



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

(1) **CRA-D-652-DB of 2004 (O&M)**

Reserved on:-06.11.2025

Pronounced on:- 14.01.2026

Uploaded on:-15.01.2026

Lala ...Appellant

Vs.

State of Haryana ...Respondent

CRA-D-366-DB of 2005

2.

Irshad ...Appellant

Vs.

State of Haryana ...Respondent

**CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Deepender Singh, Senior Advocate with
Mr. Mohit Thakur, Advocate
Mr. Ram Krishan Rana, Advocate for the appellant(s).

Mr. Rajiv Sidhu, Sr. DAG, Haryana;
Mr. Rajinder Kumar Banku, Sr. DAG, Haryana.

N.S.SHEKHAWAT, J.

1. This judgment shall dispose off two criminal appeals, i.e., **CRA-D-652-DB of 2004** titled as “**Lala Vs. State of Haryana**”, and **CRA-D-366-SB of 2005** titled as “**Irshad Vs. State of Haryana**”, whereby, the appellants have challenged the common impugned judgment and order dated 12.04.2004, vide which, the appellants were convicted for the commission of the offences under Sections 302/34 IPC and were sentenced to undergo imprisonment for life and to pay

fine of Rs.5,000/- each under Section 302 IPC alongwith default stipulation. They were further sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.2000/- each under Section 201 IPC alongwith default stipulation.

2. The FIR Ex.PA/1 in the present case was registered on the basis of the complaint Ex.PA moved by Hukam Chand son of Moti Ram and the same has been reproduced below:-

*“To
The S.H.O.
P.S.City Palwal.*

Sub: regarding missing of driver Ganga Ram and maruti car No. HR-29A/0077 from 30.1.2003.

Sir,

I Hukam Chand s/o Sh. Moti Ram caste Nai am resident of Saini Nagar ward No. 10. My brother Ganga Ram aged about 27 years used to work as driver on the private vehicle of Mahesh Kumar Jain s/o Sh. Trilok Chand Jain, R/o Pirwali Gall. H. No.61. Ward No.2 when on 31.1.2003, he did not reach house in the night, then I went to the house of owner to enquire about him. The owner of the car told him that at his instance he went in the said car to leave Ram Singh s/o Ballam caste Balmiki R/o Madiya Mohalla Palwal and Suresh S/o Sh. Heera Lal caste Balmiki, R/o Jawahar Nagar Camp, Palwal in village Ghasera. When I came to the house of Suresh and Ram Singh then they told that Ram Singh was dropped at Hathin Gate by Ganga Ram driver and when he was proceeding towards camp to drop Suresh, Suresh told that near Chacha Chiken Corner two persons Lala s/o Sh.Khichu, caste Thakur

R/o near Panchwati Road behind Naaz Cinema and Irshad s/o Sh. Idrish caste Muslim, R/o Ganda Nala Geet Palace Cinema got into the car and Suresh was dropped in camp. My brother Ganga Ram has been enticed away in the night of 30.1.2003 alongwith vehicle by Lala and Irshad in order to commit offence.

It is therefore requested that action against the accused persons may be taken immediately. It will be greatness of you.

Dated 03.02.2003

*Applicant
Sd/ in Hindi
Hukam Chand s/o Sh. Moti Ram.
R/o Saini Nagar, Palwal".*

3. After the registration of the FIR, both the accused were arrested by the police on 11.02.2003. In police custody, accused Lala made disclosure statement that he and other co-accused Irshad and Ganga Ram, since deceased, had liquor at Chacha Chiken Corner and a dispute arose between Irshad and Ganga Ram. Firstly, they gave blows to Ganga Ram and then he was taken to tubewell of Master Hari Chand in the area of village Jodhpur. Again, he was beaten up and was strangulated to death, inside the tubewell room with his own muffler. They had put Ganga Ram, since deceased, in a car and the dead body was thrown in the Agra Canal. Irshad also made similar disclosure statement and both the accused led the police and witnesses to the specified place. Lala got recovered pant and shirt of Ganga Ram, since deceased, from a place behind his own tubewell near the tubewell of Master Hari Chand. Irshad, accused also got recovered a

lagging, sweater and shoes of Ganga Ram, deceased in the room of his house. The belongings of deceased were taken into possession by the police and separate recovery memos were prepared in this regard. On 17.02.2003, the dead body of Ganga Ram was recovered in a highly decomposed condition and the postmortem examination was conducted on the dead body. During the course of investigation, both the accused had also identified the place of throwing the dead body and memo in that behalf was also prepared. After completion of investigation, the report under Section 173 Cr.P.C. was prepared by SI Krishan Kumar and was presented before the Court of Area Magistrate.

4. Since, the offence under Section 302 IPC was triable by the Court of Sessions, the case was committed the Court of Sessions Judge, Faridabad. The trial Court found a *prima facie* case under Section 302 read with Section 34 IPC and Section 201 IPC against both the accused and they were ordered to be charge sheeted for the said offences. The charge was read over and explained to the appellants/accused, however, they pleaded that they had been falsely implicated and prayed for holding the trial.

5. In support of the charge, the prosecution examined 12 witnesses in all. PW1 Suresh Kumar stated that on 30.01.2003, he and his maternal uncle Ram Singh had gone to village Ghasera in Maruti car, which belonged to Ramesh Jain. Ganga Ram was the driver. In their return journey, his maternal uncle got down from the car near

meat market in Mariya Mohalla, Palwal. He was going to his residence in Camp Palwal in the same car and at Sohana turn, Irshad and Lala, both the appellants/accused were standing. Irshad signalled the car to stop and both the accused got into the car. Ganga Ram had taken the car to his residence, where Suresh got down and went inside his house. However, Ganga Ram and both the accused/appellants went away in that car.

6. The prosecution further examined PW2 Mahesh Kumar, who stated that he was owner of the Maruti car and had employed Ganga Ram, since deceased, as the driver of his car. In the morning on 30.01.2003, he came to his residence and took the car out on road. He did not know that Ganga Ram and the car were taken away by Suresh and Ram Singh. Further, Ram Singh, told him that he had alighted from the car at meat market, Hathin Gate and Suresh told him that two persons were sitting on Chacha Chiken Corner at Sohana Road. He did not know as to what had happened to Ganga Ram. The prosecution further examined Shiv Lal, ASI, as PW3, who had recorded the formal FIR Ex.PA/1 and made his disclosure statement Ex.PA/2. He had recorded the statements of Mahesh, Suresh and Ram Singh in the present case. PW4 Aanoj Kumar, Draftsman, had prepared the scaled site plan Ex.PC. The prosecution further examined Kartar Singh, ASI, as PW5, who stated that on 02.02.2003, he found a Maruti car HR-29A-0077, which was parked on Anandpur road and he had taken the same into possession. The prosecution

further examined Hukam Chand as PW6, who was the brother of Ganga Ram, since deceased. Hukam Chand PW6 stated that at about 09.30 a.m. on 30.01.2000, his brother left their house in a Maruti car, which belonged to Mahesh Jain. Before leaving the house, Ganga Ram told that he was to go to Ghasera as the car was booked for going to that place. He also informed that two persons were to be carried to Ghasera and he would return in the evening. Ganga Ram returned to Palwal at 08.30 p.m. but he did not come back to his house. On 31.01.2000, he and his brother Billu went to Mahesh Jain and told him that Ganga Ram had returned. Mahesh Jain told that Suresh and Ram Singh had hired the car and had gone to Ghasera. They went to the house of Suresh in Camp Palwal, but he told that both the accused Lala and Irshad had boarded the car. This witness also remained associated during the interrogation of Irshad and Lala and was also a witness to the recoveries made by the police from both the appellants.

7. The prosecution further examined PW7 Man Singh. He deposed that on 17.02.2003, he was working as Head Constable in Police Station Barsana. Hukam Chand, brother of the deceased had moved an application to the effect that the dead body of his brother was lying near the Canal bridge in the area of village Nadholi. The police officials accompanied him and found the dead body lying near the Canal bridge. Amar Singh identified the dead body of his brother Ganga Ram and proceedings under Section 174 Cr.P.C. were

conducted and the dead body was sent for postmortem examination. The prosecution further examined PW8 Puran Singh, who stated that he had not seen the dead body in the Canal. PW9 Rajbir also supported the case of the prosecution. The prosecution further examined PW10 Dharam Pal, ASI, who had conducted the investigation initially. In his presence, both the appellants had suffered their respective disclosure statements and recoveries were made from them. Even, both the accused were identified by the complainant side in his presence. He also got recovered the dead body on 17.02.2003. The prosecution further examined PW11 Krishan Kumar SI, who prepared the report under Section 173 Cr.P.C. and presented the same before the trial Court. Similarly, Dr. C.C. Sharma, appeared as PW12. He had conducted the postmortem examination on 17.02.2003 on the dead body of Ganga Ram and the relevant extract of his testimony is reproduced below:-

“The dead body was in a decomposed state. Rigormortis had disappeared and foul smell was coming out. The features were distorted due to decomposition. The scalp hair and scalp face muscles, the orbital muscle, eye balls were missing. The skull bones were exposed. The right hand was missing from the level of wrist joint. Left upper extremity muscles, at places finger bones of left hand were exposed. The muscles were missing. Left axillary muscle abdominal muscles and pelvic muscles were missing. Only root of penis was present. The remaining part was missing along with the scrotum. Muscle of right thigh, right leg, left leg, left foot and left thigh were

missing. The right leg had separated at the level of knee. Muscles from other parts were also missing. The dead body was seeped with mud. The teeth were in socket but were loose. Eyes, ears, mouth and lips were missing externally. The anus was decomposed urethra was decomposed. The body was in advanced stage of decomposition and for that reason the injury could not be pin pointed. EX.PJ is the postmortem report which bears my signatures. Police made application Ex.PJ/1. The writing Ex. PJ/2 was received from the police. Police papers were received which were initialed by me. The same are Ex.PG. Internal examination showed that the brain membrane had decomposed and the brain was liquefied into a blackish mass. Larynx and trachea were congested. The hyoid bone was fractured. The death was due to strangulation resulting into fracture of hyoid. The lungs were decomposed. Particardial and heart were decomposed. Intestines were missing. The liver, kidneys, spleen were missing. The probable duration of death was about 2 to 3 weeks before the date of postmortem".

8. After the prosecution had completed the evidence, the statements of appellants were recorded under Section 313 Cr.P.C. and the entire incriminating evidence was put to them. Both the appellants stated that they had been falsely involved in the present case and the prosecution witnesses had deposed falsely.

9. Learned senior counsel appearing on behalf of the appellants argued that the appellants had been convicted only on the basis of the statement made by PW1 Suresh, who had allegedly "last seen" the deceased in the company of the appellants. In fact, there

was no evidence to suggest that Ganga Ram, since deceased, was killed immediately after he was allegedly “last seen” in the company of the appellants. Even, it was a case of circumstantial evidence and there was no motive on the part of the appellants to commit the crime. Still further, even the Maruti car, which was allegedly driven by the deceased was found abandon and there was nothing to suggest that the appellants had any concern with the alleged crime. Even otherwise, the “last seen” evidence is a weak type of evidence and it is unsafe to record a conviction, solely on the basis of such evidence. Even, the dead body of Ganga Ram was not properly identified by any of the witnesses and the appellants had been wrongly convicted by the trial Court. Apart from that, even no recovery was effected from the present appellants and it has been wrongly shown that the clothes belonging to the deceased were retained by them. In fact, they had no reason to keep the clothes of the deceased with themselves and this fact alone clearly shows that the recoveries had been planted on them.

10. On the other hand, learned State counsel has vehemently opposed the submissions made by the learned counsel for the appellants. Learned State counsel argued that PW1 Suresh had seen both the appellants in the company of Ganga Ram, since deceased, in the evening of 30.01.2003. Even, it is also apparent from the testimony of PW5 Kartar Singh ASI that on 02.02.2003, the Maruti car of Ganga Ram was found parked on Anandpur Road, near NHPC

Chowk, Mathura. This clearly shows that the murder had already been taken place prior to 02.02.2003. It is also apparent from the testimony of Dr. C.C.Sharma, PW12, who had conducted the postmortem examination on the dead body on 17.02.2003 that the probable duration of death was about 2/3 weeks before the postmortem. Thus, it was apparent that both the appellants had a fight with Ganga Ram, since deceased and after causing him injuries, he was stangled to death by both the appellants. Learned State counsel has further referred to the findings recorded by the trial Court and submitted that the impugned judgment is liable to be upheld by this Court.

11. We have heard the learned counsel for the parties and perused the record.

12. Undoubtedly, the present case is based on circumstantial evidence and before recording a judgment, this Court has to ensure that the chain of circumstances is completed, which irresistibly leads to the conclusion that both the appellants are guilty and no hypothesis contrary to this or compatible with the innocence of the appellants was possible. Even, the prosecution has primarily relied upon three main circumstances to prove the guilt of both the appellants, (a) the appellants were “last seen” in the company of the deceased in the night of 30.01.2003, i.e., immediately before the murder (b) the recoveries of clothes of the deceased at the instance of both the appellants and (c) the place of committing the crime and throwing the dead body of the deceased was duly identified by both the appellants.

13. The Hon'ble Supreme Court in the matter of *Sharad Birdhichand Sarda vs. State of Maharashtra (1984) 4 SCC 116* has laid down the five principles, which must be borne in mind and while appreciating the circumstantial evidence, by making the following observations:-

“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 Sahab Rao 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.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence”.

14. Similarly, the Hon'ble Supreme court in the matter of *Umedbhai Jadavbhai vs. State of Gujarat (1978) 1 SCC 228* held that in a case of circumstantial evidence, there should remain no circumstance, which aligns with the innocence of the accused and the following observations were made:-

“7. It is well-established that in a case resting on circumstantial evidence all the circumstances brought out by the prosecution, must inevitably and exclusively point to the guilt of the accused and there should be no circumstance which may reasonably be considered consistent with the innocence of the accused. Even in the case of circumstantial evidence, the Court will have to bear in mind the cumulative effect of all the circumstances in a given case and weigh them as an integrated whole. Any missing link may be fatal to the prosecution case.” (emphasis supplied) 3 (1978) 1 SCC 228.”

15. By taking into consideration the aforesaid principles of law, we would proceed to sift and discuss the evidence putforth by the

prosecution in the present case, to prove the charge against the appellants. No doubt, the principle of “last seen” is a weak evidence, but in case there is other corroborative evidence against the appellants, it can be safely relied upon by the Courts. The doctrine of “last seen” rests on the logical presumption that where an individual is “last seen” alive in the close company of an accused and soon thereafter found dead, the accused is bound to reasonably account for the circumstances, in which they parted ways as such facts were specifically in the knowledge of the accused. In the present case also, Ganga Ram, since deceased, was “last seen” in the night of 30.01.2003 in the company of both the appellants by PW1 Suresh. Even, both the appellants had taken away Ganga Ram, since deceased, in his car lastly and in the present case also they have not offered any explanation as to where they had got down from the car or had parted with the company of the deceased. The appellants were “last seen” in the company of Ganga Ram in the night of 30.01.2003 and he did not return home the same night, even though, he belonged to the same place. Even, when both the appellants could not explain their conduct, the matter was reported to the police vide FIR Ex.PA/1 by Hukam Chand, PW6, by levelling allegations against both the appellants. Even, the car of Ganga Ram, since deceased, was found abandon on 02.02.2003, which clearly shows that the offence had already taken place prior to that. Thus, the appellants had failed to offer any explanation about when they left the company of the

deceased and in the absence of such an explanation and circumstances, a reasonable inference would be possible that both the appellants had committed homicidal death of Ganga Ram.

16. Apart from that, it has also come on record that both the appellants were interrogated by the police on 11.02.2003. As per the testimony of PW10 ASI Dharam Pal, Lala, appellant made a disclosure statement that he and Irshad took liquor at Chacha Chicken Corner and a dispute arose between Irshad and Ganga Ram, since deceased. Ganga Ram was beaten up and thereafter he was strangulated to death, inside the tubewell room with his own muffler. Ganga Ram, was put by them in a car and was taken to Agra Canal and the dead body was thrown there in the Agra Canal. Irshad also made similar disclosure statement. The appellants then led the police and the witnesses to the specified places and Lala, appellant, got recovered pant and shirt of Ganga Ram, since deceased, behind his own tubewell, near the tubewell of Master Hari Chand. Similarly, in pursuance of his disclosure statement, Irshad, appellant also got recovered a lagging, sweater and shoes of Ganga Ram, since deceased, in a room of his house. Even, all these clothes/shoes were taken into possession by the police vide separate recoveries memos. Both the appellants had also identified the place of abandoning the Maruti car near NHPC Chowk and they got recovered Maruti car bearing registration HR-29A-0077. On 13.02.2003, both the accused/appellants identified the place, i.e., the canal in Chajju Nagar,

where the dead body was thrown and the memo of identification Ex.PH was prepared. He prepared the site plan Ex.PH/1. Ultimately, the dead body was recovered in the area of Police Station Barsana (U.P.). The statement of PW10 Dharam Pal ASI is duly corroborated by the testimony of PW9 Rajbir, who had witnessed the memos regarding the disclosure statement as well as the recovery from both the appellants. Even, both the appellants had made their respective disclosure statements regarding throwing of dead body in Agra Canal and ultimately after great efforts, the dead body was recovered on 17.02.2003 near Barsana in U.P. Even, only both the appellants had the exclusive knowledge of the place where the dead body of Ganga Ram, since deceased, was dumped.

17. Even, in the present case, there was sufficient evidence that Ganga Ram was strangulated to death. After the dead body was recovered, PW12 Dr. C.C. Sharma, from District Hospital, Mathura, had conducted the postmortem examination on the dead body of Ganga Ram. As per him, the dead body was in a decomposed state. Since, the body was in an advance stage of decomposition, the injury could not be pin pointed and he proved on record the postmortem report as Ex.PJ. He further stated that hyoid bone was fractured and the death was due to strangulation, resulting into the fracture of hyoid. Further, the probable duration of death was about 2 to 3 weeks, before the postmortem. Consequently, it was apparent that the medical evidence had also duly supported the case of the prosecution.

18. Even otherwise, we have carefully gone through the findings recorded by the trial Court and find that the trial Court had appreciated the prosecution evidence in the light of settled principle of law. We find no illegality, irregularity or perversity in the impugned judgment and find no reasons to differ with the trial Court.

19. Consequently, in view of the above discussion, the judgment and order dated 12.04.2004 passed by the trial Court are upheld and the present appeal fails and is ordered to be dismissed.

20. The appellant/accused are directed to surrender within 15 days from today, failing which, the CJM concerned shall issue non bailable warrants against the present appellants/accused and shall commit them to custody to serve the remaining sentence of imprisonment.

21. All pending applications, if any, are disposed off, accordingly.

22. The case property, if any, may be dealt with as per the rules.

23. Records of the Court below be sent back.

24. A photocopy of this judgment be also placed on the file of connected case.

**(N.S.SHEKHAWAT)
JUDGE**

**(SUKHVINDER KAUR)
JUDGE**

14.01.2026	Whether reasoned/speaking : Yes/No
<i>amit rana</i>	Whether reportable : Yes/No