



2025:CGHC:54141-DB
AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 143 of 2025

Jawahar Chandra S/o Samaru Ram Chandra Aged About 21 Years R/o Chorbhatti, Police Station Jaijaipur, District Janjgir-Champa Chhattisgarh

... Appellant

versus

State of Chhattisgarh Through Station House Officer, Police Station - Jaijaipur, District Janjgir-Champa Chhattisgarh

... Respondent

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Hari Agrawal, Advocate
For State/Respondent	:	Mr. Shashank Thakur, Deputy Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

06.11.2025

1. Heard Mr. Hari Agrawal, learned counsel for the appellant. Also heard Mr. Shashank Thakur, learned Deputy Advocate General, appearing for the State/respondent.

- 2.** This criminal appeal is filed by the appellant/accused under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'CrPC') is directed against the impugned judgment of conviction and order of sentence dated 21.11.2024 passed by the learned Special Judge (F.T.S.C), Sakti, District Janjgir-Champa (C.G.) in Special Sessions Case (POCSO) No.23 of 2022, whereby the appellant/accused has been convicted for the offence punishable under Sections 302 and 201 of the Indian Penal Code, 1860 (for short, 'IPC') and sentenced to undergo imprisonment for life and fine of Rs.5,000/-, in default of payment of fine amount, additional rigorous imprisonment for one year and rigorous imprisonment for three years and fine of Rs.2,000/-, in default of payment of fine amount, additional rigorous imprisonment for two months and it is directed that both the sentences were run concurrently.
- 3.** The prosecution case, in brief, is as follows: the accused was charged under Sections 363, 364, 376(3), 201 and 302 of the Indian Penal Code, 1860 (for short, 'IPC') and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO'Act'). The allegation against the accused was that, on the intervening night of 28.02.2022 and 01.03.2022, between 22:00 hours and 01:00 hours, at village XX, within the jurisdiction of Police Station Jaijaipur, he abducted the deceased minor victim, a child below the age of 18 years, by luring her away from the lawful custody of her guardian without his consent, and

with the intention of causing her murder. It was further alleged that the accused committed rape upon the deceased minor victim, who was below the age of 16 years. According to the prosecution, after knowing and having reason to believe that the minor victim had died as a result of the acts committed upon her, the accused administered pesticide to the deceased in order to evade criminal liability. To destroy evidence, he allegedly threw the pesticide bottle into the pond near the place of occurrence, placed a purported suicide note in the pocket of the leggings worn by the deceased, and thereafter disposed of the body by throwing it into the Dabri pond. The accused, with full intention to cause the death of the minor victim, first made her consume pesticide and thereafter strangled her to ensure her death. The prosecution further alleged that, by inserting his penis to any extent into the vagina, mouth, urethra or anus of the deceased minor girl, who was below the age of 16 years, the accused committed aggravated penetrative sexual assault within the meaning of Section 6 of the POCSO Act, and thereby also committed penetrative sexual assault punishable under Section 4 of the Act.

4. As the matter relates to an offence under the POCSO Act, the trial Court was bound to comply with the mandate of Section 33(7) of the POCSO Act and Section 228A of the IPC, as well as the judicial directions issued by the Hon'ble Supreme Court in ***State of Himachal Pradesh v. Shrikant Shikari, (2004) 8 SCC 153,***

and Nipun Saxena v. Union of India, (2019) 2 SCC 703 and in view of the above statutory and judicial requirements, all details which may directly or indirectly reveal the identity of the deceased minor victim have been withheld. Accordingly, the name, address, parentage, school name, family details, relatives, neighbours, and any other identifying particulars of the deceased minor girl have not been disclosed. As such, the name of the village of the deceased minor girl has been read as “XX”, the name of the school where she was studying has been recorded as “XXXXX”, and the name of the school attended by her in Class has been read as “XXXXX”.

5. Further, case of the prosecution is that PW-1, father of the deceased victim, had lodged a report at Jaipur Police Station stating that he resided in village XX. He had four daughters and one son, and the deceased victim was his fourth daughter, whose date of birth was 01.08.2009. She was 12 years and 7 months old and was studying in Class 9th in School XXXX. On 28.02.2022, after dinner at around 10:00 p.m., he and his wife slept in the shade outside. When they woke up around 1:00 a.m., they discovered that their daughter was missing. On the next day, they inquired at the houses of relatives and friends in the neighbourhood and nearby villages, but she could not be traced. An unknown person had allegedly lured and abducted the minor girl, and had she been free, she would certainly have returned

home. Based on this report, Crime No. 37/2022 under Section 363 IPC (Ex.P-1) was registered and investigation commenced.

6. During the course of investigation, on 03.03.2022, the body of the deceased victim was found in a pond in village XX. A corresponding merg intimation No. 6/2022 (Ex.P-2) was recorded, and a panchnama was prepared. After the post-mortem report opined that the death was homicidal, Section 302 IPC was added. Statements of villagers and family members revealed suspicion that the accused had abducted and murdered the girl. The memorandum statement of the accused (Ex.P-14) was recorded.
7. During the investigation, it was revealed that the deceased and the accused had been in a love affair for about eight months. Both were frequently seen meeting and talking, and the accused had gifted a Samsung mobile phone to the deceased, which her mother later confiscated. When the deceased allegedly expressed that she could not live without him and would die, the accused called her to his house on 28.02.2022 when no one was present. He allegedly conspired to kill her and asked her to write a suicide note, telling her that both of them would run away and commit suicide.
8. On the night of 28.02.2022, at about 1:00 a.m., the accused waited behind the victim's house. When she came out, he made her sit on his Hero HF Deluxe motorcycle (CG-11-AA-2343) and took her near the Dabri pond. There, when she refused to go

along with the plan, he allegedly made her drink pesticide mixed in a beer bottle and later raped her forcibly. He also kept a suicide note written in the name of the minor girl to create false evidence. Out of fear of being caught, he climbed onto her chest, slit her throat, placed the suicide note in her leggings pocket to mislead the police, threw her body into the pond, and fled on his motorcycle.

9. During the investigation, the Hero HF Deluxe motorcycle (CG-11-AA-2343) and its RC smart card were seized from the accused and seizure memo Ex.P-15 was prepared. The Samsung mobile receipt was seized vide Ex.P-16. A Samsung mobile belonging to the deceased was seized from her mother vide Ex.P-11. Three notebooks belonging to the deceased were seized from PW-1 vide Ex.P-12. A 32 GB Sandisk pen drive was seized from PW-3 vide Ex.P-17. Answer sheets of Hindi and English of the deceased were seized from the Principal of School XXXX vide Ex.P-18. The admission and rejection register of the first school attended by the deceased was seized vide Ex.P-32. A suicide note written on a lined page was seized from the pocket of her leggings at the scene vide Ex.P-10.
10. A black plastic pouch containing insecticide (Aluminium Phosphide 56%) marked "poison" was seized and frozen sheet Ex.P-47 was prepared. Spot maps Ex.P-5 and Ex.P-6 and another site map Ex.P-7 were prepared. The panchnama of recovery of the body

(Ex.P-8) was also drawn. After completing the investigation, a charge-sheet was filed against the accused under Sections 363, 364, 376, 302, 201 IPC and Sections 4 and 6 of the POCSO Act.

11. Charges under Sections 363, 364, 376(3), 201, 302 IPC and Sections 6 and 4 of the POCSO Act were framed and read over to the accused. He denied the charges and claimed trial.
12. When examined under Section 313 CrPC, the accused stated that he had no enmity with the deceased and that the police, failing to trace the real culprit, had falsely implicated him by fabricating documents. He examined Leela Bai Chandra (DW-1) and Samaruram Chandra (DW-2) in defence as also exhibited 14 documents as Ex.D-1 to Ex.D-14.
13. In order to prove its case, the prosecution examined as many as 41 witnesses, namely, PW-1 (father of the victim), PW-2 Parle Chandra, PW-3 Sonu Chandra, PW-4 (sister of the victim), PW-5 Avadharam Chandra, PW-6 (mother of the victim), PW-7 (sister of the victim), PW-8 (brother-in-law of the victim), PW-9 Panchram Chandra, PW-10 Deepak Kumar Sahu, PW-11 Santosh Kumar Chandra, PW-12 Upendra Kumar Chandra, PW-13 Principal of the first school of the victim, PW-14 Teacher of the first school of the victim, PW-15 Ujjain Chandra, PW-16 Michael Sahu, PW-17 Arjun Lal Chandra, PW-18 Ajay Kumar Chandra, PW-19 Gyanbai Tandon, PW-20 Bhuvan Lal Chandra, PW-21 Babita Chandra, PW-22 Parasram Jatwar, PW-23 Vikesh Kumar Sahu, PW-24

Jairam Sidar, PW-25 Gopeshwar Singh Netam, PW-26 Laxmikant Kori, PW-27 Dr. Balram Kumar Rohidas, PW-28 Mathura Prasad Mannewar, PW-29 Suresh Kumar, PW-30 Dr. Kiran Binjwar, PW-31 Maniram Kashyap, PW-32 Dr. P. Singh, PW-33 Nisha Chandra, PW-34 Nirmal Prasad Karsh, PW-35 Gopala Kumar Bhaina, PW-36 Virendra Singh, PW-37 Ajay Singh Khairwar, PW-38 Amrit Bai, PW-39 Rajeshwar Prasad, PW-40 Devnarayan Chanda and PW-41 Gopal Satpathy and exhibited 87 documents as Vide Ex.P-1 to Ex.P-87.

14. The trial Court after completion of trial and after appreciating oral and documentary evidences available on record, by the impugned judgment dated 21.11.2024, acquitted the appellant-accused for the offence punishable under Sections 363, 364 and 376(3) of IPC as well as Sections 4 and 6 of the POCSO Act and convicted him for the offence punishable under Sections 302 and 201 of the IPC and sentenced him in the manner mentioned in the second paragraph of this judgment, against which this appeal under Section 374(2) of the CrPC has been preferred by him calling in question the impugned judgment.
15. Mr. Hari Agrawal, learned counsel appearing for the appellant submits that Learned counsel for the appellant submits that the entire conviction of the appellant rests upon circumstantial evidence, and there being no eyewitness to the alleged incident, the prosecution was under a strict legal obligation to establish a

complete, cogent and unbroken chain of circumstances pointing unerringly towards the guilt of the appellant. However, in the present case, the prosecution has miserably failed to discharge this burden, as the chain of circumstances is incomplete, inconclusive and does not rule out every other hypothesis except the guilt of the appellant.

- 16.** It is further contended by Mr. Agrawal that while recording the finding of conviction, the learned trial Court has selectively relied upon only those parts of the evidence which appeared to be adverse to the appellant, while completely ignoring the material and vital evidence which was favourable to him and which created strong doubt about the prosecution story. Learned counsel further submits that although two memorandum statements of the appellant, marked as Ex.P-14 and Ex.P-48, were recorded, even the seizure proceedings flowing from the first memorandum are wholly unreliable, as the seizure witness PW-2, who was cited to support the recovery of the motorcycle and mobile bill, has turned hostile.
- 17.** It is argued by Mr. Agrawal that the Investigating Officer kept altering the course of investigation depending upon the emerging medical evidence. Initially, when the short postmortem report indicated asphyxia and injury, the prosecution attempted to build a case of strangulation and assault by the appellant; however, when the FSL report showed the presence of poison in the viscera, a

second memorandum was suddenly recorded (this time while the appellant was already in judicial custody) to introduce a new theory of poisoning and to show recovery of a bottle of pesticide. The said recovery is also unreliable as the seizure witnesses Parasram Jatwar (PW-22) and Maniram Kashyap (PW-31) have not supported the prosecution and have turned hostile.

- 18.** Mr. Agrawal further argued that the defence witness Leela Bai Chandra (DW-1) has categorically stated that she was not present at the house at the time of alleged search and had in fact gone to Jaijaipur and Janjgir Hospital to see her grandson. She has also produced documents supporting her version and has stated that no notice was given by the police prior to the alleged search. However, the learned trial Court has failed to consider this crucial defence evidence. Learned counsel submits that the very foundation of the prosecution case is shaken by the fact that two conflicting memorandum statements of the appellant were recorded at different stages, and the prosecution has offered no explanation regarding such material contradictions. In law, contradictory statements of the accused cannot be the basis of conviction unless the prosecution clarifies the discrepancies, which it has not done in the present case.
- 19.** It is submitted by Mr. Agrawal that the postmortem report attributes cause of death to asphyxia due to strangulation, whereas the FSL report reveals presence of pesticide in the body of the deceased.

Even the autopsy surgeon PW/30 has not clarified the effect of the poison allegedly found in the viscera. Thus, there exists a fundamental contradiction as to whether the death occurred due to strangulation or due to consumption of poison, creating serious doubt about the entire prosecution version.

- 20.** Mr. Agrawal also submits that the Investigating Officer acted arbitrarily, in clear violation of established legal procedure, and conducted the investigation in a manner that was prejudicial to the appellant. In particular, the second memorandum of the appellant, recorded while he was in judicial custody, is hit by Section 162 CrPC, which prohibits the use of such statements made to a police officer during investigation as substantive evidence. Consequently, any seizure allegedly made pursuant to such an inadmissible memorandum loses its evidentiary value and cannot be relied upon to convict the appellant. It is urged that the conduct of the Investigating Officer, the contradictory medical evidence, the hostility of crucial witnesses, and the failure of the prosecution to establish a consistent and reliable chain of circumstances cumulatively make the prosecution case wholly doubtful. Hence, the evidence led by the prosecution is neither qualitatively nor quantitatively sufficient to establish the guilt of the appellant beyond all reasonable doubt, and therefore, the conviction recorded by the learned trial Court is unsustainable in law. As such, the appeal be allowed and appellant be acquitted all the

charges levelled against him.

21. Reliance has been placed upon the judgments relied upon by the Hon'ble Supreme Court in the matters of ***State of Gujarat v. Ratansingh alias Chinubhai Anopsinh Chauhan, (2014) 4 SCC 16*** and ***Vinod Kumar v. State (Government of NCT of Delhi), (2025) 3 SCC 680*** to buttress his submissions.
22. *Per-contra*, Mr. Shashank Thakur, learned Deputy Advocate General, appearing for the State supported the impugned judgment of conviction and order of sentence and submitted that the learned trial Court has passed the impugned judgment after due appreciation of the entire evidence available on record and there is no perversity or illegality in the findings recorded by the trial Court. It is submitted that the offences alleged are of the gravest nature, involving kidnapping, repeated sexual assault on a minor girl below 16 years, followed by her brutal murder, and the prosecution has succeeded in establishing a complete chain of circumstances unerringly pointing towards the guilt of the appellant.
23. Mr. Thakur further submits that even though there is no direct eye-witness to the occurrence, the prosecution case is firmly supported by a series of consistent and corroborative circumstantial evidence, which the trial Court has carefully analyzed. It is contended that the circumstances proved by the prosecution such as the last seen evidence, the conduct of the

appellant, the recovery of the deceased's articles pursuant to the memorandum of the appellant, the medical evidence, FSL report, and surrounding circumstances form a continuous and unbroken chain, leading to the only hypothesis that it was the appellant who committed the crime.

- 24.** It is further urged by Mr. Thakur that the contention of the appellant regarding the recording of two memorandum statements is misconceived. The learned State counsel submits that under Section 27 of the Evidence Act, whenever a new fact comes to light, the accused can make a further disclosure, and such disclosure leading to recovery is admissible. The second memorandum (Ex.P-48), though recorded when the accused was in judicial custody, was recorded after obtaining due permission, and the recovery of the pesticide bottle is a crucial link in the chain of evidence. The mere fact that witnesses turned hostile does not render the recovery illegal, as the Investigating Officer has fully supported the seizure and his testimony remains unimpeached.
- 25.** It is next submitted by Mr. Thakur that the contradictions alleged by the appellant regarding the cause of death are unfounded. The learned State counsel submits that the postmortem indicated asphyxia due to strangulation, whereas the FSL report revealed presence of pesticide. Such combined findings support the prosecution version that the deceased was not only administered

poison but was also subjected to violence and strangulation, and the manner of assault fully corroborates the charge of aggravated penetrative sexual assault under Section 6 of POCSO Act. The medical evidence, far from creating doubt, in fact strengthens the prosecution case.

- 26.** Refuting the allegation of biased or faulty investigation, learned State counsel argues that even if there are minor deficiencies in the investigation, the same cannot be a ground to discard the otherwise reliable evidence, unless such lapses go to the root of the matter or cause serious prejudice to the accused. In the present case, the prosecution witnesses, scientific evidence, medical evidence, and the conduct of the appellant collectively establish the culpability of the appellant beyond reasonable doubt.
- 27.** Mr. Thakur further contended that the hostile witnesses do not demolish the prosecution case. It is well settled that the evidence of a hostile witness can be relied upon to the extent it supports the prosecution, and the prosecution is not bound to fail merely because some witnesses did not support it. It is therefore submitted that the learned trial Court has rightly convicted the accused/appellant under Sections 302 and 201 of the IPC and thus, the present appeal deserves to be dismissed.
- 28.** We have heard learned counsel for the parties at length and, with utmost circumspection, considered their rival contentions as set out herein-above. We have also perused the original records of

the trial Court, including the charge-sheet, the FIR, the statements of prosecution witnesses (PW-1 to PW-41), the depositions of the defence witnesses, the memoranda recorded under Section 164/162 CrPC (Ex.P-14 and Ex.P-48), all seizure and panchnama records (Exs. P-8, P-10, P-15, P-16, P-17, P-47 and others), the postmortem report and related medico-legal evidence, the Forensic Science Laboratory report, the site/spot maps and site inspection notes (Ex.P-5 to Ex.P-7), the records of recovery proceedings, and the entire material placed before the Trial Court during the course of the trial. We have also considered the grounds of appeal and the authorities cited by the learned counsel on either side.

- 29.** In order to appreciate the arguments advanced on behalf of the parties, we have to examine the evidence adduced on behalf of the prosecution.
- 30.** The first question for consideration was whether the Trial Court was justified in holding that the death of the deceased was homicidal in nature.
- 31.** The trial Court, relying upon the evidence of Dr. Kiran Binjwar (PW-30) who had conducted the postmortem and prepared the postmortem report (Ex.P-4), recorded a finding that the cause of death was asphyxia appearing to be due to manual strangulation and that the death was homicidal. Dr. P. Singh (PW-32), who also participated in the postmortem, corroborated the opinion recorded

in the short postmortem report (Ex.P-63) that the death appeared to be due to suffocation/strangulation and that the nature of death was homicidal. These medical witnesses, being independent and having no apparent interest or enmity with either party, give an expert opinion which the trial Court was entitled to accept unless it was shown to be inherently improbable or palpably inconsistent with other material on record.

- 32.** On a careful and holistic reading of the postmortem reports such as (Ex.P-4) and the evidence of Dr. Kiran Binjhar (PW-30) and Dr. P. Singh (PW-32), it is manifest that the deceased bore multiple injuries and internal changes consistent with antemortem violence. The postmortem revealed swelling of face, lips and tongue, blood clots in nostrils, congestion of pharynx and oesophagus, blood clots in platysma, contusions in the brain tissue, congestion of the diaphragm and lungs, and fractures of the larynx and trachea. The presence of blood clots in the platysma and contusions/fractures in the laryngeal structures are classical signs that may be associated with manual compression of the neck and are materially inconsistent with a conclusion of natural death or mere postmortem artefact. In addition, the injuries to the genitalia vulval swelling, lacerations and tearing of the vagina with clots of blood pointed towards forcible sexual intercourse antecedent to death and corroborated the prosecution's case of violent assault.

- 33.** It was urged before us that the FSL report indicated presence of pesticide in the deceased's viscera and that such finding raises a reasonable possibility that death could have occurred due to poisoning rather than strangulation. This submission was examined in detail. It is neither necessary nor inevitable that the finding of poison in the body is mutually exclusive of the occurrence of antemortem mechanical asphyxia. The medical evidence, as recorded in Ex.P-4 and explained by Dr. Kiran Binjwar (PW-30) and Dr. P. Singh (PW-32), indicated features laryngeal fracture, platysma blood clots, external contusions that are specific to compressive neck injury. Those specific medicolegal signs cannot be satisfactorily explained by mere postmortem immersion or by the presence of poison alone. Thus, even if poison was present in the viscera, the totality of pathological signs pointed strongly to an antemortem violent cause, namely asphyxia due to strangulation.
- 34.** The defence sought to draw attention to certain limitations in the postmortem process and to omissions in the medical evidence for example, that blood-group testing of stains and separate DNA testing of the underwear stain were not carried out by Dr. Kiran Binjwar (PW-30) and Dr. P. Singh (PW-32), and that parts of the documentary reports were not in their handwriting. These matters, borne out of the cross-examination of Dr. P. Singh (PW-32), do not undermine the core findings. The absence of ancillary laboratory

tests does not detract from the medico-legal conclusions based upon direct anatomical observations and recognised forensic signs. Moreover, Dr. P. Singh (PW-32) candidly admitted the state of preservation of the body (submersion for 3–4 days) and explained the expected post-immersion changes (such as swelling of genitalia), thereby demonstrating awareness of the postmortem limitations; but even factoring those immersion effects in, the discrete features of manual compression of neck and internal contusions remained explicable only by homicidal violence.

- 35.** It was further contended that the postmortem was videotaped and that certain acts (such as cutting pubic hair) were performed by non-medical staff and this raised a possibility of contamination or procedural impropriety. Even accepting that peripheral procedural imperfections may have occurred, there is no material to show that the postmortem findings were fabricated or that the core observations of laryngeal fracture, platysma blood clots, brain contusion and genital injuries were the product of collusion. The witnesses were examined at length and their evidence bore internal consistency on essential points. There is nothing in the record to suggest that the medical officers were suborned or that their opinions were given under pressure.
- 36.** The defence also placed reliance upon the possibility that some of the external changes could be explained by immersion in water

for a prolonged period. It is true that immersion may produce postmortem changes and swelling; however, the presence of fractures in the laryngeal cartilages and the platysma haemorrhage are antemortem findings indicative of applied mechanical force to the neck. Such findings are not attributable to postmortem submersion and therefore substantially support a conclusion of homicidal asphyxia.

- 37.** Accordingly, we hold that the trial Court was justified in concluding that the death of the deceased was homicidal in nature. The finding of the trial Court on this crucial question is affirmed.
- 38.** The next question for consideration would be, whether the trial Court has rightly held that the appellant is author of the crime.
- 39.** From perusal of the impugned judgment of conviction and order of sentence, it transpires that the trial has meticulously scrutinized the nature, manner and legality of the seizure proceedings undertaken during the course of investigation, and has recorded specific findings on the evidentiary worth of each material document seized.
- 40.** The trial has observed that Inspector Gopal Satpathy (PW-41), while proceeding with the investigation on 18.04.2022, visited the residence of the deceased's father in village XX, where the father produced three notebooks pertaining to the deceased's studies in Class IX. These notebooks were seized in accordance with law

and seizure memo Ex.P-12 was prepared at the spot, bearing the signatures of the Investigating Officer. This recovery has been supported by the testimony of the deceased's father (PW-1), who clearly deposed that the police came to his house, he produced the school notebooks belonging to his daughter, and the same were seized under memo Ex.P-12. His statement has remained unshaken in cross-examination, thereby lending full assurance to the seizure.

- 41.** Further, the trial Court has also taken note of the fact that, during investigation, when the Principal of the school attended by the deceased produced the answer sheets of Hindi and English subjects written by the deceased, the Investigating Officer seized those documents as well, and prepared seizure memo Ex.P-18. The said seizure stands corroborated by the consistent statements of both the official and non-official witnesses.
- 42.** The trial Court has, therefore, treated these seizure memos and the accompanying oral evidence as relevant links in the chain of circumstances, noting that the documents seized reflect the academic background, handwriting and other material aspects relating to the deceased, which the prosecution considered necessary for comparison and assessment. The trial Court has further held that the consistency between the testimonies of the seizure witnesses and the Investigating Officer, absence of any major contradiction or challenge during cross-examination, and

the fact that the seizures were made openly in the presence of the concerned witnesses, collectively establish that the seizure of the educational records was lawful, voluntary, and proved in accordance with law.

- 43.** Thus, the impugned judgment demonstrates that the trial has given due consideration to these seizure proceedings and treated them as a proven part of the overall chain of circumstances presented by the prosecution.
- 44.** Learned counsel for the appellant, harping upon Ex.D-1, which is stated to be a suicide note contends that the said document unmistakably reflects a consensual and affectionate relationship between the deceased and the appellant, thereby negating any motive or criminal intent attributed to him.
- 45.** Further, from the evidence of the prosecution witnesses, namely Inspector Gopal Satpathy (PW-41); the scientific opinion of the State Examiner of Questioned Documents contained in Ex.P-86; the memorandum statement of the accused Ex.P-14 recorded under Section 27 of the Evidence Act; the seizure memos Ex.P-15, Ex.P-16, Ex.P-11 and Ex.P-47; the recovery and forwarding documents Ex.P-48 and Ex.P-49; and the corroborative evidence of seizure witnesses Vikesh Kumar Sahu (PW-21), Santosh Kumar Chandra (PW-11), as well as PW-1 (father of the deceased) and PW-6 (shopkeeper who sold the mobile phone), a very clear, consistent, and unbroken evidentiary chain emerges

before this Court. The trial Court has also meticulously examined the notice served on the accused Ex.P-64, the permission granted by the Special Court Ex.P-76, and the acknowledgment issued by the Sub-Jail Ex.P-77, thereby establishing procedural regularity and authenticity in the investigative steps.

- 46.** It stands proved beyond doubt that the suicide note Ex.D-1 recovered from the leggings of the deceased vide seizure memo Ex.P-10 was authored by the deceased herself. The handwriting expert compared the questioned writings Q1–Q2 with the standard writings S1–S81 and concluded in Ex.P-86 that they are of the same authorship. This conclusion is further fortified by the oral testimony of Gopal Satpathi (PW-41) and father of the victim (PW-1), both of whom confirmed the circumstances in which the note was recovered, sealed, sent for examination and identified.
- 47.** The memorandum of the accused Ex.P-14 also gains significance as it led to the recovery of the motorcycle and other articles. Even though the motorcycle had been seized earlier, the accused himself disclosed its particulars during investigation, and the fact of its connection with him is corroborated by Ex.P-15 and witness sister of the victim (PW-21). The seizure of the Samsung keypad mobile phone allegedly gifted by the accused to the deceased is firmly supported by Ex.P-16, the bill Ex.P-38, and the testimony of mother of the victim (PW-6), who identified both the purchase bill and the IMEI number. Gopal Satpathi (PW-41) and father of the

victim (PW-1) further corroborated that these articles were produced voluntarily and seized after due procedure.

- 48.** Further, the search conducted at the residence of the accused on 18.05.2022, though partially impeached due to hostility of some panch witnesses, nonetheless stands proved on the strength of the unimpeached testimony of PW-41 and PW-34. The prosecution successfully established that the search was authorised through the Court order Ex.P-76; notice Ex.P-64 was duly served; and the entire procedure was carried out transparently. From this search, a white plastic pouch containing brown powder labelled “poison” was seized under Ex.P-47. This was forwarded for chemical examination through Ex.P-53, the deposit receipt Ex.P-54 was issued, and FSL report Ex.P-85 conclusively found the substance to be Aluminium Phosphide, a lethal toxic agent capable of causing instantaneous death.
- 49.** The cumulative appreciation of these documents, recoveries, scientific findings and oral testimonies leaves no scope for speculation or alternative hypothesis. Each link in the chain of circumstances recovery of the suicide note, authorship confirmation through forensic examination, disclosure by the accused, recovery of articles connected with the offence, seizure of poisonous substance, and matching chemical analysis mutually supports and strengthens the other. Together, they form a solid and complete chain pointing singularly and unerringly towards the

complicity of the accused, fully satisfying the legal requirements of Sections 27 of the Evidence Act and Section 313 of the CrPC, and firmly justifying the findings returned by the learned trial Court.

- 50.** The father of the victim (PW-1) stated that on the intervening night of 28.02.2022, the victim went missing from home, following which a report was lodged the next day as the police initially refused to register it for want of 24 hours. He suspected the accused as his wife had earlier informed him that the accused had given a mobile phone to the deceased, and that the Panchayat was convened where the accused denied any involvement. He admitted in cross-examination that he neither saw the accused abduct nor murder the deceased and that his allegations were based purely on suspicion. The defence confronted him with Ex.D-1 containing the line, "Please brother-in-law, do not trouble her sister because of her," to which he stated he was unaware of any such trouble.
- 51.** PW-2 Parle Chandra stated that on the evening preceding the disappearance, he saw the accused and others near the village pond and later learnt of the deceased's missing status. He stated that the accused and the deceased were in a love affair. PW-3 Sonu Chandra corroborated PW-2 and further stated that the family members used to scold the deceased for talking to the accused, due to which she once cut her wrist. He also confirmed there was no enmity between the accused and the deceased.
- 52.** PW-4, sister of the deceased, likewise stated that the accused and

the deceased were in a love relationship. She admitted several material omissions in her police statement (Ex.D-3) and conceded that she had not witnessed the accused abducting, poisoning, strangulating, or raping the deceased. She further accepted that her allegations were based on suspicion.

- 53.** Similar was the testimony of Awadhram Chandra (PW-5), who claimed that a Panchayat was convened as the deceased and the accused used to meet despite being forbidden by family members. He too admitted that many facts deposed in Court did not appear in his police statement (Ex.D-4) and that he had not seen the accused committing any offence.
- 54.** The mother of the deceased (PW-6) stated that both the accused and the deceased were in a love affair and that the accused had earlier given her daughter a mobile phone. She too did not witness the accused kidnapping or killing the deceased.
- 55.** PW-7, another sister, stated that she had learnt from family members that the deceased was in a relationship with the accused and that she had once informed the Sarpanch that the accused used to call and threaten the deceased. She admitted that these facts were absent in her police statement (Ex.D-5) and further admitted that she had not seen the accused administering poison, strangulating, or raping the deceased. She conceded that her allegations were based on suspicion and police information.

- 56.** Likewise, PW-8, the brother-in-law of the deceased, stated that the deceased had admitted to him over phone shortly before her disappearance that she was talking to the accused and wanted to end the relationship. He too identified several omissions from his police statement (Ex.D-6). He admitted that he had not reported to the police the alleged harassment or threats by the accused while the deceased was alive. He further conceded that he had not witnessed the accused abducting, poisoning, raping, or killing the deceased as well as his allegations were based only on the basis of suspicion.
- 57.** In order to prove the motive behind the commission of the offence, the prosecution has relied extensively upon the evidence of the close family members of the deceased, particularly PW-7 (elder sister of the deceased), PW-21 (another sister of the deceased) and PW-38 (grandmother of the deceased). Their depositions, when read conjointly, paint a consistent and credible picture of persistent harassment by the accused, Jawahar Chandra, towards the deceased. Basanti Chandra (PW-7) and sister of the victim (PW-21) have specifically stated that the deceased had confided in them on multiple occasions that the accused was repeatedly pressurising her to meet him and converse with him, and that he would frequently threaten her with dire consequences if she refused to comply. PW-21 has further deposed that the deceased had told her that the accused had categorically warned

her that in the event she stopped talking to him or meeting him, he would kill her. The said threat, coming from the very person with whom she had once shared a relationship, had caused considerable fear and emotional turmoil to the deceased.

- 58.** PW-38, the grandmother of the deceased, corroborates these assertions by narrating an incident in which she discovered the accused inside a room of their house at an early hour of the morning, which visibly distressed the deceased. The testimony of these witnesses, all being natural and competent witnesses, also indicates that owing to the constant pressure, coercion and emotional distress caused by the accused, the deceased had even attempted self-harm a few months prior to the incident, which further demonstrates the gravity of the accused's conduct and the psychological pressure under which the deceased was living.
- 59.** The collective weight of these testimonies establishes that in the period immediately preceding her death, the deceased was being continuously harassed, intimidated and coerced by the accused, who was determined to maintain control over her against her wishes. These repeated threats and acts of harassment constitute a clear and compelling motive for the accused to commit the offence. Thus, the prosecution has been able to satisfactorily establish, through credible, consistent and unimpeached evidence, a strong and proximate motive on the part of the

accused to cause the death of the deceased victim.

- 60.** The case laws relied upon by the learned counsel for the appellant, namely ***Ratansingh*** (supra) and Vinod Kumar (supra), are of no assistance to the appellant in the facts of the present matter. Both decisions turn upon factual matrices entirely different from the circumstances of the instant case, wherein the prosecution evidence was found to be inconsistent, the chain of circumstantial evidence was incomplete, and the conduct attributed to the accused did not establish a proximate motive. In contrast, the present case rests upon a cohesive and cogent body of evidence, including credible testimonies of material witnesses, corroborative circumstances, and a well-established motive, all of which form an unbroken chain leading unequivocally to the guilt of the appellant. Thus, the principles laid down in those judgments cannot be mechanically applied here and stand clearly distinguishable on facts.
- 61.** Having considered the rival submissions advanced on behalf of the parties and upon a meticulous re-appraisal of the entire evidence brought on record, this Court is of the firm view that the prosecution has succeeded in establishing, through a complete and coherent chain of circumstances, that the appellant is indeed the author of the crime. The testimonies of PW-7, PW-21 and PW-38 consistently reveal that the deceased was subjected to persistent harassment, coercion and intimidation at the hands of

the appellant, and that she had repeatedly expressed fear for her safety owing to the threats extended by him. The presence of the appellant inside the house of the deceased at an unusual hour, his repeated insistence on maintaining contact against the wishes of the deceased, and the deceased's prior attempt at self-harm due to the emotional pressure exerted by him, cumulatively establish a strong and proximate motive.

- 62.** The defence's reliance on Ex.D-1, which is said to be a suicide note, does not dilute the prosecution case. Merely because the parties may once have shared a relationship does not negate the overwhelming evidence of subsequent threats, coercion and strained relations. When the testimonies of the material witnesses, the established motive, the surrounding circumstances, and the conduct of the appellant are examined in their cumulative effect, they clearly point towards the guilt of the appellant and are incompatible with any hypothesis other than his authorship of the crime.
- 63.** Considering the statements of the prosecution witnesses in their entirety and the findings recorded by the trial Court, it is evident that the appellant has not offered any plausible or satisfactory explanation in his examination under Section 313 of the CrPC to meet the incriminating circumstances proved against him. The evidence of PW-7, PW-21 and PW-38, coupled with the surrounding circumstances reflected from the conduct of the

appellant, clearly establishes that the deceased was continuously subjected to threats, coercion and harassment by the appellant. Their testimonies remain consistent, natural, and trustworthy, and there is no material on record to show that these independent witnesses had any reason to falsely implicate the appellant. Their statements, therefore, inspire full confidence and deserve to be accepted.

- 64.** The circumstances proved by the prosecution—namely, the strained relationship between the appellant and the deceased, the frequent threats extended by the appellant, the appellant's presence and conduct immediately preceding the incident, and the deceased's prior statements expressing fear on account of the appellant—form a complete and unbroken chain pointing unerringly towards the guilt of the appellant. The defence's reliance on Ex.D-1, an alleged suicide note, does not in any manner weaken the prosecution case, particularly when the evidence of prosecution witnesses clearly establishes that the relations between the appellant and the deceased had significantly deteriorated after the time when the said note was allegedly written, and that the appellant had been consistently exerting pressure upon and harassing the deceased. The prosecution version further gains strength from the fact that the appellant, after brutally murdering the deceased, attempted to create a false defence by compelling or making her consume

poison and thereafter placing the purported suicide note inside her leggings in order to mislead the investigation and the Court.

- 65.** The alleged discrepancies pointed out by the defence in the two memorandum statements (Ex.P-14 and Ex.P-48) are inconsequential and do not, in any manner, affect the core of the prosecution case, as the main incriminating circumstances stand firmly and independently established through cogent ocular as well as circumstantial evidence. Similarly, the testimony of Leela Bai Chandra (DW-1) does not inspire confidence, being unsupported by any contemporaneous material, and fails to create any dent in the well-established prosecution story.
- 66.** As regards the contention of the defence relating to an alleged inconsistency between the postmortem report and the FSL findings, the same stands adequately explained by the prosecution. The autopsy surgeon has categorically clarified that the medical findings are wholly compatible with the prosecution version and do not rule out the possibility as presented by the prosecution. The trial Court has dealt with this aspect in its correct perspective and has rightly concluded that the medical and scientific evidence, when read conjointly with the ocular testimony and the proved circumstances, leads to the unmistakable conclusion that the deceased did not die by suicide but was subjected to homicidal acts by the appellant, who thereafter attempted to camouflage the offence as a suicide.

- 67.** Bearing in mind the settled rule that appellate interference with a trial Court's acceptance of expert medical opinion is warranted only in exceptional cases of perverse or demonstrably untenable findings, we find no such infirmity in the present case. The trial Court's conclusion that the death was homicidal in nature, attributable to asphyxia appearing to be due to manual strangulation, was based on medical evidence of cogent and compelling weight and is not liable to be disturbed.
- 68.** At the same time, it must be observed that the factual matrix emerging from the postmortem findings and the depositions of Dr. Kiran Binjwar (PW-30) and Dr. P. Singh (PW-32) unmistakably demonstrate that the victim, a minor girl, aged about 12 years and 7 months and was student of Class IX, was subjected to brutal and forcible sexual assault prior to her death. The doctors have unambiguously opined that the victim suffered grievous injuries on her private parts, including extensive vulval swelling, deep lacerations and tearing of the vaginal canal with clotted blood injuries that are wholly inconsistent with accidental or postmortem changes and are medically characteristic of violent penetrative assault. These injuries, when read alongside the pathological signatures of compressive neck trauma such as platysma haemorrhage, fractures of the laryngeal structures, congestion of thoracic organs and cerebral contusions, present a consistent and unbroken chain of circumstances pointing conclusively to the

commission of a heinous sexual and homicidal offence.

- 69.** In this backdrop, we are constrained to note that the trial Court, despite the overwhelming medical and circumstantial evidence, has erred in acquitting the appellant of the grave charges under Sections 363, 364, 376(3) IPC as well as Sections 4 and 6 of the POCSO Act.
- 70.** It is indeed unfortunate that, notwithstanding such grave findings, the State has not preferred any appeal challenging the appellant's acquittal under the aforesaid provisions of the IPC and POCSO Act. The absence of a State appeal, however, does not dilute the gravity of the medical evidence or the seriousness of the offence committed against a child. The material on record leaves no room for doubt that the victim was abducted, sexually assaulted in a most barbaric manner, and thereafter murdered, and the trial Court's failure to return a conviction under the relevant provisions reflects a misappreciation of the evidence on those counts.
- 71.** In the considered view of this Court, the circumstances established by the prosecution are incompatible with any hypothesis other than the guilt of the appellant, and the trial Court has rightly returned a finding of conviction.
- 72.** For these reasons, it stands clearly and reliably proved that it was the appellant who is the author of the crime, and his failure to furnish any explanation under Section 313 CrPC further

strengthens the prosecution case. We are, therefore, of the considered opinion that the prosecution has proved its case beyond reasonable doubt and that the trial Court has rightly convicted the accused/appellant for the offences in question. We find no illegality or infirmity in the findings recorded by the trial Court warranting interference. As such, the criminal appeal, being devoid of merit, is liable to be and is hereby **dismissed**.

- 73.** It is stated at the Bar that the appellant is in jail since 05.03.2022 he shall serve out the sentence as ordered by the learned trial Court.
- 74.** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is 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.
- 75.** Let a certified copy of this judgment along with the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Head-note

In a case where the victim is raped and done to death, if the trial Court finds overwhelming evidence of a sexual assault on the victim, it cannot ignore the commission of rape and convict the accused solely for the murder; the judgment must take note of and record the conviction for all offences established by evidence, including sexual assault, alongside the homicidal act.