



2026:AHC:79183-DB

A.F.R.
Reserved on 17.03.2026
Delivered on 10.04.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2509 of 1985

Danna Alias Ramesh and another

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : G.c.saxena
Counsel for Respondent(s) : A.G.A.

Court No. - 45

HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE DEVENDRA SINGH-I, J.

Per: Hon'ble Chandra Dhari Singh, J.

1. The instant Criminal Appeal has been preferred by the accused-appellants namely Danna alias Ramesh and Barati against a judgment and order dated 03.09.1985 passed by learned Ist Additional Sessions Judge, Moradabad in Sessions Trial No. 550 of 1981, whereby the learned Judge convicted both the appellants for the offence under Sections 302/34 and 201 I.P.C. and sentenced them as under:

(a) Imprisonment for life for the offence under Section 302 read with Section 34 I.P.C.

(b) Rigorous imprisonment of three years for the offence under Section 201 I.P.C.

Both the sentences shall run concurrently.

2. Vide order dated 12.09.2018, passed by the co-ordinate Bench of this Court, the instant criminal appeal stands abated qua appellant no. 1-Danna alias Ramesh.

Brief Facts

3. The fact of the prosecution case is that a written report was filed on 16.09.1980 by Dr. Amit Rastogi, resident of Civil Line, Moradabad stating inter-alia that since 1979, Dassa alias Ramesh was employed at his residence for domestic work. Thereafter, in September 1979, Dassa alias Ramesh brought along with him two other persons, namely, Sohan and Barati and got them employed at his residence. Since then, all three had been working at his place. Sohan used to work in the dispensary, while the other two performed household duties. On the night intervening 14/15.09.1980, at about 11–12 midnight, while we were asleep, cries were heard from the room where these three servants used to stay. The cries appeared to say, "*Babuji, save me.*" Upon hearing the cries, he along with his

father Dr. J.N. Rastogi and neighbors Kamal Rai Sharma and Girish Chandra Jaikwal woke up and came out. They made inquiries from the servants Dassa and Barati, who stated that they were asleep and had heard nothing. Upon asking about Sohan, they stated that he was sleeping. They searched around but, found nothing suspicious, they went back to sleep. In the next morning, only Barati came inside the house. Upon being asked about Sohan and Dassa, he stated that both had left early in the morning by train, and that he would go to the tailor to collect clothes. Thereafter, they all engaged in their respective work. However, Barati did not go to his room during the day, took his meals downstairs, and repeatedly visited the coal room without any apparent reason. This created suspicion and we questioned him about the other two servants, but he did not give any satisfactory reply and slept in the verandah instead of his room that night. Today, at about 11:00 p.m., upon hearing dogs barking and the sound of a rickshaw, he woke up and looked outside. He saw a rickshaw standing at the gate and Dassa alias Ramesh standing there. He stopped him and asked about the matter. He stated that he had come to take money for a ticket. Upon suspicion, he detained Dassa and called his neighbors Girish Chandra Jaikwal, Dr. J.N. Rastogi, and Kamal Rai Sharma. In their presence, when questioned about Sohan, Dassa confessed that he had committed a mistake and

requested to be saved. He stated truthfully that few days back, three of them had gambled, in which Sohan had won Rs. 200/- and Barati had won Rs. 100/-. Sohan had given the money to someone known to him. When their own money was exhausted, they demanded money from Sohan, but he refused. This led to anger, and both of them conspired to kill Sohan. On the night at about 11–12 PM, while Sohan was sleeping on a cot, they attacked him with an iron weapon (लोहे का दाव). When he raised alarm, they gagged him, pressed him down, and repeatedly assaulted him, causing his death. Thereafter, they placed the body in a sack, covered it with wood and coal, tied the sack, and hid it in the coal room. Dassa then led us to the coal room and showed us the dead body of Sohan lying inside the sack. When asked about the weapon used in the commission of the offence, Dassa stated that Barati had concealed the iron weapon (लोहे का दाव) somewhere, the location of which is known only to him. The aforesaid written report was marked Ext.Ka.1.

4. On the basis of aforesaid written report, a First Information Report was lodged on 16.09.1980 at 00:30 hours at Case Crime No. 1293 of 1980, under Section 302/201 I.P.C., Police Station Civil Line, District Moradabad. The said First Information Report was marked as Ext.Ka.4.

5. After registration of the aforesaid case, the law set into motion and investigation of the aforesaid case started.

6. The First Information Report of this case was written by Head Moharir Babu Ram Sharma (PW-4). Thereafter, S.S.I Narottam (PW-6) has started the investigation of the aforesaid case. He, along with S.I. Nathu Singh, Constable Abdul Wahid Khan and two Home Guards left for the place of incident i.e. residence of Dr. J.S. Rastogi. He recovered the dead body of Sohan (hereinafter referred to as 'deceased'). The dead body was packed in a sack. After taking out the dead body, his clothes were taken into possession and recovery memo was prepared, which was marked as Ext.Ka.7. Thereafter, the inquest proceedings on the dead body of the deceased was conducted. The photo lash, challan lash, letter to CMO, Sample and letter to R.I. were prepared, which were marked as Ext.Ka.8, 9, 10, 11, 12 and 13 respectively. The dead body of the deceased was sealed and sent for post-mortem examination. Thereafter, he recorded the statement of Dr. Amit Rastogi and Kamal Rai Sharma. He has also prepared a Site Plan, which was marked as Ext.Ka.14. He also recorded the statement of S.I. Nathu Singh. He also got an information, from an informer, that the accused Barati was hiding in a servant's room in the house of one Satyapal. On this information, he reached to the house of Satyapal and took Barati into his custody. Upon an interrogation,

accused-Barati confessed his guilt and told that the murder of Sohan was committed with an iron weapon (लोहे का दाव), which was hidden in a briefcase kept in his own room. Thereafter, he along with two witnesses namely P.K. Das and Rakesh Chandra along with accused Barati walked ahead to the accused room. The accused Barati took out a key from his pocket, opened the lock of the room, went inside and showed the briefcase which was kept on the table. Thereafter, accused Barati opened the briefcase and showed the iron weapon kept in it and told that this is the weapon of crime. The bloodstained underwear, towel, piece of carpet, cotton, belt and shirt, which were kept in the briefcase were taken into possession, which was marked as Ext.Ka.16. The lock and the key was also taken into possession. Recovery memo was prepared and marked as Ext.Ka.15. On 17.09.1980, he recorded the statement of Rakesh Chandra.

7. After culmination of investigation, the investigating officer submitted charge-sheet on 14.12.1980, which was marked as Ext.Ka.20.

8. As the case was exclusively triable by the Court of Sessions, the learned Magistrate committed the case to the Court of Sessions, where the case was registered as Sessions Trial No. 550 of 1981. Learned Ist Additional Sessions Judge, Moradabad, vide order dated 27.07.1982, framed charges

against the accused-appellants for the offence under Sections 302 read with 34 I.P.C. and Section 201 I.P.C., which were read over and explained to the accused-appellants in hindi, who pleaded not guilty and claimed to be tried.

9. To bring home guilt of the accused-appellants beyond the hilt, the prosecution has examined as many as six prosecution witnesses, out of whom Dr. Amit Rastogi (PW-1/informant), Dr. J.S. Rastogi (PW-2) and Girish Chandra Jakwal (PW-3) are the witnesses of fact, whereas, Babo Ram Sharma (PW-4), Umesh Chandra Tyagi (PW-5) and S.S.I. Narottam (PW-6) are formal witnesses. Dr. Shashi Rastogi has also been examined as (CW-1).

10. Dr. Amit Rastogi (PW-1/informant), in his deposition, has reiterated the prosecution version given in the F.I.R. However, he further stated that his father namely Dr. J.S. Rastogi had prepared the written report, upon which he had put his signatures. The report was written by his father on his dictation. Thereafter, they proceeded to police station along with said written report as well as with the accused Danna. On the basis of written report, first information report was lodged. Thereafter, Sub Inspector from Police Station Civil Line accompanied him and his father to his house. The dead body of Sohan was recovered and sent for post-mortem examination.

11. Dr. J.S. Rastogi (PW-2), in his deposition, has stated that the deceased Sohan was his servant working at his dispensary and residing in his house. Besides Sohan, two other servants, namely Danna and Barati, were also employed and all three used to reside together in a room situated above the garage. On the night of 14/15.09.1980, while sleeping, he heard cries of "Babuji Bachao". He, along with his son Dr. Amit and neighbours, searched for the source of the cry but could not find anything. On inquiry, Danna and Barati stated that they had not heard any noise and that Sohan was sleeping. In the next morning, Barati informed him that Sohan and Danna had left for their village. As Sohan did not reach the dispensary, the compounder came and took the key to open it. Later, during the night, Danna returned, and upon questioning in the presence of neighbours, he confessed that due to a dispute over gambling money, he and Barati had murdered Sohan by assaulting him with an iron made weapon while he was asleep, and thereafter concealed the body in a sack in the coal room. He further stated that Danna led them to the place where the dead body was concealed. Thereafter, he prepared a written report, went to the police station, and lodged the FIR. The police recovered the dead body from the indicated place, prepared the inquest, sealed the body, and sent it for post-mortem examination. He also proved a letter allegedly written by accused Danna,

identifying his handwriting, which was marked as Exhibit Ka-2, and the envelope as Exhibit Ka-3.

12. Girish Chandra Jakwal (PW-3), in his deposition, has stated that he resides adjacent to the house of Dr. Amit Rastogi. His house is situated at a distance of about 10 steps from the house of PW-1. He further stated that in the night intervening 14.15.09.1980, he was sleeping in his room. He heard a cry saying "Babu Ji, Save Me". The cry appeared to be coming from the direction of Dr. Rastogi's house. Upon hearing the same, he came out of his house and proceeded towards his residence. There, he saw Dr. Amit Rastogi, Dr. J.S. Rastogi, and the neighbour Kamal Rai Sharma already present. The house of Kamal Rai Sharma is adjacent to that of Dr. J.S. Rastogi, separated only by a wall. They searched around to ascertain the source of cries, but could not find anything. Both the servants of Dr. Rastogi namely Danna and Barati had also come out from their quarters and upon enquiry, they stated that they were asleep and know nothing about the cry. When they asked about the third servant i.e. Sohan, they stated that he is sleeping. On the following night, Dr. Amit Rastogi called him. Dr. J.S. Rastogi and Kamal Rai Sharma were also present. They again questioned Danna regarding Sohan. At that time, Danna confessed and said "*Babu Ji, forgive me, I have committed a mistake, Please save me*". Accused Danna disclosed that few days earlier, they were

gambling. Sohan had won Rs. 200/- from him and Rs. 100/- from Barati, and had already given that money to someone known to him. When he and Barati ran out of money, they demanded some money from Sohan, but he refused. This enraged them, and during the night, while Sohan was asleep, both of them assaulted him with a weapon (लोहे का दाव) and killed him. Accused Danna further stated that when Sohan cried out, they muffled his mouth with a quilt and continued assaulting him until he died. Thereafter, they placed his dead body in a sack, filled it with sawdust, tied the sack, and concealed it in the coal room. Thereafter, accused Danna led us to the coal storage room and showed the dead body of the deceased kept inside a sack. When we asked about the weapon used, he stated that Barati could provide that information as he had hidden it somewhere.

13. Babo Ram Sharma (PW-4), in his deposition, has stated that on 16.09.1980, he was posted as Head Moharir at Police Station Civil Lines, Moradabad. At about 12:30 am, Dr. J.S. Rastogi submitted a written report (Ext.Ka.1) at the police station. Based upon the said written report, he prepared chik report (Ext.Ka.4). The case was registered and an entry to that effect was made in the General Diary. Dr. Rastogi had also brought with him the accused Danna @ Ramesh, who was thereafter taken into custody and lodged in the lock-up.

14. Umesh Chandra Tyagi (PW-5), in his deposition, has stated that on 16.09.1980, he conducted the post-mortem examination on the dead body of Sohan. The body was brought by Constable Abdul Waheed Khan, Home Guard Shamim and one Suresh. The age of the deceased was approximately 22 years. Upon examination, following ante-mortem injuries were found :-

(i) Incised wound of 1 cm x 0.5 cm bone deep on the right side of the forehead, about 05 cm above the right eye.

(ii) Lacerated wound of 4 cm x 1 cm bone deep just below the right eye.

(iii) Lacerated wound, 3 cm x 2 cm, muscle-deep, on the front side of the left arm.

(iv) Incised wound, 2 cm x 1 cm, muscle-deep, about 2 cm away from injury no. 3.

(v) Abrasion with bluish discoloration, 12 cm x 6 cm, on the front of the neck below.

The doctor has opined that the death had occurred within approximately three days prior to the post-mortem. The cause of death was shock and hemorrhage resulting from the aforesaid injuries.

15. S.S.I. Narottam (PW-6), in his deposition, has stated that he had conducted the investigation, recorded the statements of the witnesses, effected the recovery of the dead body and weapon, and upon completion of the investigation, submitted charge-sheet before the concerned court.

16. Dr. Shashi Rastogi (C.W.1), in her deposition, has stated that she is wife of Dr. Amit Rastogi (PW-1/informant). She was married to Dr. Amit Rastogi about eight years ago. After marriage, she resided in Lucknow till December, 1979 as her husband was also pursuing his post-graduation. In December, 1979, she and her husband have joined the Provincial Medical Services (PMS) and were posted at Moradabad. She along with her husband, father-in-law and mother-in-law resided at the house situated at Civil Lines, Moradabad. From their wedlock, a child was born in the year 1978. At that time, three servants were employed in the house namely Danna (used to perform domestic work), Barati (used to perform cleaning) and Sohan (used to work in her father-in-law's dispensary). They all reside together in a room located above the garage of the house. She further stated that on the night when Sohan was murdered, she was present in the house but was asleep and did not hear anything. Her husband did not woke her or inform her about the incident that night. Her bedroom was situated on the first floor of the bungalow. She came to know about the incident on the third day that deceased Sohan had been murdered by Danna and Barati. The allegation made by the accused persons that she had illicit relations with the deceased Sohan is completely false. She never engaged Sohan for any of her personal work.

17. After closure of the prosecution evidence, the statement of the accused-appellants namely Danna alias Ramesh and Barati has been recorded under Section 313 Cr.P.C., who denied the charges levelled against them and further stated that Shashi (wife of Dr. Amit Rastogi) had illicit relations with the deceased Sohan. They were granted leave. When they returned, they came to know that Sohan had been murdered and they have been falsely implicated in this case.

18. Learned Ist Additional Sessions Judge, Moradabad after hearing the learned counsel for the parties and assessing, evaluating and scrutinizing the evidence on record, convicted and sentenced the accused-appellants as indicated herein above.

19. Hence, the instant appeal.

Submissions on behalf of the Accused-Appellant

20. Learned counsel appearing on behalf of the appellant no. 2 assailed the impugned judgment and order dated 03.09.1985 passed by the trial court on the ground that the entire prosecution case rests on circumstantial evidence. The settled principle of law is that such a chain must be complete and must unerringly point towards the guilt of the accused. In the present case, the chain is clearly broken at several crucial links.

21. It is further submitted that the alleged confession made by the appellant no. 1-Danna before PW-1, PW-2 and PW-3 is highly doubtful, and such confession cannot be made the sole basis of conviction.

22. It is next submitted that in this case, no truly independent witness has been examined to lend the credibility to the prosecution version, as the neighbours, who were examined, are closely associated with the complainant.

23. It is next submitted that the recovery of the dead body from the coal room is shown at the instance of appellant-Danna, but the place is within the complainant's premises and accessible to all. The alleged recovery of the weapon at the instance of Barati, suffers lack of independent corroboration and there is no forensic report to conclusively connect the recovered article with the crime.

24. It is next submitted that the alleged motive of gambling dispute over a small amount is trivial and insufficient to drive the accused to commit such a heinous crime. The prosecution has failed to establish a strong and compelling motive.

25. It is further submitted that the accused-appellants have been falsely implicated and suggested an alternative theory involving strained relations and suspicion within the household.

26. In view of the above deficiencies, it is submitted that the prosecution has failed to prove its case beyond reasonable doubt. The appellants are entitled to benefit of doubt and deserve acquittal.

Submissions on behalf of Respondent-State

27. *Per-contra*, learned A.G.A. appearing on behalf of the State has supported the impugned judgment and order by contending that the conviction, recorded by the trial court, is well reasoned and based upon cogent evidence.

28. It is submitted that the prosecution has successfully established a complete chain of circumstances i.e. cry for help heard from the servants' quarter, sudden disappearance of the deceased, confession and recovery of the dead body and recovery of weapon and bloodstained articles. These circumstances form a consistent and unbroken chain pointing only towards the guilt of the accused-appellants.

29. It is next submitted that the testimonies of PW-1, PW-2 and PW-3 are natural, consistent and corroborate each other on material particulars. It is also submitted that the confession made by the appellant-Danna was voluntary, made before multiple witnesses and was consistent with subsequent recovery of the dead body. It is further submitted that weapon in crime

was also recovered at the instance of appellant-Barati. The recovery provide strong corroboration to the prosecution case.

30. It is further submitted that the injuries found on the body of the deceased are consistent with the assault by a hard and sharp objection, supporting the prosecution version. It is next submitted that the dispute over gambling money is admitted and even a small motive can lead to grave offences. It is further submitted that the allegation of illicit relationship is baseless and unsupported by any evidence.

Analysis and Conclusion

31. Heard Mr. Salman Ahmad, learned Amicus Curiae appearing on behalf of the appellant no. 2-Barati and Mr. S.K. Ojha, learned Additional Government Advocate-Ist for the State of U.P.

32. We have considered the rival submissions advanced by the learned counsel appearing on behalf of respective parties. We have also carefully perused the entire record of the case including the evidence of the prosecution witnesses, documentary evidence and medical report.

33. The issue for consideration in the present appeal is *"whether the prosecution has successfully established an*

uninterrupted and conclusive chain of evidence leading unequivocally to the guilt of the accused-appellants?”

34. It is a settled proposition of law that in cases based purely on circumstantial evidence, the prosecution must establish a complete chain of circumstances which must be consistent only with the hypothesis of the guilt of the accused and inconsistent with any other hypothesis. The circumstances must be of a conclusive nature and tendency.

35. The Hon'ble Supreme Court in **Sharad Birdhichand Sarda vs. State of Maharashtra**¹ has laid down the five golden principles governing cases based on circumstantial evidence, which require:

- (a) the circumstances must be fully established;
- (b) the facts so established must be consistent only with the hypothesis of guilt;
- (c) the circumstances must be conclusive;
- (d) they must exclude every possible hypothesis except the one to be proved; and
- (e) there must be a complete chain of evidence.

1 AIR 1984 SC 1622

36. In **State of U.P. Vs. Ashok Kumar Srivastava**², it was pointed out that great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in the favour of the accused must be accepted. It was also pointed out that the circumstances relied upon must be found to have fully established and cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt.

37. In the case of **Hanumant Govind Nargundkar v. State of M.P.**³, Hon'ble Apex Court observed as under:

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

38. In the case of **Padala Veera Reddy v. State of A.P.**⁴, Hon'ble Apex Court opined as under:

"10. Before advertng to the arguments advanced by the learned Counsel, we shall at the threshold point out that in the present case there is no direct evidence to connect the accused with the offence in question and the prosecution rests its case solely on circumstantial evidence. This Court in a series of decisions has consistently held that when a case rests

2 (1992) Cr.L.J.1104

3 AIR 1952 SC 343

4 1989 Supp (2) SCC 706

upon circumstantial evidence such evidence must satisfy the following tests:

(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;

(3) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

(4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.

39. In the case of **Ramreddy Rajesh Khanna Reddy v. State of A.P.**⁵, Hon'ble Apex Court again considered the case of conviction based on circumstantial evidence and held as under:

"26. It is now well settled that with a view to base a conviction on circumstantial evidence, the prosecution must establish all the pieces of incriminating circumstances by reliable and clinching evidence and the circumstances so proved must form such a chain of events as would permit no conclusion other than one of guilt of the accused. The circumstances cannot be on any other hypothesis. It is also well settled that suspicion, however grave it may be, cannot be a substitute for a proof and the courts shall take utmost precaution in finding an accused guilty only on the basis of the circumstantial evidence."

40. In the case of **Sattatiya v. State of Maharashtra**⁶, Hon'ble Apex Court held as under:

"10. We have thoughtfully considered the entire matter. It is settled law that an offence can be proved not only by direct evidence but also by circumstantial evidence where there is no direct evidence. The court can draw an inference of guilt when all the incriminating facts and circumstances are found

5 (2006) 10 SCC 172

6 (2008) 3 SCC 210

to be totally incompatible with the innocence of the accused. Of course, the circumstances from which an inference as to the guilt is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances." This Court further observed in the aforesaid decision that:

"17. At this stage, we also deem it proper to observe that in exercise of power under Article 136 of the Constitution, this Court will be extremely loath to upset the judgment of conviction which is confirmed in appeal. However, if it is found that the appreciation of evidence in a case, which is entirely based on circumstantial evidence, is vitiated by serious errors and on that account miscarriage of justice has been occasioned, then the Court will certainly interfere even with the concurrent findings recorded by the trial court and the High Court--Bharat v. State of M.P., (2003) 3 SCC 106. "

41. The decision in **Sharad Birdichand Sarda (Supra)** has recently been followed by Hon'ble Supreme Court in catena of judgement including **Laxman Pradad alias Laxman Vs. State of Madhya Pradesh**⁷ and **R. Sreenivasa Vs. State of Karnataka**⁸.

42. The Supreme Court in the case of **Pankaj vs. State of Rajasthan**⁹, has held that *"when the genesis and the manner of the incident is doubtful, the accused cannot be convicted."* It also referred to **Bhagwan Sahai vs. State of Rajasthan**¹⁰, which states that once the prosecution is found to have suppressed the origin of the occurrence, the only proper course is to grant the benefit of doubt.

43. In the present case, the first circumstance relied upon by the prosecution is the alleged extra-judicial confession made by

7 2023 (3) SCC (Cri) 27

8 (2024) 17 SCC 426

9 (2016) 16 SCC 192

10 AIR 2016 SC 2714

accused Danna before PW-1, PW-2 and PW-3, who are not independent witnesses. It is well settled that an extra-judicial confession is a weak piece of evidence and requires strong corroboration. Reference may be made to **Sahadevan and Another v. State of Tamil Nadu**¹¹, wherein the Hon'ble Supreme Court has held that such confession must inspire confidence and should be corroborated by other reliable evidence. In the instant case, the alleged confession appears doubtful and unnatural, particularly in view of the circumstances in which it is said to have been made, and does not inspire confidence to form the sole basis of conviction.

44. The second circumstance pertains to the recovery of the dead body from the coal room. Admittedly, the said place is situated within the premises of the complainant and was accessible to all the inmates of the house. Thus, the recovery cannot be said to be exclusively at the instance of the accused so as to conclusively connect them with the crime.

45. The third circumstance relates to the recovery of the alleged weapon of offence and bloodstained articles at the instance of accused Barati. However, no independent witness of unimpeachable character has been examined to prove the said recovery. Further, the absence of any forensic report connecting

11 (2012) 6 SCC 403

the recovered article with the crime creates a serious dent in the prosecution case.

46. Another important aspect is the absence of a strong motive. The alleged motive of a gambling dispute over a meagre amount does not appear to be sufficiently grave to impel the accused to commit such a heinous offence.

47. It is also noteworthy that the prosecution has failed to examine any truly independent witness. The witnesses examined are either interested or closely associated with the complainant, which necessitates cautious scrutiny of their testimonies.

48. In view of the aforesaid discussion, this Court finds that the chain of circumstances in the present case is not complete. The circumstances relied upon by the prosecution do not form an unbroken chain pointing only towards the guilt of the accused-appellants. On the contrary, several missing links and inconsistencies create reasonable doubt in the prosecution story.

49. It is a cardinal principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof. The benefit of doubt must always go in favour of the accused.

50. Hon'ble Supreme Court in the case of case of **Goverdhan and Another vs. State of Chhattisgarh**¹² wherein, the Court has held as under:-

12 (2025) 3 SCC 378

"20. As per Section 3 of the Indian Evidence Act, 1872, a fact can be said to have been proved when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act up on the supposition that it exists. The court undertakes this exercise of examining whether the facts alleged including the particular criminal acts attributed to the accused are proved or not.

21. It is also to be noted that the law does not contemplate stitching the pieces of evidence in a watertight manner, for the standard of proof in a criminal case is not proof beyond all doubts but only beyond reasonable doubt. In other words, if a clear picture emerges on piecing together all evidence which indicates beyond reasonable doubt of the role played by the accused in the perpetration of the crime, the court holds the accused criminally liable and punishes them under the provisions of the penal code, in contradistinction to the requirement of proof based on the preponderance of probabilities as in case of civil proceedings.

22. It will be relevant to discuss, at this juncture, what is meant by "reasonable doubt". It means that such doubt must be free from suppositional speculation. It must not be the result of minute emotional detailing, and the doubt must be actual and substantial and not merely vague apprehension. A reasonable doubt is not an imaginary, trivial or amerey possible doubt, but a fair doubt based upon reason and common sense."

51. The Supreme Court in the case of **Jitendra Kumar Mishra**

@ **Jittu vs. State of Madhya Pradesh**¹³, has held as under :

"We are conscious of the fact that the appellate court should be slow in interfering with the conviction recorded by the courts below but where the evidence on record indicates the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and that a plausible view, different from the one expressed by the courts below can be taken, the appellate court should not shy away in giving the benefit of doubt to the accused persons."

52. Consequently, this Court is of the considered opinion that the prosecution has failed to prove its case beyond reasonable doubt against the accused-appellants.

53. Accordingly, the criminal appeal is *allowed*. The judgment and order dated 03.09.1985 passed by the learned Ist Additional Sessions Judge, Moradabad in Sessions Trial No. 550 of 1981 is hereby set aside.

54. The appellant no. 2-Barati is acquitted of all the charges levelled against him. He is on bail, his bail bonds are cancelled and sureties are discharged.

55. Let a copy of this judgment be transmitted to the court concerned for compliance.

56. Mr. Salman Ahmad, learned Amicus Curiae shall be paid a sum of Rs. 15,000/- (rupees fifteen thousand only) for his assistance to the Court in deciding this criminal appeal.

(Devendra Singh-I,J.) (Chandra Dhari Singh,J.)

April 10, 2026
Saurabh