



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Reserved on: 11.03.2026*  
*Pronounced on: 10.06.2026*

+ CRL.A. 375/2004

AJAY SINGH

.....Appellant

Through: Mr. Rishi Malhotra, Sr. Adv.  
with Ms. Ansuiya, Mr. Shivansh  
Maini, Advs.

versus

THE STATE

.....Respondent

Through: Mr. Aman Usman, APP with Mr.  
Manvendra Yadav, Adv. for  
State.

AND

+ CRL.A. 395/2004

MEERA

.....Appellant

Through: Mr. M. L. Yadav, Mr. Piyush  
Saini, Advs.

versus

STATE

.....Respondent

Through: Mr. Aman Usman, APP with Mr.  
Manvendra Yadav, Adv. for  
State.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

**J U D G M E N T**

**RAVINDER DUDEJA, J.**

1. The present appeals have been filed by the appellants, Ajay Singh and Meera, against the Judgment of Conviction dated 13<sup>th</sup> April,



2004 [“**Impugned Judgment**”] and the order on sentence dated 15<sup>th</sup> April, 2004 passed by the Court of the learned Sessions Judge, New Delhi [“**Trial Court**”] in FIR no. 574/2002, registered under Sections 302/34 and 120B of the Indian Penal Code, 1860 [“**IPC**”]. Since both the appeals emanate from the same FIR, involve identical questions of fact and law, and assail the common impugned judgment and order on sentence, they are being disposed of together *vide* this common judgment.

**FACTUAL MATRIX:**

2. The brief facts, succinctly noted by the learned Trial Court in the impugned judgment, are reproduced as under;

*“On 17.10.02, at about 8.30 P.M. an information was received in police station Badarpur that one person was lying dead in a house at 40 foota road, Mollarband Ext., G Block on which DD no. 65B was recorded and assigned to SI Krishan Lal for necessary action. The SI went to house no. G 83/4, G Block, Mollarband Ext. and found a crowd having gathered there. A dead body was seen lying on a cot in a room on the ground floor. The dead body had a rope tied around its neck. One end of the rope was found tied with the leg of the cot – other remaining untied. The body was identified as being that of one Inder Kumar Singh. One Shiv Partap Singh Chauhan, a relation of the deceased, was also present there whose statement was recorded and sent to the police station for registration of the case. The SHO and crime team also reached the spot. Dead body was sent for post mortem and further investigations were carried out revealing that deceased was the husband of accused Meera in whose house accused Ajay was staying as a tenant. On the day of Holi, in 2002 deceased’s brother Manna Singh had come to his deceased*



*brother's house and happened to see accused Meera and accused Ajay in an objectionable condition which led to a quarrel between accused Ajay and the brother of the deceased. Deceased was staying those days in Bombay. It was also revealed that accused Ajay, accused Meera and her children were seen leaving the house of the deceased at about 4 P.M. on 17.10.02 who could be arrested only on 2.11.02. It's under the above allegations, that investigations finally led to the filing of the challan for the trial of the two accused Ajay and Meera for offences u/s 302/34/120B IPC."*

3. Charge for the offences under Section 120-B read with Section 302 IPC and under Section 302 read with Section 34 IPC were framed against both the appellants, to which, they pleaded not guilty and claimed trial.
4. In order to prove its case, the prosecution examined 18 witnesses.
5. The statements of the appellants were recorded under Section 313 of the Code of Criminal Procedure, 1973 ["Cr.P.C."]. They pleaded innocence, denying any illicit relationship between them. Appellant Ajay stated that he was a tenant in the house of the deceased, and that on the day of *Holi* in 2002, a quarrel had taken place between appellant Meera and her *devar*, Manna Singh, and the police was called by him. He further stated that the police gave beatings to Manna Singh but, subsequently, the matter was settled with the intervention of Manna's uncle. Manna Singh had then threatened the appellants. He further stated that he had left the house two days later as there used to be persistent quarrels and fights between appellants Meera, her *Devar* and her father-in-law. Appellant



Ajay examined DW-1/Jai Kishan in support of his defence.

6. In her statement under Section 313 Cr.P.C., appellant Meera stated that House No. G-83/4, Molarband Extension, Delhi was constructed by her and the deceased from their joint income and the said house stood in her name as per the wish of the deceased, since he apprehended that his father and brothers might grab the said property and dispossess them. She also stated that her husband was murdered either by her *devars* (brothers-in-law) and father-in-law or at their instance, with a view to deprive her of the said property. In her defence, she examined her brother, Rajender Singh, as DW-2.

7. *Vide* the judgment dated 13<sup>th</sup> April, 2004, the learned Trial Court convicted the appellants for the offence punishable under Section 302/34 IPC and *vide* the order dated 15<sup>th</sup> April, 2004, they were sentenced to life imprisonment with a fine of Rs. 5000/- each. In default, they were further directed to undergo Simple Imprisonment for 02 months each.

8. Feeling aggrieved thereby, the appellants have preferred the present appeals.

9. The sentence awarded to the appellants, Ajay Singh and Meera, was suspended by this Court on 19<sup>th</sup> December, 2007 and 16<sup>th</sup> April, 2007, respectively.

#### **SUBMISSIONS ON BEHALF OF APPELLANT- AJAY SINGH**

10. The learned Senior Counsel, appearing on behalf of appellant Ajay Singh, submitted that the investigation has not been conducted in a fair manner, inasmuch as, the prosecution's case is that the children of appellant Meera were present at the house at the time of occurrence,



yet they were neither cited nor examined as witnesses. Even the IO (PW-18) admitted that he was aware of the presence of the children, but did not record their statements. Reliance was placed on the Supreme Court's decision in *Takhaji Hiraji v. Thakore Kubersing Chamansing & Ors.*, (2001) 6 SCC 145, to contend that non-examination of material witnesses gives rise to an adverse inference against the prosecution. It was thus argued that prosecution is guilty of holding back the best evidence, which was available, but has not been forthcoming.

11. It was further submitted that the learned Trial Court acquitted both the appellants of the charge under Section 120-B IPC read with Section 302 IPC, thereby conclusively holding that there was no criminal conspiracy between the appellants to commit the murder. In such circumstances, the subsequent invocation of Section 34 IPC, which requires the existence of a common intention, is legally untenable. It was argued that once the foundational allegation of conspiracy fails, the substratum of the prosecution case alleging common intention or participation in furtherance thereof also collapses, and the conviction cannot be sustained on such inconsistent reasoning.

12. The learned Senior Counsel, while referring to the medical evidence, submitted that as per the testimony of PW-1/Dr. Millo Tabin, who conducted the post-mortem on 19.10.2002 between 11:00 AM and 12:00 PM, the time since death was approximately 44 hours. On this basis, it was argued that the time of death would be around 3:00 PM on 17.10.2002, with the cause of death being asphyxia due to



ligature strangulation. However, it was contended that the testimonies of the prosecution witnesses are inconsistent with this timeline, thereby rendering the prosecution's version doubtful, particularly in a case based solely on circumstantial evidence.

13. Furthermore, the testimonies of the key prosecution witnesses, that is, PW-2, PW-3, PW-4 and PW-5, suffer from material contradictions, omissions, and improvements. PW-2, who is stated to have introduced the allegation of an illicit relationship between the appellants for the first time before the Court, had not mentioned the same in his statement under Section 161 Cr.P.C. PW-3, a neighbour of the appellants, was declared hostile as he failed to support the prosecution's case on material particulars, while also making improvements during cross-examination. Similarly, PW-4 and PW-5 gave inconsistent accounts regarding the movements of the appellants and the timing thereof, with noticeable discrepancies as to whether the appellants were seen together or at intervals, thereby rendering their testimonies unreliable.

14. The learned Senior Counsel submitted that the conviction of the appellants on the basis of last seen is also untenable, as conviction cannot be sustained merely because the appellants were allegedly seen in the street. He submits that there is no evidence to show that the appellant was in the room of the deceased. He further submits that last seen is a weak piece of evidence and does not dilute or substitute the prosecution's obligation to prove the guilt of the appellants beyond reasonable doubt. In furtherance, he placed reliance on the judgments of the Supreme court in *Manoj @ Munna v. The State of*





home from 16.10.2002 to 20.10.2002, that is, from one day prior to the incident and thereafter. It is contended that this defence was specifically put to prosecution witnesses, including PW-9, during cross-examination, who categorically stated that he had no knowledge as to whether Meera had gone to her parental house on 16.10.2002 and had returned on 20.10.2002. It was thus submitted that the prosecution has failed to dislodge this plea of *alibi* and has not led any cogent evidence to establish the presence of the appellant at the scene of crime. It was also pointed out that suggestions regarding the absence of Meera from the scene were put to PW-10, PW-11, and PW-18, the Investigating Officer. Though they denied the same, it was without any substantive rebuttal. This defence finds support from the testimony of DW-2/Rajender (brother of Appellant Meera), who deposed that Meera, along with her children, had been residing at his house during the relevant period.

20. It was further submitted that the testimonies of PW-9 and PW-10, both uncles of the deceased, are vague, inconsistent, and unreliable, particularly with regard to the manner in which they came to know about the alleged murder. While PW-10 deposed that PW-9 had received a telephonic call informing him of the incident, PW-9 himself stated that he was informed by an unidentified person through a guard at his office. It was urged that this contradiction goes to the root of the prosecution's case and creates serious doubt regarding the veracity of their testimonies.

21. The learned counsel further relied upon the statement of the appellant under Section 313 Cr.P.C., wherein she asserted that the



property in question was jointly constructed by her and the deceased, but stood in her name to safeguard against dispossession by her in-laws. She expressed a clear apprehension that her husband had been murdered by his relatives, or at their instance, in order to usurp the said property. According to learned counsel, such defence finds support, from the testimony of DW-2 Rajender, brother of Appellant-Meera, who deposed that Meera along with her children was residing at his house during the relevant period and further highlighted the strained relations between the deceased, the appellant, and the relatives of the deceased (Father-in-law and *devars*) over the property. The witness also referred to prior incidents involving quarrels and forcible snatching of property documents by the said relatives.

22. Lastly, it was submitted that the cumulative effect of the evidence on record does not establish a complete and unbroken chain of circumstances pointing towards the guilt of the appellant. On the contrary, the timeline itself raises doubts, inasmuch as the prosecution witnesses claimed to have seen the appellants in the street at around 4:00 PM, whereas the body of the deceased was discovered only at about 7:00 PM, with no clarity as to who first entered the house or informed the authorities. It was further submitted that the involvement of an unidentified “someone” in informing PW-9 further weakens the prosecution case, particularly since neither the guard nor that “someone” was examined.

23. It was thus urged that the possibility of involvement of other persons cannot be ruled out and, in the absence of proof beyond reasonable doubt, the appellant Meera is entitled to an acquittal.



### **SUBMISSIONS ON BEHALF OF THE STATE:**

24. The learned APP for the State contended that the prosecution has successfully established a complete chain of circumstances pointing unerringly towards the guilt of the appellants. The deceased was the husband of appellant Meera, and appellant Ajay was residing as a tenant in the same house. He submitted that the evidence on record clearly establishes that the appellants had developed an illicit relationship, which became a constant source of discord and humiliation for the deceased, thereby furnishing a strong and cogent motive for the commission of the offence.

25. It was further submitted that the incident on the day of Holi in 2002, when PW-2/Manna Singh caught the appellants in a compromising position, is a vital circumstance demonstrating the strained relations between the appellants and the deceased, as also the motive for the commission of the offence. The testimony of PW-2, though supplemented later, has been rightly appreciated by the learned Trial Court as natural and credible, given the sensitive nature of the disclosure involving family honour.

26. It was submitted that the medical evidence led through PW-1/Dr. Millo Tabin, conclusively proves that the death was homicidal in nature, caused by asphyxia due to ligature constriction of the neck, and the estimated time of death corresponds to about 4:00 PM on 17.10.2002. This scientific evidence fully corroborates with the prosecution's "last seen" theory. The learned APP in furtherance submitted that the testimonies of PW-3, PW-4, and PW-5, who are independent witnesses, consistently establish that both appellants were



last seen leaving the house of the deceased at around 4:00-4:15 PM on the day of the incident. This crucial circumstance, coupled with the fact that the deceased was found dead in the house shortly thereafter with the door locked, forms a vital link in the chain of circumstances. The evidence of PW-10, and PW-11 further strengthens the prosecution case by proving prior suspicion of the deceased regarding the illicit relationship of the appellants, and also shows that the deceased had kept his property documents with them for safekeeping, thereby indicating apprehension of harm. Minor discrepancies in their testimonies are argued to be natural and not affecting the core of the prosecution's case.

27. Lastly, it was contended that the conduct of the appellants after the incident provides an additional incriminating circumstance. Both the appellants absconded immediately after the occurrence and were apprehended together only on 02.11.2002, thereby demonstrating continued association and consciousness of guilt.

28. The plea of *alibi* taken by appellant Meera has been rightly rejected as false and unsupported by any credible evidence. Similarly, the defence theory of property dispute has been correctly discarded as an afterthought, not substantiated during trial. It was thus submitted that the prosecution has proved its case beyond reasonable doubt, the conviction is well-founded, and the sentence of life imprisonment is just, proportionate, and calls for no interference.

### **ANALYSIS AND CONCLUSION:**

29. At the outset, upon careful scrutiny of testimony of PW-18/Inspector Mahender Singh Punia (IO), it is evident that he was



aware that that the children of appellant Meera were present at the house at the time of incident, yet he failed to record their statements or effectively trace them during the course of investigation. PW-17 very callously stated in his cross-examination that he did not meet the children of the deceased and the appellant Meera, and that the same is the reason for not recording their statements. The children were the most natural and direct witnesses to the occurrence and their testimony would have been of considerable evidentiary value. Their non-examination constitutes a serious lapse on the part of the IO and somewhat shows that the investigation in this regard was botched. The appellants have, therefore, rightly contended that despite availability of direct evidence, the prosecution proceeded solely to rely on the circumstantial evidence, thereby, weakening its case.

30. However, it is equally pertinent to note that in a criminal trial, the accused is not precluded from leading its own evidence, and the appellants, particularly Meera, had the opportunity to examine her children in support of her plea of innocence. Instead, appellant Meera chose to examine DW-2/Rajinder Singh, who rather stated that appellant Meera and her children were at his house from 16<sup>th</sup> October 2002 till 20<sup>th</sup> October, 2002. According to him, the children were staying with him during the trial and nobody from in-laws family of Meera came to take the children. It was therefore easy for the appellant Meera to produce the children in her defence, but they were not produced. Under these circumstances, the failure of the appellant to examine such material witnesses in defence renders the belated reliance on their presence insufficient to discredit the prosecution case



in its entirety.

31. Now, that the alleged direct evidence is not forthcoming, the case necessarily rests on circumstantial evidence, which must be scrutinized with greater care. This calls for a re-examination of the incriminating circumstances in light of settled principles governing such cases. The five golden principles laid down in *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116, must guide this analysis, namely that the circumstances from which the conclusion of guilt is to be drawn must be fully established, the facts so established must be consistent only with the hypothesis of the guilt of the accused, the circumstances must be of a conclusive nature and tendency, they must exclude every possible hypothesis except the one sought to be proved and the chain of evidence must be so complete as to leave no reasonable ground for a conclusion consistent with the innocence of the accused, showing that in all human probability, the act must have been committed by the accused.

32. The “last seen” circumstance assumes crucial importance in the present case. The testimonies of PW-3/Maharaj Singh, PW-4/Kewal Singh, and PW-5/Fateh Singh, who are neighbours of the appellants, consistently establish that appellant Ajay Singh was present at the house of the deceased and was seen leaving the premises in the evening of 17<sup>th</sup> October, 2002. PW-3/Maharaj Singh, in his cross-examination, stated that he saw Ajay coming out of Meera’s room and going somewhere, and after about 15-30 minutes, Meera along with her children, also came out and left. PW-4/Kewal Singh, deposed that on 17<sup>th</sup> October, 2002, at about 4.00 PM, he saw appellant Ajay Singh



going into the street, followed by Meera and her children. In cross examination, he stated that there was a distance of about ten steps between appellant Ajay and Meera with her children. PW-5/Fateh Singh, specifically stated that at about 4.00-4.15 PM, he saw Ajay coming out of Meera's house and going into the street, followed by Meera and her children, after about 5-10 minutes, thereby, corroborating the presence of both of them in proximity around the relevant time. This timeline closely aligns with the medical opinion, which estimated the time of death to be approximately 44 hours prior to the post-mortem conducted on 19<sup>th</sup> October, 2002 between 11:00 AM and 12:00 PM, which comes to be around 3:00-4:00 PM on 17<sup>th</sup> October, 2002. The presence of Ajay at the scene during this crucial time window remains unexplained and assumes significant evidentiary value. His defence that he had vacated the premises earlier and started residing at 115/1, Molarband Post Office, Badarpur, New Delhi, since April 2002, as proved by DW-1/Jai Kishan, is of no help, rather, it shows that he was no more a tenant in the house of the deceased and his presence at or around the spot of incident is unexplained. The consistency in the testimonies of the prosecution witnesses lends credibility to their version and minor contradictions regarding exact timings do not dilute the core of their depositions. The unexplained presence of the appellant near the scene of crime assumes great significance. Accordingly, this circumstance forms a vital link in the chain of events and strongly implicates appellants.

33. No questions were asked by the defence during cross-examination of PW-3, PW-4 and PW-5, who were the neighbours of



the appellants, regarding any previous enmity or ill-will against the appellants. Thus, they are independent witnesses who had no axe to grind against the appellants, and therefore, their testimonies regarding having seen both the appellants near the place of occurrence on the day of incident at about 4:00-4:30 PM, cannot be doubted.

34. We are conscious that while the “last seen” theory is an important link that may shift the burden on to the accused to explain the death, it is not prudent to base a conviction solely on this circumstance and it must be applied only after considering the prosecution case as a whole, including the circumstances preceding and following the point of last being seen together, and in taking this view, we are supported by the judgment of Hon’ble Supreme Court in the case of *Nizam & Anr. v. State of Rajasthan*, (2016) 1 SCC 550.

35. Appellant Meera has taken the plea of *alibi*, but the same has been found to be unconvincing. Although, she claims to have been at her parental home from 16<sup>th</sup> October, 2002 to 20<sup>th</sup> October, 2002, the said assertion is not supported by any reliable and independent witness. Even if, this claim is accepted, there remains a complete lack of explanation regarding her whereabouts from 20<sup>th</sup> October, 2002 until her arrest on 02<sup>nd</sup> November, 2002. Her husband had been murdered. Even if, she was at her parental home, she did not return to her house. Such a conduct appears to be improbable. She was ultimately arrested after 15 days of the incident. This unexplained gap casts serious doubt on the genuineness of her defence. The burden of proving *alibi* lies on the accused, and it must be established with cogent and credible evidence. The testimony of DW-2, the brother of



appellant Meera, being a related witness, does not inspire confidence. Moreover, the prosecution witnesses have not been effectively discredited on this aspect. The plea of *alibi* remains a bald assertion without being substantiated. In such circumstances, the plea of *alibi* fails to create any reasonable doubt in the prosecution case.

36. In *Shaikh Sattar v. State of Maharashtra*, (2010) 8 SCC 430, the Supreme Court, *inter alia*, held as under:

*“35. Undoubtedly, the burden of establishing the plea of alibi lay upon the appellant. The appellant herein has miserably failed to bring on record any facts or circumstances which would make the plea of his absence even probable, let alone, being proved beyond reasonable doubt. The plea of alibi had to be proved with absolute certainty so as to completely exclude the possibility of the presence of the appellant in the rented premises at the relevant time. When a plea of alibi is raised by an accused it is for the accused to establish the said plea by positive evidence which has not been led in the present case. We may also notice here at this stage the proposition of law laid down in Gurpreet Singh v. State of Haryana [(2002) 8 SCC 18 : 2003 SCC (Cri) 186] as follows: (SCC p. 27, para 20)*

*“20. ... This plea of alibi stands disbelieved by both the courts and since the plea of alibi is a question of fact and since both the courts concurrently found that fact against the appellant, the accused, this Court in our view, cannot on an appeal by special leave go behind the abovenoted concurrent finding of fact.”*

*36. But it is also correct that, even though the plea of alibi of the appellant is not established, it was for the prosecution to prove the case against the appellant. To this extent, the submission of the learned counsel for the*



*appellant was correct. The failure of the plea of alibi would not necessarily lead to the success of the prosecution case which has to be independently proved by the prosecution beyond reasonable doubt. Being aware of the aforesaid principle of law, the trial court as also the High Court examined the circumstantial evidence to exclude the possibility of the innocence of the appellant.”*

37. The next circumstance of importance is motive. Motive, though not indispensable, assumes significance in cases based on circumstantial evidence. In the present case, the prosecution has established a strong motive arising from the alleged illicit relationship between the appellants. The evidence regarding the Holi incident, where the appellants were found in a compromising position by the PW-2/Manna Singh, brother of the deceased, indicates strained relations within the household. PW-2 categorically deposed that on the occasion of Holi in the year 2002, he came to the house of his brother, Inder Singh (the deceased) at Molarband Extension. When he entered the house at about 8.00 PM, he found the appellants Ajay and Meera lying in the bed in an objectionable condition. He then went to the other room. Meera came out and started quarrelling with him and called the police. However, the matter was settled with appellant Meera and therefore he did not report the matter to the police about her having been found in an objectionable condition with appellant Ajay Singh. According to him, his brother Inder Singh (the deceased) was not present in the house and was away to Mumbai. PW-2 informed the deceased about the incident about 15 days before his death, when he came to his village. PW-2 denied the suggestion that



he had not seen Meera in an objectionable condition with Ajay. He also denied that he had quarrelled with Meera and misbehaved with her under the influence of alcohol on the occasion of Holi in the year 2002. He further denied that he wanted to take possession of the house occupied by Meera in connivance with the police. On behalf of appellant Ajay, a suggestion was given to PW-2 that he came to the house of Meera under the influence of liquor and misbehaved with her, and that is why, appellant Ajay had called the police. However, such suggestion was denied by PW-2. He, however, admitted that he was present at the house of Meera when the police came there and also admitted that Meera was also present at that time.

38. The challenge to the testimony of PW-2 is on account of the fact that in his earlier statement recorded under Section 161 Cr.P.C., dated 19<sup>th</sup> October 2002, there is no mention of the Holi incident, when PW-2 had seen both the appellants in an objectionable condition. No doubt, in the statement of PW-2 dated 19<sup>th</sup> October 2002, there is no mention of the incident that occurred on the day of Holi, but in cross examination, when questioned, PW-2 stated that he had left for his village on 19<sup>th</sup> October, 2002 itself and came back to Delhi when called upon by his uncle on telephone, and thereafter, he went to the police station and met SI Krishan Pal. When asked, he further clarified that he had told his uncle about the incident on the same day on which he had seen Meera in an objectionable condition with Ajay and that he had got the matter settled between him and Meera in the presence of the police.



39. On examination of testimony of PW-2, it is evident that PW-2 visited the house of deceased on the Holi and a subsequent quarrel between PW-2 and appellant Meera is not disputed even by the appellants. It stands proved that consequent to quarrel, police had to be called at the spot and the matter was sorted out. Dealing with the aforesaid arguments of the appellants, the learned Trial Court observed as under:

*“17. Statement of PW Manna Singh (ExPW2/D1) recorded by the police on 19/10/2002 is merely a statement which the police recorded at the time - body of the deceased was received by this witness from the hospital after post mortem had been conducted on it. I think that it is a time around which all close family members of a deceased, who died an unnatural death, are bound to be in such a gloomy and sad condition that no agency would want them to be examined as a witness about details of the happening and similarly such a witness would also not be mentally ready to make a statement with any such details. Statement ExPW2/D1 just appears to be a sort of a token receipt about this witness having received the dead body of the deceased.*

*18. As far details appearing in his second statement (ExPW2/D2) recorded on 19/11/2002, I feel that this may appear to be carrying a considerable gap and may appear, at the first glance, a result of an afterthought, but, I find that this certainly is not a result of an imaginative creation or a false story because the allegations made herein are of a nature which certainly were going to expose the family respect and could not have been so divulged just with a view to grab a small property by falsely tarnishing the image and respect of a member of the family. I may also mention that this witness remained mum on*



*this part of the story for so many months and did not divulge it even before the police on the day of Holi of 2002 simply because this would have ruined the respect of the entire family in the village creating a situation which could have made it almost impossible for the family to continue their stay in the village. The referred improvements about this witness having disclosed this fact either to PW Havaladar Singh, Shiv Pratap Singh, to his deceased brother or even to the police are just a result of the natural tendency of a village resident who would not vomit out an insulting aspect very easily until circumstances ultimately force him to do so. I feel that the conduct of PW Manna Singh either about his having not told the police on the day of Holi or immediately after the murder of his brother that he had seen the accused Ajay and Meera in an objectionable position should not be looked with any mystery or suspicion as it is just a result of his intent to try to maintain a secrecy and not to expose to public the family's respect."*

40. We find that the view taken by the learned Trial Court is just and reasonable. Ideally, the IO should have tried to collect the evidence of the incident, which may have thrown better light, inasmuch as, PCR Form would have proved as to what was the complaint and what was the settlement arrived at between appellant Meera and PW-2. However, prosecution case cannot be allowed to suffer by granting benefit to the appellants on account of lapse of the IO.

41. It has come in the cross-examination of PW-2 that he had told his uncle about the incident on the same day on which he had seen Meera in an objectionable condition with Ajay, as also about the



matter having been settled between him and Meera in the presence of the police and, the same finds corroboration from the statement of the uncle, PW-9/Shiv Partap Singh Chauhan, recorded *vide* Ex. PW-9/1, which formed the basis of the registration of the FIR. Manna Singh seeing Meera and Ajay in a compromising position finds further corroboration from the testimony of PW-10/Havaldar Singh, who stated that this fact was informed to him by Manna Singh. Similarly, PW-11/Heerawati, who is the wife of PW-10/Havaldar Singh, categorically deposed that the bone of contention between Meera and Inder Singh was the affair of Meera with appellant Ajay. Hence, merely because there is no whisper of the Holi incident in the first statement of PW-2 recorded under Section 161 Cr.P.C., the same need not be given much importance.

42. The extra-marital affair of Meera with Ajay was the backbone of quarrel between Meera and the deceased. The testimony of PW-2 in this regard though challenged, cannot be brushed aside entirely. The existence of such a relationship offers a plausible reason for the commission of the offence. It explains why the appellants would have acted in concert. While motive alone cannot sustain conviction, it certainly strengthens the prosecution case when supported by other evidence. The defence has not been able to effectively rebut this aspect. Thus, motive serves as an important link in the chain of circumstantial evidence against the accused. At this stage, it would be useful to take note of the observation of the Hon'ble Supreme Court in the case of *Gautam Satnami v. State of Chhattisgarh*, 2026 SCC OnLine SC 536, the Supreme Court held as under;



*“30. That leaves only the circumstance of motive. Though not expressly considered by Trial Court, it is possible accused No. 2's (Dwarika Jangde) family relationship with the deceased weighed in his favour. In contrast, with respect to the appellant, there is some material on the record that points to a specific dispute with the deceased. However, first, the evidence does not establish the immediacy or gravity of animosity; if anything, it seems the appellant and the deceased continued to be friends and visit one another, and may even have been consuming liquor together the evening before the deceased died. Second, **motive is a supporting factor which strengthens an otherwise complete chain of evidence. It cannot replace such a chain where other circumstances are missing or weak.**”*

*(emphasis supplied)*

43. The conduct of the appellants after the incident also constitutes a significant incriminating circumstance. Both appellants were found to be absconding after the occurrence and were apprehended together only on 02<sup>nd</sup> November, 2002. Such conduct indicates a consciousness of guilt. Again, mere absconding by itself may not be conclusive proof of guilt, but it is a relevant circumstance when considered along with other evidences. The continued association between the appellants during this period further strengthens the inference of their involvement. Their failure to offer any plausible explanation for such conduct adds to the suspicion. The defence has not provided any satisfactory account for their behaviour. This circumstance, when read with the other evidences, assumes importance. Therefore, the post-



occurrence conduct of the appellants also supports the prosecution case.

44. The contention regarding non-examination of the children of the deceased has also been duly considered. It is true that such witnesses could have been material and their non-examination thus reflect lapse on the part of the IO. However, it is equally settled that every lapse in investigation does not necessarily vitiate the prosecution case. The Court must assess whether the other evidence produced is sufficient to sustain conviction. In the case of *Rajesh Yadav & Anr. v. State of U.P.*, (2022) 12 SCC 200, the Hon'ble Supreme Court held that mere non-examination of the witness *per se* will not vitiate the case of the prosecution. It depends upon the quality and quantity of the witnesses and its importance. If the Court is satisfied with the explanation given by the prosecution, along with the adequacy of materials, to proceed with the trial and convict the appellants, there cannot be any prejudice.

45. Similarly, if the Court is of the view that some evidence is screened but could well be produced by the other side in support of its case, no adverse inference can be drawn against that party. Onus is on the party who alleges that a witness has not been produced deliberately to prove the same. In this case, the defence had the opportunity to examine the children who were staying with appellant Meera, but chose not to do so. This weakens the argument of the appellants that non-examination of children should lead to an adverse inference against the prosecution. The evidence that has been adduced by the prosecution remains credible and reliable, and the lapses



pointed out do not create a reasonable doubt. Hence, this contention does not come to the aid of the appellants.

46. According to PW-9/Shiv Partap, he was informed by the guard of his office about the murder of husband of appellant Meera. The guard was allegedly informed by an unidentified person. The guard and the said unidentified person were not examined. They had just passed on the information regarding the murder. It is no where the stand of the appellants that they are the witnesses of occurrence and therefore, non-examination of the guard and the said unidentified person is of no consequence.

47. In her statement under Section 313 Cr.P.C., appellant Meera took the defence that her husband was murdered by her father-in-law and her two *devars*, or at their instance, with a view to deprive her of their house in Molarband Extension. According to her, the house stood in her name as per the wish of her husband because he apprehended that his father and brothers might grab the property and dispose of the same. However, we are not convinced with the defence taken, inasmuch as, admittedly, the property stood in the name of appellant Meera herself and by killing her husband, the property, which was already in her name, could not have fallen to the share of her father-in-law and *devars*. Thus, the father and brothers of the deceased would not have gained anything by murdering the husband of appellant Meera. The defence of appellant Meera is, therefore, not acceptable.

48. The defence of appellant Ajay is that PW-2/Manna Singh came to the house of Meera under the influence of liquor and misbehaved with her, due to which reason, he had to call the police. In his



statement under Section 313 Cr.P.C., he stated that police came and made some enquiries and gave beatings to Manna Singh, but he was subsequently released because money was paid to the police by Manna Singh's uncle. According to him, Manna Singh came back later in order to take his bicycle, but while leaving, had threatened that he would see them. However, appellant Meera has not taken such a stand. There is no suggestion from her side that PW-2/Manna had misbehaved with her. Therefore, the defence taken by appellant Ajay appears to be an afterthought and is also not acceptable.

**CONCLUSION:**

49. This Court finds that the prosecution has successfully established a complete and unbroken chain of circumstances pointing towards the guilt of the appellants. The last seen evidence, medical corroboration, motive and conduct of the appellants collectively form a coherent narrative. The defence theories, including the plea of *alibi* and property dispute, failed to create any reasonable doubt. The contradictions and inconsistencies pointed out are minor and do not affect the core of the prosecution case.

50. The conviction recorded by the Trial Court is based on proper appreciation of evidence. There is no perversity or illegality in the same, warranting interference by this Court. The sentence imposed is also proportionate to the gravity of the offence.

51. Accordingly, the appeals are dismissed. The conviction and sentence under Section 302/34 IPC are hereby affirmed.

52. Both the appellants Ajay Singh and Meera are directed to surrender before the Jail Superintendent within two weeks from today

