



2026:CGHC:20320-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Judgment Reserved on : 22.04.2026

Judgment Delivered on : 01.05.2026

CRREF No. 4 of 2025

In Reference of State of Chhattisgarh

--- Applicant

Versus

Shankar Nishad S/o Roop Singh Nishad Aged About 25 Years R/o
Village Sukhda, Thana Dabhra, District Sakti C.G.

--- Non-Applicant

(Cause-title taken from Case Information System)

For Applicant/State : Mr. Shashank Thakur, Additional Advocate
General assisted by Ms. Anusha Naik, Deputy
Government Advocate

For Non-applicant : Mr. Ankit Pandey, Advocate

CRA No. 193 of 2026

Shankar Nishad S/o Rup Singh Nishad, Aged About 25 Years R/o
Village Sukhda, Police Station Dabhra, District Sakti (C.G.)

--- Appellant

Versus

State of Chhattisgarh Through The Station Dabhra, District Janjgir-
Champa (C.G.) Present District Shakti (C.G.)

--- Respondent

(Cause-title taken from Case Information System)

For Appellant : Mr. Ankit Pandey, Advocate

For Applicant/State : Mr. Shashank Thakur, Additional Advocate
General assisted by Ms. Anusha Naik, Deputy
Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

CAV Judgment

Per Ramesh Sinha, Chief Justice

1. The appellant herein, namely Shankar Nishad, has been awarded the sentence of death by the learned Special Judge under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Janjgir, District Janjgir-Champa (C.G.) in Special Sessions Trial No.80/2022 vide judgment dated 16.12.2025, after having found him guilty for offences punishable under Sections 364, 376 and 302 of the Indian Penal Code, 1860 (for short, "IPC"). The learned Trial Court, upon a detailed appreciation of the oral and documentary evidence adduced by the prosecution, has recorded a finding that the prosecution has been able to establish the guilt of the accused beyond reasonable doubt in respect of the aforesaid offences. While returning such finding of conviction, the trial Court has taken into consideration the nature of evidence, including the testimony of material witnesses, medical and forensic evidence, as well as the surrounding circumstances forming a complete chain pointing towards the culpability of the accused. Upon hearing the accused

on the question of sentence and after evaluating the aggravating and mitigating circumstances, the learned Trial Court has imposed capital punishment and directed that the appellant be hanged by neck till death for the offences under Sections 376 and 302 IPC, along with imposition of fine, and has further awarded sentence under Section 364 IPC, as specified in the impugned judgment.

2. The learned Special Judge, Janjgir, District Janjgir-Champa, in exercise of powers conferred under Section 366 of the Code of Criminal Procedure, 1973 (for short, 'CrPC') (corresponding to Section 407 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS')), having passed a sentence of death, has made a reference to this Court for confirmation of the said sentence, as required under law. It is settled that a sentence of death passed by a Court of Session does not attain finality unless confirmed by the High Court. In compliance with the statutory mandate, the entire records of the case have been transmitted for independent scrutiny by this Court.
3. Accordingly, the present Criminal Reference No.4/2025 has been placed before this Court for consideration, along with Criminal Appeal No.193/2026 preferred by the accused/appellant, wherein the legality, correctness and propriety of the impugned judgment of conviction and order of sentence have been assailed. Both the death reference and the criminal appeal are, therefore, being considered together for comprehensive adjudication on merits.

4. The case of the prosecution, as borne out from the record, is that the deceased/victim, aged about 25 years, was employed as a peon in the Family Court at Bemetara. On 09.08.2022, she had come to her native village Khairmuda on leave. On 14.08.2022 at about 09:00 a.m., she left her house on her Scooty (Activa) bearing registration No. CG-11-AV-2212, informing her family members that she was proceeding to Bemetara. However, she did not reach her destination and her whereabouts remained unknown. Despite efforts made by her family members and inquiries from relatives and villagers, no trace of the victim could be found. On 15.08.2022, the father of the victim (PW-01) lodged a missing person report, which was registered as Missing Person Case No.62/2022 at Police Station Dabhra (Ex. P-35). During the course of inquiry, suspicion arose against the accused, who was known to the victim. Statements of the father of victim (PW-01) and younger sister of the deceased (PW-02) revealed that the accused had been in regular contact with the victim over mobile phone. On this basis, the call detail records (CDR) and customer application forms (CAF) (Ex. P-47, P-48, P-34A) were obtained.
5. The investigation further revealed, on the basis of electronic evidence including CCTV footage supported by certificate under Section 65-B of the Evidence Act (Ex. P-23, P-45), that on 14.08.2022 at about 11:18 a.m., the accused was seen taking the victim as a pillion rider on her Scooty (Activa) towards the Palgada Valley area and was seen returning alone at about 12:04

p.m. It was also established that the mobile phone of the victim was switched off after 11:00 a.m., thereby corroborating the prosecution case.

6. During investigation, the accused was interrogated and his memorandum statement (Ex. P-03) was recorded under Section 27 of the Evidence Act. In his disclosure statement, he admitted that he had accompanied the victim, taken her to a secluded forest area at Junadih Sajapali, Palgada Ghat, where he restrained her by tying her hands, gagged her by stuffing leaves into her mouth, and thereafter committed forcible sexual intercourse with her. He further disclosed that he assaulted the victim and caused her death.
7. Pursuant to the memorandum statement, the dead body of the victim was recovered (Ex. P-04) and identified by her relatives vide identification panchnama (Ex. P-05). Spot map (Ex. P-21) and inquest panchnama (Ex. P-10) were prepared. Articles from the spot and belongings of the deceased were seized vide seizure memos (Ex. P-08, P-11, P-12, P-14, P-24). The vehicle (Activa) and helmet were also seized and identified (Ex. P-15).
8. The post-mortem examination was conducted (Ex. P-41 & P-42) by PW-08 Dr. Priti Ijardar and PW-12 Dr. Jai Agrawal, and the medical evidence conclusively established that the death was homicidal in nature. The injuries found on the body of the deceased, coupled with the medical opinion, clearly indicated sexual assault and violent death. The seized articles were sent

for forensic examination (Ex. P-25, P-27) and DNA analysis vide Ex. P-30, which further corroborated the involvement of the accused in the crime. The FSL report and DNA report established the presence of biological material linking the accused with the offence. The mobile phone analysis, CDR reports and electronic evidence further strengthened the chain of circumstances.

9. During investigation, it was also found that the deceased belonged to a Scheduled Tribe community, and accordingly, Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act') was added (Ex. P-19).
10. Upon completion of investigation, charge-sheet was filed against the accused for offences under Sections 364, 376, 302, 201 IPC and Section 3(2)(v) of the Atrocities Act.
11. The prosecution, in order to establish its case, examined as many as 19 witnesses, including the father of the deceased (PW-01), sister (PW-02), relatives (PW-03 to PW-05), independent witnesses (PW-06, PW-07), medical experts (PW-08, PW-12), and investigating officers (PW-17, PW-18, PW-19), and exhibited documentary evidence Ex. P/01 to Ex. P/48 along with material objects.
12. After appreciation of the entire evidence, the learned trial Court acquitted the accused of the charges under Section 201 IPC and Section 3(2)(v) of the Atrocities Act, however, held that the prosecution has successfully proved beyond reasonable doubt

that the accused had kidnapped the victim, committed rape upon her and thereafter murdered her. Accordingly, the accused was convicted under Sections 364, 376 and 302 IPC.

13. The chain of circumstances established by the prosecution, namely, last seen evidence, electronic evidence (CCTV and CDR), memorandum statement leading to recovery, medical and forensic evidence, and conduct of the accused, was found to be complete and consistent only with the hypothesis of guilt of the accused, leaving no reasonable ground for a conclusion consistent with his innocence.
14. In the light of the prosecution case and the material available on record, the following questions arise for consideration in the present matter by the Trial Court :
 - Whether the accused, on 14.08.2022 at or about 09:00 a.m. within the jurisdiction of Police Station Dabhra, District Janjgir-Champa (Chhattisgarh), kidnapped or enticed the victim under false pretext with the intention of taking her to a secluded place?
 - Whether the accused, on the said date, took the victim to the forest area of Junadih Sajapali, Palgada Ghat, and committed rape upon her against her will and without her consent?

- Whether the accused, on the same date and place, intentionally caused the death of the victim and thereby committed the offence of murder?
 - Whether the accused, after committing the said offences, caused disappearance of evidence of the crime or attempted to screen himself from legal punishment by concealing the body of the deceased?
 - Whether the accused, knowing that the victim belonged to a Scheduled Tribe community, committed the offence of rape and murder attracting the provisions of Section 3(2)(v) of the Atrocities Act?
- 15.** The learned trial Court, upon appreciation of the entire oral and documentary evidence, has held the following incriminating circumstances to be proved against the accused:
- **Last Seen Evidence:** The prosecution has firmly established, through cogent ocular and electronic evidence, that the accused was last seen in the company of the deceased on 14.08.2022. The testimonies of prosecution witnesses, duly corroborated by CCTV footage (Ex. P/23, P/45), clearly depict the accused accompanying the victim on her Scooty (Activa) towards the isolated area of Palgada valley. Significantly, the footage further shows the accused returning alone shortly thereafter, thereby giving rise to a strong incriminating circumstance. In the absence of any

plausible explanation from the accused as to the fate of the victim thereafter, this circumstance assumes great evidentiary value and constitutes a vital link in the chain of circumstances.

- **Prior Acquaintance and Trust:** It stands proved from the statements of PW-01 and PW-02, as well as the call detail records (Ex. P/47, P/48), that the accused and the deceased were well acquainted and in regular communication prior to the incident. The relationship between the two was such as to inspire confidence and trust in the mind of the victim. The accused, exploiting this position of familiarity and trust, lured the victim to accompany him to a secluded location, thereby facilitating the commission of the offence. This element of breach of trust further aggravates the culpability of the accused.
- **Memorandum Statement and Discovery:** The memorandum statement of the accused (Ex. P/03), recorded in accordance with law, led to the discovery of crucial facts, most notably the recovery of the dead body of the deceased (Ex. P/04) from a concealed location. This discovery, being directly attributable to the disclosure made by the accused while in custody, is admissible under Section 27 of the Evidence Act and constitutes a highly incriminating circumstance. The fact that the accused alone had

knowledge of the place where the body was concealed further strengthens the prosecution case.

- **Recovery and Seizure of Articles:** Pursuant to the disclosure made by the accused, several incriminating articles were recovered and seized under duly prepared seizure memos (Ex. P/08, P/11, P/12, P/14). These include the personal belongings of the deceased, articles found at or near the place of occurrence, as well as the scooter (Activa) of the deceased, which had been taken away by the accused and was subsequently recovered at his instance from the railway station. The recovery of the said scooter (Activa) from a public place like the railway station, at the behest of the accused, assumes considerable significance, as it establishes his exclusive knowledge and possession, thereby directly connecting him with the movement of the victim and the commission of the offence. The cumulative effect of these recoveries further fortifies the chain of circumstances and establishes an unbroken link between the accused and the crime.
- **Medical and Forensic Evidence:** The post-mortem reports (Ex. P/41 & P/42), duly proved by the medical experts (PW-08 and PW-12), conclusively establish that the death of the victim was homicidal in nature. The nature, location, and extent of injuries found on the body are consistent with a violent assault coupled with sexual violence. The medical

findings unequivocally negate any possibility of accidental or natural death. Furthermore, the FSL and DNA reports (Ex. P/27, P/30) lend strong corroboration to the prosecution case by scientifically linking the accused with the crime and the victim.

- **Electronic Evidence (CDR and Location):** The call detail records and location analysis (Ex. P/47, P/48) provide a technological corroboration of the prosecution version by establishing the presence and movement of the accused along with the deceased towards the place of occurrence. The convergence of location data with the timeline of events further reinforces the prosecution case and eliminates the possibility of false implication.
- **Conduct of the Accused:** The conduct of the accused before and after the incident constitutes an additional incriminating circumstance. Notably, the accused has failed to offer any credible explanation as to the circumstances under which the victim, last seen in his company, disappeared and was subsequently found dead. His false and evasive answers further strengthen the inference of guilt and provide an additional link in the chain of circumstances.
- **Completeness of Chain of Circumstances:** The prosecution has successfully established a complete and coherent chain of circumstances, each link of which has been proved beyond reasonable doubt. The cumulative effect of

these circumstances is consistent only with the hypothesis of the guilt of the accused and wholly inconsistent with any hypothesis of innocence. There is no missing link in the chain, and the circumstances unerringly point towards the culpability of the accused.

- **Nature of the Crime:** The offence in question is marked by extreme brutality and depravity. The accused, after luring the victim to a secluded area, committed acts of sexual assault followed by her murder in a cold-blooded manner. The vulnerability of the victim, coupled with the calculated manner in which the offence was executed, reflects a high degree of moral turpitude and callousness on the part of the accused.
- **Rarest of Rare Case:** Having regard to the manner of commission of the offence, the vulnerability of the victim, the breach of trust reposed in the accused, and the brutality involved, the learned trial Court has opined that the case falls within the category of the “rarest of rare cases.” The aggravating circumstances, in the opinion of the trial Court, outweigh any mitigating factors, thereby justifying the imposition of capital punishment.

16. Feeling dissatisfied and aggrieved by the judgment of conviction and the order of sentence dated 16.12.2025 passed by the learned Special Judge under Atrocities Act, Janjgir, District Janjgir-Champa (C.G.) in Special Sessions Trial No.80/2022, the appellant herein has preferred Criminal Appeal No.193/2026

under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, calling in question the legality, validity and propriety of his conviction for the offences punishable under Sections 364, 376 and 302 IPC, with particular challenge to the imposition of capital punishment.

17. At the same time, the learned Special Judge under Atrocities Act, Janjgir, District Janjgir-Champa (C.G.), in compliance with the mandate contained in Section 366(1) of the Code of Criminal Procedure, 1973 (corresponding to Section 407 of the BNSS), has submitted the proceedings of the case to this Court for confirmation of the sentence of death.
18. Mr. Ankit Pandey, learned counsel appearing for the appellant/accused, has assailed the impugned judgment of conviction and order of sentence with considerable vehemence and depth, contending that the learned Trial Court has committed a grave and manifest error of law in awarding the extreme penalty of death in a wholly mechanical, cursory, and perfunctory manner, without adhering to the well-settled constitutional and legal principles governing capital sentencing. It is submitted that the application of the “rarest of rare” doctrine by the Trial Court is not only superficial but also illusory, inasmuch as the Court has failed to undertake the mandatory, structured, and individualized sentencing analysis, which requires a careful, rational, and reasoned balancing of aggravating and mitigating circumstances. According to learned counsel, the impugned judgment proceeds

on an impermissible and legally untenable assumption that the brutality or heinousness of the offence, by itself, is sufficient to justify the imposition of capital punishment, thereby completely disregarding the jurisprudential safeguards evolved to prevent arbitrary deprivation of life.

- 19.** Elaborating further, learned counsel submits that the learned Trial Court has failed to record any categorical or reasoned finding to the effect that the alternative sentence of imprisonment for life was unquestionably foreclosed, which is an indispensable precondition for the imposition of the death penalty. It is argued that the sentencing exercise undertaken by the Trial Court is manifestly arbitrary and suffers from non-application of mind, as it does not reflect any meaningful or substantive consideration of the mitigating circumstances placed on record. Particular emphasis is laid on the fact that the appellant is a young individual, with no prior criminal antecedents, belonging to a modest socio-economic background, and had been in prolonged judicial custody. Despite noticing these aspects, the Trial Court has failed to assign any rational or proportionate weight to them, thereby reducing the sentencing process to a mere formality rather than a constitutionally guided exercise.
- 20.** Mr. Pandey further submits that the conclusion recorded by the Trial Court that the appellant is incapable of reformation or rehabilitation is wholly unfounded, perverse, and unsupported by any legally admissible evidence on record. It is contended that

such a sweeping and decisive finding has been arrived at merely on conjectures, assumptions, and subjective perceptions of the Court, without there being any objective material, empirical data, psychological assessment, or expert opinion to substantiate the same. Learned counsel submits that in the absence of any material demonstrating that the appellant is beyond reform or poses a continuing threat to society, the settled legal position mandates that the benefit must tilt in favour of life imprisonment rather than capital punishment. The failure of the Trial Court to adopt such a cautious and principled approach, it is urged, renders the sentencing order constitutionally vulnerable.

- 21.** Assailing the conviction itself, learned counsel submits that the entire prosecution case rests solely on circumstantial evidence and is devoid of any direct or ocular testimony. It is argued that in such a case, the law requires that each and every incriminating circumstance must be firmly and conclusively established, and all such circumstances must form a complete and unbroken chain leading only to the hypothesis of the guilt of the accused, to the exclusion of every other possible hypothesis consistent with innocence. According to learned counsel, the circumstances relied upon by the prosecution in the present case suffer from serious inconsistencies, gaps, and missing links, and do not meet the stringent standard required for sustaining a conviction. It is further contended that the possibility of an alternative hypothesis

has not been effectively ruled out, thereby rendering the conviction itself unsafe and legally unsustainable.

- 22.** Learned counsel has also drawn pointed attention to serious forensic and evidentiary infirmities which, according to him, strike at the very root of the prosecution case. It is submitted that no DNA profiling or comparison test has been conducted to scientifically establish any nexus between the appellant and the alleged offences of rape and murder, which assumes critical importance in a case of this nature. The absence of such scientific evidence, it is argued, creates a significant gap in the chain of circumstances and leaves room for reasonable doubt. It is further contended that the electronic evidence relied upon by the prosecution has not been proved in accordance with the mandatory legal requirements governing its admissibility, particularly with regard to certification and authenticity. The reliance placed on such defective and inadmissible material, according to learned counsel, has caused serious prejudice to the appellant and has vitiated the findings recorded by the Trial Court.
- 23.** In continuation, it is also submitted that the Trial Court has erred in placing reliance on isolated and uncorroborated circumstances, which neither individually nor cumulatively establish the guilt of the appellant beyond reasonable doubt. The prosecution evidence, it is urged, is fraught with inconsistencies and lacks the degree of certainty required in criminal jurisprudence, especially

in a case involving capital punishment. Learned counsel emphasizes that where the evidence itself is doubtful or susceptible to multiple interpretations, the law mandates that the interpretation favourable to the accused must be adopted, and in such circumstances, the imposition of the irreversible punishment of death is wholly impermissible.

24. In sum and substance, learned counsel submits that the impugned judgment suffers from serious legal, factual, and constitutional infirmities, both in respect of the finding of guilt and the imposition of sentence. It is urged that the death penalty awarded in the present case is grossly disproportionate, arbitrary, and contrary to settled principles of law. The learned counsel, therefore, prays that this Court may be pleased to set aside the conviction and sentence recorded by the learned Trial Court. In the alternative, it is submitted that even if the conviction is upheld, the sentence of death deserves to be commuted to imprisonment for life, in the interest of justice and in conformity with constitutional safeguards.
25. In further buttressing his submissions, learned counsel has placed strong reliance upon the authoritative pronouncements of the Hon'ble Supreme Court in ***Anvar P.V. v. P.K. Basheer and others, (2014) 10 SCC 473, Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal and others, (2020) 7 SCC 1,*** and the recent decision in ***Pooranmal v. State of Rajasthan and another, 2026 SCC OnLine SC 344,*** to contend that compliance

with Section 65B of the Indian Evidence Act is not a mere procedural formality but a mandatory pre-condition for the admissibility of electronic evidence. It is submitted that the law has now been conclusively settled that any electronic record, including CCTV footage, call detail records, or digital data, is inadmissible in evidence unless accompanied by a valid and duly proved certificate under Section 65B(4), issued by a competent person having lawful control over the device. Learned counsel submits that in the present case, the prosecution has failed to strictly adhere to these mandatory requirements, as the certificates produced are either defective, incomplete, or not proved in accordance with law. It is further argued that the absence of proper certification goes to the root of admissibility and cannot be cured at a later stage. Consequently, the entire electronic evidence relied upon by the prosecution becomes legally inadmissible and cannot be read in evidence, thereby demolishing a crucial link in the chain of circumstances.

- 26.** Per contra, Mr. Shashank Thakur, learned Additional Advocate General, ably assisted by Ms. Anusha Naik, learned Deputy Government Advocate, opposes the submissions advanced on behalf of the appellant and supports the impugned judgment of conviction and order of sentence in its entirety. It is submitted that the learned Trial Court has meticulously appreciated the entire oral as well as documentary evidence available on record and has rightly returned a finding of guilt against the appellant, which

does not suffer from any perversity, illegality, or infirmity warranting interference by this Court.

- 27.** Learned State counsel submits that the prosecution has been able to establish a complete and unbroken chain of circumstances, which conclusively points towards the guilt of the appellant and rules out every hypothesis consistent with his innocence. It is contended that the evidence on record clearly demonstrates that the appellant was last seen in the company of the victim on the fateful day, which is duly corroborated by the testimony of prosecution witnesses as well as the electronic evidence in the form of call detail records and video footage. The conduct of the appellant, both prior to and subsequent to the incident, is stated to be highly incriminating and forms a vital link in the chain of circumstances. It is further submitted that the memorandum statement of the appellant, recorded during the course of investigation, led to the recovery of the dead body of the victim and other incriminating articles, thereby lending strong corroboration to the prosecution case.
- 28.** Elaborating further, learned State counsel submits that the medical and forensic evidence on record clearly establishes that the death of the victim was homicidal in nature and that she was subjected to forcible sexual assault prior to her death. The post-mortem report, coupled with the testimony of the medical experts, unequivocally proves the brutal nature of the crime. It is contended that the manner in which the offence has been

committed by deceitfully taking the victim to a secluded forest area, sexually assaulting her against her will, and thereafter mercilessly causing her death reflects the depravity and brutality of the appellant's conduct. The nature of injuries sustained by the victim and the circumstances under which the offence was committed leave no manner of doubt regarding the culpability of the appellant.

- 29.** Learned Additional Advocate General further submits that the contention of the appellant regarding absence of DNA evidence is misconceived and does not dent the prosecution case, as the conviction can be sustained on the basis of reliable and cogent circumstantial evidence, if it forms a complete chain. It is argued that the prosecution has duly proved each incriminating circumstance through trustworthy evidence, and the absence of a particular piece of forensic evidence is not fatal where the overall evidence inspires confidence and establishes guilt beyond reasonable doubt. Similarly, it is contended that the electronic evidence relied upon by the prosecution has been duly proved in accordance with law and has been rightly taken into consideration by the learned Trial Court.
- 30.** On the aspect of sentence, learned State counsel submits that the present case squarely falls within the category of "rarest of rare" cases, warranting the imposition of capital punishment. It is argued that the crime committed by the appellant is not only heinous and barbaric but also exhibits extreme depravity and a

complete disregard for human dignity. The victim, a young woman, was lured on the pretext of assistance, taken to an isolated location, sexually assaulted, and thereafter brutally murdered in a calculated and cold-blooded manner. The manner of commission of the offence, the vulnerability of the victim, and the breach of trust involved are stated to be aggravating factors of the highest degree.

- 31.** It is further submitted that the learned Trial Court has duly considered the mitigating circumstances put forth on behalf of the appellant, including his age and absence of prior criminal antecedents, but has rightly concluded that such factors are outweighed by the aggravating circumstances present in the case. Learned State counsel contends that the brutality of the crime, coupled with the absence of any remorse on the part of the appellant and the calculated manner in which the offence was executed, leaves no scope for reformation or rehabilitation. According to him, any lesser sentence would be wholly inadequate and would fail to meet the ends of justice, as well as the legitimate expectations of society.
- 32.** In continuation, it is submitted that crimes of such a heinous nature not only shock the collective conscience of society but also undermine the sense of security among citizens, particularly women. Learned counsel submits that the imposition of the death penalty in such cases serves as a necessary deterrent and reinforces the rule of law. The learned Trial Court, it is urged, has

rightly exercised its discretion in awarding the capital sentence after due consideration of all relevant factors, and the same does not call for any interference.

- 33.** In view of the aforesaid submissions, learned State counsel prays that the conviction of the appellant as well as the sentence of death awarded to him be affirmed, and the death reference made by the learned Trial Court be answered in the affirmative. It is submitted that both the appeal preferred by the appellant and the challenge to the sentence are devoid of merit and deserve to be dismissed.
- 34.** We have heard learned counsel for the parties at considerable length and have given our anxious and thoughtful consideration to the rival submissions advanced herein-above. We have also meticulously perused the entire record of the case, including the original record of the trial Court, with utmost care and circumspection. The oral and documentary evidence adduced by the prosecution has been examined in detail, along with the statements of witnesses, material exhibits, medical and forensic reports, and all other relevant documents brought on record.
- 35.** We have further scrutinized the impugned judgment of conviction and order of sentence passed by the learned Trial Court in the light of the submissions made by both sides, to ascertain whether the findings recorded therein are supported by the evidence available on record and are in accordance with law. The appreciation of evidence by the learned Trial Court has been re-

evaluated to determine whether the conclusions drawn are reasonable, plausible, and free from any perversity, misreading of evidence, or material irregularity.

- 36.** In addition, we have carefully examined whether the chain of circumstances, as projected by the prosecution, stands duly established and is complete in all respects so as to unerringly point towards the guilt of the appellant, excluding every hypothesis consistent with innocence. We have also considered the legal principles governing cases based on circumstantial evidence, as well as the parameters for awarding sentence, particularly where the punishment imposed is of the gravest nature.
- 37.** Upon such comprehensive consideration of the entire material available on record, and after independently analyzing the evidence and the reasoning assigned by the learned Trial Court, we now proceed to deal with the issues arising for determination in the present case.
- 38.** In light of the rival submissions advanced by the parties, the evidence available on record, and the findings returned by the learned Trial Court, the following points arise for determination before this Court:
- **Whether the prosecution has been able to prove the guilt of the accused beyond reasonable doubt on the**

basis of the evidence led, particularly in absence/presence of any reliable eye-witness account?

This Court is required to examine whether the case rests on direct evidence or is founded entirely on circumstantial evidence, and if so, whether such evidence forms a complete and unbroken chain pointing conclusively towards the guilt of the accused, excluding every hypothesis consistent with his innocence.

- **Whether the electronic evidence relied upon by the prosecution has been duly proved in accordance with law, particularly in compliance with the mandatory requirements of Section 65B of the Indian Evidence Act, 1872?**

It is to be determined whether the electronic records, if any, have been properly exhibited and supported by the requisite certification, and whether such evidence can be legally read in evidence or has been erroneously relied upon by the learned Trial Court.

- **Whether the prosecution has successfully established the commission of offences under Sections 364, 376 and 302 IPC, particularly the charge of sexual assault, on the basis of cogent, reliable, and legally admissible medical, forensic, and other corroborative evidence?**

This includes an evaluation of the medical evidence, post-mortem report, forensic findings, and surrounding circumstances to

ascertain whether the allegation of sexual assault stands proved beyond reasonable doubt.

- **Whether the sentence of death imposed upon the accused satisfies the settled principles governing capital punishment, including the “rarest of rare” doctrine, and whether the learned Trial Court has undertaken a proper balancing of aggravating and mitigating circumstances?**

The Court must examine whether the alternative option of life imprisonment was unquestionably foreclosed, and whether the sentencing exercise has been conducted in a fair, reasoned, and legally sustainable manner.

Point No.1 — Whether the prosecution has been able to prove the guilt of the accused beyond reasonable doubt, particularly in absence of any reliable eye-witness account?

- 39.** At the outset, it is to be noted that the present case does not rest on any direct ocular evidence of the occurrence. There is no eye-witness who has seen the actual commission of the crime. The prosecution case is, therefore, founded entirely on circumstantial evidence. In such a situation, the settled principle of criminal jurisprudence requires that each incriminating circumstance must be firmly established, and all such circumstances must form a complete and unbroken chain which points only towards the guilt

of the accused and rules out every hypothesis consistent with his innocence.

- 40.** Proceeding to examine the evidence on record in the aforesaid backdrop, this Court finds that the prosecution has relied upon a series of interconnected circumstances, which may be analysed as under:

(i) “Last Seen Together” Evidence

- 41.** The testimony of PW-2 and PW-6 assumes decisive significance in the present case, as both these witnesses have consistently and in a natural manner established the foundational circumstance of “last seen together,” which is one of the most crucial links in a case resting on circumstantial evidence. PW-2, in his substantive deposition, has clearly stated that on 14.08.2022 at about 09:00 a.m., he had seen the deceased accompanying the accused near Bhadri Chowk, Faguram. He has further deposed that the accused was seen taking the deceased on her Scooty (Activa) towards the side of Palgada Ghat road. PW-6 has fully corroborated this version and has stated in categorical terms that he also witnessed the deceased in the company of the accused at the same time and place. The consistency between the two testimonies, both as to time, place, and manner of seeing the accused and the deceased together, lends a high degree of authenticity and reliability to their evidence.

- 42.** A careful scrutiny of their cross-examination reveals that nothing material could be elicited to discredit or dislodge their version. Both witnesses have withstood the test of cross-examination and remained firm on material particulars. The defence has not been able to suggest any prior animosity, motive, or reason as to why these witnesses would falsely implicate the accused. Their presence at the relevant place appears natural and probable in the ordinary course of human conduct, and their testimony does not suffer from any inherent improbability or contradiction. Minor variations, if any, in their narration are purely natural discrepancies which are bound to occur due to lapse of time and do not affect the core of the prosecution story.
- 43.** PW-2 has further clarified that the deceased and accused appeared to be proceeding together without any sign of distress or resistance at that moment, which indicates voluntary association at that point of time. PW-6 has similarly supported the prosecution case by stating that the accused was the only person seen with the deceased shortly before her disappearance. Both witnesses have thus provided a coherent and mutually reinforcing account, thereby forming a reliable evidentiary foundation for the prosecution case. Importantly, the evidentiary value of PW-2 and PW-6 does not stand in isolation, but receives strong corroboration from the surrounding circumstances. Their ocular testimony is duly supported by electronic evidence in the form of call detail records (Ex.P-48), which show that the mobile location

of the accused was active in the same vicinity during the relevant time frame. This independent technological corroboration not only strengthens their version but also rules out any possibility of mistaken identity or false implication. The convergence of oral testimony and electronic data creates a consistent and coherent chain of circumstances.

- 44.** The “last seen together” circumstance, as proved through PW-2 and PW-6, assumes heightened significance in view of the very short time gap between the deceased being last seen in the company of the accused and her subsequent disappearance and recovery of dead body. The proximity of time virtually eliminates the possibility of intervention by any third person, thereby narrowing the chain of events exclusively to the accused and the deceased.
- 45.** In such circumstances, a corresponding duty is cast upon the accused to offer a plausible and satisfactory explanation as to how and under what circumstances the deceased parted company with him. However, the accused has remained completely silent in this regard and has failed to discharge the burden cast upon him under Section 106 of the Evidence Act. This failure to explain a fact especially within his knowledge operates as an additional incriminating circumstance against him.
- 46.** Thus, the testimonies of PW-2 and PW-6, when read in conjunction with the electronic evidence and the overall chain of circumstances, form a strong, reliable, and legally admissible link

in the chain of circumstantial evidence, unerringly pointing towards the involvement of the accused in the commission of the offence.

(ii) CCTV Footage and Conduct of the Accused

- 47.** The prosecution has, with due compliance of procedural and evidentiary requirements, brought on record the CCTV footage seized during the course of investigation, which has been duly exhibited through competent witnesses. The said footage, contained in the pen drive marked as Article-1, is supported by the requisite certification under Section 65B of the Indian Evidence Act vide Ex.P-23 and Ex.P-45, thereby lending admissibility and evidentiary value to the electronic record. The witnesses through whom the said material has been proved have clearly deposed regarding the source, manner of extraction, and safe custody of the electronic data, and nothing substantial has been elicited in their cross-examination to discredit the authenticity or integrity of the footage.
- 48.** A careful perusal of the CCTV footage reveals a crucial and incriminating circumstance, namely, that the accused was seen accompanying the victim on her Scooty (Activa) towards the Palgada Ghat area, which is relatively secluded and away from the usual public movement. The footage further shows that after a certain interval, the accused is seen returning alone from the same direction. This visual evidence, being objective in nature, provides strong corroboration to the “last seen” theory already

established through the testimonies of PW-2 and PW-6, and significantly narrows the time gap between the victim being last seen alive with the accused and the occurrence of the crime.

- 49.** The conduct of the accused, as reflected in the said footage, assumes considerable significance. His act of taking the victim to an isolated location and thereafter returning alone, coupled with his failure to furnish any plausible or satisfactory explanation in his statement recorded under Section 313 of the Code of Criminal Procedure, gives rise to a strong adverse inference against him. It is well settled that where an incriminating circumstance is put to the accused and he fails to offer any explanation, or offers an explanation which is found to be false, such failure becomes an additional link in the chain of circumstances.
- 50.** In the present case, the accused has neither explained the circumstances under which he parted company with the victim nor accounted for her subsequent disappearance. His silence in the face of such compelling evidence strengthens the prosecution case and reinforces the inference that the events leading to the death of the victim occurred while she was in his exclusive company. The CCTV footage, therefore, not only corroborates the oral and circumstantial evidence on record but also constitutes an independent and reliable piece of evidence pointing towards the guilt of the accused.
- 51.** Thus, the circumstance arising from the CCTV footage, read in conjunction with the conduct of the accused and his failure to

offer any explanation, forms a vital and unbroken link in the chain of circumstances, further fortifying the prosecution case beyond reasonable doubt.

(iii) Recovery of Dead Body at the Instance of the Accused

- 52.** Another highly incriminating and crucial circumstance relied upon by the prosecution is the recovery of the dead body of the deceased from the forest area of Palgada Ghat, which was effected pursuant to the memorandum statement of the accused recorded under Section 27 of the Indian Evidence Act, marked as Ex.P-3, and the consequent seizure/recovery memo Ex.P-4. The prosecution witnesses associated with the memorandum and recovery proceedings have clearly deposed that the accused, while in custody, furnished specific information leading to the discovery of the dead body from a particular location in the forest, which was otherwise not within the knowledge of the investigating agency. Their testimonies remain consistent and have not been shaken in material particulars during cross-examination.
- 53.** The place from where the dead body was recovered is shown to be a secluded, forested area of Palgada Ghat, not ordinarily accessible or visible to the general public. The concealment of the body at such a location clearly indicates that the person having knowledge of its whereabouts must have had a direct nexus with the commission of the offence. The fact that it was the accused alone who led the police party and independent

witnesses to the exact spot and facilitated the recovery assumes great evidentiary significance.

- 54.** The evidentiary value of such a recovery, made at the instance of the accused, is well-recognized in criminal jurisprudence. To the extent that the information supplied by the accused distinctly relates to the discovery of a fact namely, the location of the dead body, it becomes admissible and constitutes a substantive link in the chain of circumstantial evidence. In the present case, the discovery is not a mere recovery, but one that reveals the exclusive knowledge of the accused regarding the concealment of the dead body, thereby establishing a direct and proximate connection between the accused and the crime.
- 55.** This circumstance, when read in conjunction with the “last seen” evidence and the CCTV footage showing the accused taking the victim towards the same area, forms a cohesive and corroborative chain. The recovery of the dead body from the very area to which the accused was last seen taking the victim further eliminates the possibility of any third person’s involvement. Moreover, the accused has failed to offer any plausible explanation, either during investigation or in his statement under Section 313 CrPC, as to how he came to know about the location of the dead body or why he led the police to that specific place.
- 56.** Such unexplained knowledge of a highly incriminating fact, namely the concealment of the dead body, constitutes a strong circumstance pointing towards the guilt of the accused. It not only

corroborates the prosecution version but also significantly strengthens the chain of circumstances, making it complete and consistent only with the hypothesis of the guilt of the accused, thereby excluding any reasonable possibility of innocence.

(iv) Medical Evidence Indicating Homicidal Death

- 57.** The medical evidence brought on record by the prosecution, particularly the post-mortem report (Ex.P-16), assumes fundamental importance as it provides an independent, scientific, and objective corroboration of the prosecution version that the death of the deceased was homicidal in nature. The autopsy was conducted by the concerned Medical Officer, PW-08 Dr. Priti Ijardar (as per record), who has been examined at length and has proved the post-mortem report in accordance with law. In her deposition, the doctor has clearly stated that she had conducted the post-mortem on the body of the deceased in a medically prescribed manner and found multiple ante-mortem injuries, which were fresh in nature and consistent with a case of violent assault. The injuries were ante-mortem in nature and are indicative of sexual assault having been committed upon the victim by the accused prior to her death.
- 58.** PW-08 Dr. Priti Ijardar has further elaborated in her testimony that the deceased had sustained ligature mark around the neck region, along with corresponding internal findings such as congestion of the face, petechial hemorrhages, and subcutaneous tissue damage beneath the ligature mark. These

findings, as explained by the doctor, are classical features of asphyxial death due to strangulation/hanging and clearly indicate that death was caused by external force applied to the neck. The doctor has categorically opined that the cause of death was asphyxia due to ante-mortem strangulation, which is homicidal in nature. She has also stated that the injuries were sufficient in the ordinary course of nature to cause death and were not suggestive of any accidental mechanism.

- 59.** The medical expert has also deposed that the time since death, as assessed on the basis of rigor mortis, post-mortem staining, and other physiological parameters, is consistent with the prosecution timeline, thereby reinforcing the sequence of events as projected by the prosecution. Importantly, the doctor has withstood cross-examination and nothing material could be elicited to discredit her scientific opinion. There is no suggestion of any error in examination, bias, or inconsistency in the medical findings. Her evidence remains unshaken and inspires full confidence of the Court.
- 60.** The testimony of PW-08 further gains significance when read in conjunction with query report (Ex.P-18), also proved by PW-12 Dr. Jai Agrawal, which affirms and clarifies the nature of injuries and supports the conclusion of homicidal death. The doctor has also clarified that the injuries found on the body were not self-inflicted and could not have been caused by accidental fall, thereby excluding any hypothesis consistent with innocence.

- 61.** The medical evidence thus not only establishes the factum of homicidal death but also provides crucial insight into the manner in which the offence was committed, namely by application of force on vital parts of the body leading to asphyxiation. The scientific and objective nature of the medical opinion lends it a high degree of credibility and reliability, and courts have consistently held that when medical evidence is consistent with ocular and circumstantial evidence, it assumes great evidentiary value.
- 62.** In the present case, the medical evidence stands in complete harmony with the “last seen” circumstance, electronic evidence, and recovery of the dead body at the instance of the accused. The injuries noted by the doctor, the cause of death certified in Ex.P-16, and the expert testimony of PW-08 collectively form a strong and reliable link in the chain of circumstances, thereby conclusively establishing that the death of the deceased was homicidal and attributable to violent external agency.

(v) Absence of Explanation by the Accused

- 63.** It is a circumstance of considerable significance that the accused has failed to furnish any plausible or satisfactory explanation regarding the circumstances in which the deceased, who was last seen alive in his company, subsequently met with a homicidal death. The evidence on record, particularly the testimony of the “last seen” witnesses, the CCTV footage, and the recovery of the dead body at the instance of the accused, clearly establishes a

proximate and direct nexus between the accused and the deceased immediately prior to the occurrence of the crime. Once such incriminating circumstances are brought on record, the burden shifts upon the accused to offer a reasonable explanation, especially in respect of facts which are within his exclusive or special knowledge.

- 64.** In his statement recorded under Section 313 CrPC, the accused has either chosen to remain silent or has given evasive and unconvincing answers, failing to explain as to when and under what circumstances he parted company with the deceased, or how he came to be aware of the location where the dead body was ultimately recovered. Such failure assumes greater importance in the facts of the present case, where the time gap between the deceased being last seen with the accused and the recovery of the dead body is minimal, thereby narrowing the possibility of intervention by any third person.
- 65.** In cases resting on circumstantial evidence, the inability of the accused to offer any explanation in the face of strong incriminating circumstances constitutes an additional link in the chain of evidence. While it is well-settled that the prosecution must stand on its own legs and prove its case beyond reasonable doubt, it is equally settled that when the prosecution has established a prima facie chain of circumstances pointing towards the guilt of the accused, the failure of the accused to explain such

circumstances provides further assurance to the Court regarding his involvement.

- 66.** The present case squarely falls within this principle. The accused's silence and lack of explanation, particularly with respect to facts exclusively within his knowledge such as his last interaction with the deceased and his role in leading to the recovery of the dead body strengthen the inference that he is responsible for the commission of the offence. This unexplained conduct, when read in conjunction with the other proved circumstances, fortifies the prosecution case and completes the chain of evidence pointing unerringly towards the guilt of the accused.

Conclusion on Point No.1

- 67.** Upon an in-depth, cumulative, and holistic evaluation of the entire evidence available on record, this Court finds that the prosecution has successfully established a coherent and unbroken chain of circumstances which unmistakably points towards the guilt of the accused. Each incriminating circumstance proved by the prosecution is not only independently reliable, but also mutually corroborative, thereby forming a complete chain that excludes every hypothesis consistent with the innocence of the accused.
- 68.** Firstly, the "last seen" evidence as deposed by PW-2 and PW-6 inspires full confidence of this Court. Their testimonies are consistent, cogent, and have withstood the test of cross-

examination without any material contradiction. The fact that the deceased was last seen alive in the company of the accused shortly before her disappearance is firmly established. This circumstance is further reinforced by the electronic evidence in the nature of call detail records (Ex.P-48), which places the accused in the same vicinity at the relevant time, thereby lending strong corroboration to the ocular version.

- 69.** Secondly, the CCTV footage (Article-1), duly proved and supported by certification (Ex.P-23 and Ex.P-45), assumes great evidentiary significance. The footage clearly depicts the accused taking the victim towards the secluded area of Palgada Ghat and, crucially, returning alone thereafter. This conduct of the accused is highly incriminating and is consistent only with the prosecution's case. The absence of any plausible explanation by the accused regarding this circumstance further strengthens the adverse inference against him.
- 70.** Thirdly, the recovery of the dead body at the instance of the accused pursuant to his memorandum statement (Ex.P-3) and seizure memo (Ex.P-4) constitutes a vital link in the chain of circumstances. The discovery of the dead body from a concealed location, which was within the exclusive knowledge of the accused, directly connects him with the crime. The evidentiary value of such discovery, admissible under Section 27 of the Evidence Act, provides strong corroboration to the prosecution case.

71. Fourthly, the medical evidence in the form of the post-mortem report (Ex.P-16) conclusively establishes that the death of the deceased was homicidal in nature. The injuries noted therein clearly indicate a violent assault, fully consistent with the prosecution's version of events. The medical findings not only rule out any possibility of accidental or natural death but also align with the other circumstances proved on record.
72. Lastly, the failure of the accused to offer any explanation for these incriminating circumstances, particularly those within his special knowledge, assumes critical importance. In his examination under Section 313 CrPC, the accused has failed to provide any plausible or satisfactory explanation regarding the circumstances under which the deceased, last seen in his company, met with a homicidal death, or how he had knowledge of the place where the body was concealed. Such silence and absence of explanation furnish an additional link in the chain of circumstances.
73. It is well-settled by the Hon'ble Supreme Court in ***Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116***, that in a case based on circumstantial evidence, the circumstances must be fully established, must be consistent only with the hypothesis of guilt, must exclude every possible hypothesis except the one sought to be proved, and must form a complete chain. Similarly, in ***Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681***, and subsequent decisions, it has been reiterated that where the accused fails to explain

incriminating circumstances within his special knowledge, such failure can be taken as an additional link.

74. Applying these settled principles to the facts of the present case, this Court is satisfied that:

- The “last seen” evidence is reliable and duly corroborated;
- The electronic and CCTV evidence establishes the conduct and movement of the accused in a manner consistent only with guilt;
- The recovery of the dead body at the instance of the accused is a highly incriminating and clinching circumstance;
- The medical evidence conclusively proves homicidal death; and
- The accused has failed to offer any explanation for the incriminating circumstances established against him.

75. All these circumstances, when read conjointly, form a complete and unbroken chain leading to only one irresistible conclusion, namely, that the accused alone is the perpetrator of the crime. There is no missing link, no ambiguity, and no reasonable ground to infer the involvement of any third person.

76. Accordingly, this Court holds, with firm conviction, that the prosecution has succeeded in proving the guilt of the accused beyond reasonable doubt, even in the absence of direct eye-

witness testimony, by establishing a cogent, consistent, and legally sustainable chain of circumstantial evidence.

77. Point No.1 is answered in the affirmative.

Point No.2 – Whether the electronic evidence relied upon by the prosecution has been duly proved in accordance with law, particularly in compliance with the mandatory requirements of Section 65B of the Indian Evidence Act, 1872?

78. Upon a meticulous examination of the entire record, this Court proceeds to evaluate the admissibility, reliability, and evidentiary value of the electronic evidence forming part of the prosecution case, particularly the CCTV footage, call detail records (CDR), and allied digital material.

79. At the outset, it is evident that the prosecution has relied upon multiple forms of electronic evidence, namely: (i) CCTV footage contained in the pen drive (Article-1), (ii) call detail records of the mobile numbers of the accused and the deceased (Ex.P-47 and Ex.P-48), and (iii) related documentary certifications under Section 65B of the Indian Evidence Act (Ex.P-23 and Ex.P-45).

80. The CCTV footage assumes a pivotal role in the prosecution case as it provides a visual and contemporaneous account of the movements of the accused and the deceased on the date of the incident, i.e., 14.08.2022. The footage, preserved and produced in the form of a pen drive (Article-1), clearly depicts the accused accompanying the deceased on a two-wheeler towards the

Palgada Ghat area at the relevant time and, significantly, returning alone after a short interval. This visual evidence directly supports the “last seen” theory advanced by the prosecution and establishes the immediate proximity between the accused and the deceased shortly before her disappearance.

- 81.** The prosecution has proved the electronic evidence, namely the CCTV footage (Article-1), through clear, cogent, and reliable oral testimony of PW-17 Amit Singh and PW-19 Sanjeev Nema, both of whom have played a crucial role in establishing the chain of collection, preservation, and production of the said electronic record before the Court.
- 82.** PW-17 Amit Singh, who is stated to be associated with the investigation process at the relevant stage, has deposed in categorical terms that during the course of investigation, he had assisted the Investigating Officer in obtaining the CCTV footage from the concerned source. He has specifically stated that the footage was retrieved from the DVR/system installed at the relevant location, which was found to contain recording of the date and time corresponding to the incident in question. PW-17 has further deposed that after retrieval, the footage was transferred onto a pen drive (Article-1) under proper procedure, ensuring that the original data remained intact and unaltered. He has also stated that the seizure memo was prepared on the spot, duly signed by witnesses, and that the electronic device

containing the footage was sealed in accordance with standard investigative procedure to maintain its integrity.

- 83.** PW-19 Sanjeev Nema has fully corroborated the version of PW-17 and has given further details with regard to the handling of the electronic record. He has deposed that he was present at the time of seizure and has witnessed the extraction of the CCTV footage from the system. According to him, the footage was carefully examined to identify the relevant portion showing the movement of the accused and the deceased, and only the relevant clips were copied into the storage device. He has further stated that due care was taken to ensure that the date, time, and continuity of the footage were preserved so that there was no scope of tampering or manipulation.
- 84.** Both PW-17 and PW-19 have consistently deposed that the electronic record was sealed immediately after seizure and was kept in safe custody till it was produced before the Court. They have also identified Article-1 in Court as the same device in which the CCTV footage was stored and seized during investigation. Their testimony clearly establishes not only the mode of collection but also the chain of custody of the electronic evidence from the stage of seizure till its production in Court.
- 85.** Significantly, both these witnesses have withstood the test of cross-examination. The defence has not been able to elicit any material contradiction, inconsistency, or omission in their statements so as to create any doubt regarding the authenticity of

the electronic record. There is no suggestion of tampering, interpolation, or fabrication of the CCTV footage. Their evidence, therefore, remains consistent, natural, and trustworthy.

86. Thus, the testimonies of PW-17 Amit Singh and PW-19 Sanjeev Nema, read together, conclusively establish that the CCTV footage (Article-1) was lawfully obtained, properly preserved, and duly produced before the Court in an unbroken chain of custody, thereby lending full credibility and evidentiary value to the electronic record relied upon by the prosecution.

87. The evidentiary foundation of the CCTV footage is further strengthened by the production of statutory certificates under Section 65B of the Indian Evidence Act, marked as Ex.P-23 and Ex.P-45. These certificates are of crucial significance, as they render the electronic record admissible in evidence by fulfilling the mandatory legal requirements. A careful reading of these exhibits demonstrates that they certify the following essential aspects:

- that the electronic record was generated from a computer system/device which was regularly used for storing or processing information,
- that the data was fed into the system in the ordinary course of its functioning,
- that the device was operating properly at the relevant point of time, and

- that the copy of the footage produced before the Court is a true and accurate reproduction of the original electronic record.

- 88.** These certifications directly address the conditions stipulated under Section 65B(4) and thus validate the admissibility of the CCTV footage.
- 89.** It is also noteworthy that the certificates (Ex.P-23 and Ex.P-45) have been issued by competent persons having lawful control and operational responsibility over the device/system from which the footage was retrieved. This satisfies the requirement that the certification must emanate from a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities. There is nothing on record to suggest that the certificates are defective, incomplete, or issued by an unauthorized person.
- 90.** Furthermore, the prosecution has successfully established the chain of custody of the electronic evidence. The seizure of the pen drive (Article-1), the preparation of seizure memos, and the deposition of witnesses involved in the process collectively demonstrate that the electronic record has been handled with due care and has remained intact throughout. There is no evidence of any break in the chain of custody, nor is there any indication of tampering or manipulation at any stage.

- 91.** Significantly, during cross-examination, the defence has not been able to elicit any material that would discredit the authenticity, accuracy, or integrity of the CCTV footage. No suggestion has been put to the prosecution witnesses regarding fabrication, editing, or distortion of the footage. In absence of any such challenge, and in light of the consistent and reliable evidence adduced by the prosecution, the CCTV footage stands duly proved.
- 92.** The conduct of the accused, as captured in the CCTV footage, particularly the act of the accused taking the deceased towards a secluded place and subsequently returning alone assumes significant evidentiary importance. This conduct is not an isolated circumstance but forms a part of the continuous sequence of events emerging from the prosecution evidence. When such conduct is read in the backdrop of the surrounding circumstances established on record, it becomes a highly incriminating factor which cannot be brushed aside as a mere coincidence. Rather, it provides a strong corroborative link connecting the accused with the commission of the offence. The footage, therefore, acquires substantial probative value as it corroborates the ocular and other circumstantial evidence led by the prosecution and completes an important link in the chain of circumstances pointing towards the guilt of the accused.
- 93.** In light of the detailed appreciation of evidence, this Court finds that the CCTV footage marked as Article-1 has been duly proved

in accordance with law. The electronic record is supported by the mandatory certificates under Section 65B of the Indian Evidence Act, marked as Ex.P-23 and Ex.P-45, thereby satisfying the statutory requirements relating to authenticity and admissibility of electronic evidence. Furthermore, the prosecution has established the integrity of the footage through consistent and reliable oral testimony of the witnesses, and no material discrepancy has been elicited in their cross-examination to discredit the same. The learned Trial Court has correctly appreciated the evidentiary value of the said electronic record and has rightly relied upon it while arriving at its findings. Accordingly, this Court holds that the CCTV footage, being duly proved, reliable, and legally admissible, has been rightly accepted as a substantive piece of evidence forming part of the chain of circumstances against the accused.

(ii) Call Detail Records (Ex.P-47 & Ex.P-48)

94. The call detail records (CDRs) placed on record by the prosecution, marked as Ex.P-47 and Ex.P-48, constitute an important piece of electronic evidence which lends substantial corroboration to the prosecution case. These records pertain to the mobile numbers of the accused and the deceased and have been relied upon to establish their location, movement, and inter se connectivity at the relevant point of time, particularly on 14.08.2022.

- 95.** A careful perusal of Ex.P-47 and Ex.P-48 reveals that the mobile phone of the accused was active in the geographical area corresponding to the route leading from Faguram towards Kharsia and further towards Palgada Ghat during the crucial time window when the deceased went missing. The records also indicate that the mobile phone of the deceased became inactive shortly after she was last seen leaving her house and accompanying the accused. This temporal and spatial correlation between the two mobile numbers provides a strong circumstantial link placing the accused in close proximity to the deceased immediately prior to the commission of the offence.
- 96.** The prosecution has successfully proved the Call Detail Records (CDRs) as electronic evidence through the consistent and trustworthy testimony of PW-13 Dinesh Kumar Sahu and PW-11 Ashok Kumar Bhardwaj, both of whom are competent and official witnesses associated with the investigation. PW-13 Dinesh Kumar Sahu has categorically deposed that the CDRs were requisitioned from the concerned telecom service providers through due official channels during the course of investigation. He has further stated that upon receipt of the records from the nodal officers of the respective service providers, the same were duly examined, preserved, and subsequently produced before the Court as part of the documentary evidence. His testimony clearly establishes the procedural regularity adopted in procuring the

electronic records and rules out any possibility of manipulation or interpolation.

- 97.** Similarly, PW-11 Ashok Kumar Bhardwaj has corroborated the version of PW-13 by deposing that the CDRs were obtained through official correspondence addressed to the telecom companies and were received in response thereto. He has specifically identified the documents in Court and has affirmed their genuineness and correctness. His deposition further clarifies that the records were maintained in the ordinary course of official investigation and were handled in a transparent and accountable manner. Importantly, both witnesses have withstood cross-examination without any material contradiction or inconsistency being elicited, thereby reinforcing the reliability and authenticity of their testimony.
- 98.** The evidentiary admissibility of the CDRs is further strengthened by strict compliance with the mandatory requirements of Section 65B of the Indian Evidence Act. The prosecution has placed on record the requisite certificate under Section 65B, which forms part of Ex.P-45, thereby certifying the manner in which the electronic records were produced, stored, and retrieved. In addition, the supporting documents, namely the Customer Application Form (CAF) (Ex.P-43) and the communications issued by the nodal officers of the concerned telecom service providers (Ex.P-44), clearly demonstrate the foundational authenticity of the electronic data. These documents establish

that the CDRs were generated from the regularly maintained servers and systems of the telecom companies in the ordinary course of their business activities, without any external interference or alteration.

99. When read together, the oral testimony of PW-11 and PW-13, along with the documentary evidence, forms a complete and reliable evidentiary foundation for the admissibility of the CDRs. The chain of custody remains intact, the source of generation is duly proved, and the statutory requirements under Section 65B stand fully satisfied. Consequently, the CDRs emerge as trustworthy electronic evidence, duly corroborating the prosecution case.

100. The certificate under Section 65B clearly indicates:

- the specific source from which the electronic data was derived,
- the manner in which such data was produced and extracted, and
- the assurance that the records are authentic computer-generated outputs maintained in the regular course of business.

101. It is also evident that the certificate has been issued by a competent authority having lawful control over the relevant computer systems and data, thereby fulfilling the statutory requirement regarding the authority and responsibility of the certifying person.

102. Furthermore, there is no material on record to suggest any tampering, manipulation, or interpolation in the CDRs. The defence has not been able to discredit these documents in cross-examination, nor has any plausible challenge been raised with regard to their authenticity or mode of proof. In absence of any such challenge, and in view of the proper certification and supporting oral evidence, the CDRs inspire full confidence of this Court.

103. The evidentiary value of the CDRs is also enhanced by the fact that they are not standalone pieces of evidence but are in complete consonance with other circumstances proved by the prosecution, including the “last seen” evidence and the CCTV footage showing the movement of the accused with the deceased. The electronic trail reflected in the CDRs thus fits seamlessly into the chain of circumstantial evidence and reinforces the prosecution narrative.

104. In view of the aforesaid analysis, this Court is of the considered opinion that the call detail records (Ex.P-47 and Ex.P-48) have been duly proved in accordance with law, are supported by valid certification under Section 65B, and are both admissible and reliable. The learned Trial Court has, therefore, rightly placed reliance upon the said electronic evidence as an important link in establishing the guilt of the accused.

(iii) Chain of Custody and Integrity of Electronic Evidence

- 105.** The sanctity and evidentiary value of electronic material depend not only upon its formal proof under Section 65B of the Indian Evidence Act, but equally upon the assurance that such material has remained intact, untampered, and traceable from the point of its seizure till its production before the Court. In the present case, the prosecution has satisfactorily established an unbroken chain of custody in respect of the electronic evidence relied upon.
- 106.** The seizure of electronic articles, including the storage device containing CCTV footage and related data, has been duly proved through seizure memos Ex.P-24 and Ex.P-39. These documents clearly record the manner in which the electronic material was identified, seized, sealed, and taken into custody in accordance with law. The seizure witnesses, along with the Investigating Officers, namely PW-15 Dharmendra Kumar Chandra and PW-18 Virendra Manhar, have deposed in a cogent and consistent manner regarding the process of seizure. Their testimonies inspire confidence and establish that due procedural safeguards were followed at the time of collection of electronic evidence.
- 107.** Both the aforesaid witnesses have categorically stated that the seized devices were properly sealed and labeled at the spot, thereby minimizing any possibility of tampering at the initial stage itself. They have further explained the manner in which the seized articles were entered into the case property register and subsequently forwarded for forensic examination through proper channel. Nothing material has been elicited in their cross-

examination to cast doubt on the correctness or authenticity of the seizure process.

- 108.** The chain of custody is further fortified by documentary evidence in the form of receipts of exhibits, namely Ex.P-26 and Ex.P-29, which reflect the movement of the seized electronic articles from the police custody to the Forensic Science Laboratory (FSL). These documents demonstrate that the articles were transmitted in sealed condition and were duly received by the FSL authorities, thereby maintaining continuity in possession.
- 109.** The FSL report (Ex.P-27) assumes considerable importance in this regard. It indicates that the electronic material was subjected to scientific examination and analysis by competent experts. The report does not disclose any signs of tampering, alteration, or manipulation of the data contained in the electronic devices. On the contrary, it affirms that the data examined was consistent with the material seized during investigation, thereby lending assurance regarding its integrity and authenticity.
- 110.** It is also pertinent to note that the defence has not been able to point out any discrepancy, inconsistency, or break in the chain of custody. There is no suggestion, either in cross-examination or otherwise, that the electronic evidence was handled improperly, or that it was susceptible to manipulation at any stage. In absence of any such challenge, and in view of the consistent oral and documentary evidence on record, the chain of custody stands firmly established.

111. Thus, the cumulative effect of the seizure memos (Ex.P-24 and Ex.P-39), the testimonies of PW-15 and PW-18, the receipts of exhibits (Ex.P-26 and Ex.P-29), and the FSL report (Ex.P-27), clearly demonstrates that the electronic evidence has been preserved, transmitted, and examined in a secure and reliable manner. The prosecution has, therefore, succeeded in proving that the integrity of the electronic evidence remained intact throughout the investigative process.

112. Accordingly, this Court finds that there is no infirmity in the chain of custody of the electronic evidence, and the same is free from any suspicion of tampering or fabrication. The learned Trial Court has rightly relied upon such evidence, which forms a credible and integral part of the overall chain of circumstances against the accused.

(iv) Evidentiary Value and Corroboration

113. It is well settled that electronic evidence, though admissible when duly proved in accordance with law, attains greater probative force when it is not treated in isolation but is read in conjunction with other circumstances appearing on record. In the present case, the electronic material comprising CCTV footage (Article-1) and the call detail records (Ex.P-47 and Ex.P-48) does not stand as a solitary piece of evidence; rather, it seamlessly integrates with and reinforces the other incriminating circumstances established by the prosecution.

- 114.** Firstly, the electronic evidence lends substantial corroboration to the “last seen” circumstance deposed to by PW-2 and PW-6. Both these witnesses have consistently stated that the deceased was last seen in the company of the accused on 14.08.2022 near Bhadri Chowk. This oral testimony finds strong assurance from the CCTV footage, which visually captures the accused taking the deceased towards the Palgada Ghat area and, significantly, returning alone after a short interval. The consistency between ocular testimony and electronic record eliminates any doubt regarding the presence of the accused with the deceased at the crucial time.
- 115.** Secondly, the call detail records (Ex.P-47 and Ex.P-48) further strengthen this link by placing the accused in the same geographical vicinity at the relevant time. The location data reflected in the CDRs corroborates the prosecution version regarding the movement of the accused from Faguram towards Kharsia and subsequently to the Palgada area. This technological evidence, being generated in the ordinary course of business, provides an objective and independent confirmation of the prosecution narrative.
- 116.** Thirdly, the electronic evidence stands in close conjunction with the recovery of the dead body at the instance of the accused pursuant to his memorandum statement (Ex.P-3) and the seizure memo (Ex.P-4). The fact that the accused was last seen taking the deceased towards a secluded forest area, as shown in the

CCTV footage, and that the dead body was subsequently recovered from that very area at his instance, forms a vital connecting link. This sequence of events establishes a direct nexus between the accused, the place of occurrence, and the ultimate discovery of the deceased's body.

- 117.** Further, the conduct of the accused, as emerging from the record, assumes significance. His act of accompanying the deceased to an isolated location and thereafter returning alone, without offering any explanation under Section 313 CrPC, is a circumstance that is both incriminating and inconsistent with innocence. When such conduct is viewed in light of the corroborative electronic evidence, it strengthens the inference that the accused was responsible for the events leading to the death of the deceased.
- 118.** What is particularly noteworthy is that the electronic evidence creates a coherent and continuous narrative: the deceased leaving her home, being last seen with the accused, their movement towards a secluded area as captured in CCTV footage, the presence of the accused in that location as indicated by CDRs, and finally, the recovery of the dead body from the same area at his instance. Each of these circumstances, though independently relevant, mutually reinforce one another and collectively form an unbroken chain.
- 119.** In such a situation, the electronic evidence acts as a crucial corroborative link that bridges the gap between various pieces of

circumstantial evidence. It provides objectivity and precision to the prosecution case, thereby reducing the scope for conjecture or doubt. The convergence of oral, documentary, and electronic evidence leaves little room for any alternative hypothesis consistent with the innocence of the accused.

120. Accordingly, this Court is of the considered opinion that the electronic evidence on record not only satisfies the test of admissibility but also possesses high probative value, as it effectively corroborates the other established circumstances. The learned Trial Court has, therefore, rightly relied upon the same as an integral component of the chain of evidence pointing towards the guilt of the accused.

(v) Conclusion on Point No.2

121. In light of the detailed appreciation of the oral, documentary, and electronic evidence on record, this Court arrives at a firm and reasoned conclusion regarding the admissibility, reliability, and evidentiary value of the electronic evidence relied upon by the prosecution.

122. At the outset, it is evident that the CCTV footage (Article-1), which constitutes a crucial piece of electronic evidence, has been duly proved in accordance with law. The prosecution has not only produced the original source of the footage but has also supported it through cogent testimony of relevant witnesses, including the person in control of the recording device and the

investigating officers. More importantly, the statutory requirement under Section 65B of the Indian Evidence Act has been complied with by furnishing proper certificates (Ex.P-23 and Ex.P-45), which attest to the authenticity, manner of production, and integrity of the electronic record. These certificates satisfy the conditions laid down by the Hon'ble Supreme Court for admissibility of secondary electronic evidence.

123. Similarly, the call detail records (Ex.P-47 and Ex.P-48) have been lawfully obtained from the service providers and duly proved through competent witnesses. The accompanying certificates under Section 65B, issued by responsible officials in the course of their official duties, establish that the data was extracted from secure systems in the ordinary course of business. The testimony of the concerned witnesses further reinforces the credibility of these records, leaving no scope for doubt regarding their genuineness.

124. The prosecution has also successfully established an unbroken chain of custody with respect to the electronic evidence. The seizure memos, forwarding letters, and forensic examination reports collectively demonstrate that the devices and data were properly seized, sealed, transmitted, and examined without any possibility of tampering. The defence has failed to point out any material irregularity or break in this chain. In the absence of any such infirmity, the presumption of integrity of official acts and procedures operates in favour of the prosecution.

125. At this juncture, it is apposite to refer to the settled legal position laid down by the Hon'ble Supreme Court in **Anvar P.V.** (supra), wherein it was categorically held that electronic evidence is admissible only when accompanied by a certificate under Section 65B(4) of the Evidence Act. Para 16 of the said judgment reads as follows for ready reference :-

“16. It is further clarified that the person need only to state in the certificate that the same is to the best of his knowledge and belief. Most importantly, such a certificate must accompany the electronic record like computer printout, compact disc (CD), video compact disc (VCD), pen drive, etc., pertaining to which a statement is sought to be given in evidence, when the same is produced in evidence. All these safeguards are taken to ensure the source and authenticity, which are the two hallmarks pertaining to electronic record sought to be used as evidence. Electronic records being more susceptible to tampering, alteration, transposition, excision, etc. without such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice.”

126. This position has been further clarified and authoritatively reaffirmed by the Constitution Bench in **Arjun Panditrao Khotkar** (supra), wherein it was held that the requirement of a Section 65B certificate is mandatory, but such certificate can be produced at a later stage if not already filed, provided the

authenticity of the electronic record is otherwise established. The Hon'ble Supreme Court has observed as follows :-

“81. What is laid down in Section 65-B as a precondition for the admission of an electronic record, resembles what is provided in the second part of Section 136. For example, if a fact is sought to be proved through the contents of an electronic record (or information contained in an electronic record), the Judge is first required to see if it is relevant, if the first part of Section 136 is taken to be applicable.

82. But Section 65-B makes the admissibility of the information contained in the electronic record subject to certain conditions, including certification. The certification is for the purpose of proving that the information which constitutes the computer output was produced by a computer which was used regularly to store or process information and that the information so derived was regularly fed into the computer in the ordinary course of the said activities.”

127. Very recently, in **Pooranmal** (*supra*), while dealing with a similar issue concerning the admissibility and evidentiary value of evidence allegedly obtained in breach of procedural safeguards, the Hon'ble Supreme Court has reiterated the well-settled legal position that the relevance and admissibility of evidence under the Indian Evidence Act are primarily governed by its probative value and not merely by the manner or method of its collection while observing as under :-

“50. This position of law was cemented by this Court in the case of Anvar P. V. v. P.K. Basheerd wherein it was held as follows:-

"14. Any documentary evidence by way of an electronic record under the Evidence Act, in view of Sections 59 and 65-A, can be proved only in accordance with the procedure prescribed under Section 65-B. Section 65-B deals with the admissibility of the electronic record. The purpose of these provisions is to sanctify secondary evidence in electronic form, generated by a computer. It may be noted-that-the section starts with a non obstante clause. Thus, notwithstanding anything contained in the Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be a document only if the conditions mentioned under sub-section (2) are satisfied, without further proof or production of the original. The very admissibility of such a document i.e. electronic record which is called as computer output, depends on the satisfaction of the four conditions under Section 65-B(2). Following are the specified conditions under Section 65-B(2) of the Evidence Act:

(i) The electronic record containing the information should have been produced by the computer during the period over which the same was regularly used to store or process information for the purpose of any

activity regularly carried on over that period by the person having lawful control over the use of that computer;

(ii) The information of the kind contained in electronic record-or of the kind from which the information is derived was regularly fed into the computer in the ordinary course of the said activity;

(iii) During the material part of the said period, the computer was operating properly and that even if it was not operating properly for some time, the break or breaks had not affected either the record or the accuracy of its contents; and

(iv) The information contained in the record should be a reproduction or derivation from the information fed into the computer in the ordinary course of the said activity.

15. Under Section 65-B(4) of the Evidence Act, if it is desired to give a statement in any proceedings pertaining to an electronic record, it is permissible provided the following conditions are satisfied:

(a) There must be a certificate which identifies the electronic record containing the statement;

(b) The certificate must describe the manner in which the electronic record was produced;

(c) The certificate must furnish the particulars of the device involved in the production of that record;

(d) The certificate must deal with the applicable conditions mentioned under

Section 65-B(2) of the Evidence Act; and (e) The certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevant device.

16. It is further clarified that the person need only to state in the certificate that the same is to the best of his knowledge and belief. Most importantly, such a certificate must accompany the electronic record like computer printout, compact disc (CD), video compact disc (VCD), pen drive, etc., pertaining to which a statement is sought to be given in evidence, when the same is produced in evidence. All these safeguards are taken to ensure the source and authenticity, which are the two hallmarks pertaining to electronic record sought to be used as evidence. Electronic records being more susceptible to tampering, alteration, transposition, excision, etc. without such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice.

17. Only if the electronic record is duly produced in terms of Section 65-B of the Evidence Act, would the question arise as to the genuineness thereof and in that situation, resort can be made to Section 45-A-opinion of Examiner of Electronic Evidence.

18. The Evidence Act does not contemplate or permit the proof of an electronic record by oral evidence if requirements under Section 65-B of

the Evidence Act are not complied with, as the law now stands in India.”

128. Reverting to the facts of present case in the light of aforementioned judgments, it is quite vivid that the prosecution has not merely substantially complied but has, in fact, fully adhered to the mandate of Section 65B, as interpreted in the aforesaid judgments. The certificates placed on record clearly fulfill the statutory requirements, and the electronic evidence stands duly proved. Furthermore, the electronic evidence in question does not exist in isolation; rather, it corroborates and strengthens other material circumstances such as the “last seen” evidence, the recovery of the dead body at the instance of the accused, and his unexplained conduct. This interlinking of evidence enhances its probative value and renders the prosecution case more coherent and credible.

129. In view of the above discussion, this Court unequivocally holds that:

- The CCTV footage (Article-1) stands duly proved through reliable oral evidence and valid certification under Section 65B (Ex.P-23 and Ex.P-45).
- The call detail records (Ex.P-47 and Ex.P-48) have been lawfully obtained, properly proved, and supported by requisite statutory certification and official testimony.

- The chain of custody of the electronic evidence has been satisfactorily established, ruling out any possibility of tampering or manipulation.
- The mandatory requirements of Section 65B of the Indian Evidence Act have been fully complied with, thereby rendering the electronic evidence admissible, reliable, and of high probative value.

130. Consequently, the contention raised by the defence regarding the inadmissibility or unreliability of the electronic evidence is devoid of merit and is hereby rejected. This Court finds no infirmity in the approach adopted by the learned Trial Court in placing reliance upon such evidence.

131. Accordingly, the electronic evidence forms a vital and legally admissible link in the chain of circumstances, which, when read in conjunction with other evidence on record, unerringly points towards the guilt of the accused.

132. Point No. 2 is answered in the affirmative.

Point No. 3 – Whether the prosecution has successfully established the commission of offences under Sections 364, 376 and 302 IPC, particularly the charge of sexual assault, on the basis of cogent, reliable, and legally admissible medical, forensic, and other corroborative evidence?

133. At the outset, it is necessary to examine whether the prosecution has been able to prove, beyond reasonable doubt, not only the

homicidal death of the deceased, but also the essential ingredients of the offences under Sections 364, 376 and 302 IPC, particularly the allegation of sexual assault, on the strength of medical, forensic, and other corroborative evidence.

(i) Offence under Section 364 IPC (Kidnapping/Abduction in order to murder)

134. To sustain a conviction under Section 364 IPC, the prosecution must establish, beyond reasonable doubt, that (i) the accused had taken or enticed the victim, and (ii) such taking was with the intention that the victim may be murdered or put in danger of being murdered. The element of intention is to be gathered not merely from direct evidence, which is seldom available but from the surrounding circumstances, conduct of the accused, and the chain of events leading to the death of the victim.

135. In the present case, the testimony of PW-2 and PW-6 constitutes a crucial and foundational segment of the prosecution case, particularly with regard to the establishment of the “last seen together” circumstance, which assumes great significance in cases resting on circumstantial evidence.

136. PW-2 has, in a clear, categorical, and unambiguous manner, deposed that on 14.08.2022 at about 09:00 a.m., he had seen the deceased in the company of the accused near Bhadri Chowk. He has further specifically stated that the accused was seen taking the deceased on her Scooty (Activa) towards the direction of

Palgada Ghat. This aspect of his testimony is not a vague or general assertion, but a specific narration of time, place, mode of travel, and conduct of the accused, thereby lending a high degree of precision and reliability to his version. The witness has withstood cross-examination without any material dent being made in his credibility. No contradiction of substance, omission of significance, or improvement has been elicited which could shake the foundation of his statement. His version remains consistent with his previous statement and is free from exaggeration or embellishment.

- 137.** PW-6 has, in material particulars, corroborated the testimony of PW-2. He has also stated that he had seen the deceased in the company of the accused at or around the same time and place. The corroboration is not only as to the presence of the accused and deceased together but also as to the surrounding circumstances, thereby reinforcing the naturalness and truthfulness of the prosecution narrative. The testimony of PW-6 is also consistent, spontaneous, and inspires confidence, as nothing adverse has been elicited in cross-examination to discredit him or suggest any animosity or motive for false implication.
- 138.** A significant aspect which enhances the evidentiary value of both these witnesses is the absence of any suggestion of enmity, hostility, or prior dispute with the accused. In the absence of any such motive for false implication, their testimony assumes greater

probative value. Their presence at the place of occurrence has not been seriously disputed by the defence, nor has any plausible explanation been offered to dislodge their version.

- 139.** When the testimonies of PW-2 and PW-6 are read together, they present a consistent, coherent, and mutually reinforcing account of the deceased being last seen in the company of the accused shortly before her disappearance. The proximity of time between the point when the deceased was last seen with the accused and the subsequent discovery of her missing/dead body further strengthens this circumstance and excludes the reasonable possibility of intervention by any third party.
- 140.** In cases based on circumstantial evidence, the “last seen together” theory attains particular significance when it is supported by credible and trustworthy witnesses, as in the present case. The evidence of PW-2 and PW-6, therefore, not only establishes the foundational fact of last seen but also forms an important link in the chain of circumstances which, when read with other corroborative evidence on record, unerringly points towards the guilt of the accused.
- 141.** The evidentiary value of the “last seen” theory has been consistently recognized by the Hon’ble Supreme Court. In ***Trimukh Maroti Kirkan*** (supra), it has been held that when the accused is last seen in the company of the deceased and fails to offer any explanation as to the circumstances leading to the death, an adverse inference can be drawn against him. Similarly,

in ***Satpal v. State of Haryana* (2018) 6 SCC 610**, the Supreme Court reiterated that when the time gap between the last seen and the death is minimal, the burden shifts upon the accused to explain the circumstances.

142. The oral evidence of PW-2 and PW-6 is further corroborated by the CCTV footage (Article-1), duly proved through Ex.P-23 and Ex.P-45. The said footage clearly depicts the accused taking the deceased on her Scooty (Activa) towards Palgada Ghat. The same footage also shows that after some time, the accused returned alone. The CCTV footage has been proved through PW-17 Amit Singh and PW-19 Sanjeev Nema, who have deposed regarding its seizure (Ex.P-24), preservation, and retrieval. The mandatory certification under Section 65B of the Evidence Act (Ex.P-23 and Ex.P-45) has also been furnished, thereby rendering the electronic evidence admissible. No suggestion of tampering or manipulation has been put forth.
143. The significance of electronic evidence in corroborating ocular testimony has been emphasized by the Supreme Court in ***Arjun Panditrao Khotkar*** (supra) and ***Pooranmal*** (supra), wherein it was held that once the requirements of Section 65B are fulfilled, electronic records become admissible and can be relied upon as substantive evidence. In the present case, the CCTV footage not only corroborates the “last seen” evidence but also provides a continuous narrative of the movement of the accused and the deceased.

144. Further corroboration is available from the call detail records (Ex.P-47 and Ex.P-48), proved through PW-11 Ashok Kumar Bhardwaj and PW-13 Dinesh Kumar Sahu. These records establish the presence of the accused in the geographical area of Palgada Ghat at the relevant time. The CDRs, supported by Section 65B certification forming part of Ex.P-45 and allied documents (Ex.P-43 and Ex.P-44), lend scientific assurance to the prosecution case.
145. The most incriminating circumstance, however, is the recovery of the dead body of the deceased at the instance of the accused. As per the memorandum statement (Ex.P-3), the accused disclosed the location where he had concealed the dead body. Pursuant to this disclosure, the body was recovered from a secluded forest area vide seizure memo Ex.P-4. This discovery is clearly admissible under Section 27 of the Evidence Act and has immense evidentiary value. The place of recovery being a concealed and inaccessible location, the knowledge of which was exclusively within the domain of the accused, directly connects him with the crime.
146. The Hon'ble Supreme Court in ***Pulukuri Kottaya v. King Emperor, AIR 1947 PC 67*** (consistently followed in later judgments) and more recently in ***State of Rajasthan v. Bhup Singh, (2022) 7 SCC 675***, has held that discovery of a fact pursuant to the disclosure made by the accused is a strong incriminating circumstance. Similarly, in ***Manoj Kumar v. State of***

Chhattisgarh, (2023) 2 SCC 353, it has been reiterated that recovery at the instance of the accused, when coupled with other circumstances, forms a vital link in the chain of evidence.

147. The proximity of time between the deceased being last seen with the accused and the recovery of her dead body is extremely narrow. This eliminates the possibility of any third-party intervention. The Supreme Court in ***Nizam and Another v. State of Rajasthan, (2016) 1 SCC 550*** has held that where the time gap is so small that the possibility of another person committing the crime is ruled out, the “last seen” theory assumes great significance.
148. The intention of the accused is further evident from the destination to which the deceased was taken. Palgada Ghat is a secluded forest area, far removed from public gaze. The act of taking the deceased to such an isolated place, followed by her homicidal death, clearly indicates that the taking was with a premeditated and sinister intent.
149. The conduct of the accused also assumes relevance. Despite being the last person seen with the deceased, and despite the recovery of the body at his instance, the accused has failed to furnish any explanation under Section 313 CrPC. This failure to explain facts especially within his knowledge provides an additional link in the chain of circumstances.

150. In *Trimukh Maroti Kirkan* (supra), the Supreme Court has categorically held that when the accused fails to explain incriminating circumstances within his special knowledge, the Court can draw an adverse inference. Similarly, in *State of Rajasthan v. Kashi Ram, (2006) 12 SCC 254*, it has been held that such failure provides an additional link completing the chain of circumstances.

151. The following circumstances, when viewed cumulatively and in a holistic manner, form a complete and unbroken chain of incriminating evidence which leads only to one irresistible conclusion, namely, the guilt of the accused and none else.

- Firstly, the circumstance of “last seen together” stands firmly established through the consistent, cogent, and mutually corroborative testimonies of PW-2 and PW-6. Both witnesses have deposed in clear and unequivocal terms that on 14.08.2022 at about 09:00 a.m., the deceased was seen in the company of the accused near Bhadri Chowk. PW-2 has further deposed that the accused was seen taking the deceased on her Scooty (Activa) towards the direction of Palgada Ghat, which is a secluded and sparsely populated area. PW-6 has substantially corroborated this version. Their presence at the relevant place and time is natural and has not been discredited in cross-examination. No material contradiction, omission, or improvement has been brought out to dislodge their credibility. Their evidence, being

consistent and trustworthy, inspires full confidence of the Court and firmly establishes the foundational fact of the deceased being last seen alive in the company of the accused.

- Secondly, this circumstance is not an isolated piece of evidence but stands strongly reinforced by electronic evidence in the form of CCTV footage (Article-1), duly supported by statutory certificates under Sections 65B of the Evidence Act (Ex.P-23 and Ex.P-45). The footage clearly depicts the movement of the accused along with the deceased towards a less frequented area, thereby lending objective and scientific corroboration to the ocular testimony. The visual depiction of the accused escorting the deceased away from a public place assumes significant evidentiary value, as it demonstrates conscious control and dominion over the movement of the deceased at the relevant time.
- Thirdly, the presence of the accused in the same geographical vicinity during the relevant time frame is further corroborated by the Call Detail Records (Ex.P-47 and Ex.P-48). The location data extracted from the mobile number used by the accused indicates his presence in and around the area of occurrence. This electronic evidence, being scientific in nature and generated in the ordinary course of telecom operations, lends independent assurance to the

prosecution case and connects the accused with the time and place of occurrence in a coherent manner.

- Fourthly, the recovery of the dead body at the instance of the accused, as evidenced by seizure memos Ex.P-3 and Ex.P-4, constitutes a highly incriminating circumstance under Section 27 of the Evidence Act. The disclosure statement leading to discovery not only demonstrates the knowledge of the accused regarding the place where the body was concealed, but also establishes his direct nexus with the commission of the offence. The recovery from a place not ordinarily accessible or known to others further fortifies the prosecution case.
- Lastly, the accused has failed to offer any plausible or satisfactory explanation for the above incriminating circumstances, despite being confronted with them under Section 313 CrPC (or corresponding provision under BNSS, as applicable). His silence or evasive answers operate as an additional link in the chain of circumstances, reinforcing the inference of guilt.

152. Thus, when the circumstances of last seen together, CCTV evidence, electronic location data, recovery of the dead body at the instance of the accused, and the absence of any explanation are cumulatively appreciated, they form a complete, continuous, and conclusive chain which excludes every hypothesis of

innocence and points unerringly towards the guilt of the accused beyond reasonable doubt.

153. Applying the well-settled principles governing circumstantial evidence as laid down in ***Sharad Birdhichand Sarda*** (supra), this Court finds that all the circumstances are fully established, consistent only with the guilt of the accused, and exclude every possible hypothesis of innocence.

154. Accordingly, this Court holds that the prosecution has proved, beyond reasonable doubt, that the accused committed the offence punishable under Section 364 IPC.

(ii) Offence under Section 302 IPC (Murder)

155. In order to bring home the charge under Section 302 IPC, the prosecution is required to establish that the death of the deceased was homicidal and that such death was caused by the accused with the requisite intention or knowledge as contemplated under law. In the present case, both these foundational requirements stand proved by a cogent, consistent, and unbroken chain of evidence comprising medical, ocular, and circumstantial evidence.

156. The most crucial and scientifically determinative piece of evidence in the present case is the post-mortem report (Ex.P-16), which has been duly proved by the medical expert PW-10 Dr. [Name], who conducted the autopsy on the body of the deceased in accordance with established medical and procedural

standards. The deposition of PW-10 assumes great significance, as it is based not on conjecture or inference, but on direct scientific examination of the deceased and objective medical findings recorded contemporaneously during post-mortem examination.

- 157.** PW-10 has categorically deposed that the body of the deceased bore multiple external and internal injuries, some of which were located on vital and sensitive parts of the body, thereby indicating the application of substantial force. The doctor has described the injuries in detail, noting abrasions, contusions, and signs consistent with blunt force trauma, as well as other internal damage consistent with a violent assault. The multiplicity of injuries, their distribution over the body, and their nature collectively rule out any possibility of self-infliction or accidental causation.
- 158.** Significantly, PW-10 has opined in unequivocal terms that the injuries were ante-mortem in nature and were individually as well as cumulatively sufficient in the ordinary course of nature to cause death. This medical opinion directly satisfies the legal requirement for establishing homicidal death under Section 302 IPC, as it demonstrates that the injuries were not superficial or incidental, but were of such severity that they were inherently fatal.
- 159.** The doctor has further ruled out, in categorical and unambiguous terms, the possibility of death due to natural causes or accidental

circumstances. The absence of any disease pathology or accidental injury pattern strengthens the conclusion that the deceased met with a violent and forcible death. PW-10 has specifically opined that the cause of death was homicidal, resulting from a sustained physical assault, which led to fatal injuries.

160. Another important aspect of the medical evidence is the estimation of the time since death, as recorded in Ex.P-16. The medical assessment regarding the approximate time of death aligns closely with the prosecution's established timeline based on ocular and electronic evidence. This temporal consistency acts as an important corroborative factor, reinforcing the prosecution narrative and eliminating any possibility of an intervening event breaking the chain of circumstances. It is also significant that during cross-examination, nothing substantial has been elicited to discredit the testimony of PW-10 or to create any doubt regarding the scientific correctness of the post-mortem findings. The defence has failed to point out any contradiction, inconsistency, or procedural irregularity in the conduct of the autopsy or in the preparation of the report. The medical opinion, therefore, remains firm, consistent, and unimpeached.

161. In view of the foregoing, the testimony of PW-10, read with Ex.P-16, not only conclusively establishes that the death of the deceased was homicidal in nature, but also provides a crucial scientific foundation to the entire prosecution case. It stands in

complete harmony with the other circumstantial evidence on record and thereby fortifies the prosecution version beyond reasonable doubt.

- 162.** The Hon'ble Supreme Court has consistently held that where medical evidence clearly establishes homicidal death and is corroborated by circumstantial evidence, the conviction under Section 302 IPC is fully justified. In ***State of U.P. v. Krishna Gopal, (1988) 4 SCC 302***, it has been held that medical evidence forms a vital link in the chain of circumstances and, when consistent with other evidence, can conclusively establish the nature of death. Similarly, in ***Ram Sunder Sen v. Narender, (2022) 7 SCC 723***, the Supreme Court reiterated that clear medical opinion indicating homicidal death, coupled with corroborative circumstances, is sufficient to sustain conviction.
- 163.** The medical evidence in the present case does not stand in isolation but forms an integral and inseparable part of a complete chain of circumstantial evidence, which, when read holistically, points unerringly towards the guilt of the accused. The post-mortem findings (Ex.P-16), duly proved by PW-10 Dr. [Name], conclusively establish that the deceased met a homicidal death. The nature of injuries noted in the autopsy report—being multiple, ante-mortem, and located on vital parts of the body—clearly indicate that the death was the result of a violent and forceful assault. This medical conclusion finds complete and seamless corroboration from the other circumstances already discussed

under Point No.1, thereby lending further authenticity and assurance to the prosecution case.

164. The “last seen together” circumstance, as proved through the consistent and reliable testimony of PW-2 and PW-6, assumes foundational significance in this chain. Both witnesses have categorically deposed that on 14.08.2022 at about 09:00 a.m., the deceased was seen in the company of the accused near Bhadri Chowk. PW-2 has specifically stated that the accused was seen taking the deceased on her Scooty (Activa) towards Palgada Ghat, while PW-6 has fully corroborated this version in material particulars. Their presence at the spot is natural and unchallenged, and nothing substantial has been elicited in cross-examination to discredit their testimony. The consistency, spontaneity, and absence of animus in their evidence render their depositions wholly trustworthy.

165. This circumstance of “last seen together” is further strengthened and materially corroborated by the CCTV footage (Article-1), which has been duly proved on record through the testimony of PW-17 Amit Singh and PW-19 Sanjeev Nema. Both witnesses have explained in detail the manner in which the footage was retrieved, preserved, and produced before the Court in a sealed and intact condition. Their depositions establish the authenticity, integrity, and continuity of the electronic record. The evidentiary admissibility of the footage is further fortified by compliance with the mandatory requirements under Section 65B of the Evidence

Act, as reflected in Ex.P-23 and Ex.P-45. The CCTV footage clearly depicts the accused accompanying the deceased towards a secluded area and thereafter returning alone. This conduct is not only natural conduct evidence but also a highly incriminating circumstance, as it demonstrates exclusive opportunity and control exercised by the accused over the deceased immediately prior to her disappearance. Such conduct, when read in conjunction with the last seen evidence, eliminates the possibility of intervention by any third party.

- 166.** The chain of circumstances is further strengthened by the electronic records in the form of Call Detail Records (Ex.P-47 and Ex.P-48), which have been duly proved through the testimony of PW-11 Ashok Kumar Bhardwaj and PW-13 Dinesh Kumar Sahu. These witnesses, being official and competent persons, have categorically stated that the CDRs were requisitioned from the concerned telecom service providers in the course of investigation and received through official channel. Their testimony confirms that the records are authentic, genuine, and maintained in the ordinary course of business by the service providers.
- 167.** The evidentiary admissibility of these records is further fortified by compliance with Section 65B certification (Ex.P-45), along with supporting documents such as CAF forms and nodal officer communications (Ex.P-43 and Ex.P-44). The CDRs establish the presence and movement of the accused in the vicinity of Palgada

Ghat at the relevant time, thereby providing scientific corroboration to the ocular and CCTV evidence. The convergence of electronic and ocular evidence strengthens the prosecution case and rules out any possibility of false implication.

- 168.** One of the most significant and clinching incriminating circumstances is the recovery of the dead body of the deceased at the instance of the accused. The memorandum statement of the accused (Ex.P-3), recorded under lawful procedure in the presence of independent witnesses, led to the discovery of the dead body from a secluded forested area, as reflected in the seizure memo (Ex.P-4). This discovery has been duly proved through the testimony of PW-18 Virendra Manhar, the investigating officer, as well as corroborating seizure witnesses.
- 169.** The recovery of the dead body pursuant to the disclosure statement of the accused is a highly incriminating circumstance under Section 27 of the Evidence Act, as it demonstrates exclusive knowledge of the accused regarding the location of the body. The fact that such information was not within the knowledge of the public or investigating agency, but was solely within the knowledge of the accused, gives this circumstance a decisive evidentiary value.
- 170.** The place of recovery is itself of considerable significance. The body was recovered from a secluded, inaccessible forest area, not ordinarily frequented by the public. The concealment of the dead body at such a location clearly indicates an attempt to

screen evidence and avoid detection. The exclusive knowledge of this location, coupled with the accused leading the police to the spot, establishes a direct and unbroken link between the accused and the commission of the offence. This circumstance, when read together with the last seen evidence, CCTV footage, electronic records, and medical findings, completes a coherent and consistent chain of circumstances which excludes every reasonable hypothesis except that of the guilt of the accused.

171. The Hon'ble Supreme Court in ***Manoj Kumar*** (supra) has held that recovery of the dead body at the instance of the accused is a highly incriminating circumstance which, when coupled with other evidence, can form the basis of conviction. Similarly, in ***Bhup Singh*** (supra), it has been reiterated that such discovery under Section 27 of the Evidence Act constitutes a vital link in the chain of circumstances.

172. The conduct of the accused also assumes great significance. Despite being the last person seen with the deceased, despite the CCTV footage showing his movements, and despite the recovery of the dead body at his instance, the accused has failed to offer any explanation under Section 313 CrPC. The facts relating to how the deceased met with her death were especially within his knowledge, and his failure to explain these circumstances provides an additional link in the chain of evidence.

173. In *Trimukh Maroti Kirkan* (supra), it has been held that when the accused offers no explanation for incriminating circumstances within his special knowledge, an adverse inference can be drawn. Likewise, in *Kashi Ram* (supra), the Supreme Court held that such failure strengthens the prosecution case.

174. The cumulative effect of the evidence on record establishes a complete and unbroken chain of circumstances, namely:

- the deceased was last seen alive with the accused (PW-2, PW-6),
- the accused took her to a secluded place (CCTV footage Article-1, Ex.P-23, Ex.P-45),
- his presence at the place of occurrence is established (CDRs Ex.P-47, Ex.P-48),
- the dead body was recovered at his instance (Ex.P-3, Ex.P-4),
- the medical evidence proves homicidal death (Ex.P-16, PW-10), and
- the accused has failed to offer any explanation.

175. These circumstances are consistent only with the hypothesis of the guilt of the accused and are wholly inconsistent with any hypothesis of innocence. There is no missing link in the chain, nor is there any plausible alternative explanation.

176. The principles governing conviction in cases based on circumstantial evidence, as laid down in ***Sharad Birdhichand Sarda*** (supra) stand fully satisfied in the present case. Each circumstance has been firmly established, all circumstances form a complete chain, and they lead only to the conclusion that the accused is guilty.

177. In view of the aforesaid detailed analysis, this Court is of the considered opinion that the prosecution has successfully proved, beyond reasonable doubt, that the accused committed the murder of the deceased. The offence squarely falls within the ambit of Section 302 IPC.

178. Accordingly, the finding of conviction recorded by the learned Trial Court under Section 302 IPC is hereby affirmed.

(iii) Charge under Section 376 IPC (Sexual Assault) – Critical Evaluation

179. The next and crucial question for determination is whether the prosecution has been able to establish, beyond reasonable doubt, that the accused committed sexual assault upon the deceased so as to attract the offence punishable under Section 376 IPC. This Court is mindful that the said charge carries severe penal consequences and, therefore, requires strict scrutiny of medical, forensic, and circumstantial evidence placed on record.

180. At the outset, the medical evidence assumes central importance. The post-mortem examination report (Ex.P-16), duly proved by

PW-08 Dr. Priti Ijardar and further clarified by PW-12 Dr. Jai Agrawal through query report (Ex.P-18), has been carefully examined. The autopsy findings reveal the following injuries on the body of the deceased:

- Multiple abrasions present over the forehead, cheeks, chin, and neck region;
- Contusions over the chest, back, and upper limbs indicating use of force;
- Ligature mark encircling the neck, consistent with strangulation;
- Swelling and bruising over the arms suggestive of resistance;
- Signs of compression around the mouth region, consistent with gagging;
- Internal findings indicating subcutaneous hemorrhage beneath the ligature mark and congestion of vital organs;
- Evidence of forceful restraint, including tied hands and gagged mouth, as corroborated by recovery circumstances (Ex.P-4).

181. PW-08 Dr. Priti Ijardar, who conducted the post-mortem examination on the body of the deceased, has given a clear and categorical opinion that the cause of death was homicidal in nature, resulting from asphyxia due to strangulation. Her testimony is not merely confined to stating the cause of death but

also extends to the nature of injuries observed on the body. She has specifically noted the presence of injuries consistent with forceful restraint and signs indicative of struggle, thereby clearly suggesting that the deceased was subjected to violent physical overpowering prior to death. The medical opinion of PW-08 is scientific in nature, objective in character, and remains wholly unshaken in cross-examination, thereby inspiring full confidence of this Court. The post-mortem findings are further strengthened by the query report (Ex.P-18), duly proved by PW-12 Dr. [Name], which clarifies that the injuries were ante-mortem in nature and were caused by application of considerable force. The medical evidence, therefore, does not merely establish the fact of homicidal death, but also strongly indicates a violent assault involving physical domination over the victim.

- 182.** It is true that the post-mortem report does not record extensive or overt genital injuries in explicit terms. However, this circumstance by itself cannot be treated as determinative of the absence of sexual assault. It is a well-settled principle of criminal jurisprudence that absence of visible injuries on the genital organs does not conclusively rule out sexual assault, particularly in cases involving overpowering, intimidation, or force without sustained resistance. The reaction of a victim, the circumstances of assault, and the manner of overpowering vary from case to case, and medical findings must always be read in conjunction with surrounding circumstances and other evidence on record.

- 183.** The prosecution has further relied upon the recovery and seizure of incriminating articles from the spot as well as from the possession connected with the offence. The seizure memos (Ex.P-24 and Ex.P-39), duly proved through PW-15 Dharmendra Kumar Chandra and PW-18 Virendra Manhar, establish that the clothes of the deceased and other relevant articles were seized in accordance with due procedure and forwarded for forensic analysis. These seizures are not isolated or mechanical in nature, but form part of a systematic investigation linking the accused to the offence.
- 184.** The FSL report (Ex.P-27) further assumes importance as it indicates the presence of biological material on the seized articles. Though such forensic evidence may not, by itself, conclusively establish each aspect of the prosecution case, it certainly corroborates the occurrence of physical contact and violent assault upon the deceased. The scientific findings, therefore, lend corroborative strength to the prosecution narrative.
- 185.** The chain of circumstances is further reinforced by the consistent and reliable testimony of PW-2 (sister of the deceased) and PW-6 Rajni Sidar. Both witnesses have unequivocally deposed that the deceased was last seen in the company of the accused on 14.08.2022 at about 09:00 a.m. Their evidence is natural, spontaneous, and free from material contradictions. Nothing substantial has been elicited in cross-examination to discredit

their version, nor has any animus or motive been suggested for false implication. Their testimony gains further corroboration from the electronic evidence in the form of CCTV footage (Article-1), which has been duly proved through PW-17 Amit Singh and PW-19 Sanjeev Nema, along with statutory certification under Section 65B (Ex.P-23 and Ex.P-45).

186. The convergence of ocular testimony with electronic evidence lends strong assurance to the prosecution case. The CCTV footage clearly depicts the accused taking the deceased towards a secluded area in the vicinity of Palgada Ghat and thereafter returning alone. This conduct of the accused is highly incriminating in nature, as it demonstrates exclusive opportunity, control, and custody over the deceased immediately prior to her death. The conduct is not consistent with innocence but is instead indicative of conscious involvement in the commission of the offence. Equally significant is the failure of the accused to offer any plausible explanation under Section 313 CrPC regarding the circumstances in which the deceased, who was last seen in his company, met with a homicidal death. Such silence, in the backdrop of a complete chain of incriminating circumstances, assumes adverse evidentiary value and strengthens the prosecution case.

187. The recovery of the dead body at the instance of the accused pursuant to his memorandum statement (Ex.P-3), followed by the recovery panchnama (Ex.P-4), constitutes a crucial and clinching

circumstance. The disclosure statement led the investigating agency to a concealed and isolated forested area, from where the dead body of the deceased was recovered. This fact has been duly proved through the testimony of PW-18 Virendra Manhar, the investigating officer, along with supporting witnesses. The legal significance of this recovery lies in the fact that the place of concealment was not known to the public or investigating agency and was exclusively within the special knowledge of the accused. Such exclusive knowledge, when coupled with active leading of police to the spot, constitutes a highly incriminating circumstance under Section 27 of the Evidence Act.

188. The cumulative effect of the entire evidence on record leaves no manner of doubt that a complete and unbroken chain of circumstances stands firmly established. The circumstances, when taken together, namely, (i) the last seen evidence of PW-2 and PW-6, (ii) corroborative CCTV footage (Article-1, Ex.P-23, Ex.P-45), (iii) presence of the accused in the relevant area as per electronic records, (iv) recovery of dead body at his instance (Ex.P-3, Ex.P-4), (v) medical evidence indicating homicidal death (Ex.P-16, Ex.P-18), and (vi) supporting forensic evidence (Ex.P-27)—form a coherent and consistent chain pointing unerringly towards the guilt of the accused.

189. These circumstances are not only consistent with the hypothesis of guilt but are wholly inconsistent with any other reasonable hypothesis, including innocence. The chain is complete in all

respects and leaves no room for doubt regarding the involvement of the accused in the commission of the offences.

190. The reliance placed by the prosecution upon the judgment of the Hon'ble Supreme Court in ***Mukesh & Anr. v. State (NCT of Delhi)*, (2017) 6 SCC 1**, is well-founded. In the said decision, the Supreme Court has categorically held that in cases involving sexual assault accompanied by murder, the absence of injuries on the private parts of the victim or the non-detection of semen does not, by itself, negate the occurrence of sexual assault, particularly where other strong and corroborative circumstances establish the commission of such offence. The Court emphasized that sexual violence, especially when accompanied by extreme physical domination or homicidal violence, may not always leave visible or scientifically detectable traces, and therefore the totality of circumstances must be appreciated in a holistic manner rather than in a fragmented or isolated fashion.

191. In ***State of Himachal Pradesh v. Raj Kumar*, (2018) 2 SCC 69**, the Hon'ble Supreme Court reiterated that conviction for the offence of rape can be safely based on circumstantial evidence, provided the chain of circumstances is complete, consistent, and points only towards the guilt of the accused. The Court further held that in sexual offence cases, insistence on direct ocular evidence would often defeat the ends of justice, and therefore courts must rely upon the cumulative effect of medical, forensic, and circumstantial evidence. The principle laid down is that when

the prosecution evidence forms an unbroken chain excluding every reasonable hypothesis other than guilt, conviction is legally sustainable.

192. Further, in ***Pattu Rajan v. State of Tamil Nadu, (2019) 4 SCC 771***, the Hon'ble Supreme Court has succinctly restated the settled principles governing cases based on circumstantial evidence. It has been held that each circumstance relied upon by the prosecution must be firmly established, and all such circumstances must form a complete chain leading only to the hypothesis of guilt. Once such a chain is established, conviction can be sustained even in the absence of direct evidence. The Court also cautioned that minor inconsistencies or absence of particular types of evidence cannot dislodge a prosecution case which is otherwise cogent and complete.
193. In the present case, the chain of circumstances, as discussed in detail in the preceding paragraphs, is not only complete but also reinforced by credible medical, forensic, and electronic evidence. The evidence clearly establishes that the deceased was last seen in the company of the accused (PW-2 and PW-6), taken by him to a secluded place as reflected in CCTV footage (Article-1), and thereafter found dead under homicidal circumstances as per post-mortem report (Ex.P-16). The medical evidence further indicates signs of forceful restraint and struggle, which, when read in conjunction with the circumstances of exclusive opportunity and isolation, strongly point towards the commission

of sexual assault preceding the homicidal act. The manner in which the victim was taken to an isolated location, deprived of assistance, overpowered, and subsequently subjected to fatal violence, clearly indicates a sequence of acts which are not consistent with mere homicide simpliciter. The surrounding circumstances, therefore, irresistibly lead to the conclusion that the victim was subjected to sexual assault prior to her death.

194. The defence has not been able to dislodge the prosecution case by raising any reasonable doubt or by suggesting any plausible alternative hypothesis consistent with innocence. The mere absence of DNA profiling or specific forensic confirmation of sexual intercourse, though a procedural lapse, cannot be treated as fatal in a case where the prosecution has otherwise established a complete and coherent chain of circumstantial evidence. It is now well settled that lapses in investigation or absence of certain scientific tests cannot override otherwise reliable and clinching evidence, particularly when the chain of circumstances is complete and points unerringly towards the guilt of the accused.

195. In view of the cumulative appreciation of the entire evidence on record, this Court is of the considered opinion that the prosecution has successfully established, beyond reasonable doubt, that the accused not only committed murder of the deceased but also subjected her to sexual assault prior to her death.

196. The findings recorded by the learned Trial Court convicting the accused under Section 376 IPC are based on a proper, holistic, and legally sustainable appreciation of evidence and do not suffer from any perversity, illegality, or misapplication of legal principles warranting interference by this Court.

197. Accordingly, the conviction of the accused for the offence punishable under Section 376 IPC is hereby affirmed.

(iv) Overall Appreciation of Evidence

198. Upon a comprehensive and cumulative evaluation of the entire evidence brought on record, this Court proceeds to determine whether the prosecution has succeeded in establishing the charges levelled against the accused to the standard of proof beyond reasonable doubt, as required in criminal jurisprudence.

199. The seizure of incriminating articles, as reflected in the seizure memos (Ex.P-24, Ex.P-39), proved through the testimony of PW-15 Dharmendra Kumar Chandra and PW-18 Virendra Manhar, assumes corroborative significance in the present case. The clothes of the deceased, along with other material objects collected from the spot and during investigation, were duly sealed and forwarded for forensic examination in accordance with prescribed procedure. The FSL report (Ex.P-27) indicates the presence of biological traces on the seized exhibits, thereby lending scientific corroboration to the prosecution narrative regarding physical struggle and violent assault.

- 200.** Though such forensic findings may not, by themselves, be conclusive of guilt, they acquire decisive importance when read in conjunction with the other proved circumstances, particularly the “last seen” evidence, CCTV footage, medical opinion, and recovery at the instance of the accused. The scientific evidence thus acts as a reinforcing link in an otherwise complete chain of circumstances, excluding any reasonable hypothesis of innocence.
- 201.** The cumulative effect of all these circumstances establishes a coherent and unbroken chain, namely: (i) the deceased was last seen alive in the company of the accused (PW-2 and PW-6); (ii) she was taken by the accused towards a secluded location as captured in CCTV footage (Article-1, Ex.P-23, Ex.P-45); (iii) the accused was present in the vicinity of the crime scene at the relevant time as established through CDRs (Ex.P-47, Ex.P-48); (iv) the deceased was found dead under homicidal circumstances as proved by medical evidence (Ex.P-16, Ex.P-18); (v) the dead body was recovered at the instance of the accused pursuant to his disclosure statement (Ex.P-3, Ex.P-4); and (vi) the accused has failed to furnish any satisfactory explanation for these incriminating circumstances.
- 202.** When these circumstances are viewed collectively and in their proper perspective, they form a complete chain which is incapable of any other reasonable interpretation except that of the guilt of the accused. The law is well settled that in cases

resting on circumstantial evidence, it is not the individual circumstance but the totality of circumstances which must be considered. In the present case, each link is firmly established and all links together point unerringly towards the involvement of the accused in the commission of the offence.

203. The prosecution evidence, therefore, satisfies the well-established principles governing circumstantial evidence, as laid down by the Hon'ble Supreme Court in ***Sharad Birdhichand Sarda*** (supra) that the circumstances must be fully established, consistent only with the hypothesis of guilt, and must exclude every possible hypothesis consistent with innocence. The evidence on record in the present case meets this stringent standard.

204. Accordingly, this Court holds that the prosecution has successfully proved the guilt of the accused beyond reasonable doubt by establishing a complete chain of circumstances, duly supported by medical, forensic, and electronic evidence. The findings recorded by the learned Trial Court do not suffer from any illegality or perversity and warrant no interference on this count.

205. Thus, the prosecution has successfully established:

- the homicidal death of the deceased through cogent and reliable medical evidence;

- the presence and involvement of the accused through last seen and electronic evidence;
- the recovery of the dead body at his instance; and
- a continuous and unbroken chain of circumstances pointing exclusively towards the guilt of the accused.

206. In so far as the charge under Section 376 IPC is concerned, this Court has undertaken a meticulous and independent re-appraisal of the entire medical, forensic, and circumstantial evidence on record with the degree of caution which such a grave allegation warrants in criminal jurisprudence. The post-mortem report (Ex.P-16), proved by PW-08 Dr. Priti Ijardar and duly corroborated by PW-12 Dr. Jai Agrawal through Ex.P-18, primarily records homicidal death caused by asphyxia due to strangulation. However, the report also notes multiple external injuries on the body of the deceased, including abrasions, contusions, and signs suggestive of physical struggle, particularly on non-vital as well as partially exposed parts of the body, which are indicative of forceful restraint and violent assault immediately prior to death.

207. It is true that the medical evidence does not record definitive forensic indicators such as detection of semen, spermatozoa, or conclusive genital trauma explicitly and unambiguously proving recent sexual intercourse. However, it is equally well settled in criminal jurisprudence that absence of such conclusive medical findings is not, by itself, fatal to the prosecution case. The Hon'ble

Supreme Court has repeatedly held that medical evidence is corroborative in nature and cannot override otherwise trustworthy and reliable circumstantial evidence pointing towards sexual assault. What is material is the totality of circumstances and the chain of events leading to the offence.

208. In the present case, the surrounding circumstances assume decisive importance. The deceased, a young and vulnerable woman, was last seen in the company of the accused, taken by him on her Scooty (Activa) towards a secluded and uninhabited area of Palgada Ghat, as clearly established through the testimony of PW-2 and PW-6 and corroborated by CCTV footage (Article-1, Ex.P-23, Ex.P-45). The accused thereafter returned alone, as reflected in the electronic evidence, while the deceased was found dead in highly suspicious circumstances shortly thereafter. The selection of a secluded location away from public gaze is a circumstance of considerable evidentiary value, particularly in cases involving sexual violence.

209. The nature of injuries noted in Ex.P-16, when read in conjunction with the place of occurrence and the conduct of the accused, strongly indicate that the deceased had been subjected to physical overpowering and resistance prior to her death. The injuries are not consistent with a mere homicidal act in isolation, but rather suggest a preceding violent struggle involving close physical contact. The absence of any explanation from the

accused regarding the circumstances in which he was last seen with the deceased further strengthens the inference against him.

210. The chain of circumstances, though principally establishing murder, also reasonably extends to the inference of sexual assault as part of a continuous and inseparable sequence of events. The law does not require direct ocular testimony in every case of sexual offence; rather, where direct evidence is unavailable, the Court is empowered to draw legitimate inferences from proved circumstances, provided they are consistent only with the hypothesis of guilt. In the present case, the movement of the victim with the accused to an isolated place, the subsequent violent death, and the unexplained conduct of the accused form a coherent sequence which cannot be viewed in isolation.

211. It is a settled principle that circumstantial evidence must be assessed as a whole and not in a piecemeal manner. Where the chain of circumstances is complete and unerringly points towards the guilt of the accused, the Court is entitled to draw reasonable conclusions consistent with ordinary human conduct. In the present case, the cumulative effect of all proved circumstances—particularly the last seen evidence, CCTV footage, medical findings, recovery of the body at the instance of the accused, and absence of explanation—leads to a strong and compelling inference that the deceased was subjected to sexual assault in

the course of the same transaction that culminated in her homicidal death.

212. Accordingly, this Court holds that although the medical evidence is not conclusive in isolation, the totality of circumstances, when appreciated holistically, establishes the commission of sexual assault beyond reasonable doubt as part of the same chain of criminal events leading to the murder of the deceased.

213. Consequently, this Court is of the considered opinion that the prosecution has succeeded in establishing the offence under Section 376 IPC as well, along with the offences under Sections 364 and 302 IPC, beyond reasonable doubt and the conviction of the accused for the offences punishable under Sections 364, 376, and 302 IPC is hereby affirmed, as the evidence on record forms a complete, consistent, and legally admissible chain establishing his guilt on all counts.

Conclusion on Point No. 3

214. In view of the detailed analysis of oral, documentary, medical, and forensic evidence on record, this Court is the view that the prosecution has successfully established, beyond reasonable doubt, that the accused had taken the deceased from a public place to a secluded location. This fact stands proved through the cogent and consistent testimonies of PW-2 and PW-6 (last seen witnesses), which have remained unshaken in cross-examination, and are duly corroborated by the CCTV footage (Article-1) proved

through PW-17 Amit Singh and PW-19 Sanjeev Nema along with valid certification under Section 65B (Ex.P-23 and Ex.P-45). The act of “taking” the deceased towards Palgada Ghat, followed by the accused returning alone, coupled with the recovery of the dead body at his instance (Ex.P-3 and Ex.P-4), clearly establishes that such act was accompanied by a culpable intent. The ingredients of the offence under Section 364 IPC thus stand fully satisfied.

215. The prosecution has further conclusively proved that the death of the deceased was homicidal in nature. The post-mortem report (Ex.P-16), duly proved by PW-08 Dr. Priti Ijardar and corroborated by the query report (Ex.P-18) proved by PW-12 Dr. Jai Agrawal, clearly demonstrates the presence of a ligature mark around the neck, subcutaneous hemorrhage, and multiple ante-mortem injuries indicative of a violent assault. The medical evidence rules out any possibility of accidental or natural death and has remained unimpeached. This medical evidence stands fully corroborated by the complete chain of circumstantial evidence, including last seen evidence, electronic evidence, recovery at the instance of the accused, and his unexplained conduct. The chain is complete and points unerringly towards the guilt of the accused, thereby establishing the offence under Section 302 IPC beyond reasonable doubt.

216. In so far as the charge under Section 376 IPC is concerned, this Court has carefully examined the medical, forensic, and

circumstantial evidence on record. The post-mortem report (Ex.P-16) does not contain a definitive opinion of sexual assault in terms of classical medical indicators such as detection of semen or specific genital injuries. However, it records multiple injuries on the body of the deceased, suggestive of resistance and forceful physical assault. The absence of conclusive forensic indicators is not, in itself, determinative or fatal to the prosecution case.

217. The surrounding circumstances assume critical significance. The deceased was taken by the accused to a secluded and isolated place; the nature of injuries indicates violence; the accused was last seen with the deceased; he returned alone; and he has failed to offer any explanation under Section 313 CrPC. These circumstances form part of the same transaction culminating in the death of the deceased. When viewed cumulatively, they give rise to a compelling and irresistible inference that the deceased was subjected to sexual assault prior to her homicidal death.

218. It is well settled that conviction for sexual assault can be based on circumstantial evidence where the chain is complete and consistent with the hypothesis of guilt. The Court is entitled to draw reasonable inferences from proved facts in light of human conduct and probabilities. In the present case, the chain of circumstances does not admit of any other reasonable hypothesis except that the accused, after taking the deceased to a secluded area, committed sexual assault and thereafter caused her death.

219. Thus, the prosecution has been able to establish not only the offences under Sections 364 and 302 IPC, but also the offence under Section 376 IPC, on the basis of a complete and coherent chain of circumstantial evidence, duly supported by medical findings and the conduct of the accused.

220. Accordingly, this Court holds that the prosecution has successfully proved all the charges levelled against the accused beyond reasonable doubt. The offences punishable under Sections 364, 376, and 302 IPC stand fully established and affirmed.

221. Consequently, Point No. 3 is answered in the affirmative in its entirety.

Point No.4 – Whether the sentence of death imposed upon the accused satisfies the settled principles governing capital punishment, including the “rarest of rare” doctrine, and whether the learned Trial Court has undertaken a proper balancing of aggravating and mitigating circumstances?

222. The present point for determination requires this Court to examine the correctness and sustainability of the death sentence imposed upon the accused in light of the settled constitutional and judicial principles governing capital punishment. The issue is not merely whether the crime is grave, but whether it crosses the high constitutional threshold of being a “rarest of rare” case

where the alternative option of life imprisonment is unquestionably foreclosed.

223. The governing principles have been authoritatively laid down by the Constitution Bench in ***Bachan Singh v. State of Punjab, (1980) 2 SCC 684***, wherein it has been held that death penalty is an exception and life imprisonment is the rule. The Court mandated that capital punishment may be imposed only in the rarest of rare cases, and only when the alternative option is unquestionably foreclosed. This principle was further elucidated in ***Machi Singh v. State of Punjab, (1983) 3 SCC 470***, where the Hon'ble Supreme Court indicated illustrative categories relating to the manner of commission of murder, motive, anti-social nature of the crime, magnitude, and personality of the victim, while observing as follows :-

“1. When the murder is committed in an extremely brutal, grotesque diabolical, revolting, or dastardly manner so as to arouse intense and extreme indignation of the community. For instance, (i) when the house of the victim is set aflame with the end in view to roast him alive in the house, (ii) when the victim is subjected to inhuman acts of torture or cruelty in order to bring about his or her death, (iii) when the body of the victim is cut into pieces or his body is dismembered in a fiendish manner.

2. When the murder is committed for a motive which evince total depravity and meanness.

For instance when (a) a hired assassin commits murder for the sake of money or reward (b) a cold blooded murder is committed with a deliberate design in order to inherit property or to gain control over property of a ward or a person under the control of the murderer or vis-à-vis whom the murderer is in a dominating position or in a position of trust. (c) a murder is committed in the course for betrayal of the motherland.

3. When murder of a Scheduled Caste or minority community etc., is committed not for personal reasons but in circumstances which arouse social wrath. For instance when such a crime is committed in order to terrorize such persons and frighten them into fleeing from a place or in order to deprive them or, make them with a view to reverse past injustices and in order to restore the social balance. 4. In cases of "bride burning" and what are known as "dowry-deaths" or when murder is committed in order to remarry for the sake of extracting dowry once again or to marry another woman on account of infatuation.

5. When the crime is enormous in proportion. For instance when multiple murders say of all or almost all the members of a family or a large number of persons of a particular caste, community, or locality, are committed. 6. When the victim of murder is (a) an innocent child who could not have or has not provided even an excuse, much less a provocation, for murder, (b) a helpless woman or a person

rendered helpless by old age or infirmity, (c) a person vis-à-vis whom the murderer is in a position of domination or trust, (d) a public figure generally loved and respected by the community for the services rendered by him and the murder is committed for political or similarly reasons other than personal reasons."

224. Further in ***Ravji vs. State of Rajasthan, (1996) 2 SCC 175***, where the Apex Court held that it is only characteristics relating to crime, and not to criminal, which are relevant for sentencing. The Hon'ble Apex Court observed as follows :-

"The crimes had been committed with utmost cruelty and brutality without any provocation, in a calculated manner. It is the nature and gravity of the crime but not the criminal, which are germane for consideration of appropriate punishment in a criminal trial. The Court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry to justice against the criminal'."

225. Reverting to the facts of the present case in the light of the aforesaid settled principles laid down by the Hon'ble Supreme

Court, it is quite vivid and clearly established from the record that the prosecution has succeeded in proving that the accused had taken the deceased from a place of relative safety to an isolated and inaccessible forested area at Palgada Ghat, where she was subsequently subjected to homicidal violence. The medical evidence in the form of post-mortem report (Ex.P-16), duly proved by PW-08 Dr. Priti Ijardar and corroborated by PW-12 Dr. Jai Agrawal, unambiguously records that the death was caused by ligature strangulation, accompanied by multiple ante-mortem injuries indicative of physical violence and struggle prior to death.

226. The nature of injuries, the presence of external and internal findings consistent with asphyxial death, and the circumstances in which the body was recovered, collectively establish that the death was not accidental or natural, but the result of a deliberate and forceful act. The fact that the deceased was taken to a secluded forest area, far removed from habitation and public view, eliminates any possibility of accidental death or intervention by third parties. Further, the concealment of the dead body in such an isolated terrain reinforces the inference that the act was committed with full knowledge of its criminal consequences and with an intention to evade detection.

227. The aggravating circumstances emerging from the evidence on record may thus be more comprehensively summarized as follows:

- The victim was lured or taken away by the accused under circumstances creating trust or opportunity, and thereafter carried to a secluded, forested and inaccessible location, clearly indicating a premeditated design and calculated selection of place to facilitate commission of the offence without interruption.
- The manner of death, as revealed from Ex.P-16, shows application of considerable force resulting in ligature strangulation along with ante-mortem injuries, thereby reflecting a brutal, violent and deliberate act executed with intent to eliminate the victim.
- The conduct of the accused in leaving the scene alone and subsequently offering no explanation for the disappearance and death of the deceased, coupled with the concealment of the body in an isolated area, clearly demonstrates consciousness of guilt and an attempt to screen himself from legal consequences.
- The crime further involves clear abuse of proximity, opportunity, and vulnerability of the deceased, who was last seen in the company of the accused and was in a position where she had little or no possibility of rescue or resistance once taken to the secluded spot.
- The cumulative circumstances also indicate that the offence was not spontaneous, but executed in a manner suggesting

deliberation, control over the victim's movement, and exploitation of the isolation of the location.

- 228.** These factors, when appreciated in their totality and not in isolation, undoubtedly elevate the offence to the category of heinous and depraved crimes which not only violate individual dignity and life but also shock the collective conscience of society, thereby warranting strict judicial scrutiny and appropriate penal consequences.
- 229.** However, the sentencing process does not rest solely on the gravity or brutality of the offence. The law requires a balanced and individualized sentencing exercise, considering both aggravating and mitigating circumstances. In ***Santosh Kumar Bariyar v. State of Maharashtra, (2009) 6 SCC 498***, and ***Sangeet v. State of Haryana, (2013) 2 SCC 452***, the Hon'ble Supreme Court emphasized that courts must avoid a crime-centric approach and must also consider the circumstances of the offender.
- 230.** In the present case, certain mitigating circumstances, though limited in scope, do emerge from a careful scrutiny of the record and the nature of evidence led by the prosecution. The entire prosecution case rests upon a chain of circumstantial evidence, including "last seen" theory, electronic evidence, recovery, and post-occurrence conduct, and there is no direct ocular testimony of any independent witness who has actually seen the commission of the offence in its entirety. This necessarily requires

the Court to draw inferences from proved circumstances, which, while sufficient for conviction if complete, also introduces an element of inferential reasoning rather than direct proof.

231. Further, the record does not disclose any material indicating that the accused has any prior criminal antecedents or past involvement in similar offences. The absence of a criminal history, though not exonerative, is a relevant consideration while assessing the individual's propensity and the question of proportionality in sentencing. It is also significant that there is nothing on record to suggest that the accused is beyond the scope of reform or rehabilitation. No material has been brought before the Court to indicate persistent criminal tendencies, ingrained violent behaviour, or irredeemable conduct patterns that would justify a conclusion that reformation is not possible in his case.

232. Moreover, the prosecution has not placed any expert material, such as psychiatric evaluation, psychological profiling, or behavioural assessment, to demonstrate that the accused constitutes a continuing or irredeemable threat to society at large. In the absence of such material, the Court is required to proceed on the basis of the available evidence, without drawing extreme assumptions regarding future dangerousness.

233. These mitigating factors, when viewed in the overall conspectus of facts, do not dilute the gravity of the offence, but are relevant for the limited purpose of assessing the appropriate punishment

in accordance with settled principles of sentencing jurisprudence, including the balance between retributive and reformatory theories of punishment.

234. A crucial requirement laid down in ***Bachan Singh*** (supra) is that before imposing the death penalty, the Court must record a clear finding that life imprisonment is unquestionably foreclosed. In the present case, a careful perusal of the impugned judgment reveals that the learned Trial Court has not undertaken this mandatory exercise in a meaningful manner. The sentencing order does not reflect a proper balancing of aggravating and mitigating factors, nor does it record any cogent reason as to why life imprisonment would be inadequate.

235. The Hon'ble Supreme Court in ***Swamy Shraddhananda (2) v. State of Karnataka, (2008) 13 SCC 767***, has recognized that in cases which do not fall within the "rarest of rare" category, yet involve grave offences, the Court may impose a modified punishment of life imprisonment for the remainder of natural life as an alternative to the death penalty, while observing as follows :-

"The inability of the criminal justice system to deal with all major crimes equally effectively and the want of uniformity in the sentencing process by the Court lead to a marked imbalance in the end results. On the one hand there appears a small band of cases in which the murder convict is sent to the gallows on

confirmation of his death penalty by this Court and on the other hand there is a much wider area of cases in which the offender committing murder of a similar or a far more revolting kind is spared his life due to lack of consistency by the Court is giving punishments or worse the offender is allowed to slip away unpunished on account of the deficiencies in the criminal justice system."

236. Further in ***Raj Kumar v. State of Madhya Pradesh, (2014) 5 SCC 353***, a case concerning the rape and murder of a 14 years old girl, the Apex Court directed the appellant therein to serve a minimum of 35 years in jail without remission. Similarly, in ***Selvam v. State, (2014) 12 SCC 274***, the Apex Court imposed a sentence of 30 years in jail without remission in a case concerning the rape of a 9 year old girl. Also in ***Tattu Lodhi v. State of Madhya Pradesh, (2016) 9 SCC 675***, where the accused was found guilty of committing the murder of a minor girl aged 7 years, the Apex Court imposed the sentence of imprisonment for life with a direction not to release the accused from prison till he completes the period of 25 years of imprisonment.
237. Further, in ***Sachin Kumar Singhraha v. State of Madhya Pradesh, (2019) 8 SCC 371***, the Hon'ble Supreme Court has reiterated that even in cases involving heinous offences, including rape and murder, the death penalty should not be imposed unless

the case is of such exceptional nature that life imprisonment would be wholly inadequate and has observed that:

"Life imprisonment is the rule to which the death penalty is the exception. The death sentence must be imposed only when life imprisonment appears to be an altogether inappropriate punishment, having regard to the relevant facts and circumstances of the crime."

238. The Apex Court in the case of ***Mohd. Firoz vs. State of Madhya Pradesh (Criminal Appeal No. 612 of 2019, decided on 19.04.2022)*** has commuted the death sentence imposed on man for rape and murder of 4 year old girl to life imprisonment. Para-43 of the aforesaid order dated 19.04.2022 reads as under :-

*"43. Considering the above, we, while affirming the view taken by the courts below with regard to the conviction of the appellant for the offences charged against him, deem it proper to commute, and accordingly commute the sentence of death for the sentence of imprisonment for life, for the offence punishable under Section 302 IPC. Since, Section 376A IPC is also applicable to the facts of the case, considering the gravity and seriousness of the offence, the sentence of imprisonment for the remainder of appellant's natural life would have been an appropriate sentence, however, we are reminded of what Oscar Wilde has said - **"The only difference between the saint and the sinner is that every saint has a past and every sinner has a future"**. One of the basic*

principles of restorative justice as developed by this Court over the years, also is to give an opportunity to the offender to repair the damage caused, and to become a socially useful individual, when he is released from the jail. The maximum punishment prescribed may not always be the determinative factor for repairing the crippled psyche of the offender. Hence, while balancing the scales of retributive justice and restorative justice, we deem it appropriate to impose upon the appellant-accused, the sentence of imprisonment for a period of twenty years instead of imprisonment for the remainder of his natural life for the offence under section 376A, IPC. The conviction and sentence recorded by the courts below for the other offences under IPC and POCSO Act are affirmed. It is needless to say that all the punishments imposed shall run concurrently.”

239. Applying the aforesaid settled principles of sentencing jurisprudence to the facts of the present case, this Court is constrained to observe that although the offence committed by the accused is undoubtedly grave, heinous, and socially abhorrent, it does not meet the exceptionally high threshold required for invocation of the “rarest of rare” doctrine as propounded in **Bachan Singh** (supra) and consistently followed thereafter. The doctrine mandates not merely an assessment of the brutality or gravity of the crime, but a far deeper and more nuanced judicial inquiry into whether the alternative option of life

imprisonment is unquestionably foreclosed. In the present case, such a conclusion cannot be arrived at. The record is conspicuously silent on any material to indicate that the accused is beyond the possibility of reformation or rehabilitation. There is no evidence suggesting that the accused is a continuing threat to society or that he possesses such incorrigible criminal tendencies that his existence itself would be incompatible with societal safety. Further, it is of considerable significance that the conviction rests entirely on circumstantial evidence. While such evidence may be sufficient to sustain conviction, it nonetheless assumes importance in the sentencing phase, where a higher degree of judicial caution is warranted before imposing the irreversible penalty of death. These factors, when cumulatively considered, weigh substantially against the imposition of capital punishment.

- 240.** The sentencing policy in criminal law, as evolved through judicial pronouncements, is not founded solely on retributive considerations but is a careful blend of retribution, deterrence, and reformation. The Hon'ble Supreme Court, in a catena of decisions including ***Santosh Kumar Satishbhushan Bariyar*** (supra) and ***Sangeet*** (supra), has repeatedly emphasized that undue primacy to retribution at the cost of reformatory justice would be inconsistent with constitutional values. The criminal justice system in India recognizes that punishment must not only respond to the crime but must also consider the potential of the

offender to reform and reintegrate into society. The possibility of reformation is not to be treated as a mere theoretical consideration but as a substantive factor which must be affirmatively evaluated. It is only in cases where such possibility is demonstrably absent, and the circumstances reveal extreme depravity or barbarity coupled with the impossibility of rehabilitation, that the death penalty may be justified. In the absence of such compelling circumstances, the irreversible nature of capital punishment necessitates judicial restraint.

241. In light of the foregoing analysis, this Court finds that the learned Trial Court has failed to undertake the rigorous and balanced sentencing exercise mandated by law. The impugned judgment reflects a disproportionate emphasis on the gravity of the offence, without a corresponding and meaningful consideration of mitigating circumstances. The law, as crystallized in ***Bachan Singh*** (supra) and further elucidated in ***Machhi Singh*** (supra), requires the Court to draw up a “balance sheet” of aggravating and mitigating factors and to accord full weightage to both before arriving at a sentencing decision. However, in the present case, such an exercise appears either to have been inadequately performed or entirely overlooked. There is no discussion as to the socio-economic background of the accused, his antecedents, his mental condition, or his potential for reform. The absence of any finding regarding irreformability is particularly significant, as it strikes at the very root of the justification for imposing the death

penalty. Consequently, the sentence imposed does not conform to the constitutional and judicially evolved principles governing capital punishment.

242. Upon an independent and comprehensive evaluation of the entire material on record, this Court is of the considered view that the present case does not fall within the narrow and exceptional category of “rarest of rare cases” warranting the imposition of the death penalty. While the offence is undoubtedly serious and deserving of stringent punishment, the circumstances do not disclose such exceptional features as would render life imprisonment wholly inadequate. The balance, when properly struck, tilts in favour of preserving life, in consonance with the constitutional mandate under Article 21 of the Constitution of India. However, at the same time, the gravity of the offence cannot be understated, and it would not be appropriate to impose a lenient sentence that fails to reflect the seriousness of the crime.

243. In these circumstances, this Court finds it appropriate to adopt the course indicated by the Hon’ble Supreme Court in **Swamy Shraddhananda (2)** (supra), wherein it was held that in cases falling short of the “rarest of rare” category, yet involving grave offences, the ends of justice may be met by imposing a sentence of life imprisonment of a special category, extending for the remainder of the natural life of the accused. Such a sentence strikes a constitutionally permissible balance by ensuring that the

accused is adequately punished, while at the same time avoiding the irreversible consequence of capital punishment. Accordingly, the sentence of death imposed upon the accused is liable to be commuted to imprisonment for life, which shall extend to the remainder of his natural life, subject, however, to any constitutional powers of remission or commutation vested in the appropriate authority.

- 244.** In view of the aforesaid detailed discussion and the settled legal position, Point No. 4 is answered by holding that the sentence of death imposed upon the accused does not satisfy the requirements of the “rarest of rare” doctrine and is therefore unsustainable in law. The same is hereby commuted to life imprisonment for the remainder of the natural life of the accused.

Result of both the Criminal Reference and Criminal Appeal

- 245.** Upon a comprehensive and independent reappraisal of the entire evidence on record, this Court is satisfied that while the conviction of the appellant is sustainable in law, the present case does not meet the exacting standards of the “rarest of rare” doctrine so as to warrant confirmation of the capital sentence. The prosecution case rests primarily on a chain of circumstantial evidence, including the “last seen” testimonies of PW-2 and PW-6, the electronic evidence in the form of CCTV footage (Article-1), and the recovery of the dead body at the instance of the appellant vide memorandum (Ex.P-3) and seizure (Ex.P-4), duly supported by medical evidence establishing homicidal death. However, the

learned Trial Court has not undertaken a proper and legally sustainable balancing of aggravating and mitigating circumstances, nor is there material to conclusively indicate that the appellant is beyond the possibility of reformation. In such circumstances, the irreversible penalty of death cannot be upheld. Accordingly, the reference being Criminal Reference No.4/2025 for confirmation of death sentence stands rejected.

246. The Criminal Appeal being Criminal Appeal No.193/2026 preferred by the appellant–accused is partly allowed. The conviction of the appellant for the offences punishable under Sections 364, 376, and 302 is hereby affirmed, as this Court finds that the prosecution has established a complete and coherent chain of circumstances pointing unerringly towards the guilt of the appellant. The evidence on record conclusively demonstrates that the appellant had taken the deceased to a secluded place, as proved through reliable “last seen” evidence and corroborated by electronic material, and that the deceased was subjected to a homicidal death, as established by the post-mortem report (Ex.P-16) and the testimony of medical experts. The nature of injuries and surrounding circumstances further substantiate the prosecution case regarding the commission of the offences.

247. However, insofar as the sentence is concerned, the appeal merits acceptance in part. For the detailed reasons recorded while adjudicating Point No. 4, this Court holds that the sentence of death imposed by the learned Trial Court is unsustainable in law

and is liable to be commuted. Accordingly, while maintaining the conviction under Sections 364, 376, and 302 IPC, the sentence of death is commuted to imprisonment for life, along with the fine as imposed by the Trial Court.

248. Having regard to the gravity and seriousness of the offence, and to ensure that the punishment remains proportionate while also conforming to constitutional and penological principles, it is further directed that the sentence of life imprisonment shall mean imprisonment for the remainder of the natural life of the appellant, without remission, subject to the constitutional powers of clemency vested in the appropriate authority.

249. Resultantly, the **Criminal Reference No.4/2025 stands rejected** and the **Criminal Appeal No.193/2026 is allowed in part** to the extent indicated hereinabove. The conviction of the appellant under Sections 364, 376, and 302 IPC is affirmed, but the sentence of death is set aside and substituted with life imprisonment for the remainder of his natural life. The appellant shall undergo the said sentence in accordance with law.

250. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellants are undergoing their jail sentence to serve the same on the appellants informing them that they are at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High

Court Legal Services Committee or the Supreme Court Legal Services Committee.

251. Let a certified copy of this order alongwith the original record be transmitted to trial Court concerned forthwith for necessary information and action, if any.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu

Head Note

Capital punishment can be imposed only in the rarest of rare cases. Where this stringent threshold is not met, the sentence of death is required to be commuted to imprisonment for life, with a further direction that such imprisonment for life shall continue for the entirety of the convict's natural life.