



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Reserved on 12.08.2025
Pronounced on: 28.08.2025
CRA-D-929-2023 (O&M)**

1.

Umed Singh and anotherAppellants
Versus

State of HaryanaRespondents

2.

MRC-4-2023

State of HaryanaPetitioner

Versus

Umed Singh and anotherRespondents

3.

**CRM-49989-2024 in/and
CRM-A-1670-2024**

State of HaryanaApplicant/Appellant

Versus

Ajit @ Jeeta and othersRespondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H.S. GREWAL**

Argued by : Mr. P.S. Ahluwalia, Advocate,
Mr. Parveen Sharma, Advocate,
Mr. Keerat Dhillon, Advocate and
Ms. Simerpreet Sekhon, Advocate
for the appellants in CRA-D-929-2023 and
for the respondents in MRC-4-2023 and
CRM-A-1670-2024.

Mr. Rahul Mohan, Addl. A.G., Haryana and
Mr. Yuvraj Shandilya, AAG, Haryana
for the petitioner-State in MRC-4-2023 and
CRM-A-1670-2024 and
for the respondent-State in CRA-D-929-2023.

Proceedings qua accused-Umed Singh,
(appellant No.1 in CRA-D-929-2023) and
respondent No.1 (in MRC-4-2023)
already stand abated vide order dated 14.01.2025.

MANJARI NEHRU KAUL, J.

1. This order shall dispose of above referred cases as they all arise out of the same FIR and judgment of conviction, and similar questions of facts and law are involved in them. In CRA-D-929-2023, appellants/accused namely Umed Singh and Sandeep are challenging the judgment of their conviction dated 16.05.2023 and order of sentence dated 29.05.2023 passed by learned Additional Sessions Judge, Fast Track Court, Sonipat, whereby they have been awarded death penalty under Section 302 read with Section 34 of the IPC; in CRM-A-1670-2024, the State of Haryana is challenging acquittal of co-accused namely Ajit @ Jeeta, Banti and Amit @ Sarpanch, while MRC-4-2023 has been sent by learned Additional Sessions Judge, Fast Track Court, Sonipat to this Court under Section 366 of the Cr.P.C. for confirmation of death penalty of the accused/convicts. Appellant Umed Singh expired during the pendency of the instant appeal. Resultantly, the proceedings qua him stood abated vide order dated 14.01.2025 of this Court.

Case of the Prosecution

2. The essential facts, relevant for adjudication of the instant MRC No.4 of 2023, are set out herein below.

3. On 07.09.2019, a complaint was lodged by Arjun (husband of deceased Ritu). In his statement (Ex.PW13/A), Arjun disclosed that he had been residing with his maternal uncle at village Khandrai for about one and a half years. Approximately a month prior to the incident, he had solemnised his marriage with Ritu (hereinafter referred

to as 'the deceased'), after both had eloped and married against the wishes of Ritu's family. Their marriage had greatly infuriated her family members. In fact, an FIR bearing No.339 dated 18.07.2019 had also been registered against Arjun under Sections 363 and 366 of the IPC at Police Station City Gohana, at the instance of Ritu's family.

4. Subsequently, Ritu herself appeared before the learned Judicial Magistrate at Gohana and made a voluntary statement under Section 164 of the Cr.P.C., affirming that her marriage with Arjun had been solemnised with her free will and consent.

5. On 07.09.2019, when Ritu was suffering from fever, her sister Anjali, telephoned Arjun on his mobile No.7494947071 from her own mobile number. During the conversation, Ritu informed her sister about her illness. Her sister suggested that Ritu should consult Dr. C. D. Sharma, and further mentioned that she and their mother would also accompany her to the clinic of the doctor. Later that same day, Arjun and Ritu travelled to Gohana for the purpose of obtaining medicines. While they were near Balmiki Chowk, the brother-in-law of the complainant, Sandeep (hereinafter referred to as 'the accused'), and one Ajit @ Jeeta, also arrived at the spot.

6. While on their way to the hospital, Ritu's sister and mother persuaded her to accompany them for having snacks, particularly *golgappas*. Though Ritu initially declined, she eventually yielded to their persistent requests and went along. Accused Sandeep also asked Arjun to accompany them, but he refused. He was instead asked to wait for an hour until they returned.

7. Approximately an hour later, accused Sandeep, Ajit @ Jeeta, and Banti, arrived on a motorcycle bearing registration No.HR-11F-3051, armed with a *farsa*. They confronted Arjun, telling him that Ritu had already been “taught a lesson”, for entering into a love marriage, and now it was his turn. Alarmed by the threat, Arjun managed to escape from the spot and thereby evaded the intended assault.

8. Upon receiving information about the incident, Inspector Mahipal (PW-19) reached the house of accused Umed in village Khandrai, where he discovered the dead body of Ritu lying on the floor with her head severed from her torso. The statement of complainant Arjun (Ex.PW13/A) was recorded, and proceedings under Section 174 of the Cr.P.C. were initiated (Ex.PW19/A).

9. Consequently, a formal FIR was registered (Ex.PW15/A) by Sub Inspector Mahipal Singh (PW-19).

10. The relevant extract of the FIR (PW15/A) is reproduced herein:-

“To, The SHO Sahab, P.S. City, Gohana. Respected Sir, It is submitted that I, Arjun s/o Mehar Singh am a resident of village Garhi Hakikat, P.S. Mohana and I have completed Diploma of Car Painter from ITI Gohana in the current year. My maternal uncle lives in village Khandrai and from last 1½ years, I was residing at the house of my maternal uncle in Khandrai and about one month ago, I eloped with Ritu d/o Umed Singh village Khandrai and solemnized love marriage with her. In that context, family members of Ritu got registered FIR No.339/2019 against me in Police Station City Gohana, in which my wife Ritu got recorded her statement before Learned Judge at Gohana Court that she has solemnized marriage with her own wish. Family members of Ritu were not happy with this marriage and were angry with me and my family. Today in the morning my wife Ritu was suffering from

fever. My sister-in-law Anjali called on my mobile No.7494947071 from mobile no.9671845917 in the morning upon which my wife Ritu told Anjali that she was suffering from fever and Anjali suggested her to take medicine from Dr. C. D. Sharma Gohana and said that she and her mother will also meet her. I and my wife Ritu came at Gohana for taking medicines then my brother-in-law Sandeep and Ajit @ Jita met me before Balmiki Chowk and accompanied us by taking me and my wife towards Dr. C. D. Sharma Hospital. Before few distance from Hospital my mother-in-law Shamo and my sister-in-law Anjali met in the street and they asked my wife to go with them for eating Golgappe (water balls). My wife refused but on their repeated asking, she went alongwith them and my brother-in-law asked me to go with them but I refused. He asked me that you wait here and said that after one hour, he will drop Ritu here after getting her met with others. After about 1½ hours, my brother-in-law Sandeep, Ajit @ Jita and Bunty resident of Khandrai armed with farsa (axe) came on motorcycle No. HR-11F-3051 to the shop situated near Canara Bank on which I was seated and my brother-in-law and Bunty and Jita who came alongwith him said in aggression that Ritu has been taught a lesson for doing love marriage and now we will teach you a lesson for doing love marriage. All the three boys ran after me to kill me, but I ran in the street and by entering into a house I saved my life and managed to escape. Now, on receipt of information, I along with my mother and uncle (Tau)'s son Shri Bhagwan have reached at the spot. My father-in-law Umed, mother-in-law Shamo, sister-in-law Anjali, brother-in-law Sandeep, Ajit@Jita and Bunty by hatching a conspiracy murdered my wife Ritu by cutting her neck with a sharp edged weapon. Legal action be taken against them. Sd Arjun Applicant Arjun s/o Meharchand Village Garhi Hakikat Dated 07/09/2019 7494947071.”

11. Thereafter, investigation was undertaken by Sub Inspector Mahipal (PW-19). Statements of material witnesses were recorded (Ex.PW19/D and PW19/E). The scene of crime was inspected, blood-stained earth was lifted, and recovery memos (Ex.PW8/A and PW8/B), were prepared. The dead body was forwarded for post-mortem examination on 08.09.2019. A rough site plan was also prepared

(Ex.PW19/B), and the photographs of the place of occurrence were taken (Ex.P5 to Ex.P10).

12. On 11.09.2019, the accused namely, Sandeep, Ajit @ Jeeta, Amit @ Sarpanch, Banti and Umed Singh (father of the deceased), were arrested while a child in conflict with law (CCL) was apprehended on 12.09.2019. The motorcycle used for transportation in the commission of the offence was recovered. On 12.09.2019, the disclosure statement of the CCL was recorded (Ex.PW5/A), pursuant to which demarcation memos (Ex.PW5/D), were prepared. On 13.09.2019, the disclosure statements of accused Sandeep (Ex.PW7/B), Ajit (Ex.PW7/H), Banti (Ex.PW7/J), Amit (Ex.PW7/K), and Umed Singh (Ex.PW7/F) were recorded. These disclosures led to the recovery of the *farsa*, being the weapon of offence, and the blood-stained clothes worn during the commission of the crime from the bushes near drain No.8, village Mehmoodpur, Gohana (Ex.PW7/C).

13. Upon completion of investigation, the final report under Section 173 of the Cr.P.C. was submitted on 15.11.2019. Accused Sandeep, Umed Singh, Ajit @ Jeeta, Amit, @ Sarpanch, and Banti were formally charged and committed to trial for offences punishable under Sections 120-B, 364, and 302 read with Section 34 of the IPC. The accused pleaded false implication and claimed trial.

Evidence Led By The Prosecution

14. To substantiate the charges, the prosecution examined 19 witnesses in total, whose depositions and purposes are summarised below :

- PW-1, Dr. Randeep Kumar, SSO/SOC—prepared crime scene report (Ex.PW1/A).
- PW-2, ASI, Rajesh Kumar, Draftsman—prepared scaled site plan (Ex.PW2/A).
- PW-3, Deepak Sharma—proved registration certificate of marriage of the deceased with PW-13 Arjun (Ex.PW3/A and PW3/B).
- PW-4, Constable Satbir—recorded FIR (Ex.PW15/A).
- PW-5, EHC Manjeet—witness to : disclosure statement of CCL Parveen (PW5/A), recovery of motorcycle (Ex.PW5/B), demarcation of place of occurrence (Ex.PW5/C), demarcation of place where crime was committed (Ex.PW5/D).
- PW-6, Lady Head Constable Rajni—formal witness.
- PW-7, ESI Balraj—formal witness.
- PW-8, Sunita (mother-in-law of the deceased)—did not support the case of the prosecution and was declared hostile.
- PW-9, Sri Bhagwan (cousin of complainant)—he did not support the case of the prosecution and was declared hostile.
- PW-10, Karambir (father of accused Ajit)—he did not support the case of the prosecution and turned hostile.
- PW-11, Sub-Inspector Dharambir—proved recovery of clothes of deceased (Ex.PW7/A), disclosure statement of

accused Sandeep (Ex.PW7/B), recovery of clothes of accused Sandeep and weapon of offence (Ex.PW7/C), and sketch of weapon (Ex.PW7/C/1).

- PW-12, ASI Rakesh Kumar—formal witness.
- PW-13, Arjun (complainant)—did not support the case of the prosecution and turned hostile.
- PW-14, Head Constable Vikas—formal witness.
- PW-15, retired Sub-Inspector Dal Singh—formal witness.
- PW-16, Dr. Arun Sharma, Medical Officer—conducted post-mortem on deceased, proved post-mortem report (Ex.PW16/A), and affidavit (Ex.PW16/B), he supported the case of the prosecution.
- PW-17, Dr. Anil Chahal, Medical Officer—he deposed on the same lines as PW-16, Dr. Arun Sharma.
- PW-18, Parminderjeet Singh, Nodal Officer.
- PW-19, Inspector Mahipal—investigating officer of the case.

Statement of Accused and Defence Evidence

15. All incriminating material was put to the accused during their examination under Section 313 of the Cr.P.C., wherein they denied the allegations, pleaded innocence, and asserted false implication at the instance of police. They stated that the police had taken their signatures on some blank papers after exerting pressure on them and later converted the same blank papers into disclosure statements and memos. Accused Sandeep also claimed that the place of

recovery i.e. the house does not belong to him. In their defence, two witnesses were examined :

- DW-1 Amit @ Meeta, Sarpanch of village Khandrai, who deposed that the accused were falsely implicated and had no connection with the murder. He also stated that the marriage of the deceased with complainant Arjun (PW-13) was accepted by her family.
- DW-2 Jagbir Lakshmi, supported the deposition of DW-1 Amit @ Meeta and reiterated that the accused were innocent and falsely implicated.

Submissions on Behalf of Appellant-Sandeep in CRA-D-929-2023

16. Learned counsel appearing for appellant-Sandeep has assailed the impugned judgement of conviction and the sentence of death awarded to him by the learned Trial Court on multiple grounds. It has been argued that the conviction suffers from serious legal and factual infirmities and rests on misapplication of settled principles of criminal jurisprudence. The following submissions have been made by learned counsel :

A. Misapplication of Section 106 of the Indian Evidence Act, 1872 (hereinafter referred to as 'the Evidence Act'): It is contended that the learned Trial Court has gravely erred in invoking Section 106 of the Evidence Act against the accused. Learned counsel argued :

- (i) That the primary burden of proof lies squarely upon the

prosecution to establish the guilt of the accused by leading cogent and credible evidence. In the present case, there is a complete failure on the part of the prosecution to discharge this burden, and the learned Trial Court, by invoking Section 106 of the Evidence Act has virtually reversed this burden upon the accused.

(ii) The complainant Arjun (PW-13) at whose instance the FIR was registered, when examined during trial, did not support the case of the prosecution and was declared hostile. In his deposition, PW-13 Arjun, categorically stated that the body of the deceased was recovered from an abandoned and vacant house, and not from any premises belonging to or possessed by the accused.

(iii) Even the investigating officer (PW-19 Inspector Mahipal) admitted that no steps were taken to ascertain the ownership or possession of the house from where the body of the deceased was allegedly recovered. Thus, there was no material whatsoever to link the place of recovery with the accused.

(iv) Despite the above, the learned Trial Court wrongly proceeded to hold that the place of recovery was within the exclusive knowledge of the accused merely because of his disclosure statement (Ex.PW7/B), and then invoked Section 106 of the Evidence Act against him. Learned counsel submits that this finding is wholly untenable, as in the absence of foundational facts being proved by the prosecution, Section 106 of the Evidence Act cannot be pressed into service to fill in the lacunae.

(v) Learned counsel further argued that the scope of Section

106 of the Evidence Act is narrow and circumscribed. It applies only where the prosecution has proved the foundational facts, and certain facts are shown to be within the special knowledge of the accused. It cannot be stretched to cases where the alleged crime scene itself is unconnected with the accused. In the present case, the conclusion drawn by the learned Trial Court that the deceased was in the company of the accused inside the said house is purely based on conjectures, without any evidence of actual presence of the accused with the deceased at the place of recovery.

(vi) Reliance was placed upon the decision of the Hon'ble Supreme Court in ***Shivaji Chintappa Patil Vs. State of Maharashtra : 2021(5) SCC 626***, wherein it observed as under:-

“19. That leads us to the reliance placed by the High Court as well as the trial court on the provisions of Section 106 of the Evidence Act. In the case of Subramaniam (supra), this Court had occasion to consider the similar case of the husband and wife remaining within the four walls of a house and death taking place. It will be relevant to refer to the following observations of this Court:-

“23. So far as the circumstance that they had been living together is concerned, indisputably, the entirety of the situation should be taken into consideration. Ordinarily when the husband and wife remained within the four walls of a house and a death by homicide takes place it will be for the husband to explain the circumstances in which she might have died. However, we cannot lose sight of the fact that although the same may be considered to be a strong circumstance but that by alone in the absence of any evidence of violence on the deceased cannot be held to be conclusive. It may be difficult to arrive at a conclusion that the husband and the husband alone was responsible therefor.”

20. In the case of Subramaniam (supra), reliance was placed on behalf of the State on the judgments of this Court in Trimukh Maroti Kirkan v. State of Maharashtra

and Ponnusamy v. State of Tamil Nadu. This Court observed thus:-

“26. In both the aforementioned cases, the death occurred due to violence. In this case, there was no mark of violence. The appellant has been found to be wholly innocent. So far as the charges under Section 498-A or Section 4 of the Dowry Prohibition Act is concerned, the evidence of the parents of the deceased being PW 1 and PW 2 as also the mediators, PWs 4 and 5 have been disbelieved by both the courts below. That part of the prosecution story suggesting strong motive on the part of the appellant to commit the murder, thus, has been ruled out.....”

21. It will also be relevant to refer to the following observations of this Court in the case of Gargi (supra):-

“33.1. Insofar as the “last seen theory” is concerned, there is no doubt that the appellant being none other than the wife of the deceased and staying under the same roof, was the last person the deceased was seen with. However, such companionship of the deceased and the appellant, by itself, does not mean that a presumption of guilt of the appellant is to be drawn. The trial court and the High Court have proceeded on the assumption that Section 106 of the Evidence Act directly operates against the appellant. In our view, such an approach has also not 9 (2006) 10 SCC 681 10 (2008) 5 SCC 587 been free from error where it was omitted to be considered that Section 106 of the Evidence Act does not absolve the prosecution of its primary burden. This Court has explained the principle in Sawal Das v. State of Bihar, (1974) 4 SCC 193 in the following: (SCC p. 197, para 10)

“10. Neither an application of Section 103 nor of 106 of the Evidence Act could, however, absolve the prosecution from the duty of discharging its general or primary burden of proving the prosecution case beyond reasonable doubt. It is only when the prosecution has led evidence which, if believed, will sustain a conviction, or which makes out a prima facie case, that the question arises of considering facts of which the burden of proof may lie upon the accused.””

22. It could thus be seen, that it is well-settled that Section 106 of the Evidence Act does not directly operate against either a husband or wife staying under the same roof and

being the last person seen with the deceased. Section 106 of the Evidence Act does not absolve the prosecution of discharging its primary burden of proving the prosecution case beyond reasonable doubt. It is only when the prosecution has led evidence which, if believed, will sustain a conviction, or which makes out a prima facie case, that the question arises of considering facts of which the burden of proof would lie upon the accused.”

(vii) Further reliance was placed on ***Nagendra Sah Vs. State Bihar : 2021(10) SCC 725***, wherein the Hon'ble Supreme Court held as under:-

“19.If the section were to be interpreted otherwise, it would lead to the very startling conclusion that in a murder case the burden lies on the accused to prove that he did not commit the murder because who could know better than he whether he did or did not. It is evident that that cannot be the intention and the Privy Council has twice refused to construe this section, as reproduced in certain other Acts outside India, to mean that the burden lies on an accused person to show that he did not commit the crime for which he is tried. These cases are Attygalle v. Emperor and Seneviratne v. R.....”

(viii) The Hon'ble Supreme Court has clarified in these judgments that Section 106 of the Evidence Act cannot be used to shift the burden of proving the prosecution case and is confined to facts strictly within the four walls of the scene of crime.

B. Non-admissibility of the Disclosure Statement of the Accused: Learned counsel next argued that the prosecution case hinges substantially upon the disclosure statement of accused Sandeep (Ex.PW7/B), which, according to learned counsel, is legally inadmissible.

(i) It was submitted that in terms of Sections 25 and 26 of the

Evidence Act, a confession made to the police is inadmissible, and even under Section 27, only that portion of a disclosure statement which leads to discovery of a new fact is admissible.

(ii) In the present case, the disclosure statement of co-accused Parveen (A CCL) had already been recorded on 12.09.2019 (Ex.PW5/A), in which he disclosed the place of occurrence and the location where the weapon was concealed. Pursuant thereto, demarcation memos (Ex.PW5/C and Ex.PW5/D) were already prepared.

(iii) The disclosure statement of accused Sandeep was recorded only on the following day, i.e. 13.09.2019 (Ex.PW7/B), repeating the very same facts already in the knowledge of the police. Hence, no new fact was discovered as a consequence of the statement made by the accused, rendering it hit by Section 25 of the Evidence Act and inadmissible in law.

(iv) It was contended that the learned Trial Court not only relied upon this inadmissible evidence, but even reproduced its contents in the impugned judgement as if it were substantive evidence. This, according to learned counsel, is a serious legal error, moreso when the case involves imposition of the extreme penalty of death.

(v) In support of this contention, reliance was placed upon the judgments of the Supreme Court in ***Randeep Singh @ Rana and another Vs. State of Haryana and others : 2024 SCC Online SC 3383*** and ***Perumal Raja @ Perumal Vs. State, Rep. By Inspector of Police : 2024(1) RCR (Criminal) 617***, wherein it has been held by the Hon'ble Supreme Court that confessional statements made to the police cannot

be the basis of conviction, and discovery statements must lead to recovery of new facts not already in knowledge of the investigating agency.

C. Illegal and Unreliable Recovery of Weapon: Learned counsel further assailed the alleged recovery of the weapon of offence on the following grounds:

(i) The recovery of the *farsa* (Ex.PW7/C) cannot be attributed to accused Sandeep since the fact of its concealment was already disclosed by co-accused Parveen, prior in point of time.

(ii) The recovery is vitiated as it was effected in the absence of independent public witnesses. The prosecution relied only on police witnesses, which casts doubt on the authenticity of the alleged recovery.

(iii) Moreover, the recovery was made from an open and accessible place, thus diminishing its evidentiary value. It is settled law that recovery from an open place, without any corroboration, is insufficient to sustain conviction.

(iv) Learned counsel relied upon the judgement of the Hon'ble Supreme Court in *State of Rajasthan Vs. Hanuman : 2025(3) RCR (Criminal) 389*, wherein it was held that recovery from an open place accessible to others does not by itself establish the guilt of the accused.

D. Incomplete Chain of Circumstantial Evidence : Learned counsel further contended that the present case being one of circumstantial evidence, the prosecution was required to establish a complete chain of circumstances pointing only towards the guilt of the

accused, which it has failed to do.

(i) The alleged motive for the crime has not been established. It was argued that the marriage of the deceased with the complainant had been accepted by the family, as is evident from the depositions of PW-13 Arjun (complainant), PW-8 Sunita (mother of the complainant), and PW-9 Bhagwan (cousin of the complainant). Thus, the theory of the prosecution that the family opposed the marriage and, therefore, had a motive to commit the murder is falsified.

(ii) No scientific investigation was undertaken by the police. No DNA profiling was conducted, no fingerprints were lifted from the scene, and no independent witnesses were joined at the time of recovery.

(iii) The reliance placed by the prosecution on the theory of “last seen together” is also shaky. No witness has conclusively proved that the deceased was last seen in the company of accused Sandeep at the relevant time.

(iv) In the absence of motive, scientific corroboration, or credible evidence of last seen, the chain of circumstances remains incomplete and incapable of sustaining conviction.

E. Sentencing—Failure to Consider Mitigating Circumstances : Lastly, learned counsel argued that even assuming the case of the prosecution is accepted at face value, the imposition of death penalty is wholly unjustified.

(i) It was submitted that the learned Trial Court adopted a punitive and retributive approach, overlooking the settled jurisprudence

that the death penalty is to be awarded only in the “rarest of rare” cases, after balancing aggravating and mitigating circumstances.

(ii) The learned Trial Court created “fictitious scenarios” not borne out by evidence, and proceeded to impose capital punishment under a moral impulse rather than legal necessity.

(iii) Reliance was placed upon *Santosh @ Rajesh @ Gopal Vs. State of Madhya Pradesh : 2024 INSC 723*; *Sadashiv Dhondiram Patil Vs. State of Maharashtra : 2025(4) SCC 275* and *Perumal Raja's case (supra)*, wherein the Hon'ble Supreme Court has held that the brutality of the crime, by itself, cannot substitute the legal requirement of evidence nor dispense with the duty of the Court to consider mitigating factors.

(iv) It was, thus, contended that the sentence of death imposed upon the accused is unsustainable and requires interference by the Court.

Submissions on Behalf of the State

17. *Per contra*, learned State counsel has vehemently opposed the submissions, advanced on behalf of the accused, and supported the judgement of conviction and sentence passed by the learned Trial Court. It was argued that the impugned judgement is based on cogent appreciation of the evidence on record, and the conviction as well as the sentence of death awarded to the accused/appellant Sandeep, is fully justified in the facts and circumstances of the present case. The submissions of learned State counsel are as under :

A. Existence of Strong Motive :

(i) Learned State counsel submitted that the motive for the crime stands firmly established. The deceased had eloped with the complainant and solemnised marriage about one month prior to the occurrence, against the wishes of her family.

(ii) It was pointed out that the family of the deceased, including accused Sandeep (brother of the deceased), were deeply aggrieved by this marriage. Indeed, an FIR bearing No.339 of 2019 was registered on 18.07.2019 under Sections 363 and 366 of the IPC, at the instance of the family of the deceased against the complainant, alleging kidnapping and abduction of Ritu (deceased).

(iii) However, said FIR was cancelled after the deceased appeared before the learned Judicial Magistrate at Gohana and categorically stated that she had voluntarily married the complainant. This incident clearly demonstrates that the family was enraged by the marriage and harboured a strong motive to eliminate the deceased in order to avenge what they perceived as an affront to the honour of the family.

(iv) Thus, the motive attributed to the accused is not a mere inference but is borne out from documentary record and previous criminal proceedings initiated by the family itself.

B. Recovery of Dead Body and Weapon—Corroborated Evidence :

(i) Learned State counsel submitted that the recovery of the dead body of the deceased, which was found beheaded, was made

pursuant to the disclosure statement of accused Sandeep (Ex.PW7/B). The recovery was effected from the house of co-accused Umed, who was the father of both accused Sandeep, and the deceased.

(ii) This fact stands corroborated by the inquest report (Ex.PW19/C), which contains a pictorial diagram and site plan, clearly showing that the body was recovered from a room situated in close proximity to the house of accused Sandeep. The scaled site plan (Ex.PW2/A), also confirms this.

(iii) PW-19, Inspector Mahipal (the then SHO), categorically deposed that the severed body of the deceased was recovered from the house of co-accused Umed, thus directly linking the recovery with the family of the accused.

(iv) The recovery of the weapon of offence (*farsa*) at the instance of accused Sandeep, finds further corroboration from the Forensic Science Laboratory reports (Ex.PX & PY), which confirmed that the blood group of the deceased matched the blood stains found on the recovered weapon.

(v) Learned State counsel submitted that such scientific corroboration lends a strong credibility to the recovery, and the defence contention that the disclosure statement was inadmissible is misplaced.

C. Section 106 of the Evidence Act—Properly Invoked :

(i) It was argued that once the body of the deceased was found inside or in close proximity to the house of the accused family, the burden shifted upon the accused to explain the circumstances in which the body of the deceased came to be found there.

(ii) Section 106 of the Evidence Act squarely applies in such cases, as the fact of how the deceased came to be in the custody or company of the accused is a matter within the special knowledge of the accused.

(iii) Learned State counsel submitted that the defence has failed to discharge this burden. No explanation whatsoever was given by the accused as to how the dead body of the deceased came to be recovered from the premises of their family.

(iv) Reliance was placed upon the principle that once foundational facts are proved by the prosecution, Section 106 of the Evidence Act may be invoked to call upon the accused to explain facts especially within their knowledge. In the present case, the foundational fact, namely the recovery of the body of the deceased from the house of co-accused Umed, in the immediate vicinity of the house of accused Sandeep, stands proved beyond doubt.

D. Hostility of Complainant Does Not Dent Prosecution

Case :

(i) Learned State counsel acknowledged that complainant Arjun (PW-13), PW-8, Sunita (mother-in-law of the deceased), PW-9, Sri Bhagwan (cousin of complainant) and PW-10, Karambir (father of accused Ajit) turned hostile during trial. However, it was submitted that their hostility does not *ipso-facto* demolish the case of the prosecution, which is otherwise supported by reliable documentary, medical, scientific and circumstantial evidence.

(ii) PW-13, Arjun, while turning hostile in Court, cannot erase

the fact that he promptly lodged the FIR on the very same day of occurrence i.e. 07.09.2019. The FIR was registered without delay and clearly implicated the accused persons; the complainant gave a vivid and explicit account of the sequence of events leading to the murder of his wife i.e. the deceased.

(iii) The testimony of PW-4, Constable Satbir, further corroborates that the FIR was lodged promptly on the basis of information provided by the complainant, thereby lending assurance to the initial version of the prosecution as spelt out in the FIR (Ex.PW15/A)

E. Completeness of Circumstantial Chain :

(i) Learned State counsel contended that the chain of circumstances is complete and unerringly points towards the guilt of the accused.

(ii) The circumstances established include: (a) the existence of a strong motive on account of the marriage of the deceased against the wishes of her family; (b) the recovery of the severed body of the deceased from within the premises of the family of the accused; (c) the recovery of the weapon of offence (*farsa*), at the instance of accused Sandeep; (d) the FSL report matching the blood stains on the weapon with the blood group of the deceased; (e) the failure of the accused to offer any explanation as to how the dead body of the deceased came to be recovered in their premises.

(iii) It was submitted that these circumstances form a complete chain leading only to one conclusion—that it was the accused, along

with his co-accused family members, who committed the brutal murder of the deceased, pursuant to a premeditated plan.

F. Justification of Death Sentence :

(i) On the question of sentence, learned State counsel submitted that the learned Trial Court has rightly awarded the death penalty to accused Sandeep, considering the brutality and heinous nature of the crime.

(ii) The deceased was not only murdered but was also beheaded by her own father and brothers in a gruesome act of violence aimed at upholding so-called family honour. The barbarity of the act shocks the collective conscience of society.

(iii) It was argued that this is a fit case falling within the category of the “rarest of rare”, case where the death penalty alone meets the ends of justice. The aggravating circumstances far outweigh any mitigating considerations, as the act was deliberate, planned, and executed in a most brutal fashion

(iv) Thus, the learned Trial Court committed no error in awarding capital punishment, and the sentence, therefore, merits to be upheld.

Submissions on Behalf of the Applicant-State in CRM-A-1670-2024

18. Learned counsel for the State, while assailing the legality and propriety of the impugned judgement, *qua* respondents-accused Ajit @ Jeeta, Banti and Amit @ Sarpanch, has submitted that the same suffers from serious irregularities, material infirmities and patent inconsistencies. It has been urged that the learned Trial Court gravely

erred in acquitting the respondent-accused, namely Ajit @ Jeeta, Banti and Amit @ Sarpanch, despite there being cogent material on record, which unmistakably established their complicity in the crime in question.

19. Learned State counsel further argued that the prosecution had led evidence to demonstrate that the present accused-respondents had actively connived and conspired with the principal accused, namely Umed Singh and Sandeep, pursuant to which the brutal and cold-blooded murder was carried out. Particular reliance was placed on the FIR (Ex.PW15/A), which categorically recorded the presence and participation of the accused-respondents. Further, learned State counsel argued that complainant Arjun (PW-13) had specifically stated therein that accused-respondents Ajit @ Jeeta, Banti and Sandeep, while triple-riding on a motorcycle bearing registration No.HR-11F-3051, advanced towards him and openly threatened that since the deceased had already been taught a lesson for marrying against their wishes, it was now his turn to face consequences.

20. Learned State counsel emphatically contended that the learned Trial Court committed a manifest error in acquitting the present accused-respondents, particularly when, on the very same body of evidence, the learned trial court convicted Umed Singh and Sandeep. As per the learned State counsel, such a dichotomous approach in appreciating the evidence amounted to misapplication of law and had resulted in grave miscarriage of justice.

21. Furthermore, learned State counsel submitted that the

learned Trial Court, while acquitting the respondents, had observed that there was no evidence to show their association with the co-accused Sandeep in any overt manner, except for acts which could be construed as “friendly or sociable in nature”, and on that reasoning, exonerated them from liability. Learned State counsel also submitted that such a finding was wholly untenable in law and on facts. The prosecution case and the evidence on record clearly pointed towards a well orchestrated conspiracy, jointly hatched and executed by all the accused persons. Once the chain of circumstances proved the concerted action, it was not open for the learned Trial Court to compartmentalise the role of certain accused and absolve them on specious plea of “mere sociable association”.

22. Furthermore, learned State counsel highlighted that the recovery of the very motorcycle used in the commission of the offence, i.e. motorcycle bearing registration No.HR-11F-3051, was effected at the instance of respondent-accused Ajit @ Jeeta from drain No.8 (Ex.PW7/1). This circumstance, as per the learned State counsel, provided strong corroboration of the complicity of the accused-respondents and was completely overlooked and lightly brushed aside by the learned Trial Court.

23. In the aforementioned circumstances, learned counsel for the State vehemently contended that the impugned judgement of acquittal qua the accused-respondents is legally unsustainable and factually perverse. The evidence led by the prosecution, which was common against all the accused persons, was sufficient to fasten

liability upon the accused respondents as well, but the learned Trial Court committed grave error in acquitting them, thereby rendering the impugned judgement liable to interference.

Findings of the Court in CRA-D-929-2023 and MRC-4-2023

24. We have heard learned counsel for the parties and perused the relevant material on record.

25. The instant appeal raises the following determinative questions :

(a) Whether the death of Ritu was homicidal and what the medical-forensic record proves;

(b) Whether the recovery of the dead body of Ritu from a vacant house, proximate to the residence of the accused, coupled with the site plan, topology, has incriminatory value;

(c) Whether the motive—Ritu's elopement/marriage against the wishes of her family, FIR No.339 dated 18.07.2019 under Sections 363 and 366 of the IPC at Police Station City Gohana, and her statement under Section 164 of the Cr.P.C.—stands proved and is probative;

(d) The impact of hostility of PW-8, Sunita (mother-in-law of the deceased), PW-9, Sri Bhagwan (cousin of complainant) and PW-13, Arjun (complainant);

(e) Admissibility and reliability of the recoveries made under Section 27 of the Evidence Act (clothes and weapon of offence) in light of the earlier disclosure, made by CCL Parveen;

(f) Effect of alleged recovery from an “open place”, without

public witnesses;

(g) Whether the case satisfies the threshold of the “last seen” and “Section 106 of the Evidence Act”;

(h) Whether the chain of circumstances is complete and consistent only with guilt;

(i) Sentencing : whether this case qualifies as the “rarest of rare” case.

26. Adverting to the present case, the prosecution rests its case substantially on circumstantial evidence. It is, therefore, imperative to test the material on record against the well-settled principles governing such cases. The law requires that—

(i) each circumstance relied upon must stand firmly proved;

(ii) the chain of circumstances must be consistent only with the hypothesis of the guilt of the accused, and not susceptible to any other rational inference;

(iii) the circumstances, when taken cumulatively, must lead to a conclusive tendency pointing towards guilt;

(iv) they must exclude every reasonable hypothesis consistent with innocence; and

(v) the entire chain must be so interlinked and complete as to leave no reasonable ground for any conclusion other than that the accused alone is the perpetrator.

27. It is in the backdrop of these principles that the evidence on record must be appreciated.

28. **Section 27 of the Evidence Act** : The prosecution in the

present case has relied upon discoveries made pursuant to the disclosure statement of the accused while in custody. Section 27 of the Evidence Act, though an exception to the general rule, permits proof of that portion of information which distinctly relates to the discovery of a fact. What is significant is that the “fact discovered” is not confined merely to the recovery of a physical object; it extends to the place of recovery, the knowledge of the accused of such place, and his authorship in the act of concealment. This doctrine, often described as confirmation by subsequent events, is directly attracted in the present matter, since the recovery in question is not an isolated object but is accompanied by circumstances pointing to the exclusive knowledge of the accused and his role in its concealment.

(i) **Disclosure and recovery under Section 27 of the Evidence Act:** The record reveals that Ex.PW7/B is the disclosure statement made by accused Sandeep, wherein he admitted to having concealed his blood stained T-shirt, *pyjama*, and a *farsa* near drain No.8. Pursuant to this disclosure, PW-11 Sub-Inspector Dharambir proved Ex.PW7/C, which is the recovery memo evidencing the seizure of the clothes and the *farsa*. Alongside, PW-11 Sub-Inspector Dharambir also proved Ex.PW7/C-1, being the sketch of the recovered weapon. These recovered articles were thereafter transmitted, together with the clothes and blood samples of the deceased (proved through Ex.PW7/A), to the Forensic Science Laboratory (FSL) for scientific examination.

(ii) **Objection by the learned counsel for the accused—**

alleged overlap with earlier disclosure statement of CCL Parveen :

The learned counsel for the accused sought to assail the evidentiary value of accused Sandeep's disclosure on the ground that CCL Pavveen had, on an earlier occasion, already made a disclosure (Ex.PW5/A) and had also undertaken demarcations (Ex.PW5/C and Ex.PW5/D). On that basis, it was argued that the subsequent statement of accused Sandeep under Section 27 of the Evidence Act did not result in the discovery of any fresh fact, and therefore, should be treated as inadmissible.

(iii) This submission of the learned counsel is misconceived. Section 27 of the Evidence Act renders admissible only that portion of a disclosure which distinctly relates to the fact thereby discovered. Even assuming that the police had some prior knowledge of the area through the statement of CCL Parveen, that circumstance does not dilute the significance of what followed from the own disclosure of accused Sandeep. What was discovered through accused Sandeep was not a mere place, but specific articles—his blood stained T-shirt and pyjama, and the *farsa* which he himself had concealed. These constitute new and distinct facts, attributable solely to authorship of concealment by accused Sandeep, and the overlap in locality does not sterilise the independent discovery brought about by his statement.

(iv) **Objection with respect to place of recovery and absence of public witnesses :** It was also argued by the learned counsel for the accused that the recovery loses credibility since it was effected from an open and bushy area “accessible to others” and in the absence of public witnesses. This contention too cannot be accepted. The law does not

mandate that every recovery under Section 27 of the Evidence Act must be witnessed by independent passers-by, nor is an otherwise proved recovery to be discarded merely because the spot is not secluded. Courts have repeatedly cautioned against discarding police-witnessed recoveries merely on the ground that members of the public were not present, especially where other corroborative evidence lends assurance.

(v) What matters is not the openness of the spot *per se* but the evidentiary character of the articles discovered there. In the present case, the decisive factor is that the articles—clothes and *farsa*—were actually recovered and were subsequently found, on scientific examination, to carry incriminating biological traces directly linking them to the crime. Thus, the probative force flows not from the nature of the bushy location but from the identity and scientific linkage of the recovered items themselves.

29. **Section 106 of the Evidence Act:** Equally relevant in the present case is Section 106 of the Evidence Act. Once the prosecution has succeeded in establishing the foundational facts, such as the deceased being last seen in the company of the accused, or the dead body of Ritu being found within the premises under his control or in his immediate proximity, the burden shifts to the accused to furnish a plausible explanation of the special facts which lie within his exclusive knowledge. The absence of any such explanation, or the offering of one that is palpably false, constitutes an additional link in the chain of circumstances against the accused.

(i) **Alleged misapplication of Section 106 of the Evidence**

Act: It was vehemently asserted by the learned counsel for the accused that Section 106 of the Evidence Act had been wrongly invoked. However, this contention is devoid of merit. The prosecution has proved the foundational facts : the strong motive, the last seen circumstance, recovery of the dead body adjoining the residence of the accused, recoveries pursuant to disclosure under Section 27 of the Evidence Act, and the FSL corroboration. Only upon proof of these circumstances thus, the burden shifted to the accused to explain facts within his special knowledge. The deceased, last seen with him, was soon found brutally murdered in a location adjoining his house. The duty to furnish an explanation plainly lay on him. His silence justifies an adverse inference.

30. **Nature of death : medical and forensic findings :** The post-mortem examination (Ex.PW16/A) was conducted jointly by PW-16 Dr. Arun Sharma and PW-17 Dr. Anil Chahal. The doctors opined that the deceased, Ritu, succumbed to hypovolemic shock arising from multiple incised wounds. The complete severance of the head, coupled with the blood-soaked condition of the room as noticed by PW-1 Dr. Randeep Kumar, leaves no scope for it being anything but a homicidal death.

(i). On 21.09.2019, the investigating officer sought expert opinion (Ex.PW16/C) regarding the *farsa* recovered during investigation. The doctors furnished their report (Ex.PW16/D), affirming that the injuries observed on deceased Ritu were consistent and probable with having been caused by that very *farsa*. The FSL

report on viscera (Ex.PX) further excluded poisoning, thereby ruling out toxic causation. These findings collectively reinforce that the death was the result of homicidal decapitation inflicted by repeated blows of a sharp-edged weapon.

(ii) **Forensic corroboration—the FSL Report (Ex.PY):** The FSL Report (Ex.PY) provides objective and conclusive corroboration. It establishes that the *farsa* and the blood-stained clothes of accused Sandeep, recovered pursuant to his disclosure statement (Ex.PW7/B), were found to bear human blood of group “B”. This blood group is the same as that detected on the clothes and blood sample of the deceased, Ritu. The scientific finding, based on precise biological testing, rules out speculation and firmly ties the recovered articles to the offence and to the deceased herself.

(iii) In sum, the medical and forensic evidence clearly proves that the death of Ritu was homicidal in nature, brought about by multiple incised injuries culminating in decapitation.

31. **Motive : elopement, prior FIR, and statement of the deceased under Section 164 of the Cr.P.C. :** The motive in the present case is not a matter of speculation or surmise; it stands established on the basis of unimpeachable documentary evidence. FIR No.339 of 2019 (Ex.PW19/F) was lodged by father of deceased Ritu, namely accused Umed Singh, alleging that Ritu had been kidnapped or enticed away by PW-13 Arjun. During the course of the said investigation, Ritu herself recorded her statement under Section 164 of the Cr.P.C. (Ex.PW19/G), wherein she categorically affirmed that she had voluntarily

accompanied Arjun to Rishikesh on 15.07.2019 and had thereafter married him on 01.08.2019 of her own free will. Consequent thereto, the investigating agency filed a cancellation report (Ex.PW19/H), duly accepting the voluntary nature of her conduct. Further, PW-3 Deepak Sharma proved the marriage certificate of Ritu with PW-13 Arjun (Ex.PW3/A) as well as statements of consent (Ex.PW3/B) given by deceased Ritu as well PW-13 Arjun (complainant).

(i) The disclosure statement of accused Sandeep (Ex.PW7/B) records that the family members were enraged, perceiving that Ritu had “lowered their image in the village”, and they consequently resolved to eliminate her. The disclosure statement of Umed Singh (father of Ritu) (Ex.PW7/F) as referred to in the record, reinforces the same animus. While it is settled that confessional portions of such statements are not substantive evidence, their relevance lies in corroborating the existence of an enduring grievance. The documentary trail—FIR No.339 of 2019, statement of Ritu under Section 164 of the Cr.P.C., the cancellation report, and the proof of marriage—objectively demonstrates a proximate, compelling and persisting motive, quintessentially reflecting an honour-based grievance.

(ii) It is well settled that motive, though not a *sine qua non*, for conviction where there is direct evidence, assumes great significance where the circumstances point towards an honour-related killing. Motive may serve as a “double-edged weapon”, at times corroborating guilt by explaining conduct otherwise inexplicable. In cases of so-called “honour killings”, the sense of dishonour of a family operates as

a powerful and proximate motive, which cannot be overlooked.

(iii) The present case squarely falls within that category. The demonstrated displeasure of the family at Ritu's voluntary marriage, documented through the registration of a prior FIR, her statement recorded under Section 164 of the Cr.P.C., and the cancellation report, provides a cogent explanation of the subsequent crime. The motive is, thus, not only established beyond doubt, but it is also weighty and proximate. It elucidates why Ritu was deliberately lured, isolated, and murdered within steps of the residence of the accused.

32. Recovery of the dead body—location, proximity, and topography : The crime scene report (Ex.PW1/A) and the scaled site plan (Ex.PW2/A), conclusively demonstrate that the body of the deceased Ritu was recovered from a room situated on the ground floor of a vacant and abandoned house, lying within the *abadi* of the village, and immediately adjoining the residences of accused Sandeep and Umed. The configuration of the spot reveals a blind alley on the western side with the sole meaningful entry being from the south. Such topography, while shielding the room from general access, at the same time favours those familiar with the locality. The site, therefore, falls squarely within the immediate sphere of convenience of the accused and is not one that could reasonably be accessed without notice or risk by any outsider.

(i) The condition in which the body of deceased Ritu was discovered, leaves no room for doubt that the crime was perpetrated at the very site. The severed head of the deceased was lying beside the

right hand of her torso; a substantial pool of blood had collected beneath the body; and splashes of blood were observed across the walls and flooring. These features are wholly inconsistent with the hypothesis of a *post-facto* dumping after a killing elsewhere and instead speak clearly to the murderous assault and beheading having been carried out at that very spot. The secluded room, not forming part of any public thoroughfare, is likewise inconsistent with the theory of intrusion by any unknown outsider.

(ii) The argument advanced by the learned counsel for the accused that the prosecution failed to prove the ownership of the abandoned house, is equally untenable. The law does not demand proof of legal title to attach significance to the *situs* of the crime. What matters is the proximity of the *locus delicti* to the residence of the accused and their ease of access thereto. That circumstance, taken together with other proved facts—namely motive, the deceased having been last seen with the accused, and the recoveries effected under Section 27 of the Evidence Act—renders the place of occurrence a strong incriminating link in the chain of circumstances.

(iii) We are, therefore, satisfied that the discovery of the dead body from a room in an abandoned house adjoining the residence of the accused constitutes a compelling incriminating circumstance. The proximity of the place of occurrence to their dwelling, the physical features of the site indicating that the crime was committed there, and its inaccessibility to outsiders, cumulatively connect the accused with the scene of offence. Once such foundational facts are established, the

burden under Section 106 of the Evidence Act, shifts to the accused to explain circumstances within their special knowledge. Their failure to provide any plausible explanation further strengthens the case of the prosecution and fortifies the inference of their involvement.

(iv) Seen in this light, the *situs* of the recovery is not a mere backdrop but an essential link in the evidentiary chain. It fits seamlessly with other established circumstances—motive, last seen, and subsequent recoveries—thereby narrowing the field of inference to the exclusion of all hypothesis consistent with innocence.

33. We will now proceed to consider the succeeding incriminating circumstances in that chain, with a view to testing whether they collectively establish the guilt of the accused beyond reasonable doubt.

34. **Last seen circumstances and the operation of Section 106 of the Evidence Act :** The case of the prosecution on the circumstance of “last seen together” is anchored in the sequence of events that immediately preceded the discovery of the body of the deceased. The record discloses that on 07.09.2019, the sister of Ritu made a call, pursuant to which Ritu, accompanied by PW-13 Arjun, proceeded to Balmiki Chowk. At that point, they encountered accused Sandeep; Ritu's mother and sister also arrived there and prevailed upon her to join them for refreshments. Accused Sandeep extended an invitation to PW-13, Arjun as well, though he simultaneously instructed him to wait. Soon thereafter, accused Sandeep reappeared, this time in the company of associates who had come on a motorcycle bearing

registration No.HR-11F-3051. He was armed with a *farsa* and issued threats to PW-13 Arjun, compelling him to flee from the spot. This sequence stands recorded in the prompt FIR (Ex.PW15/A) lodged on the very same day by PW-13 Arjun before PW-4 Satbir, giving contemporaneity to the account.

35. It is true that during the course of trial, PW-13 Arjun did not support the case of the prosecution and was declared hostile. Nonetheless, the FIR, though not in itself a substantive piece of evidence, assumes significance as a contemporaneous narrative that can legitimately be utilised for testing the probabilities of the case. Its contents are not only consistent with what subsequently emerged from the medical, site and forensic investigations, but also align with the motive already brought on record. It is settled that when a witness resiles at trial, the Court is entitled to take guidance from the surrounding circumstances and the corroborative material to assess the intrinsic truth of the prosecution version.

36. The last seen evidence here is of particular gravity : the deceased was last observed in the company of her own family members—her mother, sister, and brother Sandeep—immediately before her body was recovered in a room adjoining the house of the accused. The time gap between her last being seen and the discovery of the body is narrow, and there is no intervening circumstance or explanation to dislodge the inference. In such a factual backdrop, the statutory principle embodied in Section 106 of the Evidence Act clearly comes into play. The obligation rested squarely upon accused Sandeep to

explain how and in what manner Ritu parted company with him, and how she came to be found decapitated in such proximity to his residence. Accused Sandeep offered no such explanation.

37. In view of the foregoing, the chain of circumstances is cogent : the deceased was last seen with the accused and close family members; her dead body was discovered almost immediately thereafter next door to the home of the accused; there existed a proven motive; and recoveries stood effected pursuant to the investigation. Read together, these circumstances justifiably invite the application of Section 106 of the Evidence Act. The silence of the accused on facts peculiarly within his knowledge weighs heavily against him, and the adverse inference that flows from such silence substantially fortifies the case of the prosecution.

38. Therefore, the portion of the disclosure statement of accused Sandeep under Section 27 of the Evidence Act, which distinctly relates to the recovery of his blood-stained clothes and the *farsa*, is clearly admissible. The recovery has been duly proved through PW-11, Sub-Inspector Dharambir, and its authenticity and evidential weight are powerfully reinforced by the FSL Report. Taken together, these circumstances establish a direct and compelling link between accused Sandeep, the concealed articles, and the blood of the deceased, thereby lending strong corroborative value to the case of the prosecution.

39. **Hostile witnesses—effect and evidentiary weight :**
Before addressing the evidentiary worth of the hostile witnesses, it is

necessary to recall that the prosecution case rests primarily on a body of circumstantial and scientific evidence, supplemented in its early stages by the version recorded promptly in the FIR. The subsequent developments during trial, where certain witnesses resiled from their earlier statements, therefore, require a careful but measured assessment.

40. It stands admitted that certain prosecution witnesses namely PW-13 Arjun as well as PW-8, Sunita (mother-in-law of the deceased), PW-9, Sri Bhagwan (cousin of complainant), PW-10, Karambir (father of co-accused Ajit), turned hostile.

41. In prosecutions arising out of intra-family conflicts, particularly those tinged with notions of so-called “honour”, such hostility is not unexpected. The legal position is settled that the testimony of a hostile witness does not stand obliterated from the record; the Court may rely upon such parts of it as are found trustworthy, particularly when supported by independent corroboration.

42. In this context the conduct of PW-13 Arjun is telling. On the very date of occurrence, he lodged the FIR, which is a contemporaneous account free from the taint of afterthought. That version, when tested against the medical evidence, the scene-of-crime inspection, and the forensic evidence, is consistent in material particulars. His later volt-face at trial cannot erase the objective proofs—the findings in the post-mortem report, the documentation of the scene of crime, the recovery made under Section 27 of the Evidence Act, and the reports of the FSL.

43. It was urged by the learned counsel for the

accused/appellant that the absence of DNA profiling or fingerprint evidence fatally undermines the case of the prosecution. We are, however, unable to agree. The probative worth of scientific evidence lies in its reliability, not its abundance.

44. Forensic evidence in the present case is not absent; it is both present and probative. The grievance of the accused, properly analyzed, is not that there is “no” science but there could have been “more”. Such a plea, cannot by itself, dismantle an otherwise complete circumstantial chain.

45. As a sequel to the above, on a holistic appraisal, we find no missing link in the chain. Each circumstance is established by cogent evidence, each dovetails into the other, and together they form a complete chain, pointing unerringly towards the guilt of the appellant/accused Sandeep. The speculative suggestions advanced by the learned defence counsel during trial—of an unknown intruder, of planted recoveries, or of a concocted prosecution narrative—remain wholly unsubstantiated and do not create any reasonable doubt. The conviction of accused/appellant Sandeep under Section 302 of the IPC stands fully justified and calls for no interference. Accordingly, the appeal filed by the appellants/accused fails and is dismissed accordingly.

Sentence : Rarest of Rare?

46. The death penalty, unlike any other sentence, stands on a unique precipice. It is final, irreversible, and absolute : once carried out, no error can be corrected, no mercy belatedly applied, no lost

possibility of reformation retrieved. That is why the constitutional philosophy adopted in ***Bachan Singh Vs. State of Punjab : (1982) 3 SCC 24***, insists that life imprisonment is the rule and death an exception invoked only in the rarest of rare cases, where life imprisonment would be wholly inadequate to meet the ends of justice.

47. This principle transcends the confines of a mere legal doctrine; it embodies a moral compass guiding the judicial conscience. It underscores that while the State, through the machinery of law, may curtail personal liberty, the taking of life must be reserved for only those circumstances so extraordinary and compelling that the moral fabric of society itself would disintegrate in its absence.

48. In ***Machhi Singh and others Vs. State of Punjab : 1983 AIR 957***, the Hon'ble Supreme Court gave further contour to this doctrine : the death penalty may be imposed only when the crime shocks the collective conscience of society, when its brutality or depravity is such that no other sentence seems proportionate. Yet, the same decision tempered outrage with restraint—it directed that even the most shocking of crimes does not automatically invite death; the question must always return to whether life imprisonment is inadequate.

49. Later decisions, notably ***Rajendra Pralhadrao Wasnik Vs. State of Maharashtra : AIR 2019 Supreme Court 1***, stressed that where conviction rests on circumstantial evidence, capital punishment ought rarely to be imposed, for the possibility of human error shadows the chain of inference. The Hon'ble Supreme Court in ***Criminal Appeal Nos.248-250 of 2015 titled as 'Manoj and others Vs. State of Madhya***

Pradesh', decided on 20.05.2022, mandated that sentencing courts must enquire into the entire personality of the convict : his background, emotional circumstances, capacity for reform, and conduct in custody. All these judicial pronouncements collectively underscore that sentencing is not a mechanical balancing of scales, but an enquiry into both crime and criminal, guided by constitutional morality.

50. Adverting to the present case, the crime committed is grave beyond dispute. Appellant Sandeep has murdered his own sister—a young woman whose only “transgression” was marrying by choice. The beheading of Ritu within the precincts of the family home is not only an assault upon her life but also an affront to the values of autonomy, dignity, and the sanctity of familial trust. It reveals a mind-set enslaved to the regressive notion of “honour”, whereby the freedom of an individual is extinguished to preserve collective pride.

51. Yet, while the crime is abhorrent, the law obliges us to look deeper—into the criminal, not merely the crime. The record discloses no prior criminal history of the appellant. He is a young man, shaped by a social milieu that valorises misplaced notions of honour, and it is not impossible that with the passage of time and the discipline of incarceration, he may be capable of moral reform. His act was one of fury and distorted values rather than of sadistic perversity. We cannot say that the door to reformation is conclusively shut.

52. The irreversibility of the death penalty requires that before it is imposed, the Court must be convinced beyond doubt that there exists no prospect of the rehabilitation of the offender, and that society

would be imperilled unless he is executed. That threshold is not crossed here. The enormity of the outrage cannot eclipse the constitutional mandate of restraint.

53. The doctrine of the “rarest of rare” is a shield, not a sword—it preserves life except where no alternative is just. To confirm the death sentence in this case would be to transgress that shield. Life imprisonment, rigorous and unrelenting, is itself a grave penalty : it both punishes the wrong and leaves open the faint but vital possibility of redemption.

54. Therefore, while the conviction of the appellant under Section 302 of the IPC stands affirmed, we hold that the present case does not qualify for the extreme penalty of death. The ends of justice would be met by imposing the sentence of imprisonment for life.

55. Upon a careful consideration of the facts and circumstances of the case together with mitigating factors and bearing in mind the well settled principle that death penalty is to be imposed only in the “rarest of rare” cases, we are of the considered opinion that the present appeal merits partial allowance. The conviction of appellant-Sandeep is accordingly affirmed. However, the sentence of death imposed by the learned Trial Court is hereby commuted to that of imprisonment for life. It is further directed that appellant-Sandeep shall undergo a minimum period of 25 years of rigorous imprisonment, after which alone his case may be considered for remission or commutation in accordance with law.

56. Accordingly, MRC-4-2023 stands disposed of.

Findings of the Court in CRM-A-1670-2024

57. Coming next to the leave to appeal filed by the State against accused-respondents Ajit @ Jeeta, Banti and Amit @ Sarpanch, a careful examination of the impugned judgment as well as the entire evidence available on record reveals that the prosecution has not been able to adduce any cogent or credible evidence—much less any incriminating material—so as to connect the accused-respondents Ajit @ Jeeta, Banti and Amit @ Sarpanch, with the murder in question. It is not in dispute that these respondents were close associates and friends of the convicted accused, Sandeep; however, mere association of friendship by itself cannot substitute for legal proof of complicity in the crime. As regards the submissions advanced by the learned counsel for the State-appellant that the respondents-accused, acting in pursuance of a premeditated plan, participated in the commission of murder, the same does not find support from the material on record. There is no evidence to establish that the respondents were in the company of accused Sandeep prior to or at the time of the murder of deceased Ritu. The material on record indicates their presence only subsequent to the commission of the crime, which, in the absence of further corroboration, is wholly insufficient to sustain the charge of conspiracy or common intention.

58. The prosecution has further failed to demonstrate any overt-act or positive conduct on the part of these respondents-accused, which could show that they acted in concert with accused Sandeep in executing the alleged crime. Although the complainant Arjun (PW-13),

in his initial statement (Ex.PW13/A) recorded by Sub Inspector Mahipal (PW-19) purportedly named all the accused, including the present respondents, the evidentiary value of this statement stands completely eroded once the said witness, upon entering the witness box, did not support the case of the prosecution and was declared hostile. His deposition before the learned Trial Court, therefore, does not advance the case of the prosecution qua the respondents-accused.

59. Moreover, it is significant to note that the prosecution did not produce the call detail records of the mobile phones of the respondents-accused to corroborate their alleged presence with accused Sandeep on the date and time of the occurrence. The lacuna, candidly not disputed even by the learned counsel for the State, constitutes a glaring omission in the investigation and the case of the prosecution. In the absence of such material, the allegation of conspiracy or participation remains wholly unsubstantiated.

60. It is trite that where the case rests on circumstantial evidence, motive assumes greater importance, particularly in the absence of direct testimony. The motive attributed in the present case pertains exclusively to the prime accused, Sandeep and his father Umed Singh, for the gruesome act of beheading Ritu, who was the sister and daughter respectively of these accused. By no reasonable inference can such motive be extended or imputed to respondents Ajit @ Jeeta, Banti and Amit @ Sarpanch, who were neither directly connected to the deceased in such manner nor shown to have any personal enmity or interest in the commission of the offence.

61. Except for the alleged confessional statement of co-accused/convict Sandeep (Ex.PW7/B) and in the absence of any incriminating material much less corroborative evidence, this Court does not deem it fit to convict the accused-respondents Ajit @ Jeeta, Banti and Amit @ Sarpanch based on mere conjectures.

62. This Court, therefore, concurs with the findings recorded by the learned Trial Court whereby the accused-respondents Ajit @ Jeeta, Banti and Amit @ Sarpanch are acquitted of the charges framed against them. Accordingly, the instant leave to appeal is hereby dismissed.

CRM-49989-2024 in CRM-A-1670-2024

63. Since the leave to appeal is dismissed on merits, there is no need to pass separate order in the instant application filed for condonation of delay of 448 days in filing the leave to appeal and the same also stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

(H.S. GREWAL)
JUDGE

28.08.2025

Vinay

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No