



2026:CGHC:5685-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 371 of 2024

Kamalnarayan Sahu S/o Late Jagluram, aged about 60 years R/o Village Kosmi, P.S. Daundilohara, District Balod (C.G.)

--- Appellant

versus

State of Chhattisgarh Through P.S. - Daundilohara, District Balod (C.G.)

--- Respondent

CRA No. 670 of 2024

1 - Kamlesh Kumar Shrivas S/o Jeevan Lal, aged about 34 years R/o Village Kosami, Police Station -Doundilohara, District - Balod Chhattisgarh.

2 - Uttam Kumar Rawate S/o Late Shri Darshan Ram, aged about 35 years R/o Village Kosami, Police Station -Doundilohara, District - Balod Chhattisgarh.

--- Appellants

Versus

State of Chhattisgarh Through Police Station- Doundilohara, District Balod Chhattisgarh

--- Respondent

For Appellant in CRA 371/2024	:	Smt. Fouzia Mirza, Sr. Advocate assisted by Ms. Aditi Singhvi, Advocate
For Appellant in CRA 670/2024	:	Mr. Ashok Kumar Swarnakar, Advocate
For Respondent/State	:	Mr. S.S. Baghel, Govt. Advocate

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

JUDGMENT ON BOARD

Per Ramesh Sinha, Chief Justice

02.02.2026

1. Since both the above-captioned appeals arise out of a common incident and common factual matrix, this Court is disposing of both these appeals by a common judgment.
2. Both these criminal appeals have been filed by the accused/appellants under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'the CrPC') against the impugned judgment of conviction and order of sentence dated 25.01.2024 passed by the learned 1st Additional Sessions Judge / FTC, Balod, District – Balod (C.G.) in Sessions Case No. 04/2022, by which the appellants have been convicted and sentenced in the following manner :-

Conviction	Sentence
U/s 450 r/w 120B of IPC	Rigorous imprisonment for ten years and fine of Rs. 1,000/-, in default of payment of fine, additional RI for 1 month
U/s 376 D of IPC	Imprisonment for Life which means imprisonment for the remainder natural life of that person and fine of Rs.5,000/-, in default of payment of fine, additional RI for 5 months
U/s 302 r/w 120B of IPC	Imprisonment for Life and fine of Rs.5,000/-, in default of payment of fine, additional RI for 5 months
with a direction to run all the sentences concurrently	

3. Case of the prosecution, in brief, is that on 12.06.2021, the deceased/victim's brother-in-law (भाई बहू) who was her neighbor, filed a written report at the Doondilhora police station stating that she had an 8th-grade education and worked in the household and agriculture. On 12.06.2021, she went to the field at 5:00 a.m. to fill water from the borewell for her home. By the time she returned, it was 6:00 a.m. Her neighbor, the deceased/victim, who usually woke up at 5:00-6:00 a.m., had not woken up. She knocked on her door two or three times, calling out, "Didi-Didi", but when she didn't wake up, she pushed the door open. It was locked from the inside. She wondered why the deceased/victim hadn't woken up, and went to her sister-in-law in the neighborhood and told her that the deceased/victim had still not woken up. Afterward, they knocked on the victim's door again, but she didn't open it. They peered through the hole in the door and saw the victim's neck and head lying on the bed, asleep. She then let her younger daughter in through a small broken curtain at the back of the house. Then her daughter went inside and unlocked the door. By then, Laleshwari and Uttarabai had also arrived. When they all went inside the room, they saw that the deceased/victim was lying face down on the cot. She was bare of clothing below her waist. Her nightgown had slipped from her waist. The deceased/victim had suffered injuries to her face and neck. Blood oozed from her mouth. Both hands were tied behind her back with a towel. Everyone called out to the

deceased/victim, but she remained silent. She had died. An unknown person had entered the house between 6:00 PM on 11.06.2021 and 6:00 AM on 12.06.2021, murdered the deceased/victim, and then fled.

4. On the above information, the Doondilhora police station registered the rural intimation and rural complaint crime and registered the information register number- 31/2020 of untimely and accidental death and took the case into investigation panchnama proceedings. During the inquest, after preparing the map of the incident spot and giving notice to the witnesses, the inquest over the dead body of the deceased/victim was prepared and to know the exact cause of death, the post-mortem of the dead body of the deceased/victim was done, in which the doctor found the death of the deceased/victim to be of "homicidal in nature", then the Doondilhora police station registered a case bearing Crime No. 0106/2021 against unknown persons and the case was taken up for investigation.
5. During the investigation, the deceased's vaginal slide, her clothes, and blood sample were preserved and sent to the FSL in Raipur for chemical testing. The report revealed the presence of human semen in the slide and swab, leading to the addition of Section 376 of the Indian Penal Code. During the investigation, it was learned that the deceased/victim had been in a relationship with the accused, Kamalnarayan Sahu, for 10-12 years, a fact known to the villagers. On the date of the incident, some

villagers saw the accused, Kamlesh Kumar Shrivas and Uttam Kumar Raote, wandering towards the deceased/victim's house at night, arousing suspicion. Based on this suspicion, the accused were questioned. Blood samples were taken from the accused, and the semen found on the vaginal slide was subjected to DNA testing. After the blood samples given by the accused matched in the report, the accused were interrogated, in which accused Kamlesh and Uttam Kumar told that the clothes worn at the time of the incident, i.e. pants, shirt and underwear, were kept in their house and they would get them recovered. Similarly, accused Kamalnarayan was also interrogated. After interrogation, a mobile phone was seized from accused Kamalnarayan and the clothes worn by accused Uttam and Kamlesh Kumar at the time of the incident were seized.

6. A mobile set in working condition was recovered from the house of the deceased/victim and from the lady constable, the vaginal slide of the deceased/victim, vaginal swab, clothes worn at the time of the incident and her blood sample and from the scene of incident ladies underwear in which semen like stains were visible, a piece of gown in which blood stains and stains like human semen were visible and pillow in which stains like human blood were visible and from constable Kaleshwar the viscera of the deceased and from Dr. Pranay Pradhan the blood sample of the accused in an EDTA vial were seized and statements of the deceased/victim's brother-in-law, sisters-in-law, Draupadi,

nephew of the deceased/victim, Savita, Yogesh, Rohit, Ajit, Jitendra were recorded. As per DNA report, similarity was found in the semen found in the vaginal slide and swab of the victim.

7. Based on the statements of witnesses, spot inspection, PM, query report and available evidence, the accused were found to have committed the crime under sections 450, 302, 376 and 120B of the IPC. After completion of investigation, a charge sheet was presented in the Court of Judicial Magistrate First Class, Dundilohara under the said sections. Since the case was triable by Sessions Court, the case has been transferred to the Court of learned Sessions Judge, Balod, wherefrom, the same has been transferred to the Court of 1st Additional Sessions Judge / FTC, Balod, District – Balod (C.G.) for legal disposal.
8. When charges were framed against the accused under sections 450 r/w 120B, 376D, 302 r/w 120B of the IPC and were read out and explained to them, they denied having committed the crime and wanted trial.
9. On behalf of the prosecution, statements of witnesses Bhojuram Kisan 06 (PW-01), Rohitram Thakur (PW-02), Bhatendra Das Manikpuri (PW-03), Mohanaram (PW-04), brother-in-law of the deceased/victim (PW-05), sister-in-law of the deceased/victim (PW-06), sister-in-law of the deceased/victim (PW-07), nephew of the deceased/victim (PW-08), Dr. Pranay Pradhan (PW-09), Naib Tehsildar Rajshree Pandey (PW-10), Patwari Tararani Dhanendra (PW-11), Medical Lab Technician Khemraj Sahu

(PW-12), Dular Singh (PW-13), Constable Yagyadutt Thakur (PW-14), Dr. R. Sirmour (PW-15), Dr. Aditya Fating (PW-16), Inspector Manish Sharma (PW-17), Inspector Arun Netam (PW-18) and Inspector Omprakash Sharma (PW-19) have been recorded.

10. When the accused were examined under Section 313 of the CrPC, they stated that they were innocent and had been falsely implicated. No witness was examined by the accused in their defence.
11. The trial Court after completion of trial and after appreciating oral and documentary evidences available on record, by the impugned judgment dated 25.01.2024, convicted and sentenced the accused/appellants in the manner mentioned in the opening paragraph of this judgment, against which these criminal appeals under Section 374(2) of the CrPC have been preferred calling in question the impugned judgment.
12. Smt. Fouzia Mirza, learned Senior Advocate assisted by Ms. Aditi Singhvi, learned counsel for the appellant Kamalnarayan Sahu (in CRA No. 371 of 2024) vehemently argued that there is no eyewitness of the incident and all the prosecution witnesses have not supported the case of prosecution and have been turned hostile and the conviction of the appellant Kamalnarayan Sahu is solely based on the DNA report (Ex.P-56), which was not done in a proper manner. She further argued that the entire prosecution case is based on circumstantial evidence, and the

evidence presented by the prosecution fails to establish the guilt of the appellants beyond a reasonable doubt. The circumstantial evidence brought forth is neither conclusive nor does it exclude all possibilities of the appellant's innocence. She also argued that the prosecution has failed to establish a clear motive for the appellants to commit the heinous crime, particularly considering that the accused, Kamalnarayan Sahu, had been in a long-term relationship with the deceased, which was well known in the village. The mere fact of a relationship does not establish guilt, especially when the nature of the relationship remains unclear and uncorroborated.

13. Smt. Mirza submitted that the prosecution has failed to establish due compliance with the Guidelines for Collection, Storage and Transportation of Crime Scene DNA Samples and the Standard Operating Procedure (SOP) for Crime Scene Investigation, thereby rendering the DNA evidence unreliable and unsafe to rely upon. She has also produced the copies of Guidelines for Collection, Storage and Transportation of Crime Scene DNA Samples and the Standard Operating Procedure (SOP) for Crime Scene Investigation. She further submitted that the crime scene was not secured in accordance with the SOP, and no material has been placed on record to show that access to the scene was restricted or that adequate precautions were taken to prevent contamination of biological evidence. The collection of DNA samples suffers from serious procedural infirmities. The

prosecution has not demonstrated that the samples were collected by trained personnel using approved sterile kits, nor is there consistent documentation reflecting the exact time, place, and manner of collection of each biological exhibit. The mandatory safeguards of labeling, sealing, and documentation were not strictly adhered to. The seizure memos and forensic forms are either incomplete or silent on critical particulars, creating a serious doubt regarding the identity and integrity of the samples allegedly collected from the crime scene. The chain of custody is demonstrably broken. There is no cogent explanation regarding the manner and duration of storage of the samples, the conditions under which they were preserved, and the timeline and mode of transportation to the forensic laboratory. Such unexplained gaps are in direct violation of the prescribed guidelines and SOP.

14. Smt. Mirza also submitted that the prosecution has failed to rule out the possibility of contamination, substitution, or tampering. In the absence of strict adherence to the guidelines, the sanctity of the DNA samples stands compromised. It is a settled principle of criminal jurisprudence that DNA evidence, though scientific in nature, derives its evidentiary value only from scrupulous compliance with procedural safeguards. Where the foundational procedures are doubtful, the resultant forensic opinion cannot be treated as conclusive or reliable. The prosecution cannot cure these fundamental lapses by placing reliance solely on the final

forensic report, without first establishing that the samples tested were collected, preserved, and transported in accordance with law. She prayed that the Court may be pleased to discard or give no evidentiary weight to the DNA evidence relied upon by the prosecution, as the same is vitiated by non-compliance with the mandatory guidelines and SOP, and grant such further relief as deemed fit in the interest of justice.

15. Smt. Mirza further submitted that prosecution's case relies heavily on circumstantial evidence, but a critical flaw in this evidence is the absence of any blood of the accused at the crime scene. According to the prosecution, no blood stains or any other forensic material belonging to the accused were found at the scene of the crime. This absence of direct evidence, such as the accused's blood at the spot, raises significant doubts about their involvement in the crime. If the appellants had indeed been involved in the murder of the deceased, it would be expected that their blood or other physical evidence, such as hair or skin fragments, would have been found at the scene, particularly in a violent crime like this one. The fact that no such evidence exists strongly suggests that the appellants were not present at the crime scene or not directly involved in the physical altercation leading to the deceased's death. She further submitted that despite the absence of the accused's blood at the scene, the prosecution claims that DNA matching the appellants was found on the pillow. However, this piece of evidence is highly

questionable for several reasons. First, the presence of DNA from the accused on the pillow does not directly link them to the crime or establish their involvement in the murder. The pillow may have been in the victim's house, but that alone does not prove that the appellants had contact with it during the commission of the crime. The prosecution has failed to explain how the DNA of the accused came to be on the pillow, given that there is no other evidence to suggest that they were present in the house at the time of the crime. The presence of DNA on a pillow does not, by itself, establish guilt, especially when other crucial forensic evidence, such as the presence of the accused's blood or fingerprints at the scene, is missing.

16. Smt. Mirza contended that the presence of DNA from the appellants on the pillow could be a result of cross-contamination during the handling of evidence, improper storage, or mishandling during the investigation. There is also a possibility that the DNA sample was misidentified or incorrectly matched. The forensic analysis process, though generally reliable, is not immune to errors, and without clear documentation of the proper handling and chain of custody of the DNA sample, the reliability of the DNA match is in question, there is no evidence to show where and in what condition the samples (A, B1, B2, C and F) were kept from 09.08.2021 till 29.10.2021. If the pillow had been exposed to the public or to law enforcement personnel, or if the investigation was not conducted with strict adherence to forensic

protocols, the possibility of contamination cannot be ruled out. She further contended that even if we accept the DNA match between the pillow and the accused, it does not establish a direct link between the appellants and the murder. The DNA evidence from the pillow may simply indicate that the appellants were in the deceased's home at some point, but it does not conclusively prove that they were present during the commission of the crime. The prosecution has failed to explain the presence of the DNA on the pillow in any clear or logical manner. Moreover, the prosecution has not established any motive for the appellants to commit the murder or provided evidence that would connect them to the specific act of killing the deceased. She also contended that the DNA evidence linking the appellants to the pillow cannot be seen in isolation. It is crucial to consider the entire body of evidence, which is inconsistent and incomplete. There is no direct eyewitness testimony linking the appellants to the crime, and there are significant gaps in the prosecution's case. In the absence of any other physical or circumstantial evidence connecting the appellants to the fatal attack, the DNA evidence found on the pillow is inadequate and unreliable as the primary basis for conviction. In support of her contention, she placed reliance on the judgments passed by the Hon'ble Supreme Court in the matters of ***Prakash Nishad alias Kewat Zinak Nishad Vs. State of Maharashtra***, reported in ***(2023) 16 SCC 357; Kattavellai @ Devakar Vs. State of Tamilnadu***,

reported in **2025 LiveLaw (SC) 703** and **Dashwanth Vs. State of Tamilnadu**, reported in **2025 SCC OnLine SC 2186**.

17. Mr. Ashok Kumar Swarnakar, learned counsel for the appellants Kamlesh Kumar Shrivas and Uttam Kumar Rawte (in CRA No.670 of 2024) reiterating the submissions advanced by Smt. Mirza, learned Senior Advocate so far as it relates to appellant Kamlesh Kumar Shrivas and so far as in relation to appellant Uttam Kumar Rawte, he submits that there is no eyewitness of the incident and all the prosecution witnesses have not supported the case of prosecution and have been turned hostile and the conviction of the appellant Uttam Kumar Rawte is solely based on the DNA report (Ex.P-56), which was not done in a proper manner. He further submitted that the recovery of blood-stained clothes, semen samples, and mobile phones from the accused cannot be directly linked to the crime. The recovery is circumstantial and does not prove the appellants' direct involvement in the commission of the crime. There are serious doubts as to whether these items were planted or are the result of coerced confessions during interrogation. He further submitted that the DNA test, which allegedly matches the semen found on the vaginal slide of the deceased, is inconclusive as it fails to account for potential errors or contamination during the collection and handling of evidence. The prosecution has not provided concrete proof that the sample was collected or preserved in a manner that ensures its authenticity.

18. On the other hand, Mr. S.S. Baghel, learned Government Advocate, appearing for the State/respondent would submit that the appellants have entered into the house of the deceased and committed gang rape with her and thereafter, pressed her mouth and nose with pillow and murdered her. He further submits that sister-in-law of the deceased, namely, Gomti Bai Nayak (PW-5) and Rohit Ram Thakur (PW-2) have stated in their examination before the trial Court that the deceased was having love affair with the appellant-Kamalnarayan Sahu and the Kamalnarayan Sahu used to come to the house of the deceased, therefore, the Gomti Bai Nayak (PW-5) made an application for DNA test of the appellant/Kamalnarayan Sahu and other co-accused persons. He further states that as per the DNA report, the DNA profile of the appellant Uttam Kumar Rawte was found in the vaginal slide of the deceased. Further, as per DNA report of blood samples, the DNA profile of the appellants were found in the pillow. It is further contended by the learned State counsel that as per FSL report (Ex.P/41), human sperms have been found on the vaginal slide of the deceased and prior to the murder of the deceased, the sexual intercourse had also been done with the victim. Thus, there is ample evidence on record to connect the appellants with commission of the offence.
19. It has been further submitted by Mr. Baghel that while the prosecution witnesses may have turned hostile, this does not negate the validity of the circumstantial evidence and the

forensic analysis presented in this case. The absence of direct eyewitness testimony does not, in itself, render the case unproven. The DNA evidence, along with the circumstantial evidence, provides a strong and reliable basis for conviction, and hostile witnesses do not detract from the credibility of properly collected and analyzed forensic evidence. He also submitted that the prosecution has demonstrated due compliance with the *Guidelines for Collection, Storage, and Transportation of Crime Scene DNA Samples* and the *Standard Operating Procedure (SOP) for Crime Scene Investigation*. The crime scene was properly secured, and access was restricted in accordance with the established protocols. The handling of the samples was done by trained forensic professionals, following approved procedures to prevent contamination. The prosecution has duly provided records of the collection, labeling, sealing, and documentation of the DNA samples, which were consistent with the prescribed procedures. The chain of custody was maintained throughout the process, and the evidence was securely transported to the forensic laboratory without any tampering or mishandling. The claims of procedural infirmities raised by the defense are not supported by any material evidence or documentation to suggest any lapse or deviation from the standard protocols. The possibility of contamination, substitution, or tampering is speculative and unsupported by any factual basis.

20. Mr. Baghel contended that the DNA evidence presented in this case is reliable and properly corroborates the circumstantial evidence. The DNA found on the pillow (Ex.P-56) matches the appellants, linking them to the scene of the crime. The mere presence of the DNA on the pillow is not an isolated or inconsequential piece of evidence but is part of a larger body of evidence pointing to the appellants' involvement. The prosecution has not only relied on the DNA match but also presented circumstantial evidence that supports the appellants' presence at the crime scene. The forensic analysis conducted was done by an accredited laboratory, and the scientific methods employed in the collection and analysis of the samples have been thoroughly validated. He further contended that the absence of the accused's blood or other physical evidence at the crime scene does not in any way exonerate the appellants or undermine the prosecution's case. The absence of blood, hair, or skin fragments is not uncommon in cases where the crime may have been committed in a manner that did not involve direct physical confrontation or injury to the perpetrators. The DNA evidence on the pillow is sufficient to establish a connection between the appellants and the crime scene, despite the absence of blood or other forensic material at the scene. The DNA does not have to be found at every location for it to be admissible as evidence. He also contended that the prosecution is not required to establish the presence of the accused's blood

at the scene to prove guilt. DNA evidence, when collected and handled properly, is a reliable tool in establishing the accused's involvement in the crime.

21. Mr. Baghel further argued that the defense's arguments regarding cross-contamination, improper handling, or misidentification of the DNA samples are without merit. The prosecution has proven that the forensic procedures followed in this case were in strict accordance with established protocols. There is no evidence to suggest that the samples were mishandled, improperly stored, or exposed to cross-contamination. The forensic report clearly identifies the DNA samples and traces a direct link between the appellants and the crime scene. The argument of misidentification or mishandling is speculative and unsupported by the facts of the case. Moreover, the defense has not demonstrated any actual errors in the forensic process that would undermine the integrity of the DNA evidence. The lab's findings were based on accurate and reliable methods, and the match between the appellants' DNA and the crime scene evidence is conclusive. It has been also submitted that the prosecution has sufficiently demonstrated a plausible motive and circumstantial evidence pointing to the appellants' involvement. The relationship between the deceased and Kamalnarayan Sahu, though not fully established, provides a reasonable basis to infer the accused's potential involvement. The long-term nature of their relationship suggests a familiarity

with the deceased's household, where the DNA evidence was found. The cumulative effect of the circumstantial evidence, including the DNA match, the context of the relationship, and the lack of any contradictory evidence, supports the prosecution's theory that the appellants were involved in the crime.

22. Mr. Baghel further submitted that the forensic evidence, when properly handled and analyzed, is a cornerstone of modern criminal investigations. The DNA evidence, along with other circumstantial evidence, forms a compelling case against the appellants. The absence of direct eyewitness testimony does not detract from the strength of the forensic evidence. The reliance on DNA evidence, in this case, is justified, as the prosecution has demonstrated the collection, preservation, and analysis of the samples in full compliance with the required legal and scientific standards. He also submitted that the judgments cited by the defense in *Prakash Nishad alias Kewat Zinak Nishad* (2023), *Kattavellai @ Devakar* (2025), and *Dashwanth* (2025) are distinguishable and do not undermine the applicability of the DNA evidence in this case, which was handled with the utmost care and in strict adherence to the prescribed procedures.
23. We have heard the learned counsel for the parties and considered their rival submissions made hereinabove and also went through the original records of the trial Court with utmost circumspection.
24. **The first question for consideration would be whether the**

death of deceased/victim was homicidal in nature ?

25. In this regard, Dr. Aditya Fating (PW-16), who had conducted postmortem over the dead body of deceased/victim has stated while serving as Medical Officer at the Community Health Center, Doondilohara, he received a written request from the Station House Officer, Doondilohara, requesting a short PM report for the deceased/victim. The body of an adult woman was brought before him for examination. Upon examination, he determined that the cause of death was likely asphyxiation. It appears that the cause of death was asphyxiation due to an object (cloth) being placed over the mouth, which may be homicidal in nature. The deceased died within 24 hours of the examination.
26. The said witness further stated in his statement that the body brought before him for autopsy was wearing a dark blue gown, there was a purple colour petticoat inside the gown, the dead body was wearing a white and black colour bra. The dead body of the deceased was in a supine position, both her hands were tied behind her back, among the tied hands, the right hand was upwards and the left hand was downwards, the hands of the deceased were tied with a white and blue coloured towel whose length and width was 36 x 15 inches. Upon examination of the body, Riger Mortis and postmortem lividity were found. The deceased's left knee and hip were bent. Both eyes were closed, and her mouth was half-open. The deceased's upper and lower

lips were injured and swollen. The swelling was primarily on the right side of the lower lip. Blood flowed from the deceased's mouth down to the right ear. The deceased had a swelling on the corner of her left eye (near the nose), measuring 0.3 x 0.3 cm in length and width. The right jaw had a swelling measuring 0.2 x 0.3 cm in length and width. The lower right side of the lower lip had a swelling measuring 0.5 x 0.5 cm in length and width. The right chin had a swelling measuring 0.8 x 0.3 cm in length and width. There was another swelling on the neck below the left chin. A bruise appeared on the middle of the back of his left hand, which length and width were 1 x 0.8 cm. Numerous small injuries were found on the back of the left hand, which appeared to be postmortem.

27. This witness further stated that examination of the internal and external genitals revealed abrasions on the genitals. The abrasions measured 0.1 x 0.4 cm. The abrasions were on the left side of the genitals. The abrasions were located at the position where the time appears to be 5 o'clock on a clock. The genitals were marked with numerous bruises, shaped like the space between the numbers 5 and 8 on a clock. Looking at the uterus it appeared that the deceased had not conceived. The statement of the said medical witness has been irrefutable.
28. The trial Court after appreciating oral and documentary evidence available on record particularly relying upon the statement of Dr. Aditya Fating (PW-16), came to the conclusion that the death of

deceased/victim was homicidal in nature.

29. After hearing learned counsel for the parties and after considering their submissions, we are of the considered opinion that the finding recorded by the trial Court that death of deceased/victim was homicidal in nature is the finding of fact based on evidence available on record. It is neither perverse nor contrary to record. We hereby affirm that finding.
30. **The next question for consideration would be, whether the trial Court has rightly held that physical relations were established with the deceased/victim before her murder ?**
31. Dr. Aditya Fating (PW-16) stated in his statement that he saw the clothing on the deceased's body and the cloth used to tie her hands. Samples were collected from the victim's genitals and private parts on two glass slides and two cotton swabs. Two ml of blood was taken from the right side of the deceased's heart for sampling. All of the above items were preserved and sent for chemical analysis. His report is Ex.P-42.
32. Manish Sharma, Inspector (PW-17) has stated in his statement that he recovered from the scene of occurrence a light faded brown colour ladies underwear on the bottom of which human semen like stains were visible, a big piece of brown coloured spotted cloth, which is a piece of some old gown, the length of which is 32 inches, width is 43 inches, in which human blood stains and human semen stains were visible at many places and

a cotton pillow, having a red colour cover, whose length is about 20 inches, width 12 inches, weight 1.500 kg, on the cover of which human blood stains were visible, was seized in the presence of witnesses after being recovered from the spot during the post-mortem proceedings, the seizure memo is Ex.P 17.

33. Mohanaram (PW-4), witness to Ex.P-17 of the seizure memo, stated in his examination that the deceased/victim's underwear and a pillow were seized from her home. This witness thus corroborates the statement of the Investigating Officer, whose cross-examination revealed no evidence that could discredit his statements. His testimony establishes that a pillow, a piece of gown, and the deceased's underwear, which bore visible semen and blood stains, were seized from the deceased/victim's home.
34. Manish Sharma, Inspector (PW-17) has further stated in his statement that on 14.06.2021, the seized clothes (ladies underwear), seized pillow and seized clothes (piece of gown) in the case were sent to the Medical Officer, Community Health Centre, Doondilhara, District Balod for the Curie report through Exs.P-45, 43, 44 respectively.
35. Dr. Aditya Fating (PW-16) further stated in his statement that on 14.06.2021, he received a written complaint from the Station House Officer, Doondilohara, requesting a Curie report on the seized pillow. The question asked in the Curie report was whether the stains found on the seized pillow cover were human

blood. The seized pillow, recovered from the scene, had a red cover on it, which had blood-like stains at three places. For a definitive opinion regarding the stains, the pillow was sealed and handed over to the same constable for chemical testing. The test report provided by him is Ex.P-43.

36. The said medical witness has further stated in his statement that on the same date, the Station House Officer, Doondilohara had sent a request for giving the Curie report of the seized cloth (piece of gown) in the case. In the said Curie report, the question was asked whether the stains found on the seized cloth were stains of human blood or human semen or not? The seized cloth had a white and yellow colour pattern whose length and breadth was 75 x 85 cm, on which stains were found at about 10 places, which could be of human blood. For a definite opinion on this, the cloth was sealed and handed over to the same constable for chemical test, the test report given by him is Ex.P-44.
37. The same witness has further stated in his statement that on the same date, the Station House Officer, Doondilohara had sent a request for giving the Curie Report of the clothes (ladies underwear) seized in the case. In the said Curie Report, the question was asked whether the stains found on the seized clothes were stains of human semen or not? The cloth/underwear presented before him was of brown colour, the size of which was 17 x 25 cm, on which stains were found at two places. For a definite opinion on this, the cloth was sealed and

handed over to the same constable for chemical test. The test report given by him is Ex.P 45.

38. Inspector Manish Sharma (PW-17) has stated in his statement that the woman police constable from Government Hospital, Dondilohara, had taken the blood sample of the deceased in an EDTA vial in a sealed plastic box, two vaginal swabs and pubic hair of the deceased's private parts in a sealed plastic box, two vaginal slides of the deceased's private parts in a sealed box and the clothes worn by the deceased in a sealed packet, blue colour gown, sky blue colour petticoat, white printed bra, a checkered sky blue coloured towel tied in both hands of the deceased has been seized on production of witness, seizure memo is Ex.P-39, which has not been challenged.
39. Inspector Manish Sharma (PW-17) further stated in his statement that on 14.06.2021, after the post-mortem of the deceased, on being brought and produced by Police Constable No. 568 Kamleshwar Bhuarya, he had seized the heart, lungs, liver, kidney and spleen of the deceased in a sealed plastic jar along with formalin and samples of stomach, small intestine, large intestine pieces in a sealed plastic jar and sample of formalin of the deceased in a sealed plastic jar and sample (salt solution) in a sealed plastic jar, the seizure memo is Ex.P-40.
40. Dr. R. Sirmour (PW-15), Senior Scientific Officer, has stated in his statement that in the case FIR No. 106/21, Sections 450, 302, 376 IPC, a letter from Superintendent of Police, Balod, vide

letter No. V.P.A./Balod/Reader/F.S.L./132-21, dated 19.06.2021, was received in his office on 21.06.2021 for examination of the seized exhibits in the case, in which a total of 6 packets, which were A, B, C, D, E, F, EDTA VIAL, plastic box, in newspaper cover, sealed with hospital paper, were received in his office. His subordinate conducted a chemical test on the said exhibits and prepared a report before him as per his instructions. According to the memo received from the Superintendent of Police, he conducted blood and semen tests on the exhibits and prepared the test report, Ex.P-41.

41. According to the test report, Ex.P-41, human sperm was found in the deceased's vaginal swab and vaginal slide. This report has been found to be irrefutable, proving that sexual intercourse had taken place with the deceased before her murder. Ex.P-41 states that the deceased's blood sample, vaginal slide, vaginal swab, hair from the deceased's internal organs, the victim's underwear, gown, and pillow cover were sent to the DNA Branch, State Forensic Science Laboratory, Raipur, for necessary testing after biological testing.
42. Now we have to see whether the said human sperm belonged to the accused or any one of them?
43. There are no eyewitnesses in the case. The case is based entirely on circumstantial evidence.
44. During the investigation, the Investigating Officer, Inspector Arun

Netam (PW-18), recorded a supplementary statement of witness Rohit Ram Thakur on 03.11.2021. In the said statement, Rohit Ram Thakur stated that the deceased had been in a love relationship with the accused Kamal Narayan Sahu, the former village Sarpanch, for approximately 10–12 years, and that news of their love affair had spread widely in the village. However, Rohit Ram Thakur (PW-2), in paragraph 16 of his cross-examination, admitted that he had not stated before the police about any involvement or participation of accused Kamal Narayan Sahu in the incident or about his relationship with the deceased. It is pertinent to note that the witness was not clearly asked about the nature of the relationship in his earlier statement.

45. The sister-in-law of the deceased/victim (PW-6), in her statement, stated that she came to know from family members that accused Kamal Narayan Sahu used to visit the house of the deceased occasionally and that sometimes his car was parked in front of her house till 8:00 PM. However, these facts do not find mention in her police statement (Ex.P-27), indicating that this witness exaggerated these facts before the trial Court. Nevertheless, in the police statement of witness Rohit Ram Thakur (PW-2), there is a clear reference to the deceased having a love affair with accused Kamal Narayan Sahu.
46. The deceased victim's sister-in-law (PW-6), when cross-examined by the prosecution, admitted that she had applied to

the Station House Officer of Doondilohara Police Station for conducting a DNA test of the accused, as she had doubts regarding their involvement. Investigating Officer Arun Netam (PW-18), in paragraph 40 of his cross-examination, admitted that the sister-in-law of the deceased had expressed her doubts in writing regarding the commission of the incident by the accused. Further, in paragraph 21 of his cross-examination, when asked on what basis the accused Uttam Kumar and Kamlesh Kumar were called to the police station, the Investigating Officer stated that they were called because the victim's sister-in-law had applied for DNA testing of their blood samples.

47. Thus, the Investigating Officer proceeded on the basis of the application submitted by the deceased's sister-in-law (PW-6) and the statement of witness Rohit Ram Thakur (PW-2) recorded under Section 161 CrPC. Inspector Arun Netam (PW-18) stated that during the course of investigation, he recorded the memoranda of accused Uttam Kumar (Ex.P-7), Kamlesh Kumar (Ex.P-8), and Kamalnarayan Sahu (Ex.P-9) in the presence of witnesses Ajit Nayak, Bhojuram, Rohit Kumar, and Bhatendra Das.
48. However, the witnesses to Exs.P-7 to P-9, namely Bhojuram (PW-1), Rohit Ram Thakur (PW-2), and Bhatendra Das (PW-3), stated that the accused were not questioned in their presence. Thus, these witnesses did not support the Investigating Officer with respect to the memoranda. Nevertheless, nothing has

emerged in the cross-examination of Investigating Officer Arun Netam (PW-18) to cast doubt on his testimony.

49. Ex.P-7 is the memorandum of accused Uttam Kumar Rawate, wherein it is stated that the clothes worn by him at the time of the incident, namely pants, shirt, and underwear, were kept in his house, had been washed several times, and could be recovered.
50. Investigating Officer Arun Netam (PW-18) stated that upon production by accused Uttam Kumar Rawate, a sky-blue coloured cotton-terrycot mixed old used full pant, a red terrycot full-sleeved shirt, and blue underwear bearing the inscription "Lux Cozi" were seized vide seizure memo Ex.P-2. Bhojuram (PW-1), a witness to Ex.P-2, stated that the clothes worn by accused Uttam Kumar at the time of the incident were seized in his presence. His testimony corroborates the statement of the Investigating Officer and remains unshaken in cross-examination.
51. Ex.P-8 is the memorandum of accused Kamlesh Kumar, wherein it is mentioned that the clothes worn by him at the time of the incident, namely pants, shirt, and underwear, were kept in his house, had been washed several times, and could be recovered. Investigating Officer Arun Netam (PW-18) stated that upon production by accused Kamlesh Kumar, one blue pair of shorts, one orange full-sleeved shirt, and a pair of yellow "Lux Cozi" underwear were seized vide seizure memo Ex.P-3. Bhojuram (PW-1), a witness to Ex.P-3, corroborated this seizure. His

testimony also remains unchallenged.

52. Ex.P-9 is the memorandum of accused Kamal Narayan Sahu, which does not disclose any material information. Therefore, this memorandum does not advance the prosecution case.
53. Investigating Officer Arun Netam (PW-18) stated in paragraph 10 of his deposition that a letter was sent to the Medical Officer, Doondilohara, for examination of the seized clothes of accused Uttam Kumar and Kamlesh Kumar and for submission of a report.
54. Dr. Pranay Pradhan (PW-9) stated that upon receiving the memorandum for examination of the clothes of accused Kamlesh Kumar and Uttam Kumar in sealed condition, he found no visible stains on the said clothes. After advising chemical examination, he resealed the clothes and handed them over to the same constable. His reports in this regard are Exs.P-33 and P-34.
55. As per paragraph 11 of the statement of Investigating Officer Arun Netam (PW-18), the seized clothes of accused Uttam Kumar and Kamlesh Kumar were sent for chemical examination and opinion was sought from Dr. Mohan Patel, Scientific Officer, Crime Unit, Durg, vide written request Ex.P-52.
56. Ex.P-52 records that since five months had elapsed after the incident and the clothes had been washed several times, chemical examination would not be useful. Consequently, the

prosecution derives no benefit from the clothes seized pursuant to the memoranda of accused Uttam Kumar and Kamlesh Kumar (Exs.P-7 and P-8) and seizure memos Exs.P-2 and P-3.

57. Dr. Pranay Pradhan (PW-9) further stated that upon receiving a memorandum for examination of the genitals of accused Kamalnarayan Sahu, Kamlesh Kumar, and Uttam Kumar, he examined all three and found them capable of sexual intercourse. His reports are Exs.P-30, P-31, and P-32. He also stated that he collected and sealed blood samples of accused Kamalnarayan Sahu, Kamlesh Kumar, and Uttam Kumar, which were seized by the police vide seizure memos Exs.P-35, P-36, and P-37 respectively.
58. Khemraj Sahu (PW-12), a witness to seizure memos Exs.P-35 to P-37, supported the testimony of Dr. Pranay Pradhan and stated that the doctor had taken blood samples of the three accused for DNA testing in his presence and handed them over to Doondilohara Police Station.
59. Inspector Arun Netam (PW-18) stated that he seized the blood samples of the accused taken for DNA testing from CHC, Doondilohara, vide seizure memos Exs.P-35, P-36, and P-37. He further stated in paragraph 13 of his examination that the blood samples, marked Articles K, L, and M, were sent through the Superintendent of Police, Balod, to the Director, State Forensic Science Laboratory, Raipur, for DNA examination vide memorandum Ex.P-54, acknowledgement Ex.P-55, and the DNA

report received is Ex.P-56, consisting of five pages.

60. As per Ex.P-56, the DNA profiles obtained from the blood samples of accused Kamalnarayan Sahu, Kamlesh Kumar, and Uttam Kumar Rawate matched with the DNA profiles obtained from the vaginal slide, vaginal swab, and internal hair of the deceased. Further, the mixed autosomal DNA profile obtained from the pillow cover recovered from the scene of crime matched with the DNA profiles of the accused. The male Y-DNA profile obtained from the blood sample of accused Uttam Kumar Rawate was found to be identical to the male Y-DNA profile obtained from the vaginal slide, vaginal swab, and internal hair of the deceased. Thus, the male Y-DNA obtained from the blood samples of the accused was found to be included in the mixed male Y-DNA profile recovered from the pillow cover at the crime scene.
61. The learned trial Court observed that the DNA report (Ex.P-56) was prepared by the Senior Scientific Officer and Assistant Chemical Examiner and is admissible under Section 293 of the Code of Criminal Procedure. Since the expert was not examined, the defence had the liberty to summon him if required but failed to do so. There is also no evidence of any enmity or animus between the accused and the DNA experts to suggest false implication.
62. The case admittedly rests on circumstantial evidence, including forensic and DNA evidence. It is well settled that a conviction can

be based on circumstantial evidence provided the chain of circumstances is complete and points unerringly towards the guilt of the accused, ruling out every hypothesis of innocence. The law on this aspect has been reiterated time and again, including in ***Sharad Birdhichand Sarda v. State of Maharashtra*** (1984) 4 SCC 116, which continues to hold the field.

63. In the present case, the following circumstances stand firmly established:

- (i) The deceased was subjected to forcible sexual intercourse immediately prior to her death, as proved by Ex.P-41 and corroborated by PW-15 and PW-16.
- (ii) The deceased died a homicidal death by asphyxiation, caused by smothering with an object like a pillow.
- (iii) Semen was found in the vaginal slide and swab of the deceased.
- (iv) The DNA profile obtained from the vaginal slide, vaginal swab, internal hair of the deceased, and the pillow cover recovered from the scene of crime matched with the DNA profiles of the appellants.
- (v) The accused were capable of sexual intercourse.
- (vi) The appellants had access to the deceased and familiarity with her residence, particularly appellant Kamalnarayan Sahu, with whom the deceased had a long-standing relationship.

64. The principal attack of the defence is on the reliability of the DNA evidence, alleging non-compliance with the Guidelines for Collection, Storage and Transportation of Crime Scene DNA

Samples and the SOP for Crime Scene Investigation. However, a careful scrutiny of the evidence of PW-17, PW-18, PW-15, PW-16, and PW-12, read with documentary exhibits Exs.P-39 to P-56, clearly demonstrates that the biological samples were collected, sealed, preserved, and transmitted through a documented chain of custody.

65. Now, the following issues arise for consideration:
 - (a) Whether the prosecution has complied with the *Guidelines for Collection, Storage, and Transportation of Crime Scene DNA Samples* and the *Standard Operating Procedure (SOP)* for Crime Scene Investigation ?
 - (b) Whether the DNA evidence presented by the prosecution is reliable, and whether any procedural irregularities compromised its integrity ?
 - (c) Whether the circumstantial evidence, including the DNA evidence, is sufficient to establish the appellants' guilt beyond a reasonable doubt ?
 - (d) Whether the absence of direct evidence, including eyewitness testimony or the appellants' blood at the crime scene, undermines the prosecution's case ?
66. Learned counsel for the appellants argue that the prosecution failed to follow the *Guidelines for Collection, Storage, and Transportation of Crime Scene DNA Samples* and the *SOP for Crime Scene Investigation*, rendering the DNA evidence unreliable.
67. The Court, after examining the evidence and the relevant records, finds that the prosecution has duly complied with the

prescribed protocols. The crime scene was properly secured, and the biological samples were collected by trained forensic personnel. Proper labeling, sealing, and documentation were maintained, and the chain of custody was preserved throughout the process.

68. The Supreme Court in *Kattavellai @ Devakar* (supra) emphasized the importance of adhering to forensic protocols for the admissibility of DNA evidence. The Court held that non-compliance with these protocols may lead to doubt regarding the authenticity of evidence. However, in the present case, the prosecution has demonstrated due compliance, and no substantial deviation from the prescribed guidelines has been shown.
69. The argument raised by the defense regarding the failure to properly secure the crime scene or handle the samples is not supported by the facts. There is no documentary or testimonial evidence presented by the defense that establishes any lapse in the procedural safeguards outlined in the guidelines.
70. The appellants' principal contention is that the DNA evidence (Ex.P-56) found on the pillow is unreliable due to potential mishandling or cross-contamination during collection or analysis. The defense further contends that there is no direct physical evidence, such as blood or hair, belonging to the appellants at the crime scene, and thus, the DNA evidence is insufficient to establish their guilt.

71. The Court notes that the forensic analysis in this case was conducted by an accredited laboratory. The DNA evidence, which matched the appellants, is a vital piece of the puzzle, and it has been established through the examination of proper scientific protocols.
72. Reliance can be placed on the recent judgment of the Supreme Court in ***Prakash Nishad alias Kewat Zinak Nishad*** (supra), which affirmed the importance of DNA evidence when it has been collected and analyzed following established procedures. The Court observed that DNA evidence is a powerful tool for establishing a link between the accused and the crime scene, especially when no other direct evidence is available. The Court ruled that DNA evidence, when properly handled and matched, can be a decisive factor in proving guilt beyond a reasonable doubt.
73. In the present case, the DNA on the pillow found at the crime scene provides a direct link between the appellants and the deceased's house. The absence of other physical evidence at the scene does not render the DNA evidence irrelevant or unreliable. The law does not require the prosecution to establish the presence of the accused's blood at the scene for a conviction, particularly when there is a valid and scientifically backed DNA match.
74. The defense has argued that the absence of an eyewitness and the lack of direct evidence such as the appellants' blood at the

crime scene creates significant doubt about their involvement in the murder.

75. The Court observes that circumstantial evidence can be the basis of conviction if it is cogent, consistent, and excludes all possibilities of innocence. The Supreme Court in *Dashwanth* (Supra) reiterated that circumstantial evidence, when linked together, forms a complete chain that points to the guilt of the accused. The Court held that the absence of direct evidence does not automatically invalidate circumstantial evidence, provided that the chain of events forms a coherent narrative pointing only to the accused.
76. In this case, the DNA match on the pillow, coupled with the relationship between the deceased and Kamalnarayan Sahu, constitutes a strong circumstantial link to the crime. The absence of blood or other forensic evidence at the crime scene is not fatal to the prosecution's case when there is a clear link between the appellants and the crime scene through DNA evidence.
77. The Court is satisfied that the circumstantial evidence, including the DNA evidence, forms a complete chain that points conclusively to the appellants' involvement in the crime.
78. The appellants argue that the prosecution has failed to establish a clear motive for the crime and that the mere existence of a relationship between Kamalnarayan Sahu and the deceased is insufficient to establish guilt.

79. The Court finds that while the motive may not have been definitively proven, the circumstances surrounding the relationship between the accused and the deceased, as well as the presence of their DNA at the scene, provide sufficient reason to infer the appellants' involvement. The Supreme Court, in **Kattavellai @ Devakar** (supra), observed that motive is not always a requirement when the evidence, including DNA, is conclusive and establishes a direct link between the accused and the crime.
80. After careful examination of the facts, evidence, and legal principles, this Court finds that the prosecution has proven the appellants' guilt beyond a reasonable doubt. The DNA evidence is reliable and has been properly handled in accordance with the law. The circumstantial evidence, when considered in its totality, supports the conviction of the appellants.
81. The defense's arguments regarding the mishandling of evidence and the lack of motive do not diminish the strength of the prosecution's case. The law, as established in the recent judgments of the Supreme Court, affirms that DNA evidence, when properly collected and analyzed, is a powerful tool in securing a conviction.
82. In view of the aforesaid discussion, this Court is of the considered opinion that the prosecution has successfully proved its case against the accused/appellant beyond reasonable doubt. The findings recorded by the learned trial Court are based on

proper appreciation of evidence and settled principles of law and do not warrant any interference by this Court.

83. Consequently, both the appeals being devoid of merit are hereby **dismissed**. The conviction and sentence imposed upon the appellants under Section 450 r/w 120-B, 376D and 302 r/w 120B of the IPC by the learned trial Court are hereby **affirmed**. The appellants shall continue to undergo the sentence as awarded by the trial Court.
84. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.
85. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellants are undergoing their jail sentence to serve the same on the appellants informing them that they are at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Head-Note

Scientific evidence in the form of DNA report can form the basis for sustaining the conviction of the accused if other incriminating evidence supports the prosecution case.