim at home. It is further said by this witness that on asking, the appellant Sushila Maji told PW1 that the victim had come following this witness to place where she went to see the quarrel. So, this witness did not see the victim that who took her daughter with them. It is said by this witness that the appellant Sagarika Pandit disclosed before public that the victim was handed over to Sagarika by the appellant accused Sushila Maji and Sushila Maji took the victim from their house to Sagarika Pandit. This PW2 has said that Murari Pandit and Sagarika Pandit killed their daughter for doing some secret "Tantra Sadhana" and after killing the victim the deceased accused Murari Pandit kept the dead body under heap of straw and thereafter the body of the victim was thrown into the septic tank of PW11.

15. PW6, father of the defacto complainant has deposed that after four to five days of the incident people observed bad smell was coming from the septic tank and flies were gathering on the

septic tank of neighbouring house and as such, the police was informed and they recovered the dead body of the victim from the said septic tank.

16. PW4, sister of the complainant also deposed in the same line of PW1 and PW2. It is said by this witness that the dead body of the victim was found in the septic tank of Ghantu Singh (PW11). This witness further said that at that time the appellant Sagarika along with her husband, the deceased accused Murari were fleeing away from the village but they were caught by the village people and they confessed there in front of the people.

17. PW5, Netai Mallik has stated in his evidence that he saw one person was running and he followed him to some distance and the said person entered into the jungle and then he quit to follow him and further deposed that after 4/5 days the dead body of the victim was recovered from the septic tank of PW11.

18. So, none of the witnesses saw Sagarika Pandit and Murari Pandit taking away the victim to their Gawal Ghar (Cowshed) and then putting the dead body into the septic tank chamber of PW11. The victim was missing on 02.02.2018 at about 3 P.M. and the

information was given by PW1 to the police station on 03.02.2018 at around 3.35 PM. The post-mortem report of the victim was conducted on 08.02.2018. A notice for interrogation by the Investigating Officer was sent to the Murari Pandit and his wife Sagarika Pandit and they were interrogated on 07.02.2018 and were released. Murari and Sagarika were again interrogated by the Investigating Officer on 09.02.2018 and their confessional statements were recorded and on the basis of their statement they were arrested. The I.O. (PW16) arrested the other appellant Sushila Maji on 14.02.2018 who happens to be the maternal grandmother of the deceased on the basis of statement of other two accused Murari and Sagarika.

19. In the case at hand, the circumstances projected by the prosecution suffer from material gaps and inconsistencies, leaving the chain incomplete. In the case based on circumstantial evidence the prosecution is required to prove each circumstance beyond reasonable doubt, all such circumstances must form an unbroken and continuous chain leading only to the inference that the accused, and none else, committed the offence. Suspicion,

however strong, cannot replace legal proof, and the Court must guard itself against conjectures and surmises. Where any link in the chain of evidence is missing or where the proved facts are consistent with the innocence of the accused, the benefit of doubt must go in favour of the accused. It is only when all the proved circumstances are interlinked in such a manner that they form a complete and conclusive chain pointing unmistakably towards the guilt of the accused that a conviction can be sustained.

20. The prosecution claims that there was an extra judicial confession by the deceased accused Murari and his wife Sagarika before the villagers who were allegedly suspected to commit the offence. It is claimed by the prosecution that on 07.02.2018 when the body of the victim was discovered, Murari and his wife Sagarika (one of the appellants) were fleeing from the village and they caught by the villagers and they confessed guilt in front of them and were handed over to the police. But during trial no witness claimed that any such extra-judicial confession was ever made to them, the persons before whom such confession was made namely, Anil Dhank (PW12), Becharam Bag (PW10), and

Haru Pakira (PW-13). At the time of giving depositions before the Trial Court these witnesses did not confirm or claimed such confession.

21. PW16, Investigating Officer has stated in his evidence that he sent a notice to Murari and the appellant Sagarika for interrogation and after getting such notice they appeared for interrogation on 07.02.2018 and were released from the same date. Their confessional statements were recorded on 09.02.2018 and they were arrested on that date.

22. It is a settled principle of criminal jurisprudence that extra-judicial confessions, being statements made outside the judicial process, must be approached with great circumspection. This caution becomes more pronounced when such confession is alleged to have been made before members of the public, who are neither law enforcement officials nor judicial authorities. The inherent possibility of misinterpretation, embellishment, or motivated testimony in such circumstances demands that the Court subject the evidence to a strict and searching scrutiny. The reliability of an extra-judicial confession hinges upon the

credibility of the witness, the voluntariness of the statement, the absence of any animus, and the consistency of the account. The Court must, therefore, be satisfied that the confession was spontaneous, untainted by threat, inducement, or promise, and made in a mental state conducive to truth-telling. Mere assertion by public witnesses that the accused confessed is insufficient unless it inspires complete confidence and is corroborated, at least in material particulars, by other reliable evidence. In the present case, while the extra-judicial confession is admissible under the Evidence Act, the rule of prudence mandates its careful evaluation in light of the surrounding facts, the neutrality of the witnesses, and the absence of suspicious circumstances. Only if these safeguards are met can such a confession before the public form a safe foundation for conviction.

23. When the confession is made before members of the public—such as co-villagers, acquaintances, or bystanders—it is subject to even stricter scrutiny because of the possibility of misinterpretation, exaggeration, or fabrication. Yet, if the public witnesses are found wholly reliable, have no motive to implicate

the accused falsely, and their testimony withstands cross-examination, the confession can be safely relied upon.

24. In this case it is alleged that on 07.02.2018 the deceased accused Murari and one of the present appellants Sagarika Pandit were fleeing away from the village and upon suspicion the villagers apprehended them and upon asking reason, they made extra-judicial confession. We have already said that none of the witnesses stated who were the persons apprehended them and before whom such extra-judicial confessions were made. It is said by PW1 in his deposition that sometimes after recovery of the body, he came to know that Murari Pandit and his wife Sagarika Pandit are miscreants and committed the misdeed. PW2, mother of the victim also stated in the same voice of PW1 and has said that when the body was recovered, at that point of time people saw Murari Pandit and Sagarika Pandit were fleeing away to fields and people caught them and then Sagarika Pandit disclosed to the public that they have committed the crime. But the said statement has not been made before the police at the time when she was examined by the police. So, the extra-judicial confession made by

the accused Murari Pandit and his wife Sagarika Pandit is very much doubtful and as such, such confession cannot be safely relied upon on the prosecution witnesses did not corroborate PW1 and PW2 on this score at the trial.

25. In this case, some bloodstained earth was seized from the alleged place of occurrence where the victim was allegedly killed, being the cowshed of the accused Murari and Sagarika and the sample was sent to the FSL for the examination to determine whether the blood was that of the victim. The forensic laboratory could not determine whether the blood was human or if it belonged to the victim.

26. At the time of investigation some articles i.e. vermilion-stained dry leaves, some dry marigold flowers, some rice, half-burnt incense sticks, an empty bottle of rose-scented perfume, and an open vermilion packet were seized from the cowshed of Murari and Sagarika but the prosecution has failed to prove that 'Tantra Sadhana' was performed or the victim was sacrificed there, by seizing those articles. There is no such evidence on record that the victim was taken to that place of 'Tantra Sadhana' which is at

the cowshed of the accused Murari and Sagarika on the relevant date.

27. In this case, a pair of sleepers (chappal) allegedly belonging to the victim were seized from the corner of the cowshed where allegedly 'Tantra Sadhana' was held by the accused Murari and Sagarika. PW1 (de-facto complainant/ father of the victim) during his examination from 17.08.2018 to 19.04.2022 never said about 'chappal'. After about a year PW1 was recalled on the basis of an application filed on behalf of the prosecution, a question was put to this PW1 and then he identified the seized chappal as belonged to the victim. In cross-examination, PW1 admitted that he had informed the police about the victim's wearing apparel at the time of her disappear but had not mentioned chappals. PW12, one of the witnesses to the seizure did not identify the chappal. PW13 did not mention of the chappal during his entire examination. PW2, mother of the victim also did not mention the chappal during giving her deposition. None of the witnesses also did not say about chappal.

28. In **Sharad Birdhichand Sarda (supra)** the Apex Court enunciated the five golden principles, often referred to as the *panchsheel* of circumstantial evidence, which must be cumulatively satisfied before a conviction can be sustained: (i) the circumstances from which the conclusion of guilt is to be drawn should be fully established; (ii) the facts so established should be consistent only with the hypothesis of the guilt of the accused; (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 complete chain of evidence so as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused. Unless these five tests are satisfied, a conviction cannot be sustained merely on the basis of suspicion, conjecture, or strong moral probabilities. In other words, unless the prosecution is able to weave together a complete and unbroken chain of circumstances which points unerringly to the guilt of the accused, and which is wholly inconsistent with any other rational conclusion, the accused is entitled to the benefit of doubt. This is the cardinal safeguard

against wrongful conviction and forms the very foundation of the rule of law in cases based on circumstantial evidence.

29. If even one link in this chain is missing, broken, or left in doubt, the benefit of such doubt must go to the accused, resulting in acquittal. Conviction cannot be founded on suspicion, conjectures, or probabilities, however strong they may appear.

30. In **Hanumant Govind Nargundkar (supra)** the Hon'ble Apex Court cautioned that circumstances should be "fully established" and not merely "may be" established. The Court further observed that suspicion, however grave, cannot take the place of proof. The Apex Court laid down the principle that in cases depending on circumstantial evidence, the circumstances must be of a definite tendency pointing towards the guilt of the accused, and they must exclude every reasonable hypothesis consistent with innocence.

31. It is profitable to quote the following observations as made by the Apex Court at paragraph 11 of the said report in the context of this case.

"11. Assuming that the accused Nargundkar had taken the tenders to his house, the prosecution, in order to

bring the guilt home to the accused, has yet to prove the other facts referred to above. No direct evidence was adduced in proof of those facts. Reliance was placed by the prosecution and by the courts below on certain circumstances, and intrinsic evidence contained in the impugned document, Ext. P-3A. In dealing with circumstantial evidence the rules specially applicable to such evidence must be borne in mind. In such cases there is always the danger that conjecture or suspicion may take the place of legal proof and therefore it is right to recall the warning addressed by Baron Alderson to the jury in R.V. Hodge where he said:

“The mind was apt to take a pleasure in adapting circumstances to one another, and even in straining them a little, if need be, to force them to form parts of one connected whole; and the more ingenious the mind of the individual, the more likely was it, considering such matters, to overreach and mislead itself, to supply some little link that is wanting, to take for granted some fact

consistent with its previous theories and necessary to render them complete.”

32. Thus, when the prosecution fails to prove any of the essential links—be it motive, last-seen circumstance, recovery of incriminating articles, medical evidence consistent with the prosecution version, or any other relevant factor—the entire case collapses. It is trite law that the benefit of even a reasonable doubt must be given to the accused, for the presumption of innocence is a cardinal principle of criminal law. Therefore, in the absence of a complete and unbroken chain of circumstances pointing irresistibly to the guilt of the accused and ruling out any hypothesis consistent with innocence, conviction is wholly unsustainable in law. Thus, it is an inviolable rule that unless the entire chain of circumstances is established beyond reasonable doubt, and unless those circumstances are wholly consistent with the guilt of the accused and inconsistent with any other reasonable explanation, the Court cannot record a conviction. To do so in the absence of such a complete chain would amount to a grave miscarriage of justice.

33. It appears from the deposition of PW16 (I.O.) that the accused Murari and his wife Sagarika (one of the appellants) revealed the name of the other appellant Sushila who happens to be the mother-in-law of the complainant regarding her involvement in the alleged crime. The accused Murari and his wife Sagarika were arrested on 09.02.2018 and the appellant Sushila was arrested on 14.02.2018 from the residential house of PW1.

34. It is now a settled proposition of law that the statement of a co-accused, whether recorded under Section 30 of the Indian Evidence Act or otherwise, is not substantive evidence and cannot, by itself, form the sole basis for the conviction of another accused. The law recognises that such a statement stands on a weaker footing than even that of an approver, for it is not made on oath, is not subjected to cross-examination, and is often motivated by a desire to shift or share culpability. The confession of a co-accused can be taken into consideration only for lending assurance to other independent evidence adduced by the prosecution; it cannot be treated as evidence of the fact itself. In the absence of material corroboration connecting the accused to the commission of the

offence, reliance solely on such a statement would be wholly unsafe and contrary to the mandate of law. In the case at hand, save and except the bare assertion of the co-accused, there is no independent, reliable, or corroborative evidence establishing the complicity of the appellant. In these circumstances, the conviction based purely on the statement of a co-accused is legally unsustainable and cannot be allowed to stand.

35. In the case of **Deepak Bhai Jagadish Pattel (supra)** the Hon'ble Apex Court held that the conviction of a co-accused cannot be treated as substantive evidence and can be pressed into service only when the Court is inclined to accept other evidence and feel the necessity of seeking for an assurance in support of his conclusions deducible from the said evidence. In criminal case where the other evidence against the accused person is wholly unsatisfactory and the prosecution seeks to rely of a confession of a co-accused person, the presumption of an innocence which is basis of criminal jurisprudence should be held in favour of the accused person and compels the Court to render the verdict that the charge was not proved against him and he is entitled to the

benefit of doubt. In view of the above report there is nothing on record against Sushila Maji except the statements of the co-accused person.

36. It is a cardinal principle of criminal jurisprudence that the guilt of an accused must be established beyond reasonable doubt through legally admissible evidence. The presumption of innocence is the foundation of criminal law, and this presumption continues to operate in favour of the accused until it is displaced by cogent, credible, and trustworthy proof. The “suspicion, however grave, cannot take the place of proof,” and that there is a long distance between “may be true” and “must be true.” The prosecution must travel this entire distance by presenting unimpeachable evidence; mere moral conviction or strong suspicion is not enough to warrant conviction. The circumstances relied upon by the prosecution must be fully established and should be consistent only with the hypothesis of the guilt of the accused; otherwise, no conviction can be sustained. The conjectures or suspicion, no matter how strong, cannot be allowed to replace proof. This principle is rooted in the high standard of

proof required in criminal trials—proof beyond reasonable doubt—which acts as a safeguard against wrongful convictions. Suspicion may arise from circumstances such as motive, opportunity, or conduct of the accused, but unless such suspicion is supported by convincing evidence that forms a complete and unbroken chain pointing to guilt, the court is bound to acquit. It is no doubt true that wrongful acquittals are undesirable and shake the confidence of the people in the judicial system, but wrongful convictions are far worse and shake the very basis of society. The courts must ensure that suspicion does not take the place of legal proof.

37. Therefore, even the gravest suspicion—based on strong motive, questionable conduct, or circumstantial inferences—cannot, by itself, form the basis for conviction unless the prosecution’s evidence satisfies the test of proof beyond reasonable doubt. The protection against conviction on suspicion alone is an indispensable safeguard for individual liberty and the integrity of the justice system.

38. In this case, Madhabi Pandit (PW9), Ghantu Singh (PW11), Anup Dhank (PW12), Haru Pakhira (PW13) did not say anything

regarding involvement of the appellant Sushila Maji with the alleged offence.

39. The contents of the FIR and the inquest report when read with the juxtaposition of the deposition of Investigating Officer, then it appears that the victim went out of the house with her own mother (PW2) before she went missing. This contradicts the prosecution's claim that the victim went out with her grandmother, who handed over to the other accused person Murari and his wife Sagarika and this discrepancy completely breaks the chain of circumstantial evidence. The prosecution has sought to build its case on the footing that the victim was taken away by her grandmother, who thereafter allegedly handed her over to the co-accused Murari and his wife Sagarika. The twofold version, emanating from the prosecution's own documents and witnesses, gives rise to a clear contradiction as to with whom the victim was last seen alive. The so-called "last seen together" circumstance, being one of the vital links in the chain of circumstantial evidence, must be established with certainty and beyond doubt. In the present case, the prosecution has failed to

present a consistent and unambiguous narrative. The inconsistency between the FIR, inquest report, and the subsequent theory advanced by the prosecution completely erodes the credibility of the “last seen” evidence. Once this link is broken, the entire chain of circumstances falls apart, for it is well settled that the chain must be complete and unbroken in order to sustain a conviction. This glaring discrepancy, therefore, strikes at the very root of the prosecution’s case and entitles the accused to the benefit of doubt.

40. In view of the above facts and circumstances and discussion made above we find that there is illegality and material irregularity in the impugned judgment and order of conviction passed by the learned Trial Court dated 30.09.2024 and 01.10.2024 and as such, it is liable to be set aside.

41. Accordingly, both the appeals being CRA(DB) 364 of 2024 and CRA(DB) 33 of 2025 are hereby **allowed**.

42. The impugned judgment and order of conviction dated 30.09.2024 and 01.10.2024 passed by the learned Trial Court in

connection with POCSO Case No. 6 of 2018 arising out of P.S. Case No. 31/18 dated 03.02.2018 is hereby set aside. Both the appellants are to be released from the correctional home forthwith.

43. In view of provision of Section 437A of Cr.P.C. the appellants shall have to execute bail bonds with sureties and such bail bonds shall be in force for six months.

44. Let a copy of this judgment and order along with the Trial Court Records be sent down to the Trial Court immediately for taking necessary steps in this regard.

45. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

[PRASENJIT BISWAS, J.]

46. I Agree

[DEBANGSU BASAK, J.]