

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (D.B) No. 1533 of 2017

with

Cr. Appeal (D.B) No. 1203 of 2017

(Against the judgement of conviction dated 10.04.2017 and the order of sentence dated 12.04.2017 passed by the learned Sessions Judge, West Singhbhum at Chaibasa in Sessions Trial No. 08 of 2015)

Mangra Champia, son of late Jongo Champia, resident of Village-Hakagui, P.O & P.S.-Manoharpur, Chaibasa, District- West Singhbhum, State-Jharkhand.

..... ... **Appellant**

[In Cr. Appeal (D.B) No. 1533 of 2017]

1. Lala Champia, S/o Pator Champia
2. Soma Champia, S/o Late Rendo Champiya

Both are R/o Village- Hakagui, P.S.-Manoharpur, District- Singhbhum West.

..... **Appellants**

[In Cr. Appeal (D.B) No. 1203 of 2017]

Versus

The State of Jharkhand

... ... **Respondent**
(in both the cases)

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellants : Mr. Chandrajit Mukherjee, Advocate
[in Cr. App (DB) No.1533 of 2017]
Mr. Sunil Singh, Advocate
[in Cr. App (DB) No.1203 of 2017]
For the State : Mr. Saket Kumar, APP
[in both the cases]

C.A.V On 03.02.2026

Pronounced on 12/02/2026

Per Sujit Narayan Prasad, J.

1. Since both the appeals arise out of the common judgment of conviction dated 10.04.2017 and the order of sentence dated 12.04.2017 passed by

the learned Sessions Judge, West Singhbhum at Chaibasa in Sessions Trial No. 08 of 2015, as such they have been tagged together and taken up together for analogous hearing and are being disposed of by this common order.

2. These appeals under section 374(2) of the Code of Criminal Procedure, 1973 are directed against the judgment of conviction dated 10.04.2017 and the order of sentence dated 12.04.2017 passed by the learned Sessions Judge, West Singhbhum at Chaibasa in Sessions Trial No. 08 of 2015 whereby and whereunder the appellants, above-named, have been convicted under sections 302/34 of the Indian Penal Code and sentenced to undergo RI for life under section 302/34 of the Indian Penal Code with a fine of Rs.10,000/- each and in default to pay fine amount, they were directed to go further RI for one year for each convicts.
3. The prosecution story, in brief, as per the *fardbayan* of Besangi Champia (since dead) recorded by S.I. Surendra Ravidas officer-in-charge Manoharpur Police Station on 12.03.2014 at about 12:30 hours at Tumsai, Handiburu forest, wherein it is stated that on 11.03.2014 at about 09:00 A.M. informant's son Laxman Champia (deceased) was taken by one co-villager Mangra Champia (appellant herein) for digging foundation of his house at Tumsai Handiburu forest. When the informant's son didn't return to home in the night, then the informant started searching her son hither and thither.
4. On 12.03.2014 at about 07:00 A.M., Mangra Champia himself came to the house of the informant and told that Laxman Champia has been murdered by Soma Champia (appellant) and his son Rendo Champia by assaulting the deceased with stones.

5. Then, informant informed to police about the occurrence and went to Tumsai Handiburu forest along with officer-in-charge of Manoharpur P.S and saw the dead body of her son Laxman Champia, who had sustained crush injury on his head and face with stones and blood was oozing out from his face and his face was crushed. Blood-stained stone was also lying near the dead body. Informant alleged that the incident took place on 11.03.2014 at about 04:00 P.M. Informant claimed that her son was called upon by accused Mangra Champia for laying foundation of his house at Tumsai, Handiburu forest, where in association with Soma Champia and Rendo Champia killed him by assaulting on head and face with stones.
6. On the basis of the *fardbayan* of the informant, Manoharpur P.S. Case No. 18 of 2014 dated 12.03.2014 was registered under sections 302/34 of the IPC. After investigation, the police submitted the charge sheet against the appellants for the offences under sections 302/34 IPC and cognizance of the offence was taken and the case was committed to the Court of Sessions.
7. Charge was framed under section 302/34 of IPC against the appellants and trial commenced and at the conclusion of trial appellants were convicted and sentenced as aforesaid.
8. The aforesaid order of conviction and sentence is under challenge in these appeals.

Submission of the learned counsel for the appellants:

9. Learned counsel appearing for the appellants have taken the following grounds for interfering with the finding recorded by the learned trial Court in the impugned judgment:

- (i) The prosecution has miserably failed to establish the charge said to be proved beyond all reasonable doubt.

(ii) The further ground has been taken that the conviction is under sections 302 /34 of the Indian Penal Code but no any evidence in order to substantiate the common intention among the appellants to the deceased has been laid by the prosecution, as such, there cannot be any conviction against the appellants, in absence of any specific overt act said to be committed by these appellants even if the entire prosecution version will be taken into consideration in entirety.

(iii) It has been stated that the learned trial Court has convicted the appellants for the offence under section 302/34 of the Indian Penal Code without considering the fact that there was no eye witness to the occurrence and only on the basis of information given by co-villager, namely, Mangra Champia (the appellant herein) to the informant, these appellants have been falsely implicated by the informant and as such, it falsifies the statement of the informant about assault and murder of the deceased, hence, the conviction under sections 302/34 of the Indian Penal Code is not sustainable.

(iv) It has been contended that the appellants are alleged to have been convicted on the basis of the statement of the informant who was not the eye witness.

(v) It has been contended that the informant of the case has not been examined in this case as she died during pendency of the trial.

(vi) It has been contended that that the deposition of the witnesses on the point of occurrence is doubtful for the reasons that none of the witnesses had seen the occurrence and they are only the hearsay witness and most of them have denied that they were present at the place of occurrence or they had gone to the place of

occurrence and, as such, the story being concocted with a purpose to falsely implicate the appellants cannot be ruled out.

(vii) It has been contended that seizure list witnesses P.W.-4, P.W.-5 and P.W.-9 to the recovery of blood-soaked earth and blood stained shirts have either turned hostile or did not support the prosecution case.

10. The learned counsel for the appellants, based upon the aforesaid grounds, have submitted that the judgment of conviction passed by the learned trial Court convicting the appellants under sections 302/34 of the Indian Penal Code, therefore, is not sustainable and fit to be set aside.

Submission of the learned counsel for the State:

11. On the contrary, the learned Additional Public Prosecutor appearing for the State has defended the impugned judgment of conviction and order of sentence by taking the following grounds:

(i) The conviction under section 302/34 of the Indian Penal Code against these appellants does not suffer from an error, since, ample evidence has been produced by the prosecution.

(ii) Informant herself has not been examined in the present case as she died during the trial but PW2 have supported the prosecution story and, therefore, appellants have been rightly convicted under section 302 /34 of the Indian Penal Code, as such, the impugned judgment does not require any interference.

(iii) The argument has been advanced that the ample material has been produced by the prosecuting agency who established the case under sections 302/34 of the Indian Penal Code so far as the appellants are concerned since the fact has come in course of

evidence produced by PW2 that these appellants had taken away the deceased on the pretext of digging foundation of house at Tumsai Handiburu forest and later on he was found dead.

(iv) The argument has also been advanced that PW2 has supported the prosecution version supported by the medical evidence.

12.The learned State counsel, based upon the aforesaid premise, has submitted that the impugned judgment so far as these appellants are concerned, does not suffer from any error and does not require any interference under section 302/34 of the Indian Penal Code, hence, these criminal appeals are fit to be dismissed.

Analysis

13.We have heard learned counsel for the parties, perused the documents available on record as also the finding recorded by the trial Court in the impugned judgment.

14. We have also gone through the testimonies of the witnesses as available in the Trial Court Records as also the exhibits appended therewith.

15.Learned trial Court, based upon the testimonies of witnesses, has passed the judgment of conviction and has convicted the appellants under Sections 302/34 of the Indian Penal Code and sentenced them to undergo RI for life under section 302/34 of the Indian Penal Code with a fine of Rs.10,000/- each and in default of payment of fine they are directed to undergo RI of one year to each convict.

16.This Court, before considering the argument advanced on behalf of the parties, is now proceeding to consider the testimonies of witnesses which have been recorded by the learned trial Court.

17. It is evident from the record that in order to substantiate the case, the prosecution has altogether examined eleven witnesses out of whom P.W.-1 Manohar Champia, P.W.-3 Sukhlal Champia, P.W.-7 Saluka Champia, P.W.-8 Ladura Manki and P.W.-9 Maheshwar Melgandi, (seizure list witness) had been declared hostile by the prosecution.
18. Remanning other witnesses are P.W.-2 Kedar Champia, who is the step-son of the informant and step-brother of the deceased; P.W.-4 Sikur Champia and P.W.-5 Lodro Champia; are seizure list witness, P.W.-6 Dr. Prince Pingua had conducted Postmortem examination on the dead body of the deceased; P.W.-10 S.I. Umesh Prasad, who is investigating officer of the case and P.W.-11 Surendra Ravidas was the then officer-in-charge of Manoharpur police station.
19. Apart from oral testimony of witnesses, following documentary evidences have also been produced which have been marked as exhibits:
- (i) Ext-1 - Signature of Sikur Champia (PW-4) on fardbeyan.
 - (ii) Ext-1/1 - Fardbeyan.
 - (iii) Ext-1/2 - Endorsement on fardbeyan for registration of case.
 - (iv) Ext-1/3 - Signature of PW-11 S. Ravidas on fardbeyan.
 - (v) Ext-2 - Signature of Sikur Champia (PW-4) on memo of arrest of accused Mangra Champia.
 - (vi) Ext-3 - Signature of Sikur Champia (PW-4) on seizure list.
 - (vii) Ext-3/1 - Seizure list of blood-stained soil and blood-stained stones.
 - (viii) Ext-3/2 - Signature of PW-11 Surendra Ravidas on seizure list.
 - (ix) Ext-4 - Signature of Sikur Champia (PW-4) on seizure list.
 - (x) Ext.4/1 - Signature of Maheshwar Melgandi (PW-9) on seizure list.
 - (xi) Ext.4/2 - Seizure list of two blood-stained T-Shirts.
 - (xii) Ext.-4/3 - Signature of PW-11 Surendra Ravidas on seizure list.
 - (xiii) Ext.5 - P.M. Report of deceased Laxman Champia.
 - (xiv) Ext.6 - Inquest report (carbon copy).
 - (xv) Ext.6/1 - Signature of PW-11 Surendra Ravidas on inquest report.
 - (xvi) Ext.7 - S.F.S.L. Report No.461/14 dated 12.02.15.
 - (xvii) Ext.7/1 - S.F.S.L. Report No.461/14 dated 30.04.14.

20. P.W2- Kedar Champia is the step brother of the deceased. He had deposed in his evidence that deceased Laxman Champia was killed two years ago in Chereburu forest, where Mangra (appellant) was constructing his house. Laxman Champia had gone for digging foundation for Mangra's house, where he was killed. This witness further stated that his house is 2 K.M., away from Laxman's house and he had no information about the incident and the informant Besangi (since dead) had told him that Soma Champia, Rendo Champia and Lala Champia had killed Laxman Champia. Besangi had also told that one day prior to the incident accused Mangra Champia had taken Laxman for digging foundation, but, when Laxman did not return to home then Besangi had searched her son. P.W.-2 further stated that he had not seen dead body of Laxman(deceased).

21. In his cross-examination, P.W.-2 stated that he had not seen the house under construction of Mangra. He cannot say who had accompanied Laxaman for digging the foundation of Mangra's house. There was old land dispute continuing between Mangra Champia and Besangi.

22.P.W.4-Sikur Champia had put his signature on the *fardebayan* of the informant which has been marked as Ext.-1. He had also put his signature on the arrest memo of Mangra Champia and put his signature on the seizure memo of blood stained stone and blood-soaked earth which has been marked as Ext.-2 and Ext.-3 respectively. P.W.-4 had further stated that after arrest of Mangra, the dead body of Laxman was found from the Handiburu forest. After the arrest of Mangra Champia, police had called him at the house of Soma Champia and police had prepared seizure list (two blood stained shirt), on which he had signed and his signature on it

was marked as Ext.-4. At para-7 he had stated that Besangi Champia (the informant) had told him that Laxman Champia was murdered.

23.P.W-4 in his cross-examination stated that he did not go to Handiburu forest and the place where the foundation was being dug. At paragraph-11, P. W.-4 stated that neither police had seized blood-soaked earth and blood stained stone nor seizure list of it was prepared in his presence and police had called him at the police station where officer-in-charge had taken his signature. Further, at paragraph-13, P.W-4 stated that in his presence, police did not recover any article from the house of accused Soma Champia. At para-14 he has stated that he had put his signature on all the papers at the police station and police had neither shown him any seized articles at police station nor he had read over to him what was written on all these papers. At para-15, he has stated that when Mangra Champia and Soma Champia were arrested, he was not present at that time. At para-16 he stated that he did not go to police station along with Besangi Champia (informant) and on the next day, the police had called him at police station and he had put his signature on the *fardbeyan*. At para-18 he has stated that daroga *jee* didn't read over to him, what was written in the *fardbeyan* and he had signed on the *fardbeyan* as *daroga jee* had instructed him.

24. P.W5-Lodro Champia has stated in his evidence that blood-soaked earth and blood stained stones were seized from Tumsai forest and he had put his thumb impression over the seizure memo prepared by the police.

25.In his cross -examination, he has stated that he had not seen anyone killing Laxman Champia. Mangra Champia, Soma Champia and Lala Champia were not arrested in his presence. At para-5, he has stated that the police did not seize blood-soaked earth and blood stained stone in his presence

and at paragraph-6, he has stated that *daroga jee* had called him at police station and instructed him to put his thumb impression on a paper.

26. P.W6- Dr. Prince Pingua, is the doctor who had conducted postmortem over the dead body of Laxman Champia on 13.03.2014 and found the following injuries:

External Findings:

- (i) *Rigor Mortis present in Lower Limbs only (Receding Stage).*
- (ii) *Lacerated wound in left fronto-parietal region of Skull 6" x ½" x deep to cranial cavity approximately in size with crushed wound in face, blood & blood clot present in wound bed.*
- (iii) *Abrasion in both left and right knee.*
- (iv) *Abrasion in both left and right wrist.*

Internal Findings:

Head & Neck:

Head-

(i) *Fracture of left side frontal and fracture of parietal bone of same side with laceration of brain matter, blood and blood clot present in cranial cavity.*

(ii) *Fracture of Left maxillary bone and injury of neck muscles and vessels, food pipe, wind pipe. Fracture of thyroid bone.*

Thorax: *Blood and blood clot present below the subcutaneous tissue of front of the chest. Multiple fracture of Ribs of the both side of chest, Lacerated both lungs with chest cavity present blood & blood clot.*

Heart- *Left Chamber empty and right chamber scanty blood present.*

Abdomen: *Stomach empty, other visceral organs -Liver, spleen, kidney, look pale and intact.*

Time Since death- *24 to 40 hours.*

Cause of death- *Above mentioned Head injury and hemorrhage is sufficient to cause she death caused by hard and blunt substances.*

In his cross-examination, the doctor stated that due to hard and blunt substances the death was caused and the death of the time of the deceased was early morning.

27. Although P.W.-9 Maheshwari Malegandi, has been declared hostile by the prosecution but since he is the seizure list witness to the recovery of

two shirts from the house of accused Soma Champia, therefore his evidence is crucial for appreciation of the evidences. He has identified his signature on the seizure list which was marked as Ext.-4/1. He has deposed that *daroga jee* had called him at the police station and had taken his signature.

28. In his cross-examination, he had stated that he did not tell before the police that on 12.03.2014, officer-in -charge had recovered one blood stained full check shirt white in colour and one blood stained full shirt cream in colour from inside the house of accused Soma Champia.

29. P.W.-10 Umesh Prasad is the investigating officer of the case. Investigating officer has stated in his evidence that on 12.03.2015, he was posted at Manoharpur police station on the post of A.S.I., and on that day informant Besangi had come to the police station and informed that her son Laxman was killed. Investigating officer further stated that after receiving the information from Besangi Champia (the informant) he along with the Officer-in-charge-Surendra Ravidas and other police personnel went to the place of occurrence at Tumsai Handiburu forest where they found the dead body of Laxman Champia.

30. The Investigating officer further stated that at the place of occurrence, the *fardbeyan* of Besangi Champia was recorded by the officer-in-charge Surendra Ravidas which was in his handwriting and signature, which he identified and the *fardbeyan* was marked as Ext.-1/1. He has also identified and proved the carbon copy of inquest report which was prepared by officer-in-charge-Surendra Ravidas and the inquest report was marked as Ext.-6, seizure lists were marked as Ext-3/1 and 4/2 respectively. He further identified and proved endorsement on *fardbeyan* which has been marked as Ext-1/2.

31. He had arrested accused Mangra Champia from village-Hakagui Lohratoli. At para-15, he has stated that on 14.03.2014 on information from the villagers, namely, Dakua, Sikur Champia, that they kept hold Soma Champia upon which he went there and arrested accused Soma Champia and recorded his confessional statement and on the basis of which he arrested Lala Champia (appellant in Cr. Appeal (D.B) No. 1203 of 2017). Further this witness described the place of occurrence stating that the place of occurrence is at a distance of 5 K.M. from Manoharpur P.S towards North-East at Village-Tumsai Handiburu forest, at a lonely place surrounded with mountains and there were no houses nearby the place of occurrence, near the mountain there was some plain lands, where he found the foundation of house and he also found blood-stained earth in the foundation. He prepared sketch map of the place of occurrence. He raided the house of accused persons, but they were absconding from their houses. He sent the blood-soaked earth and blood-stained two shirts to S.F.S.L., Ranchi for chemical examination.

32. P.W.-11-Surendra Ravidas is the then officer-in-charge of Manoharpur P.S., has stated in his evidence that on 12.03.2014, he was posted as officer-in-charge of Manoharpur P.S. and on that day at about 11 AM, Besangi Champia (informant) came at the police station and informed that her son had been killed. On this information, he along with other police personnel went to Handiburu forest, where they found the dead body of Laxman Champia.

33. He recorded the fardbeyan of the informant over which Besangi Champia had put her thumb impression. He has identified his handwriting and signature over it and proved the *fardbeyan* which has been marked as Ext-1/3. He had also identified his signature on the seizure list prepared by

A.S.I-Mukesh Kumar, on his instruction which has been marked as Ext.-3/2. He has also identified the seizure list of two blood-stained shirts which were seized from the house of accused-Soma Champia, identified and proved his signature over the inquest report which was prepared by A.S.I-Mukesh Kumar on his instruction which has been marked as Ext.4/3 and Ext.6/1 respectively.

34. Now this Court is adverting to the contention of the learned counsel for the parties wherein the learned counsel for the appellants has mainly taken the ground that there is no eye witness to the occurrence and the seizure list witnesses to the recovery of blood soaked earth, blood stained stone and alleged blood stained shirts turned hostile and, hence, no chain of circumstance is complete therefore, the conviction of these appellants under Section 302/34 of IPC is not sustainable in the eye of law.

35. On the other hand, learned APP appearing for the State has stated that the chain of circumstance is complete and the discrepancies so pointed out by learned counsel for the appellants are not enough to disbelieve the prosecution story.

36. This Court, on the basis of the aforesaid factual aspect vis-à-vis argument advanced on behalf of parties, is now proceeding to examine the legality and propriety of the impugned judgment of conviction and order of sentence by formulating following questions to be answered by this Court:

- (I) Whether on the basis of the testimony of the witnesses can it be said to be a case based on circumstantial evidence or if it based upon the circumstantial evidence the chain is being completed or not?

- (II) Whether all the seizure list witnesses, either turning hostile or not supporting the prosecution case, are enough to disbelieve the case of the prosecution?
- (III) Whether the alleged recovery of the blood stain shirts which was said to be recovered from the house of accused/appellant Soma Champia, can be treated as cogent evidence in order to prove the culpability of the appellants in the alleged commission of crime.

37. Since all the aforesaid issues are inextricably interlinked, the same are being decided hereinbelow by taking them together.

38. This Court, after referring the impugned judgment and adverting to the testimony as recorded in course of the trial of the witnesses produced on behalf of the prosecution has found that none of the witnesses in their examination -in-chief or in cross-examination have deposed that they have seen alleged commission of crime particularly in terms of manner of assault on the deceased Laxman Munda and also nothing has been said about recovery of the incriminating material used in commission of crime.

39. Further this Court find from the impugned judgment that learned trial Court, inter alia, has convicted the appellants observing that prosecution has established the existence of blood stained T-shirt in the house of accused/appellant Soma Champai and the same was within the knowledge of accused persons/appellants Mangra Champia and Soma Champai.

40. It is further evident from impugned order that the learned trial Court while convicting the appellants has taken into consideration the earlier statement of P.W.-1 Manohar Champia, P.W.-3 Sukhlal Champia, P.W.-7 Saluka Champia recorded before the police under Section 161/162 of Cr.P.C. It is

pertinent to mention herein that all the aforesaid prosecution witnesses have been declared hostile before the trial Court.

41. Since as per the evidence before the trial Court, it is evident that P.W.-1 Manohar Champia, P.W.-3 Sukhlal Champia, and P.W.-7 Saluka Champia who have been claimed in their statement before police that they had seen the alleged occurrence, have been declared hostile, therefore, this Court is now adverting to analyse and appreciate the circumstances that whether on the basis of the circumstantial evidence the culpability of the appellant can be proved or not. Therefore, this Court think it apposite to refer to certain authorities pertaining to delineation of cases that hinge on circumstantial evidence.

42. There is no quarrel with the settled position of law that in the case of circumstantial evidence, the chain should be complete, then only there will be conviction of the concerned accused person, as has been laid down by the Hon'ble Apex Court in the case of *Hanumant son of Govind Nargundlar vs. State of Madhya Pradesh, AIR 1952 SC 343* wherein it has been held that "It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt 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. Again, the circumstances should be of a conclusive nature and tendency 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 far complete as not to 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."

43. The same view has been taken by the Hon'ble Apex Court in *Bakhshish Singh vs. State of Punjab, (1971) 3 SCC 182* wherein the Hon'ble Apex Court has observed that the principle in a case resting on circumstantial evidence is well settled that the circumstances put forward must be satisfactorily proved and those circumstances should be consistent only with the hypothesis of the guilt of the accused. These circumstances should be of a conclusive nature and tendency 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 far complete as not to 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.

44. The Hon'ble Apex Court while laying down such proposition in the said case has considered the factual aspect revolving around therein and while considering the fact has only found the incriminating evidence against the appellant was his pointing the place where the dead body of the deceased had been thrown which the Hon'ble Apex Court has not considered to be circumstantial evidence though undoubtedly it raises a strong suspicion against the appellant. The Hon'ble Apex Court while coming to such conclusion has observed that even if he was not a party to the murder, the appellant could have come to know the place where the dead body of the deceased had been thrown. Hence anyone who saw those parts could have inferred that the dead body must have been thrown into the river near about that place. In that pretext, the law has been laid down at paragraph-9 thereof, which reads as under:

"9. The law relating to circumstantial evidence has been stated by this Court in numerous decisions. It is needless to refer to them as the law on the point is well-settled. In a case resting on circumstantial evidence, the circumstances

put forward must be satisfactorily proved and those circumstances should be consistent only with the hypothesis of the guilt of the accused. Again, those circumstances should be of a conclusive nature and tendency 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 far complete as not to 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."

45. It is, thus, evident from the close analysis of the aforesaid judgments, the following conditions must be fulfilled before a case against an accused can be said to be fully established:

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

(ii) 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,

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

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

(v) 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.

46. The Hon'ble Apex Court has reiterated the said principle again in the case of "***Sharad Birdhichand Sarda vs. State of Maharashtra***", (1984) 4 SCC 116 holding all the above five principles to be the golden principles which constitute the panch-sheel of the proof of a case based on circumstantial evidence. The Hon'ble Apex Court in the said case as under paragraph-155, 156, 157, 158 and 159 has been pleased to hold that if these conditions are fulfilled only then a Court can use a false explanation or a false defence as an additional link to lend an assurance to the court and not otherwise. Paragraphs-155, 156, 157, 158 and 159 of the said judgment read as under:

"155. It may be interesting to note that as regards the mode of proof in a criminal case depending on circumstantial evidence, in the absence

of a corpus delicti, the statement of law as to proof of the same was laid down by Gresson, J. (and concurred by 3 more Judges) in King v. Horry [1952 NZLR 111] thus: "Before he can be convicted, the fact of death should be proved by such circumstances as render the commission of the crime morally certain and leave no ground for reasonable doubt: the circumstantial evidence should be so cogent and 2025:JHHC:13669-DB compelling as to convince a jury that upon no rational hypothesis other than murder can the facts be accounted for."

156. Lord Goddard slightly modified the expression "morally certain" by "such circumstances as render the commission of the crime certain".

157. This indicates the cardinal principle of criminal jurisprudence that a case can be said to be proved only when there is certain and explicit evidence and no person can be convicted on pure moral conviction. Horry case [1952 NZLR 111] was approved by this Court in Anant Chintaman Lagu v. State of Bombay [AIR 1960 SC 500] Lagu case [AIR 1960 SC 500] as also the principles enunciated by this Court in Hanumant case [(1952) 2 SCC 71] have been uniformly and consistently followed in all later decisions of this Court without any single exception. To quote a few cases -- Tufail case [(1969) 3 SCC 198] , Ramgopal case [(1972) 4 SCC 625] , Chandrakant Nyalchand Seth v. State of Bombay [Criminal Appeal No 120 of 1957,], Dharambir Singh v. State of Punjab [Criminal Appeal No 98 of 1958,]. There are a number of other cases where although Hanumant case [(1952) 2 SCC] has not been expressly noticed but the same principles have been expounded and reiterated, as in Naseem Ahmed v. Delhi Administration [(1974) 3 SCC 668, 670] , Mohan Lal Pangasa v. State of U.P. [(1974) 4 SCC 607,] , Shankarlal Gyarasilal Dixit v. State of Maharashtra [(1981) 2 SCC 35, 39] and M.G. Agarwal v. State of Maharashtra [AIR 1963 SC 200 : (1963) 2 SCR 405,] -- a five-Judge Bench decision.

158. It may be necessary here to notice a very forceful argument submitted by the Additional Solicitor General relying on a decision of this Court in Deonandan Mishra v. State of Bihar [AIR 1955 SC 801] to supplement his argument that if the defence case is false it would constitute an additional link so as to fortify the prosecution case. With due respect to the learned Additional Solicitor-General we are unable to agree with the interpretation given by him of the aforesaid case, the relevant portion of which may be extracted thus: "But in a case like this

where the various links as stated above have been satisfactorily made out and the circumstances point to the appellant as the probable assailant, with reasonable definiteness and in proximity to the deceased as regards time and situation. such absence of explanation or false explanation would itself be an additional link which completes the chain."

159. It will be seen that this Court while taking into account the absence of explanation or a false explanation did hold that it will amount to be an additional link to complete the chain but these observations must be read in the light of what this Court said earlier viz. before a false explanation can be used as additional link, the following essential conditions must be satisfied: (1) various links in the chain of evidence led by the prosecution have been satisfactorily proved, (2) the said circumstance points to the guilt of the accused with reasonable definiteness, and (3) the circumstance is in proximity to the time and situation."

47. The foremost requirement in the case of circumstantial evidence is that the chain is to be completed. In ***Padala Veera Reddy v. State of A.P. [1989 Supp (2) SCC 706*** the Hon'ble Apex Court held that when a case rests upon circumstantial evidence, the following tests must be satisfied:

"10. ... (1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established; (2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused; (3) 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 none else; and (4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence."

48. In ***Ram Singh v. Sonia (2007) 3 SCC 1***, while referring to the settled proof pertaining to circumstantial evidence, the Hon'ble Apex Court reiterated the principles about the caution to be kept in mind by court. It has been stated therein as follows:

"39. ... in a case depending largely upon circumstantial evidence, there is always a danger that conjecture or suspicion may take the place of legal proof. The court must satisfy itself that various circumstances in the chain of events have been established clearly and such completed chain of events must be such as to rule out a reasonable likelihood of the innocence of the accused. It has also been indicated that when the important link goes, the chain of circumstances gets snapped and the other circumstances cannot in any manner, establish the guilt of the accused beyond all reasonable doubts."

49. Thus, it is evident that for proving the charge on the basis of circumstantial evidence, it would be necessary that evidence so available must induce a reasonable man to come to a definite conclusion of proving of guilt; meaning thereby there must be a chain of evidence so far it is complete as not to 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.

50. Now re-adverting to the factual aspect of the case. The informant of the case namely Besangi Champia, who is the mother of the deceased Laxman Champia, was not examined, as she died during the trial.

51. On going through the record, this court finds that in the present case there are two sets of seizure list- one seizure list pertains to blood-soaked earth recovered from village -Tumsai at Handiburu forest and the other seizure list is related to seizure of two blood stained full shirts from inside the house of accused/appellant Soma Champia.

52. This court finds that P.W.4-Sikur Champia and P.W5-Lodro Champia are the seizure list witnesses to the seizure of blood-soaked earth and blood stained stone, recovered from village Tumsai at Handiburu forest, but none of these witnesses have fully supported the prosecution case in their examination- in -chief in relation to recovery of blood-soaked earth and blood stained stone, in their presence.

53. On going to the deposition P.W.-4-Sikur Champia, this Court finds that P.W.-4 has stated in his cross-examination at paragraph-11 that police had neither seized blood-soaked earth and blood stained stone nor seizure list of it was prepared in his presence and police had called him at the police station where officer-in-charge had taken his signature, for ready reference the relevant paragraph is being quoted as under:

“11. मेरे सामने पुलिस खून लगा मिट्टी और खून लगा पत्थर जप्त नहीं किया था और जप्ती सूची भी नहीं बना था। थाना में बुलाकर दरोगाजी हस्ताक्षर कराये थे।”

54. Likewise, P.W5-Lodro Champia at paragraph-5 and 6 of his cross-examination has stated that police did not seize blood-soaked earth and blood stained stone in his presence and *daroga jee* had called him at police station and instructed him to put his thumb impression on a paper, for ready reference the relevant paragraph is being quoted as under:

प्रतिपरीक्षण:-

4. पुलिस ने मंगरा चाम्पिया, सोमा चाम्पिया और लाला चाम्पिया को कहां से गिरफ्तार किया और क्यों गिरफ्तार किया था, मैं नहीं जानता। मैं इन लोगों को गिरफ्तार करते भी नहीं देखा।

5: खून लगा पत्थर एवं खून लगा मिट्टी पुलिस मेरे सामने जप्त नहीं की थी।

6. दरोगाजी मुझे थाना बुलाकर कागज पर टीपा लगाने बोले थे।

55. Hence, both the seizure list witnesses P.W.4-Sikur Champia and P.W5-Lodro Champia, to the seizure of blood-soaked earth and blood stained stone, have denied in their cross-examination that seizure of blood-soaked earth and blood stained stone, were made in their presence. So, the testimony of both the witnesses was not shaken in the cross-examination and hence, raises suspicion/doubt about the veracity of the prosecution case.

56. Now, coming to the seizure of two blood stained full shirts alleged to be recovered from inside the house of accused/appellant Soma Champia. This

Court finds that P.W.4-Sikur Champia and P.W.-9 Maheshwari Malegandi are seizure list witnesses to the alleged seizure of two blood stained full shirts alleged to be recovered from inside the house of the accused/appellant Soma Champai.

57. In regard to alleged seizure of two blood stained full shirts, P.W.4-Sikur Champia at paragraph-13 of his cross-examination had deposed that in his presence, police did not recover any article from the house of accused/appellant Soma Marandi. Further, at para-14 he has stated that he had put his signature on all the papers at the police station and police had neither shown him any seized articles at police station nor he had read over to him what was written on all these papers, for ready reference the relevant paragraphs of the testimony are being quoted as under:

13. मेरे सामने सोमा चम्पिया के घर से पुलिस कोई सामान बरामद नहीं किया था।

14, सभी कागजातों पर मैंने थाना पर हस्ताक्षर किया था। जप्ती का कोई भी सामान मुझे थाना में नहीं दिखलाया गया था। दरोगाजी इन सभी कागजों में क्या लिखा हुआ था, मुझे पढ़कर नहीं सुनाये थे।

58. Further, another seizure list witness P.W.-9 Maheshwari Malegandi, to the alleged seizure of two blood stained full shirts from inside the house of accused/appellant Soma Marandi, turned hostile and in his cross-examination he denied that he had stated before the police that on 12.03.2014, officer-in -charge had recovered one blood stained full check shirt white in colour and one blood stained full shirt cream in colour from inside the house of the accused/appellant Soma Champia, for ready reference the relevant paragraph is being quoted as under:

विरोधी घोषित, अभियोजन को जिरह की अनुमति दी गयी:-

4. ऐसी बात नहीं है कि पुलिस मेरा बयान लिया था और अपने बयान में कहा था कि दिनांक 12.3.14 को थाना प्रभारी, मनोहरपुर ग्राम हाकागुट गोपटोला स्थित सोमा चम्पिया के

मकान के अंदर अलगनी पर टंगा हुआ एक खून लगा उजला चेकदार फुल शर्ट और एक खून लगा कीम कलर का फुल शर्ट जप्त किया था।

59.Hence, both P.W.4-Sikur Champia and P.W.-9 Maheshwari Malegandi, who are seizure list witnesses to the alleged seizure of two blood stained full shirts alleged to be recovered from inside the house of appellant Soma Champia, have not supported the case of prosecution on the point of alleged seizure.

60.Further, ongoing through paragraph-15 of the impugned judgment, this Court finds that the learned trial Court, had not accepted the specific defence of the appellants that seized shirts were not stained with blood and gave its finding on the basis of F.S.L. Report that seized shirts were stained with blood of deceased of 'B' Group.

61.Hence, to analyse the specific defence of the appellants raised before the learned trial court that seized shirts were not stained with blood, this court is going through the statement of the accused/appellants Mangra Champia and Soma Champia under section 313 of Cr.P.C. and also the report of F.S.L. Laboratory, Ranchi.

62. Here, it is pertinent to note that two blood stained shirts were alleged to be recovered from inside the house of accused/appellant Soma Champia on the saying of accused/appellants Mangra Champia.

63. This Court finds that question was put to the accused/appellant Mangra Champia that after his arrest and on his saying two blood stained shirts were recovered from the house of the accused/appellant Soma Champia and to this accused/appellant Mangra Champia had accepted about recovery of shirts, but he stated that there was no blood stain on the recovered shirt.

64. Further, ongoing through the statement of the accused/appellant Soma Champia under section 313 of Cr.P.C., this court finds that question was put to him that on 12.02.2014, one blood stained full check shirt white in colour and one blood stained full shirt cream in colour, were seized from inside his house in presence of witnesses Maheshwar Malegandi (P.W.9) and Sikur Champia (P.W.-4) and to this question accused/appellant Soma Champia stated that police had come to his house and at that time he was not at his house and on the instance of accused/appellant Mangra Champia recovery of the shirt was made from his house.

65. Further, this Court finds from perusal of the F.S.L. Report, that F.S.L. Laboratory, Ranchi, had received cartoon marked as 'C' containing one full sleeve shirt and one-half shirt, which were marked C/1 and C/2 respectively in the laboratory.

66. In the result of examination, it was found that blood detected in Ext.-C/1 was too small for serological test and about Ext.-C/2 one-half shirt, laboratory noted that blood was detected in Ext.-C/2 which was of human origin with 'B' Group.

67. But, ongoing through the seizure list Ext.-4/2 of seized shirts alleged to be recovered from inside the house of accused/appellant Soma Champia, this Court finds that in the seizure list seizure of two full shirts - one full check shirt white in colour and another full shirt cream in colour, are shown. But it is evident from the F.S.L. report that F.S.L. Laboratory, Ranchi, had received cartoon marked 'C' containing one full sleeve shirt and one-half shirt, which is contradictory to alleged seizure wherein it has been stated that two blood stained full shirts have been seized.

68. Hence, it appears that one full shirt alleged to be recovered from the house of accused/appellant Soma Champi, was not sent to F.S.L. Laboratory,

Ranchi, and instead of that one half shirt which was marked as Ext.-C/2 by the F.S.L. Laboratory was sent to the laboratory which was not recovered from the house of accused/appellant Soma Champia.

69.Hence, the facts remain that in the said half shirt blood was detected, but no any recovery of half shirt is shown in the seizure list Ext.-4/2 said to be recovered from the house of accused/appellant Soma Champia.

70.Hence, the learned trial Court ignoring the statement of the accused/appellants Mangra Champia and Soma Champia under section 313 of Cr.P.C and without properly appreciating the report of F.S.L. Laboratory, Ranchi, gave the finding that shirts recovered from the house of accused/appellant Soma Champia, were stained with blood which is not sustainable in the eyes of law.

71.Thus, from the aforesaid discussion it is evident that seizure list witnesses P.W.-4, P.W-5 and P.W-9 either turning hostile or not supporting the prosecution case and further there is contradiction in the recovery of the blood-stained shirt as discussed hereinabove, this Court is of the view that in the present case, chain of the circumstances is not completed herein.

72.Further, from impugned order it is evident that the learned trial Court while convicting the appellants has taken into consideration the earlier statement of P.W.-1 Manohar Champia, P.W.-3 Sukhlal Champia and P.W.-7 Saluka Champia recorded before the police under Section 161/162 of Cr.P.C but the said witnesses have been declared hostile before the trial Court then question arises herein whether the statement recorded before the police under Section 161/162 of Cr.P.C can be the sole basis of the conviction of the appellants in absence of cogent evidence.

73. It needs to refer herein that in criminal trials, statements recorded by the Police during the course of any investigation cannot be used for any

purpose during the trial except to contradict the witness as provided under Section 145 of the Evidence Act, 1872. The police officer has the power to examine the witnesses who are acquainted with the facts and circumstances of the case as provided under Section 161 of the Code of Criminal Procedure, 1973. The investigating officer will invariably reduce into writing any statement made by the witness before him in accordance with Section 161(3) of the Code of Criminal Procedure, 1973 and the said statements will be a part of the final report (charge-sheet) to be submitted under Section 173 of the Code of Criminal Procedure, 1973 to the Magistrate concerned. Section 162 of the Code of Criminal Procedure, 1973 provides that such statements made to the police officer by any person is not required to be signed and it further imposes a bar for use of such statements for any other purpose except as provided under the proviso to the said section.

74. Further the statements recorded under Section 161(3) of the Code of Criminal Procedure, 1973 are not substantive piece of evidence and the Court cannot suo motu make use of such statements in case if the testimony of the witness made during the trial is not consistent with the statement made before the police during the course of investigation.

75. Further Section 145 of the Indian Evidence Act, 1872, provides that before using the previous statement of a witness for contradiction the attention of the witness be called upon to those parts of the statement recorded by the police under Section 161 of the Criminal Procedure Code which are to be used for the purpose of contradicting the witness to give an opportunity to explain the inconsistency between the evidence in Court in witness box and statement given before the police under Section 161 of the Code of Criminal Procedure, 1973.

76. Hence, previous statement, recorded by police during investigation, can only be used for contradiction after attention of witness drawn to it to those part of the statement recorded under Section 161 of the Criminal Procedure Code which is intended to use for contradiction. This view to find favour in decisions reported in *A.I.R. 1959 S.C., 1012(Tahsildar Singh & Anr. Vrs. State of U.P.) and 1989 Cr.L.J., 1876 (Md. Badruddin Vrs. State of Assam) and A.I.R. 1926 Pat, 20 (Badri Chaudhary & Ors. Vrs. King Emperor)*.

77. However, it is pertinent to mention that Section 172 of the Criminal Procedure Code provides the use of the case diary by the Court, but, Section 172(2) of the Criminal Procedure Code provided that any criminal Court may use the case diary to aid it during enquiry and trial, but, at the same time it has also prohibited that the case diary cannot be used as an evidence in a case. Moreover, it is well settled that a Judge is in error in making use of police diary, at all, in his judgment and seeking confirmation of his opinion on question of appreciation of evidence from statement contained in those diaries. However, only proper use he could make of this diary is one allowed by Section 172(3) of the Criminal Procedure Code as the words "if the Court use for the purpose of contradiction the provision of Section 161 of the Criminal Procedure Code or Section 145 of the Indian Evidence Act, 1872, as the case may be of the Indian Evidence Act, 1872, shall apply and, hence, Section 172 provides to use it to aid and the Court cannot look into the case diary for contradicting a witness, as Section 172 of the Criminal Procedure Code, itself, provides for contradiction the provision of Section 145 has to be complied and this view has been supported by the view rendered by the

Hon'ble Apex Court in the case of **Habeeb Mohammad Vrs. State of Hyderabad A.I.R. 1954 S.C. 51.**

78. Recently, in *Alauddin & Ors. vs State of Assam & Anr., (2024) SCC OnLine SC 760*, the Hon'ble Supreme Court again considered the manner in which a prosecution witness may be cross-examined with the help of their prior statement. Referring to Section 162 of the Code of Criminal Procedure, 1973 and Section 145 of the Indian Evidence Act, the Supreme Court has observed as below:

"6.The basic principle incorporated in sub-Section (1) of Section 162 is that any statement made by a person to a police officer in the course of investigation, which is reduced in writing, cannot be used for any purpose except as provided in Section 162. The first exception incorporated in sub-Section (2) is of the statements covered by clause (1) of Section 32 of the Indian Evidence Act, 1872 (for short, 'Evidence Act'). Thus, what is provided in sub-Section (1) of Section 162 does not apply to a dying declaration. The second exception to the general rule provided in sub-Section (1) of Section 162 is that the accused can use the statement to contradict the witness in the manner provided by Section 145 of the Evidence Act. Even the prosecution can use the statement to contradict a witness in the manner provided in Section 145 of the Evidence Act with the prior permission of the Court. The prosecution normally takes recourse to this provision when its witness does not support the prosecution case. There is one important condition for using the prior statement for contradiction. The condition is that the part of the statement used for contradiction must be duly proved."

79. Specifically, with respect to Section 145 of the Indian Evidence Act, the Supreme Court observed as below:

"8.The Section operates in two parts. The first part provides that a witness can be cross-examined as to his previous statements made in writing without such writing being shown to him. Thus, for example, a witness can be cross-examined by asking whether his prior statement exists. The second part is regarding contradicting a witness. While confronting the witness with his prior statement to prove contradictions, the witness must be shown his prior statement. If there is a contradiction between the statement made by the witness before the Court and what is recorded in the statement recorded by the police, the

witness's attention must be drawn to specific parts of his prior statement, which are to be used to contradict him. Section 145 provides that the relevant part can be put to the witness without the writing being proved. However, the previous statement used to contradict witnesses must be proved subsequently. Only if the contradictory part of his previous statement is proved the contradictions can be said to be proved. The usual practice is to mark the portion or part shown to the witness of his prior statement produced on record. Marking is done differently in different States. In some States, practice is to mark the beginning of the portion shown to the witness with an alphabet and the end by marking with the same alphabet. While recording the cross-examination, the Trial Court must record that a particular portion marked, for example, as AA was shown to the witness. Which part of the prior statement is shown to the witness for contradicting him has to be recorded in the cross-examination. If the witness admits to having made such a prior statement, that portion can be treated as proved. If the witness does not admit the portion of his prior statement with which he is confronted, it can be proved through the Investigating Officer by asking whether the witness made a statement that was shown to the witness. Therefore, if the witness is intended to be confronted with his prior statement reduced into writing, that particular part of the statement, even before it is proved, must be specifically shown to the witness. After that, the part of the prior statement used to contradict the witness has to be proved. As indicated earlier, it can be treated as proved if the witness admits to having made such a statement, or it can be proved in the cross-examination of the concerned police officer. The object of this requirement in Section 145 of the Evidence Act of confronting the witness by showing him the relevant part of his prior statement is to give the witness a chance to explain the contradiction. Therefore, this is a rule of fairness."

80. Further, the impact of Section 162 (1) of the 1898 Code (S.162 (1) of the 1973 Cr.P.C.) and its proviso on Section 145 of the Evidence Act in relation to the “previous statement in writing” of a prosecution witness recorded by an investigating Police Officer under Section 161 of the 1898 Code (S.161 (3) of the 1973 Cr.P.C.) was considered in the celebrated verdict of a Constitutional Bench of the Hon’ble Supreme Court of India in *Tahsildar Singh v. State of U.P. AIR 1959 SC 1012* wherein the Hon’ble Apex Court has observed that since the said “statement” under Section 161 (3) Cr.P.C. can be looked into only for “contradicting” a prosecution witness in view of the proviso to Section 162 (1) Cr.P.C., it is the latter limb of Section 145 of the Evidence Act alone which can be made use of by the cross-examining counsel.

81. Admittedly, herein the P.W.-1 Manohar Champia, P.W.-3 Sukhlal Champia and P.W.-7 Saluka Champia have been declared hostile by the prosecution and during the cross-examination on behalf of the prosecution their attention was drawn towards their previous statements recorded under Section 161 Cr.P.C. before the investigating officer and they had resiled from their previous statement recorded before the Investigating Officer. Further from perusal of testimony of I.O. who had been examined as P.W.10 it is evident that he had stated before the Court in his evidence that P.W.-1 Manohar Champia, P.W.-3 Sukhlal Champia and P.W.-7 Saluka Champia have supported the case of the prosecution during their statement reoriented by him, but the question arises herein can the conviction of the appellants be based upon the testimony of the investigating officer in absence of other corroborative evidence.

82. It needs to refer herein that this Court has already observed in the preceding paragraphs that none of the seizure list witnesses have supported the case of the prosecution and also there is vital contradiction on the point of recovery of the blood-stained shirts from the house of accused/appellant Soma Champia, therefore it is considered view of this Court that in absence of corroborative piece of evidence the testimony of Investigating Officer is not fit to be accepted in entirety and as such conviction of the appellants in these circumstances cannot be only based upon the testimony of investigating officer.

83. Accordingly, all the issues have been answered.

84. Further at this juncture it requires to refer herein the settled proposition of law that the principle of 'benefit of doubt' belongs exclusively to criminal jurisprudence. The pristine doctrine of 'benefit of doubt' can be invoked when there is reasonable doubt regarding the guilt of the accused,

reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of *State of Haryana Vrs. Bhagirath & Ors.*, reported in *(1999) 5 SCC 96*, wherein, it has been held at paragraph-7 as under: -

"7. The High Court had failed to *consider the implication of the evidence of the two eyewitnesses on the complicity of Bhagirath particularly when the High Court found their evidence reliable. The benefit of doubt was given to Bhagirath "as a matter of abundant caution". Unfortunately, the High Court did not point out the area where there is such a doubt. Any restraint by way of abundant caution need not be entangled with the concept of the benefit of doubt. Abundant caution is always desirable in all spheres of human activity. But the principle of benefit of doubt belongs exclusively to criminal jurisprudence. The pristine doctrine of benefit of doubt can be invoked when there is reasonable doubt regarding the guilt of the accused. It is the reasonable doubt which a conscientious judicial mind entertains on a conspectus of the entire evidence that the accused might not have committed the offence, which affords the benefit to the accused at the end of the criminal trial. Benefit of doubt is not a legal dosage to be administered at every segment of the evidence, but an advantage to be afforded to the accused at the final end after consideration of the entire evidence, if the Judge conscientiously and reasonably entertains doubt regarding the guilt of the accused.*"

85. It needs to refer herein that the Hon'ble Apex Court, in the case of *Allarakha K. Mansuri v. State of Gujarat* reported in *(2002) 3 SCC 57* has laid down the principle that the golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted, for ready reference, paragraph 6 thereof requires to be referred herein which reads hereunder as :-

"6. -----*The golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to*

his innocence, the view which is favourable to the accused should be adopted.
—"

86. It needs to refer herein before laying down the aforesaid view, the Hon'ble Apex Court in the case of "***Sharad Birdhichand Sarda v. State of Maharashtra (Supra)*** has already laid down the same view at paragraph 163 which is required to be referred which read hereunder as-

"163. We then pass on to another important point which seems to have been completely missed by the High Court. It is well settled that where on the evidence two possibilities are available or open, one which goes in favour of the prosecution and the other which benefits an accused, the accused is undoubtedly entitled to the benefit of doubt.---"

87. Further, it is also settled connotation of law that the prosecution has to prove the charge beyond all reasonable doubt in order to prove the charges against the accused.

88. The Hon'ble Apex Court in catena of decision has propounded the proposition that in the criminal trial, there cannot be any conviction if the charge is not being proved beyond all reasonable doubts, as has been held in the case of ***Rang Bahadur Singh & Ors. Vrs. State of U.P.***, reported in **(2000) 3 SCC 454**, wherein, at paragraph-22, it has been held as under:-

"22. The amount of doubt which the Court would entertain regarding the complicity of the appellants in this case is much more than the level of reasonable doubt. We are aware that acquitting the accused in a case of this nature is not a matter of satisfaction for all concerned. At the same time we remind ourselves of the time-tested rule that acquittal of a guilty person should be preferred to conviction of an innocent person. Unless the prosecution establishes the guilt of the accused beyond reasonable doubt a conviction cannot be passed on the accused. A criminal court cannot afford to deprive liberty of the appellants, lifelong liberty, without having at least a reasonable level of certainty that the appellants were the real culprits. We really entertain doubt about the involvement of the appellants in the crime."

89. Likewise, the Hon'ble Apex Court in the case of Krishnegowda & Ors.

Vrs. State of Karnataka, (Supra), has held at paragraph-26 as under: -

"26. Having gone through the evidence of the prosecution witnesses and the findings recorded by the High Court we feel that the High Court has failed to understand the fact that the guilt of the accused has to be proved beyond reasonable doubt and this is a classic case where at each and every stage of the trial, there were lapses on the part of the investigating agency and the evidence of the witnesses is not trustworthy which can never be a basis for conviction. The basic principle of criminal jurisprudence is that the accused is presumed to be innocent until his guilt is proved beyond reasonable doubt."

90. This Court, after having discussed the factual aspect and legal position as discussed hereinabove, is of the view that since the prosecution has miserably failed to prove the charges against the appellants beyond all reasonable doubt as such the impugned judgment of conviction and order of sentence requires interference by this Court.

91. Accordingly, the impugned judgement of conviction dated 10.04.2017 and the order of sentence dated 12.04.2017 passed by the learned Sessions Judge, West Singhbhum at Chaibasa in Sessions Trial No. 08 of 2015 is hereby quashed and set aside so far, the present appellants are concerned.

92. Accordingly, both these criminal appeals stand allowed.

93. The appellant, namely, Mangra Champia [in Cr. Appeal (D.B) No.1533 of 2017] and the appellants, namely, Lala Champia and Soma Champia [in Cr. Appeal (D.B) No.1203 of 2017] are acquitted of the charge under section 302/34 of the Indian Penal Code.

94. Since the appellants, namely, Lala Champia and Soma Champia [in Cr. Appeal (D.B) No.1203 of 2017] are on bail vide order dated 12.02.2018 passed by a co-ordinate Bench of this Court, as such, they are discharged of the liability of the bail bonds furnished by them.

Mr. Saket Kumar, the learned APP submits that the appellant-Mangra Champia [in Cr. Appeal (DB) No.1533 of 2017] is in custody.

95. Since, the appellant, namely, Mangra Champia [in Cr. Appeal (D.B) No.1533 of 2017] is in custody and, as such, he shall be set free forthwith, if not wanted in connection to any other criminal case.
96. Pending Interlocutory Applications, if any, stand disposed of.
97. Let a copy of this Judgment be sent to the concerned Court/Jail Superintendent through Fax/Special Messenger for release of the appellant, Mangra Champia [in Cr. Appeal (D.B) No.1533 of 2017] forthwith.
98. Let the Trial Court Records be sent back to the Court concerned forthwith, along with the copy of this Judgment.

(Sujit Narayan Prasad, J.)

I Agree.

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

Sudhir
Jharkhand High Court,
Dated: 12/02/2026
AFR

Uploaded on 12/02/2026