

MHAH010029142023



Presented on : 03.05.2023

Registered on : 04.05.2023

Decided on : 04.08.2026

Duration : 03Y 3M 01D

Form No. XXXII

PART 'A'

(Para 44(i) of Chapter VI of Criminal Manual)

IN THE DISTRICT AND SESSIONS COURT, AHMEDNAGAR

AT : AHMEDNAGAR

(Presided over by S. B. Kachare, Sessions Judge, Ahmednagar)

Date of Judgment – 04.08.2026

Exh.289.

SESSIONS CASE No. 185 OF 2023

(FIR No. I-814/2022 of Shevgaon Police Station, Dist. Ahmednagar, for the offence punishable under Sections 302, 201 and 120(B) read with Section 34 of the Indian Penal Code, 1860)

Complainant	:	State of Maharashtra, Through - Shevgaon Police Station, Dist. Ahmednagar.
Represented by	:	Learned APP Shri. A.D. Dhage.
Accused	1.	Sainath Dinkar Garad, Age now 45 Yrs, Occ. Agri,
	2.	Sandip Dhondiram Pawase, Age now 37 Yrs, Occ. Education, R/o. Khampimpri, Tal. Shevgaon, Dist. Ahmednagar.
	3.	Chhaya Sainath Garad, Age now 39 Yrs, Occ. Agri,
	4.	Padmavati Dinkar Garad, Age now 77 Yrs, Occ. Agri, No.1, 3 & 4 R/o. Shekte Bk., Tal. Shevgaon, Dist. Ahmednagar.
Represented by	:	Learned Adv. Shri. S. R. Sayyed.

PART - 'B'

(Para 44 (ii) of Chapter VI of Criminal Manual)

Date of offence	-	In between 9.30 p.m. on 07.10.2022 and 6.30 a.m. on 08.10.2022
Date of FIR	-	08.11.2022
Date of Charge-sheet	-	03.05.2023
Date of Framing of Charges	-	23.11.2023
Date of commencement of evidence	-	26.02.2024
Date on which judgment is reserved	-	---
Date of the judgment	-	04.08.2026
Date of sentencing order, if any	-	04.08.2026

ACCUSED DETAILS

Rank of the Accused	Name of Accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose of Section 468 of BNSS (Old 428 of Cr.PC)
A-1.	Sainath Dinkar Garad	17.01.23	U.T.P	Sec.302, 120-B, and 201 of the I. P Code.	Convicted	Sentenced to Life Imprisonment with fine of ₹5,000/- each (i/d RI for 3 months) under Section 302 IPC, Life Imprisonment with fine of ₹2,500/- each (i/d RI for 3 months) under Section 120-B IPC, and RI for 5 years with fine of ₹3,000/- each (i/d RI for 1 month) under	Since 17.01.2023 U.T.P Except release of A-1 on temporary bail for the period from 07.07.23 to 10.08.2023 and 16.12.23 to 19.12.23. Total period of detention = 1257 days

Rank of the Accused	Name of Accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose of Section 468 of BNSS (Old 428 of Cr.PC)
						Section 201 IPC.	
A-2.	Sandip Dhondiram Pawase	17.01.23	23.10.23	As above	Acquitted	---	N.A.
A-3.	Chhaya Sainath Garad	18.01.23	U.T.P.	As above	Convicted	Sentenced to Life Imprisonment with fine of ₹5,000/- each (i/d RI for 3 months) under Section 302 IPC, Life Imprisonment with fine of ₹2,500/- each (i/d RI for 3 months) under Section 120-B IPC, and RI for 5 years with fine of ₹3,000/- each (i/d RI for 1 month) under Section 201 IPC.	Since 18.01.23 U.T.P. Total period of detention = 1295
A-4.	Padmavati Dinkar Garad	18.01.23	03.03.23	As above	Convicted	As above	0Y. 1M. 15D.

J U D G M E N T

(Delivered on 04.08.2026)

1) Accused No.1 to 4 are prosecuted for having committed an offence punishable under Sections 302, 201 and 120-B of the Indian Penal Code, 1860 (hereinafter referred to as 'I. P. Code' for the sake of convenience) by the Shevgaon Police Station, Tal. Shevgaon, Dist. Ahmednagar.

Brief facts of the prosecution's case can be stated as under -

2) Deceased XXXXXXXXXX Sainath Garad, aged about 17 years, was residing along with her parents and grandmother i.e. accused No.1, 3 and 4 respectively, at village Shekte Bk., Tal. Shevgaon, Dist.

Ahmednagar. She was studying in Parth Public School, Balamtakali in 10th Standard. Accused No.4 was her maternal uncle. She was an excellent athlete and used to go to school by motorcycle. The informant [REDACTED], aged about 22 years, completed education up to B.A. and joined as Accountant at Pahilwanbaba Credit Society, Bodhegaon. He is from village Murmi, Tal. Shevgaon, which is hardly at a distance of about 1 kilometer from village Shekte Bk.

3) It is the prosecution's case that about four and a half months prior to the incident, the informant and the deceased came into contact, which subsequently developed into a love affair. About one and a half month prior to the incident, the said relationship came to the knowledge of the family members of the deceased i.e. accused.

4) It is the prosecution's case that on 03.10.2022 at about 6:30 p.m., accused No.3 had called the informant on phone to her house, where all the accused persons were present, which included accused No.2, maternal uncle of the deceased. All the accused warned informant and told him to discontinue his relationship with the deceased by threatening him with dire consequences, including death and subjected him to abuses and assault.

5) It is the prosecution's case that on 04.10.2022 at about 8:30 a.m., the deceased had made a phone call to the informant and informed him that she had expressed her desire to marry him before the accused, failing which she would elope, upon which the accused persons had threatened to kill her.

6) It is the prosecution's case that on 06.10.2022 at about 5:00 p.m., accused No. 2 and 3 again contacted the informant on phone and reiterated to the informant to stay away from the deceased by

stating that they would “deal with her”, and even expressed that they would prefer to kill the deceased rather than face social disrepute.

7) It is the prosecution’s case that on 07.10.2022 at about 9:30 p.m., the deceased contacted the informant from the mobile phone of accused No.3 and informed him that she was being assaulted by the accused persons and that accused intended to kill her. Therefore, informant spoke with the accused No.3 requesting her not to assault the deceased by expressing his willingness to withdraw from the relationship. However, accused No.3 stated that the deceased is not willing to listen and further threatened that deceased would be killed by morning and thereafter, disconnected the call.

8) It is the prosecution’s case that on 08.10.2022 at about 6:30 a.m., the informant came to know through his cousin Shahadev Shinde that the deceased had been killed by the accused persons during night and that her body had been burnt. He was also told that accused No.1 and 2 are searching for him, therefore, the informant left the village and went to village Akolner, at the house of his cousin sister.

9) It is the prosecution’s case that on 08.10.2022, Officer In Charge of Police Station Mr. Vilas Sahadev Pujari (PW10), Police Inspector, Shevgoan Police Station, had received information about the death of one girl at village Shekte Bk. and her dead body had been burnt. Therefore, he had given an order to Shri. Bhagwan Sahebrao Badadhe (DW1), Assistant Sub Inspector, Bodhegaon Outpost, to go to village Shekte Bk. and confirm the news. Therefore, Bhagwan Badadhe had been to the village Shekte Bk., along with PC Damale. On inquiry with the villagers, they came to know that the

daughter of accused No.1 had died at night and her body was cremated at night itself. Therefore, they made inquiry with the accused No.1, 3 and 4, recorded their statement, so also, the statement of the teacher namely Nagesh Chaganrao and Manisha More of Parth Public School and the statement of one Dr. Dnyaneshwar Shahurao Deshmukh, resident of Sukale Phata, and after coming back to the police station, information was given to Shri. Pujari (PW10) and as per his instruction, the statements were handed over to Shri. Bagul (PW7), API Shri. Badadhe, ASI had taken entry to that effect in the station diary vide number 34 at 19:24 hours (P-200), mentioning that further inquiry is being continued as per the directions of senior officers.

10) It is the prosecution's case that on 14.10.2022, the informant approached the Superintendent of Police, Ahmednagar, and gave written complaint (Exh,98), narrating the circumstances under which the deceased died and cremated and expressed that there is threat to his life from the accused. It was also informed that accused No.1 is the village Sarpanch, has a strong political background and acquaintance with the police. It is the prosecution's case that the said complaint received by the Shevgaon Police Station on 18.10.2022. Shri. Pujari (PW10), Police Inspector of Shevgaon Police Station issued a direction to Shri. Shelke, API of Shevgaon Police Station, to make inquiry of the allegations made in the complaint and take appropriate legal steps. It is the prosecution's case that the informant approached to police on 22.10.2022, 24.10.2022 and 28.10.2022, but, police failed to take any steps, therefore, on 04.11.2022 around 4:30 p.m., he went to the office of Superintendent of Police and consumed poison around 4:45 p.m., due to inaction on his complaint.

When the police present there realized that the informant has consumed the poison, he was immediately shifted into the Civil Hospital, Ahmednagar, for medical treatment.

11) It is the prosecution's case that when the informant was in the Civil Hospital, Ahmednagar, his statement was recorded by Shri. B. K. Diwate (PW13), PHC of Bhingar Camp Police Station, Ahmednagar, wherein he explained the circumstances under which he consumed the poison.

12) It is the prosecution's case that on the basis of report filed by PC Ramnath Babasaheb Shirke, Ahmednagar Police Headquarter, Bhingar Camp Police Station, registered crime against the informant bearing Crime No. 518/2022 dated 04.11.2022 under Section 309 of the I. P. Code. The investigation of the said crime was conducted by Shri. Kiran Salunke (PW12), PSI of Bhingar Camp Police Station, Ahmednagar. In course of investigation of the said crime, the Investigating Officer on 04.11.2022 at 20:00 hours, seized mobile handset of the informant of one Infinix XOS in presence of panch witnesses which was produced before them by PHC Diwate (PW13). The statement of informant was also recorded by the Naib Tahsildar (Deputy Tahsildar), Sub Divisional Office, Shrigonda-Parner Region, Ahmednagar.

13) It is the prosecution's case that after getting the information of the admission of the informant at the Civil Hospital, Ahmednagar, Shri. Bagul (PW7), API of Shevgaon Police Station, recorded the statement of informant on 05.11.2022.

14) It is the prosecution's case that on 06.11.2022, Shri. Bagul had given letter to the Police Inspector of Bhingar Camp Police

Station, Ahmednagar, for getting custody of mobile phone along with copy of FIR, Seizure Panchnama and Muddemal Receipt of Crime No.518/2022.

15) It is the prosecution case that Shri. Bagul had received the seized mobile phone alongwith copy of seizure panchnama and copy of FIR of Crime No.518/2022 on 06.11.2022.

16) It is the prosecution case that on the basis of statement recorded on 05.11.2022 of the informant, Crime bearing No.814/2022 came to be registered against the accused under Sections 302, 120-B and 201 of the I. P. Code on 08.11.2022 at 22:30 hours. The investigation of crime was given to Shri. Bagul.

17) In course of investigation the Investigation Officer alongwith panchas visited the place of incident on 09.11.2022. The said place was located in the field of jawar crop of accused No.1. At the said place, they noticed burnt black soil. The rough sketch was drawn. The place of incident of burning of the deceased was in front of the house of accused. The black coloured ash mixed soil and plain (control) soil samples were seized, photographs were taken.

18) It is the prosecution case that on 09.11.2022 the Investigating Officer deposited the sealed mobile handset received from the Bhingar Camp Police station and articles seized from the spot in Malkhana.

19) The Investigating Officer requested for CDR and SDR of the mobile phone number of the informant, accused and others on 10.11.2022.

20) The statement of informant was recorded under Section 164 of Cr.P.C.

21) The statement of Babasaheb Bhanudas Borude (PW4), Shantik Babasaheb Borude, Balasaheb Dhondiram Pawase, Narayan Dinkar Garad, Sarita Sandip Pawase, Manisha Balasaheb Pawase, Gayabai Dhondiram Pawase, Eknath Shridhar Garad, Shridhar Durgaji Garad, Rajednra Bapurao Patkal, Mangal Rajedendra Patkal, Dr.Dnyaneshwar Shahurao Deshmukh, Shahadeo Manoj Shinde, Santram Babasaheb Shinde, Satybhama Santram Shinde, Devidas Narayan Jadhav, Vishal Rajendra Shinde, Mahesh Tarachand Garad were recorded in course of investigation.

22) The muddemal property i.e. samples seized from the spot were sent for chemical analysis on 14.12.2022. The revenue record of the land of accused was collected.

23) Accused No.1 Sainath and accused No.2 Sandip Pawase were arrested on 17.01.2023. Accused No.3 and 4 were arrested on 18.01.2023.

24) It is the prosecution case that on 03.04.2023 the Investigating Officer unsealed the mobile handset in presence of panch witnesses Vijay Jadhav and Sanjay Sakhre and informant. The screen of mobile phone was unlocked. The Investigating Officer noted that the said mobile phone do not contain any data. Accordingly, panchnama was drawn.

25) After the investigation accused are charge-sheeted on 16.04.2023. Since the offence under Section 302 of the IPC is exclusively triable by the Court of the Sessions, the learned Magistrate committed the case to this Court.

26) Charge is framed against the accused vide Exh.65 for the offence punishable under Section 302, 201 and 120B of the Indian

Penal Code. The contents of the charge were read over and explained to the accused in vernacular. Accused pleaded not guilty and claimed to be tried.

27) The Investigating Officer Shri.Bagul has produced on record CDR at the time of recording his evidence vide Exh.165 by contending that due to work pressure the CDR remained to be included with the charge-sheet. After hearing both the side, production was allowed.

28) On 21.11.2025 the learned APP filed application Exh.220 with a request to send the seized mobile phone to retrieve the data. The application was allowed and the mobile handset was sent for forensic analysis. Accordingly, Forensic Report dated 05.12.2025 (Exh.237) received. The extracted data of the mobile phone is given in a pendrive. The case related data were not retrieved in the extraction of the mobile phone as the factory reset entry was found in analysis.

29) Initially prosecution has examined Seven witnesses and filed evidence close pursis Exh.201. The statement of accused were recorded under Section 313 of CrPC. Accused examined Bhagwan Badadhe ASI as DW1 at Exh.199. After concluding his cross-examination on 12.12.2025 on request of prosecution PW8 and PW9 were examined in order to prove CDR details. So-also, Officer Incharge of the police Station Shri.Pujari as a PW10, seizure panch of mobile phone- PW11, Investigation Officer Shri. Kiran Salunke of Crime No.518/2022 of Bhingar Camp police station as PW12, Bibhishan Diwate PHC, Bhingar Camp police station Ahmednagar, who recorded the statement of informant at the hospital and collected his clothes and mobile phone as PW13.

30) The evidence of PW8 and PW9, Nodal Officers create some ambiguity therefore, clarification was sought. They informed vide Exh.267 that, they have not maintained the data beyond the period of two years. Therefore, unable to produce it on record. Therefore, on the request of APP the CDR details received from the Vodafone and Jio Company by the office of the Superintendent of police Ahmednagar through E-mail were called and to prove its contents prosecution has examined PW14 Nitin Shinde.

31) Further statement of accused under Section 313 of CrPC are recorded. Accused No.1 to 4 admitted that the mobile phone number 9623950061 and 8972750431 were in the name of accused No.1 and mobile number 8805636208 was in the name of accused No.2. Accused No.1 stated that his deceased daughter had a conversation on phone with informant. Accused No.3 stated that mobile phone number 9623950061 was in her use and her deceased daughter had made a phone call and she had made a phone call to the informant on 5th or 6th. They have filed additional written statement dated 04.07.2026. However, none of the accused entered in witness box in support of their defence.

32) Heard the learned APP for the State and learned Advocate of the accused. Following points arise for my determination and I have recorded my findings thereon as under -

POINTS	FINDINGS
1) Whether the prosecution proves that deceased  Sainath Garad died homicidal death ?	In the Affirmative.
2) Whether the prosecution proves that accused Nos.1 to 4 hatched a criminal conspiracy and, in prosecution of the said criminal conspiracy,	Partly Affirmative.

committed the murder of deceased [REDACTED]?

- 3) Whether the prosecution proves that accused Nos.1 to 4 committed the murder of deceased [REDACTED]?

**Partly
Affirmative.**

- 4) Whether the prosecution proves that accused Nos.1 to 4 committed the murder of deceased [REDACTED] and conducted the funeral at night, and the ashes and bones were removed from the place where the deceased was cremated so as to cause the evidence of the said offence to disappear or with intent to screen themselves from legal punishment ?

**Partly
Affirmative.**

- 5) What offence is proved and against whom ?

**Offence U/sec.
302, 201 and
120-B of the I.P.
Code proved
against A-1, A-3
and A-4.**

- 6) What order ?

**As per final
order.**

R E A S O N S

(Hereinafter, for the sake of brevity Accused No.1] Sainath, Accused No.2] Sandip, Accused No.3] Chhaya and Accused No. 4] Padmavati, shall be referred to as 'A-1', 'A-2', 'A-3' and 'A-4' respectively.)

AS TO POINTS NO.1 TO 6 -

33) As Points No. 1 to 6 are interlinked with each other, they are taken up together for consideration to avoid repetition of evidence and discussion.

ORAL EVIDENCE

34) The prosecution has examined informant [REDACTED] Santaram Shinde as PW1 at Exh. 96. It has come in his evidence that, in the year 2022, he was working as an accountant in Pahilwan Baba Patsanstha, Bodhegaon. He is residing at village Murmi, Tal. Shevgaon, Dist. Ahmednagar. The said village is at a distance of 1 km from village Shekte Budruk. Prior to 4½ months of the incident, he got to know deceased [REDACTED] daughter of A-1, of village Shekte Budruk. Their friendship turned into a love relationship. The family members of the deceased [REDACTED] came to know about their love relations.

35) It has further come in his evidence that on 03.10.2022 around 6:30 p.m., he had received a phone call from mobile No. 9623950061 on his mobile No. 93252705623. The mother of the deceased, Chhaya (A-3), talked to him and called him to her house. He went there. The family members of deceased [REDACTED] told him that he shall not, henceforth, call deceased [REDACTED] and not keep any sort of relation with her, and threatened him with dire consequences. At that time, he was abused and assaulted with a wooden stick, so he left their house and went to his village.

36) It has further come in his evidence that on 04.10.2022 at about 8:30 a.m., he received a phone call from [REDACTED] She told him that she had asked her parents to perform her marriage with him, otherwise she would elope. However, her family members threatened her with life (माझे दिगंबर संतराम शिंदे सोबत प्रेम आहे, माझे लग्न करून द्या, नाही तर मी पळून जाईल, तेव्हा त्यांनी जिवे मारण्याची धमकी दिली).

37) It has further come in the evidence of PW1 [REDACTED] that

on 06.10.2022 around 5:00 p.m., he received a phone call from the mother and maternal uncle (A-2) of the deceased. Both of them told him to leave [REDACTED]. They further told him that they would handle the matter themselves and also uttered the words that they would kill [REDACTED] for their honour (तू वैष्णवीचा विषय सोडून दे, तिचे आम्ही काय करायचे ते करू, आमची इज्जत जाण्यापेक्षा आम्ही तिला मारून टाकू).

38) It has further come in his evidence that on 07.10.2022 around 9:30 p.m., he received a phone call from [REDACTED] from her mother's mobile phone and she told him that her parents, grandmother (A-4), and maternal uncle were beating her and asked him whether he could come to her house (मला माझे घरचे आई, वडील, आजी, व मामा मारत आहेत, तेव्हा तू येशील का). He asked her whether they were going to kill her, to which she replied by stating that "Yes". Therefore, he asked [REDACTED] to hand over the mobile phone to her mother. He talked with her mother and told her that he is ready to leave [REDACTED], but they should not kill her. If they wanted to kill her, then they should kill him too. Then she told him that she would take care of him later-on, [REDACTED] was not listening to them, and she would kill her by morning. She further told him that she would kill [REDACTED], rather to face social disrepute.

39) It has further come in his evidence that on 08.10.2022 around 6:30 a.m., he came to know from his cousin brother Shahadev Shinde that [REDACTED]'s parents have killed her due to their love relationship and she was cremated at night. Due to fear, he left the village and went to the house of his cousin sister at Akolner.

40) It has further come in his evidence that he had given the complaint application dated 14.10.2022 to the Superintendent of

Police, Ahmednagar, narrating the incident. The photocopy of the complaint application is placed on record at Exh. 98. He was getting threats from the accused, and therefore he lodged a report with the police bearing NC Case No. 1665/2022 dated 26.12.2022 (Exh. 99).

41) It has further come in his evidence that as the crime was not registered as per the complaint, he had attempted to commit suicide in the premises of the Superintendent of Police, Ahmednagar. Police recorded his statement on 05.11.2022 while he was taking treatment at Civil Hospital, Ahmednagar.

42) It has come in his evidence that when he was talking on his mobile phone, their conversation was recorded in the mobile phone. He had a mobile phone of Intex Company. After his attempt to commit suicide, one police person took away his mobile phone and asked him for the password. Police had seized the said mobile phone.

43) In the course of cross-examination of PW1 Digambar, he stated that [REDACTED] as 17 years old. She was studying in Parth Public School, Balamtakli. [REDACTED] was going to school on her motorcycle. Prior to two to three days of the incident, there was the Dasara festival. On that occasion, he met [REDACTED] on the terrace of her house. At that time, A-3 Chhaya saw them together for the first time. Therefore, he ran away. Thereafter, he received a phone call from [REDACTED], and called him at her house. So, he had been to her house around 8:30 p.m. He was there for about 15 to 20 minutes. At that time, there was a talk about their love relationship and marriage. The witness was confronted with the portion marked 'A' of Exh. 98. He stated that the mother of [REDACTED] told them that they should elope and get married, was written as per his instructions. However,

they did not elope. Even he refrained [REDACTED] from eloping. It was suggested that though A-3 Chhaya told them to elope and get married, he refused to elope, therefore, [REDACTED] was angry with him. It was also suggested that when he had received a phone-call from [REDACTED], he told her that he is not ready to elope with her. It was also suggested that due to this, [REDACTED] had created a mess in the house on 07.10.2022. It was also suggested that due to the mess created by [REDACTED] in the house, A-3 Chhaya became unconscious at late hours. However, the witness has specifically denied these suggestions.

44) The witness (PW1) has shown his ignorance that A-1 Sainath returned from Ujjain on 07.10.2022. He was unaware that A-1 and A-3 went to the hospital at night and returned around 2:00 a.m. However, he admitted that later-on, he came to know of the same and, therefore, it is mentioned in Exh. 98 as Portion Mark 'B'. It was suggested that police recorded his statement on 08.10.2022. It was also suggested that A-1 and A-2 were at the police station on 08.10.2022. It was suggested that as he was under fear that the police would implicate him and arrest him, he concocted and fabricated the story and gave complaint Exh. 98 to the police and two NC complaints. These suggestions were specifically denied. Accused by filing pursis (Exh.184) closed further cross-examination.

45) On perusal of the complaint Exh. 98, it reveals that it is dated 14.10.2022, PW1 is residing along with his parents at village Murmi, Taluka Shevgaon, District Ahmednagar. [REDACTED] as taking education at Balamtakli School. She was from village Shekte Budruk, which is at a distance of 1 kilometer from his village. Before 4 months, they came to know each other. On 03.10.2022, the family

members of [REDACTED] came to know about their relationship. Therefore, on 03.10.2022, he was called by the family members of [REDACTED]. At that time, he was told not to contact [REDACTED] on the phone and not to meet her. At that time, he was abused and assaulted. He was also threatened that if he did not leave [REDACTED], then they would kill him and asked him to leave their house without making any shouts. It is also mentioned therein that on 04.10.2022 he had received a phone call from [REDACTED]. At that time, she told him that her family members and A-2 Sandip were threatening to kill her as she told them that they should perform her marriage with him, else she would elope. A-3 suggested that if they performed their marriage, they would have to lose their honour and asked them to elope. On 06.10.2022, he had also received phone calls from the mobile phones of A-2 and A-3, and told him to forget [REDACTED] and that they would see what to do with her. They would kill [REDACTED] instead of facing social disrepute. On 07.10.2022, he had received a phone call from [REDACTED], and told him that she was being assaulted by her family members and asked him whether he could come. So, he asked her whether her family members would kill her. She told him that they would, and therefore, at his instance, [REDACTED] gave the phone to her mother. He requested her mother not to kill her, as he is ready to leave her. But A-3 told him that he might be ready to leave her, but [REDACTED] was not ready to leave him. They would have to kill [REDACTED] instead of facing social disrepute. So, he told her that if they were going to kill [REDACTED], then they should kill him too. It is further mentioned therein that A-1 left A-3 at Sukre Phata and killed [REDACTED] at midnight and cremated her. When he came to know in the morning, due to fear, he left the village. He further alleged in the

complaint that the mother of [REDACTED], i.e. A-3 is a Sarpanch and A-1 is having political backing. Police were acquainted with him; therefore, he felt that the accused might kill him, so he requested them to make a thorough investigation.

46) In the margin of the said complaint, there is an endorsement that the said complaint was handed over to API Shelke for inquiry and taking appropriate legal steps with the signature of Shri Pujari.

47) On perusal of the report Exh. 97, it reveals that it was prepared on 05.11.2022 around 12:10 to 12:40 p.m. by PW7. [REDACTED] (PW1) reiterated the contents made in the complaint Exh. 98. He stated that before 4½ months, they came to know each other. Their friendship turned into a love relation. Her parents came to know about it before 1 ½ months, whereas the family members of [REDACTED] came to know on 03.10.2022. On 03.10.2022 around 6:30 p.m., he had received a phone call from A-3 from mobile No. 9623950061 on his mobile phone No. 9325705633. He was called to the house of [REDACTED]. He went to their house. A-1 to A-4 were present there. They told him that he should leave [REDACTED], not meet her, and not to talk with her on the phone, otherwise they would kill him. He was abused and assaulted. On 04.10.2022, he received a phone call from [REDACTED] around 8:30 a.m. At that time, [REDACTED] told him that she had made it clear to the family members that they should perform her marriage with him; otherwise, they would elope. However, her family members threatened to kill her. On 06.10.2022, he received a phone call from A-2 and A-3 around 5:00 p.m., who told him that he should leave [REDACTED]. They would kill her instead of facing social disrepute.

48) On 07.10.2022 at 9:30 p.m., he received a phone-call from [REDACTED], and told him that A-1 to A-4 were assaulting her and asked him to come. He asked her whether they were going to kill her. When she told him that they were going to kill her, he talked to A-3 on the phone, and promised to leave [REDACTED]. At that time, A-3 told him that even if he is ready to leave her, [REDACTED] is not ready. She is the Sarpanch of the village, so they would have to face disrepute. Since [REDACTED] was not listening to them, they would kill her in the morning. So, he told her that if they were going to kill her, then they should kill him too. A-3 told him that they would see him later-on and disconnected the phone.

49) The report bears the signature of PW1 with a thumb impression and is countersigned by API Ravindra Bagul. There is an endorsement in the margin of the said report to the effect that Crime No. 814/2022 under Sections 302, 120B, 201, and 34 of the I.P. Code was registered on 08.11.2022 at 22:30 hours, and the investigation was entrusted to API Bagul.

50) It has come in the evidence of B. K. Diwate (PW13) at Exh. 264 that on 04.11.2022, he was attached to the Bhingar Camp Police Station. On that day, he was on duty of call 112 and at the hospital. He came to know from the PSO that one [REDACTED] Shinde had consumed poison at the office of the Superintendent of Police, Ahmednagar, and was admitted to the Civil Hospital. He was asked to go to the Civil Hospital for further procedure. So, he went to the said hospital around 4:50 p.m. and made inquiry with him. He recorded his statement (Exh. 209) as per his narration at 6:00 p.m. The statement bears the signature of [REDACTED] and is countersigned by him. He gave a letter to the Medical Officer for the stomach wash,

clothes, and other articles vide Exh. 265. He received the clothes, a 100 ml bottle of the stomach wash, and one mobile phone. The said articles were handed over to PSI Salunke. The witness identified the mobile phone (MO-1) before the Court.

51) In Exh. 209, [REDACTED] alleged that on 07.10.2022, the accused killed [REDACTED] by administering poison to her and cremated her at night. He had given complaints to the police station as well as to the office of the Superintendent of Police, Ahmednagar, on 14.10.2022, 22.10.2022, 24.10.2022, and 28.10.2022. He went to the office of the Superintendent of Police on 04.11.2022 at 4:30 p.m. with poison. He had consumed it, after that, he was taken to the hospital.

52) It has come in the evidence of Kiran Salunke (PW12) at Exh. 261 that he was attached to the Bhingar Camp Police Station, Ahmednagar, in 2022. One Ramnath Shirke, Police Head Constable, Police Headquarter, Ahmednagar, lodged a report at the police station alleging that [REDACTED] [REDACTED] (PW1) attempted to commit suicide, so Crime No.518/2022 was registered under Section 309 of the I. P. Code. The statement (Exh.209) was recorded by PC Diwate. PC Diwate had produced the mobile handset of [REDACTED] [REDACTED] before him on 04.11.2022. He, too, made inquiry with [REDACTED] [REDACTED] (PW1). At that time, he came to know that there was calling to the said mobile phone from 9623950061. So, the mobile phone was seized under Panchnama (Exh. 248). On the very day, he deposited the said mobile phone at the police station vide Receipt Exh.208. He identified MO-1 before the Court. On 06.11.2022, Bhingar Camp Police Station received a requisition from the Shevgaon Police Station for handing over the said mobile phone vide Exh. 156. API Shri Deshmukh ordered the mobile phone to be handed over to the

Shevgaon Police Station. API Bagul received the mobile phone in a sealed condition on 06.11.2022.

53) In cross-examination, PW12 stated that the mobile phone was screen locked, he had not opened the said mobile phone. It was immediately sealed. He carried out the investigation of the said crime. CCTV footage of the office of Superintendent of Police of the relevant time were collected under the Panchnama Exh.263.

54) It has come in the evidence of PW10 Vilas Pujari (Exh.244) that in 2022, he was attached to the Shevgaon Police Station. On 08.10.2022, he had given oral directions to ASI Badadhe of Bodhegaon Outpost to go to village Shekte Bk. to make an inquiry regarding the death of one girl. He was just sent for the confirmation of the said information. At that time, AD was not registered. He was not informed by ASI Badadhe that he recorded statement of witnesses nor received any papers from him. He did not know that the said papers were given by him later on to Shri Bagul. He had received complaint Exh. 98 on 18.10.2022. He directed API Shelke to make initial inquiry and take appropriate steps. API Shelke had made inquiry, called the informant and registered Crime No. 814/2022.

55) In cross-examination, PW10 admitted that, being officer in-charge of Shevgaon Police Station, general diary entries were under his supervision. The witness was shown Exh. 200, General Diary Entry No. 035. He stated that his name is mentioned as entry officer to the said document, wherein it is mentioned that ASI Badadhe had recorded statement of six witnesses and had talked with him. It was also mentioned therein to make inquiry as regards the incident. It was suggested that the contents of Exh. 200 are true and correct, which he

denied. He came to know from Shelke that he called the informant and registered the report. He admits that Exh. 97 is recorded by Shri Bagul. He has shown his ignorance that informant attempted to commit suicide at the office of Superintendent of Police and crime was registered against him. He denied that due to pressure, the crime was registered against the accused. He is unaware of order Exh. 245 dated 05.11.2025 given by Bagul to ASI Badadhe for calling six witnesses before him.

56) It has come in the evidence of Dadu Sujay Chakrawarti (PW11) at Exh. 247, that on 04.11.2022 PHC Diwate had produced one mobile phone in their presence. It was seized under the panchnama by Kiran Salunke vide Exh. 248. He identified the seized mobile phone, MO-1, before the Court.

57) Prosecution has examined Ravindra Eknath Bagul (PW7) at Exh. 149. He stated that in the year 2022, he was attached to Shevgaon Police Station as API. On 28.10.2022, API Shelke handed over to him the complaint dated 14.10.2022 given to the Superintendent of Police for investigation. The informant was admitted to Civil Hospital, Ahmednagar, so he went to the Civil Hospital and gave letter Exh. 150 to the Medical Officer. The Medical Officer, on examining the informant, certified that informant is conscious and oriented, and thereafter he recorded his statement Exh. 97. At that time, he had taken the photograph of the informant. It has been placed on record and marked as Article-B. On the basis of statement, Crime No. 814/2022 under Sections 302, 201, 102B of I.P. Code was registered. The printed FIR is at Exh. 151. On 06.11.2022, he had given letter (Exh.156) to Bhingar Camp Police Station for getting the custody of mobile phone MO-1, which was seized in Crime

No. 518/2022. He had received mobile handset along with copy of the seizure panchnama Article-C and copy of the FIR Article-D.

58) In cross-examination, PW7 stated that he had received oral directions from the office of Superintendent of Police, Ahmednagar, as well as Deputy Superintendent of Police, Shrirampur, and as per their oral directions, a crime was registered against the accused. The said communication had taken place between 05.11.2022 and 08.11.2022. Police Inspector Shri Pujari was involved in the said communication. However, he denied that the crime was registered under the pressure of senior officers.

59) After the evidence of the Investigating Officer, prosecution had closed its evidence. The accused, in support of their defence, has examined Bhagwan Badadhe, ASI, as DW1 at Exh. 199.

60) It has come in the evidence of DW1 that on 08.10.2022, he was attached to the Bodhegaon Outpost under Shevgaon Police Station as Assistant Sub-Inspector. On that day, around 7:30 to 8:00 AM, he received a phone-call from Police Inspector Shri Pujari, who told him that at village Shekte Bk. one girl was dead and she was cremated, and directed him to go to the said village and verify the information. So, he, along with PC Damale, went to the said village. They made inquiry with the villagers. They came to know that the daughter of A-1 was dead and cremated. So, he recorded the statements of A-1, A-3, and A-4, as well as the teacher of the deceased and Dr. Dnyaneshwar Deshmukh. Her teacher told them that deceased  was an excellent athlete and her conduct was very good. He handed over the said statements to API Bagul. He had seen the place where the deceased was cremated. After coming back to the

police station, he had made an entry in the station diary bearing No. 34 dated 08.10.2022 at 19:24 hours (Exh. 200).

61) In cross-examination, he admitted that he visited the place of incident around 8:00 to 9:00 a.m. The said place was located in front of the house of A-1. He had not noticed ashes and bones fragments at the place of cremation. He stated that the accused removed the said ashes and bones from the said place and disappeared them. On inquiry with the accused, he came to know that their daughter consumed poison, so she died. She was cremated at 6:00 a.m. However, he stated that if she had been cremated at 6:00 a.m., they would have noticed fire when they visited the spot. Therefore, according to him, the cremation must have taken place at night itself.

62) The witness was recalled under Section 311 of Cr.P.C. and in answer to the Court questions, it has come on record that after getting the order from Police Inspector Shri Pujari, he made a phone call to the PSO for taking an entry in the general diary regarding their visit to the village Shekte. They reached the said village at 8:00 to 8:30 a.m. When he made inquiry with A-1, he came to know that the deceased was studying in the 10th standard. She was going to the school by motorcycle. He had taken away the said motorcycle from her, and since then, she started going to school by bus. At night, his wife had stomach pain. He had taken A-3 to Sukali Phata. Dr. Deshmukh treated her. They came back at 2:00 a.m. At that time, their daughter [REDACTED] was not at home. When they searched for her, they found her near one water tank (Haud) in the house premises, and froth was coming from her mouth. He called his elder brother and his wife. Relatives were called. All of them checked and

found that [REDACTED] was dead. So, they carried out her funeral in front of their house at 6:00 a.m. Only three persons were at home, i.e. A-1, A-3, and A-4. When he asked A-1 as to why the dead body was not sent for postmortem examination, A-1 told him that, "आमची इज्जत जाईल म्हणून आम्ही अंतिम संस्कार उरकून घेतला." At the place of cremation, he found some ash, but the ash and bone fragments had already been cleaned. He came to know from her school teacher that [REDACTED] was a brilliant and sport student. She was regular in the school. Dr. Deshmukh told him that at night, A-1 and A-3 had been to their hospital, and he had given treatment to A-3.

63) He further stated that the entire information was given to Police Inspector Pujari. The statements were shown to him. He thought that inquiry of the said incident ought to have been carried out, so he requested Pujari to hand over the investigation to API Shelke, who was in-charge of the Outpost Bodhegaon. Since there was no instruction for the investigation of the said incident, he had taken General Diary Entry No. 34. General Diary Entry No. 34 (Exh. 200) reads as under :

"यावेळी आम्ही सफौ बडधे नोंद घेतो की, मा.पो.नि.श्री पुजारी साहेब शेवगाव पोलीस स्टेशन यांनी आम्हाला आम्ही बोधेगाव दुरक्षेत्र येथे हजर असताना फोनवरून सांगितले की शेकटे बु ॥ ता. शेवगाव येथे एका मुलीचा मृत्यु झाला असुन तिचे प्रेतावर अंतिम संस्कार केले आहेत. सदर प्रकार हा संशयीत आहे अगर कसे याबाबत जावून चौकशी करा असा आदेश दिल्याने मी व सोबत पोर्को डमाळे असे आम्ही शेकटे बु ॥ ता. शेवगाव येथे जावून चौकशी केली असता सदर गावातील विद्यमान सरपंच साईनाथ गरड यांची मुलगी वैष्णवी साईनाथ गरड वय 16 वर्ष हि मयत झाल्याबाबत माहीती मिळाली. त्यावर आम्ही मयत मुलीचे घरी जावून मयताचे वडील 1) साईनाथ दिनकर गरड वय-42 वर्ष, मयताची आई 2) छाया साईनाथ गरड वय-37 वर्ष, 3) पदमाबाई दिनकर गरड वय 65 वर्ष, सर्व रा.शेकटे बु॥ ता. शेवगाव यांचेकडे सविस्तर चौकशी करुन त्यांनी सांगितलेल्या हकीगतीप्रमाणे जबाब नोंदविले आहेत. तसेच त्यांनी दिलेल्या जबाबाचे अनुषंगाने 4) डॉ. ज्ञानेश्वर शाहुराव देशमुख रा. सुकळी ता. शेवगाव मयत मुलीचे वर्ग शिक्षक 5) नागेश छगनराव धोंगडे वय 30 वर्ष रा. बालमटाकळी ता. शेवगाव, व महीला शिक्षिका 6) मनीषा संजय गोरे वय 30 वर्ष रा. कांबी ता. शेवगाव

यांचेकडे चौकशी करून त्यांनी कळविलेल्या हकीगती प्रमाणे सविस्तर जबाब नोंदविले आहेत. झाले चौकशीमध्ये यातील मयताचे नातेवाईकांची अगर कुणाची प्राथमिक चौकशी अंती काहीएक तक्रार आढळून आली नाही मा.पो.नि.श्री विलास पुजारी यांचेशी सदर प्रकराबाबत सविस्तर चर्चा करून वरीष्ठांचे आदेशाने पुढील अधिक चौकशी सखोल व बारकाईने करित आहोत.”

64) He verified the General Diary Register and noted that, as per his oral request, no entry was taken in the General Diary regarding his visit to village Shekte. He had received one application on the portal of  (PW1). It was marked to API Shelke, so he returned the said application to admin. After the registration of the crime, PI. Pujari asked him to hand over the said statements to Investigating Officer Bagul. Therefore, he handed over those statements to API Bagul on 09.10.2022. On 05.11.2022, he was ordered by API Bagul to keep present the witnesses Narayan Dinakar Garad, Eknath Shridhar Garad, Rajendra Baburao Patkal, Shridhar Duraji Garad, Sandip Dhondiram Pawase, and Balasaheb Dhondiram Pawase. Accordingly, he kept them present.

65) In cross-examination, he stated that due to lifting of ash and bone from the place of cremation, he suspected it, but he has not mentioned so in the Station Diary Entry.

66) Prosecution has examined Mahesh Garad (PW2) at Exh. 118. It has come in his evidence that A-1 is his distant relative, A-3 is the village Sarpanch, and he has studied up to the 10th standard. The incident occurred at midnight at 2:00 a.m. When he went to the house of the accused at 8:30 a.m., by that time, the funeral was already over. However, he denied that at night he heard shouts from the house of the accused, when he peeped into his house, he saw accused A-1, A-3, and A-4 assaulting the deceased and telling her to leave the boy, otherwise they would kill her, but the deceased was

reluctant as she was in a love relationship with him.

67) In cross-examination, PW2 has stated that the funeral of the deceased was conducted during midnight by putting her on fire. When he had been to the house of the accused around 8:30 a.m., the pyre of the deceased was still burning.

68) Prosecution has examined Vijay Sabale as PW3 at Exh. 121. It has come in his evidence that on 09.11.2022, API Bagul had prepared Spot Panchnama (Exh. 124) in their presence. Police collected ash-mixed soil from the place of cremation of the deceased. The said place was located in front of the house of A-1. He further stated that photographs of the house of the accused and the place of incident were taken.

69) Prosecution has examined Babasaheb Bhanudas Borude as PW4 at Exh. 127. It has come in his evidence that he is a neighbour of the accused. About 1½ years ago, in the morning, there was a mob in front of the house of the accused, so he went there and came to know that their daughter died due to consumption of some poison. Her funeral was conducted at 8:30 a.m.

70) Since the witness has not supported the prosecution case, he was cross-examined by the learned APP. In cross-examination, he stated that the deceased was stubborn in nature. She used to ride a motorcycle by herself to reach her school. When he was about to leave the house of the accused, the police arrived there.

71) Dr. Dnyaneshwar Shahurao Deshmukh is examined as PW5 by the prosecution at Exh. 133. He has stated that he has Deshmukh Clinic at Sukali Phata. He is B.H.M.S., M.D. On 07.10.2022 at about 11:45 p.m., A-1, A-3, and the sister of A-1 had been to his clinic. A-3

was frightened. She was unable to talk properly. A-1 told him that A-3 is a patient of epilepsy and sometimes she gets seizures. On clinical examination, he noted that A-3 was unable to talk properly. He had given some medicines and saline. Around 1:00 a.m. A-3 left his clinic. On the next day morning at 9:30 a.m., he went to the house of the accused. A-3 told him that her daughter consumed poison when she had been to his clinic at night.

72) In cross-examination, PW5 stated that he had not seen the earlier treatment papers of A-3.

73) It has come in the evidence of Santaram Shinde (PW6), the father of the informant, that the deceased had intent to marry the informant. The deceased and the informant were having a love relationship. He came to know from the informant that the parents of the deceased had given him threats on this count. On 08.10.2022, he came to know that the deceased was killed by the accused for their honour and cremated at night itself. He also came to know from his son (PW1) that he had received a phone-call from the deceased on 07.10.2022 at 9:30 p.m., stating that the accused were beating her and asking him to come home, and then he talked to A-3, but A-3 told him that she is the Sarpanch of the village, the deceased is not listening to them, and they would kill her by the morning, and then they would see him. He stated that the accused killed their daughter for their honour. He came to know of their relationship two months before the incident. He further stated that as the police had not registered the crime against the accused, his son had attempted to kill himself by consuming poison at the office of the Superintendent of Police, Ahmednagar.

74) Shri Ravindra Bagul (PW7) has stated that on 09.11.2022, he visited the place of incident along with panchas. The spot of incident was shown by the son of A-1. Spot Panchanama (Exh. 124) was prepared. A rough sketch was drawn. Articles A/1 to A/8 photographs were taken. The ash-mixed soil and plain soil were seized. The muddemal was deposited in the police station vide Receipt Exh. 152. During the investigation, he recorded the statements of witnesses. Babasaheb Borude (PW4) had stated before him the portion marked 'A' of his statement, marked as Exh. 153. Mahesh Garad (PW2) had stated before him the portion marked 'A' of his statement, marked as Exh. 154. The seized articles were sent to the Regional Forensic Laboratory, Nashik, for chemical analysis vide Exh. 155. On his request, Talathi of Balamtakli produced the 7/12 extract of the land where the place of incident is located, it is marked as Exh. 158/1, and Gaon Namuna No. 8, Exh. 158/2. Accused Nos. 1 and 2 were arrested vide Exh. 160 and 161, and Accused Nos. 3 and 4 were arrested vide Exh.s 162 and 163.

75) It has further come in his evidence that he had given a letter to the Deputy Superintendent of Police, Ahmednagar, dated 10.11.2022 seeking the CDR and SDR of the mobile phones of all the accused, the informant, Rajendra Patkal, and Harishchandra Khate vide Exh. 164. Before recording the evidence of this witness as mentioned above, he had sought permission of the Court to place on record the CDR and SDR vide Exh. 165. After hearing both the sides, permission was granted. The details of the CDR and SDR are taken on record at Article A collectively.

76) It has further come in his evidence that for collecting the voice samples of the accused, he had written a letter to the office of

the Superintendent of Police, Ahmednagar, and the Superintendent of Police, Anti-Corruption Bureau, Nashik. But he had not received staff and equipment to obtain the voice samples. The said correspondence is placed on record at Exhs. 166, 167, and 168. On 16/02/2023, he received a letter from the Superintendent of Police, Ahmednagar, informing him to request trained staff from the ACB, Ahmednagar vide Exh. 169. So, he had given a letter to the SDPO, Shevgaon Division, seeking direction for trained staff vide Exh. 170. On 28/02/2023, permission was taken from the Judicial Magistrate First Class vide Exhs. 171 and 172 for obtaining voice samples of the accused. The presence of two witnesses was secured vide Exhs. 173 and 174. In the presence of the complainant and panchas, the mobile handset was unsealed, and on opening the mobile handset, no data was found in the said mobile phone.

77) Since the Investigating Officer has produced on record the CDR and SDR, the prosecution, by filing an application at Exh. 228, sought permission to examine the Nodal Officer. The application was allowed. The prosecution examined two Nodal Officers, first, Pravin Khanawade as PW9 at Exh. 232, and Dattatram Angre as PW8 at Exh. 229.

78) Dattatram Angre (PW8), has deposed that he is a Nodal Officer in Vodafone Idea Company since 2018. In crime investigation, if the information is sought by the police, they used to supply the information. They had received an e-mail for the CDR of mobile Nos. 9623950061 and 8805636208, which were in the names of A-1 and A-2 respectively, for investigation purposes. They had sent the information through e-mail. The said information was for the period 01.10.2022 to 10.10.2022. The document produced on record

contains 12 columns, while they provide information in 13 or 22 columns. The SDRs of A-1 and A-2 are at Exhs. 230 and 231 respectively.

79) Pravin (PW9) has deposed that he is working as a Nodal Officer in Reliance Jio Company. On the request of the police for the purpose of investigation, he had provided the CDR of mobile No. 7972750431 registered in the name of A-1. The reporting period was 01.11.2022 to 11.11.2022. The information was provided vide Exh. 176, which was available on the server. The information of the CDR of mobile No. 8329251514 was also provided for the period 01.11.2022 to 11.11.2022, which was in the name of Ankush Eknath Dhumal. He had also provided the information of CDR of mobile No. 9325705633, which was in the name of Abhijit Chandrakant Bhagat, for the period 01.11.2022 to 11.11.2022 vide Exh. 178. This witness has stated that the information of the CDR placed on record is incomplete. Their form contains 15 columns, but the information produced contains only 11 columns. Generally, they do not describe the tower location with the complete address.

80) Both these witnesses were not cross-examined by the accused. However, to clear the ambiguity appearing on record on request of learned APP vide Exh.252, summonses were re-issued to the witnesses with a direction to produce fresh copies of the CDR and SDR on record. However, it was informed vide Exh.257 and 258 that the data is maintained only for a period of two years, therefore, they are unable to provide the CDR and SDR of the relevant period.

81) Looking to the evidence of these two witnesses (PW8 and PW9), on the request of the prosecution, information was called from

the Superintendent of Police to provide copy of the requisition sent for the CDR and SDR and the information received from the Nodal Officer through e-mail on record. The office of the Superintendent of Police produced on record the copy of the requisition letter, the information received with attachment and certificate, and placed it on record.

82) In order to prove the contents of the said documents, the prosecution has examined Nitin Annasaheb Shinde (PW14). It has come in his evidence that he is attached with the South Zone Mobile Cell, Ahmednagar, from the last 8 years. Whenever they received a requisition regarding the CDR and SDR from the police station, they sent such requisition to the Nodal Officer by e-mail. After receipt of the e-mail from the Nodal Officer, they used to download the data and send it to the concerned police on the email. He stated that their email address is *asp.ahmednagar.anr@mahapolice.gov.in*. The requisition was received through the Investigating Officer of Crime No.814/2022 of Shevgaon Police Station. The information of two mobile phones, i.e., 9623950061 and 8805636208, was called for on the request of Shevgaon Police in connection with the said crime. Accordingly, a letter was given to the Nodal Officer, Vodafone Cellular, Pune, through e-mail at the address *nodaldd.maharashtra@vodafoneidea.com*. The copy of the said letter is placed on record at Exh.269. They received the reply through e-mail with two attachments. The reply received is placed on record at Exh.270 with two attachments. Its printout is placed below Exh.251, which contained information of mobile No.9623950061 at page Nos.35 to 57 and information of mobile No.8805636208 at page Nos.59 to 77. The said CDR and SDR were for the period 01.10.2022 to 10.10.2022.

83) He further deposed that they again received a requisition from the Additional Superintendent of Police, Ahmednagar, regarding both the said mobile phones for the period 08.11.2022 to 11.11.2022. Accordingly, a letter was sent to the Nodal Officer, Vodafone Cellular Ltd., Pune through e-mail. They received the reply vide Exh.272 with two attachments containing the CDR and SDR for the period 08.11.2022 to 11.11.2022, which are placed below Exh.251 at page Nos.11 to 13 in respect of mobile No.9623950061 and page Nos.15 to 19 in respect of mobile No.8805636208.

84) He further deposed that they had also received a requisition regarding mobile Nos.9325705633, 7972750431, 8329251514 and 9284262720 for the period 08.11.2022 to 11.11.2022. Accordingly, a requisition was sent to the Nodal Officer, Reliance Jio Infocom Ltd., Pune through e-mail. The said requisition is at Exh.273. The reply received through e-mail is at Exh.274. The attachment received along with Exh.274 is marked at Exh.277. The attachments received along with Exh.273 containing the CDR of the aforesaid four mobile numbers for the period 08.11.2022 to 11.11.2022 are collectively marked as Exh.278.

85) On the requisition made for the CDR of the said four mobile numbers for the period 01.10.2022 to 10.10.2022, an e-mail was sent to the Nodal Officer, Jio Infocom Ltd., Mumbai on 11.11.2022. The copy of the said e-mail is at Exh.279. They received the reply through e-mail along with one attachment, which is at Exh.280. The attachment was downloaded and the photocopy thereof produced below list Exh.276 at page Nos.5 to 86 is collectively marked as Exh.281. He has further proved the certificate (Exh.282) under Section 65-B of the Indian Evidence Act issued by him, which is at

Exh.282.

86) In cross-examination, PW14 admitted that the CDRs were received in a ZIP file, which is a compressed file, and that the same is required to be unzipped with the help of software installed on a computer. He admitted that Exh.282 does not mention the software used for unzipping the files or that the attachments were unzipped. However, he denied the suggestion that the data gets lost when a ZIP file is unzipped or that the ZIP file gets corrupted if the software is not updated. PW14 admitted that he could not say whether, while receiving Exh.270, any external e-mail alert was received to indicate that the e-mail had been received from outside the Vodafone circle. He also could not say whether the contents of Exh.272 showed that the e-mail was received from outside the Vodafone circle. He admitted that Exhs.278 and 281 do not contain tower location details. According to him, tower location details of Jio mobile phones can be supplied if specifically requisitioned. Since the Investigating Officer had not requested such tower location details, the same were not separately called from the service provider.

87) In view of the aforesaid oral and documentary evidence regarding the CDR and SDR of the concerned mobile numbers, the relevant call details, as reflected from the CDRs proved on record, are tabulated hereunder for ready reference and proper appreciation of the evidence.

MOBILE NUMBER – 9325705633 (XXXXXX Shinde – Complainant)

(Subscriber Name - Abhijeet Bhagat)

MOBILE NUMBER – 9623950061 (Chhaya Garad – Accused No.3)

MOBILE NUMBER – 8805636208 (Sandip Pawase – Accused No.2)

Date	Calling Party कॉल करणारा	Called Party कॉल स्विकारणारा	Time Start	Time End	Duration
02.10.2022	9623950061	9325705633	10:05:27	10:05:27	Not received
02.10.2022	9623950061	9325705633	15:58:59	16:27:57	1738
02.10.2022	9623950061	9325705633	16:39:03	16:44:50	347
02.10.2022	9623950061	9325705633	16:45:58	16:50:56	238
02.10.2022	9623950061	9325705633	18:19:50	18:38:12	1101
05.10.2022	9325705633	9623950061	22:22:35	22:24:31	116
05.10.2022	9325705633	9623950061	22:25:17	22:25:49	33
05.10.2022	9325705633	9623950061	22:26:38	22:27:20	43
05.10.2022	9623950061	9325705633	22:37:17	22:39:28	131
05.10.2022	9623950061	9325705633	22:39:38	22:50:39	662
05.10.2022	9623950061	9325705633	23:00:09	23:09:04	536
07.10.2022	9623950061	9325705633	09:02:19	09:23:38	1280
07.10.2022	9325705633	9623950061	22:05:22	22:11:26	364
07.10.2022	9325705633	9623950061	23:22:40	23:23:52	73
Total calls – 14 times					
06.10.2022	9325705633	8805636208	15:40:33	16:23:43	2590
07.10.2022	8805636208	9325705633	11:31:54	11:48:12	978

88) On the request of the prosecution, the mobile phone was forwarded to the Forensic Science Laboratory for analysis, particularly for retrieval of the deleted data from the mobile handset. The Forensic Science Laboratory analyzed the mobile phone and submitted its report along with a Pendrive containing the extracted data. The said report is at Exh.237 along with the Pendrive. The relevant observations in the FSL report reads as under :

1. Exhibits mobile phone Ex-1 and SIM cards Ex-1/1 and Ex-1/2 were acquired/stored in the following -

Sr.No.	Exh.Marked as	Name of the Item	Acquired/stored in the Hard Disk
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1.	Ex-1	Mobile Phone	Make : Seagate
2.	Ex-1/1 and Ex-1/2	SIM Cards	S/N : Z6A0CDFE Model : ST4000VX010 Size : 4 TB

2. Extracted data of the Mobile Phone marked as Ex-1 and are given in an enclosed Pendrive marked as “Annexure-PD-CYNK-490/2025”. The details are as follows -

Exh.No .	Attachment folder name	Details of files are given in html	MD5 Hash Value of given file
Ex-1	Data in Ex-1	Data in Ex-1.html	a83f838f09bf024bc8cb3706435b1cba

3. Extracted data of the SIM Card marked as Ex-1/1 and are given in an enclosed Pendrive marked as “Annexure-PD-CYNK-490/2025”. The details are as follows -

Exh.No .	Attachment folder name	Details of files are given in html	MD5 Hash Value of given file
Ex-1/1	Data in Ex-1-1	Data in Ex-1-1.html	c25bd4e276e1568fb9b0251e7da8090b

4. Extracted data of the SIM Card marked as Ex-1/2 and are given in an enclosed Pendrive marked as “Annexure-PD-CYNK-490/2025”. The details are as follows -

Exh.No	Attachment folder name	Details of files are given in html	MD5 Hash Value of given file
Ex-1/2	Data in Ex-1-2	Data in Ex-1-2.html	5140700cb6ed07adc080f340e87c4cfb

5. Case related deleted data were not retrieved in the extraction of the mobile phone marked as Ex-1 as factory reset entry was found in analysis.

Note : An enclosed Pendrive marked as “Annexure-PD-CYNK-490/2025” is part of this report. Kindly refer the same and details of the same are given below :

Sr. No.	Details of Annexure Pendrive	Capacity of Data Size on Pendrive
1.	Make : SanDisk Capacity : 32 GB	5.12 GB

89) On perusal of the contents of the Pendrive in Path <SC %20185%202023/Annexure-PD-CYNK-490-2025/Data%20in%20Ex-1/CYNK-490-2025%20Ex-1/pages/archives.html>, at Serial No.34, it reveals that the mobile handset was lastly operated on 04.11.2022 at 08:47:53 p.m. i.e. after seizure. The copy of the said details is reproduced below :

34	Name : 906.zip	Size (bytes) : 119819
	Path : tranfs/Root/post-sales/906.zip	Modified : 04-Nov-22
	MD5 : a1bfef7e77382eec5ae41092edb	8:47:53
	908c	PM (UTC+
	MD5 in origin : N/A	5:30)
		Accessed : 04-Nov-22
		8:47:53 PM
		(UTC+5:30)

ARGUMENT

90) The learned APP for the State has submitted that, from the evidence brought on record, it has been proved by the prosecution that deceased [REDACTED] was a bright student. She was an athlete, aged 17 years, attending the school on a motorcycle. This itself shows that deceased [REDACTED] was physically fit and bold enough to take any decision. From the evidence of [REDACTED] (PW1), it has been proved by the prosecution that, prior to 4½ months of the incident, he came to know deceased [REDACTED]. Their friendship turned into a

love relationship. It has come in the evidence of Santaram (PW6) that [REDACTED] (PW1) is his son. He came to know that deceased [REDACTED] intended to marry his son, [REDACTED] (PW1). She was in love with his son. He came to know from his son that the parents of deceased [REDACTED] threatened him with his life due to his relationship with deceased [REDACTED]. The contents of the complaint (Exh.98) given to the Office of Superintendent of Police, Ahmednagar, the statement recorded by Mr. Bagul (PW7), marked Exh.97, and the statement recorded by Mr. Diwate (PW13), Exh.209, corroborate the testimony of [REDACTED] (PW1). [REDACTED] (PW1) was cross-examined at length, but the defence has not specifically denied the love relationship between deceased [REDACTED] and [REDACTED] (PW1). [REDACTED] (PW1) is a resident of another village. He has no enmity with the accused. There was no reason for [REDACTED] (PW1) to make a false allegation of a love relationship between him and deceased [REDACTED]. In the statement recorded under Section 313 of Cr.P.C., initially, the accused denied the aforesaid fact, but in the subsequently recorded statements of the accused, they have admitted the said fact. Thus, the evidence brought on record is sufficient to come to the conclusion that, prior to the alleged incident, about 4½ months earlier, deceased [REDACTED] and [REDACTED] (PW1) had friendship, which turned into a love relationship.

91) He further submitted that the evidence of [REDACTED] (PW1) reveals that, on 03.10.2022, the family members of deceased [REDACTED] came to know about their relationship. He had received a phone call at around 6:30 p.m. from the mobile handset No. 9623950061 on his mobile No. 9325705633, and he was called to the house of the accused. He went there. He was told not to meet

deceased [REDACTED], not to call her, and not to have any relation with her, else he was threatened with dire consequences. At that time, he was abused and assaulted with a wooden stick. So, he left for his house. It has further come in his evidence that, on 04.10.2022 at about 8:30 a.m., he received a phone call from deceased [REDACTED], who informed him that she had made it clear to her parents that she had decided to marry him; otherwise, she would elope with him. On that, her family members threatened her with her life. He further stated that, on 06.10.2022, he had received phone calls from A-2 and A-3, who asked him to leave deceased [REDACTED] and told him that they would kill deceased [REDACTED] to avoid social disrepute. It has further come in his evidence that, on 07.10.2022 at 9:30 p.m., he received a phone call from deceased [REDACTED], who told him that the accused were beating her and asked him to come to her house. When he asked her whether the accused were going to kill her, on that, she told him that the accused would kill her. So, he talked with the mother of deceased [REDACTED] and informed her that he was ready to leave deceased [REDACTED], but they should not kill her. But, she told him that deceased [REDACTED] was not listening to her; she will kill her by morning to avoid the social disrepute, as she is the Sarpanch of the village. Therefore, he told her that if they had decided to kill deceased [REDACTED] then they should kill him too. Then the phone was disconnected. On the next day morning, he learned that the accused killed deceased [REDACTED] and her funeral was conducted on the same night. Due to the fear that the accused would commit some wrong with him, he went to the house of his cousin sister.

92) He further submitted that it has come in his evidence that he had been to the office of the Superintendent of Police,

Ahmednagar, and given a written complaint (Exh.98), on 14.10.2022. The contents of the document dated 14.10.2022, Exh.98, corroborate the testimony of [REDACTED] (PW1) on material points. It is specifically mentioned therein that he had been to the Bodhegaon Outpost and Shevgaon Police Station to lodge a report in respect of the incident, but the police were under the influence of A-1 and had not taken any cognizance of his information. It has further come in his evidence that when he found that the police were not taking cognizance even after the complaint (Exh.98), he had been to the office of the Superintendent of Police, Ahmednagar, on 04.11.2022 and attempted to commit suicide in the said premises. On account of the said incident, a crime was registered against him. His statement (Exh.97) was recorded by API Bagul on 05.11.2022.

93) He submitted that in order to corroborate his testimony, there is evidence of Santaram (PW6), Bagul (PW7), PHC Diwate (PW13), and K. S. Salunke, PSI (PW12) and DW1. Their evidence reveals that as cognizance of his report was not taken by the Shevgaon Police Station, he approached the office of the Superintendent of Police, Ahmednagar, vide Exh.98. But even then, cognizance of his complaint was not taken, and therefore, he attempted to commit suicide in the office of the Superintendent of Police, Ahmednagar, on 04.11.2022.

94) He further submitted that it further reveals from their evidence that PHC Diwate was the first person who attended [REDACTED] (PW1) in the Civil Hospital, Ahmednagar, and recorded his report (Exh.209). The contents of Exh.209 reveal that before the alleged incident dated 04.11.2022, [REDACTED] (PW1) visited the said office on 22.10.2022, 24.10.2022, and 28.10.2022, but no action was

taken, and therefore, he attempted to commit suicide.

95) He further submitted that on 05.11.2022, API Bagul (PW7) recorded the statement (Exh.97) of [REDACTED] (PW1) at around 12:00 p.m., and thereafter, on 08.11.2022, registered the crime. DW1 in his cross-examination admitted that, he had received complaint of [REDACTED] (PW1) on his portal which was referred to API Shelke, so he returned it to admin. The evidence of the aforesaid witnesses, coupled with the documents placed on record as referred to above, has established that [REDACTED] (PW1), after the incident dated 07.10.2022, tried to approach the police, but he was not listened to. Even after filing the written complaint (Exh.98), no cognizance was taken, and therefore, on 04.11.2022, in frustration, he attempted to commit suicide in the premises of the office of the Superintendent of Police, Ahmednagar. This conduct of [REDACTED] (PW1) is itself sufficient to show that there was no delay on his part in reporting the matter to the police. Therefore, on this count, the evidence of [REDACTED] (PW1) cannot be doubted. In fact, his evidence is supported by the contents of Exh. 97, 98, and 209, and therefore, there is no reason to disbelieve his testimony.

96) He further submitted that, in the course of investigation, the statement of Mahesh Garad (PW2) was recorded, but he has not wholeheartedly supported the prosecution's case. He denied having stated before the police that, at night, he witnessed the accused assaulting deceased [REDACTED]. However, he fairly admitted that the incident had occurred at midnight, at about 2:00 a.m. When people started assembling at the house of the accused, he came to know that the daughter of accused A-1 and A-3 died due to the consumption of some medicine. So, he went there at 8:30 a.m. By that time, the

funeral was already over. He further clarified by stating that the funeral was conducted during midnight. When he had been to the house of the accused at 8:30 a.m., the pyre of the deceased was still burning.

97) He submitted that Mahesh Garad (PW2) is a distant relative of A-1, and therefore, he has reason not to depose against the accused. But the aforesaid evidence of witnesses clearly reveals that the incident had taken place at night and the dead body of deceased [REDACTED] was cremated at midnight itself. The evidence of this witness that when he had been to the house of the accused at 8:30 a.m. on the next morning, the pyre of the deceased was still burning is not correct, since the defence witness, DW1 Badadhe, in his evidence, has categorically stated that when he had been to the house of the accused at around 8:30 a.m., he visited the place where the deceased was cremated, and he did not find any burning pyre, ash, or bone.

98) The learned APP submitted that since Mahesh Garad (PW2), the sole eyewitness of the incident, has not supported the prosecution case, therefore, the entire case is based on the circumstantial evidence. Merely because the sole eyewitness turned hostile, that cannot be a ground to discard the circumstantial evidence.

99) He submitted that from the evidence of Mahesh Garad (PW2), Babasaheb Borude (PW4), Dr. Deshmukh (PW5), and Bhagwan Badadhe (DW1), it has been proved by the prosecution that deceased [REDACTED] was in the custody of the accused on the intervening night of 07.10.2022 and 08.10.2022. The alleged incident had taken place in the house of the accused. Therefore, it is for them to explain the circumstances under which deceased [REDACTED] died.

100) The initial defence of the accused was that, as Digambar (PW1) was not ready to marry deceased [REDACTED], deceased [REDACTED] must have committed suicide by taking poison. It was also the case of the accused that, as [REDACTED] (PW1) refused to elope with the deceased, deceased [REDACTED] had created a scene in the house, and due to this, she might have consumed the poison. But, in support of their defence, the accused neither entered into the witness box nor produced any evidence. Deceased [REDACTED] was not a girl of a weak heart so as to take such a decision to end her life. The conduct of the accused in not calling the relatives, not performing any funeral rites, and hurriedly cremating the body of the deceased has not been explained by the accused. A-1 is having a political background, A-3 is the village Sarpanch, and therefore, they knew that if such an incident occurred, it should be reported to the police. But no reason has been assigned for not reporting the matter to the police. It is the defence of the accused that A-3 was not well, and therefore, A-1 took her to Dr. Deshmukh's clinic at Supri Phata at night and returned at 2:00 a.m. If it is so, A-1 and A-3 ought to have taken deceased [REDACTED] to the hospital. In support of the defence of the accused that relatives were called, they checked deceased [REDACTED] and found that she was dead, no evidence has been brought on record. Therefore, there is absolutely no material on record that the accused had called any of their relatives or the neighbours for the cremation of deceased [REDACTED]. This conduct of the accused is sufficient to infer that deceased [REDACTED] did not die in the manner in which the defence is taken, and therefore, the accused hurriedly cremated her.

101) He further submitted that though initially the accused denied any conversation with [REDACTED] (PW1) on the telephone,

when CDRs were brought on record, the accused changed their stand and came with a case that deceased [REDACTED] was talking with [REDACTED] (PW1). A-3 has stated that she had a talk with [REDACTED] (PW1). Thus, the prosecution has proved beyond doubt that there was an Telephonic conversation between [REDACTED] (PW1) and A-3, and on the other hand, deceased [REDACTED] and her parents. Therefore, it supports the testimony of [REDACTED] (PW1), and there appears to be no reason to disbelieve the same.

102) It is further submitted that no explanation has been offered by the accused for performing the funeral in secrecy. Not only this, they did not follow any funeral rites, they did not call any neighbour or relatives to attend the funeral. Not only this, they removed the ash and bones from the cremation place and destroyed the evidence. These conducts of the accused, in the absence of any plausible explanation, proved beyond doubt that the accused are the author of the crime, it being a peculiar case of such a nature, a young girl had been killed by her own parents only to save themselves from the alleged disrepute and status in the society. Therefore, such accused deserve the maximum punishment.

103) In support, reliance is placed by the learned APP on the case of - (i) *Ek Nath Kisan Kumbharkar V/s. State of Maharashtra* – 2024 INSC 779, and (ii) *Bhagwan Dass V/s. State (Nct) of Delhi* – (2011) 6 SCC 396.

104) In the case of *Ek Nath Kisan Kumbharkar* (supra), the Hon'ble Supreme Court has reiterated that a conviction can be based entirely on circumstantial evidence if the chain of circumstances is complete. The conduct of the accused before and after the occurrence is a relevant circumstance under Section 8 of the Indian Evidence Act.

Where the facts are especially within the knowledge of the accused, failure to furnish a plausible explanation assumes significance after the prosecution establishes the foundational facts. A defective investigation cannot by itself result in acquittal if the prosecution otherwise proves the guilt beyond reasonable doubt.

105) In the case of *Bhagwan Dass* (supra), the Hon'ble Supreme Court was dealing with a case of honour killing. The Hon'ble Supreme Court has observed that honour killings are among the most barbaric forms of murder; no person has the right to take the law into his own hands merely because a family member chooses a spouse against the wishes of the family. Honour killings deserve the strongest condemnation and appropriate punishment. The Court must deal with such offences firmly, as they strike at the fundamental right of an individual to choose a life partner.

106) On the other hand, the learned advocate for the accused has submitted that the case of the prosecution was based on direct as well as circumstantial evidence. The sole alleged eyewitness, PW2, has not supported the prosecution case, and thus there is no direct evidence to prove the guilt of the accused. He further submitted that there was an inordinate delay in lodging the report. The alleged incident had taken place in the intervening night of 07.10.2022 and 08.10.2022, but the report was lodged on 08.11.2022. The unexplained delay casts serious doubt on the genuineness of the prosecution case. He submits that the prosecution has not proved beyond reasonable doubt whether the deceased was cremated at midnight or in the morning of 08.10.2022.

107) Vijay Salve (PW3) has stated that when he had been to the house of the accused at 8:30 a.m., the pyre of the deceased had been

still burning. Babasaheb Borude (PW4) has stated that the funeral was conducted at 8:30 a.m. in the morning. Therefore, the prosecution has miserably failed to prove that the funeral had taken place at midnight. On the basis of such evidence, an inference cannot be drawn that the accused hurriedly cremated the deceased. In-fact, many villagers and relatives were present at the time of the cremation, and therefore there is no substance in the contention of the prosecution that the cremation was hurriedly carried out at midnight.

108) It is further submitted that there is no medical evidence on record to prove the cause of death of deceased [REDACTED]. There was no eyewitness to the incident. The evidence of Dr. Dnyaneshwar Deshmukh (PW5) reveals that A-1 and A-3 had been to his clinic at night from 11:45 p.m. to 1:00 a.m. The CDR brought on record in the later part of the prosecution evidence reveals that there was a telephonic conversation between [REDACTED] (PW1) and deceased [REDACTED]. The nature of the conversation has not been disclosed by [REDACTED] (PW1) in his evidence. On the contrary, the evidence of [REDACTED] (PW1) that he had talked with the deceased and her parents on 03.10.2022 and 04.10.2022 is not supported by the CDR placed on record. Therefore, there is sufficient material on record to show that [REDACTED] (PW1) concocted the prosecution story to involve the accused in this case only with a view to save himself from the wrath of the accused.

109) It is further submitted that the alleged telephonic conversation recorded by [REDACTED] (PW1) is not placed on record. The mobile handset that allegedly contained the recorded conversation was seized, and when it was verified, it was found to

have no recorded data. It is submitted that the prosecution ought to have explained if there was a recording in the said mobile handset, then what happened to the said recording as to when, who, and why it was deleted.

110) In-fact, the evidence brought on record clearly demonstrates that when A-3 came to know about the relations between [REDACTED] (PW1) and deceased [REDACTED], she had called [REDACTED] (PW1) and told him that deceased [REDACTED] is a minor, and after attaining majority, she will perform their marriage. However, [REDACTED] (PW1) was not ready either to perform marriage with the deceased [REDACTED] or elope with her. When deceased [REDACTED] realized that she has been cheated by [REDACTED] (PW1), she was annoyed; she ransacked the house. Due to this, A-3 felt giddiness at night, and therefore she was taken to the clinic of Dr. Dnyaneshwar Deshmukh (PW5). When they returned back at around 2:00 a.m., they found that deceased [REDACTED] was not inside the house. They searched, and deceased [REDACTED] was found lying near the water tank. Froth was coming out of her mouth. Relatives were called; they found that deceased [REDACTED] was no more. Therefore, in the presence of their relatives, they cremated deceased [REDACTED]. When the police arrived, information about the incident was given to them. But [REDACTED] (PW1) must have felt that as he refused to marry the deceased [REDACTED], she committed suicide; and to avoid his implication in a criminal case, false allegations have been made against the accused. The police visited their house and found nothing suspicious, and therefore even an A.D. was not registered. Therefore, taking into consideration this aspect, it cannot be said that the evidence brought on record, is sufficient to prove that the accused are the authors of

any crime. Therefore, in the given set of circumstances, the accused deserve the benefit of doubt.

111) It has further submitted that, as per [REDACTED] (PW1), A-2 was not present at all at the house of A-1 on 07.10.2022, even on the next day morning, but he has been involved along with the other accused. This conduct of [REDACTED] (PW1) itself shows that he tried to rope A-2 in the alleged crime only to mount pressure on the accused, so that they shall not take any action against him. This conduct of [REDACTED] (PW1) also shows that the case built-up by him, has no substance.

112) The learned Advocate, in support of his submission, relied upon the following case-laws :

1. *Anjan Kumar Sarma V/s. State of Assam* – (2017) 100 AcrC 913.
2. *Ganesh Bhavan Patel and another V/s. State of Maharashtra* – 1979 AIR (SC) 135.
3. *L/NK. Meharaj Singh/Kalu V/s. State of Uttar Pradesh* – 1994 2 Crimes (SC) 154.
4. *Thulia Kali V/s. The State of T.N.* - 1972 Supreme (SC) 131.
5. *Laxman Bapurao Ghaiwane V/s. The State of Maharashtra* – 2012 Supreme (Bom) 1458.
6. *Thurumella Ramesh Babu V/s. State of A.P.* - 2010 Supreme (AP) 531.
7. *Manoj @ Munna V/s. State of Chhattisgarh* – DLD (Cri) 2026 4189.
8. *Manjunatha S/o Veeranna V/s. The State of Karnataka* – 2020 Supreme (Kar) 44.
9. *Bommathoti Yedukondalu V/s. State of A.P.* - 2018 Supreme (AP) 926.
10. *S. Senthil Kumar @ Gunasekaran V/s. State through the*

Inspector of Police, Kinathukadavu Police Station, Coimbatore – 2021 Supreme (Mad) 2060.

11. *Deepak Kumar @ Deepak Baitha Son of Godaila Baitha @ Ram Sudhisth Baitha V/s. State of Bihar – 2023 Supreme (Pat) 1300.*

113)

entire prosecution's case originates from his complaint dated 14.10.2022 (Exh. 98) addressed to the Superintendent of Police, Ahmednagar, and his subsequent statement recorded by API Bagul (Exh. 97) on 05.11.2022 at the Civil Hospital, where he was admitted after attempting to commit suicide. The evidence of PW1 reveals that he and deceased [REDACTED] were in love with each-other. When A-1 to A-4 came to know about their love relationship, he was called by the accused to their house, where he was threatened and assaulted if he continued the relationship. He further deposed that deceased [REDACTED] was in contact with him over the telephone and informed him that she was being confined, assaulted, and threatened by the accused. According to him, he had received a phone-call on the night of 07.10.2022 in which, she disclosed that she was being beaten and seriously assaulted, and that there was a danger to her life.

114) It has further come in his evidence that he requested A-3 not to assault the deceased and expressed his willingness to withdraw from the relationship. However, A-3 replied that the deceased had brought disgrace to the family and that she would not be permitted to live. According to him, on the next day morning, he learned that deceased [REDACTED] had died and had already been cremated during the night. Thereafter, he addressed the complaint to the Superintendent of Police, Ahmednagar, on 14.10.2022. As no action was taken, he ultimately attempted to commit suicide on 04.11.2022

in the premises of the Superintendent of Police.

115) [REDACTED] (PW1) has proved his statement (Exh. 97) and complaint (Exh. 98). The contents of Exhs. 97, 98, and 209 support his testimony. It is true that on account of the incident of attempting to commit suicide by PW1, he is being prosecuted; but mere proof of his suicide attempt does not by itself, render his testimony unreliable, rather, it explains the circumstances in which his statement (Exh. 97) ultimately came to be recorded. After going through the testimony of PW1, I find that there are no material contradictions between Exhs. 97, 98, and his substantive evidence regarding the core allegations, namely:

- i) His relationship with the deceased,
- ii) Opposition by the accused,
- iii) Repeated telephonic communication,
- iv) Threats extended by the accused, and
- v) The hurried cremation of the deceased immediately after her death,

inspires confidence.

116) Mahesh Garad (PW2), no doubt, did not support the prosecution's case wholeheartedly. Nevertheless, he admitted that the funeral of the deceased had already taken place by the time he reached the accused's house on the morning of 08.10.2022. He also admitted that the cremation had taken place during the night and that the funeral pyres were still burning when he reached there. These admissions assume significance because they corroborate the prosecution case regarding the unusual haste in cremating the body. It is well-settled that merely because a witness is declared hostile, his

testimony does not become effaced from the record. The court can rely upon such portion of his evidence as is otherwise found trustworthy and corroborated by other evidence.

117) Vijay Salunke (PW3) had accompanied the Investigating Officer to the place shown by the brother of the deceased , where, according to the prosecution, the cremation had taken place. He noticed ash-mixed soil at the spot and the seizure of ash-mixed soil and plain soil from the said place. Nothing substantially has been elicited in his cross-examination to discredit his testimony. His evidence satisfactorily proves the preparation of the spot-panchnama and the seizure of the articles from the place indicated by the prosecution.

118) Babasaheb Borude (PW4) is a neighbour of the accused. He, too, did not support the prosecution case completely and, therefore, he was declared hostile. However, he admitted that he reached the house of the accused on the morning of 08.10.2022 and found that the deceased had already died and the funeral had already taken place. Thus, his evidence lends corroboration to the prosecution on the limited aspects that the body had already been cremated in the absence of a normal public gathering.

119) Dr. Deshmukh (PW5) has deposed that at about 11:45 p.m. on 07.10.2022, A-1 brought A-3 to his clinic, who was suffering from epileptic episodes. He treated A-3 till 1:00 a.m., and then she left his clinic. On the next day morning, again he was called, so he went to the house of the accused at 9:30 a.m. But he had not seen any funeral pyre burning.

120) The evidence of Santram Shinde (PW6) reveals what he

learned from PW1. Therefore, it is hearsay evidence. However, he proves the immediate conduct of his son after the occurrence and the threats allegedly extended by the accused. He deposed that since the accused were searching for his son after the incident, he had sent him away to his relative's house for safety. Thus, from his evidence, it reveals the relationship between PW1 and deceased [REDACTED] and the apprehension entertained by his family immediately after the occurrence, which is consistent with the prosecution case.

121) It is revealed from the evidence of Mr. Bagul (PW7) that though the complaint, Exh. 98, was addressed to the Superintendent of Police on 14.10.2022, it was received by the Shevgaon Police Station on 18.10.2022. It was given for investigation to API Shelke, but no effective steps were taken until 04.11.2022. He visited the Civil Hospital, Ahmednagar, and recorded the statement (Exh. 97) of PW1 on 05.11.2022. On the basis of his statement, the crime was registered. Thereafter, he visited the place of the incident and prepared the spot- panchnama, seized ash-mixed soil and plain soil from the place where the cremation had taken place. He collected the CDR, which was placed on record after filing the charge-sheet. His evidence further reveals that, considering the allegation that the mobile handset of PW1 contained a recording, the mobile handset was recovered from the Bhingar Camp Police Station. On 03.04.2023 in the presence of panchas and the complainant, the mobile handset was charged, and when it was inspected, it was found that it contained no data of the telephonic conversation/recording (Exh.100).

122) The evidence of the investigating officer is criticized on several grounds. Indeed, there are lapses on the part of the

investigating officer, and the same are evident from the record. However, the lapses on the part of the investigating officer cannot be a ground to extend the benefit of doubt to the accused. It is well settled that defective investigation by itself, does not constitute a ground for acquittal, if the evidence otherwise available before the court satisfactorily establishes the guilt of the accused. The criminal trial is concerned with the truth of the prosecution case and not with the efficiency of the investigating agency. Unless the lapses have caused prejudice to the accused and destroyed the substratum of the prosecution case, the court is duty-bound to appreciate the evidence that has actually come on record.

123) In this case, it appears to me that the prosecution has explained the delay caused in lodging the report. The evidence of [REDACTED] (PW1) reveals that immediately after the incident, he approached the authorities but found no response, so he approached Superintendent of Police on 14.10.2022. The said complaint was received by the Shevgaon Police on 18.10.2022. Ultimately, finding no response from the police machinery, the informant attempted to commit suicide on 04.11.2022. Only thereafter, his statement was recorded and the crime registered. DW1's deposition reveals that, on 08.10.2022 [REDACTED] (PW1) had given a complaint which he received on portal. It was forwarded to API Shelke through Admin. Thus, the delay is not attributed to the informant. On the contrary, the evidence reveals considerable inaction on the part of the investigating agency during the initial stage. Under such circumstances, the accused cannot derive any advantage of such inaction, particularly when the delay itself stands satisfactorily explained by the evidence on record.

124) From the evidence of Mr. Badadhe (D.W.1), it reveals that on 08.10.2022, on receiving the information regarding the death of the deceased, he made certain preliminary inquiries, recorded the statements of some persons, and the said information was given to Police Inspector Mr. Pujari, and thereafter he made an entry in the station diary. The copy of station diary entry is placed on record at Exh.200. Thus, the evidence of this witness reveals that the police machinery had received the information regarding the death. However, despite the death of a young unmarried girl under admittedly unnatural circumstances, neither an accidental death case nor a regular crime came to be registered at that stage. Thus, the testimony of D.W.1, rather than helping the defence, demonstrates that the initial response of the local police was wholly inadequate. The fact that no effective investigation was undertaken immediately after the occurrence assumes importance while appreciating the subsequent conduct of the investigating agency.

125) Mr. Vilas Pujari (PW10) admitted that he received information regarding the death of a girl and therefore D.W.1 was directed to visit the said village and ascertain the information. However, he has shown ignorance about Station Diary Entry No. 34 made by D.W.1, but he admits that station diary entries are made under his supervision.

126) The evidence of PW11, Mr. Dadu Chakrawarti (PW11), proves the seizure of the mobile handset of the informant under the seizure panchnama at Exh.248. His evidence has gone unchallenged. On perusal of the seizure panchnama, it reveals that it contains details of the mobile handset seized and that it was seized between 20:00 and 20:45 hrs. on 04.11.2022. The evidence of PW11 is supported by

Kiran Salunke (PW12). It has come in his evidence that on 04.11.2022, Crime No. 518/2022 was registered against PW1 [REDACTED], under Section 309 of the I.P. Code. PHC Diwate (PW13) recorded his statement and produced the clothes and mobile handset of the informant. The clothes and mobile handset were seized in presence of the panchas, which included PW11. He identified the mobile handset (Article MO-1) before the court.

127) The evidence of PW11 further reveals that on the request of Shevgaon Police Station, vide Exh.156, the mobile handset was handed over to Mr. Bagul (PW7). This witness was cross-examined on the point of CDR, rather, CCTV footage recorded in the office of the Superintendent of Police, which is not relevant to the present case; hence, it is not considered. The evidence of Mr. Bagul (PW7) also corroborates the testimony of these witnesses that he had received the mobile handset seized in the aforesaid crime of Bhingar Camp Police Station on his request. Thus, the evidence of these witnesses establishes the chain of custody of the seized mobile phone.

128) From the evidence of the aforesaid witnesses, the prosecution has proved beyond doubt that the deceased [REDACTED] was cremated during the intervening night or at least in the early hours and before the police visited the place. Even for the sake of argument that the deceased had consumed poison, the conduct of the accused remains wholly unexplained. There is no satisfactory evidence showing:

- i) What poison was allegedly consumed;
- ii) Where the poison was kept;
- iii) Who witnessed its consumption;

- iv) Whether any attempt was made to immediately shift the deceased to the hospital;
- v) Why the police were not informed before the cremation; and
- vi) Why the body was cremated with unusual haste without following any legal formalities.

These are the matters specially within the knowledge of the accused. No plausible explanation has been offered either during the trial or in their statement under Section 313 of the Cr.PC. Thus, the conduct of the accused before and after the occurrence of the incident is, therefore, relevant under Section 8 of the Evidence Act.

129) The prosecution has produced on record the CDR/SDR to establish the telephonic communication between the deceased and PW1 immediately prior to her death. The Investigating Officer had not produced the CDR at the time of filing the charge-sheet. It was produced on record at the time of recording his evidence. Therefore, after examining the Investigating Officer, on the request of the prosecution, PW8 and PW9 were examined. During their evidence, it transpired that the photocopies of the CDR produced on record did not exactly tally with the original format maintained by the service provider. Consequently, this Court recalled the said witnesses for clarification during their recall, both the nodal officers vide Exh.257 and 258 categorically stated that, owing to the expiry of the prescribed retention period, the original CDRs were no longer available with the respective companies. However, from their evidence, it reveals that they had received the requisitions from the office of the Superintendent of Police through official email and had transmitted the information required to the said official channel.

130) In view of the above development, the prosecution

examined Nitin Shinde (PW14), attached to the Mobile Cell of the Office of the Superintendent of Police, Ahmednagar. As directed, the witness produced the copy of the requisition sent through email to the service provider and the reply received through email along with the attachment. He identified the official requisition addressed by the Investigating Officer to the concerned service providers. He proved the official e-mail communication received in response thereto. The witness also produced the electronic attachment received along with those emails, namely the subscriber details, call detail records, system detail records, and the certificate issued under Section 65-B of the Indian Evidence Act. This witness has specifically stated that these documents were downloaded from the official government email account maintained in the office of the Superintendent of Police and produced before the Court without any alteration.

131) This witness (PW14) was cross-examined on the possibility of corruption of .zip files, alteration of electronic records, absence of specialized software, and inability to identify the tower location. The witness denied the material suggestions. Nothing substantial has been elicited in the cross-examination to indicate that the official electronic communications or the attached call detail records had been fabricated or manipulated. The witness remains consistent that the documents produced before the court were the very documents received through the official government email system. Therefore, I find no reason to discard his testimony.

132) The evidence of PW7, read with PW8, PW9, and PW14, reveals that the investigating officer had officially requested the information from the service providers. The service providers furnished the information through official electronic communication.

The electronic records remain stored in the official government email account maintained by the Superintendent of Police. PW14 downloaded the same from the official server and produced them before the Court. Thus, the source, authenticity, and chain of custody of the electronic evidence stand duly established. Merely because the original CDRs were no longer retained by the service providers owing to the expiry of the statutory period does not render the electronic records already received by the investigating agency inadmissible. Once the official replies, together with the requisite certificate under Section 65-B of the Indian Evidence Act are duly proved, the evidentiary value of the records has to be appreciated on merits. Thus, I come to the conclusion that the prosecution has duly proved the electronic evidence produced on record.

133) The chart reproduced above showing the telephonic conversation exchanged between the mobile phone numbers mentioned therein clearly establishes telephonic communication between these telephone numbers on 02.10.2022, 05.10.2022, 06.10.2022, and 07.10.2022. The record reveals that there were four repeated calls exchanged between the mobile phones of PW1 and A-3, which includes one conversation lasting about 21 minutes. The defence has not disputed these calls; they have not even disputed that these mobile numbers belong to A-1 and the informant. However, according to A-1 and A-3, the mobile phone number 9623950061 was in use by A-3. In this case, the significance of these call detail records lies not in the contents of the conversation, but in the fact that they objectively corroborate the testimony of PW1 that the deceased remained in contact with him till shortly before the occurrence. Thus, the oral testimony of PW1 receives corroboration from the electronic

evidence.

134) During the pendency of the trial, the mobile handset was sent to the Regional Forensic Science Laboratory for extraction of the available data. However, the FSL report (Exh.237) reveals that this handset had undergone a factory reset. The defence of the accused is that no data ever existed, which makes the prosecution case doubtful; however, this submission cannot be accepted. The report has not stated that no data ever existed. On the contrary, it has specifically recorded that deleted case-related data could not be recovered because the handset had undergone a factory reset. Thus, the forensic report neither falsifies the prosecution case nor supports the defence. It merely explains why certain deleted electronic data was unavailable for recovery.

135) From the evidence of Mr. Diwate (PW13) and Mr. Salunke (PW12), the prosecution has proved the manner in which the mobile handset was seized and handed over to the custody of PW7. According to PW12, the mobile handset was seized as according to the informant, it contain the data regarding the telephonic communication. Thus, his evidence also supports the evidence of PW1.

136) From the aforesaid discussion, it is clearly brought on record that the deceased was deeply in love with PW1 and was determined to marry him. The accused were against the said relationship. The deceased openly expressed her intention to marry PW1 even against the wishes of her family. Immediately before the occurrence, the deceased and A-3 were in communication with PW1 on the telephone. Within a short time thereafter, the deceased died under highly suspicious circumstances. The accused have failed to satisfactorily

explain the circumstances leading to her death. The dead body was hurriedly cremated before any lawful investigation or post-mortem examination. The initial investigation suffered from unexplained inaction on the part of the local police. The electronic evidence and forensic evidence substantially corroborate the prosecution version. All these circumstances are not isolated facts; they are interconnected and mutually reinforcing. Each circumstance lends assurance to the other and substantially narrows the possibility of any hypothesis consistent with the innocence of the accused.

137) It is a settled principle of law that each incriminatory circumstance relied upon by the prosecution must be independently established. The proved circumstances should form a complete and unbroken chain leading only to the conclusion that the accused, and no one else, committed the offence. The circumstances must be consistent only with the guilt of the accused and must exclude every reasonable hypothesis consistent with their innocence. Keeping these settled principles in view, the evidence on record reveals that the prosecution has satisfactorily explained the motive. Although motive is not an indispensable requirement where the chain of circumstantial evidence is otherwise complete, in the present case, the prosecution has succeeded in proving the motive behind the crime. The evidence of PW1 establishes that he and the deceased, [REDACTED], were in a love relationship. The deceased was determined to marry him. She had openly informed her parents that she would marry PW1 and, in the event of their refusal, she would even leave the house and solemnize the marriage. This evidence has remained substantially unshaken during cross-examination. The CDR independently corroborates that the deceased remained in constant communication with PW1 and A-3

till shortly before her death. The evidence further establishes that the accused were strongly opposed to the said relationship. The threats extended to PW1 clearly indicate that the family had completely disapproved of the proposed marriage. Thus, the prosecution has established a strong and convincing motive.

138) The defence has consistently contended that the deceased committed suicide by consuming poison. However, except for making such suggestions, the defence has not been able to place any acceptable material before the court. No witness has stated that he actually saw the deceased consuming poison. No poisonous substance was recovered. No container of poison has been produced. No explanation is forthcoming regarding the source of the alleged poison. No evidence has been adduced to show when and where the poison was purchased. There was no attempt by the accused to immediately shift the deceased to the hospital when she was allegedly found lying outside the house and froth was coming from her mouth. Thus, the theory of suicide remains a mere suggestion, unsupported by the evidence.

139) In this case, the conduct of the accused immediately after the occurrence is wholly inconsistent with ordinary human behaviour. If a young unmarried daughter had suddenly consumed poison, the normal reaction of her parents would be to make every possible effort to save her life by immediately shifting her to the nearest hospital. Instead, the evidence discloses that the dead body was cremated during the night itself before the police were informed. No postmortem examination was permitted. No intimation was given to the police regarding the unnatural death, even though the non-matrimonial relatives were not informed before the cremation. Such

unusual haste is wholly incompatible with the conduct expected from innocent parents. The conduct of the accused, therefore, constitutes a highly incriminatory circumstance within the meaning of Section 8 of the Evidence Act.

140) Section 106 of the Indian Evidence Act embodies the rule that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Once the prosecution succeeds in proving foundational facts from which a reasonable inference of guilt arises, the accused cannot remain silent regarding the facts which are exclusively within their knowledge. In the present case, the aforesaid discussed facts were within the knowledge of the accused. If, as suggested by the defence, the deceased had voluntarily consumed poison, nothing prevented the accused from disclosing the true facts. The conduct of the accused in withholding the real facts, hurriedly cremating the body without informing the police, destroying the physical evidence, and failing to furnish any plausible explanation gives rise to a strong adverse inference under Section 106 of the Indian Evidence Act.

141) In *Trimukh Maroti Kirkan Vs. State of Maharashtra*, (2006) 10 SCC 681, the Hon'ble Supreme Court has held that where a homicidal death takes place inside the privacy of a house, the initial burden lies upon the prosecution to establish its case; however, once it is shown that the deceased was in the exclusive custody of the inmates of the house, the burden shifts upon them under Section 106 of the Indian Evidence Act to offer a cogent and satisfactory explanation regarding the circumstances in which the death occurred. Failure to furnish such explanation constitutes an additional link in the chain of circumstances.

142) The learned defence counsel has laid considerable emphasis upon the delay in the registration of the crime. It is true that the crime was registered about one month after the incident. However, the evidence on record clearly establishes that the informant had approached the office of the Superintendent of Police after the local police had not given any response and submitted a written complaint. Despite the receipt of the complaint, no effective action was taken by the local police, which supports the case of the prosecution that as the local police did not respond, the informant approached the Superintendent of Police. Even after approaching the Superintendent of Police, no effective action was taken by the local police. Ultimately, the informant attempted to commit suicide in the premises of the office of the Superintendent of Police, thereafter his report came to be recorded. Thus, the delay is fully explained; therefore, it would be unjust to permit the accused to derive any advantage from the inaction of the investigating agency.

143) The evidence discussed above unmistakably reveals that the deceased was determined to marry a person of her own choice. The accused strongly opposed the said relationship. The deceased and PW1 were threatened on this count. Immediately before her death, the deceased was in contact with the informant. Within a short span thereafter, she died under suspicious circumstances. Her body was hurriedly cremated without informing the police. No satisfactory explanation regarding her death has been offered by any of the accused. It is a matter of common experience that crimes committed in the name of family honour ordinarily take place within the privacy of a family residence. Independent eyewitnesses are rarely available because the offence itself is committed by close family members inside

the house. Therefore, the absence of direct eyewitness testimony cannot by itself create doubt where the circumstantial evidence forms a complete chain. In the present case, every proved circumstance points only towards the accused A-1, A-3, and A-4. The possibility of the intervention of any third person is completely ruled out.

144) CDR placed on record regarding A-2 reveals his absence from the village Shekte Bk. during the intervening night of the incident; therefore, he deserve the benefit of doubt. Thus, the cumulative effect of the evidence unmistakably establishes that A-1, A-3, and A-4, being unable to reconcile themselves with the decision of the deceased to marry a person of her own choice, caused her death and, thereafter, hurriedly cremated the body in order to destroy the evidence of the offence. Thus, it appears to me that the present crime is an instance of honour killing.

145) In the case of *Anjan Kumar Sarma v. State of Assam (supra)*, the case was based on circumstantial evidence, "last seen together", wherein the Hon'ble Supreme Court has held that, the absence of an explanation by the accused under Section 106 of the Evidence Act cannot by itself sustain conviction. The chain of circumstances must be complete before an adverse inference is drawn.

146) In the case of *Ganesh Bhavan Patel v. State of Maharashtra (supra)*, the Hon'ble Supreme Court has observed that, delay may become a serious infirmity where it is accompanied by circumstances suggesting that the prosecution story was conceived or developed after deliberation rather than being the result of a prompt and fair investigation.

In the present case, the evidence reveals that the police officers

were aware of the suspicious death from the very inception; preliminary inquiries were conducted by DW1, statements of witnesses were recorded, the complaint submitted by the informant to the office of the Superintendent of Police remained unattended, the mobile phone of the informant was taken into custody even before registration of the offence, material documents were not annexed with the charge-sheet, and electronic evidence was not properly preserved. These circumstances, considered cumulatively, raise a serious concern regarding the fairness and transparency of the investigation. Therefore, it clearly appears that there was no delay on the part of the informant. The lapses on the part of the investigating agency cannot be a ground to hold that there was a deliberate delay in the registration of the crime. Therefore, the law laid down in the aforesaid ruling do not apply to the facts of the case in hand.

147) In the case of *L/Nk. Meharaj Singh/Kalu Vs. State of Uttar Pradesh (supra)*, the Hon'ble Supreme Court has laid down the significance of a prompt FIR and the effect of delay. Similar observations have been made by the Hon'ble Supreme Court in the case of *Thulia Kali v. The State of T.N (supra)*.

148) In the case of *Laxman Bapurao Ghaiwane Vs. The State of Maharashtra (supra)*, the Hon'ble Parent High Court has observed that, where the delay in recording statements remains unexplained and relates to important witnesses, it creates serious doubt about the fairness of investigation.

149) In the case of *Thurumella Ramesh Babu Vs. State of A.P (supra)*, the Hon'ble Division Bench of Andhra Pradesh High Court reiterated the principles laid down by the Hon'ble Supreme Court in

the case of *Anant Chintaman Lagu v. State of Bombay* – AIR 1960 SC 500, regarding proof in a poisoning case.

150) In the case of *Manoj @ Muna Vs. State of Chhattisgarh (supra)*, the Hon'ble Supreme Court reaffirmed the principle that if the case is based on circumstantial evidence, the circumstances must form a complete chain, and each circumstance must be independently proved. The "last seen together" is only one incriminating circumstance and cannot by itself sustain a conviction unless corroborated by other reliable evidence, and Section 106 of the Evidence Act is not a substitute for the prosecution's burden of proof.

151) In the case of *Manjunatha S/o Veeranna v. The State of Karnataka (supra)*, the Hon'ble Supreme Court has held that the prosecution must prove its case by consistent, cogent, and specific evidence. Where the evidence is inconsistent and contradictory, conviction cannot be sustained. Suspicion, however strong, cannot replace proof beyond reasonable doubt.

152) In the case of *Bommathoti Yedukondalu v. State of A.P. (supra)*, the Hon'ble High Court has held that when the prosecution itself is uncertain whether the death was caused by poisoning, smothering, or throttling, and the medical evidence did not support the prosecution version, and the prosecution merely relied upon the last seen theory, it is held that it is not sufficient to sustain conviction as the chain of circumstances was incomplete.

153) In the case of *S. Senthil Kumar @ Gunasekaran v. State (supra)*, the Hon'ble High Court found that the alleged dying declaration contains several material inconsistencies, the accused's name was mentioned differently at different places, there was no

independent evidence connecting the accused with the offence, and the Investigation Officer improved the prosecution case by introducing facts not found in the complaint; these infirmities create a reasonable doubt.

154) The aforesaid decision turn on unreliable dying declarations and material improvements in the prosecution case. The present case in hand is fundamentally different, and therefore, these cases do not assist the defence.

155) In the case of *Deepak Kumar @ Deepak Baitha S/o Godaila Baitha @ Ram Sudhisth Baitha v. State of Bihar (supra)*, the prosecution case was based on circumstantial evidence. Therefore, it is held that every incriminating circumstance must be compulsorily proved. It is further observed that suspicion cannot replace proof, and if the prosecution fails to establish an essential ingredient of the offence, the accused is entitled to acquittal.

156) In the present case, the prosecution has successfully established each incriminating circumstance independently, and all such circumstances taken cumulatively form a complete chain pointing unerringly towards the guilt of the accused. Consequently, the ratio of this case do not assist the defence.

157) On careful appreciation of the entire oral, documentary and electronic evidence, this Court is satisfied that the prosecution has succeeded in proving a complete and unbroken chain of circumstances which points only towards the guilt of A-1, A-3 and A-4 and is wholly inconsistent with any hypothesis of their innocence. The prosecution has proved that the deceased died while she was in the exclusive custody of A-1, A-3 and A-4. The conduct of A-1, A-3 and

A-4 was found to be wholly unnatural. The accused not only hurriedly cremated the dead body during the night itself, but also removed the ashes and bones from the cremation site. Such conduct cannot be regarded as that of innocent persons faced with the sudden death of a young daughter. On the contrary, it unmistakably indicates a deliberate attempt to destroy the evidence of the crime.

158) To constitute an offence under Section 302 of the I. P. Code, the prosecution must prove that the accused intentionally caused the death of the deceased or caused such bodily injury as they knew was likely to cause death. In the present case, the circumstances proved on record leave no manner of doubt that the death of the deceased was intentionally caused. The motive, the exclusive custody of the deceased with the accused, the unnatural conduct immediately after the occurrence, destruction of evidence and the complete absence of any plausible explanation from the accused lead to the only irresistible conclusion that A-1, A-3 and A-4 intentionally caused the death of the deceased. Thus, A-1, A-3 and A-4 are liable to be convicted under Section 302 of the I. P. Code.

159) The criminal conspiracy is ordinarily proved by circumstantial evidence, because conspiracies are seldom hatched in public. The agreement between the conspirators is generally inferred from their conduct before, during and after the occurrence.

160) In the present case, A-1, A-3 and A-4 shared common motive to prevent the deceased from marrying  (PW1). They acted in concert after the death by jointly arranging the hurried cremation without informing the police, without informing relatives and by causing disappearance of the physical evidence. Their concerted conduct before and after the occurrence unmistakably establishes the

prior meeting of the minds to eliminate the deceased and thereafter, conceal the offence. Thus, prosecution has proved the charges of criminal conspiracy punishable under Section 120-B of the I. P. Code.

161) The evidence clearly establishes that immediately after the death, A-1, A-3 and A-4 caused the body of the deceased to be cremated during the night without informing the police, without obtaining a medical opinion and without permitting a postmortem examination. The ashes and bones were also removed from the cremation place. These acts were intentionally committed with full knowledge that an offence had been committed and with the object of screening themselves from legal punishment. Every essential ingredients of Section 201 of the I. P. Code are therefore fully established. Thus, A-1, A-3 and A-4 are also liable to be punished under Section 201 of the I. P. Code.

162) However, the evidence against A-2 is not of such a nature as to establish his guilt beyond reasonable doubt. The evidence brought on record reveals his absence from Village Shekte Bk., during the intervening night of the incident and, therefore, he is entitled to the benefit of doubt. Consequently, A-2 deserves to be acquitted of all the charges leveled against him. Hence, Points No.1 to 5 are answered accordingly.

163) Now I stop here to hear the A-1, A-3 and A-4 on the point of sentence.

Date 04.08.2026
Ahmednagar.

(S. B. Kachare)
Sessions Judge, Ahmednagar.

164) Heard the A-1, A-3 and A-4 on the point of sentence. They kept mum. However, the learned Advocate of the accused has

submitted that the criminal antecedents of the accused are clean, they were not previously convicted and it is not a case to award maximum punishment as provided under the law. Therefore, accused deserves leniency while awarding the sentence.

165) The learned Additional Public Prosecutor has submitted that the present case is an honour killing committed by the parents of the deceased. It is a extremely grave offence and as per the observations laid by the Hon'ble Apex Court in the case of *Bhagwan Dass V/s. State (Nct) of Delhi* – (2011) 6 SCC 396 (supra), accused deserve capital punishment.

166) I have given thoughtful consideration to the rival submissions, while considering the question of sentence, this Court is required to apply the well settled principles governing capital punishment. Death penalty is not to be imposed merely because the offence is heinous or brutal. It can be awarded only in the “rarest of rare” case where the alternative option of imprisonment for life is unquestionably foreclosed.

167) In the present case, although the motive behind the crime is reprehensible and the conduct of the accused in hurriedly cremating the dead body and destroying the evidence is highly aggravating, there are no exceptional circumstances to conclude that the accused are beyond the possibility of reformation or rehabilitation. Therefore, considering the test laid down by the Hon'ble Apex Court for awarding the death sentence, considering the mitigating circumstances that the accused have no proven antecedents and the absence of material regarding their inability to reform cannot be ignored while applying the sentencing principles.

168) In view of this, this Court is of the opinion that the present case, though undoubtedly grave and deserving stern punishment does not fall within the category of the “rarest of rare” cases warranting the extreme penalty of death. The ends of justice would be adequately met by sentencing the accused to imprisonment for life for the offence punishable under Section 302 and 120-B of the I. P. Code with fine and separate punishment for the offence punishable under Section 201 of the I. P. Code.

169) So far as the muddemal property is concerned, the mobile handset was seized during the course of investigation and was produced before the Court for the purpose of evidence. As the trial has now concluded and the said article is not liable to confiscation, it deserves to be returned to the person legally entitled to its possession after the expiry of the appeal period, subject to the result of appeal. The other muddemal property being worthless will have to be disposed of after the appeal period, subject to the result of appeal.

170) Before concluding the matter, this Court considers it necessary to record its serious concern regarding the manner in which the initial investigation was handled by the officers attached to the Shevgaon Police Station. The evidence of Bhagwan Badadhe (DW1), Vilas Pujari (PW2), and Ravindra Bagul (PW7), read together with the contemporaneous documents, reveals that the local police machinery became aware of the unnatural death of deceased [REDACTED] in the early hours of 08.10.2022. Vilas Pujari (PW10), who was then the Officer-in-Charge of Shevgaon Police Station, directed Bhagwan Badadhe (DW1) to verify the information received from village Shekte Bk. Bhagwan Badadhe (DW1) specifically deposed that before leaving the police station, he conveyed a message to the PSO to make an

entry in the station diary regarding their departure for verification. Surprisingly, no such station diary entry was made. Bhagwan Badadhe (DW1) further deposed that he visited the village, made preliminary inquiries, recorded the statements of certain persons, inspected the place of cremation, and found that no ash or bone remnants were available. According to him, the circumstances surrounding the death appeared suspicious. He, therefore, requested Vilas Pujari (PW10) to direct API Shelke, who was then in charge of Bodhegaon Outpost, to conduct a detailed inquiry. Admittedly, no such directions were issued.

171) The evidence further reveals that the complaint sent by informant [REDACTED] (PW1) on online portal was not attended to by the police. Bhagwan Badadhe (DW1) has deposed that he received the complaint lodged by informant [REDACTED] (PW1) through the online portal and forwarded it to API Shelke through admin for necessary action. Further, the written complaint submitted by the informant [REDACTED] (PW1) to the Superintendent of Police (Exh.98) was received by the Shevgaon Police Station on 18.10.2022. Vilas Pujari (PW10) marked the complaint to API Shelke. However, no cognizable offence was registered and no needful investigation was commenced. The record thus indicates that Vilas Pujari (PW10), API Shelke, and Ravindra Bagul (PW7) were all aware of the allegations made by the informant well before the registration of the present crime.

172) Another disturbing feature emerging from the evidence is that Bhagwan Badadhe (DW1) handed over the statements recorded by him during his preliminary verification to Ravindra Bagul (PW7). Those statements have not been produced along with the charge-

sheet, nor any explanation been offered for their non-production. Ravindra Bagul (PW7) recorded the statement of the informant in the Civil Hospital on 05.11.2022. Even thereafter, the First Information Report was not registered immediately and came to be registered only on 08.11.2022, and that too, after receipt of oral instructions from the Office of the Superintendent of Police and the Deputy Superintendent of Police, Shrirampur. During this intervening period, Ravindra Bagul (PW7) directed Bhagwan Badadhe (DW1) to secure the presence of witnesses vide Exh.245, whose statements were recorded. However, those statements also do not form part of the charge-sheet.

173) The evidence further discloses that before registration of the crime, Ravindra Bagul (PW7) obtained custody of the mobile phone of the informant from Bhingar Camp Police Station on 06.11.2022. However, the prosecution has not satisfactorily explained why the said handset was not immediately deposited in the concerned police station malkhana or why a forensic examination was not undertaken. It has also come in the evidence that Ravindra Bagul (PW7) obtained permission from the learned Magistrate for collecting the voice sample of the accused by representing that the mobile phone contained the recorded conversation between the informant, the deceased, and the accused. Despite this, no immediate steps were taken to access the data in the handset on the ground that technical expertise was unavailable. The mobile phone was ultimately unsealed only on 03.04.2023. At that time, it was found that no relevant data could be retrieved, as the mobile handset had been factory reset. During the pendency of the trial, the mobile handset was forwarded to the Forensic Science Laboratory, which reported that the handset had undergone a factory reset and, therefore, deleted case-related data

could not be recovered.

174) The informant alleged that while he was undergoing treatment in the hospital after consuming poison on 04.11.2022, the police officer reset the handset, resulting in the deletion of its contents. These allegations have not been accepted by this Court as proved facts in the absence of direct evidence. Nevertheless, what remains unexplained is how the handset which, according to Kiran Salunke (PW12), was seized precisely because contained relevant communication ultimately yielded no retrievable data. No inquiry was conducted by Ravindra Bagul (PW7) with Kiran Salunke (PW12) or PHC Diwate (PW13) regarding the handling and custody of the handset before it reached to the police station.

175) The prosecution also relied upon call detail records and system detail records. However, these documents were not filed along with the charge-sheet by Ravindra Bagul (PW7). During the trial, the Nodal Officers (PW8) and (PW9) were examined, and their evidence brought on record that the copies shown to them were not in the format originally supplied by the service providers. No proper explanation has been given by the prosecution in this regard. Significantly, Ravindra Bagul (PW7) requisitioned the CDRs for the period from 01.11.2022 to 11.11.2022, which did not cover the crucial period of the occurrence.

176) The cumulative effect of these circumstances discloses serious deficiencies in the initial investigation. Important material was either not collected in time, not preserved, or not placed before the Court along with the charge-sheet. Valuable electronic evidence was not promptly secured, resulting in avoidable complications during the trial. Such lapses have the potential to adversely affect the

administration of criminal justice and undermine public confidence in the fairness of the investigation. Thus, the facts proved during the trial undoubtedly warrant an independent departmental enquiry, not only against API Shelke and Ravindra Bagul (PW7) and PI Vilas Pujari (PW10), but also against the then superior officer responsible for monitoring and scrutinizing the investigation before submission of the charge-sheet, as it reflects a lack of effective supervisory scrutiny over the investigation.

177) Hence, in answer to the aforesaid points, following order is passed -

ORDER

- 1) Accused No.1) Sainath Dinkar Garad, 3) Chhaya Sainath Garad, and 4) Padmavati Dinkar Garad, are hereby convicted for the offence punishable under Sections 302, 120-B and 201 of the Indian Penal Code, 1860, vide Section 235(2) of the Code of Criminal Procedure, 1973.
- 2) Accused No.1, 3 and 4 are sentenced to suffer Imprisonment for Life, and to pay fine of Rs.5000/- (Rupees Five Thousand only) each, in default to suffer Rigorous Imprisonment for three months for the offence punishable under Sections 302 of the Indian Penal Code, 1860.
- 3) Accused No.1, 3 and 4 are sentenced to suffer Imprisonment for Life, and to pay fine of Rs.2500/- (Rupees Two Thousand Five Hundred only) each, in default to suffer Rigorous Imprisonment for three months for the offence punishable under Sections 120-B of the Indian Penal Code, 1860.

- 4) Accused No.1, 3 and 4 are sentenced to suffer imprisonment of five years, and to pay fine of Rs.3000/- (Rs. Three Thousand only) each, in default to suffer Rigorous Imprisonment for one month for the offence punishable under Section 201 of the Indian Penal Code, 1860.
- 5) All the sentences shall run concurrently.
- 6) Accused No. 4 to surrender her bail bonds.
- 7) Set-off under Section 428 of the Code of Criminal Procedure, 1973 shall be given to accused No.1) Sainath Dinkar Garad (since 17.01.2023 till today, except his release on the temporary bail for the period from 07.07.23 to 10.08.2023 and 16.12.2023 to 19.12.2023), 3) Chhaya Sainath Garad (since 18.01.2023 till today), and 4) Padmavati Dinkar Garad (since 18.01.2023 till 03.03.2023), which is the period of detention already undergone by them.
- 8) Accused No.2) Sandip Dhondiram Pawase, is acquitted of the offence punishable under Sections 302, 120-B and 201 of the Indian Penal Code, 1860, vide Section 235(1) of the Code of Criminal Procedure, 1973.
- 9) Bail bond and surety bond of accused No.2 stands cancelled. He be set at liberty forthwith, if not required in any other case. However, he shall furnish personal bond of Rs.15,000/- and surety bond of like amount under Section 437-A of the Code of Criminal Procedure, 1973.
- 10) After the appeal period is over, subject to result of appeal;
 - (a) The muddemal property i.e. MO-1 Mobile handset of

Infinix brand be returned to the informant 
Santaram Shinde.

(b) Ash mixed Soil and Plain Soil be destroyed.

(c) The Pendrive marked as “Annexure-PD-CYNK-490/2025” be preserved.

- 11) Copy of the Judgment be given free of cost to the accused No.1, 3 and 4.
- 12) Copy of this Judgment be forwarded to the District Magistrate, Ahmednagar in view of Section 365 of the Code of Criminal Procedure, 1973.
- 13) Accused No.1, 3 and 4 are apprised of their right to file an appeal against this Judgment before the Hon'ble High Court and also about their rights to avail free legal aid for the same.
- 14) Copy of this Judgment be sent to the Principal Secretary, Home Department, Government of Maharashtra; the Director General of Police, Maharashtra State; and the Superintendent of Police, Ahilyanagar, for examining the conduct of API Ashish Shelke, API Ravindra Eknath Bagul (PW7), P. I. Vilas Sahadu Pujari (PW10), and the then Superior Officer responsible for monitoring and scrutinizing the investigation before submission of the charge-sheet, with a direction to take appropriate action in accordance with law.

(Judgment is dictated and pronounced in Open Court.)

PART 'C'

(Para 44 (iii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION / DEFENCE/ COURT WITNESSES**A. PROSECUTION :**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)
PW1/Exh.96	 Shinde	Informant
PW2/Exh.118	Mahesh Tarachand Garad	Other Witness
PW3/Exh.122	Vijay Vishwanath Salve	Spot panch witness
PW4/Exh.127	Babaheb Bhanudas Borude	Other Witness
PW5/Exh.133	Dr. Dnyaneshwar S. Deshmukh	Medical witness
PW6/Exh.144	Santram Babasaheb Shinde	Other Witness
PW7/Exh.149	Ravindra Eknath Bagul	Police witness Investigating Officer
PW8/Exh.229	Dattaram Shantaram Angare	Nodal Officer CDR Vodafone
PW9/Exh.232	Pravin Pandurang Kanawade	Nodal Officer CDR Jio
PW10/Exh.244	Vilas Sahadu Pujari	Police witness
PW11/Exh.247	Dadu Sujay Chakrawarti	Seizure panch of mobile.
PW12/Exh.261	Kiran Subhash Salunke	Police Witness
PW13/Exh.264	Bibhishan Kashinath Diwate	Police Witness
PW14/Exh.268	Nitin Annasaheb Shinde	Police Witness

B. DEFENCE WITNESS, IF ANY :

RANK	NAME	NATURE OF EVIDENCE (EYE
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		WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)
DW1/Exh.199	Bhagwan Sahebrao Badadhe	Police Witness

C. COURT WITNESS, IF ANY :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)
--	Nil	Nil

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**A. PROSECUTION :**

Sr.No.	Exh. Number	Description
1.	97/PW1 & PW7	Statement of informant recorded during investigation.
2.	98/PW1 & PW10	Written complaint/letter submitted to Superintendent of Police regarding incident.
3.	99/PW1	N.C. lodged by the informant.
4.	100/PW1 & PW7	Seizure Panchanama of mobile handset of the informant.
5.	122/PW3 & PW7	Requisition letter to PWD for deputing Government employees as panch witnesses.
6.	123/PW3 & PW7	Reply letter from PWD deputing panch witnesses.
7.	124/PW3 & PW7	Spot panchnama showing place of incident and seizure of soil and ash.
8.	150/PW7	Letter issued to Medical Officer seeking permission to record statement of injured informant.

Sr.No.	Exh. Number	Description
9.	151/PW7	First Information Report (FIR) registered in Crime No. 814/2022.
10.	152/PW7	Muddemal receipt regarding deposit of seized muddemal articles.
11.	153/PW7	Portion Mark 'A' of statement of Babasaheb Bhanudas Borude (PW4).
12.	154/PW7	Portion Mark 'A' of statement of Mahesh Tarachand Garad (PW2).
13.	155/PW7	Letter sent to Forensic Science Laboratory for chemical analysis.
14.	156/PW7	Letter to Bhingar Police station for custody of seized mobile phone.
15.	157/PW7	Letter to Talathi for providing 7/12 extract and sketch map of spot.
16.	158/1/PW7	7/12 extract of spot of incident.
17.	158/2/PW7	Village Form No.8 of spot of incident.
18.	159/PW7	Electricity bill of house of accused.
19.	160/PW7	Arrest Panchnama of Accused No.1.
20.	161/PW7	Arrest Panchnama of Accused No.2.
21.	162/PW7	Arrest Panchnama of Accused No.3.
22.	163/PW7	Arrest Panchnama of Accused No.4.
23.	164/PW7	Letter regarding CDR and SDR
24.	165/PW7	Application for permission to produce CDR on record.
25.	166/PW7	Letter for collecting of voice samples.
26.	167/PW7	Reply from Cyber Police about non-availability of trained staff, equipment.
27.	168/PW7	Letter to ACB for trained staff, equipment.
28.	169/PW7	Letter of S.P. to ACB for providing trained staff and equipments for voice samples.
29.	170/PW7	Letter to SDPO seeking directions for obtaining voice samples.
30.	171/PW7	Application to JMFC seeking permission to obtain voice samples.

Sr.No.	Exh. Number	Description
31.	172/PW7	Order passed by JMFC granting permission for voice sample collection.
32.	173/PW7	Letter to Municipal Council requesting panch witnesses for voice sampling.
33.	174/PW7	Reply from Municipal Council deputing panch witnesses.
34.	175/PW7 & PW8	CDR of mobile of accused No.3.
35.	176/PW7 & PW9	CDR of mobile of accused No.1.
36.	177/PW7 & PW8	CDR of mobile of accused No.2.
37.	178/PW7 & PW9	CDR of mobile of the informant.
38.	Exh.209	Statement of ████████ Shinde recorded by PC Diwate in Crime No. 518/2022.
39.	Exh.220	Application by APP to retrieve data from the seized mobile phone.
40.	Exh.228	Prosecution's application for examination of the Nodal Officer.
41.	P-230/ PW8	SDR Report of accused No.1.
42.	P-231/ PW8	SDR Report of accused No.2.
43.	P-233/ PW9	CDR Report of another relevant mobile number.
44.	Exh.237	FSL report along with the Pen Drive containing the retrieved data from the seized mobile phone.
45.	P-245/PW10	Order dated 05.11.2025 issued by Shri Bagul directing ASI Badadhe to summon six witnesses before him.
46.	P-248/ PW11	Seizure Panchnama of mobile handset seized at Bhingar Police Station.
47.	Exh.252	Application for re-issuance of summons to produce fresh CDR and SDR.
48.	Exh.257	Report by Nodal Officer of Vodafone stating CDR and SDR retained only for two years; relevant data unavailable.
49.	Exh.258	Report by Nodal Officer of Jio stating CDR and SDR retained only for two years;

Sr.No.	Exh. Number	Description
		relevant data unavailable.
50.	P-262/PW12	Letter given to Medical Officer about condition of the patient to give statement.
51.	P-265/PW13	Letter given to Medical Officer for preserving the stomach wash, clothes and other articles.
52.	P-269/PW14	Letter given to Nodal Officer Vodafone Company regarding CDR and SDR of mobile cell No.9623950061 and 8805636208.
53.	P-270/PW14	Reply of Vodafone company.
54.	P-271/PW14	Letter issued to Nodal Officer Vodafone Company regarding CDR and SDR from 08.11.2022 to till date.
55.	P-272/PW14	Reply of Vodafone company.
56.	P-273/PW14	Letter issued to Nodal Officer Reliance Cellular Company regarding CDR and SDR of mobile No.9325705633, 7972750431, 8329251514 and 9284262720 for the period 08.11.2022 to till date.
57.	P-274/PW14	Reply of Reliance Cellular Company.
58.	P-277/PW14	The attachment alongwith Exh.274.
59.	P-278/PW14	The attachment alongwith Exh.273.
60.	P-279/PW14	The E-mail sent to Nodal Officer Jio Infocom Ltd. Mumbai.
61.	P-280/PW14	Reply of Jio Infocom Ltd.
62.	P-281/PW14	The attachment with list Exh.276.
63.	P-282/PW14	Certificate u/s.65-B of the Indian Evidence Act.

B. DEFENCE :

Sr. No	Exh. Number	Description
1.	D-200/ DW1	Certified copy of Station Diary
2.	D-263/PW12	CCTV Footage seizure panchnama

C. COURT EXHIBITS :

Sr. No	Exh. Number	Description
1.	65	Charge

D. MATERIAL OBJECTS :

Sr. No.	Material Object Number	Description
1.	Article A/1 to A/8	Photographs of the spot of incident
3.	Article B	Statement of the complainant duly endorsed by the Medical Officer.
4.	Article C	Copy of the seizure panchanama for the mobile phone.
5.	Article D	Copy of the First Information Report for Crime No. 814/2022.
6.	Article E	Compilation of Call Detail Records (CDR) and Subscriber Details (SDR) for both the accused and the informant.
7.	Article MO-1	Seized mobile handset Infinix brand belonging to the informant.

Date : 04.08.2026
Place : Ahmednagar.

(S. B. Kachare)
Sessions Judge, Ahmednagar

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment are same word to word, as per the original.

Name of the Court	:	Principal District & Sessions Court, Ahmednagar.
Date of Judgment	:	04.08.2026
Judgment signed by the Presiding Officer on	:	04.08.2026
Judgment uploaded on	:	04.08.2026
Name of Stenographer	:	S. N. Pirjade, Stenographer Grade II,