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**AFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**CRA No. 631 of 2023**

Vicky @ Sukhiram Yadav S/o Shri Girdhari Yadav, Aged About 22 Years  
R/o Udiya Basti, Near Shiv Temple Village - Jora, P.S. Telibandha  
District - Raipur, (Chhattisgarh)

**... Appellant**

**versus**

State of Chhattisgarh Through S.H.O. Police Station - Telibandha Raipur,  
District - Raipur (C.G.)

**... Respondent**

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Sudeep Johri, Advocate
For State/Respondent	:	Ms. Vaishali Mahilong, Deputy Government Advocate

**Hon'ble Shri Ramesh Sinha, Chief Justice**  
**Hon'ble Shri Ravindra Kumar Agrawal, Judge**

**Judgment on Board**

**Per Ramesh Sinha, Chief Justice**

**11.05.2026**

1. Heard Mr. Sudeep Johri, learned counsel for the appellant. Also heard Ms. Vaishali Mahilong, learned Deputy Government Advocate, appearing for the State/respondent.

2. This criminal appeal is filed by the appellant/accused under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') is directed against the impugned judgment of conviction and order of sentence dated 19.07.2022 passed by the Special Judge under Atrocities Act and Additional Sessions Judge, Raipur, District Raipur (C.G.) in Sessions Case No.118/2021, by which, the appellant has been convicted and sentenced as under :-

<u>Conviction</u>		<u>Sentence</u>
Under Section 302 of the Indian Penal Code, 1860 (two counts)	:	Imprisonment for life on two counts along with fine of Rs.1,000/- on each count, and in default of payment of fine, additional rigorous imprisonment for one month on each count.
Under Section 201 of the Indian Penal Code, 1860	:	Rigorous imprisonment for three years along with fine of Rs.500/-, and in default of payment of fine, additional rigorous imprisonment for 15 days.
Both the sentences were directed to run concurrently		

3. It is pertinent to note that the appellant was separately tried and convicted in Special Sessions Case 'POCSO' No.78/2019 by the learned Additional Sessions Judge, First Fast Track Special Court 'POCSO', Raipur, District Raipur, vide judgment dated 12.12.2024 for the offences punishable under Section 376(2)(n) of the IPC and Section 6 of the POCSO Act in relation to the victim. Against

the said judgment of conviction, the appellant preferred CRA No.1343/2025, which was listed along with the present appeal and has also been dismissed today by this Court vide a separate judgment.

4. The appellant/accused Vicky @ Sukhiram Yadav was tried for the offences punishable under Sections 302 (two counts) and 201 of the Indian Penal Code, 1860 (for short, 'IPC') on the allegation that on 22.01.2021 between 9:30 PM to 10:00 PM, near Jora Maidan in front of the Agricultural University, within the jurisdiction of Police Station Telibandha, Raipur, he intentionally caused the death of Roma Yadav by inflicting fatal knife injuries on her neck with the intention of causing her death or with the knowledge that such injuries were likely to cause death. It was further alleged that at the same date, time and place, the accused also committed the murder of minor Mahira Yadav by smothering her and thereafter laying her on the railway track in a semi-conscious condition, as a result of which a goods train passed over her body causing her death. It was also alleged that in order to screen himself from legal punishment for the offences committed, the accused concealed the knife used in the incident beneath stones near the boundary wall adjacent to the railway track and threw his own mobile phone as well as the mobile phone of deceased Roma Yadav into Jora pond, thereby causing disappearance of evidence of the offence.

5. The prosecution case, in brief, is that on 23.01.2021, complainant Rikhiram Sahu (PW-02) lodged First Information Report (Ex.P/01) at Police Station Telibandha, Raipur stating that he was residing at village Jora and had earlier served as Sarpanch of the village. About one and a half years prior to the incident, accused Vicky @ Sukhiram Yadav had been sent to jail in connection with a rape case lodged by deceased Roma Yadav. After being released on bail, the accused started residing in village Jora and maintained cordial relations with the complainant.
6. It was further stated by PW-02 that on the morning of 23.01.2021, while he was present at his house along with the village Kotwar Resham Lal and Sunil Kushwaha, the accused came there in a frightened and disturbed condition and confessed that he had committed a grave mistake. The accused disclosed that Roma Yadav, who had earlier lodged the rape case against him, was pressurizing him to marry her and threatening that in case he refused, she would ensure his conviction in the pending criminal case. The accused further disclosed that on the night of 22.01.2021, Roma Yadav had called him on phone and asked him to meet near Jora Maidan. Carrying a knife with the intention of killing her, he reached the spot where Roma Yadav was present along with her minor daughter Mahira. The accused allegedly requested Roma Yadav to withdraw the pending court case and assured her that thereafter he would marry her and keep her at his house. However, Roma Yadav insisted that he should first

marry her in Court and take her home, only thereafter would she withdraw the case. Upon this, the accused became enraged and assaulted Roma Yadav with a knife on her neck, causing her death on the spot.

7. Thereafter, he carried minor Mahira Yadav to the nearby railway track with the intention of killing her, laid her on the track and moved away. Shortly thereafter, a train coming from Raipur side ran over the child, resulting in her death. The accused allegedly wandered the entire night in remorse and thereafter came to the complainant and narrated the entire incident.
8. On the information given by the accused, PW-02 along with others proceeded to the spot where the blood-stained dead body of Roma Yadav was found lying at Jora Maidan and the dead body of Mahira Yadav was found severed into two parts on the railway track. Thereafter, the accused was taken to Police Station Telibandha where merger intimation (Ex.P/02 and Ex.P/03) was recorded and FIR (Ex.P/01) was registered against the accused for the offence punishable under Section 302 IPC. The matter was thereafter taken up for investigation.
9. During investigation, notices under Section 160 Cr.P.C. (Ex.P/05 and Ex.P/06) were issued and inquest proceedings over the dead bodies of Roma Yadav and minor Mahira Yadav were conducted vide inquest reports (Ex.P/13 and Ex.P/14). Spot map was prepared vide Ex.P/11 and crime details form vide Ex.P/04. The

dead bodies were sent for postmortem examination and postmortem reports of deceased Mahira Yadav and Roma Yadav were obtained vide Ex.P/22 and Ex.P/23 respectively.

- 10.** The prosecution further alleged that pursuant to memorandum statement of accused Vicky @ Sukhiram Yadav recorded under Section 27 of the Evidence Act (Ex.P/07), the knife used in the commission of offence was recovered from beneath stones near the boundary wall adjoining the railway track and seizure memo thereof was prepared vide Ex.P/08. The accused also disclosed that he had thrown his own mobile phone and the mobile phone of deceased Roma Yadav into Jora pond, whereafter search proceedings were conducted in presence of witnesses, however, the mobile phones could not be recovered and search panchnama was prepared vide Ex.P/09.
- 11.** From the place of occurrence, plain soil, blood-stained soil and one pair of blood-stained slippers of deceased Roma Yadav were seized vide seizure memo Ex.P/15. Blood-stained stones and plain stones from the railway track where the body of Mahira Yadav was found were seized vide Ex.P/16. Blood-stained shirt and jacket of the accused were seized vide Ex.P/17 after the same were produced by him. Blood-like stains found on both palms of the accused were collected with wet cotton and seized vide Ex.P/18. Blood sample of the accused for DNA examination was obtained and seized vide Ex.P/19 pursuant to memos

Ex.P/20 and Ex.P/21. DNA examination was conducted and DNA report was received vide Ex.P/59. The affidavit executed by deceased Roma Yadav concerning the birth and paternity of Mahira Yadav was seized vide Ex.P/29 and Ex.P/30. The seized articles were forwarded to FSL vide memo Ex.P/49 and receipt thereof was obtained vide Ex.P/47 and Ex.P/50. FSL report was received vide Ex.P/58.

- 12.** In order to bring home the charges, the prosecution examined father of the victim (PW-01), complainant Rikhiram Sahu (PW-02), Naresh Singh (PW-03), Prakash Banjare (PW-04), Dr. Arun Kumar (PW-05), Dr. M. Nirala (PW-06), Kanhaiya Lal (PW-07), Ram Yadav (PW-08), Umashankar Rathore (PW-09), Investigating Officer Rupesh Kumar Tiwari (PW-10) and Divya Sharma (PW-11). The prosecution also relied upon documentary evidence including FIR (Ex.P/01), merger intimations (Ex.P/02 and Ex.P/03), memorandum statement of the accused (Ex.P/07), seizure memos (Ex.P/08 to Ex.P/19), postmortem reports (Ex.P/22 and Ex.P/23), FSL report (Ex.P/58) and DNA report (Ex.P/59).
- 13.** Statement of the accused under Section 313 Cr.P.C. was recorded wherein he denied all incriminating circumstances appearing against him and pleaded false implication. The defence of the accused was that complainant Rikhiram Sahu was inimical towards him and his family because the complainant's nephew

Rakhi Sahu had solemnized a love marriage with accused's cousin sister Yashwanti. In support of defence, Draupati Yadav was examined as DW-01 and documents Ex.D/01 to Ex.D/03 were brought on record.

- 14.** Upon appreciation of oral and documentary evidence available on record, the learned trial Court by the impugned judgment dated 19.07.2022, convicted and sentenced the appellant-accused for the offence punishable under Sections 302 (two counts) and 201 IPC and sentenced him in the manner mentioned in the second paragraph of this judgment, against which this appeal under Section 374(2) of the Cr.P.C. has been preferred by him calling in question the impugned judgment.
- 15.** Mr. Sudeep Johri, learned counsel appearing for the appellant, would submit that the impugned judgment of conviction and order of sentence passed by the learned trial Court is wholly arbitrary, illegal and contrary to the facts, evidence available on record and settled principles of criminal jurisprudence. It is contended that the entire prosecution case rests upon circumstantial evidence and there is not a single eye-witness to the alleged incident. Learned counsel submits that even the complainant Rikhiram Sahu (PW-02), upon whose report FIR (Ex.P/01) was registered, had admittedly not witnessed the incident. According to him, the conviction of the appellant has been recorded principally on the basis of alleged extra-judicial confession and memorandum

statement of the appellant recorded under Ex.P/07, which by itself could not have formed the sole basis for conviction in absence of cogent and reliable corroborative evidence completing the chain of circumstances.

- 16.** Mr. Johri further submits that the prosecution witnesses examined before the Court are all interested and related village witnesses and none of them were present at the spot at the time of occurrence. It is argued that father of the victim (PW-01), Rikhiram Sahu (PW-02), Naresh Singh (PW-03), Prakash Banjare (PW-04) and other witnesses are merely hearsay witnesses and their evidence does not establish the actual occurrence. It is contended that the learned trial Court failed to appreciate that the prosecution story is based on assumptions and conjectures without any direct evidence linking the appellant with the commission of offence beyond reasonable doubt. Learned counsel submits that though seizure memos (Ex.P/08 and Ex.P/15 to Ex.P/19), spot map (Ex.P/11), inquest reports (Ex.P/13 and Ex.P/14), postmortem reports (Ex.P/22 and Ex.P/23), FSL report (Ex.P/58) and DNA report (Ex.P/59) were brought on record through Investigating Officer Rupesh Kumar Tiwari (PW-10) and other witnesses, the prosecution failed to establish an unbroken chain of incriminating circumstances necessary for sustaining conviction under Section 302 IPC.
- 17.** It is contended by Mr. Johri that the learned trial Court ignored the

admitted factual background emerging from the prosecution evidence itself that the deceased Roma Yadav was continuously pressurizing the appellant to marry her and was threatening him with criminal prosecution in case he refused. Referring to the evidence of complainant Rikhiram Sahu (PW-02) and contents of FIR (Ex.P/01), learned counsel submits that the prosecution itself alleged that the deceased had told the appellant to either marry her or face punishment through Court proceedings. It is contended that the incident occurred in the background of emotional stress, fear and sudden provocation and there was no premeditated intention on the part of the appellant to commit murder. According to learned counsel, even if the prosecution case is taken at its highest, the ingredients of "intention to cause death" attracting Section 302 IPC are not fully established.

- 18.** It is further argued by Mr. Johri that the learned trial Court failed to properly appreciate the surrounding circumstances and the mental condition of the appellant at the relevant point of time. Learned counsel submits that the alleged occurrence took place under grave emotional disturbance and loss of self-control and therefore the case would at best fall within the ambit of culpable homicide not amounting to murder punishable under Section 304 IPC. It is contended that the learned trial Court completely overlooked the absence of prior planning or premeditation and erroneously proceeded to convict the appellant under Sections 302 and 201 IPC merely on the basis of presumptions and

adverse inferences.

- 19.** Lastly, Mr. Johri submits that the findings recorded by the learned trial Court are contrary to the evidence available on record and suffer from serious infirmities. It is argued that material contradictions and omissions in the prosecution evidence were not properly considered and the Court below adopted a wholly erroneous approach while appreciating the evidence of prosecution witnesses including father of the victim (PW-01), Rikhiram Sahu (PW-02), medical witnesses Dr. Arun Kumar (PW-05) and Dr. M. Nirala (PW-06), as well as Investigating Officer Rupesh Kumar Tiwari (PW-10). On these grounds, learned counsel prays that the impugned judgment of conviction and sentence passed against the appellant deserves to be set aside and the appellant deserves to be acquitted of the charges.
- 20.** Per contra, Ms. Vaishali Mahilong, learned Deputy Government Advocate appearing for the State/respondent, vehemently opposed the submissions advanced on behalf of the appellant and submitted that the impugned judgment of conviction and order of sentence passed by the learned trial Court are strictly in accordance with law and based upon proper appreciation of the entire oral as well as documentary evidence available on record. It is submitted that though the present case rests upon circumstantial evidence, the prosecution has successfully established each and every incriminating circumstance forming a

complete chain pointing only towards the guilt of the appellant and ruling out every hypothesis of innocence.

- 21.** Ms. Mahilong submits that the motive behind the crime has been clearly established through the testimony of PW-01 father of the victim, who specifically deposed that prior to the incident the appellant had expressed his unwillingness to marry deceased Roma Yadav despite the fact that she was pressurizing him for marriage after lodging an FIR under Section 376 IPC against him. PW-01 further stated that the appellant had openly declared that he would kill Roma Yadav and her child. It is submitted that the said testimony remained unshaken in cross-examination and clearly establishes the strong motive and premeditation on the part of the appellant.
- 22.** It is further submitted by Ms. Mahilong that the extra-judicial confession made by the appellant before PW-02 Rikhiram Sahu, former Sarpanch of Village Zora, is a vital incriminating circumstance against the appellant. PW-02 categorically stated that immediately after the incident the appellant approached him and confessed that he had killed Roma Yadav and Ku. Mahira Yadav. Based upon such information, FIR (Ex.P/01) was promptly lodged and thereafter the investigation commenced. Learned State counsel submits that the testimony of PW-02 is wholly reliable, natural and inspires confidence and there is no reason for false implication of the appellant. The extra-judicial confession

further stands corroborated by the recovery of incriminating articles pursuant to memorandum statement of the appellant recorded under Ex.P/07.

- 23.** Ms. Mahilong further submits that pursuant to the memorandum statement (Ex.P/07), the blood-stained knife was seized vide Ex.P/17 and blood-stained clothes of the appellant were seized vide Ex.P/18. The FSL Report (Ex.P/58) clearly confirms presence of human blood on the knife, blood-stained soil, clothes of the appellant and the clothes of deceased persons. The medical evidence adduced through PW-06 Dr. M. Nirala and postmortem reports Ex.P/22 and Ex.P/23 fully corroborate the prosecution case. PW-06 specifically opined that the injuries found on deceased Roma Yadav were homicidal in nature caused by a sharp edged weapon and further opined in query report Ex.P/24 that the injuries could have been caused by the seized knife. The evidence regarding death of minor child Ku. Mahira Yadav due to being run over by train also stands corroborated from railway records Ex.P/26 and testimony of PW-07.
- 24.** It is also submitted by Ms. Mahilong that the conduct of the appellant immediately before and after the incident constitutes an additional incriminating circumstance. The prosecution has established that the appellant called the deceased near the place of occurrence on the intervening night of 22.01.2021 and thereafter absconded after commission of the offence. The DNA

report Ex.P/59 further establishes biological relation between the appellant, deceased Roma Yadav and deceased child Ku. Mahira Yadav, thereby substantiating the prosecution story regarding motive and relationship between the parties. Learned State counsel therefore submits that the learned trial Court has rightly appreciated the entire chain of circumstances and recorded conviction against the appellant and as such, no interference is warranted in the present appeal.

- 25.** We have heard learned counsel for the parties at length and bestowed our anxious consideration to the rival submissions advanced on their behalf. We have also meticulously perused the entire original record of the trial Court, including the First Information Report (Ex.P/01), merger intimations (Ex.P/02 and Ex.P/03), the statements and depositions of prosecution witnesses PW-01 to PW-11, the inquest proceedings and inquest panchnamas (Ex.P/13 and Ex.P/14), the spot maps and site inspection proceedings (Ex.P/4 and Ex.P/11), the memorandum statement of the appellant recorded under Section 27 of the Evidence Act (Ex.P/7), seizure memos (Ex.P/08, Ex.P/15, Ex.P/17 and Ex.P/18), the postmortem reports (Ex.P/22 and Ex.P/23), query reports (Ex.P/24 and Ex.P/25), the FSL report (Ex.P/58), the DNA report (Ex.P/59), and all other documentary and oral evidence adduced during the course of trial. We have further examined the grounds urged in the appeal and the legal submissions advanced by the learned counsel appearing for the

respective parties in the backdrop of the entire evidence available on record.

**26.** In view of the rival submissions advanced by learned counsel for the parties and upon re-appreciation of the entire oral and documentary evidence available on record, the following questions arise for determination in the present appeal:—

(i) Whether the prosecution has been able to establish, beyond reasonable doubt, that death of the deceased Roma Yadav and Ku. Mahira Yadav was homicidal in nature?

(ii) Whether the chain of circumstantial evidence brought on record by the prosecution is complete and points unerringly towards the guilt of the appellant, excluding every possible hypothesis consistent with innocence?

(iii) Whether the memorandum statement of the appellant and the consequent recoveries made pursuant thereto stand duly proved in accordance with law and can safely be relied upon?

(iv) Whether the conviction recorded by the learned trial Court for the offences punishable under Sections 302 and 201 of the IPC suffers from any perversity, illegality or infirmity warranting interference by this Court?

(v) Whether the plea raised on behalf of the appellant regarding false implication, absence of intention, sudden

provocation, or insanity is made out from the evidence available on record?

**27.** We shall now proceed to examine the aforesaid questions in seriatim in the backdrop of the oral and documentary evidence available on record and the settled principles of criminal jurisprudence laid down by the Hon'ble Supreme Court.

**(i) Whether the prosecution has been able to establish, beyond reasonable doubt, that death of the deceased Roma Yadav and Ku. Mahira Yadav was homicidal in nature?**

**28.** So far as Question No.(i) is concerned, upon meticulous re-appreciation of the entire evidence available on record, this Court is of the considered opinion that the prosecution has successfully established beyond reasonable doubt that the deaths of deceased Roma Yadav and her minor daughter Ku. Mahira Yadav were homicidal in nature. In this regard, the medical evidence adduced by the prosecution assumes great significance and constitutes a vital link in the chain of circumstances.

**29.** The prosecution has examined PW-06 Dr. M. Nirala, who conducted the postmortem examinations over the dead bodies of both the deceased persons and duly proved the postmortem reports Ex.P/22 and Ex.P/23. The testimony of PW-06 is clear, cogent and inspires full confidence. The witness has categorically stated that on 25.01.2021, he conducted autopsy over the dead body of deceased Roma Yadav and found multiple ante-mortem

injuries over her body. As reflected from the postmortem report Ex.P/23, the following injuries were noticed by the doctor:—

(i) A stab injury present on the left side mid-part of the neck measuring  $2 \times 0.5 \times 6$  cm situated about 7 cm below the angle of mandible;

(ii) A stab injury on the right side of neck situated at the mid-part of mandible measuring  $1.5 \times 0.5 \times 3$  cm;

(iii) Multiple contused abrasions present on the right side of neck measuring  $3 \times 1.5$  cm and on the left side neck measuring  $1 \times 0.5$  cm;

(iv) Contused abrasions on the right elbow measuring  $3 \times 1$  cm,  $1 \times 1$  cm and  $1 \times 0.5$  cm and similar abrasions on the left knee measuring  $1 \times 1$  cm,  $1 \times 0.5$  cm and  $0.5 \times 0.5$  cm;

(v) Graze abrasions on the left side mid-part of the leg towards front side measuring  $6 \times 1$  cm,  $4 \times 1$  cm and  $2 \times 1$  cm.

- 30.** PW-06 Dr. M. Nirala has specifically opined that the death of Roma Yadav was homicidal in nature and the cause of death was haemorrhage and shock resulting from stab injuries caused by a sharp-edged weapon. The doctor further clarified that the injuries were ante-mortem in nature and were sufficient in the ordinary course of nature to cause death. The query report Ex.P/24 and diagram of knife Ex.P/25 further corroborate the prosecution case

regarding the use of a sharp-edged weapon in commission of the offence. PW-06 has also opined that the injuries sustained by the deceased could be caused by the seized knife.

**31.** Likewise, PW-06 conducted the postmortem examination over the dead body of minor child Ku. Mahira Yadav and proved the postmortem report Ex.P/22. The doctor found severe crush injuries over the body of the child. The injuries noted by him are reproduced hereinbelow:—

(i) The chest portion was completely separated from the upper part of the body at T-3 and T-4 vertebral level;

(ii) Ecchymosis (redness of injury) and hematoma (blood clotting) were present on the inner surface area of chest;

(iii) Left side ribs Nos.1, 2, 3, 4, 5 and 6 and right side ribs Nos.1, 2 and 3 were found fractured.

**32.** PW-06 categorically opined that the death of minor Ku. Mahira Yadav occurred due to haemorrhage and shock caused by the aforesaid injuries. In the query report Ex.P/24, PW-06 further stated that such injuries could be caused by a train passing over the body of the child. This medical evidence fully corroborates the prosecution case that after committing the murder of Roma Yadav, the appellant intentionally left the minor child upon the railway track, resulting in her death after being run over by a train.

**33.** The testimony of PW-06 has remained substantially unshaken

during lengthy cross-examination and no material contradiction, omission or inconsistency could be elicited so as to discredit his medical opinion. The defence has failed to bring any circumstance on record to suggest that the deaths were accidental, suicidal or otherwise not homicidal in nature. On the contrary, the nature, dimensions and location of injuries clearly establish the brutality of the crime and unmistakably point towards homicidal death.

34. At this juncture, it would be apposite to refer to the settled principles governing appreciation of medical evidence in criminal jurisprudence. In ***Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116***, the Hon'ble Supreme Court authoritatively held that in a case resting on circumstantial evidence, each circumstance must be fully established and medical evidence often forms a vital link in completing the chain of circumstances. It was further held that when medical evidence corroborates the prosecution story, the same provides strong assurance regarding the truthfulness of the prosecution case.
35. Similarly, in ***State of U.P. v. Krishna Gopal, (1988) 4 SCC 302***, the Hon'ble Supreme Court observed that medical evidence serves as an important guiding factor in evaluating the veracity of ocular and circumstantial evidence and where the medical evidence is consistent with the prosecution story, the Court can safely place reliance upon it.
36. Further, in ***Solanki Chimanbhai Ukabhai v. State of Gujarat,***

**(1983) 2 SCC 174**, it has been held that unless the medical evidence completely rules out the prosecution version, the same cannot be discarded merely on hypothetical possibilities. In the present case, far from contradicting the prosecution story, the medical evidence fully supports and strengthens the prosecution version in material particulars.

**37.** Thus, considering the nature of injuries sustained by both the deceased persons, the categorical opinion rendered by PW-06 Dr. M. Nirala, the postmortem reports Ex.P/22 and Ex.P/23, the query report Ex.P/24, and the absence of any circumstance creating doubt regarding the cause of death, this Court has no hesitation in holding that the prosecution has fully established that the deaths of deceased Roma Yadav and Ku. Mahira Yadav were homicidal in nature.

**38.** Accordingly, Question No.(i) is answered in the affirmative.

**(ii) Whether the chain of circumstantial evidence brought on record by the prosecution is complete and points unerringly towards the guilt of the appellant, excluding every possible hypothesis consistent with innocence?**

**39.** So far as Question No.(ii) is concerned, the present case is founded entirely upon circumstantial evidence. It is by now well settled that where direct ocular evidence is not available, the prosecution is required to establish each incriminating circumstance beyond reasonable doubt and all such

circumstances must form a complete and unbroken chain pointing only towards the guilt of the accused and ruling out every hypothesis consistent with innocence. Though suspicion, however grave, cannot take the place of proof, yet when the circumstances proved on record are consistent only with the hypothesis of the guilt of the accused, conviction can safely be founded thereupon.

40. The principles governing appreciation of circumstantial evidence were initially laid down by the Hon'ble Supreme Court in ***Hanumant Govind Nargundkar v. State of Madhya Pradesh, AIR 1952 SC 343***, and were thereafter elaborately reiterated in ***Sharad Birdhichand Sarda*** (supra). The Hon'ble Supreme Court authoritatively laid down the five golden principles constituting the "Panchsheel" of circumstantial evidence, namely:—

(i) the circumstances from which the conclusion of guilt is to be drawn must be fully established;

(ii) the facts so established must be consistent only with the hypothesis of the guilt of the accused;

(iii) the circumstances should be of a conclusive nature and tendency;

(iv) they should exclude every possible hypothesis except the one to be proved; and

(v) there must be a complete chain of evidence leaving no reasonable ground for the conclusion consistent with

innocence of the accused.

41. Recently also, in ***Anwar Ali v. State of Himachal Pradesh, (2020) 10 SCC 166***, and ***Satender Kumar v. State of Haryana, (2024) 3 SCC 462***, the Hon'ble Supreme Court reiterated that in a case based on circumstantial evidence, the cumulative effect of all proved circumstances has to be considered and if the chain is complete, conviction can safely be recorded.
42. Keeping the aforesaid settled principles of law in view, this Court has carefully re-appreciated the entire evidence available on record and finds that the prosecution has successfully established a complete chain of incriminating circumstances against the appellant.
43. The first and foremost circumstance is the existence of strong motive on the part of the appellant. In this regard, the testimony of PW-01 father of the victim assumes considerable importance. PW-01 has categorically deposed before the Court that shortly prior to the incident he met the appellant near Zora Water Tank. During the said meeting, the appellant disclosed to him that deceased Roma Yadav was continuously pressurizing him to marry her, but since she already had a child, namely Ku. Mahira Yadav, he was unwilling to marry her. PW-01 further stated that the appellant was frustrated because of such pressure and had specifically threatened that he would kill Roma Yadav and her child.

44. The testimony of PW-01 is natural, cogent and trustworthy. Nothing substantial could be elicited in his cross-examination so as to discredit his version. His evidence clearly establishes the strained relationship between the appellant and deceased Roma Yadav and furnishes a strong motive for commission of the offence. Motive, though not always necessary where direct evidence is available, assumes great significance in cases resting upon circumstantial evidence. In ***Babu v. State of Kerala, (2010) 9 SCC 189***, the Hon'ble Supreme Court held that motive becomes an important link in the chain of circumstances where the case is based on circumstantial evidence.
45. The next important circumstance against the appellant is the extra-judicial confession made before PW-02 Rikhiram Sahu, who was the former Sarpanch of Village Zora. PW-02 has specifically deposed that after the incident the appellant approached him and confessed that he had killed Roma Yadav and minor child Ku. Mahira Yadav. PW-02 further stated that after hearing such confession, he immediately informed the police authorities, pursuant to which FIR Ex.P/01 came to be registered.
46. The evidence of PW-02 inspires confidence. He is an independent witness having no previous enmity or animosity against the appellant. No material contradiction or omission could be brought out in his cross-examination so as to render his testimony doubtful. The conduct of PW-02 in immediately informing the

police further lends assurance to his version.

47. It is trite law that extra-judicial confession, if voluntary, truthful and reliable, can form the basis of conviction. In ***Narayan Singh v. State of M.P., (1985) 4 SCC 26***, the Hon'ble Supreme Court held that there is neither any rule of law nor prudence that extra-judicial confession cannot be acted upon unless corroborated. Likewise, in ***State of Rajasthan v. Raja Ram, (2003) 8 SCC 180***, it was held that where the Court is satisfied regarding the voluntariness and truthfulness of the extra-judicial confession, conviction can safely be based thereupon. Recently, in ***Jagroop Singh v. State of Punjab, (2022) 9 SCC 521***, the Hon'ble Supreme Court reiterated that an extra-judicial confession, when corroborated by surrounding circumstances and recoveries, constitutes a valuable piece of evidence.
48. In the present case, the extra-judicial confession made before PW-02 stands duly corroborated by the subsequent recoveries, medical evidence and scientific evidence available on record.
49. The next incriminating circumstance is the memorandum statement of the appellant recorded under Section 27 of the Indian Evidence Act vide Ex.P/07. The memorandum was duly proved by the Investigating Officer as well as seizure witnesses. Pursuant to the said memorandum statement, the appellant led the police party and got recovered the weapon of offence, namely blood-stained knife, along with blood-stained T-shirt and jacket

belonging to him, which were seized vide seizure memos Ex.P/08, Ex.P/17 and Ex.P/18.

50. The seizure witnesses as well as the Investigating Officer have consistently supported the prosecution case regarding the recoveries made at the instance of the appellant. The recoveries remained substantially unshaken during cross-examination. There is absolutely no reason to disbelieve the recovery proceedings.
51. The admissibility and evidentiary value of discoveries made pursuant to memorandum statements under Section 27 of the Evidence Act are no longer res integra. In ***Pulukuri Kottaya v. Emperor, AIR 1947 PC 67***, it was authoritatively held that so much of the information supplied by the accused as distinctly relates to the fact thereby discovered is admissible in evidence. The said principle has consistently been followed by the Hon'ble Supreme Court in catena of decisions including ***A.N. Venkatesh v. State of Karnataka, (2005) 7 SCC 714***.
52. The scientific evidence available on record further strengthens the prosecution case. The FSL report Ex.P/58 clearly reveals that human blood was detected upon the knife recovered at the instance of the appellant, blood-stained soil collected from the place of occurrence, clothes of deceased Roma Yadav, frock of deceased Ku. Mahira Yadav and the clothes recovered from possession of the appellant.
53. The presence of blood stains upon the clothes and weapon

recovered pursuant to the memorandum statement of the appellant constitutes a highly incriminating circumstance connecting him directly with the commission of the offence. The appellant has failed to furnish any explanation regarding the presence of blood upon the recovered articles.

- 54.** Further, the DNA report Ex.P/59 also assumes immense significance. The DNA examination establishes the biological relationship amongst the deceased persons and the appellant, thereby corroborating the prosecution story regarding the intimate relationship between deceased Roma Yadav and the appellant and supplying a strong motive for the crime.
- 55.** The prosecution has also proved another significant circumstance through PW-07 Kanhaiya Dewangan Lal, who duly proved the railway gate duty register Ex.P/26. The said witness specifically stated regarding the passing of the goods train at the relevant time. This circumstance materially corroborates the prosecution case that after committing murder of Roma Yadav, the appellant left minor child Ku. Mahira Yadav upon the railway track, resulting in her death due to train injuries.
- 56.** The aforesaid circumstance also stands corroborated from the medical evidence of PW-06 Dr. M. Nirala and the query report Ex.P/24, wherein it has been specifically opined that the injuries sustained by deceased Ku. Mahira Yadav could be caused by a train accident.

- 57.** Apart from the above, the conduct of the appellant also constitutes an incriminating circumstance under Section 8 of the Indian Evidence Act. The evidence on record demonstrates that after commission of the offence, the appellant attempted to conceal the crime and his conduct remained wholly inconsistent with innocence.
- 58.** Thus, upon cumulative appreciation of the evidence relating to motive, prior threat, extra-judicial confession, memorandum statement Ex.P/07, recoveries vide Ex.P/08, Ex.P/17 and Ex.P/18, medical evidence, FSL report Ex.P/58, DNA report Ex.P/59 and railway gate register Ex.P/26, this Court is of the considered opinion that the prosecution has succeeded in establishing an unbroken and complete chain of circumstances pointing unmistakably towards the guilt of the appellant and excluding every possible hypothesis consistent with innocence.
- 59.** The circumstances proved on record are conclusive in nature and fully satisfy the tests laid down by the Hon'ble Supreme Court in ***Sharad Birdhichand Sarda*** (supra). This Court, therefore, has no hesitation in holding that the learned trial Court has rightly concluded that the appellant alone was responsible for commission of the offences in question.
- 60.** Accordingly, Question No.(ii) is answered in the affirmative.

**(iii) Whether the memorandum statement of the appellant and the consequent recoveries made pursuant thereto stand duly proved**

**in accordance with law and can safely be relied upon?**

- 61.** While dealing with Question No.(iii), this Court is required to examine whether the prosecution has been able to duly prove the memorandum statement of the appellant recorded under Section 27 of the Indian Evidence Act and the consequential recoveries effected pursuant thereto and whether such evidence can safely be relied upon for sustaining the conviction of the appellant. At the outset, it is necessary to observe that the prosecution has adduced cogent, reliable and convincing evidence to establish the memorandum proceedings and the discoveries made at the instance of the appellant. The evidence available on record clearly demonstrates that after his apprehension, the appellant furnished information leading to discovery of incriminating articles connected with the commission of the offence, which were previously concealed and exclusively within his knowledge.
- 62.** In this regard, the testimony of PW-11 Divya Sharma, Investigating Officer, assumes considerable significance. PW-11 has specifically deposed that during investigation the appellant was taken into custody and while in police custody he voluntarily made a disclosure statement recorded vide memorandum Ex.P/07. The witness has categorically stated that the appellant disclosed before him that he had concealed the knife used in commission of the offence along with his blood-stained clothes and other incriminating articles and that he alone could get the

same recovered.

- 63.** PW-11 further deposed that pursuant to the aforesaid disclosure statement, the appellant led the police party and seizure witnesses to the place of concealment and got recovered the weapon of offence, namely blood-stained knife, which was seized vide seizure memo Ex.P/08. The witness further proved recovery and seizure of blood-stained T-shirt and jacket of the appellant vide Ex.P/17 and Ex.P/18 respectively. The Investigating Officer has further stated that all seizure proceedings were conducted in accordance with law in presence of witnesses and the seized articles were duly sealed and sent for forensic examination.
- 64.** The evidence of PW-11 remains cogent and trustworthy. Despite detailed and searching cross-examination, nothing substantial could be elicited so as to discredit his testimony regarding recording of memorandum statement or the consequential recoveries. No material contradiction, omission or infirmity has been brought on record which may create any doubt regarding genuineness of the recovery proceedings.
- 65.** The memorandum statement Ex.P/07 and the consequential recoveries receive substantial corroboration from the seizure witnesses examined by the prosecution. The seizure witnesses have supported the prosecution case regarding the appellant leading the police party to the place of concealment and recovery of incriminating articles at his instance. Merely because some

portion of their evidence may not fully support the prosecution or because they are witnesses known to the police, the entire recovery proceedings cannot be discarded when the testimony of the Investigating Officer inspires confidence and remains reliable.

66. The law on this point is well settled. In ***State (NCT of Delhi) v. Sunil, (2001) 1 SCC 652***, the Hon'ble Supreme Court held that there is no legal proposition that evidence of police officials regarding recovery should be discarded merely because independent witnesses did not support the prosecution case. It was further held that if the evidence of the Investigating Officer is found trustworthy, recoveries effected pursuant to disclosure statements can safely be relied upon.
67. Similarly, in ***Pulukuri Kottaya*** (supra), the Privy Council authoritatively interpreted Section 27 of the Indian Evidence Act and held that so much of the information supplied by the accused as distinctly relates to the fact thereby discovered becomes admissible in evidence. The principle laid down therein has consistently been followed by the Hon'ble Supreme Court in catena of decisions. Reference in this regard may also be made to ***A.N. Venkatesh*** (supra), wherein the Hon'ble Supreme Court reiterated that discovery of incriminating material pursuant to disclosure statement of the accused constitutes an important circumstance connecting the accused with the crime.
68. Recently also, in ***Mukesh v. State (NCT of Delhi), (2017) 6 SCC***

1, the Hon'ble Supreme Court observed that recoveries made pursuant to disclosure statements under Section 27 of the Evidence Act acquire great evidentiary value when the same stand corroborated by scientific and forensic evidence. Likewise, in ***Boby v. State of Kerala, (2023) 9 SCC 687***, the Hon'ble Supreme Court reiterated that recovery of weapon and incriminating articles at the instance of the accused constitutes a strong incriminating circumstance in a case based on circumstantial evidence.

- 69.** In the present case, the recoveries made pursuant to memorandum Ex.P/07 acquire greater significance in view of the scientific evidence available on record. The FSL report Ex.P/58 clearly reveals that human blood was detected upon the knife recovered at the instance of the appellant, the clothes of the appellant and other seized articles. The blood-stained knife recovered pursuant to memorandum Ex.P/07 directly connects the appellant with the commission of the offence.
- 70.** The recovery of blood-stained clothes belonging to the appellant is also a highly incriminating circumstance. The appellant has failed to furnish any explanation whatsoever regarding presence of blood stains upon his clothes. In absence of any plausible explanation, an adverse inference is liable to be drawn against him.
- 71.** It is further noteworthy that the memorandum statement led to

discovery of facts which were exclusively within the knowledge of the appellant. The place from where the knife and blood-stained clothes were recovered was specifically pointed out by the appellant himself. Such discovery of concealed incriminating articles constitutes a relevant fact under Section 27 of the Indian Evidence Act and provides strong corroboration to the prosecution case.

- 72.** The contention raised on behalf of the appellant that the memorandum and recoveries are fabricated or planted does not merit acceptance. No suggestion of prior enmity between the Investigating Officer and the appellant has been established. There is absolutely no material available on record to infer that the police authorities falsely planted blood-stained articles merely to implicate the appellant.
- 73.** It is also well settled that even if independent witnesses turn hostile or do not fully support the prosecution case, the recovery proceedings do not automatically become doubtful. In ***Modan Singh v. State of Rajasthan, (1978) 4 SCC 435***, the Hon'ble Supreme Court held that evidence of recovery cannot be discarded solely because seizure witnesses turned hostile, particularly when the Investigating Officer's testimony remains reliable.
- 74.** Upon cumulative appreciation of the evidence of PW-11 Divya Sharma, memorandum statement Ex.P/07, seizure memos

Ex.P/08, Ex.P/17 and Ex.P/18 and FSL report Ex.P/58, this Court is of the considered opinion that the prosecution has fully succeeded in proving the memorandum proceedings and consequential recoveries in accordance with law. The recoveries made pursuant to the disclosure statement of the appellant constitute a vital incriminating circumstance forming an important link in the chain of circumstantial evidence and clearly connect the appellant with the commission of the offence.

**75.** Accordingly, Question No.(iii) is answered in the affirmative.

**(iv) Whether the conviction recorded by the learned trial Court for the offences punishable under Sections 302 and 201 of the IPC suffers from any perversity, illegality or infirmity warranting interference by this Court?**

**76.** So far as Question No.(iv) is concerned, upon independent, cautious and thorough re-appreciation of the entire oral as well as documentary evidence available on record, this Court is of the considered opinion that the learned trial Court has meticulously appreciated the evidence in its proper perspective and has arrived at findings which are fully supported by the material available on record. The impugned judgment neither suffers from perversity nor discloses any illegality, infirmity or material irregularity warranting interference by this Court in exercise of appellate jurisdiction.

**77.** The record of the case reflects that the learned trial Court has

undertaken a detailed scrutiny of the prosecution evidence including the testimonies of PW-01 father of the victim, PW-02 Rikhiram Sahu, PW-06 Dr. M. Nirala, PW-07 Kanhaiya Dewangan Lal and PW-11 Divya Sharma along with documentary evidence exhibited during trial. The learned trial Court has carefully analyzed the circumstances appearing against the appellant and thereafter recorded conviction only upon being satisfied that the chain of circumstances stood fully established. The learned trial Court has rightly relied upon the testimony of PW-01, who clearly established the motive behind the offence by stating that the appellant was unwilling to marry deceased Roma Yadav despite the fact that she had a child from their relationship and that shortly prior to the incident the appellant had threatened to kill both Roma Yadav and the child. The said evidence assumes great significance as motive constitutes an important circumstance in cases based upon circumstantial evidence.

- 78.** The learned trial Court has also rightly appreciated the testimony of PW-02 Rikhiram Sahu relating to the extra-judicial confession made by the appellant immediately after the incident. PW-02, being former Sarpanch of the village, had no reason whatsoever to falsely implicate the appellant. The evidence of PW-02 remained substantially unshaken during cross-examination and finds corroboration from other evidence available on record including registration of FIR Ex.P/01 and subsequent recoveries.

- 79.** The medical evidence adduced through PW-06 Dr. M. Nirala has also been correctly appreciated by the learned trial Court. The postmortem reports Ex.P/22 and Ex.P/23 clearly establish homicidal death of both deceased persons. The nature of injuries found upon deceased Roma Yadav, particularly the deep stab injuries upon the neck, unmistakably indicate a deliberate and brutal assault by a sharp-edged weapon. Likewise, the injuries sustained by minor Ku. Mahira Yadav clearly corroborate the prosecution case that the child was left upon the railway track resulting in fatal injuries caused by passing of train. The learned trial Court has further rightly relied upon the memorandum statement Ex.P/07 and consequential recoveries proved by PW-11 Divya Sharma. The recovery of blood-stained knife, blood-stained clothes of the appellant and other incriminating articles pursuant to the disclosure statement made by the appellant constitute highly incriminating circumstances connecting the appellant with the commission of the offence. The FSL report Ex.P/58 detecting human blood upon the seized articles lends complete assurance to the prosecution case.
- 80.** The DNA report Ex.P/59 has also been rightly considered by the learned trial Court. The scientific evidence establishing biological relationship between the appellant and deceased Ku. Mahira Yadav materially corroborates the prosecution case regarding relationship between the appellant and deceased Roma Yadav and the motive behind commission of the offence.

81. This Court further finds that the learned trial Court has elaborately considered the defence plea raised on behalf of the appellant regarding false implication, absence of intention, sudden provocation and insanity. However, except making bald suggestions during cross-examination, no substantive evidence whatsoever has been brought on record by the defence to probabilize any such plea. The conduct of the appellant before and after commission of the offence, the prior threats extended by him and the manner in which the crime was executed clearly negate the theory of sudden provocation or unsoundness of mind.
82. It is trite law that suspicion, however grave, cannot substitute proof, but at the same time when the prosecution succeeds in establishing a complete and unbroken chain of incriminating circumstances pointing only towards guilt of the accused, conviction can safely be recorded. In the present case, each circumstance relied upon by the prosecution stands duly established and all such circumstances cumulatively form a complete chain excluding every hypothesis consistent with innocence of the appellant.
83. The scope of interference by the appellate Court against conviction is well settled. In ***Chandrappa v. State of Karnataka, (2007) 4 SCC 415***, the Hon'ble Supreme Court held that though the appellate Court possesses full power to re-appreciate evidence, interference with findings of fact recorded by the trial

Court is warranted only when the findings are perverse, manifestly illegal or grossly erroneous.

84. Similarly, in ***Babu*** (supra), it has been held that perversity in findings must be of such nature that no reasonable person would have arrived at such conclusion on the basis of evidence available on record.
85. Likewise, in ***Mallikarjun v. State of Karnataka, (2019) 8 SCC 359***, the Hon'ble Supreme Court reiterated that where the findings recorded by the trial Court are based upon proper appreciation of evidence and are reasonably possible, the appellate Court ought not to interfere merely because another view is possible.
86. Applying the aforesaid settled principles to the facts of the present case, this Court finds no perversity, illegality or material infirmity in the findings recorded by the learned trial Court. The appreciation of evidence undertaken by the learned trial Court is proper, legal and based upon sound reasoning. The conclusions arrived at by the learned trial Court are fully supported by oral, documentary and scientific evidence available on record.
87. On cumulative appreciation of the entire evidence, this Court is satisfied that the prosecution has proved the guilt of the appellant beyond all reasonable doubt and the learned trial Court has rightly convicted and sentenced the appellant for the offences in question. Therefore, the conviction and sentence imposed upon the appellant do not call for any interference by this Court and are

hereby affirmed. Accordingly, Question No.(iv) is answered against the appellant.

**(v) Whether the plea raised on behalf of the appellant regarding false implication, absence of intention, sudden provocation, or insanity is made out from the evidence available on record?**

**88.** Lastly, now dealing with Question No.(v), this Court proceeds to examine the defence sought to be raised on behalf of the appellant with regard to alleged insanity, absence of intention and sudden provocation. It is observed that the entire defence projected by the appellant is wholly devoid of any legal or factual foundation and does not inspire confidence of this Court even remotely. Except putting vague and bald suggestions during the course of cross-examination of prosecution witnesses and advancing oral submissions at the stage of final arguments, no cogent, reliable or substantive evidence whatsoever has been brought on record by the defence to probabilize any of the aforesaid pleas.

**89.** The defence has neither examined any witness nor produced any documentary or medical evidence to establish that the appellant was suffering from any mental disorder, unsoundness of mind or psychological impairment at or around the time of commission of the offence. Equally, there is absolutely no material available on record to suggest that the occurrence took place on account of grave and sudden provocation or in absence of intention. On the

contrary, the entire evidence available on record clearly establishes a deliberate, intentional and premeditated act committed by the appellant with full knowledge of its consequences.

- 90.** The testimony of PW-01 assumes considerable significance in this regard. PW-01 has categorically deposed that prior to the incident, the appellant had extended threats to kill deceased Roma Yadav as well as her minor child. The said testimony has remained consistent and trustworthy throughout and nothing substantial could be elicited during cross-examination so as to discredit the same. The prior threats extended by the appellant clearly establish motive, preparation and pre-existing intention to commit the offence. Such antecedent conduct of the appellant completely rules out the possibility of the act having been committed on account of sudden provocation or loss of self-control.
- 91.** The conduct of the appellant immediately before, during and after the commission of the offence further demolishes the defence plea. The evidence on record clearly demonstrates that the appellant inflicted fatal knife injuries upon deceased Roma Yadav in a brutal and merciless manner. The nature, number and situs of injuries clearly indicate that the assault was intentional and aimed at causing death. The medical evidence fully corroborates the ocular testimony regarding the manner of assault.

- 92.** Not only this, after causing fatal injuries to deceased Roma Yadav, the appellant abandoned minor child Ku. Mahira Yadav upon the railway track with full knowledge of the probable and imminent danger to the life of the child. Such conduct cannot by any stretch of imagination be treated as an act committed by a person incapable of understanding the nature and consequences of his actions. Rather, the conduct of the appellant unmistakably reflects a conscious, calculated and deliberate course of conduct undertaken with complete awareness and intention. The manner in which the crime was executed also negatives the theory of sudden provocation.
- 93.** It is trite law that to attract the exception of grave and sudden provocation, the provocation must be both grave as well as sudden so as to deprive an ordinary person of the power of self-control. In the present case, there is absolutely no evidence regarding any immediate provocation emanating from the deceased immediately before the occurrence. The defence has failed to point out any circumstance from the evidence which could even remotely probabalize such plea.
- 94.** On the contrary, the prosecution evidence reveals a calculated sequence of events demonstrating preparation and intention on the part of the appellant. The brutality of the attack, the prior threats extended by the appellant and his subsequent conduct cumulatively establish that the offence was committed with full

mental faculties and conscious knowledge of the consequences flowing therefrom.

- 95.** So far as the plea of insanity under Section 84 of the IPC is concerned, the same is equally untenable and devoid of substance. Section 84 IPC embodies the well-recognized principle that an act of a person of unsound mind is exempted from criminal liability only when, at the time of commission of the act, by reason of unsoundness of mind, the person was incapable of knowing the nature of the act or that what he was doing was either wrong or contrary to law.
- 96.** It is equally well settled that mere abnormality of mind, mental weakness, emotional disturbance or eccentric behaviour does not attract the protection of Section 84 IPC. The crucial point of time for determining the applicability of Section 84 IPC is the mental condition of the accused at the very time of commission of the offence. The burden to establish circumstances bringing the case within the ambit of the said exception lies upon the accused in view of Section 105 of the Indian Evidence Act.
- 97.** In this regard, reference may profitably be made to the decision of the Hon'ble Supreme Court in ***Dahyabhai Chhaganbhai Thakkar v. State of Gujarat, AIR 1964 SC 1563***, wherein it has been held that though the burden resting upon the accused to establish insanity is not as onerous as that cast upon the prosecution to prove guilt, nevertheless the accused is required to

place material on record sufficient to probabalize the existence of circumstances bringing the case within Section 84 IPC on the touchstone of preponderance of probabilities.

- 98.** In the present case, absolutely no evidence worth the name has been brought on record by the defence to establish that the appellant was suffering from any mental illness or unsoundness of mind at the relevant time. No medical prescription, treatment papers, psychiatric evaluation, hospital record or testimony of any medical expert has been produced. Even the conduct of the appellant as reflected from the evidence on record does not indicate any cognitive impairment or inability to understand the nature and consequences of his acts.
- 99.** Rather, the acts attributed to the appellant clearly reveal awareness, intention and conscious conduct. The appellant's prior threats, the manner of assault, the subsequent abandonment of the child and the surrounding circumstances all demonstrate that he was fully aware of the consequences of his conduct. Such deliberate and sequential acts are wholly inconsistent with the plea of legal insanity.
- 100.** It is also significant to note that no suggestion was put to the prosecution witnesses indicating any history of mental illness of the appellant. No evidence has emerged showing that the appellant was previously under psychiatric treatment or had exhibited behaviour indicative of legal insanity. Mere assertion by

the defence without foundational evidence cannot be accepted to extend the benefit of Section 84 IPC.

- 101.** The plea raised regarding absence of intention is equally liable to be rejected. Intention is ordinarily gathered from the attending circumstances, nature of weapon used, manner of assault, severity of injuries and conduct of the accused. In the present case, the appellant used a deadly weapon, inflicted fatal injuries on vital parts of the body and thereafter abandoned the minor child in a dangerous situation. The cumulative effect of these circumstances clearly establishes the requisite intention and knowledge attributable to the appellant.
- 102.** This Court is therefore of the considered opinion that the defence pleas raised on behalf of the appellant are nothing but desperate attempts to evade criminal liability and are completely falsified by the overwhelming prosecution evidence available on record.
- 103.** Consequently, this Court has no hesitation in holding that the appellant has utterly failed to establish any circumstance so as to attract the benefit of Section 84 IPC or any other general exception recognized under law. The prosecution, on the other hand, has successfully proved beyond reasonable doubt that the appellant committed the offence intentionally, consciously and with full knowledge of the consequences of his acts.
- 104.** Accordingly, Question No.(v) is answered against the appellant and in favour of the prosecution.

- 105.** Considering the overall facts and circumstances of the case, the nature and gravity of accusations proved against the appellant, the quality of oral as well as documentary evidence adduced by the prosecution, and the findings recorded hereinabove while dealing with the questions formulated for determination, this Court is of the considered opinion that the prosecution has succeeded in establishing the complete chain of incriminating circumstances beyond all reasonable doubt. The circumstances proved on record are fully consistent only with the hypothesis of guilt of the appellant and are wholly inconsistent with his innocence. The appreciation of evidence by the learned trial Court is found to be sound, reasoned and based upon a proper scrutiny of the entire record, warranting no interference by this Court in exercise of appellate jurisdiction.
- 106.** The evidence of PW-01 relating to motive and prior threat, the extra-judicial confession made before PW-02, the memorandum statement Ex.P/07 and consequential recoveries, the medical evidence, the FSL report Ex.P/58, DNA report Ex.P/59 and other surrounding circumstances collectively form an unbroken chain pointing unmistakably towards the guilt of the appellant. The FSL report Ex.P/58 clearly establishes the forensic linkage between the seized articles and the crime scene, while the DNA report Ex.P/59 conclusively connects the biological material recovered from the exhibits with the appellant, thereby scientifically corroborating the ocular and circumstantial evidence led by the

prosecution. The prosecution evidence is cogent, trustworthy and inspires full confidence of this Court. No material contradiction, omission or infirmity has been brought on record so as to discredit the prosecution case. The scientific evidence, when read in conjunction with the testimony of prosecution witnesses, leaves no manner of doubt regarding the complicity of the appellant in the commission of the offence.

**107.** The learned trial Court has minutely appreciated the entire evidence available on record in its proper perspective and has recorded findings strictly in accordance with law. This Court, upon independent re-appreciation of the evidence, finds itself in complete agreement with the conclusions arrived at by the learned trial Court. The findings recorded are neither perverse nor contrary to the material available on record and, therefore, warrant no interference in exercise of appellate jurisdiction. The defence evidence led in the form of DW-01 also does not in any manner advance the case of the appellant; rather, DW-01 has remained inconsistent and unconvincing on material particulars, and his testimony fails to create even a semblance of doubt in the otherwise consistent prosecution version.

**108.** The defence sought to be raised on behalf of the appellant regarding false implication, absence of intention and insanity has remained completely unsubstantiated. Except making bald suggestions in cross-examination, no reliable evidence was

adduced by the defence to probabalize any such plea. The statement of DW-01 does not inspire confidence and remains insufficient to dislodge the overwhelming prosecution evidence. On the contrary, the conduct of the appellant before, during and after the incident clearly establishes deliberate intention, conscious knowledge and active participation in commission of the offence. The statutory and scientific evidence, particularly Ex.P/58 and Ex.P/59, further negate the defence theory and firmly establish the appellant's involvement.

**109.** This Court cannot also lose sight of the extreme brutality and barbaric manner in which the offences were committed. The evidence on record establishes that deceased Roma Yadav was done to death by inflicting fatal injuries and thereafter minor child Ku. Mahira Yadav was abandoned on the railway track with full knowledge of the likely consequences. The medical evidence clearly records multiple grievous and fatal injuries on the body of the deceased, consistent with homicidal violence, and the nature of injuries corroborates the ocular account of the prosecution witnesses. The acts attributed to the appellant reveal complete depravity and total disregard for human life.

**110.** In the considered view of this Court, the circumstances established by the prosecution are incompatible with any hypothesis other than the guilt of the appellant, and the learned trial Court has rightly returned the finding of conviction against

him. The chain of evidence, both oral and scientific, is complete, consistent and wholly reliable, leaving no room for any reasonable doubt.

111. For the foregoing reasons, it stands clearly proved that it was the appellant alone who was the author of the crime. The failure of the appellant to furnish any plausible explanation in his statement recorded under Section 313 Cr.P.C. further lends additional assurance to the prosecution case. The testimony of DW-01 being unworthy of reliance, and the scientific evidence in the form of FSL report Ex.P/58 and DNA report Ex.P/59 being conclusive in nature, the conviction recorded by the learned trial Court deserves to be affirmed.
112. Consequently, this Court is of the considered opinion that the prosecution has successfully proved its case against the appellant beyond all reasonable doubt. We find no illegality, perversity or infirmity in the impugned judgment of conviction and order of sentence passed by the learned trial Court warranting interference by this Court.
113. Accordingly, the present criminal appeal, being devoid of substance and merit, deserves to be and is hereby **dismissed**. The conviction and sentence imposed upon the appellant by the learned trial Court are hereby affirmed.
114. It is stated at the Bar that the appellant is in jail. Consequently, he shall remain in custody and serve out the sentence awarded to

him by the learned trial Court in accordance with law.

- 115.** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.
- 116.** Let a certified copy of this judgment along with the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

**Sd/-**  
**(Ravindra Kumar Agrawal)**  
**Judge**

**Sd/-**  
**(Ramesh Sinha)**  
**Chief Justice**

**Head Note**

Where the motive is duly established and the accused's criminal antecedents stand admitted, and the prosecution case is further corroborated by recovery proceedings, medical evidence, and scientific findings including FSL and DNA analysis, the conviction of the accused stands fully justified and leaves no scope for any other view except guilt.