2025 INSC 1466

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1129 OF 2013

MANOJ @ MUNNA **... APPELLANT(S)**

VERSUS

THE STATE OF CHHATTISGARH **...RESPONDENT(S)**

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1. This Appeal is directed against the impugned judgment and order dated 11.05.2011 passed by the High Court of Chhattisgarh, Bilaspur in Criminal Appeal No.306/2008, whereby the High Court affirmed the conviction and sentence imposed by the Trial Court convicting the appellant for the offences under Sections 302 and 201 of the Indian Penal Code, 1860[1] and sentenced him to undergo imprisonment for life with fine of Rs.1,000/- and rigorous imprisonment for 05 years with fine of Rs. 500/- and in default of payment of fine amounts, to undergo additional rigorous imprisonment for 06 months and 03 months respectively.

[1] "IPC"

A. FACTUAL MATRIX

2. According to the prosecution, on 07.06.2004, the appellant, along with five co-accused, committed dacoity and, during its commission, caused the death of Yuvraj Singh Patle. The accused were, therefore, charged under Sections 302, 302/34, 396, 201 and 120-B of the IPC for murder, dacoity with murder, criminal conspiracy, and causing disappearance of evidence. It was further alleged that on 06.06.2004, the appellant was last seen with the deceased. The appellant had taken him on his motorcycle from Salhevara. The deceased was subsequently found dead on the next day, i.e., 07.06.2004

3. The dead body of Yuvraj Singh Patle was sent for autopsy to Primary Health Center, Gandai where Dr. Ashish Sharma (PW 13) *vide* Ex. P-20 found the following injuries:

i) Burn injury found over body of 2-3 degree.
ii) Body was decomposed.
iii) Hairs were pilling off.
iv) Swelling over stratum and penis.
v) Two ligature marks over the neck.
vi) Lacerated wound over right temporal region of 2 x 2 x 1 c.m.
vii) Lacerated wound over right collar bone.
viii) Both palms were burnt.
ix) Burn injury over the legs were found.

According to Dr. Ashish Sharma (PW 13), the cause of death was shock and burn injury and the death was homicidal in nature.

4. In order to prove the guilt of the appellant, the prosecution examined as many as 26 witnesses. The appellant was also examined under Section 313 of the Code of Criminal Procedure, 1973, where he denied the circumstances

appearing against him and pleaded innocence and false implication in the crime in question.

5. The Trial Court, while acquitting the remaining five accused, convicted the appellant by placing reliance on the testimonies of Bedram (PW-18), Chamru Singh (PW-20) and D.S. Marko, Executive Magistrate (PW-22), particularly with respect to the last seen theory. The Trial Court held that the appellant had caused the death of the deceased while returning from the house of Mangal Patle on a motorcycle. The medical evidence, according to the Trial Court, established that attempts had been made to burn the body with the intention of destroying the evidence. The Trial Court further found that the appellant had looted the tractor after murdering the driver, Yuvraj Singh Patle, for the purpose of arranging money. On this basis, the Trial Court concluded that the prosecution had successfully proved the motive and established a complete chain of circumstantial evidence pointing unerringly to the guilt of the appellant.

6. The High Court in the impugned judgment affirmed the conviction and sentence passed by the Trial Court on the basis of the last seen theory and the fact that the appellant did not offer any explanation as to when he left the company of the deceased Yuvraj Singh Patle. In absence of such explanation and circumstance, the High Court held that only inference possible was that it was the appellant who committed homicidal death amounting to murder of Yuvraj Singh Patle and with a view to conceal the evidence of crime, the appellant burnt the dead body of Yuvraj Singh Patle.

B. SUBMISSIONS

7. Learned *Amicus Curiae* appearing for the appellant would submit that since the present case is based on circumstantial evidence, the chain of circumstances is not complete. The evidence adduced by the prosecution suffer from infirmities and contradictions. It was submitted that a similar set of evidence was rejected in respect of other five accused persons, but the same evidence were relied upon against the appellant which has resulted in discrimination against the appellant. Further, the depositions of Bedram (PW-18) and Chamru Singh (PW-20) regarding the last seen theory are not reliable. It was also submitted that the prosecution totally failed to prove the motive to commit the murder of the deceased. Thus, learned *Amicus Curiae* argued that since the chain of circumstances is not complete as against the appellant, the appellant is entitled to the benefit of doubt.

8. *Per contra,* the learned counsel for the State submitted that the Trial Court and the High Court, after careful examination of the evidence, rightly came to a conclusion that the evidence of 'last seen together' has been duly proved which along with other incriminating circumstances is sufficient to convict the appellant.

9. The rival submissions now fall for our consideration.

C. ANALYSIS

10. The only question that arises for our consideration is — whether the Trial Court and the High Court were correct in convicting the appellant solely on the basis of the theory of last seen together?

11. In the present case, it is not in dispute that the case of the prosecution is based purely on circumstantial evidence in the form of motive and last seen together, since there is lack of ocular version of the crime. The fact that the death was homicidal in nature was duly proved by Dr. Ashish Sharma (PW-13) who conducted the autopsy. Large number of injuries were found on the body of the deceased and the cause of death was shock and burn injury. Thus, there is no doubt on the aspect that the death of Yuvraj Singh Patle was homicidal in nature.

12. It is a well-established rule in criminal jurisprudence that circumstantial evidence can be made the basis of conviction of an accused person if it is of such a character that it is wholly inconsistent with the innocence of the accused and is consistent only with his guilt. The incriminating circumstances being used against the accused must be such as to lead only to a hypothesis of guilt and must exclude every other possibility of innocence of the accused and if the circumstances proved against the accused, in a particular case, are consistent with the innocence of the accused, he will be entitled to the benefit of doubt.

13. This Court in a landmark judgment in ***Sharad Birdhichand Sarda vs. State of Maharashtra***[2] laid down the five golden rules to be kept in mind while appreciating circumstantial evidence. The same reads thus:

> "**153.** A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:
>
> (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.
>
> It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in Shivaji Sahabrao

[2] (1984) 4 SCC 116

> Bobade v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 Crl LJ 1783] where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]
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> > "Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."
>
> (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
>
> (3) the circumstances should be of a conclusive nature and tendency,
>
> (4) they should exclude every possible hypothesis except the one to be proved, and
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> (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.
> **154.** These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.
>
> (emphasis supplied)

14. Further, in the case of ***Umedbhai Jadavbhai vs. State of Gujarat***[3], this Court held that while convicting the accused based on circumstantial evidence, there should remain no circumstance which aligns with the innocence of the accused. The observations made by this Court read thus:

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

[3] (1978) 1 SCC 228

15. Having noted the principles governing a case based purely on circumstantial evidence, we now proceed to discuss the evidence as put forth by the prosecution in bringing home the charges against the appellant:

i) **Motive** - It is the case of the prosecution that the appellant needed money to get his jeep back and for this purpose, the appellant looted the tractor by killing the driver Yuvraj Singh Patle to arrange money. However, there is no further evidence on record to prove that after looting the tractor and committing the alleged murder of the deceased, the appellant has tried to sell the tractor for arranging money. In fact, it was stated during the course of argument that the tractor was recovered from some other place after one month of the incident. Thus, in the absence of evidence that the appellant attempted to sell the tractor, the theory of appellant trying to arrange money to get his jeep back is not established.

ii) **Last Seen Together Theory** - In the present case, the prosecution has examined Bedram (PW-18) and Chamru Singh (PW-20). It was the case of the prosecution that the appellant took the deceased on the motorcycle and, thereafter, the dead body of the deceased in injured condition was found. As per the evidence of PW-18, the appellant and one of the accused Bhagwandas called Yuvraj Singh Patle at Salhevara, thereafter they went to Banjari. After that, Yuvraj Singh Patle was not found along with them and later his dead body was found.

16. We now proceed to examine the evidence on record in the context of the last seen theory. Bedram (PW-18) deposed that the appellant and co-accused Bhagwandas had requested the deceased, Yuvraj Singh Patle, who was the driver

of the tractor, to take the tractor to Salhevara. Acting upon this request, PW-18 instructed the deceased and Chamru Singh (PW-20), to proceed to Salhevara with the tractor.

17. Chamru Singh (PW-20) informed Bedram (PW-18) that after reaching Salhevara, the deceased left him there on the request of the accused persons, who asked him to remain behind. Thereafter, both, the appellant and Bhagwandas, proceeded towards Banjari along with the deceased on the tractor, stating that they were going to collect cable wire. However, none of them, neither the deceased nor the appellant, returned with the tractor that night.

18. Chamru Singh (PW-20) further deposed that on 06.06.2004 he had accompanied the deceased to Salhevara by tractor. Upon their arrival, they met the appellant and Bhagwandas, who invited them for tea at Tihati Hotel. Thereafter, both the accused informed him that they were proceeding to Banjari with the deceased and the tractor to collect cable wire, and asked PW-20 to wait.

19. According to PW-20, before departing for Banjari, the appellant and the deceased took him on the motorcycle to the house of one Mangal Patle and instructed him to stay there for the night, assuring that they would return shortly. The witness waited the entire night, but neither the deceased nor the accused came back.

20. On the following day, PW-20 waited until around 2:00 p.m. When neither the accused nor the deceased returned, he travelled back to his village Rengakhar by bus, where he met Bedram (PW-18) and narrated the entire sequence of events. Thereafter, both PW-18 and PW-20 undertook a search for the tractor and the deceased at Banjari, but found that no cable laying work was

underway, and neither the deceased nor the tractor could be traced even on the next day.

21. Further, as per the evidence of D.S. Marko, Executive Magistrate (PW-22), present appellant was placed for identification inside the jail and he was identified by the witnesses. Thus, in the present case, factum of identification and Dok identification have been well established by Bedram (PW-18) and Chamru Singh (PW-20).

22. Thus, from the testimonies of Bedram (PW-18) and Chamru Singh (PW-20), the prosecution has been able to prove that deceased Yuvraj Singh Patle was last seen alive in the company of the appellant and co-accused Bhagwandas at Salhevara on the evening of 06.06.2004. The accused persons took the deceased along with them towards Banjari on the pretext of fetching cable wires, after leaving Chamru Singh (PW-20) behind at the house of Mangal Patle. Thereafter, Yuvraj Singh Patle was never seen alive again, and his dead body was subsequently recovered.

23. Keeping in view the above-stated testimonies, the crucial question is — whether the evidence of last seen together is sufficient enough to convict the appellant in a case resting entirely on circumstantial evidence?

24. The doctrine of last seen rests on the logical presumption that where an individual is last seen alive in the close company of an accused, and is soon thereafter found dead, the accused must reasonably account for the circumstances in which they parted ways, as such facts fall particularly within his knowledge. Thus, it rests on the presumption that human behavior follows natural probabilities, and, hence, the person who was last seen with the

deceased must be able to explain the facts that resulted in the subsequent death of the deceased.

25. Recently in the case of ***Padman Bibhar vs. State of Odisha***[4], this Court, speaking through one of us (Prashant Kumar Mishra, J.), while acquitting the accused of charges under Sections 302 and 201 of the IPC held that the conviction cannot be sustained against the accused merely on the ground that the accused was last seen with the deceased.

26. In ***Rambraksh vs. State of Chhattisgarh***[5], this Court observed that the last seen theory applies only when the time gap between the last seen point and the discovery of the death is so small that no one else could have committed the crime. Even then, this circumstance alone is insufficient and the prosecution must establish a complete chain of circumstances proving the accused's guilt. In the said decision, this Court held as under:

> "12. It is trite law that a conviction cannot be recorded against the accused merely on the ground that the accused was last seen with the deceased. In other words, a conviction cannot be based on the only circumstance of last seen together. Normally, last seen theory comes into play where the time gap, between the point of time when the accused and the deceased were seen last alive and when the deceased is found dead, is so small that possibility of any person other than the accused being the perpetrator of the crime becomes impossible. To record a conviction, the last seen together itself would not be sufficient and the prosecution has to complete the chain of circumstances to bring home the guilt of the accused."
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> (emphasis applied)

[4] 2025 INSC 751
[5] (2016) 12 SCC 251

27. Further this Court in the case of ***Krishnan alias Ramasamy and Others vs. State of Tamil Nadu***[6] while relying on its judgment in ***Arjun Marik vs. State of Bihar***[7] observed as follows:

> "21. The conviction cannot be based only on circumstance of last seen together with the deceased. In Arjun Marik v. State of Bihar [1994 Supp (2) SCC 372 : 1994 SCC (Cri) 1551] this Court held as follows: (SCC p. 385, para 31)
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> > "31. Thus the evidence that the appellant had gone to Sitaram in the evening of 19-7-1985 and had stayed in the night at the house of deceased Sitaram is very shaky and inconclusive. Even if it is accepted that they were there it would at best amount to be the evidence of the appellants having been seen last together with the deceased. But it is settled law that the only circumstance of last seen will not complete the chain of circumstances to record the finding that it is consistent only with the hypothesis of the guilt of the accused and, therefore, no conviction on that basis alone can be founded.""
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> (emphasis supplied)

28. In ***Kanhaiya Lal vs. State of Rajasthan***[8], this Court held that evidence on last seen together is a weak evidence and conviction only on the basis of last seen together without there being any other corroborative evidence against the accused will not be sufficient to convict the accused for an offence under Sections 302 and 201 of the IPC.

29. Another circumstance that the High Court took into consideration against the appellant was that the present appellant has not offered any explanation about when he left the company of the deceased Yuvraj Singh Patle and in absence of such explanation and circumstance, inference would be possible that the present appellant has committed homicidal death amounting to murder of

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[6] (2014) 12 SCC 279
[7] 1994 Supp (2) SCC 372
[8] (2014) 4 SCC 715

Yuvraj Singh Patle and with a view to conceal the evidence of crime, he burnt his dead body.

30. It is a settled principle that Section 106 of the Indian Evidence Act, 1872[9] clearly provides that when a fact lies especially within the knowledge of a person, the burden of proving that fact rests upon him. Accordingly, when an accused is shown to have been last seen in the company of the deceased, it becomes incumbent upon him to explain how and when they parted ways. The explanation furnished must be reasonable, probable, and satisfactory in the opinion of the Court. If such an explanation is offered, the burden cast by Section 106 of the Evidence Act stands discharged. However, if the accused fails to present a credible explanation regarding facts within his special knowledge, this failure constitutes an additional link in the chain of circumstantial evidence established against him. At the same time, it must be emphasized that Section 106 of the Evidence Act does not shift the primary burden of proof, which in a criminal trial always remains on the prosecution.

31. Thus, any adverse inference under Section 106 of the Evidence Act is to be drawn against the accused person when the prosecution has been able to establish the case beyond a reasonable doubt.

32. This Court in the case of ***Sabitri Samantaray vs. State of Odisha***[10] while elaborating on the principle surrounding Section 106 of the Evidence Act observed that this provision does not dilute or substitute the prosecution's fundamental obligation to prove the guilt of the accused beyond reasonable

[9] For short, 'the Evidence Act'
[10] (2023) 11 SCC 813

doubt. Rather, it comes into operation only in situations where the prosecution has already established a reasonable inference against the accused. This Court held thus:

> "18. Section 106 of the Evidence Act postulates that the burden of proving things which are within the special knowledge of an individual is on that individual. Although the section in no way exonerates the prosecution from discharging its burden of proof beyond reasonable doubt, it merely prescribes that when an individual has done an act, with an intention other than that which the circumstances indicate, the onus of proving that specific intention falls onto the individual and not on the prosecution. If the accused had a different intention than the facts are specially within his knowledge which he must prove.
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> 19. Thus, although Section 106 is in no way aimed at relieving the prosecution from its burden to establish the guilt of an accused, it applies to cases where chain of events has been successfully established by the prosecution, from which a reasonable inference is made out against the accused. Moreover, in a case based on circumstantial evidence, whenever an incriminating question is posed to the accused and he or she either evades response, or offers a response which is not true, then such a response in itself becomes an additional link in the chain of events. [See Trimukh Maroti Kirkan v. State of Maharashtra [Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681 : (2007) 1 SCC (Cri) 80]"
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> (emphasis supplied)

33. Further, in the case of ***Anees vs. State Government of NCT***[11], this Court held thus:

> "37. Section 106 of the Evidence Act referred to above provides that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. The word "especially" means facts that are pre-eminently or exceptionally within the knowledge of the accused. The ordinary rule that applies to the criminal trials that the onus lies on the prosecution to prove the guilt of the accused is not in any way modified by the rule of facts embodied in Section 106 of the Evidence Act. Section 106 of the Evidence Act is an exception to Section 101 of the Evidence Act. Section 101 with its Illustration (a) lays down the general rule that in a criminal case the burden of proof is on the prosecution and Section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the

[11] (2024) 15 SCC 48

> prosecution to establish the facts which are, "especially within the knowledge of the accused and which, he can prove without difficulty or inconvenience"."
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> (emphasis supplied)

D. CONCLUSION

34. In view of the above discussion, we are of the opinion that the nature of circumstantial evidence available against the appellant though raises a doubt that he may have committed the offence but the same is not so conclusive that he can be convicted only on the evidence of the last seen together. Be that as it may. It is a settled proposition that whenever any doubt emanates in the mind of the Court, the benefit shall accrue to the accused and not the prosecution. The present is a case where except for the evidence of last seen together, there is no other corroborative evidence against the appellant. Therefore, the conviction only on the basis of last seen together cannot be sustained.

35. Thus, we set aside the impugned judgments and orders passed by the High Court as well as the Trial Court convicting the appellant for the offence under Sections 302 and 201 of the IPC. The appellant is acquitted of the offence alleged against him. Since the appellant is on bail, his bail bonds stand discharged.

36. The Appeal is allowed accordingly.

.....J.
(SANJAY KAROL)

.....J.
(PRASHANT KUMAR MISHRA)

NEW DELHI;
DECEMBER 18, 2025