



CRA-D-168-DB-2016 (O&amp;M)

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

**CRA-D-168-DB-2016 (O&M)**

**Date of Decision: September 22, 2025**

**Tejinderpal Singh**

**.....Appellant**

**Versus**

**State of Punjab**

**.....Respondent**

**CORAM: HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MRS. JUSTICE RAMESH KUMARI**

Present: Mr. Saurabh Arora, Advocate for the appellant.

Mr. Raghav Garg, Assistant Advocate General, Punjab.

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**RAMESH KUMARI J.**

1. Present appeal has been preferred by appellant-accused (hereinafter referred as 'accused') against judgment and order dated 06.01.2016 whereby he has been convicted and sentenced by learned Additional Sessions Judge, Sahibzada Ajit Singh Nagar Mohali, in case FIR No.24, dated 24.02.2015 registered under Sections 302, 363, 376-A IPC and Sections 4, 5 and 6 of The Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO Act') at Police Station City Kharar, as under:-

<i>Section</i>	<i>RI</i>	<i>Fine</i>	<i>In default</i>
363 IPC	For 7 years	Rs.2,000/-	RI for one year
376-A	Life Imprisonment	-	-
6 of POCSO Act	Life imprisonment	Rs.10,000/-	-

All the substantive sentences were ordered to run concurrently.

This appeal is filed by the accused under Section 374(2) Cr.P.C. (corresponding Section 415 of BNSS) against the judgment of conviction and order of sentence above referred.

### FACTS AS PER PROSECUTION VERSION

2. FIR No.24 was registered on 24.02.2015 upon the statement, PW-2/A of PW-2 YK (name withheld to conceal the identity of minor victim and hereinafter referred as 'complainant') recorded before PW7-ASI Amar Nath on the same date, wherein he stated that he is running grocery shop in X in City XX. He has a daughter 'N' (name withheld to conceal the identity of minor victim), who is aged about 8 ½ years, who was studying at XX Model High School XX. She was playing in front of his house in the street on 23.02.2015. At about 8:00 p.m., he came outside his house in the street and noticed that his daughter was missing. He searched for his daughter but she could not be found. He was certain that his daughter had been kidnapped by unknown persons, thus he sought action to be taken against unknown persons and his daughter to be traced.

3. PW-7 ASI Amar Nath made endorsement PW-7/A on statement PW-2/A and sent *ruqa* to the police station and FIR PW-7/B was registered by MHC and he also made endorsement PW-7/C on *ruqa*.

4 (i). On 03.03.2015, PW-2 complainant came to know about the death of his daughter 'N'. Dead body of his daughter was recovered from the bushes near the shops of Mohalla XXX. He was going to inform the police, when he met SHO Vijay Kumar PW-13 and informed about this fact. Dead body of 'N' was recovered from XXX Mohalla City XX. The child was strangulated with her

*pyjama*. Complainant PW-2 identified dead body of the child. His statement and statement of Rajesh Kumar regarding identity of dead body were recorded vide PW-13/A and PW-13/B respectively. PW-13 Vijay Kumar also found one button of a shirt lying near the dead body having mark "Lacoste" and it was converted into parcel and sealed by him and taken in police possession vide recovery memo Ex.PW7/E. Photographer Satish Kumar PW-6 was on the spot, who took the photographs Ex.PW6/A. Rough site plan PW-7/E of the place of recovery of dead body was prepared. Inquest report PW-2/B of dead body was also prepared. Dead body was handed over to PW-7 ASI Amar Nath for postmortem with application Ex.PW-8/A. Postmortem of deceased 'N' was got conducted from PW8-Dr. Bobby Gulati. After postmortem, dead body was handed over to PW-2-complainant. Offence under Sections 302, 376 and 6 of POCSO Act were added after consultation with Doctor.

(ii) On 04.03.2015, PW-13, Inspector Vijay Kumar along with PW-7 Amar Nath and other officials of the police party were going to city XX and when they reached near UCO Bank XX, PW5-Lakhwinder Singh met them. PW-13 Inspector Vijay Kumar disclosed the matter to him and he suffered a statement. On the basis of his statement, accused was nominated in this case by PW-13 Inspector Vijay Kumar.

(iii) PW4-Municipal Commissioner Maan Singh produced accused before PW-13 Inspector Vijay Kumar and he also disclosed about confessional statement made by accused before him.

(iv) PW-13 Vijay Kumar arrested the accused and prepared arrest memo PW-4/B, personal search memo PW-4/A.

(v) Accused was interrogated by PW-13 Inspector Vijay Kumar and during interrogation, he suffered disclosure statement PW-4/C and as per his disclosure statement, he got recovered locket worn in the neck of 'N', which was broken by him. In terms of his disclosure statement, accused got recovered the silver chain locket, which was broken and having mark 'N' in English language. Locket was identified by PW-2 complainant as that of his daughter. The locket was parceled, sealed and taken into police possession vide Memo PW2/C. During checking of the room of accused, one black coloured shirt with a broken button was also produced by the accused which was converted into parcel, sealed and taken into possession vide Ex.PW-4/D. Rough site plan PW-7/G of the place of recovery of silver broken chain (MO1) locket (MO2), sample seal (MO3) and shirt (MO4) was also prepared. PW-13 Inspector Vijay Kumar recorded statement of witnesses and case property was handed over to MHC (PW-11).

(vi) Accused was medico-legally examined by PW1-Dr. CP Singh, who gave his opinion regarding the potency of accused and issued MLR PW-1/B.

(vii) Photographs were taken in police possession vide memo Ex.PW-6/A. Case property was sent to chemical Examiner and after receipt of report of chemical examiner PW-13/C, opinion of the Doctor regarding cause of death was obtained. After completion of investigation, challan against accused was presented before learned Illaqa Magistrate.

5. After completion of investigation, report under Section 173 Cr.P.C. was presented against accused in the Court of learned Sub Divisional Judicial Magistrate, Kharar on 09.07.2015.

6. Learned SDJM complied with Section 207 Cr.P.C. by supplying copies of challan form and accompanying documents to the accused and committed the case to the Court of Sessions vide order dated 09.07.2015 as offences against the accused were triable by the Court of Sessions.

7. Finding a *prima facie* case under Sections 363, 376(A) 302 IPC and Section 6 of POCSO Act, against the accused, he was charged under these Sections to which he pleaded not guilty and claimed trial.

8. After examining thirteen witnesses, prosecution on 21.10.2015 closed the evidence. On the same date, statement of accused was recorded under Section 313 Cr.P.C. in which all the incriminating evidence on record was put to the accused, which he denied. He claimed innocence and false implication, besides, faulty investigation.

9. In his defence, accused had examined his father-Sant Ram as DW-1, who deposed that he is living in the neighbourhood of complainant since long, but there is no enmity between his family and family of the deceased. He further deposed that he had also been helping family of the complainant in searching the accused.

10. After hearing learned Additional Public Prosecutor and defence counsel and perusal of oral and documentary evidence, learned trial Court found the accused guilty for commission of offences under Sections 363, 376-A IPC read with Section 6 of The Protection of Children from Sexual Offences Act 2012 and sentenced him as referred in Para No.1 of this judgment.

Aggrieved therefrom, present appeal has been filed.

We heard learned counsel for parties and have carefully scrutinized the entire record with their able assistance.

**CONTENTIONS OF LEARNED COUNSEL FOR ACCUSED**

11. Learned counsel for the accused has challenged the judgment of conviction and order of sentence dated 06.01.2016 *inter alia* on the following grounds and contended that:-

- i. that judgment of conviction is erroneous in law and fact and is based upon mere conjectures and surmises;
- ii. that accused has been falsely implicated in the case as prosecution has not been able to prove its case beyond reasonable doubts;
- iii. learned trial Court ignored the fact that complainant is living in the neighbourhood of the accused since long and there is no enmity between both the families;
- iv. learned trial Court also ignored the fact that accused was also helping the family of complainant in searching for the victim;
- v. report of chemical examiner PW-8/D does not prove that spermatozoa found on the body of the deceased was that of accused. There is no DNA report to link the accused with the alleged offence;
- vi. the case is based on circumstantial evidence and prosecution failed to prove the circumstances which irresistibly point to guilt of the accused and are not consistent with any other hypothesis.
- vii. false recoveries were planted upon the accused;
- viii. accused never suffered any extra judicial statement before PW-4 Mann Singh and that
- ix. accused was not present in his house at the time of alleged offence and he was working in the school, where he was posted as a Guard.

Learned counsel for accused prayed for setting aside the judgment of conviction and order of sentence dated 06.01.2016.

### **CONTENTION OF LEARNED STATE COUNSEL**

12. After referring to statements of prosecution witnesses, learned State Counsel contended that judgment of conviction of learned trial Court does not suffer from any infirmity, perversity, therefore, he vehemently prayed for dismissal of the appeal.

### **DISCUSSION**

13 (i) As observed earlier, the law was set in motion on the basis of statement Ex.PW2/B of PW-2 complainant (father of deceased) vide which he reported on 24.02.2015 to the police regarding missing of his daughter from the street in front of his house on 23.02.2015 and later on reported to the police on 03.03.2015 that he came to know that dead body of his daughter was recovered from the bushes situated near Mohalla XXX.

13(ii) During the course of investigation, PW-8 Dr. Bobby Gulati conducted postmortem on the dead body of deceased child on 03.03.2015, i.e. the day when it was recovered. He also exhibited the post mortem report vide Ex.PW8/B, pictorial diagraph Ex.PW8/C, Chemical Examiner Report Ex.PW8/D, Police request Ex.PW8/E. Regarding the condition of dead body, he deposed as under:-

*“It was the dead body of female child 3 feet 5 inch, well built, well nourished, putrified and decomposed. Rigor mortis were not present. Post mortem staining not present. Whole body was discolored. Deep blue in colour. Right eye ball collapsed and displaced from normal position downward. Cornea of the left eye concave. Tongue was swollen and protruding out. Lips were*

*swollen. Abdomen was greatly distended. Body emitting unpleasant and nauseating smell. Skin peeled off over various places on the body especially abdomen, thighs, buttocks, legs and feet. Blistering present at few places on body especially arms on rupturing reddish coloured fluid coming out. Maggots were present at many places on the body. All orifices were infested with maggots and larvae. Adult flies also seen around orifices. Hair from scalp were loose and easily pulled out. The legs were flexed, abducted and externally rotated.”*

13(iii) As per the testimony of PW8 Dr. Bobby Gulati and post mortem report Ex.PW8/B, “a greenish Pajami was used as ligature around the neck. The knot was towards right side of neck. On removing the knot underline tissue was teeming with maggots. Ligature mark was 31 cms. Ligature Mark depressed situated low down the neck below the thyroid cartilage encircling the neck horizontally and completely underlying muscles torn and cornua of hyoid bone fracture Rings of Trachea fracture. Putrefactive changes were found in brain, meninges, plural cavities, lungs, heart, peritoneum, Stomach, small intestine, large intestine, liver. spleen, kidney and bladder. Lungs heart, stomach and its contents, small intestine and its contents, large intestine and its contents, liver, spleen kidney, blood from heart, sent for chemical examination.

Labia, Majora and Minora were swollen Hymen absent, vaginal orifices infested with maggots easily admitting the index finger. Putrefactive changes present. Swabs were taken from vagina and sent for chemical examination. The cause of death in this case was to be taken after receipt of report of viscera and swabs from chemical examiner. Probable time that elapsed between injury and death could not be ascertained and between death and post-mortem examination was 7 to 14 days.”

13(iv) Dr. Bobby Gulati handed over belongings of deceased 'N', copy of postmortem report, in sealed cover duly sealed with five seals for forwarding a letter to chemical examiner along with police inquest papers 1 to 20 on which he put his signatures. A sealed box containing viscera of deceased with 16 seals for chemical examination. A cloth piece containing sample seal bearing signatures of Doctor and particulars of case, box containing vaginal and rectal swabs with 5 seals, sample of seal and envelop with 5 seals containing copy of PMR, forwarding letter, letter for vaginal swabs and attested copy of police papers were handed over to police HC Som Nath of P.S City Kharar.

13(v) As per his statement, PW-8 received Chemical Examiner's report, Ex.PW-8/D, through ASI Amar Nath and on the basis of request Ex.PW8/E, he gave his opinion regarding cause of death that "*cause of death in this case was due to strangulation which was ante mortem in nature and was sufficient to cause death in ordinary course of nature.*"

13(vi) The documents above referred, exhibited in the statement of PW8 Dr. Bobby Gulati, proved that victim was subjected to sexual assault before her death.

13(vii) Age of victim is proved on record from the testimony of PW3 Sukhwinder Singh, Computer Operator of Municipal Corporation, XXX who produced the Birth Certificate of victim/N in the Court, exhibited as Ex. PW3/A. As per this certificate, deceased was born on 31.05.2007. Therefore, as on 23.02.2015, the victim was about 7 years and 7 months old. Under Section 2(d) of the POCSO Act, 'child' means any person below the age of 18 years. Under Section 5(m) of the POCSO Act, penetrative assault is aggravated when

committed on a child below 12 years of age and is punishable under Section 6 of the POCSO Act. Identity of deceased is not in question and not even disputed.

14. Present is clearly a case resting entirely on circumstantial evidence. At this stage, gainful reference can be made to judgment of Hon'ble the Supreme Court in **Hanumant Govind Nargundkar Vs. State of M.P.**, ***AIR 1952 SC 343*** wherein it has been held that:-

*"10. ....It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused"*

15. In **Sharad Birdhichand Sarda v. State Of Maharashtra, 1984 AIR 1622**, it was held that chain of events must form a consistent chain, so conclusive, as to rule out the possibility of any other hypothesis, except the guilt of the accused. Five golden principles enunciated were as follows:-

(1) the accused must be and not merely may be guilty before a Court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.

(3) the circumstances should be of a conclusive nature and tendency.

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

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

16. In *Dharam Deo Yadav Vs. State of Uttar Pradesh, (2014) 5 SCC 509*, after referring *Hanumant* case (supra), Hon'ble the Supreme Court observed that *"Each and every incriminating circumstance must be clearly established by reliable and clinching evidence and the circumstances so proved must form a chain of events from which the only irresistible conclusion about the guilt of the accused can be safely drawn and no other hypothesis against the guilt is possible. Even when there is no eyewitness to support the criminal charge, but prosecution has been able to establish the chain of circumstances which is complete leading to inference of guilt of accused and circumstances taken collectively are incapable of explanation on any reasonable hypothesis save of guilt sought to be proved, the accused may be convicted on the basis of such circumstantial evidence."*

17. Now it is to be seen whether in the present case, prosecution has proved each and every incriminating circumstance against the accused so as to form a chain of events from which the only irresistible conclusion is of the guilt of accused leaving no scope of any other hypothesis.

18. Prosecution has examined 13 witnesses. PW-2 informed the police regarding missing of his daughter vide statement PW-2/A and also informed the

police that dead body of his daughter was recovered from bushes near Mohalla XXX. Investigating officer of this case appeared in the witness box as PW-13 and stated on oath about the part of investigation conducted by him. He found one button Ex.MO3 of the shirt lying near the dead body having mark 'Lacoste', which he converted into parcel, sealed and took into possession vide memo Ex.PW-7/E. He also got photographs clicked from PW-6 Satish Kumar @ Pappi, and later on took the photo-graphs PW6/1 to PW-6/3 in police possession vide memo PW-6/A. Inquest Report, Ex.P-2/B was prepared. Site plan, PW-7/E, of the place of recovery of dead body was also prepared by him. Dead body was identified by complainant PW-2 vide his statement PW-13/A and by Rajesh Kumar vide his statement, Ex.PW-13/B. On the basis of application, PW-8//A, proved in the statement of PW-13 Inspector Vijay Kumar and PW-8 Dr. Bobby Gulati, postmortem on the dead body of the deceased was conducted.

19. As per statement of PW-13 Inspector Vijay Kumar, accused was nominated in this case on the basis of Lakhwinder Singh PW-5 who had seen the accused on the fateful day and time, holding the finger of little child (victim) and taking her to his room. The accused also suffered extra judicial confession before PW-4 Mann Singh.

20. Thereafter, PW-5 Lakhwinder Singh in his testimony specifically stated that on 23.02.2015, he closed his shop and was going towards his house through Lambi Gali. At about 8/8.15 p.m, when he was going through the said Lambi Gali, accused Tejinderpal Singh son of Sant Lal present in court, was going with deceased 'N' daughter of Yogesh Kumar son of Ram Sarup resident of House No.3051 Sector 13 Lambi Gali Kharar and finger of 'N' was held by accused and he entered his room with 'N'. He identified him being known to

accused personally. On that day he went somewhere in connection with his work. On 4.3.2015 he came back and came to know about the occurrence. On 23.2.2015, he had no suspicion on the accused being resident of the same Mohalla as of Yogesh Kumar. He got recorded his statement before the police/SHO on 4.3.2015. PW5 duly identified the accused present in Court at the time of recording his statement.

21. PW5 Lakhwinder Singh was subjected to lengthy cross examination, but his credibility could not be dented. He has specifically stated that his work requires frequent travelling and he did not discuss this fact with anybody else as he had no suspicion that accused might have committed such a heinous crime with the child. It is to be noted at this juncture that PW5 had no enmity with accused and neither did complainant have any axe to grind with accused, therefore, there was no occasion for them to falsely implicate the accused as has been argued by learned counsel for appellant.

22. Extra judicial confession made by accused before PW-4 Mann Singh is proved on record from the statement of PW-4, who stated on oath that on 4.3.2015 Tejinderpal Singh son of Sant Lal resident of 3039 Lambi Gali Kharar came to his house and he was nervous at that time. He told him that on 23.2.2015 daughter of YK namely N was playing in the street and he kidnapped her from the street and took her to his room and when he was committing rape with her and had closed her mouth with his hand, she became unconscious and then he strangulated her neck with her Pajami, due to said strangulation, 'N' died. He further told him that he threw the dead body of 'N' in an inhabited place near the shops in XXX Mohalla. He further disclosed to PW4 Man Singh that he had committed a blunder by mistake and he feared that police would

come to know regarding that occurrence and he requested him to produce him before the police, being MC of the Ward and save him from the torture by police. When he along with Tejinderpal Singh were going to police station, police party met them on the way. He produced the accused before the police.

23. Accused was arrested by PW-13 Inspector Vijay Kumar vide memo Ex.PW4/B, when produced by PW-4 Mann Singh. Personal search memo Ex.PW4/A, was also prepared. PW-13, deposed that accused was interrogated by him and during interrogation, accused suffered disclosure statement Ex.PW4/C, which was signed by accused and also by ASI Amar Nath and Man Singh MC. Accused disclosed that he has kept concealed the locket worn in the neck of 'N' which was broken by him, on the first floor of his house in a wooden Almirah under clothes and he can get the same recovered after demarcation. Thereafter accused led the police party to the disclosed place and produced silver chain locket with his own hands. Said chain was broken having Mark 'N' in English language. Name of deceased was present on the locket. The recovered locket was identified by complainant YK as the one worn by his daughter when she was kidnapped. The silver chain locket was put in a parcel and sealed by him with his seal VK. Seal after use was handed over to ASI Amar Nath. The said parcel was taken in possession vide memo Ex.PW2/C which was signed by PW7 ASI Amar Nath and PW4-MC Mann Singh and PW2-YK. The complainant was called from his house as the place of recovery was in his neighbourhood. While checking the room of the accused, one shirt of black colour having a broken button was also produced by the accused. Said shirt was converted into a parcel by PW-13 and was sealed the same with his seal VK and the same was taken in possession vide memo Ex.PW4/D which was signed by ASI Amar Nath and MC

Mann Singh. He also prepared rough site plan, Ex.PW7/G, of the place of recovery of silver chain locket and shirt with marginal notes in their presence. On reaching the police station, case property was handed over to MHC. On 5.3.2015 HC Som Nath produced the parcels sealed from Civil Hospital to him which were taken into possession vide memo Ex.PW7/H Ex. PW7/H. The case property was produced in the Court.

24. Statement of PW-13 Inspector Vijay Kumar is corroborated by PW-4 Mann Singh and PW-7 ASI Amar Nath and PW2 YK. There is indeed nothing on record to doubt the recovery of silver chain Ex.MO/1, locket Ex.MO/2 and Shirt Ex.MO/3 on the disclosure effected by PW13 Inspector Vijay Kumar from the house of accused vide Ex.PW2/C on the basis of disclosure statement Ex.PW4/C of accused. Doubtlessly extra-judicial confession is a weak type of evidence and by itself may not be sufficient to sustain conviction of an accused. In the present case, PW4 Man Singh who is Municipal Commissioner of the area has no reason to depose against the accused, who was admittedly produced by him before police authorities. Thereafter, accused made a disclosure statement pursuant to which recoveries as detailed above were effected. There is yet again nothing on record to doubt the said recoveries. A button had been recovered from the spot where dead body of victim had been recovered on 03.03.2015, itself. As per FSL report, Ex.PW-8/D, it is proved that button is the one missing from shirt of accused, recovered upon his disclosure statement.

25. After arrest, accused was also medically examined by PW-1 Dr. C.P.Singh on the basis of police request PW-1/A and he has proved the MLR of accused vide PW-1/B and specifically deposed that "*there is nothing to suggest that person was unable to perform sexual intercourse.*" Moreover, no such

suggestion is put to PW-1 Dr. C.P. Singh that accused was unable to perform sexual inter-course, therefore, learned trial Court rightly concluded that accused has the capacity to perform sexual intercourse.

26. It is vehemently argued by learned counsel for appellant that as there is no DNA matching with spermatozoa found on vaginal swabs taken from the victim, offence in question is not proved. In our considered opinion, the argument is devoid of any merit, hence rejected. Accused was examined by PW-1 Dr. C.P. Singh but blood sample of accused was not taken for the purpose of sending the same to FSL for the purpose of comparison with spermatozoa found in the vaginal swab and rectal swab of the deceased. However, the accused cannot take benefit of this lapse on the part of investigating agency. Reference can be made to the observations made by Hon'ble the Apex Court in **Paras Yadav and others Vs. State of Bihar, 1999 (2) SCC**. The relevant part is reproduced hereinunder:-

*"Para 8-..the lapse on the part of the Investigating Officer should not be taken in favour of the accused, may be that such lapse is committed designedly or because of negligence. Hence, the prosecution evidence is required to be examined de hors such omissions to find out whether the said evidence is reliable or not. For this purpose, it would be worthwhile to quote the following observations of this Court from the case of Ram Bihari Yadav v. State of Bihar and others, J.T. (1998) 3 SC 290.*

*In such cases, the story of the prosecution will have to be examined de hors such omissions and contaminated conduct of the officials otherwise the mischief which was deliberately done would be perpetuated and justice would be denied to the complainant party and this would obviously shake the [1999 (2) SCC 126].*

*confidence of the people not merely in the law enforcing agency but also in the administration of justice."*

27. This judgment is further referred by Hon'ble the Supreme Court in ***Edakkandi Dineshan @ P.Dineshan Vs. State of Kerala***, decided on

06.01.2025. In ***Edakkandi Dineshan*** case (supra), it is also observed that “hence, the principle of law is crystal clear that on the account of defective investigation the benefit will not inure to the accused persons on that ground alone. It is well within the domain of the courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eyewitnesses, medical report etc. It has been a consistent stand of this court that the accused cannot claim acquittal on the ground of faulty investigation done by the prosecuting agency.”

28. Similar opinion is expressed by Hon’ble the Apex Court in ***R. Baiju Vs. The State of Kerala, SLP (Crl.) No.12926 of 2024*** decided on 16.04.2025, wherein it has been held that “defective investigation does not automatically invalidate a prosecution's case if other credible evidence exists.”

29. Thus, in the presence of other clear and cogent evidence on record, merely because DNA matching was not carried out by investigating agency, is no reason to conclude that deceased was not subjected to rape by the appellant.

30. We also do not find any merit in the argument that accused was in fact involved in looking for /searching for the victim alongwith her father as is stated by father of accused who deposed as DW1, therefore is innocent. This, in fact, lends credence to prosecution version that complainant had no occasion to suspect the accused and it was during investigation that his complicity came to light.

31. In the present case, there is overwhelming evidence against the accused. Accused was a neighbour of PW-2 complainant and was admittedly known to the deceased. Deceased was last seen in the company of accused on

the fateful night by PW-5 Lakhwinder Singh as he was taking the deceased to his room. Accused suffered extra judicial confession before PW-4 Man Singh, Municipal Commissioner, regarding commission of offence and for his production before the police. Missing button of his shirt was recovered by police on the spot where dead body of the victim was recovered on that day itself and it was taken in police possession by PW-13 Inspector Vijay Kumar. The shirt in question was recovered upon disclosure by accused. As per FSL report, button recovered from the spot when there was no suspicion of accused being involved, is proved to be matching with the shirt so recovered. Broken chain and locket of deceased was recovered from accused. It is, thus, succinctly proved, beyond reasonable doubt that accused is guilty of commission of offences in question.

32. Thus, learned trial Court rightly considered evidence on record, besides, all facts and circumstances and concluded that the chain of circumstances pointing to guilt of accused is complete and admits of no other hypothesis except guilt of accused.

33. We do not find any illegality or infirmity in judgment of conviction and order of sentence dated 06.01.2016 passed by learned Additional Sessions Judge, SAS Nagar Mohali, which is upheld.

34. No other argument has been raised.

35. Appeal is accordingly dismissed, being devoid of any merit.

36. Pending application(s), if any, also stand disposed of.

**(LISA GILL)**  
JUDGE

**(RAMESH KUMARI)**  
JUDGE

**September 22, 2025**

sonia arora/Ravinder/Om

Whether speaking/reasoned: Yes

Whether reportable: Yes