Cr.A.242-2018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 242 of 2018

Arif Noormohammed Shaikh
Aged 46 years
(At Yerawada Central Prison, Pune)
R/o Shipai Mohalla, Junnar,
Taluka- Junnar, District: Pune .....Appellant
v/s.
The State of Maharashtra ...Respondent

Ms. Farhana Shah, for the Appellant.
Dr. Dhanlakshmi Krishnaaiyer, APP for the Respondent-State

VISHAL SUBHASH PAREKAR
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CORAM: MANISH PITALE &
SHREERAM V. SHIRSAT, JJ
RESERVED ON : 7th JULY, 2026
PRONOUNCED ON : 23rd SEPTEMBER, 2026

JUDGMENT : *(Per Shreeram Shirsat J.)*

1. The present appeal has been filed challenging the impugned judgment and order dated 28.08.2014 passed by the Additional Sessions Judge, Khed, Rajgurunagar, District- Pune in Sessions Case No. 110/2014, whereby the Appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code, 1860 (IPC) and has been sentenced to undergo Rigorous Imprisonment (R.I.) for Life and pay a fine of Rs. 5,000/- and in default, to undergo R.I. for 6 months.

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2. Brief facts of the prosecution case are as under:

a] It is the case of the prosecution that the marriage between the deceased and the Appellant was solemnized in accordance with Muslim rites and customs. Out of the said wedlock, two sons were born. The Appellant and the deceased resided together at Junnar, where the Appellant was employed as a tailor at "Modern Tailor". However, their two sons resided with the Complainant (father of the deceased) at Chincholi for the purpose of their education.

b] It is further the case that the Appellant was addicted to alcohol and under its influence, frequently picked quarrels with the deceased over trivial domestic issues. It is further the case of the prosecution that the Appellant harboured unwarranted suspicion regarding the character of the deceased and acting upon such suspicion, subjected her to physical assault and verbal abuse on several occasions.

c] It is further the case of the prosecution that whenever the deceased visited her parental home, she disclosed the ill-treatment meted out to her by the Appellant. It is further the case that the Complainant and his wife repeatedly attempted to reconcile the couple and counsel the Appellant; however, their efforts proved futile as there was no change in the conduct of the Appellant.

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d] It is the case of the prosecution that on 19.06.2011 at about 10:00 p.m., the deceased called her father and informed him that her brother, Saddam, had visited her residence at Junnar and had inadvertently left his mobile phone behind. During the conversation, when the Complainant inquired whether she ate supper and about the whereabouts of the Appellant, the deceased replied that the Appellant had not returned home yet and that she would have dinner only after his arrival.

e] It is further the case of the prosecution that on 20.06.2011 at about 7:00 a.m., one Havabi Inamdar visited Mr. Bilal Magan Chowgule, the Complainant. She informed him that Taslim Azim Kadri- her daughter, a resident of Junnar, telephonically conveyed to her that his daughter- Shabana Arif Shaikh (the deceased) had been murdered and was lying in a pool of blood, alone in her house. The Complainant upon receiving the said information, accompanied by his son Saddam, other relatives and some villagers, immediately proceeded to her residence at Junnar. Upon reaching the house of the deceased, they found her lying in a pool of blood. A black scarf was found around her neck, her tongue was protruding, there was an injury on her head and a blood-stained stone grinder was lying nearby. Arif Noormohammed Shaikh (the Appellant herein)-

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husband of the deceased, had disappeared and therefore the Complainant felt that his daughter must have been strangulated with the scarf and also been assaulted on her head with the stone grinder by the Appellant.

f] It is further the case that the Complainant proceeded to Junnar Police Station and lodged a report against the Appellant, alleging that the Appellant had committed the murder of his daughter. On the basis of the said complaint, a First Information Report (FIR) came to be lodged at Junnar Police Station on the same date i.e. 20.06.2011 as Crime No. 54/2011. Upon the completion of investigation, a charge-sheet was filed against the Appellant for the offence punishable under Section 302 of the IPC.

3. To bring home the guilt of the Accused-Appellant, the prosecution examined 8 witnesses (P.W. 1 to P.W. 8):

P.W.	NAME	ROLE
1	Bilal Magan Chowgule	Complainant/Father of the deceased
2	Mohammad Hussain Kasamsab Inamdar	Panch Witness Spot Panchnama dated 20.06.2011 relating to blood-stained quilt, blood-stained stone hand grinder and blood-stained iron *suri* (knife).
3	Taslim Azim Kadri	Friend and neighbour of the deceased who heard the Appellant and deceased quarrel on the intervening night of 19.06.2011 and 20.06.2011.

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4	Hawabi Ahmed Inamdar	Mother of P.W. 3, who informed P.W. 1 regarding the death of the deceased.
5	Azim Jakir Kadari	Husband of P.W. 3, who first saw the dead body of the deceased.
6	Siraj Abdul Patel	Panch Witness Spot Panchnama dated 20.06.2011 relating to blood-stained clothes of the deceased which included odhani, kurta and salwar.
7	Dr. Varsha Lalasaheb Suryawanshi	Medical officer who conducted post-mortem of the deceased on 20.06.2011.
8	Suryakant Dnyandeo Pawar	Investigating Officer (I.O.)

4. Upon the completion of the prosecution evidence, the trial court recorded the statement of the Appellant under Section 313 of the Cr.P.C., wherein the Appellant denied the allegations and contended that he was falsely implicated in this case by the Complainant as he used to frequently quarrel with him and his father also used to threaten him. A plea of alibi was taken by the Appellant wherein he stated that his mother was sick and therefore he had gone to his native place in Devalali. However, the Appellant neither adduced oral nor documentary evidence in support of his defence.

5. After hearing the prosecution as well as the defence and upon

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appreciation of the evidence on record, the Additional Sessions Judge, vide judgment and order dated 28.08.2014, was pleased to convict the Appellant for the offence punishable under Section 302 of the IPC and has been sentenced to undergo R.I. for Life and pay a fine of Rs. 5,000/- and in default, to undergo R.I. for 6 months.

6. Being aggrieved by the judgment and order of conviction in Sessions Case No. 110/2014, dated 28.08.2014, passed by the Additional Sessions Judge, District-Pune, the Appellant has approached this Court by way of the present appeal.

7. Heard Ld. Counsel Adv. Farhana Shah for the Appellant and Ld. APP Dr. Dhanlakshmi S. Krishnaaiyer for the Respondent-State.

8. The Ld. Counsel for the Appellant submitted that the present case is that of circumstantial evidence and that there is no eyewitness or any substantial evidence to unerringly point to the guilt of the Appellant. It was argued by the Ld. Counsel for the Appellant that the last seen theory is not established in the present case as none of the witnesses have deposed to the effect that the deceased was last seen with the Appellant. It was also contended that the prosecution examined eight witnesses to prove the charges against the Appellant, all of whom are interested witnesses despite the presence of independent witnesses. It was submitted

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by the Ld. Counsel for the Appellant that no complaint was lodged by the parents of the deceased in spite of her reporting to them about the assault, which she was subjected to by the Appellant. It was argued by the Ld. Counsel for the Appellant that the prosecution failed to examine any witness relating to the arrest of the Appellant, nor was any arrest panchnama placed on record. Though the I.O. deposed that the Appellant produced his blood-stained clothes which were seized, however the prosecution has failed to examine any panch witness to prove the same. The Ld. Counsel for the Appellant further contended that it is improbable that the Appellant would voluntarily produce his blood-stained clothes and although, the I.O. stated that the same were sent for chemical analysis, the C.A. reports have not been produced on record. It was lastly argued that the Appellant was under the influence of liquor and if at all the act was committed by him, it was without any motive or intention to kill his wife. Therefore, it was contended that in view of the above mentioned arguments, the Appellant is entitled to the benefit of doubt.

9. *Per Contra*, the Ld. APP submitted that the case is based entirely on circumstantial evidence and that the prosecution has established a complete and unbroken chain of circumstances, pointing solely to the guilt of the Appellant. The Ld. APP argued that the mere absence of eye witnesses would not render the case of the prosecution untenable. It was

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contended that the testimony of the 'interested' witnesses ought not to be discarded or considered unreliable only because they are the relatives or friends of the deceased. If the evidence inspires confidence and appears to be cogent, then it must be taken into consideration. It was also submitted by the Ld. APP that the conduct of the Appellant after the incident, including his attempt to flee to Devalali clearly demonstrates a deliberate state of mind which is inconsistent with his plea of incapacitating intoxication. It was contended that the Appellant failed to offer any explanation regarding the incriminating circumstances appearing against him and although a plea of alibi was taken by the Appellant, no evidence was adduced to establish the same. Therefore, it was submitted that the Sessions Court has rightly appreciated the evidence and convicted the Appellant, warranting no interference by this Court.

10. The Ld. Counsel for the Appellant has not relied upon any judgments in support of her contention.

11. The Ld. APP has relied upon the following judgments, which are as under:

i. *Dhananjoy Chatterjee Alias Dhana v. State of W.B.*[1]
ii. *Trimukh Maroti Kirkan v. State of Maharashtra*[2]
iii. *Deepak Revachand Talreja v. State of Maharashtra*[3]

1 (1994) 2 SCC 22
2 (2006) 10 SCC 681
3 2007 SCC OnLine Bom 1686

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12. This is a case based on circumstantial evidence as there is no eye-witness. Therefore, as held time and again by this Court and the Hon'ble Apex Court, where the case is based on circumstantial evidence, the circumstances from which the conclusion of guilt of the accused is to be drawn, should in the first instance, be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused and nothing else. Therefore, the circumstances should be of a conclusive nature and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so complete as to not leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused only.

13. The Sessions Court in the judgment while observing, that the instant case is based on circumstantial evidence has not distinctly enumerated the chain of circumstances. However, the circumstances emerging from the evidence led by the prosecution have been discussed, while returning a finding of conviction. Therefore, this Court, from the evidence on record, finds the following circumstances relevant to ascertain the chain of circumstances.

14. The following are the circumstances which can be essentially

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derived from the evidence on record:

(a) Motive;

(b) Homicidal death;

(c) The Appellant and the deceased residing together as husband and wife;

(d) Last-Seen Together;

(e) Seizure of blood-stained quilt, blood-stained stone hand grinder, and blood-stained knife.

15. Before analysing the evidence, a useful reference can be made to the judgment of the Hon'ble Apex Court in the case of ***Trimukh Maroti Kirkan v. State of Maharashtra*** *(supra)*, which has also been relied upon by the Ld. APP, wherein it has been observed as under:

> *"12. In the case in hand there is no eyewitness of the occurrence and the case of the prosecution rests on circumstantial evidence. The normal principle in a case based on circumstantial evidence is that the circumstances from which an inference of guilt is sought to be drawn must be cogently and firmly established ; that those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused; that the circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and they should be incapable of explanation on any hypothesis other than that of the guilt of the accused and inconsistent with their innocence."*....

Let us now analyse each circumstance *in seriatim.*

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(a) MOTIVE :

16. To establish motive, the prosecution has examined P.W. 1, P.W. 3, and P.W. 5. P.W. 1, the father of the deceased, deposed that the Appellant was having lust of liquor and under the influence of liquor, the Appellant used to quarrel with the deceased by suspecting her character and also used to beat her. He further deposed that upon visiting his house, the deceased used to tell him about the same. He further deposed that intermittently, upon visiting at Junnar to meet the deceased, she used to tell him about the Appellant abusing and beating her after consuming liquor and suspecting her character. It can also be seen in the deposition of P.W. 3 that she knew the Appellant and that three months prior to the incident, the Appellant and his wife i.e. the deceased had come to reside in the same chawl where she resides with her husband. She further deposed that the Appellant used to cast doubt upon the deceased and that there were quarrels between them after the Appellant consumed liquor. P.W. 5 has also deposed that the Appellant used to reside with his wife in one room on the first floor on rent, and he was having lust of liquor and used to quarrel with his wife Shabana (the deceased). In the cross-examination of these witnesses, nothing substantial has been brought on record to discredit or shake the deposition of these witnesses. Although these witnesses are regarded as

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'interested witnesses', in our considered opinion none of their depositions are biased or exaggerated. They inspire confidence, are consistent and cogent and corroborate each other. Thus, upon perusing the depositions of the aforementioned three witnesses, we find that the prosecution has successfully been able to prove the circumstance of motive. While it is true that motive may not be relevant at all times, however, in the present case, we hold that the prosecution has been successful in proving the motive behind the commission of murder of the deceased at the hands of the Appellant.

(b) HOMICIDAL DEATH :

17. To prove the cause of death, the prosecution has examined P.W. 7- Dr. Varsha Suryawanshi. She deposed that in the year 2011 she was working as a Medical Officer in Rural Hospital at Junnar. She deposed that on 20.06.2011, the police of Junnar police station had brought a dead body of Shabana Arif Shaikh to their Hospital along with inquest panchanama. She deposed that she did a post-mortem of the corpse of Shabana Arif Shaikh and noticed the following injuries on her body:

> "*1……I have seen following injuries on the dead body of Shabana Arif Shaikh.*
> *1] Two round wounds on left face- one near left outer canthus and other on cheek on left parietal region. Both CLW were bleeding.*
> *2] One large contused lacerated wound 8x5x2cm on left cheek-*

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bleeding was present.
3] Tongue protruding out of mouth.
4] Teeth loose bleeding gums.
5] Injury under the scalp- left parietal region large haematoma 16x6x4 cm.
6] There was fracture to left parasite bone.
7] Intracerebral hemorrhage, both cerebrum and cerebellum.
8] There was fracture of left mandible."

18. She deposed that all the injuries were ante-mortem and sufficient to cause death in the ordinary course. She deposed that death was due to cardiorespiratory arrest due to haemorrhagic shock due to intracerebral bleeding and there was fracture to left hemi mandible due to head injury by heavy object. She deposed that all the injuries could be possible because of the stone grinder which was Article 'A'. In the cross-examination, a suggestion was put to her that if a person in a semi-conscious condition falls on the hard surface, then whether the injuries mentioned in Column No. 17 could be possible, to which the said witness has replied in the negative. In the cross-examination, P.W. 7 has admitted that she has not specifically mentioned in the post-mortem that the death of Shabana Arif Shaikh was homicidal or accidental or suicidal.

19. We are of the opinion that there is nothing to disbelieve this witness. Even though P.W. 7 admitted that she did not specifically mention in the post-mortem report that the death of the deceased was homicidal or accidental or suicidal, it is hardly of any significance as it is very apparent from the injuries noted by this witness, that by no stretch

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of imagination can it be said to be a case of accidental or suicidal death.

(c) THE APPELLANT AND THE DECEASED RESIDING TOGETHER :

20. It was vehemently urged by the Ld. Counsel for the Appellant that the circumstance of the Appellant and the deceased residing together at the place of the incident is not established beyond reasonable doubt and therefore the Appellant cannot be connected with the murder of the deceased. In this regard, it would be necessary to analyse the deposition of P.W. 1, the Complainant. P.W. 1 deposed that the Appellant had obtained one room on rent at Shipai Mohalla, Junnar, three months prior to the incident. He deposed that the Appellant was residing there along with his daughter (the deceased), however, both of their sons were residing with him at Chincholi. Although an attempt was made in the cross-examination to dislodge the case of the prosecution that the Appellant and the deceased used to reside together at their dwelling house in Shipai Mohalla, Junnar, the same was unsuccessful and no major discrepancy was brought on record. It would also be necessary to take into consideration the deposition of P.W. 3- Taslim Azim Kadri, friend of the deceased who was also a resident of the same chawl where the Appellant and the deceased were residing. P.W. 3 deposed that she knew the Appellant. She further deposed that three months prior to the

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incident, the Appellant and the deceased came to reside at Junnar. She further explained that she was residing on the ground floor of the chawl and the Appellant along with his family were residing on the first floor of the chawl. This circumstance receives further corroboration by the answer given by the Appellant during his 313 Cr.P.C. statement which reads as under:

> *"Q.4. Further it has come in his evidence that you obtained one rented room at Junnar Shipai Mohalla and you were residing with his daughter there. Your both sons were residing with him at Chincholi as they were educating in the school. Intermittently, he used to meet his daughter at Junnar. What do you want to say about it?*
> *Ans. It is true."*

Therefore, from the evidence of P.W. 1 and P.W. 3, and the positive answer given by the Appellant himself in his 313 Cr.P.C statement, it can be safely deduced that the Appellant was residing at Shipai Mohalla, Junnar with the deceased.

(d) LAST SEEN TOGETHER :

21. The next circumstance is the "Last Seen Together". It will have to be seen whether from the evidence on record, it can be established that the Appellant and the deceased were together at the time of the incident. P.W. 3 deposed that at about 2:00 a.m. at night on 20.06.2011, she was present in her room when she heard noise of quarrel from the house of

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the Appellant between husband and wife, which was accompanied by noise of utensils. She further deposed that after some time, the noise of the quarrel stopped and thereafter, she went to sleep. She further deposed that on the very morning, at about 7:00 a.m., P.W. 5- Azim Jakir Kadari (her husband) came into the house and she informed him that there was noise of quarrel between the husband and wife from the house of the Appellant. She told him to give understanding to them. She further deposed that thereafter, her husband and one Irshad Shaikh went to the house of the deceased and upon returning, informed her that the door of the room of the Appellant was open and the deceased was lying dead in a pool of blood. She also deposed that there was a grinder stone and a pillow and that the Appellant was not there. It was similarly deposed by P.W. 5 that on 20.06.2011 at 7:00 a.m., when he returned home, his wife- P.W. 3 informed him that at 2:00 a.m. in the night, she heard noise of the Appellant and the deceased and asked him to give understanding to the Appellant. He further deposed that when he went upstairs with driver Irshad, he saw one plank of the door was open and the deceased was lying dead in a pool of blood. He further deposed that the Appellant was not there. The stark evidence of P.W. 3 that she heard the Appellant and the deceased quarreling has not been doubted or demolished in the cross-examination. There is no serious challenge to the presence of the

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Appellant at the time of incident at their residence in Shipai Mohalla. There is not even a suggestion put to P.W. 3 to that effect. We therefore find that the presence of the Appellant at the spot of the incident is established and consequently the theory of "Last-seen" which would in a broader sense mean that the accused should be found in the company of the victim before the death, is well established.

22. The Hon'ble Apex Court in the case of ***Trimukh Maroti Kirkan v. State of Maharashtra*** (supra), has held as under :

> *"22. Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime they were seen together or the offence takes place in the dwelling home where the husband also normally resides, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for the commission of the crime..."*

23. In the case of ***Dnyaneshwar v. State of Maharashtra[4],*** the Hon'ble Supreme Court has been pleased to observe as under-

> *"10. It has not been disputed before us that the deceased was murdered in her matrimonial home. It is not the case of the appellant that the offence was committed by somebody else. It is also not his cause that there was a possibility of an outsider to commit the said offence. One of the circumstances which is relevant is that when the couple was last seen in a premises to which an outsider may not have any access. It is for the husband to explain the ground for unnatural death of his wife. "*

24. In the present case it has been established that at the relevant time,

4 Appeal (Crl.) 653 of 2006

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the Appellant was residing with his wife i.e. the deceased, in the said room, which was their dwelling house. The deceased received injuries, which led to her death. However, the Appellant has failed to offer any explanation for such injuries suffered by his wife (deceased). It is not even the case of the Appellant that offence was committed by someone else. The plea of alibi was raised by the Appellant, by contending that he was not present at the spot, but he was at Devlali to meet his ailing mother. But, this is also not found to be plausible and no credence can be placed on this explanation, since there is no evidence led by the accused to prove that he was at Devlali. In the absence of any concrete evidence, the same does not get established and therefore we have no hesitation in holding that this circumstance of "Last-seen" is duly proved. In addition, it will also be pertinent to note that P.W. 7- the doctor also deposed that the estimated time of death was 12 hours prior to the carrying out of the post-mortem. The post-mortem was carried out at 14:00 hours on 20.06.2011. Further, P.W. 3 deposed that she heard the quarrel at 2:00 a.m. at night. Therefore, even to that extent there is corroboration between the evidence of P.W. 3 and P.W. 7 as regards the estimated time of the incident.

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(e) Seizure of blood-stained quilt, blood-stained stone hand grinder, and blood-stained knife

25. As far as seizure of blood-stained quilt, blood-stained stone hand grinder, and blood-stained knife is concerned, the prosecution examined P.W. 2- the panch witness to the spot panchanama. He deposed that on 20.06.2011, he was called by the police at Shipai Mohalla. He deposed that panchanama was going on and the panchanama was prepared in his presence. He deposed that the police seized a blood-stained quilt, one blood-stained stone hand grinder, and one blood-stained iron suri (knife) and prepared a spot panchanama. He deposed that the police sealed the seized articles separately and obtained their signatures on the label. Nothing much could be elicited in his cross-examination and the evidence has virtually gone unchallenged. The prosecution also examined P.W. 6, who was the panch witness for the panchanama of blood-stained clothes of the deceased. P.W. 6 deposed that he was called to Junnar Police Station on 20.06.2011 and the police prepared panchanama of the blood-stained clothes of the lady. He deposed that it was kurta, salwar, and odhani. The kurta-salwar was of saffron color and odhani was of black color and all were blood-stained. He identified the kurta, salwar and odhani in the court. P.W. 8- the I.O., deposed that he drew spot panchanama in the presence of panchas, which is at Exhibit 30, and he

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seized blood-stained stone grinder, blood-stained knife, and blood-stained quilt from the spot of incident, in the presence of panchas and affixed labels signed by the panchas on the muddemal property. He also identified the same in the court. He further deposed that he sent the muddemal to Forensic Science Laboratory (FSL) for analysis. In the re-examination, the I.O. deposed that on 20.06.2011, when he arrested the Appellant, at that time the Appellant had produced his clothes before him and accordingly the clothes were seized in the presence of panchas. He deposed that the seized clothes included- a blood stained sky blue colored shirt having black-yellow label, a blood stained vest, a chocolate-colored underwear and a blood stained green-colored pant. He deposed that he sealed those clothes by wax and affixed labels signed by panchas on it and accordingly drew a seizure panchanama. In the cross-examination of P.W. 8, there is nothing brought on record to discredit the deposition of the said witnesses.

26. Although these witnesses have deposed about the seizure of the blood-stained clothes of the Appellant, the articles from the spot of the incident, and the clothes of the deceased and even the I.O. admitted to having sent the same to FSL for analysis, however, the proseuction has not examined any witness from the FSL or the Chemical Analyzer or for that matter failed to produce or exhibit any documents of the FSL report.

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27. We are of the opinion that all other circumstances having been duly proved by the prosecution, which unerringly points towards the guilt of the Appellant, even if we discount the absence of the FSL report, which is only a corroborative piece of evidence, as held in the case of ***Deepak Madhu Waghmare v. State of Maharashtra***[5]***,*** the chain of circumstances does not get snapped. We are of the opinion that in the peculiar facts of the case, mere absence of FSL report cannot be said to be fatal to the case of the prosecution.

28. The Hon'ble Apex Court in the judgment in the case of ***R. Shaji v. State of Kerala***[6]***,*** which was also a case of circumstantial evidence observed as under:

> *"30. It has been argued by the learned counsel for the appellant, that as the blood group of the blood stains found on the chopper could not be ascertained, the recovery of the said chopper cannot be relied upon.*
>
> *31. A failure by the serologist to detect the origin of the blood due to disIntegration of the serum, does not mean that the blood stuck on the axe could not have been human blood at all. Sometimes it is possible, either because the stain is insufficient in itself, or due to haematological changes and plasmatic coagulation, that a serologist may fail to detect the origin of the blood in question. However, in such a case, unless the doubt is of a reasonable dimension, which a judicially conscientious mind may entertain with some objectivity, no benefit can be claimed by the accused in this regard. Once the recovery is made in pursuance of a disclosure statement made by the accused, the matching or non-matching of blood group (s) loses significance. (Vide : **P**rabhu Babaji Navie v. State of Bombay, Raghav Prapanna Tripathi v. State of U.P., State of Rajasthan v. Teja Ram, Gura Singh v. State of Rajasthan, John Pandian v. State, represented by Inspector of Police, Tamil Nadu, and*

5 2026 SCCOnLine Bom 239

6 (2013) 14 SCC 266

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Dr. Sunil Clifford Daniel v. State of Punjab.)
32. In view of the above, the Court finds that it is not possible to accept the submission that in the absence of a report regarding the origin of the blood, the accused cannot be convicted, for it is only because of the lapse of time, that the blood could not be classified successfully. Therefore, no advantage can be conferred upon the accused to enable him to claim any benefit, and the report of disintegration of blood etc. cannot be termed as a missing link, on the basis of which the chain of circumstances may be presumed to be broken."

29. A suitable reference can also be made to the judgment of the Chhattisgarh High Court in the case of ***Basant Pande v. State of Chhattisgarh, 2017***[7] wherein it has been observed as under:

"11. In addition, the postmortem report Ex. P-1 also shows number of injuries such as blisters on breasts; vagina, protrusion of rectum and eyes, compression of tongue between teeth, presence of ligature mark between the chin and the vocal cord having resemblance with the rope, and the cause of death has been stated to be asphyxia due to strangulation. Though the postmortem report does not indicate the death being homicidal or otherwise, query report Ex. P-3 clearly states that it was homicidal in nature. Seizure of a nylon string was also made on the basis of memorandum of the accused though the FSL report could not be obtained by the prosecution. In the midst of material in plenty establishing the guilt of the accused, mere absence of FSL report cannot be fatal to the case of the prosecution."

30. In one of the latest judgments the Hon'ble Apex Court in the case of ***Vaibhav v. State of Maharashtra***[8] has been pleased to observe as under:

"41. ...The rigid principles underlying an examination based on circumstantial evidence are based on the premise that the very act of arriving at a finding of guilt on the basis of inferences must be performed with great caution and margin of error must be kept at a minimum.

42. Having said so, we may also observe that naturally, there could be some inconsistencies in the chain of circumstances in the natural course of things and mere presence of inconsistencies

7 CRA No. 414 of 2011 – High Court of Chhatisgarh
8 (2025) 8 SCC 315

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> *does not automatically demolish the case of the prosecution. However, the prosecution must be able to explain the inconsistencies to the satisfaction of the Court. For, the ultimate test is the judicial satisfaction of the Court....”*

Thus, it would be pertinent to note that what emerges from the above is that the final test would be that of satisfaction of the judicial conscience which can be said to be satisfied in the present case.

31. Taking into consideration the evidence against the Appellant which establishes the guilt of the Appellant, mere absence of FSL report cannot be said to be fatal to the case of the prosecution. We are of the opinion that on the basis of the circumstances brought on record, the chain of evidence is complete and to us it does not leave any reasonable ground for a conclusion consistent with the innocence of the accused, on the other hand it supports the hypothesis of guilt of the Appellant.

As a result, we pass the following order:

ORDER

i] The Appeal stands dismissed.

ii] Pending Applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J) **(MANISH PITALE, J.)**

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