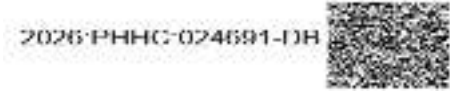


IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH



CRA-D-1050-DB-2018 (O&M)
Reserved on: 17.11.2025
Pronounced on: 16th February, 2026

CCL ...Appellant

Versus

State of Haryana ...Respondent

CORAM:- HON’BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MRS. JUSTICE RAMESH KUMARI

Present:- Mr. Narender Kaajla, Advocate for the CCL.
Mr. Munish Sharma, Deputy Advocate General, Haryana.

RAMESH KUMARI, J.

1. The instant appeal has been filed by the CCL-Child-in Conflict-with-law (hereinafter referred as CCL) seeking to challenge the judgment of conviction dated 12.09.2018 and order of sentence dated 19.09.2018 passed by the then Addl. Sessions Judge-cum-Special Judge, Children’s Court, Hisar, vide which the CCL has been convicted and sentenced to undergo the following sentences:-

Sr. No.	Offence under Section	Rigorous Imprisonment	Fine	In default of payment of fine
1	6 of the Protection of Children from Sexual Offences Act, 2012	Rigorous Imprisonment for Twenty Years	Rs.10,000/-	Further undergo rigorous imprisonment for two years
2	376-A of IPC	Rigorous Imprisonment for Twenty Years	Rs.10,000/-	Further undergo rigorous imprisonment for two years

3	201 IPC	Rigorous Imprisonment for Five Years	Rs.5000/-	Further undergo rigorous imprisonment for one year
4	363 IPC	Rigorous Imprisonment for Seven Years	Rs.5000/-	Further undergo rigorous imprisonment for one year
5	366-A IPC	Rigorous Imprisonment for Ten Years	Rs.10,000/-	Further undergo rigorous imprisonment for one year
6	367 IPC	Rigorous Imprisonment for Ten Years	Rs.10,000/-	Further undergo rigorous imprisonment for one year
7	450 IPC	Rigorous Imprisonment for Seven Years	Rs.5000/-	Further undergo rigorous imprisonment for one year
8	3(1)(w)(i) of SC/ST Act	Rigorous Imprisonment for Five Years	Rs.5000/-	Further undergo rigorous imprisonment for one year
9	302 IPC	The punishment for this offence is prescribed as Death Sentence or Imprisonment for Life and fine, however, while invoking the provision of Section 21 of the Juvenile Justice (care and Protection of Children) Act, 2015, CCLis sentenced to undergo Rigorous Imprisonment for Twenty Years without remission.	Rs.10,000/-	Further undergo rigorous imprisonment for two years
10	3(2)(v) of SC/ST Act	The punishment for this offence is prescribed as imprisonment for Life and fine, however, while invoking the provision of Section 21 of the Juvenile Justice (care and Protection of Children) Act, 2015, CCL is sentenced to undergo Rigorous Imprisonment for Twenty Years without remission.	Rs.10,000/-	Further undergo rigorous imprisonment for two years

All the substantive sentences were ordered to run concurrently.

THE PROSECUTION CASE:-

2.
- The brief facts of the case are that on 09.12.2017, a telephonic information was received at Police Station, Uklana that one girl child in unconscious

condition was lying in a street in front of Telephone Exchange, Uklana. Thereafter Inspector/SHO Sandeep Kumar along with other officials reached at the spot and found one girl child lying in the street. PW27-Inspector Sunita, Incharge of Women Help Desk, Barwala was informed. Inspector Sunita along with PW5-LASI Guddi Rani reached at the spot and girl child accompanied by her family members was shifted to Community Health Centre, Uklana where PW7 Dr. Rajesh Kumar, Medical Officer, declared the child dead. PW-27 Inspector Sunita in presence of family members of the girl child and Ms. Meenu Sharma, Legal Aid Counsel, recorded statement of PW-20 GD (identity withheld), mother of girl child to the effect that she belongs to Sapela caste (scheduled caste). She along with her family, used to reside in the hut situated in Indra Colony, Uklana Mandi. She used to beg for food and her husband R (identity withheld), who is labourer had gone to Gurugram for labour. A day before i.e. on 8.12.2017 at about 8.00 p.m. she along with her two sons and two daughters had slept in the hut. In the adjacent hut, Munni Nath son of Balkar was also sleeping along with his family. On the next morning at about 7.00 a.m. when she woke up, her daughter G (name withheld) aged about 6/7 years was found missing. She searched but failed to trace her. She narrated the incident to her brother-in-law Munni Nath and relative Amarnath son of Chhabil Nath and they all started searching her daughter. When they reached near Telephone Exchange, in an abandoned street, they found her daughter in an injured and half naked condition. Blood oozed from her mouth and nose and one thin wooden piece was forcibly found inserted in the private part (vagina) of her daughter and from anus water was oozing out. They all were perplexed and reported the matter to Uklana police. She further stated that police reached at the spot, inspected the place, photographs were taken and child was shifted to CHC, Uklana. The doctor

after checking, declared her dead. She further stated that after seeing the body of her daughter, it appears that some unknown person kidnapped her from the hut and had taken her at some unknown place and committed rape upon her and inserted thin piece of wood in the vagina and after subjecting her with unnatural act, committed her murder. She requested that unknown culprit be traced and strict action be taken against him. PW27-Lady Inspector Sunita and Ms. Meenu Sharma, Legal Aid counsel, also attested the said statement.

POLICE INVESTIGATION:-

3. On the basis of the aforesaid statement Ex.P-52, a case under Sections 302, 376(2)(m), 363, 367 and 450 of the Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') was registered.
 - i) Inquest report of dead body of deceased victim was prepared.
 - ii) As per order No.37876-80 dated 9.12.2017 passed by Superintendent of Police, Hisar, Special Investigation Team was constituted.
 - iii) Postmortem examination on the dead body of G was got conducted from the Board of Doctors at General Hospital, Hisar.
 - iv) Lady Inspector Sunita and SHO Sandeep Kumar visited the spot and with the help of Cyber Cell, dump was lifted. Photographs of the place of occurrence were taken. Members of the Team of Scene of Crime inspected the place of occurrence. Pawan Kumar EHC No.842 alongwith sniffer dog Moti reached at the spot and search was conducted with the help of sniffer dog Moti.
 - v) Inspector Sunita lifted one broken wooden piece from the spot, parceled and sealed the same. Blood strained soil from the spot was also lifted with cotton swab. One stone smeared with blood was also found there and it was also lifted, parceled. Five hairs lying towards left side of blood and twelve hairs lying towards right side of blood were also lifted, converted into separate

parcels and sealed. Case property was handed over to SHO of police station Uklana. Site plan of the spot was prepared.

- vi) Sections 366, 376-A, 376(2)(i) and 201 of IPC were added in the original FIR and Section 376 (2)(m) of IPC was deleted.
- vii) Inspector Sunita inspected the hut from where girl child was kidnapped and site plan was prepared.
- viii) The dead body of victim was handed over to ASI Guddi Devi for postmortem examination. After post mortem examination by Board of Doctors, the dead body alongwith post mortem report and other documents and parcel of clothes of G along with sample seal and other parcels such as vaginal/rectal/oral swab stick, wooden stick, scalp hair, blood from heart and one sealed envelope, were handed over to ASI Guddi Devi and in due course the same were deposited in the malkhana.
- ix) The neighbourers of victim and other suspected persons were interrogated. On 10.12.2017 Inspector Sunita reached at the spot and recorded statements of complainant, her husband and Bega Devi wife of Munni Nath and they all suspected that CCL has committed the crime.
- x) Pamphlets for reward of Rs.2,00,000/- in lieu of information regarding the CCL were published and pasted on public places.
- xi) Photographs of the spot were prepared.
- xiii) The consumers whose mobile phones were found active in the Dump of Cyber Cell were joined in the investigation.
- xiv) On 12.12.2017 scaled site plan of the place of occurrence was prepared.
- xv) The list of persons involved in such like heinous offences from the year 2012 to 2017 belonging to Hisar Range, District Bhiwani and District Rohtak were prepared. Footages from CCTV installed near the place of occurrence were collected and statements of the witnesses were recorded.

- xvi) On 14.12.2017 GD, mother of victim, was produced before learned Illaqa Magistrate, Hisar and her statement under Section 164 Cr.P.C. was recorded.
- xvii) Sh. Jitender Singh, Deputy Superintendent of Police, Hisar again inspected the place of occurrence. About 80/90 feet away from the occurrence, near the wall of Telephone Exchange, one condom was found and same was lifted converted into a parcel, sealed and taken into possession.
- xviii) Ajay son Mahender, Sunny @ Popli son of Hari Singh, Gulab son of Satbir, Ajay @ Sunny son of Tarsem, Vijay son of Suresh Kumar, Saket @ Safi son of Sanjay, Ramesh son of Sita Ram and Popular son of Risal Singh were joined in the investigation and their statements were recorded.
- xix) On 14.12.2017, CCL surrendered in the Police Station and was joined in the investigation and finding sufficient evidence against him, Section 3(2)(v) of SC/ST Act was added.
- xx) One mobile make Karbon, one purse of brown colour containing two coins of 50 paisa each, 18 old railway tickets, one Condom make Sawan, 16 different visiting cards, three passport size photographs, one coin of metal and one sim card of Airtel company were recovered from CCL during his personal search and same were taken into possession.
- xxi) CCL also suffered disclosure statement regarding the occurrence that due to overdose of smack and sulpha, he committed the crime. In pursuance of disclosure statement, CCL also pointed out the place of occurrence from where he after alluring, took away victim and the place where he committed rape upon her and murdered her.
- xxii) Medical examination of CCL was got conducted at General Hospital, Hisar and concerned doctor handed over to police, sealed parcels of saliva, scalp hair, beard hair, mustache hair, eye lid hair, pubic hair, blood sample, one envelope of documents and sample seal which were taken into possession.

- xxiii) CCL in pursuance of his disclosure statement got recovered trouser which he was wearing at the time of occurrence but had since washed the same.
- xxiv) Brother of CCL handed over birth certificate of CCL in which his date of birth is stated as 15.2.2000.
- xxv) Statements of Gulab and Begam @ bega wife of Muninath under Section 164 Cr.P.C. were got recorded from learned Illaqa.
- xxvi) On 18.12.2017 case property was sent to FSL, Madhuban and in due course report was received.
- xxvii) On 21.12.2017 complainant GD, her husband R produced their affidavits regarding age of their family members which were taken into possession. On 26.01.2018, father of victim produced his caste certificate, which was taken into possession.
- xxviii) After necessary permission from learned Principal Magistrate, Juvenile Justice Board, Hisar for Narco Test of CCL, his polygraph and brain mapping test was conducted at DFSL, Gandhi Nagar, Gujarat.
- xxix) On 7.3.2018, copies of Aadhaar Cards of complainant GD and her husband R were taken into possession.
- xxix) After completion of investigation, report under Section 173 Cr.P.C. against CCL was presented. Report of Narco Test, Polygraph Test and Brain Mapping test were also received at the Police Station. Statement of Ms. Sunita Yadav, Child Protection Officer, Hisar was also recorded regarding the extra judicial confession of the CCL before her. The report and statement of PW12- Ms. Sunita Yadav, CPO, were submitted before the Court.

4. Preliminary assessment, as stipulated under Section 15 of Juvenile Justice (Care & Protection of Children) Act, 2015 was conducted by Juvenile Justice Board and it was opined that CCL be tried as an adult as per Section 18(3) of Juvenile Justice Act and thereafter, his case was sent to the Children Court for

trial.

FRAMING OF CHARGES:-

5. On finding a prima case, vide order dated 19.04.2018 charges under Sections 375(b), 376-A, 302, 201, 363, 366-A, 367 and 450 IPC, Section 6 of POCSO Act and Sections 3(1)(w)(i) and 3(2)(v) of SC/ST Act were framed against the CCL, to which he pleaded not guilty and claimed trial. Charge was amended vide order dated 18.05.2018 and the CCL again pleaded not guilty and claimed trial to the charges leveled against him.

PROSECUTION EVIDENCE:-

6. In order to prove its case, the prosecution has examined as many as 43 witnesses and their evidence can be discussed under following heads:-

COMPLAINANT EVIDENCE:-

- i) **PW-2 GD mother of victim** in her testimony before the Court proved statement Ex.P-52 recorded on 09.12.2017 regarding the circumstances under which the body of her daughter was found at a public place. She also proved her statement Ex.P-52. She handed over affidavit Ex.P-53, regarding the age of her family, which was taken into possession vide memo Ex.P-54. She also identified CCL in the Court at the time of recording of her statement.
- ii) **PW-21 – ‘R’** father of the victim also corroborated the statement of PW-20 ‘GD’. He also proved SC certificate Ex.P-27, which he handed over to the police vide memo Ex.P-57 and copy of his and his wife’s Aadhaar Card vide memos Ex.P-58 and P-59 respectively, which were taken in police possession vide memo Ex.P-60.
- iii) **PW-22 – Bega Devi w/o Munni Lal**, who is sister in law of ‘GD’ also stated about the circumstances under which the dead body of victim was found. She also stated that victim was friend of sister of CCL and they used to play together in the street. CCL often used to listen songs from his mobile phone.

She also deposed that when she along with 'GD' and other females used to go to answer the call of nature in the morning near railway line CCL used to watch them by sitting beside railway line with bad intention. They complained to mother of CCL regarding this. CCL also threatened them to face dire consequences. House of CCL was located at a distance of half acre from the slum of 'GD'. Slum of GD was visible from the house of CCL. CCL used to listen to songs while standing on the roof of his house and see towards slum. She also expressed her suspicion that CCL had committed the wrong act with victim in view of his bad act and his threatening to them. She also identified CCL in the Court and proved her statement Ex.P-38 got recorded under Section 164 Cr.P.C.

- iv) **PW-43 – Munni Nath s/o Balkar Nath**, also deposed about the condition of the dead body of the victim. He signed the inquest report prepared by Inspector Sunita and identified the dead body of the victim vide statement Ex.P124 and after post mortem dead body of the victim was handed over to them vide receipt Ex.P125.

INVESTIGATIVE EVIDENCE:-

- i) **PW27- Inspector Sunita Devi SHO, Women Police Station, Hisar** who conducted initial investigation in this case. She deposed regarding receipt of information of the offence of this case on 09.12.2017 and she visited the place. She also stated about the condition of the dead body of the child. She also deposed that doctor of Uklana was contacted for first aid but after examination, doctor declared the victim "brought dead". Ruqqa regarding this was handed over to her by doctor. She deposed about recording the statement of Ex. P-52 of 'GD' mother of the victim, she made endorsement Ex.P52/A and sent the same for registration of FIR.

She also deposed about the preparation of inquest report Ex. P-68

and recording of the statement of witnesses.

She got the post mortem examination of the dead body conducted by handing the dead body to ASI Guddi and HC Sukhpal vide application Ex. P-69.

She also proved site plan Ex.P-70 prepared on the spot and SHO took photographs of the spot.

PW-27 Inspector Sunita further deposed that in the meantime, Crime Team reached at the spot and on the instruction of that team, she collected piece of wooden stick which was lying on the spot, a blood stain interlocking block of the street and five hair which was found on left side of blood stains and twelve hair found lying on the right side of blood stains. She also lifted blood stains from the earth with the help of cotton swab. Piece of wooden stick, blood stain cotton swab, blood stains interlocking block and hair were converted into four separate sealed parcels and were sealed with and were taken into possession vide memo Ex.P71.

She also deposed that thereafter, she went to the place of occurrence (from where the victim was kidnapped). After spot inspection, she prepared rough site plan Ex.P-72. After post mortem examination of the victim, the belongings of victim along with post mortem report was taken into police possession vide Annexure P-6. Case property was deposited with MHC.

PW27 Inspector Sunita also deposed that on 12.12.2017, she got prepared scale site plans of both the place of occurrence.

She further deposed that on 14.12.2017, she got recorded statement of complainant 'GD' u/s 164 Cr.P.C vide application Ex.P33.

She also stated that on 14.12.2017, she handed over the file of this case to Incharge, DSP Jaipal Singh, Special Investigating Team (SIT).

After inquiry, CCL was apprehended by Incharge, SIT. Upon personal search

of CCL, a mobile phone make Karbon of Black colour having a SIM, a purse of brown colour having two coins of 50 paise, 18 old railway tickets, a condom make Sawan, different type of visiting cards total sixteen in numbers, three passport size photographs, one Yantra and one extra Sim of Airtel were recovered, which were taken into possession vide memo Ex.P73.

She also stated about the disclosure statement Ex.P-74 of CCL confessing his involvement in the commission of offence.

She also deposed about getting the statement of PWs Bega and Gulab recorded under Section 164 Cr.P.C. on 16.12.2017 on the instructions of DSP Jaipal.

Part of case property was produced in the Court at the time of recording of her statement and the stick is proved vide Ex.P-75 (MO). Cotton swabs Ex.P-76 (MO), strands of hair Ex.P-77, concrete block having brown stains Ex.P78(MO). There articles were lifted from the spot.

ii) PW42 Jai Pal Singh, Deputy Superintendent of Police, Barwala, who was heading the SIT, in his testimony before the trial Court deposed about the investigation conducted by him in this case.

He deposed that on 09.12.2017, at about 8.00/8.15AM, while he was on VVIP duty, he received information of present case. He reached at the place of occurrence at about 9.30AM where he found that body of victim was already taken to CHC Uklana and 20-25 people were present there including two police officials namely Head Constable Shishpal and Constable Pardeep. He inspected the spot and enquired from people about the occurrence. In the meantime, S.P. Hisar reached there and after giving instructions to him, he left the spot.

He further stated that after that he went to CHC Uklana where

Sub Inspector Sandeep, Inspector Sunita alongwith other police officials and GD complainant/mother of victim with her relatives were present and he inspected the dead-body of victim and enquired about the facts from the police officials and GD and her relatives. After giving instructions to Inspector Sunita to get the postmortem examination of dead-body of victim conducted by Board of Doctors and to collect maximum physical evidence.

PW42 Jaipal Singh, DSP, further deposed that in the meantime, S.P Hisar has constituted Special Investigating Team under his supervision consisting of Inspector Joginder, Inspector Sunita and SI Sandeep, SHO PS. Uklana. He returned to place of occurrence. In the meantime, Cyber Cell officials of DPO Hisar, Dr. Ajay, In-charge, Forensic Team of IGP Hisar and Dog Squad Team also reached at the place of occurrence. He passed directions to all the officials of SIT to collect maximum physical evidence from the spot and they were also directed to prepare list of suspects. Offence under Section 376(2)(m) was deleted and Sections 366, 376-A, 376(2)(1) and 201 of IPC were added. On that day, they remained busy in conducting investigation and in search of accused. CCTV Footage of nearby areas were got inspected and mobile phones detail and locations were applied through Cyber Cell. List of suspects of nearby areas were prepared.

He further stated that on next day i.e. 10.12.2017, members of SIT were directed to investigate the matter thoroughly and Duty were assigned to members of SIT separately. Reward of 2,00,000/- was announced and pamphlets were published to this effect. GD, mother of victim and Begha got recorded their statements before Inspector Sunita u/s 161 Cr.P.C. in which they raised suspicion on one of their neighbour namely CCL resident of same area.

PW42 DSP Jaipal Singh further stated that on 11.12.2017,

relatives of victim were enquired about the occurrence. In the meantime, SIT was expanded by including DSP Jitender, Law and Order, Hisar, ASI Amrinder Singh and ASI Satpal. All members of SIT were directed to collect call details of suspects of area and to question from all the suspects of the area.

On 12.12.2017 he had visited place of occurrence again and enquired from vicinity. On the same day, Members of SC/ST Commission Haryana visited place of occurrence.

On 13.12.2017, matter was under investigation and efforts were being made to trace the accused. On the same day at about 4.00 PM. SI Sandeep has produced 9-10 suspects before him who were questioned by him.

On 14.12.2017, SI Sandeep produced before him Ajay son of Mahinder and Sunny @ Popli son of Hari Singh, residents of Uklana. He enquired from them and recorded statement of Ajay son of Mahinder u/s 161 Cr.P.C. After that he instructed SI Sandeep to summon Gulab, Ajay @ Sunny, Vijay, Sakit @ Shaffy, Ramesh and Popular and they were produced before him by SI Sandeep. He questioned all of them individually and recorded their statements U/S 161 Cr.P.C. They all were let off after recording their statements.

PW42 Jai Pal Singh, DSP, further stated that around 6.00 PM, CCL was produced before him by SI Sandeep. In the meantime, Inspector Sunita appeared before him along with case file after getting the statement of GD, mother of victim, recorded u/s 164 Cr.P.C before learned Magistrate. He enquired from CCL in the presence of Inspector Sunita and SI Sandeep. After being satisfied himself, CCL was apprehended in the present case. Thereafter offence under Section 3(2)(5) of SC/ST Act was added. Personal search of CCL was conducted. During personal search, a mobile phone make Karbon of black color having a SIM, a purse of brown colour having two coins of 50

paise, 18 old railway tickets, a condom make Sawan, different type of visiting cards total sixteen in numbers, three passport size photographs, one Yantra and one extra sim of Airtel. All the articles of personal search were seized vide memo Ex.P73.

PW-42 DSP Jaipal Singh, in his testimony in the Court stated about contents of disclosure statement of CCL which was reduced into writing vide Ex. P-74.

PW42 Jaipal Singh, DSP, further stated that on the basis of disclosure statement Ex.P74 dated 14.12.2017 of CCL, on 15.12.2017, he was taken to the place from where he kidnapped/enticed female child. They stopped their vehicle near the house of Joginder Kaur which was located approximately 100 meters short of the place of occurrence and CCL led the police party to the place from where he kidnapped/enticed victim and he got demarcated the place of occurrence vide memo Ex P55. Thereafter, CCL led the police party to the place of occurrence where he had raped and murdered victim and place was demarcated vide memo Ex.P112.

PW42 DSP Jaipal Singh further stated that CCL showed his reluctance to get recover his apparels worn by him at the time of occurrence.

He also deposed that CCL was got medico legally examined by him from GH Hisar vide application Ex.P116. After medical examination of CCL, Doctor handed over him eight sealed parcels containing clothes and samples taken from the body of CCL for the purpose of DNA i.e nails, saliva, scalp hair, eye-lid, mustache hair, pubic hair alongwith one sealed envelop and sample seal. Thereafter CCL was produced before learned Illaqa Magistrate, from where, one day police remand was obtained.

He further deposed that on next day i.e. 16.12.2017, after taking the CCL out from the police lock-up, he was questioned by him. During

interrogation, CCL suffered disclosure statement Ex.P113 to the effect that he had forgotten where he had kept T-shirt of Red colour which he was wearing at the time of occurrence but trouser worn by him had been kept concealed by him at his residential house inside the bed which he can get recovered. In pursuance to his disclosure statement Ex. P113, CCL was taken to his residential house from where he got recovered his trouser from a bed kept in the room of his residential house. The trouser was of sky colour and of make Levi's and Strauss & Co.K. which was having some stains. After converting the same into sealed parcel with the seal of JP, said trouser was taken into police possession vide memo ExP114. He also prepared rough site plan Ex.P117 of place of recovery.

He further stated that brother of CCL produced birth certificate of CCL issued by Government Primary School, Fateh Chand Colony Uklana Ex.P5 with regard to his date of birth, which was taken into possession vide memo Ex. P115.

PW42 Jaipal Singh, DSP, further stated that CCL was produced before learned PMIJB, Hisar and then taken to G.H. Hisar for his medical examination by moving application Ex.P118. After his medico-legally examination, he was sent to Observation Home.

He also stated that the case property was handed over to MHC.

PW42 Jaipal Singh, DSP, further stated that on 17.12.2017, call detail of one mobile number Ex P106(page 1 to 4) was handed over to him by ASI Amrender and the same was taken into possession Ex.P107.

He also deposed that on 21.12.2017, GD and R (parents of victim) handed over their respective affidavits Ex.P53 and Ex. P56 to him regarding age of their family vide memo Ex.P54. On 26.01.2018, R father of the victim produced his scheduled caste certificate Ex. P27 which was taken

into possession vide memo Ex.P57.

PW42 DSP Jaipal Singh further stated that on 02.02.2018, he had moved application Ex.P119 for issuance of production warrant of CCL for the purpose of conducting NARCO Test. On the same day, Inspector Sunita handed him report of Dr. Ajay, In-charge, Scene of Crime Team, IG Office. On 03.02.2018, he moved application Ex. P120 for taking consent of CCL for his NARCO test. After getting appointment, CCL was produced before concerned Scientific Officer Ms. H.R. Shah on 19.02.2018 by DSP Jitender and SI Sandeep alongwith other officials. After his Narco Test, they returned to Hisar on 28.02.2018. After that, it was decided by the SIT that Brain Mapping (BEOS) and Polygraph test should also be got conducted from above institute. Thereafter, he moved application Ex P121 on 28.02.2018 and after obtaining necessary sanction from the concerned Court, an appointment was taken from 05.03.2018 to 09.03.2018 from Directorate of Forensic Science, Gandhi Nagar (Gujarat) and accordingly, CCL was produced there by DSP Jitender and SI Sandeep along with other officials

On 07.03.2018, R, father of victim had produced copies of his and his wife's Aadhaar cards Ex. P58 and Ex. P59 and the same were taken into possession vide memo Ex. P60.

He also stated that on 12.03.2018, after completion of investigation, SI Sandeep, SHO prepared report under Section 173 Cr.P.C. and submitted the same in the court on 13.03.2018. Thereafter, on 09.05.2018, supplementary charge-sheet was prepared by SHO u/s 173(8) Cr.PC and same was submitted in the court. CCL was identified by him at the time of recording of his statement in the Court.

The case property was produced in the Court at the time of recording his statement and was Exhibited as under:-

The trouser of CCL Ex.P122(MO), kurta Ex. P42(MO) and Pyjama Ex. P43(MO), vial containing samples of nails of CCL Ex. P44(MO) parcel containing five vials having scalp hair, mustache hair, beard hair, eyelid hair and saliva Ex. P45(MO) to Ex. P49(MO), vial containing pubic hair Ex.P50(MO) and vial containing blood sample of CCL Ex.P51(MO) condom Ex. P123(MO), mobile phone make Karbon of Black colour having a SIM, a purse of brown colour having two coins of 50 paise, 18 old railway tickets, a condom make Sawan, different type of visiting cards total sixteen in numbers, three passport size photographs, one Yantra and one extra sim of Airtel as Ex. P123(MO) collectively.

iii) PW-41 – Inspector Sandeep Kumar, HAP-113, SHO, PS Civil Lines, Hisar in his statement before the Court corroborated the statement of PW Inspector Sunita to the extent that dead body of the victim was found lying at the spot. He also stated about the condition of the dead body; recording statement of GD mother of the victim by Inspector Sunita, sending ruqqa to the police station and registration of FIR, sending dead body through ASI Guddi and another police official for post mortem examination. As per his testimony, he took photographs of the place of occurrence as well as of dead body of the victim with his mobile phone. Under Instructions of Scene of Crime Team, Inspector Sunita collected a piece of wooden stick which was lying on the spot, a blood stain interlocking block of the street and five hair which was found on left side of blood stains and twelve hair found lying on the right side of blood stains. He is attesting witness of memos Ex.P71 and P6.

He also deposed that on 11.12.2017, he got print out of sixteen photographs, from Dinesh Kumar son of Rajender, owner of Sach Computer, Uklana, depicting the place of occurrence and dead-body of victim which were stored in his mobile. Said photographs are Exhibited vide Ex.P26/1 to

16. On the same day, he had enquired from ten suspects including CCL about the incident. After enquiry, they were let off and were directed to appear on next day.

He also stated that on 12.12.2017, call details of two suspected mobile numbers were obtained through Cyber Cell, DPO, Hisar. He had enquired again from three suspects about the incident. On the same day, call details of seven mobile numbers consisting of 70 pages Ex. P104 (Page 1 to 70) was produced by ASI Amrender Singh, In-charge Cyber Cell, Hisar which was taken into possession vide memo Ex.P105.

PW41 Inspector Sandeep Kumar further deposed that on 14.12.2017 at about 5.50 PM, CCL appeared before him. He produced the CCL before DSP Jaipal Singh, Incharge of the SIT. DSP Jaipal Singh conducted enquiry from the CCL. After enquiry, CCL was apprehended by DSP Jaipal Singh. He also proved memo Ex.P73 vide which articles from personal search of CCL were recovered and taken into police possession. He also proved disclosure statement Ex.P74 of CCL vide which he confessed about commission of offence.

PW41 Inspector Sandeep Kumar further corroborated the testimony of PW42 DSP Jaipal Singh, as he is attesting witness of the memo Ex.P55 site plan, Ex.P112, disclosure statement Ex.P-113, memos Ex.P-114 and Ex.P-115.

He also deposed that on 03.02.2018, CCL was produced before the learned Principal Magistrate, Juvenile Justice Board, Hisar by Jaipal Singh, DSP Barwala, who was heading the SIT, for obtaining the consent of juvenile and after his consent, learned Principal Magistrate, Juvenile Justice Board, Hisar passed an order for conducting Narco Test of CCL juvenile from Directorate of Forensic Science, Gandhi Nagar (Gujarat). He also deposed

about getting conducted the narco and polygraph, brain mapping test of CCL from the said institute. He presented a report under Section 173 Cr.P.C. in the Court and supplementary charge-sheet was submitted by him on 09.05.2018.

- iv) **PW-36 – ASI Amrinder Singh No. 977 Hisar, In-charge Cyber Security Branch, Hisar** deposed that he joined the investigation of this case and collected dump data of various TSPs from the spot. On 10.12.2017, details of 48 active mobile numbers were extracted from dump data. List of 48 active numbers with address is proved as Ex. P100, which was taken into police possession vide memo Ex.P101. He further deposed that on 11.12.2017, he handed list of another 111 active numbers Ex. P102 (page 1 to 8) was handed over to the Investigating Officer vide memo Ex. P103. On 12.12.2017 call details of some numbers Ex. P104 (page 1 to 70) was handed over to Investigating Officer vide memo Ex. P105. On 17.12.2017, call detail of one mobile number Ex. P-106(page 1 to 4) was handed over to Investigating Officer vide Ex.P107.
- v) **PW-40 –Jitender Singh, Deputy Superintendent of Police, Law & Order, Hisar**, was also member of the SIT constituted for the investigation of the present case. He is the attesting witness of memo of recovery of one used Condom seized from the spot vide memo Ex.P7.

PW40 Jitender Singh also deposed that on 03.02.2018, CCL was produced before the Court of learned Principal Judge, Juvenile Justice Board, Hisar, by Shri Jaipal Singh, DSP Barwala. He also deposed about production of CCL before the Directorate of Forensic Science, Gandhi Nagar (Gujarat) for narco test.

PW40 Jitender Singh further deposed that on 12.04.2018 reports of all the three tests were received in DPO Hisar vide letter Ex. P91, in which three recommendations were suggested and the same were marked to him for

clarification vide endorsement Ex. P91/A. Points No. 1 and 2 of the recommendations were already clarified in the investigation whereas point No.3 was got clarified from Dr. Ajay. Assistant Director, Scene of Crime, Hisar, vide his report Ex. P32 on 23.04.2018.

He also deposed that on 26.04.2018, when he was present in his office at DPO Hisar, Sunita Yadav, Child Protection Officer, Hisar, visited his office in connection to collect some information regarding POCSO Cases. During discussion about the POCSO cases with her, she told him that CCL has confessed about the occurrence of the present case before her on 17.01.2018 when she had visited observation home for routine checking of the inmates. He recorded the statement of Sunita Yadav and thereafter he went to Observation Home, Hisar, and collected copy of inspection and arrival register Ex. P25 having endorsement of Sunita Yadav and copy of attendance register Ex. P28 of inmates in which the name of the CCL was mentioned at Sr. No.17 Ex. P28. Both the documents Ex.P25 and Ex.P28 were taken into police possession vide memo Ex.P29.

- vi) **PW-39 – Inspector Joginder Singh H-48, I/C Special Staff, Hisar** was one of the members of the Special Investigating Team (SIT) constituted to investigate the present case. He also deposed that on 10.12.2017, he collected details of 45 active mobile numbers with address extracted from dump data- Ex. P-100 and same were taken into possession vide memo Ex. P101. He in his statement before the Court corroborated the statement of PW33 HC Rajesh Kumar, PW36 ASI Amrinder Singh and PW37-EHS Virender Singh and PW38-Mahinder Singh, Clerk, Municipal Committee, Barwala.
- vii) **PW-37 – EHS Virender Singh, No. 1513 P.S. Uklana** deposed that on 13.12.2017, he was posted as Computer Operator in Police Station, Uklana at the relevant time. He deposed that Investigating Officer produced before him

two Pen Drives bearing Mark of 'JK' and 'MC' make 'sandisk' containing data of CCTV footage along with four CDs for transferring the Data from Pen Drives to CD. He did the needful without tampering. He further deposed that all the Four CDs Ex. P109 (1 to 4) (MO) were taken into possession vide memo Ex. P108 and issued Certificate Ex.P111 under Section 65-B of Indian Evidence Act.

- viii) **PW-6 HC Krishan Kumar**, No.376-Hisar, Assistant Reader, to DSP Law and Order, Hisar, also joined the investigation of this case. He is the witness of recovery memo Ex.P7 vide which one used condom from near the place of occurrence was recovered.
- ix) **PW-33 – HC Rajesh Kumar**, No. 389-Hisar, P.S. City, Hisar, proved the observation report Ex.P-97 of four CDs of CCTV footage out of which two CDs were of CCTV footage of Municipal Committee, Uklana and two were of 'Jagdamba Kiryana Store. He handed over four CCTV footages to the Investigating Officer

MEDICAL EVIDENCE:-

- i) **PW-7 Dr. Rajesh Kumar**, M.O CHC Uklana deposed that on 09.12.2017, the victim was brought to CHC Uklana by police. After examination she was declared “brought dead”. Dead body was handed over to police for postmortem from GH Hisar. He tendered into evidence his affidavit Ex.P8 in examination-in-chief, he handed over examination slip Ex.P9 and ruqqa Ex.P10 to the Police.
- ii) **PW-8 Dr. Ritu Gupta** M.O Civil Hospital Tohana stated that she was one of the members of the Board constituted for conducting postmortem examination on the dead-body of victim. After postmortem, postmortem report Ex.P12 was prepared. She also deposed about cause of death of the victim as neurogenic shock as a result of injuries described in the report Ex.P-

12). She also stated that possibility of rape cannot be ruled out. The duration between injury and death was variable and between death and post mortem examination was within 24 hours. She tendered into evidence her affidavit Ex.P13.

- iii) **PW-34 – Dr. Meena Malik, M.O. Civil Hospital, Hisar** was also one of the members of the team who conducted the post mortem examination on the dead body of deceased victim. The Board was constituted vide Endorsement Ex.P11 and post-mortem report is proved as Ex.P12. She also tendered into evidence her affidavit Ex.P98 in support of her examination-in-chief and deposed about handing over the belongings of the victim, copy of MLR, envelope and sample seal to the police.

The case property of this case was produced in the Court at the time of recording of her evidence in the Court which is a coloured Pajami Ex.P14(MO), one blue coloured cut torn top Ex.P15(MO), one grey colour cut and torn inner as Ex.P16(MO) and three swab sticks and one vial of blood taken from heart of victim taken out, exhibited as ExP17(MO) to Ex P21(MO) respectively and one envelope containing remnants of wooden stick as Ex. P67 (MO).

- iv) **PW-19 – Dr. Amit Kumar, Medical Officer, Government Hospital, Hisar** stated that he conducted medical examination of CCL on 15.12.2017. He deposed that CCL was generally examined and issued report Ex.P39. Thereafter, CCL was thoroughly examined and he issued MLR Ex.P40. He also opined that there was nothing to suggest that CCL cannot perform the act of sexual intercourse.

He also deposed that after medical examination, certain samples such as blood, scalp hair, mustache hairs, beard hair, eye-lid hair, saliva, part of nail, pubic hair along with Kurta and Pajama worn by the CCL at that time

were taken and converted into separate sealed parcels and were handed over to the police. These articles were produced in the Court at the time of recording of his statement and exhibited vide Ex. P42 (MO) – Kurta, Ex. P43 (MO) – Pyjama, Ex. P44 (MO) – Samples of nail of CCL, Ex. P45 (MO) – Scalp hair, mustache Hair, Beard Hair, Eye-lid Hair & Saliva, Ex. P50 (MO) – Pubic Hair.

- v) **PW-17- Dr. Ajay Kumar, Assistant Director, Scene of Crime, Hisar Range** deposed that on 09.12.2017, he received a telephonic message from SHO, Police Station Uklana for the inspection of the dead body and spot of occurrence. He visited mortuary in General Hospital, Hisar and place of occurrence in Uklana. He prepared scene of crime report Ex.P31. He also gave the opinion that sexual assault and murder of the victim probably took place at the spot where the dead body was found.

He further deposed that on 23.04.2018, Investigating Officer, produced before him report of Directorate, Forensic Science, Gujarat seeking some clarification on the recommendation suggested by Reporting Officer Shri H.R. Shah, Scientific Officer, Directorate of Forensic Science Gujarat. After going through the recommendations, on the same day, he explained that the query as “The questioned blood stains present on the wall as well as on the ground but not close to the dead body of victim were observed to be transferred blood stains i.e. these blood stains were resulted from contact between a blood bearing surface and questioned surfaces were found.” He opined vide report Ex.P32.

LAB RELATED EVIDENCE:-

- i) **PW23 Priya Chaudhary, Senior Scientific Officer, Diatom logy, Serology, Biology Division, FSL Madhuban (Karnal)** deposed about receipt of six and eleven sealed parcels in Biology Division of Madhuban on 11.12.2017 and

18.12.2017 respectively. After examinations, the exhibits along with its original wrappers were sealed with the seal of PC, FSL.

- ii) **PW24 Dr. Surjit, Senior Scientific Officer (Serology), Forensic Science Laboratory (H), Madhuban, Karnal** deposed about receipt of total 9 sealed parcels in Serology division from Biology Division. The conditions of seals were intact and tallied with the specimen seals. The details of which are mentioned in his report Ex.P62. He also deposed that after examining the exhibits along with their original wrappers were sealed with the seal of FSL (H), Serol.
- iii) **PW25 Gaytri Sen, Assistant Director (Physics), Forensic Science Laboratory (H), Madhuban, Karnal** also deposed about receipt of 2 sealed parcels (No. 1 & 5) from Biology division. His opinion after laboratory examination is that– pieces of wooden stick marked Ex. 1 & 5(a) are part of same stick. After examination, exhibits were returned in 2 sealed parcels with the seal of AD/Phy/FSL(H).
- iv) **PW26 Siddharth Kaushik, Assistant Director, Serology, Forensic Science Laboratory (H), Madhuban, Karnal** deposed about receipt of 13 parcels for DNA comparison/examination. The seals were intact when the parcels were deposited. She proved report Ex.P64.

EVIDENCE PERTAINING TO NARCO, BRAIN MAPPING AND POLYGRAPHY

- v) **PW-28 – Shah Hemangi Rasiklal, Scientific Officer – Forensic Psychology, Division Gandhi Nagar Gujrat** about conducting of Narco, brain mapping and polygraphy tests of CCL on police requests.

EVIDENCE REGARDING EXTRA JUDICIAL CONFESSION:-

- i) **PW-12- Sunita Yadav, Child Protection Officer, Hisar** stated that CCL suffered confession before her regarding commission of crime.

LINK EVIDENCE:-

- i) **PW-16- SI Dara Singh, No. 491-H, Police line Hisar, proved FIR Ex.P30,** which was registered by him on 29.12.2017 after receipt of ruqqa from Inspector Sunita and he also made endorsement Ex.P30/A on the ruqqa.
- ii) **PW-5, ASI Guddi Rani** stated that she joined the investigation in this case. She got conducted the post mortem examination of the dead body of victim from General Hospital, Hisar and after post-mortem examination, the parcel containing clothes of the victim, one sealed jar containing vaginal rectal, oral swab sticks, wooden stick, scalp hair and sample of blood taken from heart were handed over to her which she handed over to Inspector Sunita.
- iii) **PW-2, HC Rohtash, No. 1104, Police Station Uklana,** tendered his affidavit Ex.P3 regarding deposit of case property with him and handing over of the case property to ESI Baljit Singh for deposit in FSL.
- iv) **PW-3, ESI Baljit Singh, No. 1175, Hisar police Station, Uklana,** has tendered his affidavit Ex.P4 in support of his examination-in-chief. As per his affidavit, he deposited the samples with FSL, which was handed over to him by MHC.
- v) **PW-1 Raju Walia, Draftsman, S.P Office, Hisar,** proved the scaled site plans Ex. P1 & Ex. P2, which he prepared after spot inspection.
- vi) **PW-18– Dr. Tarannum Khan JMIC, Hisar** deposed that on 14.12.2017, she recorded the statement Ex.P-35 of ‘GD’ complainant under Section 164 Cr.P.C. on the basis of application Ex.P33 and passed order Ex.P34.

She also deposed that on 16.12.2017, on the basis of application moved by Inspector Sunita, she recorded the statement of Begam @ Bega and Gubab Singh under Section 164 Cr.P.C. and passed order Ex.P37.
- vii) **PW-14- Krishan Kumar, Naib Tehsildar, Tohana** proved the SC/ST certificate of ‘R’ father of victim vide Ex.P-27 and stated that the caste Sapele

is recognized as scheduled caste.

- viii) **PW-15- Kuldeep Sharma, Superintendent, Observation Home, Hisar** proved the record of inspection, arrival register and attendance register of inmates vide Ex.P25 and Ex.P28, which was taken into police possession vide memo Ex.P29.
- ix) **PW-4, Ishwar Singh, JBT teacher, In charge, G.P.S.F.C Colony, Uklana Mandi,** proved the admission record of CCL in which his date of birth is mentioned as 15.02.2000.
- x) **PW-38- Mahinder Singh Clerk, Municipal Committee Barwala, Uklana** deposed that on 12.12.2017, on the request of the Investigating Officer, he extracted the CCTV footage from DVR of CCTV cameras installed on the outer side of the office of Municipal Committee for the period of 10.00 p.m. to 06.00 a.m. in the intervening night of 08/09.12.2017 and after extracting the requisite data, transferred the same into one Pen Drive make 'sandisk', Ex. P111 (MO). He also deposed about integrity of the data.
- xi) **PW-13- Dinesh Kumar, owner of Sachkhand Computer, Uklana** deposed about printing of sixteen photographs depicting the place of occurrence and dead-body of victim on 11.12.2017 at the asking of the Police.
- xii) **PW-35 – Mukesh, s/o Shri Punyakirti Sharma, Age 23 years, R/O Uklana Mandi (photographer)** deposed that he prepared the photographs of CCTV footage contained in four CDs on the asking of Investigating Officer and these photographs are proved by him vide Ex.P-99 (1 to 23) which he handed over to the Investigating Officer.
- xiv) **PW-32 – Kamal, shopkeeper,** deposed that he had installed CCTV Cameras on the front side of his house at first floor. On the asking of Police, he had extracted CCTV footage for the period from 10.00 p.m. to 06.00 a.m. of the intervening night of 08/09.12.2017 and after copying the same into a Pen

Drive having mark of 'JK", he handed over the said Pen Drive Ex. P-96 (MO) to the police. He also deposed about the integrity of the data of CCTV footage.

EVIDENCE PERTAINING TO THE FACT THAT CCL IS ADDICT:-

- i) **PW-10 Popular son of Risal Singh,** stated that on 08.12.2017 at about 8.00/8.30 p.m. he was present at Tea Stall in village Budhakhera along with Bholia son of Sattal, in the meantime, Bholia received telephonic call and after that Bholia gave him two pouches of smack and instructed him to hand over one pouch each to Gulab and Ajay near Gokalnath temple Budhakhera. Thereafter, he went to Gokalnath temple Budhakhera where Gulab, Ajay and two other boys whose name he did not know were present. He handed over one pouch each to Gulab and Ajay in lieu of Rs.250/- for each pouch and gave Rs.500/- to Bholia after returning there. He identified the CCL in the court as one of the boys, who was accompanying Gulab and Ajay at the time when he delivered smack to them.
- ii) **PW-11- Gulab son of Satbir,** stated that they are three brothers and sisters. Meenu @ Neenu resident of village Parbhuwala is his friend. On 08.12.2017, at about 8.00/8.30 p.m. he along with friend Meenu was present at village Parbhuwala. Beenu telephonically called Bholia demanding smack, upon which, Bholia called him near Gokalnath temple village Budhakhera for taking smack. After that he along with Beenu had gone to Gokalnath Temple to get smack from Bholia in the meantime, Ajay and CCL also reached there. After sometime, Bholia sent his friend Popular for delivering the smack to them. Popular delivered one pouch to them and another pouch to CCL and Ajay in lieu of Rs.250/- each. Thereafter, four of them went near liquor vend of Naniha on his motor cycle and consumed smack in abandoned *Chobara* in front of liquor vend of Naniha. After consuming smack, CCL took his phone and called someone for two minutes. He also identified CCL in the Court.

EVIDENCE PERTAINING TO EXCHANGE OF MOBILE PHONE BY CCL

- i) **PW-9 Ajay Son of Shri Mahinder Singh,** stated that he is 12th pass and doing computer course from HARTRON Centre Uklana. On 08.12.2017, CCL, met him in front of HARTRON Centre Uklana, who was having a mobile phone and told him that he intends to get opened the lock of the same from an expert. They went to a mobile shop to get opened the lock of his mobile phone. Shopkeeper demanded Rs.300/- as charge for the same. CCL was not having money at that time, therefore, he went to his house to arrange money and after arranging Rs.500/- from his house, they went to Singla Mobile Gallery and after paying Rs.300/- they have taken mobile of CCL. After that they went to house of CCL from where they went to Railway crossing where Safy met them. After that Sunny, who is a vendor met them. Sunny and CCL exchanged their phones with each other in lieu of Rs.800/-. Sunny gave Rs.800/- and mobile phone make Karbon to CCL and took his phone make Micromax. CCL purchased shoes amounting to Rs.450/- from a shop. After that they started running towards their houses. When they reached near Gokalnath Temple at about 8.00/8.15 p.m two persons who were friend of CCL met them. After sometime, they went towards bus stand Uklana and took some Golgappas from a vendor in lieu of Rs.20/-. At about 9.30/10.00 p.m. he and CCL proceeded towards their houses. His testimony is of no help to the prosecution.

This witness was declared hostile and nothing from him could be extracted that could support the prosecution's case

- ii) **PW-29 – Ajay @ Sunny, S/O Shri Tarsem,** deposed about exchange of his mobile make 'Micromax' of CCL on 08.12.2017 and he gave his mobile make Karbon' and Rs. 800 in lieu of mobile make "Micromax" of CCL. CCL was

identified at the time of recording his statement before the trial Court.

- iii) **PW-30 – Vijay Kumar, Mobile Shopkeeper** deposed that on 08.12.2017, two boys including CCL came to his shop and he opened the pattern lock of their mobile make “Micromax” after charging of Rs. 300/- from them.
- iv) **PW-31 – Ramesh Kumar, Shop keeper** deposed that on 08.12.2017 CCL and another boy Ajay came to his shop and purchased one pair of shoes for Rs.450/- and one of them took mobile of his son Sanjay and called to some one and told him that he is Ajay. He also identified the CCL in the Court.

7. The prosecution witnesses brought on record the following documents, details of which are as under:-

Ex. P1	Scaled site plan dated 12.12.2017
Ex. P2	Scaled site plan dated 12.12.2017
Ex. P3	Affidavit of PW2 HC Rohtash
Ex. P4	Affidavit of PW3 EASI Baljeet singh
Ex. P5	School certificate in which date of birth of CCL has been mentioned as 15.02.2000
Ex. P5/A	Extract of Admission and withdrawal register
Ex. P6	Recovery memo dated 9.12.2017
Ex. P7	Recovery memo dated 14.12.2017
Ex. P8	Affidavit of PW8 Dr. Ritu Gupta
Ex. P9	OPD slip issued by CHC, Uklana
Ex. P10	Ruqqa dated 9.12.2017
Ex. P11	Endorsement regarding constitution of Medical Board for post mortem of dead body
Ex. P12	Post Mortem Report
Ex. P13	Affidavit of PW8 Dr. Ritu Gupta
Ex. P14 to 21 (MO)	Pyajami, Top, Inner, Jar, Three swab sticks and Vial of blood
Ex. P22	Statement of Ajay recorded under section 161 Cr.PC. dated 14.12.2017.
Ex. P23	Statement of Gulab recorded under Section 161 Cr.P.C. of Gulab dated 14.12.2017
Ex. P24	Statement of Gulab Singh son of Satbir Singh recorded under Section 164 Cr.P.C. dated 16.12.2017
Ex. P24/A	Certificate issued by learned Judicial Magistrate over statement of Gulab Singh dated 16.12.2017
Ex. P25	Extract of registrar of Observation Home, Hisar regarding entry of PW12
Ex. P26	Photographs of the place of occurrence
Ex. P27	Copy of scheduled Caste Certificate

Ex. P28	Extract of Attendance Register
Ex. P29	Recovery Memo dated 26.4.2018.
Ex. P30	FIR dated 9.12.2017
Ex. P30/A	Endorsement regarding FIR
Ex. P31	Report of Forensic Science Laboratory Madhuban, Karnal dated 9.12.2017
Ex. P32	Report of Forensic Science Laboratory Madhuban, Karnal dated 9.12.2017
Ex. P33	Certified copy of statement of GD (mother of victim) recorded u/s 164 Cr.P.C. dated 14.12.2017
Ex. P34	Order dated 14.12.2017
Ex. P35 & Ex. P35/A	Statement of GD recorded under section 164 Cr.P.C. dated 14.12.2017 and certificate issued by learned Magistrate.
Ex. P36	Application for recorded statement of witnesses u/s 164 C.r.P.C
Ex. P37	Order dated 16.12.2017
Ex. P38	Statement of Begam @Bega recorded under section 164 CrPC. dated 16.12.2017
Ex. P39	Report of medical examination of CCL
Ex. P40	Medical Report of CCL
Ex. P41	Affidavit of PW19 Dr. Amit Kumar
Ex. P42 to Ex. P51(MO)	Clothes of CCL And other material required for DNA purpose.
Ex. P52	Tehrir
Ex. P53	Affidavit of GD (mother of victim)
Ex. P54	Recovery memo dated 21.12.017
Ex. P55	Demarcation report
Ex. P56	Affidavit of R (father of victim)
Ex. P57	Recovery memo of schedule caste certificate of Ramesh
Ex. P58	Copy of Adhar card of R
Ex. P59	Copies of Adhar card of GD (mother of victim)
Ex. P60	Recovery memo of copies of Adhar card of R and GD (parents of victim).
Ex. P61 to Ex. P64	Reports of FSL
Ex. P65	Letter written by SP, Hisar to The Director FSL. Karnal dated 26.5.2018
Ex. P66	Letter written by Director, FSL, Madhuban, Karnal to SP, Hisar dated 28.5.2018.
Ex. P67 (MO)	Remnants of wooden stick
Ex. P68	Inquest report
Ex. P69	Application for sending dead body for post mortem examination.
Ex. P70	Rough Site plan dated 9.12.2017
Ex. P71	Recovery Memo dated 9.12.2017

Ex. P72	Site Plan dated 9.12.2017
Ex. P73	Recovery Memo dated 14.12.2017
Ex. P74	Disclosure statement of CCL
Ex.P75 to EX.P78 (MO)	Wooden Stick, Cotton Swab of Blood, Hair parcel, Concrete B lock
EX. P79	Letter written by SP, Hisar for Narco analysis test
Ex. P80	Letter to SP, Hisar by Directorate of Forensic Science, Gujrat State 18A Gandhinagar
Ex. P81	Letter written by Directorate of Forensic Science, Gujrat State 18A Gandhinagar to SP Hisar for extension date for Narco Analysis test
Ex. P82	Certified copy of order dated 22.2.2018
Ex. P83	Report of Narco Analysis Test
Ex. P84	CD from Directorate of Forensic Science, Gujrat State 18A Gandhinagar.
Ex. P85	Forwarding letter of Narco Analysis report of CCL
Ex. P86	Letter regarding brain mapping & polygraph test dated 28.02.2018
Ex. P87	Letters to SP, Hisar by Directorate of Forensic Science, Gujrat State 18A Gandhinagar dated dated 3.3.2018.
Ex. P88	Letter regarding polygraph report of CCL to SP, Hisar by directorate of forensic science of Gujrat state 18A Gandhinagar dated 22.03.2018
Ex. P89	Report of BEOS dated 22.03.2018
Ex. P90	Certificate of Authorization to examine and report.
Ex. P91 to Ex. P93	Letters to SP, Hisar by Directorate of Forensic Science, Gujrat State 18A Gandhinagar dated dated 5.4.2018.
Ex. P94	Certified copy of order dated 3.2.2018
Ex. P95	Certified copy of order dated 8.3.2018.
Ex. P96 (MO)	Pen Drive
Ex. P97	Observation memo CD Video
Ex. P98	Affidavit of PW34 Dr. Meena Malik
Ex. P99	Photos and CD
Ex. P100	Dump List
Ex. P101	Recovery memo of mobile phone
Ex. P102	Dump list
Ex. P103	Recovery memo regarding list of mobile numbers
Ex.P104	Call detail
Ex. P105	Recovery memo of call detail
Ex. P106	Call detail of mobile No. 7082572533
Ex. P107	Recovery memo of Call detail of mobile No. 7082572533
Ex. P108	Recovery memo of CD footage from CCTV
Ex. P109 (MO)	4 CD
Ex. P110	Certificate
Ex. P111 (MO)	Pen Drive
Ex. P112	Demarcation Memo
Ex. P113	Disclosure statement of CCL

Ex. P114	Recovery memo of pant of CCL
Ex. P115	Recovery memo of birth certificate of CCL
Ex. P116	Application for medical examination of CCL.
Ex. P117	Site plan dated 16.12.2017
Ex. P118	Application for conducting medical examination of CCL
Ex. P119	Application for issuance of production warrant of CCL
Ex. P120	Application for conducting Narco analysis test of CCL
Ex. P121	Certified copy of order dated 16.2.2018.
Ex. P122 (MO)	Trouser of CCL.
Ex. P123	Vial containing Condom recovered from the spot.
Ex. P124 (MO)	Articles recovered in personal search of CCL
Ex. P125	Receipt regarding dead body of deceased victim.

The evidence of prosecution was closed on 07.08.2018.

8. CCL was examined under Section 313 Cr.P.C., wherein he denied correctness of the prosecution evidence led against him and pleaded that he had been falsely implicated in the present case. He pleaded that he has no concern with the offence and witnesses had been deposed falsely. He pleaded that on the night of 08.02.2017, he was in his house till morning. At about 8.00 a.m. of next morning, his mother woke him up for tea and told him that one *Juggi* girl's dead body was found near wall of Telephone Exchange. He did not go outside his house in the night of 08.12.2017. Nothing was recovered from his possession.

DEFENCE EVIDENCE:-

9. **DW1 Roshni Devi**, who is mother of CCL, deposed about recovery of the dead body of the victim on 08.12.2017 and further deposed that after four days her son was taken from home. She went to the police station to enquire and the police informed her not to worry. She deposed that her son has not committed any wrong act and he is innocent. When subjected to cross examination she denied the suggestion that her son consumes drugs.

10. After hearing the arguments of both the sides, the trial court convicted and

sentenced the CCL, as detailed above.

SUBMISSIONS OF LEARNED COUNSEL FOR CCL:-

11. Learned counsel for the CCL has argued that CCL has been wrongly convicted by the trial Court. It is argued that:-
- i) It was a blind case of rape and murder as the occurrence took place on the midnight of 08/09.12.2017, whereas, the FIR was registered against unknown person at 11.00 a.m. on 09.12.2017. The case of the prosecution is that the CCL surrendered on 14.12.2017 at Police Station whereas, complainant (PW-20 GD) stated that the CCL was apprehended on next day i.e. 10.12.2017.
 - ii) The present case is based on circumstantial evidence and the chain of circumstances to prove the guilt of CCL is not complete.
 - iii) There are allegations that the CCL is addict, but there is no medical corroboration to this effect.
 - iv) DNA of semen on condom does not match with DNA profile of CCL.
 - v) CCL never suffered any extra judicial confession before PW12 Sunita Yadav, Child Protection Officer and her testimony is a padding to the false prosecution case. CCL cannot be convicted solely on the basis of extra judicial confession. No reliance can be placed upon such a statement as it is not proved that this statement is suffered voluntarily.
 - vi) The CCL was compelled to undergo Polygraph, Narco and brain mapping tests. These tests are not suffered by him voluntarily. Nothing is discovered on the basis of these tests. The reports cannot be read against the CCL.
 - vii) There is nothing in FSL reports Ex.P-62 and Ex.P-64 to connect the CCL with the alleged offence.

In support of his contention, learned counsel for the CCL referred to the judgments of the Hon'ble Apex Court in *Selvi and others vs. State of*

Karnataka and another AIR 2012 SC 1974; Amlesh Kumar vs. The State of Bihar 2025(3) RCR (Crl.) 267 and Sanjay vs. State of Uttar Pradesh 2025 SCC Online SC 572.

SUBMISSIONS OF LEARNED STATE COUNSEL

12. Learned counsel for the respondent-State argues that the trial Court has rightly convicted the CCL on the basis of correct appreciation of evidence. There was sufficient material available on record to convict the CCL, as such, there was no illegality or irregularity in the findings recorded by the trial Court.

DISCUSSION:-

13. We have heard learned counsel for the parties and have perused the record of the case.
- i) In the present case, a female child is raped and murdered in a ghastly manner. Her dead body was found at a public place near telephone exchange. A wooden stick was found inserted in her vagina. The victim was in half naked condition. Blood was oozing from her mouth and nose. The water was oozing from her private part. She was found dead when checked by PW-7, Dr. Rajesh Kumar, Medical officer. Post mortem examination was conducted on the dead body of victim. PW-8 Dr. Ritu Gupta and PW-34 Dr. Meena Malik also deposed about the cause of death of the victim as “due to neurogenic shock as a result of injuries described in P-12”.

The post mortem report Ex.P-12 and the affidavit of both the witnesses proved that the victim suffered following four injuries:-

1. Abrasion 2.5x1.5 cm in middle of forehead near scalp.
2. Another small abrasion about 2 cm lateral to it on left side.
3. Blood stains present on lower abdomen and inner thighs.
4. Abrasions present on both shoulder blades.

Besides these the haemorrhage was seen in distal part of

descending colon for about 10 cm. Anal opening was wide about 1.5 cm in diameter. Abrasions were present around anal opening. A wooden stick 24 cm and about 3.2 cm in diameter was seen in vagina, 4 cm protruding out and 17 cm in abdominal cavity, perforating through pouch of Douglas, Hymen was torn.

The extent of injuries on the little body of minor victim proved that her murder was committed in a ruthless and barbaric manner.

- ii) Having observed so, still this Court cannot lose sight of the fact that the seriousness of offence cannot take away the presumption of innocence in favour of CCL who is accused of commission of crime. Section 6 of POCSO is invoked in this case. Even in POCSO Act, there is initial presumption in favour of the person accused of commission of offence. Only after the prosecution proves the foundational facts against the accused, the statutory presumption under Section 29 and 30 can be revoked.
- iii) The present case is based on circumstantial evidence. In a case based on circumstantial evidence, as it is settled propositions of law, prosecution needs to prove its case beyond the reasonable doubt by proving all the circumstances from which a conclusion contrary to the innocence of the accused can be drawn. Hon'ble Apex Court in ***Shard Bardhichand Sharda vs. State of Maharashtra (1984) 4 SCC 116*** held as under:-

“153. *A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:*

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 CrL LJ 1783] where the

observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

“Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.”

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

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

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

In this judgment, Hon’ble Apex Court observed that the said “five golden principles” constitute the “Panchsheel” of the proof of a case based on circumstantial evidence. It is to be scrutinized whether the prosecution proved the “Panchsheel” principle of proof necessitating judgment of conviction by the trial Court.

- iv) Learned trial Court rendered the judgment of conviction against CCL primarily on the ground of his extra judicial confession and alleged confession before police i.e. PW-12 Sunita Yadav, Child Protection Officer and PW42 DSP Jaipal Singh, respectively along with the previous background of CCL that he was addicted to drugs and that was found observing the ladies of the area while they answer the call of nature. The learned trial Court also taken into consideration the reports of Narco, polygraph and brain mapping tests of CCL.

RELEVANCEY OF NARCO, BRAIN MAPPING AND POLYGRAPHY TEST REPORTS

- v) In order to prove the narco and polygraph test, the prosecution examined PW-

28 Shah Hemangi Rasiklal Scientific Officer-Forensic Psychology, Division Gandhi Nagar Gujrat. Her statement reveals that CCL was first produced before her on 19.02.2018. On the said date, she conducted preliminary interview. On 20.02.2018, she sent CCL to Government hospital for physical fitness and CCL was again produced on 21.02.2018. On the basis of request for extension of time, CCL was produced on 26.02.2018 again. Her statement reveal that she conducted narco analysis test of the CCL in the presence of Narco Team, such as Anesthetist, Psychiatrist, Photographer and Forensic Psychologist. After conducting Narco Test, she concluded that CCL son of Shri Balmat Lohar during the Narco interview was reluctant, had pulled his hair and became angry to avoid questioning regarding relevant issues of victim's kidnapping, rape and murder. On the other hand, he revealed the information during the Narco interview that he had the habit of consuming sulfa, smack, and fulfilled his sexuality by paying money to Geeta, Moti and Kinner. Even on the day of incident, he had consumed sulfa and smack. However, at the same time he might have not found anybody (Geeta and Kinner) to satisfy his sexual urge, therefore, he might have kidnapped victim to satisfy his sexual need, which cannot be ignored. Hence, there is possibility that CCL might have committed rape and murder of victim. Report of Narco Analysis is Ex. P83 (consisting of 1 to 10 pages) which bears her signatures at Point-A and on each page also. DVD of Narco Analysis Test is Ex. P84 which was forwarded by her to police vide letter Ex. P85.

She further deposed that on 03.03.2018, she received letter Ex.P-86 dated 20.02.2018 from SP, Hisar vide forwarding letter dated 01.03.2018 of Assistant Director. On 05.03.2018, she again conducted polygraph test and BEOS test of CCL. She also deposed that CCL gave consent for conducting both the tests. Preliminary interview of CCL was

conducted on the next dates i.e. 06.03.2018 and 09.03.2018, two types of questionnaires were conducted i.e. affirmative test and control question test. On the basis of these tests, she concluded that his answers are incorrect to the questions pertaining to the kidnap, rape and murder case of victim. According to the interview with CCL and case papers, it is found that CCL was continuously changing his statement. He used to give Rs. 200 to 300 to Geeta and Kinner for Sex. Once he called Geeta for sex but Geeta refused, as he did not have money to pay her. On which he and Geeta had quarrel amongst each other. According to Polygram's of CCL it depicts that CCL was giving toffee and biscuit to victim. CCL took victim in room for kiss. On 8th December 2017, to take revenge with victim, he might have kidnapped victim from her *juggi* towards Telephone Exchange Lane. He tried to have sex with her. Later as he is sexually pervert, so in anger he inserted the stick in victim's private part and killed her.

- vi) It is conceded during the course of arguments that no incriminating information/fact was discovered pursuant to above mentioned Narco, brain mapping and polygraph test.
- vii) Ex.P-5, the date of birth certificate of the CCL, proved that his date of birth is 15.02.2000 and narco and polygraph test was conducted on 19.02.2018, 21.02.2018, 26.02.2018, 05.03.2018 to 09.03.2018. Meaning thereby, at the time of conducting of these tests, CCL was major. For the sake of arguments, if it is presumed that he being a major, consented to these tests, the reports of these tests and the facts listed cannot be read on record against him in view of the judgment of Hon'ble Apex Court in *Selvi and others (supra)*.
- viii) In *Selvi and others (supra)* case, Hon'ble Apex Court has the occasion to determine the constitutional validity of narco and polygraph examinations and

Hon'ble Apex Court held in para No. 223:-

“223. In light of these conclusions, we hold that no individual should be forcibly subjected to any of the techniques in question, whether in the context of investigation in criminal cases or otherwise. Doing so would amount to an unwarranted intrusion into personal liberty. However, we do leave room for the voluntary administration of the impugned techniques in the context of criminal justice, provided that certain safeguards are in place. Even when the subject has given consent to undergo any of these tests, the test results by themselves cannot be admitted as evidence because the subject does not exercise conscious control over the responses during the administration of the test. However, any information or material that is subsequently discovered with the help of voluntary administered test results can be admitted, in accordance with [Section 27](#) of the Evidence Act, 1872.”

- ix) Judgment rendered in **Selvi and others (supra)** case, is also referred by Hon’ble Apex Court in case titled as **Amlesh Kumar case (supra)** wherein Hon’ble Apex Court held as under:-

“14. In the course of proceedings, the issue of undergoing a narco-analysis test voluntarily came to be raised, which brings us to the second question framed. As discussed above, this Court in Selvi (supra) had considered voluntary narco-analysis tests and opined that the reports thereof cannot be admitted directly into evidence. Information that is discovered, as a consequence thereof, can be admitted with the aid of Section 27 of the Indian Evidence Act, 1872.

15. xxx xxx xxx

16. Consequently, in our view, a report of a voluntary narco analysis test with adequate safeguards as well in place, or information found as a result thereof, cannot form the sole

basis of conviction of an accused person. The second question is, therefore, answered in the negative.”

- x) In view of the settled position of law regarding the Narco analysis and polygraph tests, information extracted from the CCL cannot be read in evidence against him as in pursuant of that information, no new information/fact is discovered during the course of investigation. These test reports are legally inadmissible in evidence.

RELEVANCY OF CONFESSION BEFORE POLICE:-

- xi) The prosecution has heavily relied upon the statement of PW42 DSP Jaipal Singh corroborated by PW-41 Inspector Sandeep Kumar regarding the disclosure statement Ex.P-74 of CCL. This statement Ex.P-74 is in the form of confessional statement before the police admitting his involvement in the case to the extent that:-

“|he had reached in his house on that day at about 10.30 PM. After that he went on the roof of his house and played songs with high volume on his mobile and came down in his house and took dinner. After that at about 11.30PM, he again went on roof and played songs on high volume on this mobile. Upon hearing noise of songs, ‘GD’ came out from her slums instead of victim. Due to which he became frightened and came down in his house. After that he again went to the roof and played songs on high volume in mobile. Upon hearing sound of songs, victim came out from her slum and he came down from the roof and went towards slum of victim and called victim towards him by giving a signal, as a result, victim started accompanying him. Thereafter, he kissed victim in an abandoned street near Telephone Exchange and she also kissed him in return. Thereafter, he laid victim on earth and pulled down her pyajami. When he had intercourse with her, she started shouting, and moving her hands and legs, due to which, he became perplexed, pressed her mouth with his hands. Due

to intoxication state, he took a wooden stick which was lying nearby and inserted in the vagina of victim. After that body of victim became cold and due to that very state, he ran away from the spot leaving behind victim at the spot and went slept in his house. On next day, at about 5:30AM He calm down from intoxication state, He saw his trouser having blood stain and he washed away the stains with help of soap in the bathroom of his house. Again at about 8.00/8.30AM, he woke up and heard noise that victim had died. He had done this act due to state of over intoxication and he felt guilt for this act. He wants to live his life with new beginning. He may kindly be pardoned. He also disclosed that apparels worn by him at the time of occurrence have been kept concealed in the roof of his house and nobody knows about this except him and can get recovered the same at his instance and also get demarcated the place of occurrences from where he had enticed victim and the place where he had done wrong act with her and murdered her.”

- xii) The question arises, can this statement of CCL before PW42 DSP Jaipal Singh be read against CCL?

Reference can be made here to judgment of Hon’ble Apex Court in case **Govind vs. State of Haryana, 2025 SCC Online SC 2456** decided on 14.11.2025 wherein it is observed :

“15. As per Section 25 of the Evidence Act, the confession given in the Police custody, cannot be proved against a person accused of an offence unless it is given in the immediate presence of the Magistrate. However, Section 27 deals with how much of the information as received from the accused, in Police custody may be proved. The said Section is relevant, therefore, reproduced below:

27. How much of information received from accused may be proved. - Provided that, when any fact is deposed to as discovered in consequence of information received from a

person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

On a glance of the language of the said section, which starts with the expression "provided that", it is apparent that this Section is an exception to the preceding Sections 25 and 26. The language further indicates that when any fact is deposed to as discovered in consequence of information received from a person who is in custody of the Police in connection of an offence, it must relate distinctly to the fact so discovered. For relevancy, the "facts thereby discovered" is preceded with the words "so much of such information, whether it amounts to confession or not as relates distinctly". Special emphasis must be given to the word 'distinctly'. The word "distinctly" has its own importance which is a derivative of the word 'distinct'. As per Concise Oxford English Dictionary(9) it means recognizable, different in nature, individual or separate, readily distinguishable by the senses. As per Advance Law Lexicon(10), "distinctly" means clearly, explicitly, definitely, precisely, unmistakably, in a distinct manner. Therefore, "distinctly", as used in Section 27, is meant to exclude certain language and to limit and confine the information which may be proved within definite limits and not necessarily to include everything which may relate to that information. The said word "distinctly" indicates directly, indubitably, strictly and unmistakably, apparently, used in Section 27 to limit and define the scope of probable information. Therefore, only that much information as is clearly connected with the fact discovered can be treated as relevant under the phrase 'facts discovered'.

- xii) Place of occurrence is stated to have been marked vide memo Ex.P-112 on the disclosure statement Ex.P74 of CCL. Thus, no new fact or information is discovered in pursuance of statement Ex.P-74 as the place of occurrence was already within the knowledge of the police, from

where the dead body of victim was recovered. For this reason, his statement Ex.P-74 and memo Ex.P-112 cannot be read against the CCL being inadmissible in evidence under Sections 25 and 27 of Evidence Act.

- xiii) PW-41 Inspector Sandeep Kumar and PW-43 DSP Jaipal also exhibited disclosure statement Ex.P-113 of CCL vide which he got recovered trouser vide Ex.P-114 from bed kept in his residential house. The trouser/jeans of CCL was deposited with FSL vide Ex. P-8 and as per FSL report Ex. P-62, blood was not detected on it.

RELEVANCEY OF FSL REPORTS

- xiv) FSL report Ex.P-64 proved that the articles pertaining to victim deposited in the office of FSL were cotton swabs partially stained with dark brown stains, one concrete block stained with brownish stained, wooden stick stained with brownish stained, vaginal swab, rectal swab, oral swab, blood, bunch of hairs described as scalp hair, one gray stripped baby payjami, one tear and torn blue baby top stained with few brownish stained, one tear and torn dirty grey stripped inner.

The blood was detected on the swab, concrete block, wooden stick, vaginal, rectal and oral swabs.Ex.P-5e the sample of blood was also found as blood. Blood was also detected on scalp hair, baby payjami and inner. Blood stained were found on the baby top.

One condom was also deposited but there was no blood on it.

The blood was not found on the jeans, payjama, kurta, nail pieces and pubic hair stated to belong to CCL.

Therefore, report Ex.P-62 cannot connect the accused with the offence.

Report Ex.P-6 proves that DNA profiling of the blood on articles

deposited in the FSL was conducted and the blood found on the wooden stick (No.5a), one cut and dried cotton wool swabs (No.5b,5c, 5d), hair (No.5e), sample of blood (No.5f), cut and dirty baby blue shirt (No.6a), cut and dirty woolen grey payjama (No.6b), cut and dirty grey woolen upper (No.6c) matches with allelic pattern of cotton wool swab (No.2) and blood found on the piece of stone slab (No.4). This conclusively proved that the blood lifted from the scene of crime was the blood of victim. Her clothes were also stained with blood.

It is further stated in the report Ex.P-64 that allelic pattern of item Nos.9a one cut and dirty white kurta, 9b one cut and dirty white payjama and 17 i.e. blood of CCL did not match with allelic pattern of item No.7 i.e. one dirty condom.

There was no amplification of data in item Nos.3a and 3b i.e. hair which was lifted from the scene of crime.

Therefore, there is nothing in this report which could connect the accused with the blood lifted from the spot of the crime, on the clothes and hair of victim.

RELEVANCY OF CONFESSION BEFORE CHILD PROTECTION OFFICER

- xv) The prosecution has relied upon the extra judicial confession of CCL suffered before PW-12 Sunita Yadav, Child Protection Officer, Hisar when she visited observation home on 17.01.2018, where the juvenile was lodged. She deposed that earlier CCL hesitated and did not tell her anything but after that CCL told that he had committed wrong act about one month back with a small girl child, who was friend of his sister, due to which, said small girl died. CCL felt guilty and said that “*madam mere se galti ho gai hai, muje bahut pachtava hai, muje mafi dilwayi jaye*”

and he started crying. She did not disclose to anybody as she was not aware of the proceedings of this case. On 26.04.2018, she informed about it to PW-40 DPS Jitender Singh.

- xvi) The CCL was under custody when he allegedly suffered statement before PW13 Sunita Yadav, Child Protection Officer. The correctness of such statement would be questionable as to whether, in any case, the same was voluntarily, without coercion or inducement. There is no independent corroboration of the said confessional statement of CCL suffered before PW12 Sunita Yadav. Hon'ble Apex Court in *Sanjay's case (supra)* held that extra judicial confession is a weak piece of evidence. It must be supported by other evidence and inspires confidence. The learned trial Court committed an error in relying upon the alleged extra judicial confessional statement of CCL to PW-12 Sunita Yadav for the purpose of conviction of CCL since this statement has no evidentiary value.

RELEVANCY OF RECOVERY OF CONDOM NEAR THE PLACE OF CRIME:-

- xvii) It is the case of the prosecution that one condom was seized from near the place where the dead body of victim was found, and was sent to FSL. As per the FSL report Ex.P-27, proved on record by Siddharth Kaushik Assistant Director, Serology, Forensic Science Laboratory (H), Madhuban, Karnal that DNA profile of semen stains on the source of item No. 7 (condom) is not matching with DNA profile of semen stain on source of item No. 9A (kurta), source of item No. 9B (pyjama) and DNA of CCL (source of item No.17). For this reason, the said condom (item No.7) recovered from near the place of crime has no relevancy with the offence of rape and murder of victim and with CCL.

The DNA profiling of semen stains on kurta-9A and pyjama 9-B with sample of blood of CCL is not done. Therefore, it is not proved that the said semen stains pertains to CCL.

WHETHER THE CCL WAS ADDICT:-

- xviii) Prosecution has examined PW-10 and PW-11 to prove that CCL was addicted to take intoxicants. CCL had a clean record before he was apprehended in this case. He had no criminal antecedents. There are contradictions in the testimonies of PW-10 Popular and PW-11 Gulab. As per the testimony of PW-10 Popular, on receipt of telephonic call by Bholia, he (Bholia) handed over two pouches of Smack to him with instructions to handover one pouch each to Gulab and Ajay and then he (PW 10 Popular) went to Goraknath temple Budhakhera where Gulab and Ajay and two other boys including CCL were present. He handed over one pouch each to Gulab and Ajay in lieu of Rs.250/- each pouch and gave Rs.500/- to Bholia on his return. Thus, he handed over the said pouch of smack to Gulab and Ajay, however, PW-11 Gulab stated that Beenu telephonically called Bholia and Bholia called him near Gokalnath temple village Budhakhera for taking smack. He along with Beenu, reached there to get smack from Bholia. Ajay and CCL also reached there. Bholia sent his friend Popular to deliver one pouch to them and another pouch to CCL and Ajay in lieu of Rs.250/-each. The fact that smack was delivered to CCL is not stated by PW-10 Popular. PW-11 Gulab also stated that CCL took his phone and called some one for two minutes. The sim number of said mobile phone was never taken in possession. The source of smack is also not proved. Bholia, who allegedly handed over two pouches of smack to PW-10 Popular is also not examined. The blood tests of CCL is not conducted to determine

whether he was an addict and used to consume smack and sulpha. The allegation PW-10 Popular and PW-11 Gulab were indulging in supply and consumption of smack cannot be believed. The prosecution failed to prove that on the night of 08.12.2017, CCL consumed smack or sulpha.

For the sake of arguments, even if is believed that CCL was an addict, his being addict is not a circumstance to connect him with the crime.

CONVICTION IS BASED ON SUSPICION CANNOT BE SUSTAINED

- xix) PW-20 'GD' complainant, had not raised suspicion on CCL regarding his commission of offence of rape and murder of her daughter when her statement Ex.P52 was got recorded to PW27 Inspector Sunita.

To prove the indecent and pervert mindset of CCL, PW20 GD mother of the victim (complainant) and PW-22 Bega Devi stated that the CCL used to watch them with bad intention while sitting near the railway lines, when they used to go there to answer the call of nature in the morning. This fact is not stated by PW-20 'GD' mother of the victim while recording her statement Ex.P-52 to the police, which is the basis of lodging the FIR. The CCL is also slum dweller and females of his family must had to use open public space for defecation. For the sake of arguments, this part of the testimonies of PW20 mother of victim and PW22 Bega Devi neighbourer of PW20 are believed, it leads to the only conclusion that they named CCL in the commission of the offence on the basis of suspicion. They also got recorded their statements to PW27 Inspector Suita on 10.12.2017 raising their doubt on one of their neighbourers namely CCL who was resident of same area. In case titled

Vaibhav vs. State of Maharashtra, 2025 SCC Online SC 1304, observed that “*mere suspicion, no matter of rape cannot take place of prove in a criminal trial. The suspicion ought to have been substantiated by undeniable, reliable, unequivocal, consistent and credible circumstantial evidence, which does not leave the probability of any other theory.*” In the present case, there is no circumstance adverse to CCL except that he happened to be resident of the slum where victim along with her family was residing and younger sister of CCL was friend of victim. The CCL is implicated in this case as the crime is of ghastly and sensational nature and Special Investigating Team was formed to solve the case. Crime was committed in barbaric manner. However, there must be legally admissible evidence to sustain the conviction but the evidence produced by the prosecution is unworthy of credence. There is no circumstance against the accused to connect him with the alleged offence.

- xx) Thus, we have no hesitation to hold that flawed and tainted investigation has eventually led to the failure of the prosecution case involving the gruesome rape and murder of a child. Despite there being any reliable evidence on the record of the case, the CCL was convicted and sentenced by the learned trial Court and has suffered long incarceration for more than seven years. The findings recorded in the impugned judgment holding the CCL guilty of charges framed against him, are based on conjectures and surmises and hence the judgment and the order of sentence are unsustainable on the face of the record.

CONCLUSION:

- xxi) As a consequence of above discussion, the impugned judgment passed by learned trial Court do not stand to scrutiny and are hereby set aside.

Appeal is allowed. CCL (appellant) is acquitted of the charges.

The appellant be released forthwith, if not required in any other case, subject to furnishing of personal bonds for a period of six months before concerned learned Illaqa Magistrate/CJM.

A copy of the judgment be sent to the quarters concerned for compliance.

(GURVINDER SINGH GILL)

JUDGE

(RAMESH KUMARI)

JUDGE

16th Feburary, 2026

ravinder/Jyoti/pooja

Whether speaking/reasoned

Whether reportable

√Yes/No

√Yes/No