



2026:DHC:4147-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 25.02.2026
Pronounced on: 12.05.2026

+ CRL.A. 1000/2002
VIMAL SINGH

.....Appellant
Through: Mr. Sumeet Verma, Senior
Advocate with Mr. Mahender
Pratap Singh and Mr. Prince
Verma, Advocates.

versus

THE STATERespondent
Through: Mr. Aman Usman, APP for
State with Mr. Manvendra
Yadav Advocate with Insp.
Muneesh Kumar, PS-Ambedkar
Nagar.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. The present appeal has been filed by the appellant against the impugned judgement of conviction dated 12th August 2002 and the order on sentence dated 12th August 2002 passed by the learned Additional Sessions Judge, New Delhi, in case FIR No. 539/2001 registered under Section 302 of Indian Penal Code of 1860 [“IPC”] at Police Station Ambedkar Nagar.

Factual Background:

2. The brief facts are that on 11th December, 2001 at about 3:02



AM, the appellant had made a telephone call from the phone number 6061891 to the Police Control Room, received by lady constable Susana No. 3686/PCR (PW-20), to have allegedly attacked his wife and daughter in his house situated in A-269 Durga Vihar by stating “mene apne bacha or patni ke upar var kiya h vo majrub hai”..

3. The information was recorded at police post Madangir vide DD no. 42 and was sent to ASI Jaipal Singh (PW-7) through Constable Ranjeet Singh (PW-13). On receiving information on a wireless at 03:25 AM, SI Sunil Kumar Bhardwaj (PW-23) and Constable Adesh Kumar (PW-22), who were on patrolling duty, also reached the spot. A woman was lying unconscious in front of the main gate of the house with accused standing nearby. The face and head of the lady was smeared with blood. The accused was uttering that he has got rid of his long standing problems and has finished his wife and daughter. Inside the house a girl aged about 15-16 years was found lying on the floor in an injured condition. She was bleeding from her head.

4. Both the injured were rushed to the hospital. They were unfit for statement. FIR was registered under Section 307 IPC.

5. During investigation, Crime team was called at the spot. Crime team inspected the spot. The Crime team photographer took photographs of the spot. Exhibits were lifted from the spot and were sealed and seized vide separate memos. Vide DD no. 4, Investigating Officer (PW-23) received the information of death of Anju, the daughter of the accused, whereupon Section 302 IPC was added.

6. Accused Vimal Singh was arrested and his disclosure statement was recorded. Pursuant to such disclosure he got recovered a hammer



having blood stains from the roof of the bathroom of his house. The pant worn by the accused was having blood on both legs, the same was also seized.

7. On 22.12.2001, Indu Devi also expired in the hospital.

8. The post mortem of the bodies were conducted and post mortem reports (Ex. PW-23/13 and Ex. PW-23/16) were collected. Exhibits were sent to FSL. Upon completion of investigation charge sheet was filed against the accused under Section 302 IPC.

9. Charge under Section 302 IPC was framed against the accused on 10th May, 2002, to which he pleaded not guilty and claimed trial.

10. In order to prove the charge, the prosecution examined 23 witnesses. Statement of accused was recorded under Section 313 Cr.P.C., wherein he denied all the incriminating evidence put to him. He stated that he was innocent and that the police obtained his signatures on 20-25 blank papers. He further stated that there is no roof on the bathroom and only a tin sheet is there. He refused to lead any evidence in his defence.

11. The learned Trial Court, *vide* judgment dated 12th August, 2002, convicted the accused under Section 302 IPC. The learned Trial Court was of the view that the accused made an extra-judicial confession admitting therein that he had committed the murder of his wife and daughter and the same finds strong corroboration from the recovery of the blood stain hammer at the instance of the accused and presence of blood stains on his pants which he was wearing at the time of his arrest. The learned Trial Court was of the view that the extra-judicial confession duly corroborated from the above referred circumstances is



sufficient to prove the guilt attributed to the accused and therefore, held him guilty for committing the murder of his wife Indu and daughter Anju.

12. *Vide* order dated 12th August, 2002 passed by the learned Trial Court, the accused was sentenced to undergo imprisonment for life and to pay a fine of Rs. 5,000/- and in default to undergo simple imprisonment for three months.

13. Feeling aggrieved, the appellant has assailed the judgment of conviction and order of sentence dated 12th August, 2002 in appeal before this Court.

14. The appellant neither appeared himself nor through counsel despite notice and bailable warrants issued against him to secure his presence. Mr. Sumit Verma, Senior Advocate was therefore, appointed as *Amicus Curiae* to defend the present appellant.

Submissions made by the Appellant:

15. The learned Senior Counsel/*Amicus Curiae*, who appears for the appellant, submitted that conviction under Section 302 IPC is based purely on circumstantial evidence, namely (i) extra-judicial confession before the members of the public, and particularly, in the presence of PW-4 Ravi; (ii) the recovery of blood stained hammer at the instance of the appellant and (iii) seizure of blood stained pant, belonging to the appellant. He submitted that in a case resting solely on circumstantial evidence, proof of motive assumes paramount importance, but in this case, prosecution has failed to prove any motive for the alleged crime. The attempt to suggest that the appellant



doubted the fidelity of his wife, has not been substantiated as PW-19 Asha did not support the prosecution case and was declared hostile. Thus, in the absence of proved motive, the chain of circumstances remains incomplete and broken.

16. It has been further submitted that the alleged telephonic confession to police *via* telephone call, which was recorded in the PCR Form Ex. PW-20/1, is inadmissible in evidence, being hit by Section 25 of the Evidence Act. In support, he placed reliance on *Aghnoo Nagesia v State of Bihar*, 1965 SCC OnLine SC 109, wherein the Supreme Court had observed that under Section 25 of the Evidence Act, any confession made to the police by the accused person would not be admissible as evidence. He submitted that the call made to the police, therefore, cannot be read in evidence.

17. He submits that the oral evidence of PW-4 without going inside the house of Jamil but having heard the confession *via* telephone call made to the police by the appellant, is not believable.

18. It is also submitted that an adverse inference needs to be drawn against the prosecution for not examining Jamil, who was admittedly present at the spot even prior to PW-4 allegedly reaching there, and from whose house the PCR call was made by the appellant. Rather, prosecution chose to examine PW-1 Fayima to prove the contents of telephone call made by the appellant, but she turned hostile and did not support the prosecution case.

19. As regards the extra-judicial confession to public, it was submitted that prosecution tried to prove the same by examining the appellant's neighbour, that is, PW-2 Parmanand Jha, who was present



at the spot, but he has not supported the prosecution case. PW-4 Ravi deposed that he was residing in a different gali and did not know Vimal Singh at all. PW-4 further deposed that he was also present in gali at 3.00 A.M. midnight, when appellant was telling other persons of public who asked him to call the police, that he had himself killed his wife and daughter and would himself call the police. It is submitted that a bare perusal of the testimony of PW-4 reveals that, in fact, he was a bystander, but no extra-judicial confession was ever made by the appellant to him. It is contended that over-zealousness of PW-4 Ravi to support the prosecution case is exuded by him falsely deposing that police obtained his signatures on some written papers at the spot, whereas, he is not a signatory to any paper, which denotes the implausibility of his presence at the spot. Not only this, he contradicted the place where the telephone was installed, inasmuch as, he invented a lie in his testimony that the telephone was installed inside a shop which abuts the street. It is also submitted that except PW-2 Parmanand Jha, none of the persons in the public to whom the appellant is alleged to have made utterances, have been examined.

20. It has been submitted that it is improbable that after committing the murder, the appellant would make confession to PW-4 Ravi, who was total stranger to him. He further submitted that even otherwise, extra-judicial confession is a weak evidence and cannot be relied upon without corroboration. In this regard, he places strong reliance on the judgment of the Hon'ble Supreme Court in *Ratnu Yadav v. State of Chhattisgarh* 2024 SCC OnLine SC 1667, wherein, it has been held as under:-



“9. As regards the evidentiary value of an extra-judicial confession, a bench of three Hon'ble Judges of this Court in the case of Devi Lal v. State of Rajasthan, in Paragraph 11, this Court held thus:

“11. It is true that an extra-judicial confession is used against its maker but as a matter of caution, advisable for the court to look for a corroboration with the other evidence on record. In Gopal Sah v. State of Bihar [Gopal Sah v. State of Bihar, (2008) 17 SCC 128 : (2010) 4 SCC (Cri) 466], this Court while dealing with extra-judicial confession held that extrajudicial confession is, on the face of it, a weak evidence and the Court is reluctant, in the absence of a chain of cogent circumstances, to rely on it, for the purpose of recording a conviction. In the instant case, it may be noticed that there are no additional cogent circumstances on record to rely on it. At the same time, Shambhu Singh (PW 3), while recording his statement under Section 164 CrPC, has not made such statement of extra-judicial confession (Ext. D-5) made by accused Babu Lal. In addition, no other circumstances are on record to support it.”

(emphasis added)

In paragraph 16 of the decision of this Court in the case of Nikhil Chandra Mondal v. State of West Bengal², this Court held thus:

“16. It is a settled principle of law that extra-judicial confession is a weak piece of evidence. It has been held that where an extra-judicial confession is surrounded by suspicious circumstances, its credibility becomes doubtful and it loses its importance. It has further been held that it is well-settled that it is a rule of caution where the court would generally look for an independent reliable corroboration before placing any reliance upon such extra-judicial confession. It has been held that there is no doubt that conviction can be based on extra-judicial confession, but in the very nature of things, it is a weak piece of evidence.”



(emphasis added)

10. The normal rule of human conduct is that if a person wants to confess to the crime committed by him, he will do so before the person in whom he has implicit faith. It is not the case of the prosecution that the appellant had a close acquaintance with Pw-1 for a certain length of time before the incident.

..... Therefore, in our considered view the testimony of Pw-1 is not reliable. Hence, the case of extra-judicial confession cannot be accepted.”

In Para 9 of Ratnu Yadav judgment, it was highlighted as follows:-

..... In Gopal Sah v. State of Bihar, (2008) 17 SCC 128, this Court while dealing with extra-judicial confession held that extra-judicial confession is, on the face of it, a weak evidence and the Court is reluctant, in the absence of a chain of cogent circumstances, to rely on it, for the purpose of recording a conviction.”

21. The learned Senior Counsel also placed reliance on the judgment of the Hon’ble Supreme Court in ***Kalinga alias Kushal v. State of Karnataka*** (2024) 4 SCC 735, wherein, in Para 15, it has been categorically held that an extra-judicial confession is a weak type of evidence that is generally used as a corroborative link to lend credibility to other evidence on record. In Para 18 of the said judgment, it has been held as under:-

“18. ...it is of utmost relevance to note that the confession was made before PW1, his mother and wife. However, the mother and wife of PW 1 were never examined as witnesses by the prosecution. This glaring mistake raises a serious doubt on the very existence of a confession, or even a statement, of this nature by the appellant.”



22. As regards the alleged recovery of blood stained hammer at the instance of the appellant, it was submitted that the law settled by the Privy Council in *Pulukuri Kottayya v. King Emperor*, 1946 SCC OnLine PC 47, which has been reiterated in innumerable judgments of the Supreme Court of India, is that what is admissible u/s 27 of the Evidence Act is the discovery of fact i.e. the place from which the recovered object is produced pursuant to disclosure statement and the knowledge of the accused as to this. It was submitted that as per the disclosure statement of the appellant (Ex. PW-23/3), the hammer was hidden in a dark corner of his house. However, as per seizure memo Ex. PW-22/3, the hammer was not recovered from any dark corner of the appellant's house but was shown to have been recovered from the roof of his bathroom. It is thus argued that the alleged recovery is not admissible under Section 27 of the Evidence Act, being not pursuant to the disclosure statement of the appellant, and hence, the recovery cannot be attributed to the appellant. It was also argued that it is implausible that a person who is himself confessing and calling the police, would try to hide the alleged weapon. 20. It has also been argued that there is no independent public witness of the seizure memos, and this is significant because as per prosecution's own case, there were many public persons present at the spot and available to the police, but no such person was joined in the proceedings of recovery of hammer and seizure of pant of the appellant. It was also submitted that the disclosure statement of the appellant Ex. PW-23/3, reveals that it is not recorded in the language of the appellant but appears to be the version of the Investigating Officer without any witnesses at all.



It is submitted that the IO ought to have joined two independent witnesses to the disclosure statement and recovery Panchnama and should have incorporated the exact words uttered by the appellant in his disclosure statement in order to lend credence that the particular statement was made by the appellant, expressing his willingness and volition to point out the place from where the recovery was to be effected. In support of his submissions, the learned Senior Counsel placed reliance on the judgment of the Hon'ble Supreme Court in the case of *Boby v. State of Kerala* 2023 SCC OnLine SC 50 and *Subramanya v. State of Karnataka*, (2023) 11 SCC 255.

23. As regards the seizure of blood stained pant of the appellant, it was argued that the seizure memo is not attested by any independent witness and it is unbelievable that if the appellant had attacked his wife and daughter with hammer blows on their hands and face, then their blood would spill only on the appellant's pant and not his upper part of the body.

24. In the light of the above submissions, it has been argued that prosecution has failed to prove its case against the appellant beyond an iota of doubt, and therefore, the appellant is liable to be acquitted.

Submissions of the Respondent/State:

25. *Per contra*, the Learned APP submits that the prosecution has established a complete chain of circumstances proving the guilt of the accused beyond reasonable doubt. The accused made an extra-judicial confession before independent witness PW4 Ravi, admitting that he had killed his wife and daughter and would inform the police



accordingly. This confession stands corroborated by PW1 Fayima, who deposed that the accused came to her house at about 3:15 a.m. to make a call from landline No. 6061891. The PCR form proved by PW20 W/Ct. Susana confirms that at 3:02 a.m., the accused himself informed the police that he had attacked his wife and daughter. The admissibility of this document under Section 294 CrPC and the absence of any plausible explanation from the accused in his statement under Section 313 Cr. PC renders credence to the prosecution story.

26. It was further submitted that the extra-judicial confession is voluntary, truthful, and duly corroborated by surrounding circumstances, and is therefore legally sustainable. It was submitted that it is a settled law that an extra-judicial confession can form the basis of conviction if it inspires confidence and is corroborated. Minor discrepancies in the testimony of PW4 do not affect his credibility in view of the law laid down in *State of Uttar Pradesh v. M.K. Anthony* (1985) 1 SCC 505. The prosecution has also proved motive through PW19, who deposed about prior threats extended by the accused to the deceased. The defence has failed to discredit these witnesses or establish any material contradiction in their testimonies.

27. The Learned APP further submitted that the recovery of the blood-stained hammer and the blood stained pant of the accused at his instance constitutes a strong incriminating circumstance. The disclosure statement led to recovery from a hidden place, namely the roof of the bathroom, which qualifies as a secluded spot within the meaning of Section 27 of the Evidence Act. The legal position in *Pulukuri Kottaya* (supra) and *State of Himachal Pradesh v. Jeet*



Singh (1999) 4 SCC 370 makes it clear that so much of the information as relates distinctly to the fact discovered is admissible, even if the place is accessible. The absence of independent witnesses is not fatal as per the decision in *Appabhai & Anr. v. State of Gujarat* AIR 1988 SC 696, as official witnesses cannot be discarded merely for want of public/independent corroboration. The FSL report confirming that the blood group 'B' on the hammer and pant matched that of both deceased, along with medical opinion that the injuries could be caused by the recovered hammer, provides unimpeachable forensic corroboration.

28. It is lastly submitted that the incident occurred within the privacy of the accused's house where admittedly only three persons were present and there was no sign of forced entry. In such circumstances, the burden shifts upon the accused to offer a plausible explanation, as held in *Trimukh Maroti Kirkan v. State of Maharashtra* (2006) 10 SCC 681 by the Supreme Court. The accused failed to explain how his wife and daughter sustained fatal head injuries or how their blood was found on his clothes and the concealed weapon. The cumulative circumstances satisfy the five golden principles laid down in *Sharad Birdhichand Sarda v. State of Maharashtra* (1984) 4 SCC 116, governing cases based on circumstantial evidence. Therefore, the prosecution has proved beyond reasonable doubt that the accused alone committed the offence punishable under Section 302 IPC, and the conviction recorded by the Trial Court warrants no interference.

Analysis and Reasoning:



29. We have considered the rival submissions. There is no dispute to the homicidal nature of the death. On the night intervening 10th/11th December, 2001, Indu, wife of the appellant was found smeared in blood outside the house of the appellant, while his daughter Anju was found lying inside the room in an injured condition. They were rushed to the hospital. They both expired during treatment. The post-mortem on the body of Smt. Indu was conducted by PW-5 Dr. Sunil Kumar Sharma. He proved the post-mortem report Ex. PW-5/1. According to him, the cause of death was Septicaemia, following head injury caused by blunt force and was sufficient to cause death in ordinary course of nature. The post-mortem on the body of Anju @ Kanchan was conducted on 14th December, 2001 by Dr. PW-3 Dr. Varun Dixit. He prepared the post-mortem report Ex. PW-3/1. According to him, the cause of death was due to head injury, caused by blunt object, which was sufficient to cause death in ordinary course of nature.

30. Nothing material has come in the cross examination of PW-3 and PW-5. The defence has not even suggested that the injuries recorded in the post-mortem reports could be self-inflicted or accidental. The nature of injuries does not admit of such a possibility. Hence, the medical evidence leaves no room for doubt that the death was the result of a deliberate assault. We, therefore, hold that prosecution has proved that death of Indu and Anju was homicidal in nature.

31. The entire case of the prosecution rests on the circumstantial evidence as there is no eye witness of the occurrence. It is a well



settled law that where the case rests entirely on circumstantial evidence, the chain of evidence must be complete so that every hypothesis is excluded but the one proposed to be proved and such circumstance must show that the act has been done by the appellant/accused in all human probability.

32. In order to prove the charge, the prosecution has laid emphasis on extra-judicial confession made by the appellant. It is a settled law that conviction can be based on a voluntary extra-judicial confession, but the rule of prudence requires that wherever possible, it should be corroborated by independent evidence. Recently, the Hon'ble Supreme Court in the case of **Subramanya** (supra), held as under:-

“52. An extra-judicial confession, if voluntary and true and made in a fit state of mind, can be relied upon by the Court. The confession will have to be proved like any other fact. The value of the evidence as to confession, like any other evidence, depends upon the veracity of the witness to whom it has been made. The value of the evidence as to the confession depends on the reliability of the witness who gives the evidence. It is not open to any court to start with a presumption that extra-judicial confession is a weak type of evidence. It would depend on the nature of the circumstances, the time when the confession was made and the credibility of the witnesses who speak to such a confession. Such a confession can be relied upon and conviction can be founded thereon if the evidence about the confession comes from the mouth of witnesses who appear to be unbiased, not even remotely inimical to the accused, and in respect of whom nothing is brought out which may tend to indicate that he may have a motive for attributing an untruthful statement to the accused, the words spoken to by the witness are clear,



unambiguous and unmistakably convey that the accused is the perpetrator of the crime and nothing is omitted by the witness which may militate against it. After subjecting the evidence of the witness to a rigorous test on the touchstone of credibility, the extra-judicial confession can be accepted and can be the basis of a conviction if it passes the test of credibility.

53. Extra-judicial confession is a weak piece of evidence and the court must ensure that the same inspires confidence and is corroborated by other prosecution evidence. It is considered to be a weak piece of evidence as it can be easily procured whenever direct evidence is not available. In order to accept extra-judicial confession, it must be voluntary and must inspire confidence. If the court is satisfied that the extra-judicial confession is voluntary, it can be acted upon to base the conviction.

54. Considering the admissibility and evidentiary value of extra-judicial confession, after referring to various judgments, in Sahadevan v. State of T.N. [Sahadevan v. State of T.N., (2012) 6 SCC 403: (2012) 3 SCC (Cri) 146] , this Court held as under : (SCC pp. 410-11, para 15)

“15. ...15.1. In Balwinder Singh v. State of Punjab [Balwinder Singh v. State of Punjab, 1995 Supp (4) SCC 259 : 1996 SCC (Cri) 59] this Court stated the principle that : (SCC p. 265, para 10)

‘10. An extra-judicial confession by its very nature is rather a weak type of evidence and requires appreciation with a great deal of care and caution. Where an extra-judicial confession is surrounded by suspicious circumstances, its credibility becomes doubtful and it loses its importance.’

15.4. While explaining the dimensions of the principles governing the admissibility and evidentiary value of an extra-judicial confession, this Court in State of



Rajasthan v. Raja Ram [State of Rajasthan v. Raja Ram, (2003) 8 SCC 180 : 2003 SCC (Cri) 1965] stated the principle that : (SCC p. 192, para 19)

'19. An extra-judicial confession, if voluntary and true and made in a fit state of mind, can be relied upon by the court. The confession will have to be proved like any other fact. The value of the evidence as to confession, like any other evidence, depends upon the veracity of the witness to whom it has been made.'

The Court further expressed the view that : (SCC p. 192, para 19)

'19. ... Such a confession can be relied upon and conviction can be founded thereon if the evidence about the confession comes from the mouth of witnesses who appear to be unbiased, not even remotely inimical to the accused, and in respect of whom nothing is brought out which may tend to indicate that he may have a motive of attributing an untruthful statement to the accused,...'

15.6. Accepting the admissibility of the extra-judicial confession, the Court in Sansar Chand v. State of Rajasthan [Sansar Chand v. State of Rajasthan, (2010) 10 SCC 604 : (2011) 1 SCC (Cri) 79] held that : (SCC p. 611, para 29)

'29. There is no absolute rule that an extra-judicial confession can never be the basis of a conviction, although ordinarily an extra-judicial confession should be corroborated by some other material. [Vide Thimma & Thimma Raju v. State of Mysore [Thimma & Thimma Raju v. State of Mysore, (1970) 2 SCC 105 : 1970 SCC (Cri) 320] , Mulk Raj v. State of U.P. [Mulk Raj v. State of U.P., 1959 SCC OnLine SC 23 : AIR 1959 SC 902] , Sivakumar v. State of T.N. [Sivakumar v. State of T.N., (2006) 1 SCC 714 : (2006) 1 SCC (Cri) 470] , paras 40 & 41, Shiva Karam Payaswami Tewari v. State of



Maharashtra [Shiva Karam Payaswami Tewari v. State of Maharashtra, (2009) 11 SCC 262 : (2009) 3 SCC (Cri) 1320] and Mohd. Azad v. State of W.B. [Mohd. Azad v. State of W.B., (2008) 15 SCC 449 : (2009) 3 SCC (Cri) 1082]]' "

(emphasis supplied)

55. It is well settled that conviction can be based on a voluntarily confession but the rule of prudence requires that wherever possible it should be corroborated by independent evidence. An extra-judicial confession of accused need not in all cases be corroborated. In Madan Gopal Kakkad v. Naval Dubey [Madan Gopal Kakkad v. Naval Dubey, (1992) 3 SCC 204 : 1992 SCC (Cri) 598], this Court after referring to Piara Singh v. State of Punjab [Piara Singh v. State of Punjab, (1977) 4 SCC 452 : 1977 SCC (Cri) 614], held that the law does not require that the evidence of an extra-judicial confession should in all cases be corroborated. The rule of prudence does not require that each and every circumstance mentioned in the confession must be separately and independently corroborated.

56. The sum and substance of the aforesaid is that an extra-judicial confession by its very nature is rather a weak type of evidence and requires appreciation with great deal of care and caution. Where an extra-judicial confession is surrounded by suspicious circumstances, its credibility becomes doubtful and it loses its importance like the case in hand. The Courts generally look for an independent reliable corroboration before placing any reliance upon an extra-judicial confession."

33. Having stated the principles, which may be kept in mind by the Court while examining the acceptability and evidentiary value of the extra-judicial confession, we may now examine the evidence of extra-judicial confession in the present case.



34. PW-4 Ravi deposed that in the night intervening 10th/11th December, 2001, on hearing commotion in the street, he came out of his house at about 3:00 a.m., and saw a dead body lying in front of the house of accused Vimal Singh, and when public asked him to call the police, he said that he had himself killed his wife and daughter and he himself would call the police. The appellant then called the police from the residence of Mohd. Jamil. According to this witness, he had noticed the accused only when he said that he had killed his wife and daughter and would call the police. PW-4 further deposed that he was present when the accused was making telephone call from the house of Jamil. In response to a leading question put by the learned APP, he admitted that accused was saying that for years he was living the life of disgrace (*"Barson Ki Jillat Ki Zindagi Zee Raha Tha"*). He also admitted that accused had said that he had no regret for the crime committed by him.

35. In cross examination, no question was put nor any suggestion was given to PW-4 about any previous enmity, ill-will or motive for the false implication of accused. The testimony of PW-4 that appellant was saying that he would call the police, finds corroboration from the testimony of PW-1 Fayima, who deposed that accused came to their house at 3.15 am for making the telephone call. She confirmed that her telephone number was 6061891. Even though, she could not confirm that accused had made call to Police Control Room at 100 number, however, this fact has been proved by PW-20 Lady Constable Susana, who was on PCR duty on the intervening night of 10th/11th



December, 2001. She deposed that she received an information from “Vimal Singh” that he had attacked his wife and daughter and that the victims were lying at the spot. According to her, such information was received from Vimal Singh from telephone number 6061891. The PCR Form Ex. PW-20/1 records the phone number of the caller as 6061891. In cross examination, PW-4 stated that Jamil was amongst the neighbours who were present at the spot when he reached there. Admittedly, Jamil was not produced in the witness box. Since PW-1 Fayima, daughter of Mohd. Jamil, who was present at the house at the time accused came to her house for making telephone call has been examined, there was no necessity to produce Mohd. Jamil in the witness box. The discrepancy regarding the telephone being installed at the shop of Jamil, as deposed by PW-4 Ravi, or in the house of Mohd. Jamil, as deposed by PW-1 Fayima, is of no consequence once it is proved that the phone call was made to the PCR from the telephone of Mohd. Jamil bearing number 6061891.

36. The learned Senior Counsel submitted that PW-4 was not known to the appellant, and therefore, it is highly unlikely that the appellant would make any confession before a stranger, not known to him. He states that PW-4 is a chance witness, who was not living in the immediate neighbourhood and was residing in the next street. His presence at the spot is not natural, and therefore, he appears to be a planted witness.

37. The incident had taken place in the dead of the night at 3:00 am. PW-4 Ravi deposed that he came out of his house on hearing the commotion in the street. He himself admits in his examination in chief



that he did not know the appellant before that day and also did not know his name. In cross examination, he stated that there were only five houses between his house and the house of the accused and his *gali* was just behind the *gali* of the accused, and therefore, he could hear the commotion. It is thus evident from the testimony of PW-4 that he had reached the spot on hearing the commotion. His presence at the spot is therefore natural. It has come in the testimony of PW-4 that the public persons had asked the accused to call the police, whereupon, he said that he had himself killed his wife and daughter and would himself call the police. It is thus evident that such confession was made by the accused not to PW-4 specifically but to public in general standing outside. Even if, PW-4 is regarded as a chance witness, who reached at the spot on hearing the commotion, his testimony cannot be disbelieved merely on that ground if his presence is otherwise natural and his testimony is found reliable. In ***Rana Pratap and others v. State of Haryana***, (1983) 3 SCC 327, the Hon'ble Supreme Court observed that the expression "chance witness" is borrowed from countries where crimes are usually committed in secluded places, and that in our conditions where people frequently move about in public places, the presence of such witnesses cannot be regarded as unnatural. Paragraph No. 3 of the judgment reads as under:-

"3. There were three eye-witnesses. One was the brother of the deceased and the other two were a milk vendor of a neighbouring village, who was carrying milk to the dairy and a vegetable and fruit hawker, who was pushing his laden cart along the road. The learned



Sessions Judge and the learned counsel described both the independent witnesses as 'chance witnesses' implying thereby that their evidence was suspicious and their presence at the scene doubtful. We do not understand the expression 'chance witnesses'. Murders are not committed with previous notice to witnesses, soliciting their presence. If murder is committed in a dwelling house, the inmates of the house are natural witnesses. If murder is committed in a brothel, prostitutes and paramours are natural witnesses. If murder is committed on a street, only passersby will be witnesses. Their evidence cannot be brushed aside or viewed with suspicion on the ground that they are mere 'chance witnesses'. The expression 'chance witnesses' is borrowed from countries where every man's home is considered his castle and every one must have an explanation for his presence elsewhere or in another man's castle. It is a most unsuitable expression in a country whose people are less formal and more casual. To discard the evidence of street hawkers and street vendors on the ground that they are 'chance witnesses', even where murder is committed in a street, is to abandon good sense and take too shallow a view of the evidence."

38. Similarly, in ***Thangaiya v. State of Tamil Nadu***, (2005) 9 SCC 650, it has been held that evidence of chance witnesses requires careful scrutiny but cannot be rejected solely on that ground when their presence is satisfactorily explained.

39. We find no reason to disbelieve the deposition of PW-4 regarding extra-judicial confession of the accused, there being no proof of any previous ill-will or enmity between the accused and PW-4, thereby, ruling out any reason for false implication of the accused by PW-4.



40. Thus, we find that the evidence of extra-judicial confession does not suffer from any material discrepancies or inherent improbabilities and appears to be cogent and thus may form the basis of conviction.

41. There is also other evidence to corroborate the extra-judicial confession of the appellant. PW-19 Smt. Asha, sister of deceased Indu, testified that on 08th December, 2001, appellant came to her house to take deceased Indu and Anju with him. He had threatened and abused them, stating that they would remain alive for 2-4 days. The statement of the appellant that “for years, he was living a life of disgrace” indicates that his relations with his wife and daughter were not good and was dissatisfied with their conduct and wanted to get rid of them. Such evidence clearly shows the motive and intention of the appellant to commit the murder of his wife and daughter.

42. The next circumstance relied upon by the prosecution is the recovery of blood stained hammer and the wearing pant of the appellant, having blood stains. PW-22 Constable Adesh and PW-23 SI Sunil Kumar Bhardwaj are the witnesses of recovery. PW-22 Constable Adesh Kumar deposed that accused Vimal Kumar told the IO in his presence that the hammer was lying on the roof of the bathroom. Thereafter, they reached the roof of the bathroom *via* stairs along with accused and the hammer was found lying there, the hammer was kept in a cloth and was sealed with the seal of ‘SK’ and was seized vide memo Ex. PW-22/3. In cross examination by the learned APP, PW-22 admitted that Vimal Singh had told that the



hammer was lying in the dark corner of the house and the statement of accused was recorded by the IO in the form of disclosure statement, which was written in his presence. He admitted that the hammer was found at the roof of the bathroom and not in the corner of the house. He further admitted that accused Vimal Singh was wearing a pant stained with blood, which was seized vide memo Ex. PW-22/7. In cross examination, he stated that accused was interrogated on the road outside the house. He admits the presence of large number of persons at the time of recording of disclosure statement. He admitted that none of them was asked to sign the disclosure statement or join the recovery of hammer. He stated that staircase was requisitioned from the neighbour to reach the roof of the bathroom. PW-23 SI Sunil Kumar Bhardwaj deposed that on interrogation, accused disclosed that he can get recovered the hammer from the dark corner of his house. His disclosure statement Ex. PW-23/3 was recorded, but he got recovered the hammer Ex. P-1 from the roof of the bathroom of his house. He further deposed that the pant worn by accused Vimal Singh, having blood stains on it, was also seized *vide* memo Ex. PW-22/7. In cross examination, he also stated that the staircase had to be requisitioned from a neighbour for reaching the roof of the bathroom.

43. Section 25 and 26 of the Evidence Act stipulates that the confession made to a police officer is not admissible. However, Section 27 is an exception to Sections 25 and 26 and serves as a proviso to both these Sections. Section 27 of the Evidence Act lifts the ban, though partially to the admissibility of confessions. However, the



removal of the ban is not to such an extent so as to absolutely undo the object of Section 26. As such, the statement whether confessional or not, is allowed to be given in evidence, but that portion, only which distinctly relates to discovery of fact, is admissible. The discovery of a fact includes the object found, the place from which it is produced and the knowledge of appellant/accused as to its existence. The defence has assailed the recovery of hammer mainly on the ground that the same has not been effected from the dark corner of the house, as stated in the disclosure statement Ex. PW-23/3 but from the roof of the bathroom. It was further argued that no independent witnesses were associated, and therefore, there is no independent corroboration of the testimony of PW-22 and PW-23 with regard to the disclosure statement and the recovery.

44. It is true that in his disclosure statement Ex. PW-23/3, appellant stated that he had concealed the hammer in a dark corner of the house and can get the same recovered. The word “dark corner” may denote a secluded place, not necessarily darker portion of the house. As already discussed, PW-22 and PW-23 had to requisition the staircase from the neighbour to reach the roof of the bathroom to recover the hammer, and therefore, the roof of the bathroom qualifies to be a secluded place of the house and may be regarded as “dark corner”.

45. The evidence clearly reveals that the discovery of hammer was a direct consequence of the information supplied by the appellant. When the accused himself leads the police to the spot and produces the weapon, the requirement of discovery stands satisfied, even if the



disclosure statement does not contain the accurate particulars. In the present case, the recovery is duly proved by PW-22 and PW-23. The absence of independent witnesses is not fatal. In **Appabhai** (supra), the Supreme Court recognized practical difficulties in securing the public witnesses and held that the trustworthy official testimony is sufficient. In the present case, there is no material contradiction between the testimonies of PW-22 and PW-23. The recovery of hammer therefore constitutes a relevant incriminating circumstance.

46. The Hon'ble Supreme Court in the case of **Boby** (supra), considered the scope of Section 27 of the Indian Evidence Act. It referred to its earlier judgment in the case of **State of Karnataka v. David Rozario & Anr.** (2002) 7 SCC 728, wherein, it was held that the statement which is admissible under Section 27 is the one which is the information leading to discovery. Accordingly, the Court further held that it is necessary for the benefit of both the accused and prosecution that information given should be recorded and proved, and if not so recorded, the exact information must be adduced through evidence. The Court therefore held that the basic idea embedded in Section 27 of the Indian Evidence Act is the doctrine of confirmation by subsequent event. The Hon'ble Supreme Court referred to the Three Judges Bench in **Subramanya v. State of Karnataka** (supra). The Court referred to Section 27 of the Indian Evidence Act and observed thus:-

“If, it is say of the investigating officer that the accused while in custody on his own free will and volition made a statement that he would lead to the place where he had hidden he



weapon of offence, the site of burial of the dead body, clothes, etc. then the first thing that the investigating officer should have done was to call for two independent witnesses at the police station itself. Once the two independent witnesses would arrive at the police station thereafter in their presence the accused should be asked to make an appropriate statement as he may desire in regard to pointing out the place where he is said to have hidden the weapon of offence, etc. When the accused while in custody makes such statement before the two independent witnesses (panch witnesses) the exact statement or rather the exact words uttered by the accused should be incorporated in the first part of the panchnama that the investigating officer may draw in accordance with law. This first part of the panchnama for the purpose of Section 27 of the Evidence Act is always drawn at the police station in the presence of the independent witnesses so as to lend credence that a particular statement was made by the accused expressing his willingness on his own free will and volition to point out the place where the weapon of offence or any other article used in the commission of the offence had been hidden. (Para 32)

Once the first part of the panchnama is completed thereafter the police party along with the accused and the two independent witnesses (panch witnesses) would proceed to the particular place as may be led by the accused. If from that particular place anything like the weapon of offence or bloodstained clothes or any other article is discovered then that part of the entire process would form the second part of the panchnama. This is how the law expects the investigating officer to draw the discovery panchnama as contemplated under Section 27 of the Evidence Act."

47. The Hon'ble Supreme Court referred to another judgment of **Suresh Chandra Bahri v. State of Bihar**, 1995 Supp (1) SCC 80 and



observed as under :

“40. A perusal of para 71 of Suresh Chandra Bahri case would reveal that the Court has reiterated that the two essential requirements for the application of Section 27 of the Evidence Act are that (1) the person giving information must be an accused of any offence and (2) he must also be in police custody. The Court held that the provisions of Section 27 of the Evidence Act are based on the view that if a fact is actually discovered in consequence of information given, some guarantee is afforded thereby that the information was true and consequently the said information can safely be allowed to be given in evidence.”

48. As may be seen, in none of the judgments referred to by the Hon'ble Supreme Court as also in its finding, the Court held that it is mandatory for the accused to give accurate description of place of concealment, rather in the case of **David Rozario** (supra), the Supreme Court observed that the information given by the accused should be recorded and proved, and if not so recorded, the exact information must be adduced through evidence. What is important is the free-will and volition of the accused to make a statement. There is no particular format of recording the disclosure statement. The only thing needs to be proved is that accused makes the disclosure statement of his own free will and volition. It would be sufficient if the accused broadly describes the place saying that the weapon is kept in the house without describing the exact place. Thus, what is important is not the form of the statement but the discovery of facts on the basis of statement made by the accused while in custody.

49. The judgments in the cases of **David Rozario** (supra) and **Subramanya v. State of Karnataka** (supra), do not lay down that in



the absence of the detailed description of the place of concealment of the weapon/article, the recovery is inadmissible under Section 27 of the Evidence Act. What is held therein is that the given information should be recorded and proved. Hence, the discovery made in terms of Section 27 of the Indian Evidence Act cannot be ignored only because accused described the place of concealment as 'dark corner' in the disclosure statement and not specifically as 'roof of the bathroom'.

50. Moreover, even assuming Section 27 to be inapplicable, the act of pointing out the place of concealment is relevant under Section 8 of the Evidence Act.

51. We are also not convinced with the argument of the defence that if the appellant was to make an extra-judicial confession, there was no reason for him to conceal the hammer on the roof of the bathroom. Each person behaves differently in different circumstances. It is possible that after having concealed the hammer, later upon seeing his wife and daughter lying injured in pool of blood, he may have become emotional, and in such state of emotion, made the confession. The learned Trial Court has rightly observed that the emotion in one's mind keep changing and do not always remain constant. May be, initially, the accused did not intend to confess his guilt when he concealed the hammer, but later, became emotional and admitted his guilt.

52. The next circumstance on which the prosecution relies is that FSL result, which shows the presence of blood of group 'B' on the hammer Ex. P-1 and on the pant of the appellant, which he was wearing. The FSL result confirms that the blood group of the deceased



Indu and Anju was also 'B'. The appellant was questioned about the said circumstances under Section 313 Cr. P.C. He simply denied even the recovery of hammer and pant. It was incumbent upon the appellant to explain the presence of blood on the hammer recovered from the roof of the bathroom of his house and his wearing pant, but no explanation is forthcoming. The argument that had he attacked his wife and daughter with hammer blows on their heads and faces, the blood would spill not only on his pant but also on the upper part of his body, is untenable, because as per the prosecution version, the assault occurred in the night, while the victims were asleep, and therefore, the possibility that the blood would have fallen on the pant and not on the upper clothing of the appellant, could not be ruled out.

53. In our view, prosecution has successfully established the complete and unbroken chain of circumstances pointing unequivocally towards the guilt of the accused. The extra-judicial confession made by the accused before PW-4 Ravi, duly corroborated by the PCR call record and the testimonies of PW-1 and PW-20, clearly establishes his guilt. The motive stands proved through prior threat, as deposed by PW-19. The recovery of blood stained hammer and the pant of the appellant at his instance, coupled with the FSL result matching the blood group of the deceased provide strong forensic corroboration. The medical evidence establishes that the injuries on the person of the victims were possible from the recovered hammer. The failure of the appellant to render any plausible explanation in his statement recorded under Section 313 Cr. PC, particularly, with regard to the presence of blood on his pant constitutes an additional incriminating circumstance



against the appellant.

Conclusion:

54. The chain of circumstances proved on record leads to an irresistible conclusion that appellant/accused alone committed the murder of his wife and daughter. We find no infirmity in the impugned judgment of conviction of the appellant under Section 302 IPC. The sentence imposed is proportionate and commensurate with the offence committed. We, therefore, find no ground to interfere with the Trial Court Judgment.

55. The appeal is accordingly dismissed. The conviction and sentence awarded by the learned Trial Court are hereby affirmed.

56. The Appellant Vimal Singh is directed to surrender before the Jail Superintendent within a week from today to serve his remaining sentence. In the event of failure to surrender, appropriate steps shall be taken by the State to ensure that appellant is taken into custody to serve the remaining sentence.

57. Copy of this judgement be sent to the Trial Court and concerned Jail Superintendent for information and necessary action.

RAVINDER DUDEJA, J.

NAVIN CHAWLA, J.

MAY 12, 2026/NA