



Jose/Vinita

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO.18 OF 2025

Shri. Manohar Ketkar,
Son of Laximan Ketkar, 55 years of age,
Labour/Cook, Indian National and resident
of H.No. 608-A, Aronda, Bazarwadi,
Sawantwadi, M.S. Native of
Varchidhatwadi, Kasi,
Dodamarg, Maharashtra.

... Appellant

Versus

1. State of Goa
(As represented by the Officer In
charge/Police Inspector, Bicholim Police
Station)
Bicholim, Goa)

2. The Public Prosecutor
High Court Building
Alto-Betim, Porvorim, Goa

...Respondents

Mr. Pravin C. Naik with Mr. Sanket Mahambre, Mr. Aditya Tanksali, Ms. Namrata Shirodkar and Mr. Roland Fernandes, Advocates for the Appellant.

Mr. Shailendra Bhobe, Public Prosecutor for the State.

**CORAM: VALMIKI MENEZES &
SHREERAM V. SHIRSAT, JJ.**

Reserved on: 10th September 2025

Pronounced on: 14th November 2025.

JUDGMENT (*Per Shreeram V. Shirsat, J.*):

1. Registry to waive office objections and register the matter.
2. The Appeal is filed challenging the conviction of the Appellant vide Judgment and Order dated 17/08/2024 and 22/08/2024 in Sessions Case No.29/2014 passed by the Court of the Additional Sessions Judge, at Mapusa, wherein the Appellant was convicted under Section 302 of The Indian Penal Code, 1860 and was sentenced to undergo rigorous imprisonment for life and was directed to pay fine of Rs.50,000/- (Rupees Fifty Thousand Only) and in default of payment of fine to undergo simple imprisonment for a period of 2 months.
3. Brief facts of the prosecution case are as under:-
 - a. That on 19/11/2013, a complaint was filed by Mr. Manoj Manohar Ketkar to the effect that on 18/11/2013 at about 14:30 hrs., Accused/Appellant Manohar Ketkar

committed murder of his wife Manisha Manohar Ketkar (Mother of the Complainant) over suspect of her character.

- b.** That upon receipt of such information, Bicholim Police Station registered Crime No. 203/2013 at 1:30 hrs. under Section 302 of the Indian Penal Code, 1860. That in pursuance of the said complaint, a search in Ladfem area near Nestle Factory was conducted by the Police Inspector Mr. Neenad Deulkar and during the said search at about a distance of around 300 to 350 meters approximately a shed was noticed wherein a dead body was seen lying. As it was night time, the scene of offence was not disturbed and the same was preserved and guarded by deploying police constables to guard the scene.
- c.** Further on 19/11/2013 at 08:00hrs, Police Inspector Neenad Deulkar along with staff of Bicholim Police Station left for investigation. The Police Inspector then secured presence of two Panchas namely Mr. Mohan Chandrakant Gaonkar and Mr. Vishram Yeshwant Gawade and photographer namely Srinivasan R. Naik

and conducted panchanama of scene of offence in the property of Mr. Savoikar at Kulan, Ladfem, Bicholim-Goa. During the scene of offence panchanama, certain incriminating articles were seized which were attached and marked. That the dead body of the deceased was seen in the said property in a structure built with laterite stones and partly with asbestos sheets. The said dead body was then removed and identified by the Complainant Mr. Manoj Ketkar to be of his mother namely Mrs. Manisha Manohar Ketkar (Wife of the Appellant). After concluding the scene of offence panchanama in the presence of the same pancha witnesses, inquest Panchanama was conducted.

- d. That during the inquest Panchanama the Investigating Officer observed that the chin of the deceased was tied with the white cloth and with the cotton thread. Some jute thread was seen tied around the neck of the deceased, and both the hands of the deceased were tied with the jute thread at the back.
- e. That on 20/11/2013, Dr. Pannag S. Kumar, Assistant Lecturer, Forensic Medicine and Toxicology, Goa

Medical College, Bambolim-Goa, conducted post mortem examination of the dead body of the deceased Mrs. Manisha Manohar Ketkar and vide Autopsy Report No. 1071/2013 dated 20/11/2013 certified that the cause of death is due to “Asphyxia as a result of strangulation by ligature vide injury No.1 which was ante mortem and fresh at the time of death and necessarily fatal”. The necessary exhibits and viscera were also collected and preserved, so also sample of blood of the deceased was collected and sent to Medical Officer on duty of Blood Bank, GMC, Bambolim. Dr. Clare S. D’Mello of Blood Bank, GMC Bambolim, conducted blood grouping test in respect of blood sample of deceased which was forwarded by the Police Surgeon in sealed condition with the seal of the Forensic Medicine, GMC Bambolim and certified that the blood of the deceased was Hemolysed.

- f. That on 22/11/2013, A.S.I Rama P.N. Gaonkar in the presence of two pancha witnesses namely Mr. Vishant Hari Tari and Vishnu Yeshwant Gawas conducted attachment panchanama in respect of the

clothes/belongings of the deceased Mrs. Manisha Manohar Ketkar which were found on her body at the time of conducting Post mortem examination.

- g. That on 11/01/2014, the Investigating Officer received specific and reliable information with respect to Accused/Appellant being found moving in Margao area and accordingly, the Appellant was arrested in the present crime on 12/01/2014 at 1:00 hrs. The arrest panchanama was drawn in the presence of two pancha witnesses, namely Mr. Atish Shriram Shetye and Mr. Sarvesh Balkrishna Naik and incriminating articles were attached.

4. That, on conclusion of the investigation, the Charge sheet came to be filed before the learned Judicial Magistrate First Class at Bicholim, which was committed to the Court of Sessions at Panaji. Thereafter charge was framed and the trial commenced.

5. In order to establish the case against the Appellant, the Prosecution examined 21 witnesses in total which are as under:-

SR. NO.	WITNESS	NAME	DEPOSITION
01	PW1	Mr. Manoj Manohar Ketkar (Complainant)	This witness was examined by the prosecution being the complainant who set the crime into motion and to prove Extra Judicial Confession made by the Appellant.
02	PW2	Mr. Ashok Ketkar	This witness is the brother of the Appellant.
03	PW3	Mr. Devdatta Kamat	This witness was examined by the prosecution to prove that the Accused and the deceased had a strained relationship between them.
04	PW4	Sagar Wadkar	This witness was examined by the prosecution to prove Extra Judicial Confession of the Accused in the present

			case.
05	PW5	Mr. Atrish Shetye (Panch Witness)	This witness was examined by the prosecution to prove the arrest of the Accused.
06	PW6	Dr. Pannag S. Kumar (Forensic evidence/Medical Evidence)	This witness was examined by the prosecution to prove the nature of injuries inflicted on the deceased and to further certify the same to be the cause of death.
07	PW7	Mr. Jagannath Korgaonkar (Independent Witness)	This witness was examined by the prosecution to prove the circumstance of the Accused being dropped by the said witness on his motorcycle at Dodamarg.
08	PW8	Ratnakar Salgaonkar (Independent Witness)	This witness was examined by the prosecution to prove

			the circumstance that the Accused was dropped by the said witness on his motorcycle to Pernem.
09	PW9	Mr. Nishikant Sukelkar (Independent Witness)	This witness was examined by the prosecution to prove the Extra Judicial Confession made by the Accused to the said witness over phone call.
10	PW10	Mr. Gokul Rambhau Rasal (Nodal Officer)	This witness was examined by the prosecution to prove the CDR details of phone bearing no. 9403273929 and to further prove that there was call made from mobile No. 8805737891 to 9403273929.
11	PW11	Sulbha Naik (Independent Witness)	This witness was examined by the prosecution to prove

			the circumstance that the Accused had come to the canteen of the said witness asking for work.
12	PW12	Mahadev Manohar Ketkar	This witness is the elder son of the Appellant and was examined by the prosecution to prove the circumstance that the phone bearing No. 8805737891 was used by the Accused.
13	PW13	Nagesh Mahale	This witness was examined by the prosecution to prove the circumstance that the Accused on 23/12/2013 had approached him for a job and to further prove that the Accused was working from 23/12/2013 till 08/01/2024 and to prove that the

			Accused was wearing black pants and light pink colour half sleeves shirt with stripes on 08/01/2024.
14	PW14	Francis Pereira (Nodal Officer)	This witness was examined by the prosecution to prove the CDR details of mobile phone bearing No. 91587011039
15	PW15	Dattaram Angre (Nodal Officer)	This witness was examined by the prosecution to prove the CDR details of Mobile No 880573789
16	PW16	Vilas Salgaonkar (Independent Witness)	This witness was examined by the prosecution to prove the circumstance that the Accused had come in the month of January 2014 to the bar and restaurant of the said witness from where the Bicholim

			Police, in January 2014, had arrested the Accused and to further prove that the Accused at the time of his arrest was wearing a black long pants and pink colour half sleeves shirt with strips.
17	PW17	Deepali Ketkar	This witness was examined by the prosecution to prove the circumstance that the said witness called Manisha (Deceased) on the day of incident.
18	PW18	Ninad Deulkar	The Investigating Officer
19	PW19	Mamta Ketkar	This witness was examined by the prosecution, to prove the circumstance that the deceased was residing at Shiroda alone on rent, and further was at the

			house of the uncle/brother of the Accused at Dodamarg.
20	PW20	Shri. Surendra Kerkar (Police Witness)	This witness was examined by the prosecution to prove that the said witness had guarded the scene of offence from 19/11/2013 from 3.00 am till around 1.00-4.30 p.m.
21	PW21	Shri. Shrinivas Naik (Photographer)	This witness was examined by the prosecution to prove the genuineness of the photographs that were clicked by the said witness at the scene of offence.

6. On completion of prosecution evidence, statement of Appellant under Section 313 Cr. P.C. was recorded, wherein the Appellant denied the case of prosecution and further stated that he was falsely implicated in the case and further was granted an

opportunity to lead any defence evidence, if so desired. That the Appellant chose not to lead any defence. Upon hearing the Appellant and the prosecution, the learned Additional Sessions Judge, North Goa at Mapusa, was pleased to hold the Appellant guilty as charged, and sentenced him as stated herein above.

7. Heard, Ld. Counsel Mr. Naik for the Appellant and the Ld. Public Prosecutor Mr. S. G Bhobe for the State.

8. The death of the deceased is homicidal in nature and was caused on account of asphyxia due to strangulation. Once the death is homicidal death, the burden lies on the prosecution to prove that the death was on account of the act committed by the Accused with the intention and knowledge that this act would cause the death of the deceased which would amount to offence of murder. There is no direct evidence or any eye witness to the said incident in question, but the case is based on circumstantial evidence.

9. Before adverting to the circumstances, it will be pertinent to refer to the ruling of the Hon'ble Apex Court in the case of ***Abdul Nassar Vs State of Kerala and another*** as reported in ***2025 SCC Online SC 111*** wherein it has been observed that:-

“14. Indisputably, the prosecution case rests on circumstantial evidence. The law with regard to a case based purely on circumstantial evidence has very well been crystalized in the judgment of this Court in the case of Sharad Birdhichand Sarda (supra), wherein this Court held thus:

“152. Before discussing the cases relied upon by the High Court we would like to cite a few decisions on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. The most fundamental and basic decision of this Court is Hanumant v. State of Madhya Pradesh [(1952) 2 SCC 71 : AIR 1952 SC 343 : 1952 SCR 1091 : 1953 Cri LJ 129].

This case has been uniformly followed and applied by this Court in a large number of later decisions up to date, for instance, the cases of Tufail (Alias)Simmi v. State of Uttar Pradesh [(1969) 3 SCC 198 : 1970 SCC (Cri) 55] and Ramgopal v. State of Maharashtra [(1972) 4 SCC 625 : AIR 1972 SC 656]. It may be useful to extract what Mahajan, J. has laid down in Hanumant case [(1952) 2 SCC 71 : AIR 1952 SC 343 : 1952 SCR 1091 : 1953 Cri LJ 129]: “It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the

conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the Accused. Again, the circumstances should be of a conclusive nature and tendency, and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the Accused and it must be such as to show that within all human probability the act must have been done by the Accused.”

10. Therefore, where the evidence is of a circumstantial nature or where the case is based on circumstantial evidence, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the Accused. Again, the circumstances should be of a conclusive nature and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the Accused and it must be such as to show that

within all human probability the act must have been done by the Accused. It will therefore have to be seen from the evidence that has come on record whether the circumstances from which the conclusion of guilt is to be drawn is fully established and all the facts so established are consistent only with the hypothesis of the guilt of the Accused.

11. As stated above, in this case, there is no direct evidence and the case is entirely based on circumstantial evidence. That the trial Court has taken into consideration the following circumstances to establish a complete chain viz (1) the Accused and victim were together on the night prior to the murder; (2) the victim/deceased informed the family that the Accused had called her to Bicholim to arrange a job for her and that accordingly she left home to go to meet the Accused; (3) the mobile phone used by the victim was 9158701039; (4) that the Accused was using mobile no. 8805737891; (5) call made by Deepali Ketkar / PW17; (6) phone call made to the victim by PW1 and phone received by the Appellant at that point of time; (7) extra judicial confession of the Accused to PW1 on phone that he killed mother of PW1; (8) extra judicial confession to PW8 by the Accused on phone; 9) extra judicial confession to PW4 by the

Accused; (10) body of victim recovered subsequent to the information given by the Accused to PW1 on phone; (11) death of the victim due to strangulation; (12) motive; (13) phone of the victim recovered from the possession of the Accused during arrest panchanama; (14) clothes worn by the deceased; (15) Accused absconding after the incident; (16) CDR of mobile no. 9158701039 (of victim).

12. The trial Court, based on the above circumstances, has come to a conclusion that prosecution has been successful in proving the entire chain of circumstances beyond reasonable doubt which points out to the guilt of the Accused and which leaves no doubt that the Accused was the perpetrator of the offence and killed his wife.

13. It will therefore have to be seen as to whether from the facts of the case, the chain of evidence is so complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the Accused and it must be such as to show that within all human probability the act must have been done by the Accused.

14. The first circumstance taken into consideration is that the

Accused and victim were together on the night prior to the murder. As far as first circumstance is concerned that the Accused and victim were together on the night prior to the murder; even if it is considered to be proved, the same will not be of much consequence in establishing the complete chain as it cannot be equated with the theory of last seen together before the incident in question, which is otherwise considered as important link in the chain of circumstances, in cases based on circumstantial evidence. It has come in the evidence of PW1, PW2, that on 17/11/2013, the Appellant had come to the house of the PW2 at Kasai, Dodamarg and in the evening they all had dinner and thereafter the Appellant and the deceased were talking to each other. Even if this evidence is taken into consideration, it does not take the case of the prosecution any further or establish an important link in the chain of circumstances. At the most it establishes that previous night they were together but evidence that has come on record is that on the next day the Appellant left in the morning and the deceased has left subsequently and therefore this circumstance as a part of chain cannot be said to be pivotal. Neither PW1 nor PW2 say that the deceased and the Appellant left together in the morning.

15. The second circumstance which the trial Court has taken into consideration, that the victim informed the family that the Accused had called her to Bicholim to arrange a job for her and that accordingly she left home to go to meet the Accused, also cannot be considered as an important link in chain of circumstances. PW1 in his evidence has stated that, *“On the next day in the morning i.e. on 18.11.2013 my father left the house at 6.30 am and I also left home at about 7.00 am. Before I left the house my mother told me that the Accused had called her at Bicholim at 10.00 am and told me that the Accused had assured her that he will look for work for himself and for my mother”* PW2 in his evidence has stated that, *“On 17.11.2013, the Accused left my house in the early morning. Manisha got up thereafter had bath and she told me that she had received phone call from the Accused that he had called her at Bicholim as he has found work”*. Although PW1 and PW2 are informed by the deceased that she was called by the Appellant to Bicholim to arrange a job for her and accordingly she left home to go to meet the Accused also does not conclusively prove that she had indeed gone to the place called by the Appellant in the absence of cogent evidence to that effect. In the evidence of PW1 and PW2, it is seen that the

deceased has not given any specific address where she was called. Saying that she was called to Bicholim does not unerringly point out that she was called at a particular place much less at the place of offence. It is also not the case of any of the witnesses, that both of them left together in the morning on 18/11/2003. Therefore, the observation of the trial Court that prosecution has proved that the Accused and the deceased were together on the previous day of the murder and it was the Accused who called the deceased to Bicholim on the pretext that he had seen a job for her and hence this circumstance also stands proved, in our opinion, does not appear to be correct. In fact, the trial Court has observed in this context that the evidence of PW1 and PW2 is hearsay in this respect. Once the trial Court has come to the conclusion that the evidence is hearsay then it cannot be said to be a vital circumstance in the chain of circumstances.

16. In the case of ***Karakattu Muhammed Basheer Vs State of Kerala, (2024) 10 SCC 813***, it has been held at as under:-

“27. The last seen theory, furthermore, comes into play where the time-gap between the point of time when the accused and the deceased were last seen

alive and the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. Even in such a case the courts should look for some corroboration.”

17. In the present case, there is no witness who has stated that the Appellant and the deceased were last seen together. Just because the deceased had informed the other witnesses that the Appellant had called her to Bicholim under the pretext of giving work, by itself cannot be said to be conclusively proving that she had indeed gone to Bicholim. There is always a possibility that the deceased could have encountered some other persons enroute.

18. Another circumstance taken into consideration is the Extra Judicial Confession of the Accused to PW1 on phone that he killed mother of PW1. The law on the subject is well crystalized. In the latest judgment of the Hon’ble Apex Court in the case of ***Ramu Appa Mahapatar vs State of Maharashtra***, reported in **(2025)3 SCC 565** it has been held that:-

“19. Evidentiary value of an extra-judicial confession was again examined in detail by this Court in Sahadevan Vs. State of Tamil Nadu. That

was also a case where conviction was based on extra-judicial confession. This Court held that in a case based on circumstantial evidence, the onus lies upon the prosecution to prove the complete chain of events which shall undoubtedly point towards the guilt of the Accused. That apart, in a case of circumstantial evidence where the prosecution relies upon an extra-judicial confession, the court has to examine the same with a greater degree of care and caution. An extra-judicial confession, if voluntary and true and made in a fit state of mind can be relied upon by the court. However, the confession will have to be proved like any other fact. The value of the evidence as to confession like any other evidence depends upon the veracity of the witness to whom it has been made.

19.1. This Court acknowledged that extra-judicial confession is a weak piece of evidence. Wherever the court intends to base a conviction on an extra-judicial confession, it must ensure that the same inspires confidence and is corroborated by other prosecution evidence. If the extra-judicial confession suffers from material discrepancies or inherent improbabilities and does not appear to be cogent, such evidence should not be considered. This Court held as follows:-

14. It is a settled principle of criminal

jurisprudence that extra-judicial confession is a weak piece of evidence. Wherever the court, upon due appreciation of the entire prosecution evidence, intends to base a conviction on an extra-judicial confession, it must ensure that the same inspires confidence and is corroborated by other prosecution evidence. If, however, the extra-judicial confession suffers from material discrepancies or inherent improbabilities and does not appear to be cogent as per the prosecution version, it may be difficult for the court to base a conviction on such a confession. In such circumstances, the court would be fully justified in ruling such evidence out of consideration

19.2. Upon an in depth analysis of judicial precedents, this Court in Sahadevan (supra) summed up the principles which would make an extra-judicial confession an admissible piece of evidence capable of forming the basis of conviction of an Accused: (i) The extra-judicial confession is a weak evidence by itself. It has to be examined by the court with greater care and caution. (ii) It should be made voluntarily and should be truthful. (iii) It should inspire confidence. (iv) An extra-judicial confession attains greater credibility and evidentiary value if it is supported by a chain of cogent circumstances and is further corroborated by other prosecution evidence. (v) For an extra-

judicial confession to be the basis of conviction, it should not suffer from any material discrepancies and inherent improbabilities. (vi) Such statement essentially has to be proved like any other fact and in accordance with law.”

19. In the present case, the Extra Judicial Confession made to PW1 cannot be said to be cogently established. The story spun by PW1 that the extra judicial confession was made to him by the Accused itself does not inspire confidence for the reason that the version of the PW1 gets negated by the evidence of CDRs & tower locations. It is the case of PW1 that at 6:30 p.m. he called on the mobile phone of his mother on 9158701039 from his number i.e. from 7507286052; however, if the call logs are perused, there are no calls made at that point of time. Therefore, the very fulcrum of the case that when the call was made at 6:30 p.m., the Accused-Appellant made Extra Judicial Confession does not get cogently established. The Hon’ble Apex Court has in several rulings stated that Extra-judicial confession is a very weak type of evidence and requires appreciation with great caution and especially in a case based on circumstantial evidence where the reliance is placed on extra-judicial confession.

20. Another circumstance taken into consideration is the extra judicial confession to PW4 by the Appellant. As far as PW4 is concerned, according to prosecution, he is another witness to whom the Appellant has made Extra Judicial Confession and who has informed about the same to the police after a period of 10 days. Further upon analysing the evidence of PW4, we are of the opinion that evidence of the PW4, at the threshold, deserves to be taken with a pinch of salt. The Investigating Agency appears to have planted the witness to establish corroboration to the statement of PW1. In the first place, although according to him, the Extra Judicial Confession is made by the Appellant, the said PW4 does not reveal it to any person for a period of 10 days and out of the blue, on 28/11/2013, he narrates it to the police. This evidence, on the face of it seems to be an afterthought. In fact, this witness was sitting in the Police Station on the day of the incident from 9:30 p.m., but astonishingly holds himself back from narrating the Extra Judicial Confession made by the Appellant. The said witness also does not disclose or share such a crucial piece of information with PW2, Subash Vijay Ketkar and Kashiram Ketkar who were present on 18/11/2013 at 9:30 p.m. The delay in reporting the incident, the conduct of the

witness in not sharing it with anyone for a period of 10 days, raises a doubt over the veracity of the Extra Judicial Confession made to PW4 and therefore the same deserves to be discarded from consideration.

21. To bolster the submissions, the Ld. Advocate for the Appellant has relied upon the judgment of ***Ganpat Kondiba Chavan Vs State of Maharashtra reported Law Finder Doc Id# 116850 also reported in 1997(2) Crimes 38*** to emphasize upon delay in disclosing the statement. The relevant portion is quoted herein below. It has been held thus:-

“11. The Apex Court in number of cases has concluded that the conduct of a witness in not disclosing the incident to persons whom he must have met after the incident, is indicative of the fact that he had not seen the incident. In this connection we would like to refer to the decision of the Apex Court reported in Shivaji Dayanu Patil Vs State of Maharashtra, AIR 1989 Supreme Court 1762; wherein the wife who had seen the murder of her husband did not disclose the incident for two days to anyone and on this score the Apex court did not believe her evidence. In paragraph 11 of the said judgment it has been observed thus:

“A wife, who has seen an assailant giving fatal blows with a stick to her husband would name the assailant to all present and to the police at an earliest opportunity.”

12. We would also like to emphasise that the Supreme Court held that the circumstance of inordinate delay in recording the statement of an eye witness under Section 161 Criminal Procedure Code, 1973 is a pointer to the fact that he has not seen the incident. It is a trite that the investigating officer in a murder case immediately after the FIR has been registered seeks to discover as to who are the persons who have seen the incident and thereafter embarks upon the job of interrogating them under Section 161 Criminal Procedure Code.”

22. Further in the examination in chief, the said witness PW4 has deposed that at around 6:30 p.m., Accused (Appellant) came to Syntica Bar (which is at Pernem) where he met and informed that he had killed his wife and that the words uttered were “*Apun apalya baylek marle ani he bhag sabot*”. He goes to the extent of saying that the Appellant showed him the Mangalsutra and said that this is the proof. The said witness also specifically says that he had two mobile phones. This evidence of PW4 gets demolished by prima facie going through the tower locations of

the phone of the Appellant. From the bare perusal of the tower locations, it can be seen that on 18/11/2013, the tower location has been constant and the same has continued till 06/11/2013. Therefore, even the story of this witness that he visited Pernem, considering the distance between two places vis-à-vis the tower location, the story crumbles like a pack of cards. The prosecution in order to establish the circumstance that the Appellant had travelled to Dodamarg on motorcycle has examined PW7. However, the said evidence also does not inspire confidence as the same gets falsified by tower location wherein if the tower locations are perused it can be seen that the Accused/Appellant has not moved adequately from the said place. The same can be relevant also with respect to the examination of PW8 wherein the prosecution has sought to examine him to establish a circumstance that in the month of November 2013, PW8 who was a motorcycle rider, was requested by the Appellant to drop him to Pernem market. Although the witness has deposed about dropping of Appellant either to Dodamarg or Pernem Market, the same gets falsified by the fact that the tower location depicts a different scene altogether. The scientific analysis of the tower locations was very crucial in this case which the Investigating

Agency has not pursued with the seriousness it deserved. The evidence of the nodal officers of the mobile phone companies do not scientifically prove the tower locations.

23. The next circumstance taken into consideration is that the body of victim was recovered subsequent to the information given by the Accused to PW1 on phone. Assuming for the sake of arguments that the body is recovered upon the information given by the Appellant however that fact may be relevant to the extent of discovery but that does not un-erringly prove that the Appellant is the perpetrator of the crime or that he is the person who has committed the murder especially in the absence of any material of last seen together or any material with respect to finger prints, foot prints, absence of any tower location to show that the Appellant and the deceased were at the same spot at the time of the incident. Even assuming that the body of the deceased is recovered subsequent to the information given by the Accused, that itself will not be a conclusive proof or a link to establish that the Appellant must have committed the murder of his wife.

24. The next circumstance that the death of the victim was due

to strangulation cannot be disputed but the same cannot be a circumstance to nail the Accused in the absence of other material to connect the Appellant with the crime.

25. The next circumstance considered by the trial Court as one of the chains in the circumstance is with regard to motive for the murder of the deceased by the Accused. The Appellant has relied upon the judgment of ***Ramanand @Nandial Bharti Vs State of Uttar Pradesh*** reported in ***2022 AIR Supreme Court 5273*** wherein it has been observed that:-

“90. Thus, even if it is believed that the Appellant-Accused had a motive to commit the crime, the same may be an important circumstance in a case based on circumstantial evidence but cannot take the place as a conclusive proof that the person concerned was the author of the crime. One could even say that the presence of motive in the facts and circumstances of the case creates a strong suspicion against the Appellant-Accused but suspicion, howsoever strong, cannot be a substitute for proof of the guilt of the Accused beyond reasonable doubt.”

26. It has been observed by the trial Court that it is the case of the prosecution that the relationship between the Accused and

the deceased was strained which can be seen from the deposition of all the witnesses. The trial Court further recorded that evidence of PW1, PW2 and PW19 would show that the relationship between the deceased and Accused, being husband and wife, was strained as the Accused doubted the fidelity of his wife. Although, it has been deposed that the Appellant used to doubt the fidelity of his wife who is deceased, nothing has been brought on record to show that because of this reason there was a quarrel between the Appellant and the deceased any time before the Appellant and deceased left the house. On the contrary it has come on record in the deposition of PW1 that the Appellant had come to stay at Kasai, Dodamarg house in the evening and they all had dinner and after other family members went to sleep, the Appellant was awake along with his mother and they were talking to each other. It is also stated in the cross examination of PW2 that he did not hear any quarrel between the Accused and the victim i.e. Appellant and the deceased on 17/11/2013 when they were in the house. PW2 also goes to the extent of saying that he did not personally hear the Accused asking the victim to come to Bicholim on 18/11/2013. To establish motive there should be cogent and convincing evidence

which can be said to be in proximity with the happening of the event. In the present case, motive suggested that the Appellant was suspecting the fidelity and therefore has committed offence do not seem to inspire confidence especially in view of the fact that there was no quarrel heard by any of the witnesses on the previous day. None of the witnesses also say that when the deceased had been informed that she had been called to Bicholim by the Appellant, there was any friction on the previous night. Therefore, in the absence of any proximate circumstance, it is difficult to accept that the fidelity of his wife was the motive.

27. The next circumstance taken into consideration is that the Accused was absconding after the incident. This circumstance itself cannot be taken into consideration to establish the guilt of the Appellant. The Hon'ble Apex Court in the case of **SK Yusuf v State of West Bengal** reported in **(2011) 11 SCC 754**, has held thus:-

“Both the courts below have considered the circumstance of abscondance of the Appellant as a circumstance on the basis of which an adverse inference could be drawn against him. It is a settled legal proposition that in case a person is absconding after commission of offence of which he

may not even be the author, such a circumstance alone may not be enough to draw an adverse inference against him as it would go against the doctrine of innocence. It is quite possible that he may be running away merely being suspected, out of fear of police arrest and harassment. (Vide: Matru @ Girish Chandra v. The State of U.P., AIR 1971 SC 1050; Paramjeet Singh @ Pamma v. State of Uttarakhand AIR 2011 SC 200; and [Rabindra Kumar Pal @ Dara Singh v. Republic of India](#), (2011) 2 SCC 490) Thus, in view of the law referred to hereinabove, mere abscondance of the Appellant cannot be taken as a circumstance which give rise to draw an adverse inference against him.”

28. In the latest judgment of the Hon’ble Apex Court in ***Chetan Vs State of Karnataka*** reported in **2025 SCC Online SC 1262** it is held thus:-

“10.9.2 It is trite that mere absconding by itself does not constitute a guilty mind as even an innocent man may feel panicky and may seek to evade the police when wrongly suspected of being involvement as an instinct of self-preservation. But the act of abscondence is certainly a relevant piece of evidence to be considered along with other evidence and is a conduct under Section 8 of the Evidence Act, 1872, which points to his guilty mind.

*The needle of suspicion gets strengthened by the act
[See : Matru @ Girish Chandra v. State of Uttar
Pradesh, (1971) 2 SCC 75].”*

29. No doubt the Hon’ble Apex Court in the latest judgment has said that abscondence could be a relevant factor to be considered along with other evidences and is a conduct under Section 8 of the Evidence Act which points to his guilty mind and that the needle of suspicion gets strengthened by the act. In the present case it is a fact that the Appellant was absconding, however in absence of other material connecting the Appellant with the crime, this factor of abscondence in isolation, without other cogent material cannot be taken as a circumstance which will give rise to draw an adverse inference against the Appellant.

30. The next circumstance taken into consideration is that two phones were found in the possession of the Accused-Appellant at the time of his arrest. Even if it is held that the said fact is proved after taking into consideration evidence of PW5, in our opinion even this factor cannot be held to be conclusively proving that the author of the crime is the Appellant in absence of other material connecting the Appellant to the said crime.

31. The next circumstance about the mobile numbers belonging to the Accused and the deceased and its tower location is also not established with credible evidence. Although the PW18, i.e. the Investigating Officer, narrates his interpretation about the tower locations, however admits that he had not sought any information from Idea Cellular Company or the Vodafone company to substantiate his statement made voluntarily. The Investigating Officer has given his own version as to what was tower location. The said witness also refuses to answer the specific question put to him. An excerpt from his cross examination is reproduced herein below:-

“I say that after lodging of the complaint I tried to track on mobile no. of the deceased and the Accused. I personally tried to track the mobile no. of the deceased and the Accused from the date of lodging complaint. I say that both the mobiles i.e of the deceased and the Accused were switched off when I tried to track it on 19.11.2013. We do not have any investigating agency who can trace the mobile tracking when the mobiles are switched off. I do not remember when was the first time I found the mobile nos of the deceased and the Accused in the active mode. Now I say that I personally did not monitor both the mobile phones but the monitoring

agency is the call monitoring centre at Porvorim. It is not true to suggest that my above statement is false. Now I say that the call monitoring centre at Porvorim works under the instructions of SP, North and we have to correspond with the SP, North and thereafter the SP Office contacts the call monitoring centre. It is not true to suggest that my above statement is false.

Q: Did you make specific letter to the SP, North through whom call monitoring centre at Porvorim operates to find out the live location of the mobile numbers of the deceased and the Accused?

A: No. I say that there is nothing called as live location and the tower location is the last location as per the CDR. It is not true to suggest that my above answer is false.

To the question that whether I had asked for tower location of all the mobiles to which I sought information, I say that I had asked for CDR, SDR, Dump, IMEI No. and CAF No. I say that according to me reflects the tower location. I add and say that the CDR reflects the first cell ID and the last cell ID. I say that I did not ask for the tower location of all the mobile phones for which I had sought information. It is true that being an investigating officer I was required to find out the exact location of the mobiles on the date of the incident i.e. on 19.11.2013. It is true that I have not specifically

asked for the place where the cell IDs of the numbers shown in the CDR were located.”

“It is true that in the CDR with respect to Vodafone mobile no. 9158701039 at exhibit 90 (1) at serial no. 31 to 37, belonging to the deceased the cell ID is constantly changing. It is true that in the CDR with respect to Idea Cellular Ltd. mobile no. 8805737891 which is of the Accused at Exbt 100 (1 to 2) the cell ID of sr. no. 6 and 7 is seen changing location. I voluntarily add and say that there is such a change in the cell ID and the hand set catches the tower having the highest frequency of network. It is not true to suggest that my above statement is false. I say that I do not have any record to substantiate my above statement but it is a standard practice with respect to the tower location. It is true that I have not sought any information from the Idea Cellular Company or the Vodafone company to substantiate my voluntary statement.

“It is true that there is no DNA found of the Accused on any of the incriminating article that I have attached in the present crime as evidence against the Accused. It is true that the place of offence is a remote and rural place. It is true that the distance between 2 mobile towers in the rural area would be approximately at the distance of around 2 to 5 kmts.

Q: Since the mobile of Accused was of idea

company and that of the deceased was of Vodafone company, did you gather any information from Vodafone company or idea company or any other service providers to find out the distance between the two alleged towers of Vodafone and idea company at which according to you the alleged offence took place?

A: I say that the CDR produced on record covers the details in terms of cell ID. I add and say that the cellular company gives us the data on the CD which is available at Porvorim Call Monitoring Centre. It is true that the investigation records produced before this Court, there is no details regarding the distance between two towers of Idea and Vodafone Company. I voluntarily add and say that the details will be available with Porvorim Call Monitoring Centre.

It is not true to suggest that my above statement is false as no such information was sought by me from Call Monitoring Centre.

Q: According to your investigation you have asked for the information regarding SDR, CDR and IMEI tracing, DUMP and CAF of the mobiles of deceased and the Accused and not regarding the distance between two towers of Idea and Vodafone Company where the alleged offence is said to have committed, what do you have to say?

A: Yes”

32. Therefore, in absence of any authentic, credible material or information from reliable and legitimate source, the interpretation of the Investigating Officer about tower locations deserves no merit. The said witness has not even taken the trouble of getting reliable information about the distance between two towers of Idea and Vodafone Company where the offence is said to have been committed. The distance between two tower locations would have been very vital to establish the circumstance about location of the Appellant and the deceased.

33. The circumstances viz phone call made to the victim by PW1 and the phone received by the Appellant at that point of time and subsequently phone of the victim recovered from the possession of the Appellant at the time of arrest by itself is not sufficient to lead to an unerring conclusion that in all probabilities the Appellant must be the perpetrator of the crime in question.

34. It appears that the investigation is done in a slipshod and in a very perfunctory manner. Further the Investigating Officer has not taken trouble of recording of statements of those persons to whom the phones actually belong. The phone number

7507286052 of the Accused belongs to one Rohtas Singh as deposed by PW15 (Nodal Officer of Vodafone), and statement of said Rohtas Singh has not been recorded. There is no material to show that the actual owners of the phone numbers had permitted to use their mobile phones. Further, in the absence of any conversation on record, it is difficult to believe that the Appellant has made any Extra Judicial Confession to PW1. In fact, even the phone of PW1 belongs to one Sanjay Morajkar. In effect, no palpable connection is established between the said mobile numbers. In the absence of such a tangible link, the CDRs and contents thereof are practically useless in establishing the prosecution case. No doubt it has been established that, as per deposition of PW2, the phone number 9158701039 which was used by the deceased was given to her by PW2 and so also that the phone number used by the Appellant was 8805737891 which was given by his elder son PW12 Mahadev Ketkar, however that PW1 and PW12 were permitted by their actual owners has not been conclusively established. The trial Court has refused to accept it by observing that if the Accused was not using the mobile number he could have very well stated so in his statement under Section 313 of the Cr.P.C. recorded by the Court which fact

was within his knowledge. However, if statement under Section 313 is perused, no specific question is put to the Appellant to which he could have answered. Inability of the Appellant to explain certain circumstances could not be made the basis to relieve the prosecution from discharging its primary burden.

35. The Ld. Counsel for the Appellant has relied upon the judgment of **Rajesh v. State of M.P., (2023) 15 SCC 521**, wherein it is held thus:-

“The proverbial last nails in the coffin of the prosecution's case, if at all needed, are the shocking lapses and the slipshod investigation on the part of the police. It is on record that when the investigating officer (PW16) undertook the first search of Om Prakash Yadav's house under Ext. P-37 Panchnama, nothing was found. However, a later search with the aid of Brijesh Yadav led to the seizure of two mobile phones from a trunk in one of the rooms of Om Prakash Yadav's house. As to why these phones were not found during the first search is not explained. That apart, Shaival alias Bambam (PW9), a witness to the seizure of the phones, claimed that there were no SIM cards in the mobiles but candidly admitted that they did not open the mobiles and look inside. He said that they did not try to operate the mobiles or see the

numbers inside and that both the phones were turned off. The self-contradictory deposition of this witness does not aid the dubious investigative process adopted by the police. As regards the call data and the ransom calls, we may note that Santosh Jadhav, Assistant Nodal Officer, Reliance Communication, was examined as PW17 and spoke of the call data of mobile number 8305620342 from which the ransom calls were made. According to him, the SIM card with the said mobile number was given to one Bhuraji, son of Deepu, whose address was House No. 433, Sanjay Gandhi Ward, Tehsil Jabalpur. He produced Bhuraji's "Customer Application Form" along with his attached Election ID card. These documents were marked as Ext. D-6. The call data of 28-3-2013 showed that this SIM card was used on the mobile handset with IMEI No. 358327028551270. He marked in evidence Ext. P-35 in that regard. Therefore, the mobile number from which ransom calls were made was in the name of one Bhuraji, s/o Deepu, and his address was available. However, the police did not even attempt to contact Bhuraji or examine him to find out how and why his SIM card was used for making the ransom calls. Even more startling is the fact that, though PW17 placed on record actual proof of the allotment of this mobile number to

Bhuraji (Ext. D-6), no such steps were taken by the police to establish the link between Om Prakash Yadav and mobile number 9993135127, which was attributed to him. PW15 baldly stated that the said mobile number was allotted to Om Prakash Yadav but did not mark in evidence any document in proof thereof. Surprisingly, he had stated in his deposition that he had brought the certified copy of the application form and the ID used when this SIM card was allotted to the subscriber, Om Prakash Yadav, but the same were not marked. In effect, no palpable connection is established between the said mobile number and Om Prakash Yadav. In the absence of such a tangible link, the call data report (Ext. P-31) and the contents thereof are practically useless in establishing the prosecution's case that the ransom calls were made from Om Prakash Yadav's mobile phone handset by inserting Bhuraji's SIM card, with mobile number 8305620342, therein.”

36. At this stage the conduct of PW1 also needs to be taken into consideration. From the CDRs, it can be seen that PW1 is in constant contact with the Appellant for a period of 8 days, which fact he refuses to divulge to the police. Even during the recording of FIR at 1:30 a.m. on 19/11/2013, the PW1 is in contact over

phone with the Appellant who was absconding. If the tower locations are seen, of which the Investigating Officer/ Prosecution has failed to lead scientific evidence, it is constant for approximately 8 days without any variations. PW1 could have given the whereabouts/location of the Appellant but for the reasons best known, though he registers FIR against his father i.e. the Appellant but does not cooperate with the police to apprehend the killer of his mother. The entire approach of the PW1 seems to hoodwink and mislead the Investigating Agency and therefore does not inspire confidence to place reliance on the Extra Judicial Confession.

37. The evidence of PW2 also does not lead the case of the prosecution any further. There is no witness to say that the deceased was found at the place of offence with the Appellant. However, just to establish that the victim had gone upon being called by the Appellant, the PW2 has tried to answer in the cross examination that Deepali, who is his daughter, had told him that the victim was with the Accused/Appellant. This fact he does not remember whether he had informed the police and therefore, the said witness cannot be believed on this count. It is further stated by the said witness that victim had informed him that she has

received a call from the Accused and he had called her at Bicholim as he had found work. However, in the cross-examination the said witness says that he does not recollect that the victim had informed him that Accused had called her in connection with some work at Bicholim. He further changes his stand to say that Accused had informed the victim on the previous night when he had come to his house about the said work, but he did not personally hear the Accused asking the victim to come to Bicholim on 18th November 2013, therefore, this witness is of no vital importance to establish, as claimed, that the victim had gone to Bicholim to meet the Appellant.

38. The next circumstance which is taken into consideration is that the dead body was recovered as per the information given to the PW1 over phone by the Appellant. The said recovery cannot be said to be a recovery under Section 27 of the Evidence Act. The PW1 informs the police that the Accused had informed him. We have already observed above that the evidence of the PW1 cannot be believed for many reasons which are referred above for instance the PW1 states that he spoke to his father i.e. the Appellant at 6:30 p.m. but the CDRs do not support this aspect as there are no calls made at that time and it does not get

established. PW1 for the reasons best known does not disclose the whereabouts of the Appellant with whom he is in contact over phone for a period of 8 days and even at the time of registration of the FIR and therefore we find PW1 cannot be said to be completely believable.

39. It will be apposite to refer to the judgment of ***Ramanand @Nandial Bharti Vs State of Uttar Pradesh*** reported in ***2022 AIR Supreme Court 5273***, wherein it has been observed that:-

“116 Thus, none of the pieces of evidence relied on as incriminating by the courts below, can be treated as incriminating pieces of circumstantial evidence against the Accused. Realities or truth apart, the fundamental and basic presumption in the administration of criminal law and justice delivery system is the innocence of the alleged Accused and till the charges are proved beyond reasonable doubt on the basis of clear, cogent, credible or unimpeachable evidence, the question of indicting or punishing an Accused does not arise, merely carried away by heinous nature of the crime or the gruesome manner in which it was found to have been committed. Though the offence is gruesome and revolts the human conscience but

an Accused can be convicted only on legal evidence and if only a chain of circumstantial evidence has been so forged as to rule out the possibility of any other reasonable hypothesis excepting the guilt of the Accused. In [Shankarlal Gyarsilal](#) (supra), this Court cautioned "human nature is too willing, when faced with brutal crimes, to spin stories out of strong suspicions". This Court has held time and again that between "may be true" and "must be true" there is a long distance to travel which must be covered by clear, cogent and unimpeachable evidence by the prosecution before an Accused is condemned a convict."

40. In the case of ***Karakattu Muhammed Basheer Vs State of Kerala***, (supra) it has been held:-

"14. This Court in Ramreddy Rajesh Khanna Reddy v. State of A.P. [Ramreddy Rajesh Khanna Reddy v. State of A.P., (2006) 10 SCC 172 : (2006) 3 SCC (Cri) 512] while referring to the various earlier judgments which have been passed by this Court from time to time, summarised key principles which act as a guide for the courts to come to a conclusion with regard to the guilt of an accused in cases which are solely dependent on the circumstantial evidence. The same have been referred to as the "panchsheel principles" and are

discussed in paras 26 to 28 of the said judgment, which read as follows : (SCC p. 181)

“26. It is now well settled that with a view to base a conviction on circumstantial evidence, the prosecution must establish all the pieces of incriminating circumstances by reliable and clinching evidence and the circumstances so proved must form such a chain of events as would permit no conclusion other than one of guilt of the accused. The circumstances cannot be on any other hypothesis. It is also well settled that suspicion, however grave it may be, cannot be a substitute for a proof and the courts shall take utmost precaution in finding an accused guilty only on the basis of the circumstantial evidence. (See Anil Kumar Singh v. State of Bihar [Anil Kumar Singh v. State of Bihar, (2003) 9 SCC 67 : 2004 SCC (Cri) 1167] and Reddy Sampath Kumar v. State of A.P. [Reddy Sampath Kumar v. State of A.P., (2005) 7 SCC 603 : 2005 SCC (Cri) 1710])

“17. Even in the case of a conviction where in an appeal the chain of evidence is found to be not complete or the courts could reach to any another hypothesis other than the guilt of the accused, the accused person must be given the benefit of doubt which obviously would lead to his acquittal.

Meaning thereby, when there is a missing link, a finding of guilt cannot be recorded.”

41. In the case of ***Vaibhav Vs The State of Maharashtra, reported in 2025 INSC 800***, in paragraphs no. 21, 24,25, 27 and 28 have held as under:-

*“24. In the subsequent decision in **Shivaji Chintappa Patil v. State of Maharashtra (2021) 5 SCC 626**, this Court relied upon the decision in Anwar Ali and observed as under:-*

“27. Though in a case of direct evidence, motive would not be relevant, in a case of circumstantial evidence, motive plays an important link to complete the chain of circumstances. The motive.....”

*More recently, in **Nandu Singh v. State of Madhya Pradesh** (now Chhattisgarh (Criminal Appeal No.285 of 2022), the position was reiterated by this Court in the following words:*

“10. In a case based on substantial evidence, motive assumes great significance. It is not as if motive alone becomes the crucial link in the case to be established by the prosecution and in its absence the case of Prosecution must be discarded. But, at the same time, complete absence of motive assumes a different complexion and such absence definitely

weighs in favour of the accused.”

“25. Thus, a complete absence of motive, although not conclusive, is a relevant factor which weighs in favour of the accused. No doubt, the final effect of such absence on the outcome of the case shall depend upon the quality and weight of surrounding evidence. In the present case, the testimonies of prosecution witnesses have invariably revealed that the appellant and the deceased were friends and there was no ill-will between them. Even the father of the deceased has testified to that effect. The relevance of motive in a case of homicide has been a subject of prolonged discussion. Ordinarily, in cases involving direct evidence of the commission of crime, motive has little role to play as presence or absence of motive is immaterial if the commission of the crime stands proved through other evidence. Even otherwise, motiveless crimes are not unknown to the society. However, in cases purely based on circumstantial evidence, the absence of motive could raise serious questions and might even render the chain of evidence as doubtful. It is so because the presence of motive does the job of explaining the circumstantial evidence. For instance, in the facts of the present case, any evidence of enmity between the appellant and the deceased would have made suspicious the act of the appellant of taking the deceased to his

home prior to his death. However, since the evidence suggests that they were friends, the fact that the appellant brought him home could not be termed as per-se incriminating. Therefore, motive explains the circumstances on record and enables the Court to draw better inference in a case based on circumstantial evidence.

“27. No doubt, the subsequent acts of cleaning up the crime scene and making false enquiries amount to disappearance of evidence and raise grave suspicion against the appellant. However, mere suspicion, no matter how grave, cannot take the place of proof in a criminal trial. The suspicion ought to have been substantiated by undeniable, reliable, unequivocal, consistent and credible circumstantial evidence, which does not leave the probability of any other theory. In the present case, the theory put across by the appellant is fairly probable and is supported by medical evidence including the examination of the bullet injury and trajectory. Contrarily, the conclusion drawn by the Courts below is not supported by medical evidence and is not consistent with the bullet injury and trajectory, as discussed above. We have come far since our acknowledgement that in a case purely based on circumstantial evidence, it must be established that the chain of circumstances is complete. Such chain must be consistent with the

conclusion of guilt only and must not support a contrary finding. The rigid principles underlying an examination based on circumstantial evidence are based on the premise that the very act of arriving at a finding of guilt on the basis of inferences must be performed with great caution and margin of error must be kept at a minimum. Having said so, we may also observe that naturally, there could be some inconsistencies in the chain of circumstances in the natural course of things and mere presence of inconsistencies does not automatically demolish the case of the prosecution. However, the prosecution must be able to explain the inconsistencies to the satisfaction of the Court. For, the ultimate test is the judicial satisfaction of the Court. In the present case, the counter probabilities and inconsistencies in the chain of circumstances have not been explained.

“28. Momentarily, even if it is believed that the view taken by the Courts below is a possible view, it ought to have been examined whether a reasonable counter view was possible in the case. It is a time-tested proposition of law that when a Court is faced with a situation wherein two different views appear to be reasonably possible, the matter is to be decided in favour of the accused. The benefit of a counter possibility goes to the accused in such

cases.”

42. In the case of ***Mohamed Sameer Khan Vs State represented by Inspector of Police, 2025 INSC 1269***, it is held that:-

“24. Merely because the medical evidence proves the unfortunate loss of life would not be enough to convict a person since he happened to be in the vicinity. In the absence of any forensic evidence when there is no eyewitness and the case is of circumstantial evidence, benefit would go to the Accused.”

“26. The prosecution evidence raises doubts regarding the involvement of the Accused. In the judgment of this Court in Kali Ram v. State of Himachal Pradesh (MANU/SC/0121/1973), it has been held that in cases wherein the guilt of the Accused is sought to be established by circumstantial evidence, if two views are possible on the evidence adduced in the case, one pointing to the guilt of the Accused and the other to his innocence, the view which is favourable to the Accused should be adopted.

“27. In the present case, the prosecution has failed to connect the Appellant to the offence through

medical or forensic evidence as no blood, hair or skin sample, or fingerprint belonging to him has been found on the body of the deceased, the recovered articles, or at the place of occurrence.”

“32. The prosecution has failed to bring forth reliable evidence forming a complete string of events, leading to the guilt of the Appellant. The chain of events being sought to be projected is laden with deficiencies creating significant gaps, leading to other possible hypotheses as aforementioned. Due to such missing links, a finding of guilt cannot be recorded. The benefit of the doubt with regard to this must flow to the Accused. In this light, the guilt of the Accused has not been proved beyond reasonable doubt and the impugned judgments are, thus, liable to be set aside.”

43. Taking into consideration the evidence that has been brought on record, does not unerringly point towards the guilt of the Accused/Appellant. No doubt it raises suspicion about the involvement of the Appellant; however, it is a settled law that suspicion, however strong it may be, cannot take the place of proof beyond a reasonable doubt and the Accused cannot be convicted on the ground of suspicion, no matter how strong it is. An Accused is presumed to be innocent unless proved guilty

beyond reasonable doubt. The circumstances brought on record also do not form a complete chain so as to lead to irresistible conclusion about the involvement of the Appellant in the present crime. Establishing one or two circumstances beyond reasonable doubt is not sufficient to hold that the entire chain is complete as the chain of circumstances must be so complete that it leads to no other conclusion than the guilt of the Accused person, which is not so in the present case. The degree of proof required to hold him guilty beyond reasonable doubt, on the strength of circumstantial evidence, is clearly not established. Due to the missing links findings of guilt cannot be recorded and the benefit of doubt must flow to the Appellant.

44. We are therefore satisfied that the prosecution has failed to bring home the guilt of the Appellant beyond reasonable doubt and the Appellant deserves to be acquitted.

45. As a result, we pass the following order:

- i. The Appeal is allowed.
- ii. The conviction and sentence of the Appellant under Section 302 of Indian Penal Code recorded vide impugned judgment and order dated 17/08/2024

and 22/08/2024 is quashed and set aside and the Appellant is acquitted of all the charges he is charged with.

- iii. The Appellant is on bail. His bail bond stands cancelled and sureties are discharged. Fine amount paid by the Appellant be refunded to the Appellant within a period of eight weeks from today.

SHREERAM V. SHIRSAT, J. VALMIKI MENEZES, J.