



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-882-DB-2012
Reserved on: 04.11.2025
Pronounced on: 12.11.2025

Jarnail Singh ...Appellant

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
HON'BLE MR. JUSTICE H.S. GREWAL

Present: Ms. Ruchi Sekhri, Amicus Curiae
for the appellant.

Ms. Pooja Nayar Sharma, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
79	16.05.2010	Boha	450, 302, 201 IPC (Vide DDR No.28 dated 16.05.2010, Section 376 IPC added)

Criminal Case number before the Sessions Court	Sessions Case No.18 dated 09.09.2010
Date of Decision	12.06.2012
Date of order on the quantum of sentence	12.06.2012
Name of the accused	Jarnail Singh
Name of convict	Jarnail Singh
Conviction under Sections	450, 376, 302, 201 IPC
Sentence imposed	Imprisonment for life

Sentence imposed			
Section	Sentence of imprisonment	Fine in INR	Sentence in default of payment of fine
450 IPC	RI for 7 years	2000	RI for 1 month
376 IPC	RI for 10 years	5000	RI for 2 months
302 IPC	RI for life	10000	RI for 2 months
201 IPC	RI for 7 years	2000	RI for 1 month

1. Challenging the conviction and the consequent sentence as captioned above, the convict came up before this Court by filing the present criminal appeal in the year 2012.

2. The facts of the case are that on 16th May 2010, the above captioned FIR was registered based on the information given by the father of the deceased (PW-1), in which he named the convict Jarnail Singh as the suspect.

3. Victim's father (PW-1) informed the police that he worked as a laborer. On 15th May 2010, he along with his wife (Victim's mother), his brother (PW-2, Victim's Chacha), and his sister-in-law (Victim's Chachi), his two daughters, namely victim 'A' aged 9 years, younger daughter aged 5-6 years and son aged 3 years, were sleeping in the courtyard of his house. The daughters were sleeping on one cot, and the courtyard light was on. At around 12:30 midnight, he heard a noise of opening of the door and noticed that Jarnail Singh (appellant herein) son of Chhota Singh, resident of village Jhalbuti, Police Station Boha, who was also PW-1's relative and working as a chowkidar in Gaushala at Boha, picked up his daughter, 'A', from the cot, and ran away. In the meantime, his wife, brother (PW-2), and sister-in-law woke up. They called out for Jarnail Singh, but taking advantage of the darkness, he was able to flee, taking away his elder daughter 'A'.

4. Consequently, they kept on searching for their daughter 'A'. Later in the morning, around 7:15/7:30 AM, when they reached Gaushala at a place known as Boha, they noticed Jarnail Singh laying bricks on the cremation ground. On this, they inquired from him about their daughter, but upon noticing them, the appellant, Jarnail Singh, fled from the scene of the occurrence. At the spot, they found blood on the earth, which led to the suspicion that Jarnail Singh had buried their daughter after murdering her. Leaving his sister-in-law at the spot, the victim's parents went to the police station to file a report; however, on the way, they met the SHO, who recorded the father's statement.

5. As per the statement of PW-15 Investigator Sub Inspector Harwinder Singh, he, along with the victim's father, PW-1, and mother, reached the cremation ground at Boha. In between, the Police had also called the Naib Tehsildar [Executive Magistrate] (PW-4, Subhash Singh Mittal), the SMO (PW-6, Dr. Kulwaran Singh), and a photographer (PW-5, Jagtar Singh). In the presence of the Executive Magistrate, the bricks were removed, and underneath, they noticed the body of victim 'A'. The entire proceedings were photographed. After exhuming the dead body, it was sent for postmortem examination.

6. On 16th May 2010 at 5:10 PM, the postmortem examination of the body was conducted by a team of doctors, comprising PW-3 Dr. Asha Kiran, Dr. Bharti Tanwar, and PW-7 Dr. Karamjit Singh. As per the postmortem report [Ex.PW3/D], the length of the body was 3 feet 6 inches. There were impressions of fingernails on the top of the nose, and there were also ligature marks of all five fingers on her neck. The examination pointed towards abrasions on the backside of the spinal cord, a tear of the anal sphincter extending up to the rectum, and an extensive vaginal tear going up to the broad ligament of the uterus. The doctors preserved vaginal and anal swabs.

7. The vaginal and anal swabs were sent for testing to FSL Kharar, and as per the laboratory's report, Ext. PW-5/E, spermatozoa were detected in the victim's anal swabs, vaginal swabs, and her pajamas.

8. As per the final opinion of the doctors given in the postmortem report, the cause of death was strangulation along with injuries on the genital organs due to sexual assault, which were antemortem in nature and were sufficient to cause death in the ordinary course of nature.

9. The postmortem report mentions that hair was found in the victim's fist, and the Doctors had preserved the said hair for Forensic Examination. The Police sent the preserved articles for forensic and chemical examination.

10. PW-11 Bhola Singh, Sarpanch of the area, testified that on 17th May 2010, at around noon, accused Jarnail came to his house and confessed the crime committed by him with victim 'A', and told PW-11 that the police are looking for him and that Bhola Singh, being the Sarpanch, should produce him before the police. On this, Bhola Singh (PW-11) took him to the Police Station and produced him before SHO Harwinder Singh (PW-15).

11. PW-15 SHO SI Harwinder Singh stated that on 17th May 2010, the Village Pradhan Bhola Singh (PW-11) produced the accused Jarnail Singh in the police station, where he was arrested on 17th May at 1.00 PM. The hair of the accused was combed, and a strand of hair was taken into possession vide the recovery memo PA/7, in the presence of PW-11 Bhola Singh and HC Balwinder Singh, and the parcel was sealed with a seal bearing the impression 'HS'. [There is an incorrect mention of the date of recovery of hair in the English translation, where the date is mentioned as the 16th. I have seen the original recovery memo, which is in Gurumukhi (Punjabi) script, and the date is mentioned as 17th May 2010.] However, as per the original recovery memo, PA/7, and as per the Chemical Examiner's report, Ext. PX, the hair collected in the postmortem was insufficient for comparison with the hair recovered from the accused's scalp.

12. On 19th May 2010, during the interrogation of the accused by the SHO PW-15, the accused made a disclosure statement (Ext PA-8) about concealing a *Khes*¹ (MO-1) and a *Kahi*², used in the crime. After that, the accused led the police party to a heap of manure, and from underneath it, he got recovered *Khes*, which was stained with blood, and the *khes* was taken into possession by a recovery memo Ext. PA/10, which was attested by police witnesses HC Balwinder Singh and HC Avtar Singh. The *khes* was sent for chemical

¹ *Khes* is a thick cotton blanket cloth in the Indian subcontinent. [<https://en.wikipedia.org/wiki/Khes>].

² *Kahi* is a traditional Indian agricultural tool, also known as a garden hoe or spade, used primarily for digging, tilling, and moving soil. It consists of a flat, with a wide metal blade attached to a long handle, and its design makes it suitable for various gardening and farming tasks. [<https://www.google.com/>]

examination, and as per the report of the Chemical Examiner, Ext. PY, the *khes* was found stained with human blood. The accused also got recovered a *kahi* from under wheat chaff.

13. After completing the investigation, the prosecution was launched and charges were framed, to which the appellant pleaded not guilty and claimed trial.

14. After recording the prosecution evidence, the accused, in his statement under Section 313 CrPC, 1973, denied all the circumstances and claimed innocence. He also examined one defence witness, DW1 Davinder Kumar, to demonstrate that there were 12 employees at the Gaushala, of whom three were permanently residing there, and that the name of the accused Jarnail Singh was mentioned as Jhakra Singh. It was further mentioned that 470-475 animals were in the gaushala at that time. Although in cross-examination, DW-1 stated that the accused had committed the rape and murder of victim 'A', such a fact is legally inadmissible being hearsay without any corroborative evidence, and as such is dropped.

15. Vide impugned judgment dated 12th June 2012, learned Sessions Judge Mansa, held the accused guilty of destruction of evidence, house-trespass, rape, and murder of 'A'. On the same date, the Sessions Judge sentenced the convict-appellant to 7 years of rigorous imprisonment for house-trespass to commit an offence, imprisonment for life for the offence of murder, 10 years for rape, and 07 years for destroying the evidence by concealing the dead body. Although it was inappropriate to pronounce the sentence on the same date, given that the minimum sentence was imposed as such, it would not cause any prejudice to the appellant.

16. We have heard Ms. Ruchi Shekhri, Amicus Curiae, appearing for the convict Jarnail Singh and Ms. Pooja Nayar Sharma, D.A.G. for the State of Punjab, have also gone through the record and its analysis, which would lead to the following outcome.

17. PW-4 Sh. Subhash Singh Mittal, who was posted as Naib Tehsildar, testified that in his presence, the dead body of a young female child was recovered from an earth pit, at the cremation ground, appurtenant to the Gaushala [cow-shelter]. PW-5 Jagtar Singh, photographer, testified that he had taken photographs of the dead body and tendered the same in evidence as Ex. PW5/1 to Ex. PW5/3. The Sub-Divisional Medical Officer, PW-6 Dr. Kulwaran Singh, S.M.O., Sub Divisional Hospital, Budhlada, also testified about the exhumation of the dead body and sent it for the postmortem examination. Thus, the exhumation of the victim's body from the cremation ground near the Gaushala is established.

18. The prosecution examined the doctors who conducted the postmortem examination as PW-3 and PW-7. They testified that they had conducted a postmortem examination of a

female child aged 9 years on the 16th of May 2010. They noticed that hair was present in the victim's clenched fist. Further, clotted blood was present in the mouth, nostrils, anus, and vagina. They also noticed abrasions on the back of the spinal cord, a tear of the anal sphincter extending up to the rectum, and extensive vaginal tears going high up to the broad ligament of the uterus through the vault. They also noticed ligature marks of the five fingers on her neck. As per the laboratory's report, Ext. PW-5/E, spermatozoa were detected in the victim's anal swabs, vaginal swabs, and pajamas. As per the opinion of the board of doctors, as mentioned in the post-mortem report and testified on oath, the cause of death was a cumulative effect of the injuries as mentioned in the post-mortem examination and the report of the Chemical Examiner Ex. PW3/E. The victim was first sexually assaulted, raped, and then strangled to death. Thus, the factum of the rape, from both orifices, and strangulation of neck, is also established.

19. The defence witness DW-1 established that the accused was working in the said cow-shelter, which was adjacent to the cremation ground. Further, the statements of PWs 1, 2, and 11 regarding the accused working at the cow-shelter remained unrebutted.

20. The victim's father testified in Court as PW-1 and stated that on the intervening night of 15th/16th of May 2010, when he was sleeping along with his family members, including victim 'A', at midnight, he heard a knocking sound at the door and noticed that accused Jarnail Singh was present in their courtyard, he lifted his daughter 'A' and took her away. After that, they made a frantic search for the daughter but could not trace her, and it was only in the morning that, while searching, they reached the cremation ground, where they noticed appellant Jarnail Singh putting bricks on the soil. On being questioned, he ran away from the spot. The victim's uncle, PW-2, also made a similar statement. The victim's mother and aunt were not examined.

21. Counsel for the appellant argued that it is improbable that in the presence of the family members, their daughter would be kidnapped, and despite that, they would not make all-out efforts, which is missing in this case. She further submitted that the statements qua the identification of the accused-appellant were false, as in the darkness of night, the accused's identification was improbable.

22. PW-1 and PW-2 testified in Court that a tube light was installed in their courtyard, and that on that night it was switched on. PW-2 stated in his cross-examination that the light was kept on that night because PW-1 was unwell; however, PW-1 was not cross-examined regarding this fact. In the site plan Ext.PA/4, the light is not mentioned. Further, during summer months, light attracts insects, and people might not switch it on unless it is slightly away from the bedding area. The Investigation is silent on these aspects. An analysis of this circumstance creates a doubt about the fact of light being switched on, and the possibility cannot be ruled out that the light being on was introduced to identify the

kidnapper as the accused Jarnail Singh. An appreciation of the evidence regarding the assertion of the victim's father, PW-1, of noticing the accused Jarnail Singh taking away his daughter in the middle of the night, is not established. Thus, the circumstance of the accused being seen as taking away the child is not proved.

23. The following circumstance is the announcement made by the local Gurudwara Sahib about the disappearance of PW-1's daughter. To this, there is a reference in the statement of PW-1, the victim's father, who, in his cross-examination, stated that at midnight, around 2:00 AM, an announcement was made on the loudspeaker of the Gurudwara Sahib about the missing of the girl, but the appellant was not named in such announcement.

24. There is a contradiction about the announcement itself. PW-2, the victim's Chacha, in his cross-examination, admitted that no announcement was made over the Gurudwara Sahib loudspeaker. However, during cross-examination, the defence suggested that PW-1 regarding the time and content of the announcement made at the Gurudwara Sahib, and to this, PW-1 testified that an announcement was made from the loudspeaker at 2.00 A.M., regarding the disappearance of the girl, but no one was named as an accused. Thus, the suggestion given by the defence that an announcement was in fact made in the Gurudwara Sahib would show that the missing of the girl had already come to the notice of their family members around midnight.

25. The prosecution did not examine the person who made such an announcement. The investigator withholding such evidence also indicates the accused was not named in the announcement as the culprit. This fact is strengthened by the absence of the name of the accused in the announcement that the local Gurudwara Sahib made about the disappearance of the victim.

26. Therefore, it is possible that the contradictory version of PW-2 regarding no announcement having been made was because of the two reasons, first, PW-2 told a lie because the accused was not named in the announcement, and secondly because at that time PW-2 might be searching for the girl inside some building or at some far off area because of which he could not hear the announcement from loudspeaker. An analysis of the above evidence establishes the fact of an announcement being made by the local Gurudwara Sahib regarding the disappearance of the PW-1's daughter, but no one was named as a suspect in the said announcement.

27. Since around 2010, the villages lacked adequate street lighting, making it dark all over, and it being an expansive area, the failure of the victim's family to trace her would not lead to an inference that she was not kidnapped at midnight, or the story was false. Although there appears to be some doubt about the girl being taken away in the presence of

the family members, this much exaggeration, whether it was done at the instance of police officers or by the family members, would not eclipse or rule out the factual aspect of the girl being taken away at midnight. In all probability, it appears that when the girl was kidnapped, probably the family was unaware, and later on, when they realized that she was missing, they made all efforts to search for her, and even an announcement was made from the Gurdwara Sahib, and that is why the name of the accused was not mentioned in such announcement. Even if it is believed that initially appellant's name was not announced in the Gurdwara Sahib announcement or no announcement was made from the Gurdwara Sahib, is immaterial. It is for this reason that villagers made a frantic search for the girl even at midnight. Even if it is believed that the initial version of the family members that the accused had kidnapped and taken away the girl in their presence is improbable, still, the fact of the girl being taken away at midnight is established.

28. The next circumstance is that PW-1, PW-2, and their wives had noticed Jarnail Singh putting bricks on the soil in the cremation ground, which was adjacent to the cowshed, and on being questioned about their daughter, he fled away. Subsequently, after leaving the victim's chachi, the wife of PW-2 at the spot, her parents went to the police station and reported the crime. The SHO summoned the Naib Tehsildar, PW-4, SMO PW-6, and a photographer, PW-5, and in their presence, the body of the girl was exhumed from the pit over which the accused Jarnail was putting bricks, and from where, on being questioned by the victim's family, he had run away.

29. The victim's father, PW1, stated that while searching for their daughter when they had reached near the cremation ground, they noticed appellant Jarnail Singh laying bricks on the ground. When they questioned him about their daughter, he immediately ran away.

30. The appellant's running away on noticing PW1 is corroborated by PW-2. During his examination, PW-2 also testified that, while searching, when they reached the cremation ground, they noticed Jarnail Singh burying something in the earth and placing bricks on top of it. Upon hearing their noise, Jarnail Singh ran away when they questioned him about what he was doing and where the girl was.

31. Now, the conduct of the appellant running away from the spot on noticing the victim's father and uncle, along with the mother and aunt, substantiates the statement of the victim's father and uncle about the involvement of the appellant. It is not alone that noticing the victim's family members, the appellant ran away, the relevant fact is that the dead body of the girl was exhumed by digging the earth. There can be no doubts about the recovery of such evidence, which was conducted in the presence of an Executive Magistrate and a Doctor, along with the local Pradhan and other people, and is also proved from photographs which have also been placed on record.

32. Victim's father PW-1, and the Victim's Chacha PW-2 testified about the accused fleeing, and additionally Naib Tehsildar, SMO, photographer, and the SHO testified about the discovery of the dead body of the victim from that pit, and as such, the circumstances of the accused putting bricks over the pit from where the dead body of the child was recovered, is established beyond reasonable doubts.

33. PW-1's account of having seen the accused in the cremation ground also stands corroborated by the mention of the accused in the earliest report made to the police. The most material fact is that Jarnail Singh was named as the accused in the FIR Ext. PA/2. As per column No. 3 of the FIR, the information was received at the police station at 9:55 hours on 16th May 2010, and a general diary reference was also entered at serial No. 14 at the same time. In column no. 7, the name of the suspect was mentioned as Jarnail Singh (appellant herein). Thus, the mention of the name of the accused in the FIR, which was recorded without any delay, not only lends corroboration to the presence of the accused at the pit where he was seen putting bricks but also rules out any further deliberation to falsely implicate him. It is not the case of the defence that the FIR was left blank and that the name of the accused was entered later. The circumstance of the accused being present at the pit and placing bricks over the soil proves the fact that he was seen at the cremation ground at around 7:30 AM, from where the dead body of the young girl who was the victim of rape was recovered.

34. In *Kanhaiya Lal v. State of Rajasthan*, 13.03.2014 SC 2J [E-SCR]; 2014 INSC 190, the Hon'ble Supreme Court holds,

[12]. The circumstance of last seen together does not by itself and necessarily lead to the inference that it was the accused who committed the crime. There must be something more establishing connectivity between the accused and the crime. Mere non-explanation on the part of the appellant, in our considered opinion, by itself cannot lead to proof of guilt against the appellant.

35. In *State of U.P. v. Satish*, 08.02.2005 SC 2J [E-SCR]; 2005 INSC 68, the Hon'ble Supreme Court holds,

Page 1142-C. The last seen theory comes into play where the time-gap between the point of time when the accused and the deceased were seen last alive and when 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. It would be difficult in some cases to positively establish that the deceased was last seen with the accused when there is a long gap and possibility of other persons coming in between exists. In the absence of any other positive evidence to conclude that the accused and the deceased were last seen together, it would be hazardous to come to a conclusion of guilt in those cases. ..."

36. In *Ramreddy Rajeshkhanna Reddy v. State of Andhra Pradesh*, 24.03.2006 SC 2J [E-SCR]; 2006 INSC 173, the Hon'ble Supreme Court holds,

[Page 359-C]. 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.

37. In *Dilip Mallick v. State of West Bengal*, CrI.A. No. 130/2012 decided on 14.02.2017 [2017 INSC 139], a two-Judge Bench of the Hon'ble Supreme Court holds,

[8]. PW-3, PW-4 and PW-5 who are the family members of the deceased were consistent in their testimonies that the deceased and accused were last seen together at around 02:00 pm on 02.02.2004. There is a burden on the accused to give an explanation about what happened after they left the house of the deceased. No explanation was given about the events of 02.02.2004 after they left from the house of the deceased. In the examination under Section 313 Cr. P.C. the accused denied any knowledge of the crime and alleged false implication. Section 106 of the Indian Evidence Act, 1872 imposes an obligation on the accused to explain as to what happened after they were last seen together.

38. In *Tomaso Bruno v. State of U.P.*, CrI.A. No. 142/2015 decided on 20.01.2015 [2015 INSC 52], a three-Judge bench of the Hon'ble Supreme Court holds,

[19]. The principle underlying Section 106 of the Evidence Act is that the burden to establish those facts, which are within his personal knowledge is cast on the person concerned, and if he fails to establish or explain those facts, an adverse inference may be drawn against him.

39. Once, the accused Jarnail Singh was seen at the cremation ground placing the bricks over the loose soil, and underneath the body of the victim, aged around 8/9 years, who was recently raped and thereafter murdered, was found, it had put the reverse burden on the convict to explain his presence at that spot and of the recovery of the girl's body, who had been brutally raped before being strangled to death by pressing neck with fingers.

40. As per the postmortem report, the hair found in the victim's fist was preserved by the Doctors, and the Investigator had sent it for forensic examination. On 17th May 2010, immediately after the arrest of the accused, at 1 PM, the Investigator obtained the hair of the accused, in the presence of an independent witness, PW-11 Bhola Singh, and the same was also sealed and sent to the forensic science laboratory. However, as per the report, Ext PX, of the Chemical Examiner, the hair collected in the postmortem was insufficient for comparison with the hair recovered from the accused's scalp. Thus, the circumstance of the accused being connected as a perpetrator from the biological evidence of the recovery of the strand of hair from the victim's clenched fist could not be established.

41. Another circumstance is the Extra-Judicial Confession. PW11 Sarpanch Bhola Singh, testified on oath that on 17th May, 2010 at around noon when he was at his home then the accused Jarnail Singh came to him and told him that on the intervening night of

15th and 16th May 2010, he had picked up victim 'A' and had committed rape upon her and when she was crying had gagged her due to which she fell unconscious and died. However, the latter part of this extra-judicial confession regarding the cause of death being gagging of the mouth is incorrect because, as per the postmortem, the cause of death was strangulation because there were marks of nails on the victim's neck, which would prove that she was strangled. Be that as it may, the reason given by PW-11 for extrajudicial confession was that the accused Jarnail Singh told him that the police were looking for him, and he wanted Bhola Singh to take him to the police. Thus, in this case, the extrajudicial confession was made to surrender to the police in the presence of a witness, maybe because of the fear of being encountered or beaten up. Be that as it may, the reason for extrajudicial confession is well-founded, and it is a reliable and relevant piece of evidence, which can render corroboration to the primary evidence of the last seen at the cremation ground, and accused fleeing from the spot, when he was questioned about the girl.

42. In Baldev Raj v. State of Haryana, 1991 (Sup1) SCC 14, decided on 17.9.1990, the Hon'ble Supreme Court holds,

[9]. An extra-judicial confession, if voluntary, can be relied upon by the court along with other evidence in convicting the accused. The value of the evidence as to the confession depends upon the veracity of the witnesses to whom it is made. It is true that the court requires the witness to give the actual words used by the accused as nearly as possible but it is not an invariable rule that the court should not accept the evidence, if not the actual words but the substance were given. It is for the court having regard to the credibility of the witness to accept the evidence or not. When the court believes the witness before whom the confession is made and it is satisfied that the confession was voluntary, conviction can be rounded on such evidence. ...

43. Another circumstance is the absence of injury to the accused's genitals. On May 20, 2010, the accused Jarnail was medically examined by the doctor PW-16, Dr. Rajinder Pal Singh. He did not mention any injury to the accused's penis or body. However, in cross-examination, he stated that there is a possibility of causing injuries to a young man's penis if he engages in sexual intercourse with a child. Conversely, PW-3 Dr. Asha Kiran and PW-7 Dr. Karamjit Singh, members of the team that performed a post-mortem examination on the victim 'A', said in their cross-examination that it is not necessary for a man to also sustain an injury to his genital area in such cases. However, PW-16 had examined the accused on 20th May 2010, at 11-30 AM, i.e., after four and a half days of the sexual assault.

44. Investigator PW-15 SI Harwinder Singh admitted during cross-examination that the accused, who was arrested on May 17, 2010, around 1:00 PM, was presented before the Judicial Magistrate on May 18, 2010, around 12:00 noon. Before presenting the accused to the Magistrate, he had the accused medically examined but did not submit the medical

report as evidence. Although the initial burden was on the prosecution to tender the first medical report of the accused, the accused's counsel also did not call for the report, nor did the trial Court summon it from the hospital. The inference that has to be drawn is that the first medical report was intentionally withheld. Whether the Investigator and the Supervisory officers had withheld the same to conceal the third-degree methods in the investigation is not suggested by the defence counsel.

45. In *State of Karnataka v. Moin Patel*, 1996 (8) SCC 167, decided on 22.02.1996, a two-Judge Bench of the Hon'ble Supreme Court holds,

[27]. We have given our anxious consideration to this aspect of the murder and in our view the approach in such a case would be to find an answer to the question whether the evidence actually produced is reliable or not and not to the question whether non-examination of such witnesses ipso facto vitiates the entire prosecution case, if the presumption under Section 114(g) of the Evidence Act were to be drawn. In other words, if in a given case, it is found that there are independent witnesses whose evidence is reliable and trustworthy to prove the charges levelled against the accused the infirmities arising out of non-examination of other independent witnesses will not be sufficient to put the prosecution case out of Court. In that view of the matter and for the foregoing discussion we are unable to sustain the findings of the High Court in this regard.

46. An analysis of the absence of injuries on the genitals of the accused would lead to an inference that the most material evidence to establish it or rule it out was the first medical report, which was withheld by the Investigator, the supervisory officers, and the Public Prosecutor. However, individually, the withholding of the first medical report would favour the accused, and an adverse inference shall be drawn against the prosecution. Yet its impact has to be assessed in relation to the other evidence, and not in isolation.

47. The next circumstance is the presence of human blood on *khes* recovered from the cowshed, concealed under the manure, based on the disclosure statement made by the accused. On 19th May 2010, Jarnail made a disclosure statement ext. PA/8, before the Investigator PW-15, that he had concealed a *khes* in the cremation ground. Subsequently, from underneath the manure heap lying in the verandah of the cremation ground, after removing the dry grass, he got recovered a *khes*, one side of which was stained with blood. It was taken in possession vide recovery memo Ext. PA/10, and the blood-soaked portion of *khes* was cut and sealed in a parcel and sent to the chemical examiner, as per the report of the chemical examiner, Ext. PY, human blood was detected on the *khes*. The disclosure statement is corroborated by the discovery of the fact, which has been proved by the Chemical examiner.

48. Further, the motive of the girl being taken away was to assault her sexually, which is also established from the postmortem report, which is corroborated by the statement of the doctor who has testified about vaginal and rectum penetrations, presence of

spermatozoa in both the orifices, and injuries over her body. After that, the victim was murdered by strangulation, as is also established from the impressions of fingernails on the neck of the young girl. The motive to kill the child was also to conceal the accused's identity, who as per the testimony of PW-1 was their relative, living in the vicinity, and thus, known to the family.

49. Even though the laboratory could not compare the strand of hair in the victim's fist, but the presence of hair would show efforts of struggle by the little girl to save herself from the perpetrator.

50. An analysis of the statements of the doctors, coupled with the presence of clotted blood, would also indicate the time gap between the act of rape and the victim being done to death. It is for the reason that if she had been killed immediately after the commission of rape, then there would have been no clotted blood. Thus, the death was not consequent to the assault of rape, but the perpetrator intended to kill with the motive to conceal the evidence and to destroy it. Another motive was to save himself from being named by her, if she survived, because she knew him to be a close relative. This mindset to kill the victim is most often done when the victim and her family know the accused perpetrator.

51. The motive for rape appears to be that the appellant just wanted to satisfy his libido while dehumanizing and disregarding the rights and dignity of the girl child, lack of empathy and further, the extent of deep penetration, from both orifices, points towards cruelty and perversion of the extreme degree where even the shrieks of the little girl did not make him stop hurting her. The pedophilic tendencies of the accused drove him to commit the heinous offence of rape and murder of the girl child.

52. The overall analysis of circumstances and the appreciation of evidence leads to the outcome that even if it is believed that in the midnight, the story of the family members of the victim regarding noticing the accused taking away their daughter is an exaggeration but still it has to be seen that what is the remaining evidence connecting the appellant with the kidnapping, rape and murder of victim 'A' and her subsequent burial in the cremation ground, where Jarnail Singh was seen putting bricks on the mud in the cremation ground, which was adjacent to the cowshed, and there was no partition wall separating the cowshed from the cremation ground. The accused was last seen at a place from where the dead body of the victim was recovered in the presence of Naib Tehsildar, and the convict's conduct on fleeing from the spot, and this fact is mentioned in the FIR registered two and a half hours after the said event. This chain of circumstance itself is so complete that it rules out any other possibility except that of the convict being the perpetrator of the crime.

53. As far as the appellant's counsel's argument that the spermatozoa were not subjected to DNA testing is concerned, although there is a lapse on the part of the

investigator and the supervisory officers, even if such a lapse is not ignored, still the evidence is sufficient and does not lead to any other inference except the guilt of the accused.

54. In *Deonandan Mishra v. State of Bihar*, 28.09.1955 SC 3J [E-SCR]; 1955 INSC 47, a three-Judge Bench of the Hon'ble Supreme Court holds,

It is true that in a case of circumstantial evidence not only should the various links in the chain of evidence be clearly established, but the completed chain must be such as to rule out a reasonable likelihood of the innocence of the accused. But in a case like this where the various links as stated above have been satisfactorily made out and the circumstances point to the appellant as the probable assailant, with reasonable definiteness and in proximity to the deceased as regards time and situation, and he offers no explanation, which if accepted, though not proved, would afford a reasonable basis for a conclusion on the entire case consistent with his innocence, such absence of explanation or false explanation would itself be an additional link which completes the chain. We are, therefore, of the opinion that this is a case which satisfies the standards requisite for conviction on the basis of circumstantial evidence.

55. Since there is no evidence of the victim venturing out of the house at night and there is evidence of the accused last seen at the spot from underneath where the dead body of the victim was discovered, coupled with the Extra Judicial Confession, recovery of blood stained *khes*, is proved, the offence of house-tress pass is established as a consequence.

56. An analysis of the evidence proved on record, which is duly corroborated, leads to only one inference that it was the appellant Jarnail Singh who was the perpetrator of the rape and murder of the young child 'A'. The chain of circumstances is complete, is not broken at any place, and the evidence of the last-seen is duly corroborated by extrajudicial confession. Thus, from whatever angle the evidence is analyzed, no doubt creeps in regarding the perpetration of the crime. Given the above, the prosecution has proved its case beyond a reasonable doubt. Consequently, the judgment of conviction would not lead to any other inference except the guilt of the convict. Since the sentence given was already on the lower side, it is not even a case of altering the sentence.

57. As a result, the judgment of conviction and sentence calls for no interference. However, the sentence for non-payment of fine shall be converted from 'Rigorous Imprisonment' to 'Simple Imprisonment'.

58. Even otherwise, appreciating the evidence independently and without being influenced by the judgment of conviction would lead to the exact inference, i.e., guilt of the appellant.

59. Consequently, the appeal is dismissed. All pending miscellaneous applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

(H.S. GREWAL)
JUDGE

12.11.2025
Jyoti Sharma/Anju rani

Whether speaking/reasoned	YES
Whether reportable	YES