

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. Murder Reference No. 4/2025
CNR: RJHC011160182025
URN: MREF / 4U / 2025

State Of Rajasthan, Through PP

-----Petitioner

Versus

Premlal, S/o Nawa, Age Major, R/o Nedach, P.s. Khamnore,
District Rajsamand (Raj)

-----Respondent

Connected With

D.B. Criminal Appeal (DB) No.27/I2026
CNR: RJHC010047832026
URN: CRLD / 63U / 2026

Premlal, S/o Nawa, Age Major, R/o Nedach, P.s. Khamnore,
District Rajsamand (Raj)

-----Appellant

Versus

State Of Rajasthan, Through PP

-----Respondent

Mr. Deepak Choudhary, AAG for the State
Mr. Gaurav Singh, for the accused

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA
Judgment

Reportable

BY THE COURT: (PER HON'BLE MR. JUSTICE VINIT KUMAR MATHUR)

1.	Date of conclusion of argument	09.07.2026
2.	Date on which the judgment was reserved	09.07.2026
3.	Whether the full judgment or only operative part is pronounced	Full Judgment
4.	Date of Pronouncement	14.07.2026

1. By the impugned judgment and order dated 08.12.2025, passed in Sessions Case No. 30/2023, the Learned Additional District and Session Judge, Mavli, Udaipur (referred to hereinafter as "the Trial Court"), in the case of State of Rajasthan vs. Premlal, convicted and sentenced the accused-appellant as under :-

302 IPC	Death Penalty, with a Fine of Rs.50,000/-	In default of payment of fine to further undergo one year Additional Rigorous Imprisonment.
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2. Death Reference No.04/2025 has been submitted by the Trial Court under Section 366 Cr.P.C. seeking confirmation of the capital punishment awarded to accused-appellant Premlal. Appeal No. 27/2026 has been preferred by accused/appellant Premlal assailing the impugned judgment.

3. As the Death Reference as well as Appeal both arise out of the same judgment and order, they have been heard and are being decided together.

Factual Aspects:

4. Facts relevant for adjudication of the present case are that on 14.01.2023, complainant Bhagga submitted a written report at Police Station Ghasa, District Udaipur, alleging that his daughter, Nima, had been married about seven years earlier to accused-appellant Premlal in accordance with the customs prevailing in their community. After marriage, Nima resided at her matrimonial home and was blessed with one son and one daughter. It was alleged that about one year prior to the incident, accused-appellant Premlal had contracted a second

marriage (*Nata marriage*) with Shanta. Aggrieved by the conduct of her husband, Nima left her matrimonial home along with her two children and started residing with her parents at Village Negadia, where she sustained herself by working as a labourer in the neighbouring villages. The complainant further alleged that on 12.01.2023 at about 7:30 a.m., accused-appellant Premlal telephonically contacted Nima and informed her that he had reached Ghoda Ghati, asking her to come there. Though Nima initially expressed her reluctance on the ground that it was too early in the morning, she subsequently left her parental home at about 8:00 a.m. carrying a tiffin of food and proceeded towards the Negadia bus stand. At about 10:00 a.m., the complainant's grandson, Raju, attempted to contact Nima on her mobile number 9079097729, but her mobile phone was found switched off. It was also alleged that the mobile phone of accused-appellant Premlal remained switched off thereafter. Since Nima did not return home for two days, the complainant approached Police Station Delwada for lodging a missing person report. While he was present there, the police informed him that information had been received regarding the recovery of a woman's dead body lying in a field near Village Sindhu. The complainant, accompanied by one China, proceeded to the place of occurrence, where he identified the deceased as his daughter, Nima. According to the complainant, injuries were visible on her face and head, which appeared to have been caused by a stone. Suspecting that accused-appellant Premlal had deceitfully called Nima to the

place of occurrence and thereafter murdered her by inflicting stone blows on her head and face.

5. On the basis of the said report, a case bearing FIR No. 9/2023 came to be registered at Police Station Ghasa, Udaipur for the offence under Section 302 of the Indian Penal Code.
6. After completion of investigation, the police filed a charge-sheet against the accused - appellant for the offence under Section 302 of the Indian Penal Code before the Additional Chief Judicial Magistrate, Mavli, Udaipur from where the case was committed for trial to the learned Session Judge, Udaipur and latter the matter was transferred to Additional District and Session Judge, Mavli, Udaipur for trial.
7. Learned trial court, after hearing arguments on charge, framed, read over and explained the charges under Section 302, to the accused-appellant, who denied the same and claimed trial.
8. During the trial, the prosecution examined as many as 23 witnesses. In support of its case, the prosecution also produced documentary evidence, Exhibits P-01 to P-34 in support of its case; whereafter the prosecution evidence was closed.
9. The statement of the accused-appellant was recorded under Section 313 Cr.P.C., wherein he denied the prosecution allegations in toto and claimed to be innocent, in defence, the accused-appellant not examined any witness.
10. Learned Trial Court, after hearing the arguments advanced on behalf of both sides and upon appreciation of the oral and documentary evidence brought on record, convicted and sentenced the accused-appellant for the offence under Section

302 and sentenced him vide judgment dated 08.12.2025, as mentioned hereinabove.

11. Being aggrieved by the aforesaid judgment of conviction and order of sentence passed by the learned trial court, the accused-appellant has preferred the present appeal before this Court whereas the trial court has sent the matter before this Court for confirmation of the death sentence and therefore, the murder reference has been registered.

Submission on Behalf of Accused/Appellant:

12. Learned Counsel appearing on behalf of the accused-appellant, while assailing the impugned judgment, vehemently submitted that the judgment dated 08.12.2025 passed by the learned trial court is contrary to the evidence available on record and, therefore, the same is unsustainable in the eye of law and deserves to be quashed and set aside by this Court.
13. Learned counsel submitted that the learned trial Court failed to appreciate the prosecution evidence in its correct perspective and ignored the inherent inconsistencies and infirmities appearing on record. It was argued that the prosecution has failed to establish the guilt of the appellant beyond reasonable doubt and, therefore, the conviction cannot be sustained.
14. Learned Counsel for the accused-appellant further submitted that there is no direct, reliable or cogent evidence connecting the accused-appellant with the commission of the alleged offence. According to learned counsel, the prosecution evidence

is wholly insufficient and does not inspire confidence so as to warrant conviction of the appellant.

15. Learned counsel submitted that the learned trial Court gravely erred in treating the present case as falling within the "rarest of rare" category. He Further submitted that although the learned trial Court extracted and relied upon the principles laid down in the decisions of the Hon'ble Supreme Court in *Bachan Singh*, *Machhi Singh* and other subsequent judgments, it failed to satisfy the constitutional requirement that life imprisonment is the rule and death sentence is an exception to be imposed only when the alternative option is unquestionably foreclosed. According to learned counsel, no reasons have been assigned demonstrating why life imprisonment would be wholly adequate in the facts of the present case.
16. Learned Counsel for the accused-appellant submitted that while the learned trial Court extensively considered the alleged aggravating circumstances, namely the matrimonial relationship between the parties, alleged premeditation, commission of the offence at an isolated place and use of stones, it failed to adequately consider the mitigating circumstances relating to the accused appellant, including his age, absence of any previous criminal antecedents, family responsibilities, socio-economic background, possibility of reform and rehabilitation and the fact that the incident allegedly arose out of matrimonial discord rather than constituting a crime affecting society at large. He further submitted that sentencing exercise mandated by the Hon'ble Supreme Court requires balancing both

aggravating and mitigating circumstances, which exercise has not been undertaken.

17. Learned counsel further argued that the learned trial Court has placed undue emphasis upon the alleged deception practised upon the deceased, breach of marital trust and the need to send a strong deterrent message to society while awarding the death penalty. He also submitted that moral indignation, public outrage or generalized notions of deterrence cannot substitute individualized sentencing, which is the governing principle in capital punishment jurisprudence. He submitted that the learned trial Court erroneously equated the brutal manner of commission of the offence with the "rarest of rare" doctrine without examining whether the appellant could still be considered capable of reform and rehabilitation.
18. Learned Counsel also submitted that neither the prosecution led any evidence nor did the learned trial Court undertake any meaningful inquiry regarding the appellant's likelihood of committing future offences or his prospects of reformation and rehabilitation. In the absence of such material, it was argued that the presumption ought to favour imposition of life imprisonment rather than the irreversible sentence of death.
19. Learned counsel further submitted that the entire prosecution case rests upon circumstantial evidence, principally comprising the last seen circumstance, call detail records, medical evidence and the site inspection. It was submitted that in cases based exclusively upon circumstantial evidence, the possibility of error cannot be completely ruled out and, therefore, imposition of the

extreme penalty of death is wholly unwarranted. He also submitted that even the precedents relied upon by the learned trial Court regarding the last seen theory emphasize the necessity of careful scrutiny and corroboration before drawing an inference of guilt.

20. Without prejudice to the aforesaid submissions, learned counsel alternatively submitted that the learned trial Court failed to examine whether the ends of justice could have been adequately served by imposing life imprisonment or a sentence of life imprisonment for a specified term without remission before resorting to the irreversible punishment of death. He submitted that failure to consider such alternative sentencing options vitiates the order awarding capital punishment.
21. Learned Counsel further submitted that the finding recorded by the learned trial Court that the deceased remained in the exclusive company or domination of the accused-appellant at the place of occurrence is founded merely on conjectures drawn from the site plan (Exhibit P-3) and not upon any independent and reliable evidence. He also submitted that no recovery under Section 27 of the Indian Evidence Act connecting the accused-appellant with the alleged weapon of offence or any blood-stained article has been proved and, therefore, the chain of circumstances remains incomplete.
22. Lastly, learned counsel submitted that the learned trial Court failed to properly appreciate the defence case regarding the existence of prior matrimonial discord, separation between the spouses and efforts at reconciliation. According to learned

counsel, these circumstances make it reasonably possible that the deceased may have left or met with harm in circumstances not exclusively attributable to the appellant. He, therefore, submitted that where two views are reasonably possible on the evidence available on record, the one favourable to the accused ought to have been adopted. Consequently, it was prayed that the impugned judgment of conviction and order of sentence be set aside and the appellant be acquitted of the charges.

23. In the alternative, learned Counsel submitted that even assuming for the sake of arguments that the conviction to be justified, the present case does not fall within the category of "rarest of rare" cases and, therefore, the sentence of death deserves to be commuted to life imprisonment.
24. *E-converso*, learned Additional Advocate General Mr. Deepak Choudhary has vehemently opposed the submissions advanced on behalf of learned Counsel for the accused-appellant and has supported the findings recorded by the learned trial court. He further submitted that the impugned judgment dated 8.12.2025 does not suffer from any infirmity or illegality and that the conviction of the accused-appellant for the offence under Section 302 IPC has been rightly recorded on the basis of reliable and cogent evidence available on record.

Discussion & Analysis:

25. We have bestowed our anxious consideration to the submissions advanced by learned counsel for the parties and have carefully re-appreciated the entire oral as well as

documentary evidence available on record including the impugned order dated 8.12.2025.

Consideration of Testimonies:

26. At the very outset, the First Information Report (Ex.P-1), though naming the accused-appellant Premlal, does not inspire complete confidence, but the fact of the matter remains that PW-1 Bhagga, the complainant and father of the deceased, has categorically admitted during cross-examination that he is an illiterate person and only knows how to sign. He specifically deposed that Ex.P-1 was written by the police official of Police Station Delwara and the contents thereof were never read over or explained to him before obtaining his signatures. More importantly, he admitted that had the police not informed him that Premlal had committed the murder, he himself would not have known that the accused-appellant was responsible. Such an admission strikes at the very root of the prosecution case because it demonstrates that the implication of the accused-appellant in the FIR was not based upon the complainant's personal knowledge, but upon information allegedly supplied by the police. Consequently, PW-1 emerges merely as a hearsay witness regarding the involvement of the accused-appellant and not as a witness possessing direct knowledge of the occurrence.
27. The evidence further reveals that despite the deceased allegedly remaining missing from 12.01.2023 till recovery of her dead body on 15.01.2023, no missing person report was lodged. Neither the prosecution nor the Investigating Officers have offered any satisfactory explanation for this conspicuous

omission. PW-23 Ajay Singh candidly admitted that he did not even investigate whether any missing report had been lodged before the competent police station. Such unexplained inaction assumes significance because the deceased was allegedly missing for nearly three days, yet no immediate legal steps were taken by her family members. This circumstance materially weakens the prosecution story and creates doubt regarding the sequence of events narrated subsequently.

28. The prosecution has sought to establish the guilt of the accused-appellant principally through the theory of "last seen together". However, the evidence adduced in support thereof is wholly unreliable and suffers from serious infirmities.
29. The testimony of PW-10 Tulsiram, on careful scrutiny, does not inspire confidence and falls short of the standard required for establishing the "last seen together" circumstance. Although the witness claimed that he had seen the deceased Nima leaving with the accused-appellant Premlal on a motorcycle, his own admissions made during cross-examination render his version highly doubtful and unreliable. He admitted that despite allegedly witnessing such an important circumstance, he neither informed the police immediately nor disclosed this fact when the deceased did not return home. According to him, he merely informed PW-1 Bhagga that Nima had left with Premlal and even attempted to contact both Nima and the accused-appellant over the telephone, but as both calls remained unanswered, neither he nor the family members considered it appropriate to lodge an immediate report with the police,

despite the deceased remaining untraceable throughout the night. Such conduct is wholly unnatural and inconsistent with the behaviour expected of a close relative who claims to have been the last person to see the deceased alive in the company of the accused.

30. More importantly, PW-10 admitted that when he visited the police station on the very next day after the recovery of the dead body and remained present during the investigation, he did not disclose to the Investigating Officer that he had seen the deceased leaving with the accused-appellant. He further admitted that even when he was called to the police station on subsequent occasions, including when the motorcycle was identified and when his signatures were obtained on various documents, he still did not reveal this alleged "last seen" fact. Significantly, he acknowledged that even after twenty days of the incident, the police neither recorded his statement nor visited his house for interrogation. His attention was specifically drawn to his police statement (Exhibit D-2), wherein the relevant portion regarding the deceased leaving with the accused-appellant was found absent, and the witness refused to acknowledge the suggested contents. Thus, the prosecution has failed to furnish any plausible explanation for the inordinate delay of nearly fifteen to twenty days in recording the statement of a witness who is projected as the principal witness of the "last seen together" theory.

31. The aforesaid infirmity assumes greater significance in view of the categorical admission made by PW-21 Phaliram, the

- Investigating Officer, that the statements of PW-10 Tulsiram and PW-12 Jamnalal were indeed recorded after a delay of about fifteen to twenty days and that no explanation for such delay finds place in the case diary or any other investigation record. He further admitted that despite treating these witnesses as material witnesses, their statements were not recorded under Section 164 Cr.P.C. before the Magistrate. In the absence of any satisfactory explanation for the extraordinary delay in recording their statements, coupled with the unnatural conduct of PW-10 in withholding such a vital fact despite repeated opportunities to disclose it, the possibility of subsequent embellishment or improvement cannot be ruled out. Consequently, the testimony of PW-10 Tulsiram does not inspire the confidence of this Court and cannot safely be relied upon for establishing the crucial circumstance of "last seen together", which constitutes the very foundation of the prosecution case.
32. Similarly, the statements of PW-12 Jamnalal also suffers from the same infirmity. Although he claims to have seen the deceased and the accused-appellant together, he admitted that he never followed them, did not know where they went, did not accompany them and had no knowledge whether they proceeded towards the place where the body was ultimately recovered. His statement also came to be recorded nearly one month after the incident. The witness himself admitted that he merely saw them riding together without knowing their destination. Thus, even if accepted in its entirety, his testimony

merely establishes that the deceased and the accused-appellant were together at some point of time and not that the accused-appellant continued to remain in her company till the time of death. Such evidence falls far short of the strict standard required for application of the last seen doctrine.

33. The prosecution case suffers from another fatal infirmity. PW-23 Ajay Singh, the first Investigating Officer, categorically admitted that during the course of his investigation no fact whatsoever came to light indicating with whom the deceased was last seen prior to her death. He further admitted that complainant Bhagga never disclosed before him that any person had seen the deceased leaving with the accused-appellant. These admissions completely demolish the subsequent version introduced by PW-10 and PW-12 after considerable delay.
34. The testimony of PW-11 Dali Bai, the mother of the deceased, also fails to lend any support to the prosecution case with regard to the circumstance of "last seen together". A careful appreciation of her evidence reveals that she is not an eyewitness to any material fact connected with the alleged occurrence. During her cross-examination, she categorically admitted that the accused-appellant Premlal had not come to her house on the relevant day and that she herself had never spoken to him over the telephone. According to her own version, she was not in possession of any mobile phone and the alleged call was received on her daughter's mobile phone. She further admitted that she did not know from which mobile number the call had been made and had never personally

spoken to the caller. Thus, even the alleged telephonic conversation attributed to the accused-appellant remains unsubstantiated through her own testimony.

35. More significantly, PW-11 unequivocally admitted that she had neither witnessed the deceased leaving the house with the accused-appellant nor seen them together at any point of time. She stated that when her daughter left the house, she did not even inquire where she was going. She further admitted that she had not seen the alleged incident and had no personal knowledge of the deceased accompanying the accused-appellant. When questioned regarding the alleged "last seen" circumstance, she candidly stated that it was other persons who had allegedly seen Nima and Premlal together, but she neither knew the names of those persons nor could she identify them. She merely stated that PW-10 Tulsiram had seen them together. Thus, her entire testimony regarding the deceased having left with the accused is admittedly based upon information received from others and not upon her own personal knowledge. Such evidence is purely hearsay in nature and is legally incapable of proving or corroborating the prosecution's "last seen together" theory.
36. Another significant aspect emerging from her cross-examination is that her statement was never recorded during the course of investigation. She specifically admitted that although she was called to the police station, the Investigating Officer neither interrogated her nor recorded her statement. She further admitted that even fifteen days after the incident,

no statement was recorded and she did not disclose any facts to the police. This omission on the part of the investigating agency assumes considerable significance because PW-11 is the mother of the deceased and was a natural witness. Had she been aware of any incriminating circumstance against the accused-appellant, the Investigating Officer would ordinarily have recorded her statement at the earliest opportunity. The failure to do so materially weakens the prosecution case.

37. Her testimony also reveals that the matrimonial relationship between the deceased and the accused-appellant was not free from complexities. She admitted that although the parties had obtained a divorce before the incident at Police Station Delwara, a subsequent compromise had been executed before the Nathdwara Court and the relevant documents had also been furnished to the police. This admission substantially dilutes the prosecution's attempt to establish a continuing matrimonial discord as the motive for the alleged offence.
38. In view of the aforesaid admissions, it is evident that PW-11 Dali Bai is not a witness to the alleged "last seen" circumstance, nor does she possess any direct knowledge connecting the accused-appellant with the occurrence. Her evidence, being entirely hearsay on this crucial aspect and unsupported by any contemporaneous statement recorded during investigation, does not furnish any corroboration to the prosecution case. Consequently, no reliance can safely be placed upon her testimony for establishing the circumstance that the deceased was last seen alive in the company of the accused-appellant.

39. The prosecution has also relied upon alleged motive arising from matrimonial discord between the accused and the deceased. However, this circumstance also remains unproved. The evidence of PW-11 Dali Bai clearly reveals that after earlier disputes there had been reconciliation between the parties. Neither the alleged woman Shanta nor any other witness was examined to establish continuation of any extramarital relationship. No independent evidence has been adduced to prove that such dispute persisted immediately before the occurrence. Consequently, the alleged motive remains speculative and cannot constitute a reliable incriminating circumstance.
40. The evidence of PW-21 Phaliram and PW-23 Ajay Singh, the two Investigating Officers, when examined in its entirety, discloses several material omissions, procedural irregularities and investigative lapses which strike at the very root of the prosecution case. Since the present case is founded entirely on circumstantial evidence, every link in the chain was required to be established through a fair, impartial and legally sustainable investigation. However, the admissions made by both the Investigating Officers during their cross-examination demonstrate that the investigation suffered from serious deficiencies, thereby creating substantial doubt regarding the reliability of the prosecution cases.
41. At the outset, PW-21 Phaliram categorically admitted that during the course of investigation no eyewitness to the occurrence came forward. He further admitted that no CCTV

footage could be collected which established that the deceased Nima was last seen in the company of the accused-appellant Premlal. This admission assumes considerable significance because the prosecution has sought to establish the most crucial circumstance of "last seen together" only through the testimony of PW-10 Tulsiram and PW-12 Jamnalal. Admittedly, no independent witness from the bus stand or any public place was examined although, according to the prosecution itself, the deceased allegedly left from a busy public place where several persons were present. The failure of the investigating agency to collect any independent evidence or electronic evidence in support of the "last seen" theory materially weakens this vital circumstance.

42. The credibility of the alleged "last seen" witnesses is further eroded by the admissions of PW-21 Phaliram. He candidly admitted that the statements of PW-10 Tulsiram and PW-12 Jamnalal were recorded only after a delay of about fifteen to twenty days from the date of the incident and that no explanation whatsoever for such delay is available in the case diary or any other investigation record. He further admitted that although these witnesses constituted the foundation of the prosecution case, their statements were never recorded under Section 164 Cr.P.C. before the Magistrate. More importantly, after recording the statements of these witnesses, he did not record any supplementary statement of the complainant Bhagga to verify whether these witnesses had in fact informed him on the very day that the deceased had left with the

accused-appellant. Such unexplained delay coupled with the omission to obtain judicial statements under Section 164 Cr.P.C. casts a serious cloud upon the authenticity of the alleged "last seen" evidence and leaves open the possibility of subsequent improvement or embellishment.

43. The investigation further reveals glaring lapses in collecting independent evidence. PW-21 admitted that the recoveries under recovery memos Exhibits P-8, P-9, P-10 and P-11 were not witnessed by any independent person and that only subordinate police officials were made witness. He further admitted that the recovery memos do not record any effort made by the investigating agency to secure independent witnesses before conducting the recoveries. It is equally admitted that neither the Patwari nor the Sarpanch of the locality was called at the time of the alleged recoveries despite the place being government land. Such recoveries witnessed by police officials only without any satisfactory explanation for non-association of independent witnesses, necessarily require strict judicial scrutiny and cannot be accepted at their face value.
44. The procedure adopted while recording the disclosure statements under Section 27 of the Indian Evidence Act also creates doubt regarding their voluntariness and reliability. PW-21 categorically admitted that Exhibits P-22 and P-23 are not in the handwriting of the accused-appellant and that at the time of recording the alleged disclosure statements no person was present except himself and the accused-appellant. He further

admitted that whatever information was allegedly furnished by the accused-appellant was typed by him personally. Thus, the alleged disclosure statements were recorded in the absence of any independent witness, and the entire exercise remained confined to the Investigating Officer and the accused-appellant alone. Such a procedure falls short of the standard expected in criminal investigations and diminishes the evidentiary value of the alleged disclosures.

45. The recoveries allegedly effected pursuant to the disclosure statements are also surrounded by serious doubts. PW-23 Ajay Singh, the first Investigating Officer, categorically admitted that immediately after the occurrence he thoroughly inspected the place of occurrence with the assistance of the Dog Squad and FSL team, searched the surrounding area within a radius of about 100 to 200 metres and seized every blood-stained article found at the scene. He specifically deposed that no blood-stained article was left behind at the place of occurrence. However, PW-21 Phaliram subsequently claimed recovery of a blood-stained stone and a blood-stained towel (*Gamcha*) from substantially the same place at the instance of the accused-appellant. Significantly, PW-21 himself admitted that Exhibits P-10 and P-11 relate substantially to the same place, the only difference being a distance of about ten to fifteen feet between them, and further admitted that both the stone and towel (*Gamcha*) were recovered from the place of occurrence itself.

46. This contradiction assumes considerable importance. If, according to PW-23 Ajay Singh, the entire place of occurrence

had already been minutely inspected and every blood-stained article had been seized during the initial investigation, the subsequent recovery of additional blood-stained articles from practically the same location pursuant to the disclosure statement of the accused-appellant becomes highly doubtful. Such inconsistent versions given by the two Investigating Officers materially diminish the evidentiary value of the alleged recoveries and render them unsafe to rely upon.

47. Further doubt arises from the fact that the recovered black towel (*Gamcha*) admittedly did not bear any distinctive mark or identification connecting it with the accused-appellant. Likewise, PW-21 admitted that no information under Section 27 of the Evidence Act was obtained regarding the use of the motorcycle allegedly employed in the commission of the offence. No recovery memo was prepared regarding the place from where the motorcycle was seized, nor was any documentary record placed on file establishing its ownership except an unproduced Rajcop verification. Even the information allegedly obtained from Rajcop was never brought on record. Consequently, the prosecution has failed to legally establish any nexus between the recovered motorcycle and the alleged commission of the offence.
48. The deficiencies in the investigation extend further. PW-21 admitted that neither he nor the FSL team attempted to lift blood samples or fingerprints from the handle grip of the seized motorcycle. He further admitted that the FSL team did not visit the place of recovery and that the articles were merely

forwarded to the FSL laboratory. Such omissions assume significance because, had scientific evidence been properly collected, it could have conclusively established whether the motorcycle had in fact been used in the commission of the crime.

49. The investigation relating to electronic evidence is equally unsatisfactory. PW-21 admitted that neither the Nodal Officers who issued the call detail records and certificates under Section 65-B of the Evidence Act was examined during investigation nor their names and addresses were even incorporated in the list of witnesses. Consequently, the electronic evidence relied upon by the prosecution lacks proper foundational proof and cannot be treated as conclusive evidence against the accused-appellant.
50. Equally significant are the admissions of PW-23 Ajay Singh regarding the overall deficiencies in the investigation. He admitted that during his investigation no eyewitness to the incident surfaced. He further admitted that no material came before him indicating with whom the deceased was last seen before her death. The complainant Bhagga also never disclosed before him that anybody had seen the deceased leaving with the accused-appellant. He further admitted that he did not investigate who first discovered the dead body in the forest, did not ascertain whether any missing report had been lodged during the three days when the deceased remained untraceable, did not investigate the route through which the deceased allegedly travelled, nor did he make any inquiry from persons residing along that route. He also admitted that despite

the body having been recovered from an isolated place, he neither investigated the possibility of sexual assault nor requested the post-mortem board to specifically examine the deceased in that regard.

51. PW-23 further admitted that no meaningful investigation was carried out regarding the alleged matrimonial dispute or the subsequent reconciliation between the deceased and the accused-appellant, despite such circumstance constituting the alleged motive. He also admitted that no inquiry was conducted regarding the accused's whereabouts between 12.01.2023 and 14.01.2023, and that no written order exists on record showing the transfer of investigation from him to PW-21 Phaliram. The subsequent investigation was admittedly handed over merely on verbal directions without any written order or written instructions indicating the course of further investigation. Such lapses further weaken the fairness and transparency of the investigation.
52. The cumulative effect of these admissions leaves no manner of doubt that the investigation in the present case was neither complete nor free from serious procedural irregularities. Material witnesses were not promptly examined, independent witnesses were not associated during crucial recoveries, scientific and electronic evidence was inadequately collected, and several vital aspects capable of establishing the guilt or innocence of the accused were left unexplored. It is a settled principle of criminal jurisprudence that where the prosecution case rests entirely on circumstantial evidence, each

circumstance must be proved through cogent, reliable and legally admissible evidence. In the present case, the investigation itself having suffered from substantial infirmities, the benefit of such lapses cannot be shifted upon the accused-appellant. These serious deficiencies materially affect the credibility of the prosecution case and reinforce the reasonable doubt regarding the involvement of the accused-appellant. Consequently, the alleged recoveries, disclosure statements and other incriminating circumstances cannot safely be relied upon for sustaining a conviction.

Appreciation of Medical Evidence:

53. The medical evidence adduced by the prosecution also requires careful scrutiny in the backdrop of the entire circumstantial evidence. The prosecution examined PW-3 Dr. Ravindra Kumar, PW-6 Dr. Pallavi Sharma, members of the Medical Board which conducted the post-mortem examination of the deceased Nima, and PW-16 Dr. Dilip Kumar Soni, who medically examined the accused-appellant Premlal. A conjoint reading of their testimonies does not completely support the prosecution case in the manner sought to be projected.
54. PW-3 Dr. Ravindra Kumar deposed that on 15.01.2023, the dead body of Nima was brought to CHC Mavli where a Medical Board comprising himself and PW-6 Dr. Pallavi Sharma conducted the post-mortem examination. According to the post-mortem report (Exhibit P-7), the deceased had sustained following injuries-

- "1. A lacerated wound over the left eye measuring $1\frac{1}{2} \times 1\frac{1}{2}$ inch.
2. Scratches on the nose and broken nasal bone were found.
3. A lacerated wound measuring 5×6 inches on the left cheek.
4. Both the front teeth were found broken.
5. A lacerated wound measuring $1 \times 1\frac{1}{2}$ inch on the left ear.
6. Contusions (*Nilgu*) on the left neck.
7. Contusions (*Nilgu*) 4×4 inches on the left side of the neck."

On internal examination, injury to the scalp and sub-scalp haemorrhage over the left temporo-parietal region were noticed, and the cause of death was opined to be ante-mortem head injury sufficient in the ordinary course of nature to cause death.

55. However, during cross-examination, PW-3 Dr. Ravindra Kumar made certain admissions which assume considerable significance. He categorically admitted that except for the injuries on the face and head, no external injuries were found on any other part of the body of the deceased. He further admitted that if the deceased had struggled with an assailant prior to her death, abrasion marks or injuries would ordinarily have been expected on her hands and feet. Significantly, he admitted that no such injuries suggestive of struggle were found on the body of the deceased. He further stated that similar injuries were possible if a person accidentally fell from a height upon rocks. He also admitted that the time of death mentioned in the post-mortem report was only an approximate

opinion and that no definite or confirmed time of death could be given.

56. The evidence of PW-6 Dr. Pallavi Sharma substantially corroborates the testimony of PW-3. She reiterated that the deceased had died due to ante-mortem head injury and proved the post-mortem report (Exhibit P-7). However, in her cross-examination, she also admitted that no injuries other than those found on the face and head were present on the body of the deceased. She specifically stated that where a person struggles before death, injuries on other parts of the body are generally expected, but no such injuries were found in the present case. She further admitted that she could not state with certainty whether the deceased had actually struggled before her death or not. She also conceded that injuries of the nature noticed in the post-mortem could occur if a person fell face down upon rocks from a hill, and in such a situation injuries to other parts of the body were also possible.
57. These admissions made by both members of the Medical Board materially dilute the prosecution theory regarding the manner of assault. Although the medical evidence undoubtedly establishes that the deceased died due to ante-mortem head injuries, it does not conclusively support the prosecution version that such injuries could only have been caused by a homicidal assault committed by the accused-appellant. The possibility indicated by both doctors that similar injuries could result from a fall upon rocks cannot be completely ignored while appreciating a case founded entirely upon circumstantial

evidence. More importantly, the complete absence of defensive injuries or injuries suggestive of resistance assumes significance in view of the prosecution allegation that the deceased was brutally assaulted with stones.

58. The evidence of PW-16 Dr. Dilip Kumar Soni, who conducted the medical examination of the accused-appellant Premlal, also assumes importance. During his cross-examination, he categorically admitted that no injury, abrasion or scratch mark whatsoever was found on the body of the accused-appellant at the time of his medical examination. He further admitted that no traces of blood were detected beneath the fingernails of the accused-appellant. These admissions assume significance because if, as alleged by the prosecution, the accused-appellant had assaulted the deceased with heavy stones resulting in multiple facial injuries and thereafter handled her body, some marks of resistance or blood traces on the accused-appellant could reasonably have been expected. The absence of any such injuries or blood stains does not support the prosecution case.
59. It is also noteworthy that PW-16 admitted that the identity form (Exhibit P-16) was prepared merely on the basis of the police report and the particulars furnished by the accused-appellant. He had not been supplied with any documentary proof of identity of the accused-appellant, nor had he ascertained the duration for which the accused-appellant had remained in police custody prior to his medical examination. Though these omissions may not by themselves be fatal, they nevertheless reflect lack of meticulousness in the investigation.

60. Thus, the cumulative effect of the medical evidence is that while it conclusively establishes that the death of Nima was caused by ante-mortem head injury, it does not conclusively establish the identity of the assailant nor does it corroborate the prosecution version in material particulars. The absence of any marks of struggle on the body of the deceased, the possibility acknowledged by both doctors that similar injuries could occur due to a fall upon rocks, the inability to determine the precise time of death, and the absence of any injury, scratch marks or blood traces on the accused-appellant collectively assume considerable significance. Medical evidence is essentially corroborative in nature and cannot, by itself, establish the complicity of the accused-appellant unless supported by a complete and reliable chain of circumstantial evidence.
61. In the present case, where the prosecution has failed to satisfactorily establish the foundational circumstances such as the "last seen together" theory, reliable recoveries and an unimpeachable investigation, the medical evidence does not cure those deficiencies. Rather, the admissions elicited during cross-examination create further doubt regarding the prosecution version and, therefore, cannot be treated as constituting an incriminating circumstance sufficient to sustain the conviction of the accused-appellant beyond reasonable doubt.

Appreciation of FSL and DNA Evidence:

62. The prosecution has placed considerable reliance upon the Forensic Science Laboratory Report (Exhibit P-28) to contend that the scientific evidence conclusively establishes the involvement of the accused-appellant. A careful examination of the report reveals that human blood was detected on the blood-stained soil collected from the first and second places of occurrence, the three blood-stained stones recovered from the place of occurrence, the stone allegedly recovered at the instance of the accused-appellant, and the *Gamcha* (towel) allegedly recovered pursuant to the disclosure statement of the accused-appellant. DNA examination further established that the female DNA profile obtained from the blood-stained soil (Exhibit-1), the three stones recovered from the place of occurrence (Exhibit-3) and the Lugadi (Odhani) of the deceased (Exhibit-4) matched with the female DNA profile detected on the stone allegedly recovered at the instance of the accused (Exhibit-5). The report further indicates that the DNA profile obtained from the *Gamcha* (Exhibit-6) was not an exclusive female DNA profile but a **mixed DNA profile**, and that the alleles of the female DNA profile as well as the male DNA profile obtained from the blood sample of accused-appellant Premlal (Exhibit-7) were accounted for in the mixed DNA profile detected on the said *Gamcha*.
63. At first glance, the FSL report appears to provide scientific corroboration regarding the presence of the deceased's blood on the stone allegedly recovered at the instance of the accused-

appellant. However, the evidentiary value of scientific evidence cannot be appreciated in isolation from the circumstances under which the incriminating articles themselves were recovered. It is a settled principle of criminal jurisprudence that forensic evidence is merely corroborative in nature and cannot independently establish the guilt of an accused unless the foundational facts leading to the recovery of the incriminating articles are first proved by reliable and legally admissible evidence.

64. In the present case, as already discussed hereinabove, the very recovery proceedings suffer from serious legal and factual infirmities. PW-21 Phaliram admitted that no independent witnesses were associated with the alleged recoveries and only police personnel acted as witnesses. He further admitted that no explanation has been recorded in the recovery memos regarding the non-availability of independent witnesses. It also stands admitted that the alleged disclosure statements under Section 27 of the Indian Evidence Act were recorded by the Investigating Officer himself in the absence of any independent witness and were typed by him while only he and the accused-appellant were present. Such procedural irregularities inevitably cast doubt upon the genuineness and voluntariness of the alleged disclosure statements and the consequential recoveries.
65. The reliability of the recoveries is further weakened by the material contradiction between the two Investigating Officers. PW-23 Ajay Singh categorically admitted that during his inspection of the place of occurrence, every blood-stained

- article found at the spot had already been seized and nothing incriminating was left behind. In contrast, PW-21 Phaliram subsequently claimed recovery of another blood-stained stone and the *Gamcha* from substantially the same place pursuant to the alleged disclosure statement of the accused. PW-21 himself admitted that the place shown in Exhibits P-10 and P-11 was practically the same, separated only by a distance of about 10 to 15 feet. Once the initial Investigating Officer had already conducted a thorough search and seized all blood-stained articles available at the scene, the subsequent recovery of additional blood-stained articles from the same locality becomes inherently doubtful. Consequently, the very foundation upon which the FSL report rests becomes uncertain.
66. Another significant aspect emerging from the FSL report is that while the stone allegedly recovered at the instance of the accused-appellant yielded the female DNA profile matching that of the deceased, the *Gamcha* (Exhibit-6), which the prosecution seeks to portray as the cloth used by the accused-appellant for wiping blood from his hands, did not yield an exclusive female DNA profile. On the contrary, the report specifically records that the *Gamcha* contained a **mixed DNA profile**, comprising the alleles of the female DNA profile as well as the male DNA profile of accused-appellant Premlal. The presence of a mixed DNA profile on an article of clothing allegedly belonging to the accused-appellant cannot, by itself, establish the prosecution case unless it is first proved beyond reasonable doubt that the *Gamcha* was in fact recovered from the exclusive possession of

the accused-appellant in accordance with law and that the chain of custody remained free from suspicion. In the absence of reliable proof regarding the legality and authenticity of the recovery itself, the mixed DNA profile found on the *Gamcha* loses much of its incriminating value.

67. It is equally significant that the prosecution has not produced any evidence to establish that the *Gamcha* bore any distinctive mark, identification or other feature linking it exclusively to the accused-appellant. PW-21 Phaliram himself admitted that the seized black towel (*Gamcha*) carried no identifying mark whatsoever. Thus, apart from the disputed recovery, there is no independent evidence connecting the said article with the accused-appellant.
68. Therefore, although Exhibit P-28 undoubtedly establishes that the blood detected on certain seized articles was human blood and that the female DNA profile matched that of the deceased, such scientific evidence cannot, by itself, complete the chain of circumstantial evidence. The forensic report merely establishes the identity of the biological material found on the articles submitted for examination; it does not prove the legality of their seizure, the truthfulness of the disclosure statements, or the involvement of the accused-appellant in the commission of the offence. Where the recoveries themselves are rendered doubtful on account of procedural lapses, absence of independent witnesses, contradictions between the Investigating Officers and unexplained deficiencies in the

investigation, the FSL report cannot be elevated to the status of substantive evidence so as to cure those fundamental defects.

69. Accordingly, this Court is of the considered view that Exhibit P-28, though scientifically demonstrating a matching female DNA profile on certain exhibits, is merely a corroborative piece of evidence. In the absence of reliable proof regarding the foundational facts leading to the recovery of those articles, the FSL report by itself is insufficient to establish the guilt of the accused-appellant beyond reasonable doubt or to complete the chain of circumstances upon which the prosecution case rests. Consequently, no adverse inference can safely be drawn against the accused-appellant solely on the basis of the forensic report.

Appreciation of Electronic Evidence (Call Detail Records):

70. The prosecution has also relied upon the Call Detail Records (Exhibit P-33) to establish communication between the accused-appellant Premlal and the deceased Nima immediately prior to the occurrence. A perusal of the call details reveals that on 12.01.2023, several calls were exchanged between mobile number 8905796904, alleged to have been used by accused-appellant Premlal, and mobile number 9079097729, alleged to have been used by deceased Nima. Prima facie, these call records indicate that there was telephonic communication between the two numbers on the date of the incident, which may lend some support to the prosecution case that the accused-appellant and the deceased were in contact before the occurrence.

71. However, the evidentiary value of the said electronic evidence is required to be examined in the light of the deficiencies admitted by the Investigating Officer during cross-examination. It is an admitted position that neither the mobile handset allegedly used by the accused-appellant nor the handset allegedly used by the deceased was recovered during investigation. Likewise, no SIM card was recovered or proved to have remained in the exclusive possession and use of either the accused-appellant or the deceased. In the absence of recovery of the mobile devices or other cogent evidence establishing their exclusive use, the prosecution has failed to prove beyond reasonable doubt that the concerned mobile numbers were, in fact, being exclusively operated by the accused-appellant and the deceased at the relevant point of time.
72. The evidence of PW-21 Phaliram further reveals that the investigation into the electronic evidence remained wholly incomplete. He categorically admitted that the names and addresses of the Nodal Officers who supplied the Call Detail Records and the certificate under Section 65-B of the Indian Evidence Act were not included in the list of prosecution witnesses and that their statements were never recorded during investigation. Consequently, the prosecution failed to examine the persons who generated and certified the electronic records, thereby leaving the foundational facts relating to the electronic evidence inadequately proved.
73. It is equally significant that the prosecution has not produced any location analysis or tower location evidence conclusively

demonstrating that both mobile numbers were operating from the same place or that the accused-appellant and the deceased were physically together at the relevant time. Mere exchange of telephone calls between two mobile numbers only establishes that communication took place between those numbers. It does not, by itself, establish the identity of the persons using those numbers, their physical proximity, their meeting with each other, or their participation in the commission of the alleged offence.

74. In a case resting entirely upon circumstantial evidence, electronic evidence can undoubtedly furnish a valuable corroborative circumstance. However, such evidence cannot be treated as conclusive unless the prosecution first establishes the foundational facts regarding ownership, exclusive possession and use of the mobile numbers, the authenticity of the electronic records, and their nexus with the accused-appellant and the deceased. In the present case, those foundational facts have not been satisfactorily proved.
75. Therefore, although Exhibit P-33 may indicate that calls were exchanged between the two mobile numbers on the relevant date, such circumstance, by itself, is insufficient to establish that the accused-appellant and the deceased were together immediately before the occurrence or that the accused-appellant participated in the commission of the offence. In the absence of recovery of the mobile handsets, proof of exclusive use of the concerned numbers, examination of the Nodal Officers and reliable location evidence, the Call Detail Records

remain only a weak corroborative circumstance and cannot be treated as an incriminating circumstance sufficient to complete the chain of circumstantial evidence against the accused.

76. Thus, on an overall appreciation of the evidence, this Court finds that the prosecution has failed to establish several essential links in the chain of circumstances. The last seen circumstance remains doubtful; the motive remains unproved; the investigation suffers from material omissions and procedural irregularities; the recoveries are surrounded by serious suspicion; the electronic evidence lacks proper foundational proof; and the medical evidence does not conclusively support the prosecution theory to the exclusion of every other possibility.
77. The law with regard to a case based purely on circumstantial evidence has very well been crystalized in the judgment of Hon'ble Supreme Court in the case of **Sharad Birdhichand Sarda** reported in **(1984) 4 SCC 116**, wherein this Court held thus:

"152. Before discussing the cases relied upon by the High Court we would like to cite a few decisions on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. The most fundamental and basic decision of this Court is Hanumant v. State of Madhya Pradesh [(1952) 2 SCC 71: AIR 1952 SC 343: 1952 SCR 1091: 1953 Cri LJ 129]. This case has been uniformly followed and applied by this Court in a large number of later decisions up to date, for instance, the cases of Tufail (Alias) Simmi v. State of Uttar Pradesh [(1969) 3 SCC 198: 1970 SCC (Cri) 55] and Ramgopal v. State of

Maharashtra [(1972) 4 SCC 625: AIR 1972 SC 656]. It may be useful to extract what Mahajan, J. has laid down in Hanumant case [(1952) 2 SCC 71: AIR 1952 SC 343: 1952 SCR 1091: 1953 Cri LJ 129]:

"It is well to remember that in case 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."

78. Having bestowed anxious consideration to the entire evidence available on record and the settled principles governing cases resting solely on circumstantial evidence, this Court is of the considered opinion that the prosecution has failed to satisfy the well-established principles laid down by the Hon'ble Supreme Court in ***Sharad Birdhichand Sarda v. State of Maharashtra (Supra)*** governing proof by circumstantial evidence. The circumstances relied upon by the prosecution have not been proved beyond reasonable doubt, nor do they form a complete and unbroken chain pointing unerringly towards the guilt of the accused-appellant. The alleged

- circumstance of "last seen together" has not been established by cogent and reliable evidence; the motive remains uncertain and inconclusive; the investigation suffers from serious procedural lapses and unexplained omissions; the recovery proceedings are rendered doubtful due to absence of independent witnesses and material contradictions in the evidence of the Investigating Officers; the electronic evidence lacks the necessary foundational proof regarding ownership and exclusive use of the mobile numbers; and the medical as well as forensic evidence, being merely corroborative in nature, cannot by themselves complete the missing links in the chain of circumstances. Consequently, the prosecution has failed to exclude every reasonable hypothesis consistent with the innocence of the accused-appellant, and the chain of incriminating circumstances remains incomplete.
79. In view of the foregoing discussion and the cumulative appreciation of the entire oral, documentary, medical, scientific and electronic evidence available on record, this Court is of the considered opinion that the prosecution has failed to prove the guilt of the accused-appellant beyond reasonable doubt. The prosecution has failed to establish a complete and unbroken chain of incriminating circumstances leading only to the hypothesis of the guilt of the accused-appellant. On the contrary, several material circumstances relied upon by the prosecution remain unproved, doubtful and inconsistent with the prosecution case, thereby creating a reasonable doubt regarding the complicity of the accused-appellant. It is a

cardinal principle of criminal jurisprudence that however strong the suspicion may be, it cannot take the place of legal proof, and where two views are reasonably possible on the evidence adduced, the one favourable to the accused must necessarily prevail. In the considered opinion of this Court, the learned Trial Court failed to appreciate the evidence in its proper perspective and proceeded to record the conviction by placing reliance upon circumstances which neither stood fully established nor formed a complete chain consistent only with the guilt of the accused-appellant. Consequently, the findings of conviction recorded by the learned Trial Court in the judgment dated 08.12.2025 suffer from misappreciation of evidence and cannot be sustained in law. The conviction of the accused-appellant under Section 302 of the Indian Penal Code and the sentence of **death penalty** imposed upon him are, therefore, liable to be set aside.

80. Accordingly, the Criminal Appeal filed by the accused-appellant is **allowed**, whereas the Murder Reference made by the learned Trial Court for confirmation of the death sentence is answered in **negative**. The judgment of conviction and order of sentence dated 08.12.2025 passed by the learned Trial Court are hereby quashed and set aside. The accused-appellant is acquitted of the charge under Section 302 IPC by extending to him the benefit of doubt. He shall be released forthwith, if not required to be detained in any other case.
81. Keeping in view, however, the provisions of Section 481 B.N.S.S, 2023 the accused-appellant is directed to forthwith furnish a personal bond in the sum of Rs.50,000/- and a surety

bond in the like amount, before the learned trial court, which shall be effective for a period of six months to the effect that in the event of filing of Special Leave Petition against the judgment or for grant of leave, the accused-appellant, on receipt of notice thereof, shall appear before Hon'ble the Supreme Court.

82. Office is directed to send the record of the trial court forthwith.

(CHANDRA SHEKHAR SHARMA),J (VINIT KUMAR MATHUR),J

181/Kartik Dave/C.P. Goyal/-