



2026:AHC-LKO:50698-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 1306 of 2014

Vinay Pratap Singh @ Bablu

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : Salil Mohan, Devendra Pratap

Counsel for Respondent(s) : Govt. Advocate

A.F.R.

Reserved on 28.04.2026

Delivered on 27.07.2026

Court No. - 9

HON'BLE RAJESH SINGH CHAUHAN, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

(Per: Hon'ble Abdhesh Kumar Chaudhary, J.)

1. Heard Shri Shashank Shekhar Singh, learned Counsel appearing for and on behalf of the appellant, as well as Shri S.P. Singh, learned Additional Government Advocate, appearing for and on behalf of the State respondent and perused the materials available on record.

2. The present Criminal Appeal under Section 374(2) has been preferred by the appellant- **Vinay Pratap Singh @ Bablu**, against the impugned common judgment and order dated 02.09.2014, passed by the Additional Sessions Judge, Hardoi in (i) *Sessions Trial No. 632 of 2009* (*State vs. Vinay Pratap Singh @ Bablu*), arising out of *Case Crime No.*

353 of 2009; (ii) Sessions Trial No. 676 of 2009 (*State vs. Vinay Pratap Singh @ Bablu*), arising out of Case Crime No. 355 of 2009; and (iii) Sessions Trial No. 677 of 2009 (*State vs. Vinay Pratap Singh @ Bablu*), arising out of Case Crime No. 356 of 2009; all relating to Police Station Sandi, District Hardoi, which all were tried together and wherein the appellant has been convicted under Sections 302, 307, 404, of I.P.C and Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for the maximum punishment of life imprisonment, along with fine of Rs. 20,000/- and the default clause in case of non-payment of fine.

CASE OF THE PROSECUTION

3. The factual matrix leading up to the filing of the present Criminal Appeal is delineated herein-below : -

3.1) As per the prosecution story, on 24.06.2009, at about 8:00 AM, complainant Nathulal (P.W.-1) went to the house of his relative Smt. Nandrani (aged about 65 years) in Mohalla Nawabganj, Police Station Sandi, District Hardoi. Upon entering her house, he found the dead bodies of Smt. Nandrani (Deceased-1) and her Grand-Son Anshu, (aged about 5 years) (Deceased-2) lying on a cot in the courtyard with cloth (saree/dhoti) nooses tied around their respective necks. In the adjacent thatched room, the bodies of Smt. Babita, (aged about 32 years) (Deceased-3), daughter of Nandrani and her grand-daughter Kumari Gunjan, (aged about 7 years) (Deceased-4) were lying on the floor, also with cloth nooses around their necks. All four persons had been strangled to death.

3.2) The complainant alleged that the accused Vinay Pratap Singh @ Bablu, resident of Village Naumalikpur, P.S.- Bilgram, District Hardoi, had been living in a relationship with Smt. Babita (daughter of Nandrani) in the said house for about 1.5 years. On the intervening night of 23/24.06.2009, a quarrel had taken place between Babita and the accused at around 9:00 PM, which was heard and informed by

neighbours. The accused was last seen along with the Deceased-1/Babita in her house and was not found there on the next morning, when her dead body was found in the same house.

3.3) Evidently, all four deceased belonged to the Kori community, which is a Scheduled Caste. The accused belonged to the Thakur community.

3.4) On the basis of the aforesaid written information/*tehrir* (*Exhibit-ka-1*) of P.W.-1, *F.I.R. No. 353/2009* was registered at P.S.- Sandi under Section 302 I.P.C. and Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3.5) *Panchayatnama* was prepared of the four dead bodies of Nandrani (aged 65 years), Babita (32 years), Kumari Gunjan (aged about 7 years) and Anshu (aged about 5 years). After preparing the necessary documents, the bodies were sent for post-mortem to the District Hospital. Investigation was carried by inspecting the crime-site and recording of statements of the witnesses under Section 161 of the Cr.P.C. Post-mortem examinations confirmed that all four victims died due to ante-mortem strangulation by ligature (saree/cloth).

3.6) During investigation, the accused was apprehended on the same day at about 4:30 PM from Nandlal Shikshan Sansthan Higher Secondary School, Sukanwa, while he was allegedly trying to escape from his hideout at a school. On seeing the police personnels, the accused allegedly fired at them with a country-made 12-bore pistol. He was arrested and from his possession, one 12-bore pistol with an empty cartridge stuck in the barrel and one live cartridge were recovered. On his disclosure and at his instance, a black bag was recovered from the south-eastern corner of the school containing jewellery allegedly belonging to the deceased persons, two mobile phones, and a red purse containing ₹116/-. Separate cases under Section 307 I.P.C. (Crime No.355/2009) and Section 3/25 Arms Act (Crime No.356/2009) were also registered against the accused.

3.7) After investigation, charge sheets were filed and according charges were framed against the accused under Sections 302, 404 I.P.C. and Section 3(2)(5) SC/ST Act, Section 307 I.P.C. and Section 3/25 Arms Act. The learned Trial Court framed charges under the aforesaid Sections, to which the accused pleaded not guilty and claimed false implication due to enmity and property dispute, and claimed for Trial. The Trial of all three connected cases was consolidated.

PROCEEDINGS BEFORE THE TRIAL COURT

4. During Trial, in order to prove the charges against the accused/appellant, the prosecution examined the following 14 witnesses:

<i>P.W.-1</i>	<i>Nathulal</i>	<i>Complainant, relative of the deceased</i>
<i>P.W.-2</i>	<i>Smt. Malti</i>	<i>Sister of Babita, daughter of Nandrani</i>
<i>P.W.-3</i>	<i>Surendra Pal</i>	<i>Independent Witness/Neighbour</i>
<i>P.W.-4</i>	<i>Dr. Laxmi Narayan Mishra</i>	<i>Formal expert witness/ Fingerprint Expert</i>
<i>P.W.-5</i>	<i>Dr. Anil Kumar Srivastava</i>	<i>Medical Officer</i>
<i>P.W.-6</i>	<i>HCP Lalji</i>	<i>Head Moharrir and a formal witness, proved G.D. entries and registration of F.I.R.</i>
<i>P.W.-7</i>	<i>S.I. Ramesh Chandra Pal</i>	<i>Formal witness, Member of the Investigation team</i>
<i>P.W.-8</i>	<i>Inspector Yogendra Singh</i>	<i>Formal witness, Member of the Investigation team</i>
<i>P.W.-9</i>	<i>S.S.I. Chandrabhan Singh</i>	<i>Formal witness, proved inquest proceedings (Exhibit-Ka-10 to Ka-14) and seizure of the board (Exhibit-Ka-2).</i>
<i>P.W.-10</i>	<i>S.I. Hausla Prasad Awasthi</i>	<i>Formal witness, proved preparation of inquest memos and other documents.</i>

<i>P.W.-11</i>	<i>Const. Satti Deen</i>	<i>Formal witness, proved G.D. entries and registration of F.I.R.</i>
<i>P.W.-12</i>	<i>Piyush Ranjan Srivastava, C.O.</i>	<i>Formal witness, proved investigation, spot maps (Exhibit-Ka-37, Exhibit-Ka-44), and charge sheets.</i>
<i>P.W.-13</i>	<i>S.I. Satya Narayan Verma</i>	<i>Formal witness, proved investigation of Section 307 I.P.C. and Arms Act cases, Maps (Exhibit-Ka-42).</i>
<i>P.W.-14</i>	<i>B.B. Chaurasia, C.O.</i>	<i>Formal witness, proved investigation, spot maps (Exhibit-Ka-37, Exhibit-Ka-44), and charge sheets.</i>

5. Apart from the aforesaid oral evidence, the prosecution has also relied on the following documentary evidence exhaustively, to substantiate its case: -

Written report/ <i>Tehrir</i>	<i>Exhibit-Ka-1</i>
<i>Fard</i> /small tin board for taking possession	<i>Exhibit-Ka-2</i>
<i>Fard</i> /finger prints collected from the scene of crime	<i>Exhibit-Ka-3</i>
Postmortem report of deceased Kumari Gunjan	<i>Exhibit-Ka-4</i>
Postmortem report of deceased Nandrani	<i>Exhibit-Ka-5</i>
Postmortem report of deceased Anshu	<i>Exhibit-Ka-6</i>
Postmortem report of deceased Mrs. Babita	<i>Exhibit-Ka-7</i>
Carbon copy of First Information Report dated 24-06-2009, recorded on the basis of written report/ <i>Tahrir</i> ,	<i>Exhibit-Ka-8</i>
General Diary (G.D.)	<i>Exhibit-Ka-9</i>
<i>Fard</i> /recovery of country made pistol 12 bore	<i>Exhibit-Ka-10</i>
<i>Panchayatnama</i> of Smt. Nandrani	<i>Exhibit-Ka-11</i>
<i>Panchayatnama</i> of Anshu	<i>Exhibit-Ka-12</i>

<i>Panchayatnama</i> of Smt. Babita	<i>Exhibit-Ka-13</i>
<i>Panchayatnama</i> of Kumari Gunjan	<i>Exhibit-Ka-14</i>
Letter to the Inspector of Quarter Masters	<i>Exhibit-Ka-15, 21</i>
Letter to the Chief Medical Officer, Hardoi	<i>Exhibit-Ka-16, 26, 31</i>
Police Form No. 13	<i>Exhibit-Ka-17, 22, 27, 32</i>
Photo <i>Lash</i>	<i>Exhibit-Ka-18, 23, 28, 33</i>
Sample Seal	<i>Exhibit-Ka-19, 24, 29, 34,</i>
Letter written to the Chief Medical Officer regarding postmortem of the dead body of deceased Anshu	<i>Exhibit-Ka-20</i>
Letter written to the Inspector of Records regarding the deceased Babita	<i>Exhibit-Ka-25</i>
Letter written to the Inspector of Records regarding the post-mortem of the deceased Gunjan	<i>Exhibit-Ka-30</i>
F.I.R. No. 355/09 under Section 307 I.P.C.	<i>Exhibit-Ka-35</i>
Carbon copy of the General Diary/G.D.	<i>Exhibit-Ka-36</i>
<i>Naksa-Nazri</i> related to Case No. 353/2009	<i>Exhibit-Ka-37</i>
Charge sheet related to Case No. 353/2009	<i>Exhibit-Ka-38</i>
<i>Naksa-Nazri</i> related to Section 307 I.P.C.	<i>Exhibit-Ka-39</i>
<i>Naksa-Nazri</i> related to Section 3/25 Arms Act,	<i>Exhibit-Ka-40</i>
Charge sheet related to Section 307 I.P.C.	<i>Exhibit-Ka-41</i>
Prosecution sanction granted by District Magistrate, Hardoi	<i>Exhibit-Ka-42</i>
Charge sheet related to Case No. 356/2009,	<i>Exhibit-Ka-43</i>
<i>Naksa-Nazri</i> related to Section 302 I.P.C.	<i>Exhibit-Ka-44</i>
Letter written to Director, Finger Print Museum	<i>Exhibit-Ka-45</i>

6. Prosecution in order to prove its case before the learned Trial Court has produced fourteen witnesses, wherein **P.W.-1/Nathulal** being the Complainant, deposed that he was related to the family of the deceased as his daughter was married into the family of Smt. Malti (P.W.-2), the elder daughter of deceased Nandrani. Owing to such relationship and also being a co-villager, he used to frequently visit the house of Nandrani situated in Mohalla Nawabganj. He stated that deceased Babita, younger daughter of Nandrani, after the death of her husband Sanjay about 2½ to 3 years prior to the incident, had shifted to the house of her mother Nandrani along with her children Gunjan and Anshu and was working as an Anganwadi worker. P.W.-1 further deposed that accused Vinay Pratap Singh @ Bablu had developed intimacy with the deceased Babita and had been residing with her in the said house for about one and a half years prior to the occurrence of the fateful incident. On 24.06.2009 at about 8:00 A.M., when he visited the house of Nandrani, he found the main door open. Upon entering the house, he found Nandrani and Anshu lying dead on a cot in the courtyard with cloth nooses tied around their necks. In the adjoining thatched room, he found Babita and Gunjan lying dead on the floor with ligature material around their necks. Being terrified, he rushed outside and raised an alarm. P.W.-1 also deposed that neighbours, namely Surendra, Pappu and Mohammad Salim, informed him that on the previous night at about 9:00 P.M. a serious altercation had taken place between the deceased Babita and the accused. Subsequently, he got a written report/*Tehrir* prepared and lodged the same at Police Station Sandi. He proved the written report/*Tehrir* and also identified the tin board displayed at the house bearing the name of the accused.

In his cross-examination, P.W.-1 admitted his relationship with the family of the deceased. He, however, categorically deposed that the accused had been residing in the house of deceased Babita and Nandrani for about one and a half years before the incident. P.W.-1 also stated regarding the quarrel between deceased Babita and the accused was

informed to him by the neighbours of deceased namely, Surendra, Pappu and Mohammad Salim. He denied the suggestion that the First Information Report had been dictated by the police. He further denied that he had falsely implicated the accused due to any property dispute. He specifically rejected the defence suggestion that he or Smt. Malti (P.W.-2) had any role in the occurrence or had implicated the accused in order to grab the property of the deceased family. Nothing substantial was elicited in his cross-examination to discredit his testimony regarding the relationship of the accused with the deceased Nandrani or deceased Babita, the discovery of the dead bodies, or the lodging of the prompt F.I.R.

7. P.W.-2/Smt. Malti, daughter of deceased Nandrani and sister of deceased Babita, deposed that after the death of Babita's husband Sanjay in a railway accident, Babita shifted to her paternal home along with her two children and started working as an Anganwadi worker. P.W.-2 stated that accused Vinay Pratap Singh @ Bablu developed a relationship with deceased Babita and had been living with her for approximately one and a half years prior to the incident. P.W.-2 also deposed that the accused was exerting pressure on Babita to solemnize a Court marriage with him. Babita was unwilling for such marriage, which became a root of frequent discord between them. P.W.-2 further stated that Babita often complained that the accused was unemployed and dependent upon her earnings and that she had to maintain him financially. Such circumstances created suspicion and insecurity in the mind of the accused. P.W.-2 further deposed that after receiving information regarding the incident, she reached the house and found all four deceased persons lying dead. She also noticed that certain jewellery articles usually worn by the deceased were missing. She identified the recovered articles, including silver anklets, toe rings, amulet, purse, cash and mobile phones, as belonging to the deceased persons, which were recovered from a black bag on the pointing of the accused/appellant.

During her cross-examination, P.W.-2 admitted that she was unhappy with the relationship between deceased Babita and the accused. She further stated that after the incident, P.W.-2 and her family had been residing in the said house. P.W.-2 categorically denied the defence suggestion that she, Nathulal or other family members had committed the murders for securing possession of the property of Nandrani. She reiterated that Babita herself had informed her regarding the intimate physical relationship between her and the accused. She denied that the accused had been falsely implicated. The cross-examination failed to impeach her evidence regarding the relationship between the accused and the deceased Babita, the motive arising from the proposed marriage, or the identification of the recovered articles.

8. P.W.-3/Surendra Pal, an independent witness (neighbour), residing in the vicinity of the house of deceased Nandrani, deposed that accused Vinay Pratap Singh @ Bablu had been residing with the deceased Babita in the said house for approximately one and a half years prior to the occurrence of the incident. P.W.-3 deposed that on 23.06.2009 at about 9:00 P.M., while he was sitting outside his house, he heard and witnessed a heated quarrel between the deceased Babita and the accused near the entrance of the house. According to him, the altercation was serious in nature. P.W.-3 further stated that he did not see the accused leaving the house during the night after the said fight. On the following morning, he came to know that Nandrani, Babita, Gunjan and Anshu had been murdered.

During his cross-examination, P.W.-3 stated that he remained present for a short duration and heard the exchange of words between the deceased Babita and the accused before leaving the spot. He consistently maintained that the quarrel had indeed taken place on the night preceding the occurrence. P.W.-3 further reiterated that he had not seen the accused leaving the house thereafter. No material contradiction or improvement was brought out in his cross-examination. His testimony

remained consistent and provided an important link in the chain of circumstances relating to motive and the "last seen" theory.

P.W.-3 being an independent witness, as well as neighbour, with no demonstrated animus against the accused lends significant corroboration to the prosecution case regarding the presence of the accused in the house on the crucial night and the occurrence of a serious quarrel immediately preceding the murders.

9. P.W.-4/Dr. Laxmi Narayan Mishra, the Fingerprint Expert, was posted as 'Senior Scientific Assistant' in the Field Unit, Hardoi. He deposed that upon receiving information regarding the incident, he visited the place of occurrence on 24.06.2009 and conducted scientific examination of the scene. He found a broken steel almirah, plastic briefcase, utensils, plate, bowl and glass at the spot. Fingerprints were taken from the steel cupboard, plastic briefcase, plate, bowl and glass through scientific methods. P.W.-4 proved the fingerprint memo and the report prepared by him during investigation. He identified the fingerprint exhibits and stated that the same were handed over to the Investigating Officer for further examination. P.W.-4 being a formal expert witness, his testimony established the scientific examination of the crime scene.

Nothing substantial was elicited in his cross-examination to challenge either his qualifications, the method adopted by him, or the factum of lifting fingerprints from the scene of occurrence. The defence could not demonstrate any procedural irregularity in the scientific collection of fingerprints.

10. P.W.-5/Dr. Anil Kumar Srivastava, the Medical Officer, conducted the post-mortem examinations of all four deceased persons, namely Nandrani, Babita, Gunjan and Anshu, on 24.06.2009 and proved the said post-mortem reports. P.W.-5 found *ligature marks around the necks of all four deceased*. In the cases of Babita, Nandrani and Anshu, *fracture of hyoid bone and tracheal rings* was noticed. *Congestion of internal organs* was also found. In the case of Gunjan, injury to the right

eye was additionally noted. P.W.-5 categorically opined that *all four deaths were homicidal in nature and occurred due to asphyxia resulting from ante-mortem strangulation by ligature material*. According to him, the deaths could have occurred during the intervening night of 23/24.06.2009.

During his cross-examination, the defence was unable to challenge his medical findings. No suggestion was put indicating any possibility of accidental or suicidal death. P.W.-5 remained firm that the deaths were caused by *ante-mortem strangulation*.

P.W.-5 provides crucial medical corroboration to the prosecution case and conclusively establishes homicidal death by strangulation.

11. P.W.-6/Head Constable Lalji, (*Head Moharrir and a formal witness*) proved the registration of F.I.R. on the basis of the written report/*tehrir* lodged by P.W.-1 (*Exhibit-Ka-1*). He proved the chik F.I.R. (*Exhibit-Ka-8*) and corresponding General Diary (*Exhibit-Ka-36*) entry prepared on 24.06.2009.

During his cross-examination, no material contradiction emerged. The defence failed to establish any delay or manipulation in the registration of the F.I.R.

12. P.W.-7/S.I. Ramesh Chandra Pal, was a member of the police team constituted to apprehend the accused. P.W.-7 deposed that acting on secret information, the police party reached Nandlal Shikshan Sansthan Higher Secondary School, Sungwa, where the accused was hiding. P.W.-7 further deposed that on noticing the police party, the accused fired from a country-made 12-bore pistol with intent to kill them. The police party took cover and succeeded in apprehending him with some force. Upon personal search, one country-made pistol, one empty cartridge stuck in the barrel and one live cartridge were recovered. Thereafter, on disclosure made by the accused, a black bag containing jewellery articles of the deceased, two mobile phones and a

purse containing cash was recovered from the school premises. The recovery memos were also duly proved by the P.W.-7.

During his cross-examination, the defence suggested false arrest and fabricated recovery to which P.W.-7 denied all such suggestions and consistently maintained that the accused was arrested from the school premises and that recoveries were made at his instance.

13. P.W.-8/Inspector Yogendra Singh, was the leader of the raiding police party. P.W.-8 substantially corroborated the testimony of P.W.-7 regarding the receipt of information, arrest of the accused, firing by the accused, recovery of the pistol and cartridges and recovery of stolen property at the instance of the accused. P.W.-8 further stated that the accused disclosed his involvement in the murders and thereafter, led the police to the concealed articles.

Despite of his lengthy cross-examination, no material contradiction was pointed out between his testimony and that of P.W.-7. Suggestions regarding false implication and fabricated recovery were categorically denied.

14. P.W.-9/S.S.I. Chandrabhan Singh, a formal witness, established the condition of the bodies at the earliest stage of investigation and conducted inquest proceedings of all the four deceased persons. P.W.-9 proved the inquest reports and also proved seizure of the tin board displayed outside the house bearing the name of the accused. P.W.-9 also described the condition of the dead bodies and the articles found on them at the time of inquest.

During his cross-examination, no material contradiction was elicited. P.W.-9 remained throughout consistent with respect to the condition of the bodies and the preparation of inquest reports.

15. P.W.-10/S.I. Hausla Prasad Awasthi, a formal witness proved the procedural compliance made during the investigation and assisted the police team in the inquest proceedings and also proved the preparation of various documents including, letters addressed to the Chief Medical

Officer, police forms, specimen seals and related papers. The witness was not materially shaken during his cross-examination.

16. P.W.-11/Const. Satti Deen, formally proved the registration of connected criminal cases being, *Case Crime No.355/2009* under Section 307 I.P.C. and *Case Crime No.356/2009* under Section 3/25 Arms Act on the basis of recovery memos and reports submitted by the arresting officers. No material discrepancy emerged during his cross-examination.

17. P.W.-12/Piyush Ranjan Srivastava, C.O., being one of the Investigating Officers, proved substantial investigative steps culminating in filing of charge-sheet. P.W.-12 deposed about the steps undertaken during investigation, including recording of witness statements, collection of post-mortem reports, preparation of Site plans and examination of police witnesses. P.W.-12 also proved the Site plan and Charge-sheet submitted against the accused under Sections 302 and 404 I.P.C. and Section 3(2)(5) of the SC/ST Act.

During his cross-examination, no material irregularity in investigation could be demonstrated by the opposite party. P.W.-12 strenuously denied suggestions of biased investigation.

18. P.W.-13/S.I. Satya Narayan Verma, investigated the offences under Section 307 I.P.C. and Section 3/25 Arms Act. P.W.-13 also deposed about recording statements of witnesses, preparing Site plans relating to the encounter and recovery proceedings and obtaining sanction for prosecution under the Arms Act. P.W.-13 proved the Site plans, Sanction order and Charge-sheets filed in the connected cases.

During his cross-examination, P.W.-13 denied suggestions that the encounter story was fabricated or that the accused had been falsely implicated.

19. P.W.-14/B.B. Chaurasia, C.O., was the principal Investigating Officer in the present case, whose testimony connects various pieces of evidence collected during investigation and explains the sequence of investigative steps resulting in submission of the charge-sheet. P.W.-14

during his examination-in-chief has deposed that after registration of the F.I.R., he inspected the scene of occurrence, prepared the Site plan, recorded statements of witnesses including, Nathulal and Surendra Pal, and collected evidence during investigation. P.W.-14 proved the Site map and various investigative documents. Upon completion of investigation and finding sufficient evidence against the accused, he submitted the Charge-sheet.

During his cross-examination, the defence attempted to suggest that investigation was biased and conducted with a predetermined intention to implicate the accused. P.W.-14 denied such allegations and asserted that investigation was carried out fairly and on the basis of material collected during investigation.

20. After conclusion of the evidence of the prosecution, the statement of the accused was recorded under Section 313 Cr.P.C., wherein the accused, **Vinay Pratap Singh @ Bablu**, entered himself in the witness-box as a **Defence witness/D.W.-1**, wherein he deposed that he had been falsely implicated in the present case. He stated that he never resided permanently in the house of deceased Babita and was merely acquainted with her. He denied having committed the murders of Nandrani, Babita, Gunjan and Anshu and further denied the allegations regarding recovery of jewellery articles and other belongings of the deceased from his possession. D.W.-1 deposed that he had assisted Babita in securing employment as an Anganwadi worker and, consequently, cordial relations had developed between them. According to him, due to such acquaintance, he occasionally visited Babita's residence. D.W.-1 further asserted that the police had apprehended him from his native village Naumalikpur and thereafter, fabricated a false story of arrest, recovery and encounter in order to implicate him in the present case.

During his cross-examination, several significant admissions were elicited from the accused. D.W.-1 admitted that he had developed affection towards Babita and had become emotionally attached to her. D.W.-1 further admitted that he had stayed at Babita's residence on

several occasions. Although in his examination-in-chief, D.W.-1 attempted to portray his visits as casual and seldom, but during his cross-examination, he acknowledged that whenever he visited Sandi and it became late in the evening, he used to stay at Deceased-1/Babita's house. D.W.-1 admitted that such stays had occurred on more than one occasion. D.W.-1 also admitted that apart from providing help in facilitating Babita's appointment as an Anganwadi worker, he shared physical relations with the deceased Babita. This admission substantially corroborated the prosecution version that the relationship between the accused and Babita was not merely casual but intimate in nature.

21. The Trial Court after considering and appreciating the evidence available on record, convicted and sentenced the accused/appellant **Vinay Pratap Singh @ Bablu** vide judgment and order dated 02.09.2014, on all counts as mentioned herein below: -

<i>In Session Trial No. 632/2009</i>	The accused was convicted under: - Section 302 I.P.C. – Imprisonment for Life + fine of Rs.20,000/- (in default, 6 months additional Rigorous Imprisonment); Section 404 I.P.C. – 2 years Rigorous Imprisonment + fine of Rs.1,000/- (in default, 1-month additional Rigorous Imprisonment); Section 3(2)(5) SC/ST Act – Imprisonment for Life + fine of Rs.20,000/- (in default, 6 months additional Rigorous Imprisonment).
<i>In Session Trial No. 676/2009:</i>	The accused was convicted under Section 307 I.P.C. – 8 years Rigorous Imprisonment + fine of Rs.5,000/- (in default, 2 months Rigorous Imprisonment)
<i>In Session Trial No. 677/2009</i>	The accused was convicted under Section 3/25 Arms Act – 2 years Rigorous Imprisonment + fine of Rs.1,000/- (in default, 1-month Rigorous Imprisonment).

It was also directed that all the sentences were to run *concurrently*.

PROCEEDINGS BEFORE THIS COURT

22. Aggrieved by the aforesaid conviction and awarding of sentence, the accused/appellant - Vinay Pratap Singh @ Bablu, has preferred the instant Criminal Appeal under Section 374(2) of the Code of Criminal Procedure, 1973 against the impugned common judgment and order dated 02.09.2014, passed by the learned Additional Sessions Judge/Special Judge, SC/ST Act, Hardoi as detailed herein above.

23. It is evident to note at this point that the *First bail application* filed by the appellant was *rejected* by a Coordinate Bench of this Court, vide a reasoned order dated 27.03.2015, passed in *Criminal Misc. Application No. 96058 of 2014*. Subsequently, the *Second bail application* came to be filed by the appellant vide dated 02.12.2024 in *Criminal Misc. Application No. 03 of 2024*.

24. However, while arguing the bail application, Shri Shashank Shekhar Singh, learned Counsel appearing for and on behalf of the accused/appellant, has pressed that since the paper book is ready in the present criminal appeal and he is willing to argue the appeal on merits, as the accused/appellant is in jail since 24.06.2009, it was directed for final hearing of the present criminal Appeal.

25. Accordingly, the Second bail application was *dismissed as being not pressed* and the instant criminal appeal has been heard on its merits.

SUBMISSION ON BEHALF OF THE PARTIES

26. That the hinge of the argument of the learned Counsel for the accused/appellant is that the judgment of conviction and sentence passed by the learned Trial Court is that the entire prosecution case rests solely on circumstantial evidence and there is no direct ocular evidence connecting the accused/appellant with the alleged murder of four deceased persons. It has been submitted that the conviction recorded by

the Trial Court is based upon conjectures and surmises rather than legally admissible evidence and, therefore, cannot be sustained in law.

27. Learned Counsel for the accused/appellant has further contended that the First Information Report itself, originates from pure suspicion and lacks the requisite factual foundation to constitute a *prima facie* case. P.W.-1 (Nathulal) admittedly did not witness the occurrence and merely stated that after reaching the house he found the dead bodies of the deceased persons. The allegation against the accused/appellant was made only because the accused/appellant was known to be residing with deceased-1/Babita and allegedly certain neighbours informed the Complainant that a quarrel had taken place between deceased Babita and the accused/appellant on the preceding night of the incident. Thus, according to learned Counsel, the F.I.R. discloses only suspicion and not any direct incriminating circumstance against the accused/appellant.

28. Learned Counsel for the accused/appellant has also submitted that the prosecution has failed to establish a complete chain of circumstances as required by settled principles governing cases based upon circumstantial evidence. Reliance has been placed upon some landmark judgments rendered in the cases of *Sharad Birdhichand Sarda v. State of Maharashtra*, reported in (1984) 4 SCC 116; *Hanumant v. State of M.P.*, reported in (1952) 2 SCC 71; *Ravishankar Tandon v. State of Chhattisgarh*, reported in 2024 SCC OnLine SC 526; and a judgment of this Court rendered in the case of *Vinod Chaudhari v. State of U.P.*, reported in 2023 SCC OnLine All 1420; to contend that every circumstance relied upon by the prosecution must be fully established and all such circumstances must unerringly point towards the guilt of the accused, while excluding every possible hypothesis consistent with innocence. It was argued that the present case falls far short of the aforesaid standard.

29. Learned Counsel for the accused/appellant has further contended that no motive has been established by the prosecution in the present case. It has been vehemently argued that the prosecution story regarding

alleged pressure by the accused/appellant upon deceased Babita for marriage and the consequent quarrel is based solely upon the testimony of interested witnesses, particularly P.W.-2 Malti. There is no independent evidence to establish any such motive. It was submitted that where a case rests entirely on circumstantial evidence, proof of motive assumes great significance and the prosecution having failed to establish the same, the chain of circumstances remains incomplete. It has also been submitted that the so-called "last seen" circumstance is inherently weak and unreliable, in the present case. P.W.-3 Surendra Pal, merely stated that he had heard a quarrel between the accused/appellant and the deceased Babita at about 9:00 p.m. and thereafter, went inside his own house. P.W.-3 did not witness any occurrence during the night. P.W.-3 also did not depose that the accused/appellant remained inside the house throughout the night. Thus, according to learned Counsel, the testimony of P.W.-3 is insufficient to establish exclusive presence of the accused/appellant with the deceased immediately before the occurrence.

30. Learned Counsel for the accused/appellant has strenuously submitted that four persons, including an elderly lady and two children, were allegedly murdered by strangulation. The post-mortem reports disclose ligature strangulation as the cause of death. It has been argued that the nature and manner of occurrence of the incident itself suggest participation of more than one assailant and render the prosecution story that a single individual committed all four murders highly improbable. No explanation has been offered by the prosecution, as to how a single person could simultaneously overpower and murder four occupants of the house without any sign of resistance or alarm by any of them.

31. Furthermore, the recovery of jewellery, mobile phones and other articles allegedly belonging to the deceased has also been challenged. Learned Counsel has submitted that the recovery proceedings are doubtful and suffer from serious procedural irregularities. No independent public witness was associated with the alleged recoveries. Mandatory safeguards contemplated under Cr.P.C. were not complied

with. It has been further submitted that the alleged recoveries stand contradicted by the inquest proceedings and therefore, cannot be treated as reliable incriminating circumstances. It has also been contended that the prosecution fabricated a false story of encounter in order to strengthen an otherwise weak case. According to learned Counsel, the accused/appellant was illegally apprehended and a fictitious version was subsequently created regarding firing upon the police party. The entire prosecution case under Section 307 I.P.C. and Section 3/25 Arms Act has argued to be artificial and unsupported by any independent witness.

32. It has been further argued that all material witnesses of fact are either related to the deceased or interested witnesses. P.W.-1 Nathulal, is a close relative of the deceased family, whereas P.W.-2 Malti, is the sister of deceased Babita and daughter of deceased Nandrani. Their testimonies, according to the accused/appellant, required cautious scrutiny. It has been also submitted that material contradictions and inconsistencies exist in their evidence and the learned Trial Court failed to appreciate such discrepancies.

33. Learned Counsel for the accused/appellant has also contended that the defence version has not been properly considered. The accused/appellant consistently maintained that he was falsely implicated due to a dispute relating to the property of the deceased family. It has been strenuously argued that after the incident, P.W.-2 Malti, and her family occupied the property and therefore, possessed a strong motive to implicate the accused/appellant. The possibility of involvement of other interested persons was also not investigated by the police. Learned Counsel for the accused/appellant has further submitted that the investigation suffered from serious infirmities and was conducted with a predetermined intention to implicate the accused/appellant. Material lapses and procedural irregularities were ignored by the Trial Court. It has been also argued that the statement of the accused/appellant under Section 313 Cr.P.C. has not been properly recorded and all incriminating circumstances were not fairly put to him.

34. Lastly, it has been argued that the prosecution has failed to establish guilt beyond reasonable doubt. At the highest, the circumstances create suspicion against the accused/appellant; however, suspicion, howsoever strong, cannot take the place of legal proof. It has been therefore prayed that the conviction and sentence recorded by the learned Trial Court be set aside and the accused/appellant be acquitted of all charges.

35. *Per contra*, learned A.G.A. appearing for the State has supported the judgment of conviction and submitted that the learned Trial Court has correctly appreciated the evidence on record and has recorded findings fully supported by law and evidence. Learned A.G.A. has contended that the prosecution has succeeded in proving a complete and unbroken chain of circumstantial evidence pointing solely towards the guilt of the accused/appellant-Vinay Pratap Singh @ Bablu. The evidence establishes that the accused/appellant was residing with deceased Babita in a live-in relationship for about one and a half years immediately preceding the occurrence of the incident. This fact stands proved not only through P.W.-1 Nathulal, P.W.-2 Malti and P.W.-3 Surendra Pal, but also through admissions made by the appellant himself, while deposing as D.W.-1.

36. Learned A.G.A. has further submitted that the motive behind the crime has been satisfactorily established. P.W.-2 Malti, specifically deposed that the accused/appellant was pressurizing Babita to enter into a Court marriage and that Babita was unwilling to do so. P.W.-2 has also stated that Babita often complained about the accused/appellant's unemployment and dependence upon her earnings. The resulting discord created bitterness in the relationship and supplied a clear motive for the crime. The accused/appellant himself admitted during his examination under Section 313 Cr.P.C. and as D.W.-1 that he intended to marry Babita, thereby lending corroboration to the prosecution case regarding motive.

37. Learned A.G.A. has also submitted that the evidence of P.W.-3 Surendra Pal, an independent neighbour, having no animus against the accused/appellant, assumes considerable significance. P.W.-3 categorically stated that on the night of 23.06.2009 at about 9:00 p.m. he witnessed a serious quarrel between the accused/appellant and Babita. He further stated that he did not see the accused/appellant leaving the house thereafter. Thus, the accused/appellant was last seen in the company of the deceased persons immediately prior to the occurrence. It has been argued that the appellant's conduct after the incident constitutes a strong incriminating circumstance. Although accused/appellant was admittedly residing in the house of the deceased, however he went missing when the dead bodies were discovered. No explanation whatsoever has been furnished by him regarding the circumstances under which four occupants of the house were murdered during the night. The failure of the accused/appellant to offer any plausible explanation attracts the principle embodied in Section 106 of the Indian Evidence Act.

38. Learned A.G.A. has further submitted that the medical evidence completely supports the prosecution case. P.W.-5 Dr. Anil Kumar Srivastava, conclusively proved that all four deaths were homicidal and caused by ante-mortem ligature strangulation. The time of death corresponds with the prosecution version that the murders occurred during the intervening night of 23/24 June 2009. The medical evidence is fully consistent with the circumstantial evidence led by the prosecution. It was next submitted that a highly incriminating circumstance is the recovery of jewellery, mobile phones, purse and other articles belonging to the deceased persons at the instance of the accused/appellant soon after the occurrence. P.W.-2 Malti, identified all recovered articles as belonging to the deceased. The recovery was duly proved by P.W.-7 and P.W.-8 and remained unshaken during cross-examination. Such recovery immediately after the occurrence provides strong corroboration to the

prosecution case and establishes the appellant's connection with the crime.

39. It has also been submitted by learned A.G.A. that during Trial, the prosecution also relied upon the conduct of the accused/appellant at the time of arrest. P.W.-7 and P.W.-8 consistently deposed that when the police party attempted to apprehend him, the accused/appellant opened fire with a country-made pistol and thereafter was arrested with an unlicensed firearm and cartridges. The evidence of these witnesses remained consistent and no material contradiction could be elicited despite extensive cross-examination. Learned A.G.A. argued that the defence plea of false implication due to a property dispute is wholly unsubstantiated. No documentary evidence was produced by the accused/appellant to establish any property dispute. No independent witness was examined in support of the defence theory. Mere suggestions put during cross-examination cannot be treated as evidence.

40. It has been further submitted that the testimony of related witnesses cannot be discarded solely on the ground of relationship if otherwise reliable and trustworthy. The evidence of P.W.-1 and P.W.-2 finds substantial corroboration from independent witness P.W.-3, medical evidence, recoveries, documentary evidence and admissions made by the appellant himself. Consequently, their testimony cannot be rejected merely because of their relationship with the deceased. Learned A.G.A. has also submitted that the defence evidence, rather than demolishing the prosecution case, substantially strengthens the prosecution case. As D.W.-1, the accused/appellant admitted his intimate relationship with the deceased Babita, admitted staying at her residence, admitted his desire to marry her and also admitted his close association with the family. These admissions corroborate the prosecution version regarding motive, opportunity and proximity.

41. It has been lastly argued that, in the present case every circumstance relied upon by the prosecution has been proved beyond reasonable doubt and all such circumstances collectively form a

complete chain leading only to the conclusion that the accused/appellant-Vinay Pratap Singh @ Bablu, committed the murder of Babita, Nandrani, Gunjan and Anshu. There is no reasonable hypothesis consistent with innocence. The conviction recorded by the Trial Court is therefore fully justified and calls for no interference in the present criminal appeal.

DISCUSSION AND FINDINGS

42. This Court has given its anxious thoughts to the facts and the submissions advanced by both the parties at length and perused the records.

43. The present case is relating to the gruesome murder of four people in the dark of night. Allegation of committing the said murder is on the person, who was last seen quarrelling with one of the deceased on the preceding night and apparently had illicit relation with the said deceased. Admittedly, since the murder was committed at night and the bodies of the four deceased were found within the precincts of the house, wherein these four people ordinarily resided, there is no ocular witness to the said murder. Therefore, the entire prosecution case is based on circumstantial evidence. Before embarking on the arduous task of deciphering the evidence brought on record, this Court find apposite to remind itself the settled law propounded by the Hon'ble Supreme Court for any conviction based on circumstantial evidence.

44. The Apex Court in the well celebrated judgment of ***Sharad Birdhichand Sarda v. State of Maharashtra***, reported in (1984) 4 SCC 116; held, relevant to the context :-

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

153. *A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:*

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 Cri LJ 1783] where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

“Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.”

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.”

45. The Hon’ble Supreme Court in the said judgment authoritatively held that it was incumbent on the prosecution to fully establish the circumstances from which the conclusion of the guilt is to be drawn. The transition of the Court before convicting an accused ought to be based on the primary principle that the accused ‘must be’ and not merely ‘may be’ guilty. Apparently, there should be no room for any suspicion and the evidence brought on record should be consistent only with the guilt of the accused and there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused.

46. In the light of these guiding principles, this Court proposes to examine the present case.

47. As far as the homicidal death of the four deceased is concerned, we find from the Inquest report of the deceased Nandrani, exhibited as *Exhibit-Ka-11*, that her body was lying on a cot in the courtyard with the neck tightly tied with a saree. The panchas after inspecting the physical status of the dead body have unanimously opined that the deceased

Nandrani has been strangled to death. Similar is the view of the panchas for deceased Anshu, which is *Exhibit-Ka-12* and whose body was lying on the same cot in the courtyard along with the dead body of his grandmother- Nandrani with his neck tied with a black dupatta and the saree of deceased-Nandrani. Further, the panchas have also opined that as far as deceased Babita is concerned, she has also been strangled to death and her dead body was found in the courtyard beneath the chappar (thatched roof) with her neck tied to a saree and the other end of the saree tied to the neck of her daughter, Kumari Gunjan, whose body was lying beside her. The Inquest report of deceased Babita is exhibited as *Exhibit-Ka-13* and that of Kumari Gunjan as *Exhibit-Ka-14*.

48. Further, we find that subsequent to the Inquest report, the four bodies were sent for Post Mortem to the District Hospital. The Post mortem reports of all the deceased has been prepared and proved by **P.W.-5/Dr. Anil Kumar Srivastava**, the Medical Officer, who conducted the post-mortem examinations of all four deceased persons. The post mortem report of deceased Nandrani has been exhibited as *Exhibit-Ka-5*, that of Babita as *Exhibit-Ka-7*, Gunjan- *Exhibit-Ka-4* and Anshu as *Exhibit-Ka-6*. The said medical officer has deposed that the cause of death of all the four deceased is asphyxia as a result of Ante-mortem strangulation. P.W.-5 found *ligature marks around whole of neck circumference below thyroid with underlying ecchymosis of all four deceased*. Generally, a ligature mark is a pressure abrasion or indentation on the neck skin caused by the tight constriction of an object like a rope, cord, wire, or clothing. The presence of a ligature mark below the thyroid cartilage with underlying ecchymosis (deep tissue bruising) as recorded in the post-mortem report is a classic forensic triad and furthers the physical condition of the dead bodies as recorded in the Inquest report. Moreover, in forensic pathology, these specific findings strongly point toward a cause of death by **ligature strangulation (homicide)** rather than hanging, which is also commensurate to the physical status of

the dead bodies, wherein they were found lying on the cot and on the ground.

49. Moreover, in the cases of deceased Babita, Nandrani and Anshu, *fracture of hyoid bone and tracheal rings* was noticed. This Court finds that medical jurisprudence clearly mentions that fractures of the hyoid bone and tracheal rings are indicators of significant force applied to the neck region. In clinical and forensic contexts, these injuries are associated with serious respiratory and circulatory complication. Thus, suicide of any kind is ruled out altogether. The said witness has also found *Congestion of internal organs*, which is a common finding during post-mortem autopsies and indicates that blood pooled in organs like the lungs, liver, spleen, or kidneys because it could not flow back to the heart properly before death. This all indicates that an external force was exerted for causing death. In the case of deceased - Gunjan, injury to the right eye was additionally noted. According to P.W.-5 the deaths could have occurred during the intervening night of 23/24.06.2009. During his cross-examination, the defence was unable to challenge his medical findings. No suggestion was put indicating any possibility of accidental or suicidal death. P.W.-5 remained firm that the deaths were caused by *ante-mortem strangulation*. In the considered view of this Court, P.W.-5 provides crucial medical corroboration to the prosecution case and conclusively establishes homicidal death by strangulation of the four deceased.

50. This Court does not find any serious challenge laid by the learned Counsel for the Appellant to the cause of death being homicidal, except that he has stressed on the proposition that the manner these deaths have been caused of the four deceased, it cannot be a handiwork of a single assailant. Although, we propose to deal with the said proposition later, but the fact remains that there is not an iota of doubt that the death has been caused by strangulation and it is homicidal.

51. That brings us immediately to the next pertinent question as to whether the prosecution has been able to fully establish the circumstances from which the conclusion of the guilt of the Appellant is to be drawn and as to whether the chain of evidence brought on record is consistent only with the guilt of the Appellant and show that in all human probabilities the act must have been done by the accused.

52. Mr. Shashank Shekhar Singh, learned Counsel for the Appellant has laid various grounds to challenge the conviction order against the appellant. We propose to deal with each of them in seriatim. The learned Counsel has challenged the F.I.R. by submitting that there is no ocular evidence connecting the Appellant with the alleged murder of four deceased person. According to him, the complainant who lodged the F.I.R. did not witness the occurrence and the entire fact stated by him is on hearsay and thus, the learned Counsel has sought to conclude that the F.I.R. is based on suspicion and there is no incriminating material stated in the said F.I.R. against the Appellant. Before this Court deals with the said contention of the Appellant, it should be well understood that an F.I.R. is not a substantive piece of evidence. If it cannot be the sole reason to convict an accused, in the same logic it cannot be the sole reason for acquittal of any accused. The law stands settled that F.I.R. is primarily used to corroborate or contradict the person who filed the said F.I.R. The acronym F.I.R. is First Information Report and the law does not mandate that it should contain exhaustive information. F.I.R. merely sets the criminal law into motion and does not anticipate minute details, which are actually meant to be uncovered during investigation, which is to take place subsequently after the F.I.R. comes into existence. F.I.R. is merely a starting point and it does not matter whether a particular accused is named or whether particular evidence is mentioned or not. The Hon'ble Supreme Court in the case of *State of U.P. v. Naresh*, reported in (2011) 4 SCC 324; went on to hold that :-

“31. The High Court has also fallen into error in giving significance to a trivial issue, namely, that in respect of the

morning incident all the accused had not been named in the complaint/NCR.

32. *It is a settled legal proposition that an FIR is not an encyclopaedia of the entire case. It may not and need not contain all the details. Naming of the accused therein may be important but not naming of the accused in FIR may not be a ground to doubt the contents thereof in case the statement of the witness is found to be trustworthy. The court has to determine after examining the entire factual scenario whether a person has participated in the crime or has falsely been implicated. The informant fully acquainted with the facts may lack necessary skill or ability to reproduce details of the entire incident without anything missing from this. Some people may miss even the most important details in narration. Therefore, in case the informant fails to name a particular accused in the FIR, this ground alone cannot tilt the balance of the case in favour of the accused. (Vide Rotash v. State of Rajasthan [(2006) 12 SCC 64 : (2007) 2 SCC (Cri) 382] and Ranjit Singh v. State of M.P. [(2011) 4 SCC 336 : JT (2010) 12 SC 167])”*

53. Further, it ought to be also well engraved in mind that the law does not in any manner provide that an F.I.R. is required to be filed only by an ocular witness or for that matter an F.I.R. can be filed only in those cases which have direct witness. The proposition sought to be espoused by the learned Counsel seems to be absolutely absurd and as such the same has been noted merely to be rejected. Time and again the Courts have held that F.I.R. cannot be expected to be an encyclopaedia and requires every single detail to be mentioned. The concept of hearsay is for evidence and not for an F.I.R. to be lodged for propelling a criminal machinery for investigation. An F.I.R. can be lodged by any person, even on the basis of hearsay evidence. There is no ground on which this Court could subscribe to the opinion of the F.I.R. being suspicious as is being contended by the learned Counsel for the Appellant.

54. The next contention of the learned Counsel for the Appellant is that the manner of assault and deaths of the four deceased persons is seriously doubted. According to him, the said incident cannot be committed by a single person. He has highlighted the post mortem report

of the deceased, which shows that all the four deceased had been strangled to death as ligature mark has been found round the neck of these deceased. This Court at the very outset, clarifies that it is one thing to say that the Appellant could not have committed the crime in question for various reasons and another thing to say that the crime itself could not be committed by a single person i.e. impossibility of commission of crime. As far as the Appellant could not have committed the crime in question, this Court finds that there were other grounds agitated by the learned Counsel, which shall be dealt with in the subsequent paragraphs. However, presently the issue is the factum of crime could not have been committed by a single person. Although, this Court does not wish to enter into a debate as to whether the crime could be committed by a single person or not, as essentially the Appeal and the trial has been conducted on the premises as to whether the Appellant has committed the crime or not rather than who has committed the crime?.

55. The evidence led in the present case is restricted to the culpability of the Appellant and not to the culpability of anyone else. As regards this particular contention raised by the Appellant is concerned, this Court cannot reject the case of the prosecution simply because one person is accused of multiple murders, keeping in view that the F.I.R. came to be lodged against the Appellant and other unknown. Therefore, the first view of this Court is that the inability of the investigating agency to find and charge sheet other accused persons allegedly involved in the present crime does not automatically gives any right or confirms acquittal of the Appellant on this sole ground. Further, it is available from the facts of the present case that the crime was committed at the dark of night, when the deceased were all deep asleep. The vulnerability of the deceased is of special significance because of their age and resultant infirmity. It has come on record that the deceased Nandrani (aged 65 years), Babita (32 years), Kumari Gunjan (aged about 7 years) and Anshu (aged about 5 years) were found with clothes tied around their whole neck. It cannot be ruled out these deceased persons because of their age and the rural

background could have been easily overpowered as it has also come on record that there was no resistance from any of these deceased. It is common knowledge that elderly and young children lack the physical strength to fight back effectively and it is natural for a determined adult like the Appellant to strangle one by one. The absence of struggle by each of these deceased attributes to their physical vulnerability and fear as the elderly and children are likely to freeze or become incapacitated by shock during a violent assault, allowing a single assailant to execute the crime without them fleeing. It has come in evidence that the Appellant was very much present in the house and the only possible resistance would be that of deceased- Babita, who was also an adult of 32 years, but this Court cannot be oblivious of the fact that if the presence of the Appellant is proved in the same house as that of the elderly and the children and the deaths happened at night, Section 106 of the Indian Evidence Act immediately is invoked, wherein the Appellant will bear the heavy burden of explaining how four vulnerable people were strangled under the same roof. This Court does not find any evidence which has been led by the Appellant to come out from the shackles of Section 106 of the Indian Evidence Act, because of other compelling circumstances of 'motive', 'last seen theory' proved against him which is being dealt with hereinafter. This Court is clear in its mind that in case the accused cannot give a plausible explanation, the appellate Court will have to uphold the conviction as apparently the chain of circumstances appears to be complete and pointing towards the only hypothesis of culpability of the Appellant.

56. The next contention advanced by the learned Counsel on behalf of the appellant is a kind of dual attack on the prosecution story, in as much as according to the learned Counsel the prosecution failed to establish any **motive** for the crime, on the part of the appellant. It has also been argued that the so called '**last-seen**' circumstances are inherently weak and unreliable in the present case.

57. As far as the contention of the Appellant that since there was an absence of motive, the chain of events could not be completed and as such the appellant ought to have been given the benefit of doubt, the argument appears to be attractive in the first blush, however on a deeper scrutiny of evidence, this Court finds that the said argument to be devoid of any merit. It is well settled that while motive may assume significance in cases based on circumstantial evidence, its absence is not fatal where the prosecution has led reliable and trustworthy testimony. Motive does assume great importance, but to say that the absence of motive would dislodge the entire prosecution story is giving this one factor an importance which is not due. Motive operates in the realm of the accused's mind and is often difficult to establish and can seldom be fathomed with any degree of accuracy. However, in the present case, we find on reading of the evidence brought on record that a reasonable motive has been appended by the prosecution for commission of the crime of murder by the appellant, which cannot be ignored.

58. In the present case, we find that as far as motive is concerned, the testimony of the fact witnesses P.W.-1, P.W.-2, P.W.-3 and P.W.-4 have consistently stated that there was an ensuing physical relationship between the appellant and the deceased- Babita. In fact, this Court finds that the Appellant also entered the witness box as a defense witness to depose and admit the fact of being in a physical relation with the deceased-Babita and also visiting her house very often. The Appellant has been ordinarily residing in the said house along with Babita can also be well understood from the evidence that a tin name plate (*Exhibit-Ka-2*) bearing the name of the Appellant as 'General Secretary, Human Right Social Animator Task Force' was displayed in the front of the house of Nandrani, wherein Babita was also residing along with her two children. Further, we do not find any categorical statement that the Appellant was not present in the fateful night of the incident in the said house nor there is any statement to the effect that there was no quarrel/fight on the preceding night of the incident. However, it has

been argued by the learned Counsel for the appellant that motive could not be proved, as all the witnesses have merely given a hearsay account of the said love affair and in the absence of any motive, the appellant cannot be assigned the culpability of the offence charged against him. This Court is conscious of the fact that there cannot be direct evidence of any motive and the same has to be gathered from the circumstances. It has clearly come in evidence of P.W.-2 that the appellant had physical relations with the deceased- Babita and was all set to have a Court-marriage with her, but the deceased- Babita had been ignoring the said offer for allegedly the Appellant had not been working and had been living on the earnings of deceased- Babita. It has also come in the evidence that the Appellant had been also physically beating and abusing the deceased- Babita and for various reasons deceased- Babita was in two minds to marry the Appellant or not. Apparently, these facts were reasons for continuous fight between the Appellant and the deceased- Babita. According to the deposition of P.W.-2, she was told by her deceased sister- Babita that since the Appellant was being rebuked by deceased- Babita for not working, physical abuse etc., the Appellant started suspecting Babita of not continuing living along with the appellant or planning to leave him altogether and marry someone else. Thus, the prosecution was able to prove on record that the murder was committed for a vengeance and out of fear that the deceased Babita may leave the company of Appellant and marry someone else. Therefore, the appellant had a motive to commit the said crime. Apparently it has been also deposed by the Appellant that he wanted to marry the deceased- Babita but it has not come in his evidence or explanation as to why the said deceased - Babita ignored her said offer, although it seemed to be attractive from her point of view as she being a widow and having two children at of age 32 would require a company of man for spending her rest of life in peace. However, we do not find any explanation from the end of the Appellant. Therefore, a motive exists, which cannot be altogether negated in the present facts and circumstances, however, we

are also clear in mind that this motive solely cannot be the edifice of conviction. Be that as it may, we are also clear in our mind that inability to prove motive would also not be always fatal to the prosecution case. In this regard, this Court may refer to the judgment of the Hon'ble Supreme Court in the case of ***G. Parshwanath vs. State of Karnataka***, reported in **2010 (8) SCC 593**; in which, it has been held as follows:

“45. The argument that in absence of motive on the part of the appellant to kill the deceased benefit of reasonable doubt should be given, cannot be accepted. First of all every suspicion is not a doubt. Only reasonable doubt gives benefit to the accused and not the doubt of a vacillating judge. Very often a motive is alleged to indicate the high degree of probability that the offence was committed by the person who was prompted by the motive. In a case when the motive alleged against accused is fully established, it provides foundational material to connect the chain of circumstances. It affords a key on a pointer to scan the evidence in the case in that perspective and as a satisfactory circumstance of corroboration. However, in a case based on circumstantial evidence where proved circumstances complete the chain of evidence, it cannot be said that in absence of motive, the other proved circumstances are of no consequence. The absence of motive, however, puts the court on its guard to scrutinize the circumstances more carefully to ensure that suspicion and conjecture do not take place of legal proof. There is no absolute legal proposition of law that in the absence of any motive an accused cannot be convicted under Section 302 I.P.C. Effect of absence of motive would depend on the facts of each case. Therefore, this Court proposes to examine the question of motive which prompted the appellant to commit the crime in question.”

(Emphasis Supplied)

59. Apparently, in the present case, a ‘**motive**’ has been sought to be accorded to the said incident by unfolding the story by narrating that the appellant had an illicit relations with the deceased-Babita and was all set to have a Court-marriage with her, but the deceased-Babita had been ignoring the said offer for allegedly the Appellant had not been working and had been living on the earnings of deceased- Babita. Further, these had been a reason for continuous fight between the Appellant and the

deceased-Babita. Evidence has come on record that even on the preceding night of murder a fight had been ensued between the Appellant and the deceased- Babita at about 9 PM in the last night, which was witnessed by the neighbors namely, Surendra Pal (P.W.-3), Pappu and Mohd. Salim.

60. There is another aspect of the matter, in as much as it is also undisputed that the four bodies along with the body of deceased- Babita was found in her house, where the Appellant was last seen along with her at about 9 PM on the preceding night. The dead bodies were discovered at 8 AM in the following morning. Apparently, it has come in evidence that the Appellant was present in the said house, on the fateful night of the incident as nothing contrary to that effect has come on record. Therefore, the conduct of the appellant, both prior to and after the incident, assumes significance in view of Section 8 of the Indian Evidence Act, 1872, which *inter-alia* states as herein under:

“Section 8. Motive, preparation and previous or subsequent conduct.

Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact. The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

Explanation 1. - The word "conduct" in this section does not include statements; unless those statements accompany and explain acts other than statements; but this explanation is not to affect the relevancy of statements under any other section of this Act.

Explanation 2. - When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.”

61. Admittedly, the Appellant was not found in the said house in the morning and the house was open from outside. The Appellant was immediately arrested on the same day from a different place, while he was in a hideout and was trying to flee away. The Appellant has been arrested after a gun fight and an unlicensed gun along with two bullets, one stuck in the barrel was recovered from him after apprehending by a team of police. The Appellant pursuant to his disclosure statement led to recovery of a black bag, containing silver ornaments of the deceased and two mobile phones. It is rather strange that when four dead bodies were found and admittedly, the Appellant was into a physical relationship with the deceased-Babita and as per his own version wanted to marry her also, then as to why he did not approach the Police immediately and rather would have been the complainant, in case he was not involved in the present crime. This Court further notes that the non-participation of the appellant in the '*panchayatnama*' also, shows the conduct of the appellant post-crime is under suspicion and a relevant fact under Section 8 of The Indian Evidence Act.

62. The next ground being agitated by the learned Counsel is that the 'last seen theory' being a very weak piece of evidence and as such cannot be the sole ground of conviction. No doubt, there are consistent line of judgment, starting from *Arjun Marik Vs State of Bihar*, reported in *1994 Supp(2) SCC 372*; *Krishnan alias Ramaswamy and Ors. Vs State of Tamil Nadu*, reported in *(2014) 4 SCC 715*; and *Kanahiya Lal Vs State of Rajasthan*, reported in *(2014) 4 SCC 715*; which have consistently held that evidence of 'last seen together' is a weak evidence and conviction only on the basis of 'last seen together' without there being any other corroborative evidence against the accused will not be sufficient to convict the accused for an offence under Sections 302 I.P.C.

63. However, in the present case, we find other corroborative evidence and the conviction is not merely on 'last seen' or 'motive' independently,

but on an appreciation and consideration of each of the piece of evidence brought on record. As far as the concept of 'last seen theory' is concerned, this Court tries to decode the proposition of the learned Counsel for the Appellant, wherein he submits that 'last seen theory' is weak evidence for conviction. In other words, the learned Counsel is of the view that a conviction cannot be based on the only circumstance of last seen together. There is absolutely no quarrel on the said proposition of law. However, it is also equally settled that last seen theory comes into play where the time gap, between the point of time when the accused and the deceased were seen last alive and when the deceased is found dead, is so small that possibility of any person other than the accused being the perpetrator of the crime becomes impossible. (*please see Rambraksh Vs State of Chhattisgarh, reported in (2016) 12 SCC 2510*). Thus, the theory of last seen would gain prominence in a given fact and circumstances and would largely depend on the time-gap between the event of deceased being alive in the company of the accused and the event of death of the deceased, which would obviously form an additional link in the chain of circumstantial evidence.

64. So far as the facts in the present case is concerned, it was duly proved that the death of the deceased was homicidal. The prosecution story starts with the discovery of four dead bodies of namely, Nandrani (aged 65 years), Babita (32 years), Kumari Gunjan (aged about 7 years) and Anshu (aged about 5 years) by P.W.-1, when he visited the house of the deceased person on 24.06.2009, at about 8:00 AM located in Mohalla Nawabganj, Police Station Sandi, District Hardoi. It has been proved by evidence that the Appellant was having a physical relationship with one of the deceased namely, Babita since for about 1.5 years prior to the date of incident. It has also come in evidence of P.W.-3, a neighbour of the deceased and an independent witness that there was a quarrel between the Appellant and the deceased- Babita on the preceding night of murder. He has also deposed that he heard the said quarrel for some time, which

was happening on the *chabutra* of the house of the deceased person. There is specific time provided of 9 PM in the preceding night, when a quarrel was heard by the neighbours namely Surendra, Pappu and Mohammad Salim, who also rushed to the crime-site on the discovery of four dead bodies, including that of deceased- Babita, with whom they had witnessed fight with the Appellant last night. It has also come in evidence of P.W.-3 that after the said quarrel at 9 PM in the preceding night of murder, he did not see the Appellant going away from the house of the deceased- Babita, after the said fight. It has also come in evidence of P.W.-1 that the dead body of the deceased- Babita was found at 8 AM in the morning on the very next day of quarrel in the night. Apparently, the time of murder is between 9 PM in the night and 8 AM in the morning, which appears to be very proximate, keeping in view the rural background of the present case, wherein ordinarily there is no night life and generally villagers go early to sleep in the night. It is also true that people come to visit any person in village mostly during the day time only or may be in the night, but certainly not after 9 PM. Therefore, there is remote or rather no chance of any third-party intervention during the contiguous time of 9 PM in the night to 8 AM in the next morning, which would interrupt the continuous togetherness between the Appellant and the deceased- Babita. Further, we find that there is no denial on the part of the Appellant that he was not in the house of the deceased between 9 PM to 8 AM in the next morning, nor there is any evidence on record, which would show that some other person could have come in the rural village for committing murder of the four deceased without any motive of looting etc. This Court finds that a direct question was put to the Appellant under Section 313 of the Criminal Procedure Code, which is being quoted herein below, which goes to the root of the controversy:

“Question 14 (Reference No. (Aakhya Sankhya-3): *In the testimony of Surendra Pal, it is stated that on the night prior to the alleged incident, at approximately 9:00 PM, he was sitting at his doorway and observed an altercation taking place*

outside the house between you and Babita; subsequently, the witness went inside his house and did not see you leaving the house during the night. In the morning, he learned that Nandrani, Babita, and Babita's two children had been murdered. What do you have to say regarding this?

Answer: The statement about the altercation is incorrect. The rest is correct."

(Translated by this Court)

65. The answer to the specific question signifies the presence of the Appellant in the house of the deceased person on the said fateful night. Further, it is clear from the evidence brought on record that the appellant was seen and heard fighting with the deceased on the preceding night at 9 PM and the very next day early morning at 8 AM, the dead body of the deceased was found lying in her own house, where she was last seen together quarrelling along with the appellant. The threshold of explanation and responsibility of a person, who is having physical relationship with the deceased and is also proved to living along with her in the same house is on a higher pedestal than a normal person. Further, the time gap between the period when the deceased was '**last seen together**' with the appellant and the recovery of the corpse of the deceased being quite proximate, the non-explanation of the appellant with regard to the circumstance under which and when the appellant had departed from the company of the deceased is a very crucial circumstance proved against him.

66. It may be noted that once the theory of '**last seen together**' was established by the prosecution, the appellant was expected to offer some explanation as to when and under what circumstances he had parted the company of the deceased. It is true that the burden to prove the guilt of the accused is always on the prosecution, however in view of Section 106 of the Indian Evidence Act, when any fact is within the knowledge of any person, the burden of proving that fact is upon him. Of course, Section 106 is certainly not intended to relieve the prosecution of its

duty to prove the guilt of the accused, nonetheless it is also equally settled legal position, that if the accused does not throw any light upon the facts which are proved to be within his special knowledge, in view of Section 106 of the Evidence Act, such failure on the part of the accused may be used against the accused, as it may provide an additional link in the chain of circumstances required to be proved against him. In the present case, which is based on circumstantial evidence, furnishing or non-furnishing of the explanation by the accused would be a very crucial fact, when the theory of “last seen together” as propounded by the prosecution was proved against him.

67. Ergo, this Court finds that, in view of above, apparently, a foundational fact was built successfully by the prosecution and thus, a duty was cast upon the appellant to show and explain the evidence which has been brought against him. As aforesaid, the entire evidence was put-across the statements of the appellant under Section 313 Cr.P.C. and when it was specifically asked as to why this case has been filed against him, he simply replied that it was a false case due to vengeance. This Court finds that although a defence story had been narrated by the appellant pointing towards usurping property by P.W.-2 (Malti), the elder daughter of deceased-Nandrani and real sister of deceased- Babita, with the help of her community, but no evidence has been led by him to either name or bring any iota of evidence in that regard, although opportunity of defence was granted to him by the learned Trial Court. The appellant has merely denied or feigned ignorance to which necessary inference can be drawn against him. The Hon’ble Supreme Court in ***Ram Gopal v. State of M.P.***, reported in **(2023) 5 SCC 534**; after considering the judgment of the Apex Court in ***Rajendra Vs State of NCT of Delhi***, reported in **(2019) 10 SCC 623**; and ***Satpal vs State of Haryana***, reported in **(2018) 6 SCC 610**; has held as follows:

“9. In view of the afore-stated legal position, it is discernible that though the last seen theory as propounded by the prosecution in a case based on circumstantial evidence may be a weak kind of evidence by itself to base conviction solely on such theory, when

the said theory is proved coupled with other circumstances such as the time when the deceased was last seen with the accused, and the recovery of the corpse being in very close proximity of time, the accused does owe an explanation under Section 106 of the Evidence Act with regard to the circumstances under which death might have taken place. If the accused offers no explanation or furnishes a wrong explanation, absconds, motive is established and some other corroborative evidence in the form of recovery of weapon etc. forming a chain of circumstances is established, the conviction could be based on such evidence.”

68. The next limb of argument of the learned Counsel for the Appellant is that recovery of jewellery, mobile phones and other articles allegedly belonging to the deceased from the Appellant. Learned Counsel has submitted that the recovery proceedings are doubtful and suffer from serious procedural irregularities. No independent public witness was associated with the alleged recoveries. Mandatory safeguards contemplated under Cr.P.C. were not complied with. It has been further submitted that the alleged recoveries stand contradicted by the inquest proceedings and therefore, cannot be treated as reliable incriminating circumstances.

69. As far as the recovery of Jewellery, mobile phones and other articles from the Appellant is concerned, this Court finds that P.W.-2 (Malti), the real sister of the deceased- Babita has identified the jewellery, Mobile phones and other Articles in her deposition. This Court had carefully examined the Inquest report of the four deceased as well as the evidence of P.W.-9 and P.W.-10 and does not find any marked inconsistencies between the recovery made and the Inquest report as has been sought to be agitated by the Appellant. As far as non-associating of independent public witnesses for recoveries is concerned this Court is of the view that this is not such an impelling ground to throw the case of the prosecution. It is clear that besides the complainant, P.W.-1 and other fact witness, P.W.-2, the prosecution has also examined one independent witnesses of last seen theory i.e. P.W.-3, the prosecution has also presented P.W.-7 and P.W.-8, who were witness to the said recoveries.

No doubt P.W.-7 and P.W.-8 are police officers, however, the fact remains that they have entered the witness box and testified of the recoveries made from Appellant and were available for cross-examination. We do not find any noticeable contradiction in their deposition nor the Appellant was able to elicit anything from them during their cross-examination. Not only this it is a matter of common experience that the public persons are not interested in deposing in Courts in cases in which they do not have any personal interest. There are cases where even the victim of the offence and the persons who are related to that case also shy away from coming to the Courts. As far as the defence that no public person was made a witness is concerned, the answer lies in the judgment of Hon'ble Supreme Court of India in *Appabhai v. State of Gujarat*, reported in *1988 Supp SCC 241: AIR 1988 SC 696*; where the Hon'ble Supreme Court has been pleased to observe:

“It is no doubt true that the prosecution has not been able to produce any independent witness to the incident that took place at the bus stand. There must have been several of such witnesses. But the prosecution case cannot be thrown out or doubted on that ground alone. Experience reminds us that civilized people are generally insensible when a crime is committed even in their presence. They withdraw both from the victim and the vigilant. They keep themselves away from the court unless it is inevitable. They think that crime like civil dispute is between two individuals or parties and they should not involve themselves. This kind of apathy of the general public is indeed unfortunate but it is there, everywhere whether in village life, towns or cities. One cannot ignore this handicap with which the investigation agency has to discharge its duties. The court, therefore, instead of doubting the prosecution case for want of independent witnesses must consider the broad spectrum or the prosecution version and search for the nugget of truth with due regard to probability if any, suggested by the accused.”

70. It has been next submitted that P.W.-1 and P.W.-2 were related to the deceased in as much as P.W.-2 (Malti) is the real sister of the deceased- Babita and daughter of deceased-Nandrani. Further P.W.-1, the informant is also related to the deceased-Nandarani as he is not only a neighbour but also her relative. Thus, according to the learned Counsel,

both P.W.-1 and P.W.-2 are interested witnesses and as such their testimony must be examined with certain circumspection. No doubt, the informant/P.W.-1 is a relative of the deceased person, however, it must also be understood that he is also a neighbour and a co-villager of the deceased person. Further, it has also come on record that as being a co-villager and also a relative, the informant used to often visit the deceased -Nandrani. The presence or the visit of the said witness on the fateful morning of on 24.06.2009, at about 8:00 AM at the house of deceased person cannot be doubted and appears to be normal and usual. The contention that P.W.-1 is an “interested witness” is misconceived. Further, there is a marked difference between ‘interested witness’ and ‘related witness’, as a related witness is not necessarily an interested witness. The law on this aspect is settled by the Hon'ble Supreme Court in *Md. Rojali Ali v. The State of Assam* reported in (2019) 19 SCC 567 : AIR 2019 SC 1128; wherein it was held that :-

“13. As regards the contention that all the eyewitnesses are close relatives of the deceased, it is by now well-settled that a related witness cannot be said to be an “interested” witness merely by virtue of being a relative of the victim. This Court has elucidated the difference between “interested” and “related” witnesses in a plethora of cases, stating that a witness may be called interested only when he or she derives some benefit from the result of a litigation, which in the context of a criminal case would mean that the witness has a direct or indirect interest in seeing the accused punished due to prior enmity or other reasons, and thus has a motive to falsely implicate the accused (for instance, see State of Rajasthan v. Kalki [State of Rajasthan v. Kalki, (1981) 2 SCC 752 : 1981 SCC (Cri) 593] ; Amit v. State of U.P. [Amit v. State of U.P., (2012) 4 SCC 107 : (2012) 2 SCC (Cri) 590] ; and Gangabhavani v. Rayapati Venkat Reddy [Gangabhavani v. Rayapati Venkat Reddy, (2013) 15 SCC 298 : (2014) 6 SCC (Cri) 182]). Recently, this difference was reiterated in Ganapathiv. State of T.N. [Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793] , in the following terms, by referring to the three-

Judge Bench decision in State of Rajasthan v. Kalki [State of Rajasthan v. Kalki, (1981) 2 SCC 752 : 1981 SCC (Cri) 593] : (Ganapathi case [Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793] , SCC p. 555, para 14)

"14. "Related" is not equivalent to "interested". A witness may be called "interested" only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be "interested"."

71. Further, it is true that while considering the evidence of a close relative, the Court has to be cautious with such evidence but the entire evidence cannot be rejected only on the ground that he is close relative. The Supreme Court in the case of *Masalti v. State of U.P.*, reported in *1964 SCC OnLine SC 30 : AIR 1965 SC 202*; has held as under :-

"14.But it would, we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses ... The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to failure of justice. No hard - and - fast rule can be laid down as to how much evidence should be appreciated. Judicial approach has to be cautious in dealing with such evidence; but the plea that such evidence should be rejected because it is partisan cannot be accepted as correct."

72. The learned Counsel for the defense has also argued that P.W.-3 cannot be construed to be an independent witness as he is a neighbour of the deceased person. Admittedly, the incident in the present case, occurred in the dark of night on the intervening night of 23rd and 24th of June, 2009. The place of the incident is a rural village. His house is adjoining the house of the deceased person and therefore his hearing of

the quarrel between the deceased- Babita and the Appellant on the preceding night appears to be natural and reliable. He has also specifically deposed that he heard the Appellant quarrelling on the preceding night of the incident and also did not see the Appellant going away from the house of the deceased. The presence of the neighbour P.W.-3 at the scene of the incident is natural and reliable. No animosity has been brought on record, so as to discredit the said witness. There is no evidence of prior enmity or motive for false implication. Indeed, one of the earliest statements with respect to 'interested witnesses' in criminal cases was made by the Supreme Court in the case of ***Dalip Singh v. State of Punjab***, reported in ***(1953) 2 SCC 36 : 1954 SCR 145***; wherein the Hon'ble Supreme Court has observed :-

"24. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true, when feelings run high and there is personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often a sure guarantee of truth. However, we are not attempting any sweeping generalisation. Each case must be judged on its own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts."

Thus, this Court does not find any force in the submission of the learned Counsel for the defense and as such the same is rejected.

73. It has been highlighted by the learned Counsel for the Appellant that there are inconsistencies in the deposition of the witness and the entire case has been built on suspicion. As far as the inconsistency is concerned, the

Appellant failed to point out any real consistencies in the statement of any of the witnesses. The suspicion being raised are merely surmises and a last ditch effort on the part of the learned Counsel to defend the Appellant, which appears to be merely illusory. In any case, even giving the concession that there are some remote inconsistencies, we need to understand that these inconsistency does not go to the root of the merits of the case and are normal errors of memory due to lapse of time or mental disposition of a witness. Such minor variations are natural and have been held to be insignificant by this Court in *Jitendra Pal Vs State of Uttar Pradesh*, *Neutral Citation No. :2025:AHC-LKO:79401-DB*; reported in *2025 SCC OnLine All 8144*; wherein this Court had an occasion to deal with minor discrepancy in the statement of witnesses recorded in the Court after a periodic lapse of time of occurrence of incident. This Court has held in paragraph no.17 as follows :-

“17. No doubt, discrepancies or inconsistencies in prosecution evidence is a short fall from which no criminal case is free. However, this court cannot be oblivious to the fact that while considering the deposition of a witness, this Court has to take into consideration the process in which the facts are perceived and testified by a witness. Time and again, it has been held in a catena of judgments that when an incident occurs, a witness perceives facts according to his intelligence and experience in life and subsequently when he or she is called upon to recollect those facts, after a long gap of time, his or her memory may help or deter him/her in recollection of those facts and he/she may flounder on the precise time, place and sequence of events. This human process brings discrepancy in the deposition of a witness, which may be termed as normal. The testimony of PW-4 as far as the timing relating to having seen the deceased and the appellant together on the fateful day at 6 PM in the evening is an outcome of such a discrepancy. However, when this discrepancy is weighed and marshalled along with other evidence, which has come on record, it can be safely deduced that both the deceased and the appellant were last seen together on the said fateful day. Further, it cannot be discounted that this kind of discrepancies in time, especially in a village, may occur on account of errors of observation of facts, normal errors of memory due to

lapse of time or mental disposition of a witness. These discrepancies are those which are normal and expected of a normal person and cannot be termed as any material discrepancies, which may affect the substratum of the story itself. When the discrepancies, highlighted by the learned Counsel for the appellant are being considered, whether it is relating to the time when PW-4 last saw both the deceased and the appellant together on a motor-cycle or the time-line given by these witness, this court is of the opinion that these are normal and not material discrepancies. Thus, it is concluded that the inconsistencies in the prosecution case, as far as the presence of the appellant during the course of day on the date of incident on 09.03.2015 is immaterial and do not have any impact on the facts, deposed by the witnesses. Thus, the presence of the appellant at Sheetal Kheda on 09.03.2015 stands proved by a co-joint reading of the evidence of PW-2, PW-3 and PW-4 and even the last seen together evidence of PW-4 could not be impeached by the defense, although the said witness was subjected to intense cross-examination.”

(Emphasis Supplied)

74. An important circumstance which emerged from the record was that in answer to *Question No. 30* recorded under Section 313 Cr.P.C., the accused Vinay Pratap Singh @ Bablu, admitted that he intended to marry Babita. This statement assumes significance when viewed in conjunction with the prosecution evidence suggesting that disputes had arisen between the accused and Babita regarding marriage and their future relationship. The assertion was made by the accused/D.W.-1 that he was falsely implicated due to enmity and that all recoveries shown by the prosecution were fabricated. However, he failed to disclose any specific ‘motive’ on the part of the informant, the relatives of the deceased or the police authorities for falsely implicating him in a case involving the brutal murder of four persons. No independent defence evidence was adduced to substantiate the plea of false implication.

D.W.-1 also failed to furnish any explanation regarding the circumstances in which the deceased persons, with whom he admittedly maintained close relations, were found murdered during the night

immediately following the quarrel, as deposed to by P.W.-3 Surendra Pal. Nor could he explain his absence from the house thereafter or presence anywhere else or provide any plausible account inconsistent with the prosecution case.

75. Keeping in view the totality of the evidence brought on records, this Court is of the opinion that it was duly proved that the death of the four deceased was homicidal. It has also been proved that the deceased- Babita was last seen together with the appellant, quarreling at 9 PM on the preceding night of her death. The dead body of deceased- Babita, her mother and two minor children were found in the very next morning at 8 AM. There is corroborative evidence to show the presence of the Appellant in the house of the deceased, wherein the dead bodies were found. Further, the time gap between the period when the deceased was last seen together with the appellant and the recovery of the corpse of the deceased being quite proximate, the non-explanation of the appellant with regard to the circumstance under which and when the appellant had departed from the company of the deceased is a very crucial circumstance proved against him. Having regard to the oral evidence of the witnesses P.W.-2, the motive for such a crime had also surfaced, which also finds corroboration from the own admission of the Appellant who produced himself as D.W.-1 during the Trial. The corroborative evidence with regard to the conduct of the Appellant before and after the incident, his arrest along with arms and his disclosure statement leading to recovery of articles of ornaments, mobiles etc. in the black bag and the Inquest report showing the status of the body, also substantiated the case of prosecution. Hence, it is proved in the present case that the link and the circumstances are so interconnected that they lead to the only hypothesis of culpability of the Appellant.

76. We hold that the circumstantial evidence brought on record, adheres to the five golden principles, as enunciated by the Hon'ble

Supreme Court in the case of *Sharad Birdhi Chand Sarda (Supra)* and there exists no material illegality, which has been committed by the learned Trial Court in appreciating the evidence against the appellant. The grounds raised by the Appellant are without any basis and does not have any factual or legal flavour to be considered in any manner.

77. Thus, this Court is of considered view that the prosecution has been successful in establishing the guilt of the accused/appellant beyond the pale of doubt and that there exists a ring of truth in the prosecution story, therefore, we uphold the conviction of the appellant for the offence punishable under Sections 302, 307, 404, of I.P.C and Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Keeping in view the gravity of the offences committed, wherein four innocent and gullible persons have been murdered, we do not find this to be a fit case to reduce the sentence of the Appellant.

78. For all the reasons as stated herein above, we find no merits in the present Appeal and as such the same is accordingly *dismissed*.

79. There shall be no order as to cost(s).

80. The Registry is directed to send the Lower Court record along with the certified copy of this judgment to the learned Trial Court, without any delay, preferably within two weeks from today.

(Abdhesh Kumar Chaudhary, J.) (Rajesh Singh Chauhan, J.)

July 27, 2026
Anuj Singh