

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1)

MRC-7-2024

STATE OF PUNJAB

.....Appellant

VERSUS

GURPREET ALIAS GOPI

.....Respondent

(2)

CRA-D-1635-2025

GURPREET ALIAS GOPI

.....Appellant

VERSUS

STATE OF PUNJAB

.....Respondent

1.	Reserved on	:	06.08.2026
2.	Pronounced on	:	07.09.2026
3.	Uploaded on the website	:	07.09.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	:	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	:	Not applicable

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present :- Mr. Mohit Kapoor, Senior DAG, Punjab.

Mr. Sant Pal Singh Sidhu, Senior Advocate (Amicus Curiae)
with Mr. Harparteek Singh Sandhu, Advocate (Amicus Curiae) for the accused-convict/respondent in MRC-7-2024.

Mr. Rajiv Joshi, Advocate (Legal Aid Counsel)
for the convict-appellant in CRA-D-1635-2025.

VINOD S. BHARDWAJ, J.

Vide this common judgment, we decide MRC-7-2024 referred by the State of Punjab through the District & Sessions Judge, Jalandhar for confirmation of the capital punishment awarded vide judgement of conviction dated 23.09.2024 and order of sentence dated 26.09.2024 passed by Additional Sessions Judge, Fast Track Special Court (POCSO), Jalandhar in Sessions Case No. 223 of 2021 arising out of case FIR No. 23 dated 14.02.2021 registered under Sections 364/376-A/302/201 of the Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Goraya, Jalandhar as well as CRA-D-1635-2025 titled "*Gurpreet @ Gopi versus State of Punjab*" preferred by the convict against his conviction and sentence.

FACTS

2. Briefly the facts of the prosecution case are that on 14.02.2021, Sub Inspector Ranjana Devi along with other Police officials was present at bus stand Goraya in connection with patrolling duty where the complainant DR alongwith his brother J.P. reached up to her and got his statement recorded to the effect that he was a painter and was married about 15 years ago. He was blessed with two children. His elder daughter (name concealed) was a student of Class 7th and was about 12 ½ years old. The son, who was younger, was about 07 years old. He further stated that on 13.02.2021, at about 3:30 PM, his daughter was playing with other kids in the street outside his house. However, when she did not return despite considerable time, he started searching for her. When they were searching for their daughter, their neighbour Gurpreet @ Gopi son of Som Nath

(accused herein) saw them looking for their daughter and he sneaked away from his own house. Suspecting, they thus checked the house of Gurpreet @ Gopi in the presence of respectables and found that his daughter was lying smeared in blood in the rear room of his house. The victim was shifted to the Civil Hospital, Phagwara where she was declared brought dead. He suspected that his daughter had been kidnapped, raped and murdered by respondent-accused Gurpreet @ Gopi and that he had concealed her dead body to hide his crime.

3. On the basis of the aforesaid statement recorded at 4:10 am on 14.02.2021 a ruqa was prepared and formal FIR (Ex.PB) was registered at 5:21 am for offences punishable under Sections 364/376-A/302/201 of the Indian Penal Code, 1860 read with Section 6 of Protection of Children from Sexual Offences Act, 2012.

4. During investigation, the dead body of victim was taken into police possession, after being identified by her relatives, and the postmortem Ex. PW9/A was got conducted from Civil Hospital, Phillaur. The site plan Ex.PE, of the place of occurrence was prepared and blood stained earth was recovered and taken into police possession vide separate parcels (Ex.PF) which were duly sealed by the Investigating Officer with his seal bearing impression LS. Additionally, blood-stained bed sheet was also taken in possession vide recovery memo Ex. PG. Statements of witnesses were recorded under Section 161 Cr.P.C. and the respondent-accused Gurpreet @ Gopi was arrested. The lower (pajama), which the accused was wearing at the time of occurrence was also taken into police possession vide recovery memo Ex. PJ. After the postmortem, the dead

body of the victim was handed over to her parents for her last rites. The case property was eventually deposited in the police station and medical examination of the accused was got conducted pursuant to application Ex. PK, from Civil Hospital, Phillaur.

5. Disclosure statement Ex. P3, of respondent-accused Gurpreet @ Gopi was recorded where he confessed that he murdered the victim with the help of a hammer and on the basis thereof, the hammer along with slippers of the victim were got recovered and the same were taken into police possession vide recovery memo Ex. P4. The rough sketch of the hammer (Ex.PC) as well as the site plan of the place of recovery (Ex.PD) were also prepared. The parcels containing blood sample of deceased victim, the accused, the blood stained earth and blood stained clothes were sent to Forensic Science Laboratory Mohali for analysis. The report received from the Chemical Examiner to Govt. of Punjab is Ex. PW8/C and the forensic DNA test report is Ex. PW9/E. On completion of the investigation and necessary formalities, the final report under Section 173 Cr. P.C. was presented before the Court.

6. On presentation of the challan, the copies of the documents as well as the evidence collected were supplied to the respondent-accused, free of cost as mandated under Section 207 Cr. P.C.

7. Since the case was *prima facie* for commission of offences triable by the Court of Sessions, hence, the same was committed to the Court of Sessions.

8. Finding a *prime facie* case, charge for offences under Sections 364/376-A/302/201 of the Indian Penal Code, 1860 and Section 6 of

Protection of Children from Sexual Offences Act, 2012 was framed against the respondent-accused. The same was read over to him in simple language to which he pleaded not guilty and claimed trial.

9. In order to prove its case, the prosecution partly examined PW-1 Des Raj (hereinafter referred to as 'DR')-complainant/father of the victim. Thereafter, an application was moved under Section 319 Cr. P.C. for summoning one Vikas @ Sonu as an additional accused to face trial along with Gurpreet @ Gopi for the offences as above. The same was allowed vide order dated 29.09.2022. However, despite notice, he failed to appear. Eventually, proclamation proceedings were initiated and he was declared as a proclaimed offender vide order dated 13.04.2023.

10. Thereafter, prosecution further examined PW1 DR-complainant/father of deceased victim; PW2 JP uncle of deceased victim; PW3 R.K uncle of victim; PW4 Daljit Kaur (hereinafter referred to as "DK"), Sarpanch of the village; PW5 Harjinder Kaur (hereinafter referred to as 'HK') a co-villager; PW6 Rajwinder Singh, Junior Assistant Office of District Registrar Births and Deaths, Kapurthala; PW7 Sandeep Kumar, Draftsman, Civil Court, Phillaur; PW8 SC Gurmej Singh; PW9 Dr. Ravi Ram Sarankhera, posted as Medical Officer Health at Ludhiana Municipal Corporation, District Ludhiana; PW10 HC Inder Mohan Sharma; PW11 Inspector Ranjana Devi; PW12 Inspector Hardeep Singh; PW13 SI Labh Singh; PW14 Dr. Lovedeep Singh, Medical Officer at Sub District Hospital Phillaur, District Jalandhar and thereafter, evidence of the prosecution was closed by order as despite availing numerous

opportunities including last opportunity, the prosecution failed to conclude the evidence.

11. The accused was examined in terms of provisions of Section 313 Cr.P.C. to apprise him of all the incriminating circumstances appearing against him, which he denied and he reiterated his innocence and alleged false implication. He further stated that he had not committed any offence against the victim and police had falsely implicated him after delay of 2 days to solve the present case. He further stated that he was present along with locals and the police when the investigation was conducted by SI Labh Singh on the first day, no evidence had come against him during investigation from 14.02.2021 to 15.02.2021. Thereafter police had transferred the investigation to Inspector Hardeep Singh who falsely implicated him in the present case to solve the untraced case of the police and raised false evidence against him.

12. The accused however did not examine any witness in defence and he closed his defence evidence vide his separate statement.

13. Upon consideration of the arguments advanced by the respective parties and on going through the evidence, the trial Court recorded a finding of conviction against the respondent(s)-accused for commission of offences punishable under Sections 364/376-A/302/201 of the Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012. Vide a separate order of sentence dated 26.09.2024, the respondent-accused was awarded death sentence for the offence under Section 302. Hence, the present reference.

14. During the pendency of the present murder reference, the socio-economic assessment report as well as the psychological/psychiatrist analysis report alongwith the report containing mitigating circumstances were filed and the same have been taken on record.

Arguments by the Counsel for the respondent-accused :

15. Mr. Sant Pal Singh Sidhu, Senior Advocate and Amicus, appearing on behalf of the respondent-accused has argued that the present case is fraught with material contradictions in the testimony(ies) of the witnesses and that multiple improvements and tampering have been carried out by the prosecution at different stages of the investigating and evidence. He contends that there are glaring inconsistencies in the deposition of the prosecution witnesses i.e. the immediate family members of the victim as well as the official witnesses thus rendering the entire case of the prosecution highly improbable and liable to be rejected on the said count.

16. In order to substantiate his arguments, he draws the attention of this Court to Ex. P1/Ex. PA i.e. the application submitted by PW-1-DR to the Police purportedly on 14.02.2021 at about 4:10 A.M. The said application was handed over to Inspector Ranjana Devi PW-11 and that thereafter, the ruqa was sent and FIR Ex. PB was registered at Police Station Goraya on 14.02.2021 at around 5:21 A.M. Counsel contends that in the said application, the complainant-PW-1 Des Raj had made allegations to the effect that he alongwith other family members were on the lookout for his daughter on the previous day i.e. 13.02.2021 and that when they saw Gurpreet @ Gopi sneaking away from the place of occurrence, they suspected him and entered the house in search of his

daughter and saw the dead body of his daughter, however, later when PW-1 Des Raj stepped into the witness box, he submitted that a fair investigation had not been conducted by the police and that his statement had not been correctly recorded. The version, as per his statement separately recorded as Ex. P2, which PW-1 Des Raj himself proved to have been recorded in the office of the Deputy Superintendent of Police, is with the following additional fact i.e. that after his minor daughter was missing, he along with other respectables searched for his daughter. An information was also sent to the Police to reach at the spot and after the police reached, they started search of the houses in the neighborhood. When they reached at the house of respondent-accused Gurpreet Singh @ Gopi, the same was found to be locked. The keys of the house were asked for from him at which Gurpreet Singh @ Gopi informed that the said keys were with his cousin Vikas @ Sonu (son of paternal uncle-Taya). It was further recorded that Vikas @ Sonu later came to the spot and handed over keys of the house of Gurpreet @ Gopi and he left the spot hurriedly. After the receipt of the keys, the door of the house was opened and they went inside and found the body of the victim. It is submitted with vehemence that the aforesaid version claimed by the PW-1 Des Raj to be the true and correct version was not even investigated into by the Police. So much so, an application under Section 311 Cr.P.C. was also moved for leading additional evidence and even at that stage, the details with respect to the investigation conducted on the said application and version have not been divulged by the prosecution.

17. Counsel submits with vehemence that the material improvement in the deposition, however, travelled even further and to an extent that PW-1 Des Raj also submitted that after the first door was opened after receiving the key from Vikas @ Sonu, they went inside. One of the inner rooms of the house was also locked. Keys of the said room were asked for from Gurpreet @ Gopi, however, he denied having the keys. It was only after the police became suspicious and questioned him firmly that Gurpreet @ Gopi produced the keys. The door was opened thereafter and the dead body of his daughter was lying in a pool of blood in the said room. He contends that the aforesaid two improvements as to the house being locked and later even the room wherein the dead body was recovered being locked, have figured only in the testimony of PW-1 Des Raj while deposing in Court and not in his initial statement Ex. P1.

18. He contends that as against the aforesaid narrative set up by the prosecution witness PW-1 and PW-2 to the effect, the Police had reached the village at around 7-7:30 P.M. on 13.02.2021 itself and the dead body was recovered from the house of Gurpreet @ Gopi on the same day, however, notwithstanding the aforesaid recovery of the body, the Police has dated the receipt of information by them only at 4:10 A.M. on 14.02.2021. He contends that no cogent explanation is forthcoming for setting up such a plea despite the private witnesses i.e. viz. PW-1 to PW-5 being consistent with respect to the Police reaching the Village and discovering the body from the house of Gurpreet @ Gopi on 13.02.2021 itself. He further contends that even though the case of the prosecution is that Gurpreet @ Gopi was arrested on the next day, however, the

deposition of PW-1 as well as PW-2 is specific that Gurpreet @ Gopi was arrested on the same day after the body was recovered from his house.

19. He contends with vehemence that it is not a case where the Police carried out an investigation to identify the accused, rather, they caught the first man who was suspected and was available at the place of occurrence being the one to whom the house belonged and thereafter built the entire narrative of statements, evidence and recoveries to nail him. He contends that the aforesaid misadventure went even further with the introduction of PW-2 J.P. He submits that J.P. is the brother of PW-1 DR and deceased was his niece. He contends that in the narrative set up by PW-2 J.P., who is a Driver in a private company, he came to his house at around 3:00 P.M. and he had to go back to the factory and that when he left his home for the factory, he saw that the deceased was being taken by respondent-accused by holding her hand. Counsel contends that the deposition of PW-2 J.P. was further to the extent that he was informed about the victim being missing, at around 6:00 P.M., on a telephone by his sister. He came back to the spot and that he was present all the while when the search was being conducted by the Police alongwith the respectables of village. However, at no point in time, does J.P. inform that he last saw the deceased in the company of accused. Counsel contends that the statement of J.P was recorded for the first time on 16.02.2021. It is submitted that the aforesaid statement under Section 161 Cr. P.C. is highly pertinent since respondent-accused Gurpreet Singh @ Gopi had already been arrested by the Police, as per its case, on 14.02.2021 itself. Thus, the arrest of

respondent-accused Gurpreet @ Gopi precedes his nomination as an accused, by way of last seen, in the aforesaid case.

20. It is further submitted that another aspect which is of profound concern and raises a suspicion is the manner in which the evidence has been invented by the prosecution. It can be gauged from the fact that even though the statement Ex. P1/Ex. PA was given by DR to the Police at around 4: 21 A.M. on 14.02.2021 and body of deceased victim had already been recovered by them from the house of Gurpreet. Even though PW-2 J.P. accompanied PW-1 DR, however, he did not make any disclosure even then, to the effect that he had last seen the deceased in the company of respondent-accused. The fact that J.P. made no attempt to share crucial information of last seen at any time prior to 16.02.2021 reflects gravely on the possibility of introduction of witness and formulation of evidence by the prosecution by introducing a witness of last seen by recording statement of PW2 JP on 16.02.2021.

21. Counsel further argued that when PW-1 DR stepped into the witness box and made specific allegation that the keys of the house were with Vikas @ Sonu and also that Vikas @ Sonu used to stay with the respondent-accused herein, it was incumbent upon the Police to have also investigated into the role of Vikas @ Sonu. He contends that the very fact that accused Vikas @ Sonu had been summoned tilts the scales of suspicion and creates a doubt with respect to the involvement of the accused Gurpreet @ Gopi in the commission of the offence. He contends that when there is a strong probability of some other person being involved in the commission of offence, the entire liability should not be fastened

upon the appellant solely because the body was recovered from his house. Counsel contends that even otherwise, to complete the chain of circumstantial evidence, it was incumbent upon the prosecution to establish that the house wherefrom the body had been recovered was in absolute and exclusive possession of the accused and that he would be deemed to have knowledge of the fact as above. It is submitted that in a case based on circumstantial evidence, the evidence collected must lead to only one hypothesis i.e. involvement of the suspect being tried for the offence. It is submitted with vehemence that once PW-1 has admitted that Vikas @ Sonu used to stay with the accused, the exclusivity of possession over the house is thus not established and that there is a strong likelihood of the incident having been committed by somebody else. He further contends that as per the initial version reflected in Ex. P1, the house of the respondent-accused was not locked at any point in time when they found the dead body, hence, the exclusivity of possession is entirely ruled out, even from the said statement.

22. Counsel contends that the position in law is well settled right from the salutary judgment in the matter of ***“Sharad Birdhichand Sarda versus State of Maharashtra”*** reported as ***(1984) 4 SCC 116*** that in the five golden principles, for recording of final conviction in a case based upon circumstantial evidence, have to be complied with. In the event any of the chains or the link evidence is missing, the Courts would apply restraint in accepting such an evidence of the prosecution to be conclusive proof.

23. Counsel has also argued that the sole basis for conviction of the appellant is the presence of semen on the pajama worn by the appellant alongwith blood stains which matched the profile of the victim. It is contended that medical evidence in the present case ruled out presence of semen from or on the body of deceased-victim. There was also no evidence of any injuries on the private part or the vagina or any signs suggestive of penetration. Even though the doctor has reported that there was a rupture of hymen, however, there is no link evidence to indicate that the aforesaid rupture occasioned as a result of any penetration attributed to the accused herein. Hence, a mere recovery of a dead body from the house of the accused would not be sufficient to reach to a conclusion that the appellant not only committed the offence of rape but also committed the murder of the victim.

24. He contends that as per the postmortem examination, there were five injuries on the person of the deceased which included a lacerated wound 4X2.5 cm muscle deep over middle of forehead 4 cm above nasal bridge. The other injuries were abrasions and contusions on the lower lip, lower jaw as well as on the ear pinna and on the cheek, nose and below the eyes. He contends that the injuries were even though otherwise simple in nature but the medical opinion is specific to the effect that there was no vulvovaginal injury on the deceased and there were no signs of any internal injuries. It is submitted with vehemence that incase any forcible penetration would have been attempted on the deceased, there would have been signs of internal rupture and injuries on the body of the deceased as also swelling in and around the vaginal/vulva. He contends that the

scientific evidence collected by the prosecution from the body of the deceased rather ruled out the deceased having been subjected to rape. He contends that the aforesaid conclusion of rape has been drawn by the prosecution solely on account of presence of semen on his pajama that was taken into possession. He contends that the doctors initially said that no definitive opinion regarding rape could be given, at the time of postmortem, and that in the final report Ex. PW9/F, on the basis of FSL/DNA report, the Board of doctors opined that “According to the above DNA report confirms the act of culprit, and is performed by him”. He contends that the expressions were vague as the Board of doctors did not give any definitive opinion as to what they confirmed and what had been performed by the accused herein. The prosecution made an attempt to clarify the aforesaid expression and the doctors used the phrase “confirms the act of culprit and is performed by him” to mean that rape had been committed with victim/prosecutrix by Gurpreet @ Gopi accused. He contends that the aforesaid clarification was given by the doctor is evidently at the stage of deposition and the same is not the conclusion drawn from the final opinion expressed by them. The evidence in respect of rape is being inferred and conclusions are drawn by the prosecution solely on account of rupture of the hymen despite no other corroborative medical evidence to suggest the act of rape.

25. He contends that even though another doctor viz. doctor Lovedeep Singh appeared as PW-14, however, it is evident from a perusal of the testimony of both PW-9 as well as PW-14 that the examination-in-chief as well as the cross-examination is fundamentally a cut-copy-paste

exercise undertaken by the Court and there is no separate questioning or deposition by the said witnesses.

26. He contends that the other incriminating material relied upon by the prosecution is the report of the FSL where a mixed DNA has been noticed. He makes a reference to the Forensic DNA Test Report Ex. PW9/E wherein the parcels i.e. parcel 'D' containing the pajama worn by the accused had been sent for DNA examination containing stains of human blood/human semen. He contends that as per the observations recorded in the aforesaid report, human blood was detected on Ex. D i.e. the Pajama of accused Gurpreet @ Gopi but no blood was detected on any of the clothes worn by the deceased. Additionally, human semen was detected on Ex. D i.e. the Pajama. The aforesaid report further reveals that no human semen was detected on Exhibits G1 to G10, comprising the swabs, slides, smears, nail clippings and nail scrapings stated to have been collected from the victim. The report further records presence of a mixed DNA profile on Exhibit D, stated to have been obtained from Gurpreet @ Gopi. The alleles present in the DNA profile obtained from Ex. H1, which was the blood stated to be of the victim and Ex. J (blood stated to be of Gurpreet @ Gopi) are accounted to be present in the mixed DNA profile obtained from Ex. D i.e. the Pajama. It is submitted by the Counsel that the presence of DNA could be for variety of reasons and that presence of the semen stains on the pajama as well as the blood stains of deceased on the said pajama would not prove the commission of the offence by the accused. He contends that even otherwise it is highly improbable that even though there would be blood stained mark, allegedly of the deceased, on

the pajama of the accused but no such marks was found either on the pajama, jacket or underwear worn by the deceased herself.

27. It is further argued that as per the case of the prosecution, the accused was wearing the pajama even at the time when the search was being carried out. It is contended that it would be highly improbable that a person, who is involved in the commission of offence, would still be moving out in search of the deceased/missing daughter alongwith the other family members while wearing a stained pajama. The same would have invariably brought him in the zone of suspicion considering that PW-2 J.P. had allegedly last seen him in the company of the deceased. He contends that the aforesaid lacunae/lapses have to be seen in the context that the recoveries in the present case had been effected by the prosecution on 16.02.2021, however, the samples were sent to the FSL for examination, through constable Kuldeep Singh on 03.03.2021. Hence, the samples were in the Police malkhana for a period of more than 15 days. In the given circumstances, once the case property was with the Investigating Officers during the entire period, the possibility of any tampering of the prosecution evidence cannot be entirely ruled out. In support of his aforesaid arguments he places reliance on the judgment of Hon'ble Supreme Court in **Criminal Appeal No. 611 of 2022** decided on **07.11.2022 titled "Rahul versus State of Delhi", Ministry of Home Affairs reported as 2022 Volume 4 R.C.R (Criminal) 993** and contends that an unexplained delay in sending the samples to the FSL for forensic examination creates a suspicion with respect to the sanctity of the confiscated material. He further contends that even though as per the PW-10 HC Inder Mohan

Sharma, Head Constable, the samples had been handed over to constable Kuldeep Singh for onward delivery to the FSL, Madhuban, however, said Constable Kuldeep Singh has not stepped into the witness box. He contends that under the given circumstances, the complete chain of custody and protection of sanctity of the samples has not been proved by the prosecution.

28. Counsel further contends that even otherwise, the place of the stains viz.-a-viz. the place of the presence of semen as well as the blood stains on the Pajama have also not been established to ascertain co-existence of the marks considering absence of stains on the lower portion of the shirt, jackets, pajama or underwear worn by the deceased.

29. Counsel further contends that material improvements were undertaken by the Police to nab and link the accused Gurpreet @ Gopi in the commission of the offence. Recovery of slippers and hammer is stated to have been effected at his disclosure. He contends that in this regard, the site plan as prepared by the Investigating Officer is of vital significance. He contends that the Mark 'A', as shown in the inquest proceedings, where the dead body was found by the Police is the same place wherefrom, on the following day, the slippers and hammer had been recovered. He contends that it is highly improbable that the prosecution, which took abundant caution in collecting all other samples including the soiled earth, clothes worn by every person including the deceased, would not have taken possession of the slippers as well as the hammer and the sand bag lying at the exact same spot. He contends that the said article were lying in the open, hence, there was no occasion as to why they were not seized on the

day when the dead body was discovered by the prosecution. The said disclosure statement is hence liable to be discarded and carries no weight.

30. Counsel further contends that while the official prosecution witnesses viz. PW-11, 12 and 13 have remained consistent about the investigation having commenced w.e.f. 14.02.2021, however, the specific case of private witnesses i.e. PW-1 to PW-5 is to the effect that the investigation in the matter had commenced on 13.02.2021 itself and even the body was recovered on the said date. It is further argued by the Counsel, in reference to the postmortem report Ex. PW9/B, that the body of the deceased was brought to the hospital by Police i.e. Head Constable Harbhajan Singh, on 14.02.2021 and the inquest papers were prepared at around 12:25 noon. None of the prosecution witnesses cited by the prosecution had identified the body and no explanation was offered by the prosecution as to why none of the said prosecution witnesses had accompanied the dead body before the postmortem examination was conducted.

31. Concluding his arguments, Counsel contends that the position in law is well settled to the effect that in a case based upon circumstantial evidence, the entire chain of the events has to be completed by the prosecution in a manner that there is only one hypothesis which indicates towards involvement of the accused being charged of the offence and in the event any other hypothesis is possible, the benefit of doubt has to be extended to the accused. He submits that in the present case, not only is the chain of circumstantial evidence incomplete but also that the recovery is liable to be disregarded and the presence of the last seen witness is highly

suspect. PW-2 JP displayed unnatural conduct and has not come forth with a full and truthful disclosure of the relevant facts. There is thus a reflection of manifest improvements in the case of the prosecution and investigation being undertaken with a sole object of building the case for securing a conviction of the appellant rather than searching for the accused by investigation.

32. He further contends that a mere rupture of hymen would not establish the case or support the inferences sought to be drawn by the prosecution. The medical opinion does not indicate as to whether it was an old rupture or it was a fresh rupture. Besides, even though superficial, medieval as well as deep swabs had been taken, however, there is no presence of blood on the vaginal swabs. He contends that in the said circumstances, it would be highly improbable to contend that even though the blood stains were present on the appellant as a result of rupture of the hymen, however, there would be no presence of blood on the swabs drawn from the vaginal area of the deceased.

Arguments by the Counsel for the State

33. Responding to the above, learned Counsel appearing on behalf of the State contends that the prosecution had successfully established the charge. He contends that the house wherefrom the dead body had been recovered was in exclusive possession of the accused Gurpreet Singh @ Gopi. He further contends that as per deposition of PW-4 and PW-5, the house was owned by Gurpreet @ Gopi himself. He contends that in the said circumstances, the accused Gurpreet @ Gopi was required to offer an

explanation and to discharge an onus about the circumstances in which the dead body was found lying in his house.

34. He contends that the presence of semen on his pajama coupled with presence of blood stains stand established from the DNA report PW-9/E and it is proven that the deceased was subjected to rape and also murdered by the accused. He further contends that the recovery of hammer as well as slippers has also been made on the disclosure of the appellant and presence of blood stains has also been detected by the FSL on the hammer recovered at the instance of the appellant.

35. It is further contended that additionally, the prosecution witness JP-PW-2 had also deposed that he had last seen the deceased in the company of the appellant herein and that thereafter, the onus would shift on the accused to explain as to how and under what circumstances the body was recovered from his house.

36. Learned State Counsel further contends that even though an attempt has been made by the defence that co-accused Vikas @ Sonu had access to the house and that the keys had been supplied by him to the accused, however, the prosecution never found involvement of the said person in the commission of the offence and the scientific evidence viz. the DNA report obtained does not show presence of any other DNA profile on the body of the deceased. He contends that had the occurrence taken place in the manner as projected by the accused herein, there would have been a mismatch of the DNA profiling with the accused Gurpreet @ Gopi and it was only in such a remote possibility that the appellant could have argued about a probability of some other person being involved in the offence. He

contends that house being in the appellant-accused's exclusive possession, the burden is to be discharged by him that he was not involved in the commission of the offence or he had nothing to do with the occurrence under consideration.

37. No other argument has been raised nor any other judgment cited.

38. We have heard learned Counsel appearing on behalf of the respective parties and have gone through the evidence as well as the documents appended alongwith the present petition.

39. Having gone through the facts of the case, certain peculiarities have emerged which are quite essential and have a vital bearing in the present case.

40. Even though the offence is gruesome and ghastly where a child was assaulted and murdered, however, the dispassionate examination of the evidence is to be undertaken before it can be ruled out as to whether the evidence available, indicts the accused for the offence or not.

41. The task before a court is daunting and it requires objective assessment of evidence while keeping its feelings at bay. The decision is to be formulated after going through the evidence and then arriving at a conclusion instead of reading the evidence to justify a reaction-based conclusion already drawn.

42. It need not be forgotten that while the police has a huge leverage and may send a person to trial on a strong suspicion, however, the yardstick of the prosecution is not the governing yardstick for a court of law. The evidence adduced should establish the case against an accused

beyond reasonable doubt. Any lapse in doing so, would entitle an accused claim benefit of doubt.

43. The case in hand rests against the accused on the following primary evidences:-

1. Recovery of the dead body of the victim from the house of the accused.
2. Recovery of the slippers and blood-stained hammer, used in the commission of the offence, at the disclosure of the accused;
3. Presence of mixed DNA i.e. of the accused as well as the deceased from the pajama of the accused which had blood stains of the deceased and semen stains of the accused; and
4. Evidence of the deceased having been last seen in the company of the accused by PW2: JP uncle of the deceased.

44. While the evidence may appear, on surface, to be clinching and convincing, however, a deeper examination and analysis of the evidence shows that the investigation leaves more questions than what it has answered. There are not only material discrepancies in the testimonies of the witnesses but also that even the version of the investigating agency deviates from the version and allegations levelled by the private family witnesses. It also comes forth that the sanctity and chastity of the evidence has been compromised thus casting a serious doubts on relying upon the DNA report prepared by the FSL, Mohali.

45. Even the recovery of the hammer and slippers seems staged to establish link with the accused. The presence of last seen witness having

been pushed in by the Investigating Officer is more than evident.

46. The same leaves only with the evidence of recovery of the dead body from the house of the accused. The circumstantial evidence, however, fails to establish exclusivity of possession and strongly indicates towards presence a occupation by another person as well. The prosecution, however, failed to investigate into the angle of offence having been committed by any other person, considering that the medical evidence failed to establish rape.

47. In the said backdrop, we now reflect upon the discrepancies in the case of prosecution

A. DISCREPANCY ABOUT DATE AND TIME OF REPORTING THE MATTER OF THE POLICE: PVT. WITNESS(S) VERSUS OFFICIAL WITNESS(S).

48. The evidence indicates that the case of the prosecution witnesses viz. the private witnesses as well as the official witnesses oscillates in two distinct time frames. Undisputedly, as per the case set up by the prosecution, the information about the incident was received by PW-11-Ranjana Devi on 14.02.2021 at around 4:10 A.M. while she was present at the bus stand and that consequent upon recording of the statement, a ruqa was sent resulting in registration of the FIR Ex. PB at 5:21 A.M. on 14.02.2021. The evidence of the private witnesses, including the evidence of PW-1-DR (father of deceased), however, shows that the incident took place on 13.02.2021 and Police was aware of the incident and was even present when the dead body of the victim was recovered.

Statement of PW-1 DR Ex. P1 and Ex. PA resulting in registration of the offence however records the following facts:-

i) The deceased had gone to play at around 3:30 P.M. and when he commenced search for her, the accused-Gurpreet @ Gopi escaped from his house noticing that the complainants were searching for the minor, making him a suspect.

ii) He has further averred that he alongwith other respectable persons thereafter checked the house of accused Gurpreet @ Gopi and found the dead body of his daughter lying in a pool of blood on the floor and he picked up.

iii) He thus expressed a strong suspicion that Gurpreet @ Gopi enticed his daughter and took her to his house and committed rape upon her thereafter killed her.

iv) Needless to mention that the aforesaid statement was given by him on 14.02.2021, hence, by necessary implication no intimation had been sent to the Police prior thereto despite discovery of the body of the deceased in the evening of 13.02.2021.

49. However, while appearing as PW-1, he made a material departure from the version recorded in his statement. He now stated that when he came back to his house and found that his daughter was missing, he started looking for her but could not succeed. He stated that the Police officials were telephonically informed about his missing daughter whereupon the Police officials came to his house on the evening of 13.02.2021 itself. The testimony further records that he alongwith the Police officials started the searching for his daughter and when they

reached the house of accused Gurpreet @ Gopi, the same was found locked. He admittedly stated that Gurpreet @ Gopi also accompanied them in search of his daughter. When the Police officials asked Gurpreet @ Gopi to open the door, he refused to open the same on the pretext that the keys of the lock were with his cousin Vikas @ Sonu. He further stated that after sometime Vikas @ Sonu came to the spot and handed over the keys to Gurpreet @ Gopi where upon the house was opened. It is further stated that when they reached the rear room, the same was also locked. Police again asked Gurpreet @ Gopi to open it but he took an excuse that he did not have the keys, however, on a strict enquiry, he handed over the keys. The room was then opened, however, Gurpreet @ Gopi made good his escape. The dead body of his daughter was recovered from the said room.

50. The said deposition in Court thus stated that not only the Police had come to the spot on 13.02.2021 itself at around 7:00 A.M. but also that the recovery of the dead body had been effected in the presence of the Police. There is, however, no explanation as to why the FIR had still not been registered by the Police on 13.02.2021 notwithstanding the dead body having been recovered in their presence.

51. Further, it has also come forth that even though as per the first statement dated 14.02.2021 Ex. P1 and PA, there was no reference to the house of the appellant-accused being locked and specific stand of the complainant that he had searched the house, however, in his deposition before the Court, he introduced a version of not only the main door of the house being locked but also the door of rear room as well. It was thus a material departure from the statement given by him to the Police and as

recorded on 14.02.2021 for registration of the FIR where no such allegation was made. Further, PW-1 DR also stated in his statement Ex. P1 that they suspected Gurpreet @ Gopi since he had sneaked away, however, the said version undergoes a change and now Gurpreet @ Gopi is alleged to have sneaked away when the dead body was discovered and not earlier. The said witness deposed before the Court that when the body was discovered, 'a hammer was also lying near it'. The aforesaid statement is of vital significance since the Police has recorded a disclosure to effect recovery of the weapon of offence viz. the hammer pursuant to his disclosure and via recovery memo (Ex.P4). The recovery itself thus becomes suspicious and inadmissible.

52. Be that as it may, PW-1 DR also stated that after recovery of the dead body they went to the Civil Hospital and returned to their house, where his statement Ex. P1/PA was recorded at about 2:00 A.M. but the said fact is contradicted since as per the statement Ex. P1/PA and the proceedings conducted by PW-11 Ranjana Devi, the complainant met her at the bus stand at 4:10 A.M. on 14.02.2021 and got his statement recorded. Thus, there is a irreconcilable contradiction between the sequence of events as unfolded by the complainant vis-à-vis the sequence of events as per the case set up by the prosecution.

53. Still further, the complainant, as PW-1, alleged that the Police did not record the statement correctly and that he had also given the name of Vikas @ Sonu in his statement to the Police but no action has been taken against him. The prosecution then sought time to move an application under Section 319 Cr. P.C. and also sought deferment of the

examination-in-chief. On resumption of recording of the statement, PW-1 stated that after a few days of recording his statement by the Police on 14.02.2021, he gained knowledge of non-incorporation of the name of suspect Vikas @ Sonu and thus moved an application to DIG, Jalandhar Range. The said application was proved by him as Ex. P2. He thus claimed that in fact Ex.P2 was his correct version of the complaint and not Ex. P1/PA. Thus, while the entire case of prosecution rests on statement Ex. P1/PA, the complainant does not even acknowledge it to be a true and complete account.

54. In the said background, the document Ex. P2, brought on record by the complainant DR, PW-1 himself, assumes vital significance, there being another twist in the said narrative of the prosecution as well. He gave an application and got his statement recorded. In the said statement of D.R., which has been proved on record as Ex.P2, he stated that the daughter was playing outside and at around 4:15-4:30 P.M. when she was not seen, they all started searching from her. The relevant part of the statement of PW-1 DR complainant-father of deceased, as per Ex.P2 reads thus:-

“We all starting searching her together and Gopi also started searching for the girl with us. For searching my daughter police started searching all the houses. When the police asked Gurpreet @ Gopi to open the lock of his house then Gopi told that he is not having the keys and the keys are with his companion Vikas @ Sonu S/o Roop Lal who is the boy of our village and after giving the keys he ran from the spot. I also want to tell that for the last long time Sonu is residing with Gurpreet @ Gopi and on the date of occurrence both of them were wandering together and the residents of our

Mohalla have seen both of them at Gurpreet's house. On getting the keys and opening the locks, the dead body of my daughter was found from the house of accused Gurpreet Singh @ Gopi. She was also been raped. The police has arrested accused Gurpreet Singh on the spot. But accused Vikas @ Sonu left the village with his mother in the next morning. From this, it is clear that at the time of committing the offence, the accused Gopi was not alone and Sonu was also involved in the offence but uptill now, no enquiry has been done from him. It is therefore requested that matter be again got enquired by the senior officer and if any other person is involved in the present offence, action be also taken against him. My daughter be imparted justice.

(Emphasis Supplied)

55. By way of the aforesaid statement, the complainant-father of the deceased placed certain crucial aspects on record i.e. firstly that Gurpreet @ Gopi was assisting the complainant in search of his missing daughter and that when he was asked to open the lock, the keys were not in his possession and were with his cousin Vikas @ Sonu son of Roop Lal who came to the spot and after handing over the keys, he ran away from the spot. It also remains undisputed that complainant is the neighbor of the appellant-accused Gurpreet @ Gopi and that he further testified that Vikas @ Sonu used to reside with Gurpreet @ Gopi and even on the date of occurrence both of them were together and both were seen at the residence of Gurpreet @ Gopi.

56. In this version which is stated by PW-1 DR-father of the deceased to be his correct version, there is no reference made to the fact that the rear room of the house, from where the body was recovered, was

locked. The presence of the Police at the time when the search was conducted and the body recovered, has been affirmed. The other crucial aspects which finds mention in Ex. P2 is that Gurpreet @ Gopi i.e. the accused herein was arrested at the spot. This aspect is now a departure from the statement Ex. P1/PA as well as his examination-in-chief recorded before the Court. While in the statement Ex. P1, PW-1 DR stated that they searched the house suspecting Gurpreet @ Gopi when he tried to sneak away, in the version as per the examination-in-chief, he sneaked away after the body was discovered, which is in contrast to his statement recorded by the Deputy Superintendent of Police Ex. P2, where an entirely different narrative has been put forward. Vikas @ Sonu was named as the person who ran away from the spot after handing over the keys and that the accused Gurpreet @ Gopi was arrested at the spot. Thus, he had not ran away or made any attempt to escape from the place of occurrence. These aspects become relevant as they reflect upon the contemporaneous conduct of the appellant. As the complainant has owned his statement Ex. P2 to be the correct version, it establishes that Gurpreet @ Gopi was all the time accompanying the complainant in the search. It also establishes that he did not have the keys of the house and also that he was not in sole and exclusive occupation or possession of the house and that Vikas @ Sonu also used to reside with him. Vikas @ Sonu ran away from the spot after handing over the key which were admittedly in possession of Vikas @ Sonu and it also establishes that Vikas @ Sonu also deserted the village on the following day and was later declared as a proclaimed offender. It

further establishes that no other room of the house was locked and that the accused Gurpreet @ Gopi stayed was arrested after discovery of the body.

57. Proceeding further, in the application moved under Section 319 Cr. P.C, Vikas @ Sonu was also summoned but as he did not appear, he was eventually declared as a proclaimed offender. The said PW-1 DR-complainant-father of the deceased admitted in his cross-examination that the accused Gurpreet @ Gopi in an orphan and his parents were already dead and that works as a labourer. In the cross-examination, as against time of 4:15/4:30 P.M. mentioned in his statement Ex.P2, he now preponed the time by an hour to contend that the search for his daughter started at around 3:00/3:30 P.M. and an intimation was sent to the police at around 6:00 P.M. This time frame, however, completely demolishes the case of the prosecution. While in the statement Ex.P1/PA and his evidence as PW1-DR has been categoric that they started searching for his missing daughter at about 3:00/3:30 P.M., however, PW-2 JP stated in his cross-examination that he saw the deceased in the company of the accused at around 3:45-4:00 P.M. On the same day DR had further admitted that the accused was searching for the deceased, with them. The storyline thus mismatches. As per the father, the accused had joined in search of the deceased, even before the last seen witness say he had seen the deceased being taken away by the accused. If PW-2 is to be believed, no harm had come to the deceased even by around 3:45 P.M while if PW-1 is to be accepted, he already been missing for about 45 minutes from the “time of last seen”. The Police reached at the spot after about half an hour or 45 minutes. It is stated that the Police first went to the house of Sarpanch and

then came to his house and that his brother PW-2 JP had also reached to the spot. He also acknowledges that PW-2-JP had been informed about the missing of his daughter, by somebody from his own family.

58. The introduction of PW-2-JP is of vital significance since JP, while appearing as PW-2 claims to be the 'last seen witness' having allegedly seen Gurpreet @ Gopi taking the deceased with him towards his house by holding her hand. PW-2 JP-Uncle of the deceased, stated that he had received a call from his sister about disappearance of his niece-deceased daughter of DR and he immediately return home around 6:10 P.M. and started looking for the victim alongwith other villagers. Even though, he had acquired knowledge of deceased being with Gurpreet @ Gopi at about 3:45/4:00 P.M., however, yet he did not disclose about the same to his sister, when she called or even to his brother after his return. Although both the prosecution witnesses admit that at the time when the Police reached, JP had already reached the village, yet, even at that point in time PW-2 JP did not disclose any information about he having seen deceased with the accused, even to the Police. Instead, they continued to search other houses before reaching the house of Gurpreet @ Gopi. It is sans reason that the said PW would not make a disclosure about the information known to him, of having seen the deceased in the company of the accused, on the first given opportunity i.e. at the time of receipt of the phone call when he undisputedly became aware of his niece missing. He also chose not to share this information despite reaching at the spot or even after the Police had come at the spot. So much so, even on 14.02.2021, which, as per the case of the prosecution was the time when information

was given to the Police, he did not inform the said fact. Even though the dead body had already been recovered from the house of the accused Gurpreet @ Gopi himself. There was no reason as to why such vital piece of information was not shared by him with any person. The first account of this piece of evidence was furnished only on 16.02.2021 i.e. after more than 02 days of recovery of the dead body. While ordinarily some delay in giving a statement may be accepted if a satisfactory explanation is furnished, however, where no explanation is offered and delay in deposing is by a material witness about an essential evidence, despite being available the whole time, such delay has an adverse effect. In the said circumstances, the testimony of PW-2 JP becomes suspect as it fails to reflect normative behaviour of a prudent person. During his cross-examination, he submitted that he had come to his house at about 3:00-4:00 P.M. to take his lunch and when he was going back at around 3:45 P.M. or 4:00 P.M., he saw the accused taking the victim and that 4-5 other children were also playing in the street. He further acknowledged about the information pertaining to his missing niece having been conveyed by his sister. The relevant part of the cross-examination reads thus:-

“When I was going back at about 3.45 PM or 4.00 PM then I have seen the accused taking away victim with him. At that time 4-5 childrens were playing in the street. My sister R.B. had told me regarding the missing of the victim after 6.00 PM. I did not call complainant to inquire about the incident. I did not tell my sister on phone that I had seen the victim in the company of the accused. After receiving the call I reached back my home within 30 to 45 minutes. When I reached police was already present there and search was going on. I met the police when dead body was recovered i.e. at about 8.00 PM. I

was also searching for the victim along with the other persons. I did not meet D.R. complainant. I arrived in the house after dead body was recovered by the police. My statement was not recorded by the police at spot. Gurpreet was arrested by the police at spot. My statement was recorded by the police only for once. My statement was recorded by the police on 16.02.2021.

(Emphasis Supplied)

59. He further admits that the dead body was recovered at around 8:00 P.M. in the presence of the Police, on 13.02.2021 and alleges and that his statement was not recorded by the Police at the spot but acknowledges that the accused Gurpreet @ Gopi was arrested by the Police at the spot and also that his own statement was recorded only on 16.02.2021 i.e. on the third day of discovery of the body by the Police. The deposition of the said witness about being the last seen witness thus becomes suspect when seen in the context of the totality of circumstances.

60. Further, the evidence of PW-1 reaches a further twist when he stated that he never met the Police at Bus Stand Goraya, which happens to be the commencement of the Police case and the spot where information is received about the offence for the first time. The extract of the cross examination of PW1 DR reads thus:-

“ I have never mentioned that the Police met me at Bus Stand Goraya ”

61. The evidence of PW-1 has been oscillating between the house not being locked at all to the house being locked only on the main door and the keys being with Vikas @ Sonu as well as even the rear room being locked and while the keys to the house were with accused Vikas @ Sonu,

the keys to the rear room, wherefrom the body was recovered, was with accused Gurpreet @ Gopi. Further, it remains undisputed that while accused Gurpreet @ Gopi is an orphan having no parents and is labourer by occupation, Vikas @ Sonu had his parents and he abandoned the house and left the village on the next day and was declared as proclaimed offender.

62. It is further noticeable that PW1-DR admitted that the hammer was lying next to the body of the deceased when the body was discovered, however, PW-2 JP is also introduced as the witness to the recovery of hammer, pursuant to the disclosure of Gurpreet @ Gopi on 16.02.2021. Noticeably, the place of recovery of the hammer, as per the site plans Ex. PD happens to be the same as the site plan Ex. PE i.e. of the place wherefrom the dead body was recovered. It seems irrational as to why the Police did not collect the hammer at that point in time especially when the Police officials had exercised prudence to the extent of picking up blood-stained soil as well as the blood-stained bed sheet. The disclosure thus carries no evidentiary value as it is not a discovery of a new fact but seizure of the evidence already to their knowledge but ignored only to create a chain of events to link the accused.

63. PW-3 R.K. who happens to be the maternal uncle of the deceased is only a hearsay witness about the incident but he proved that he identified the dead body of the victim at the time of inquest report as well as at the time of postmortem.

64. PW-4 Daljit Kaur, Sarpanch of Village Rurki also admitted that accused Gurpreet @ Gopi was residing alone and his parents had

expired. The said prosecution, witness however, does not state about the presence of the Police at the time when the search of the house of Gurpreet @ Gopi was conducted and the body recovered. The relevant part of the deposition reads thus:-

“Our village resident Gurpreet Singh @ Gopi was residing alone at his home in the neighbourhood of the complainant, as the parents of accused had expired. Due to news of missing of victim/prosecutrix, people of our village started gathered and on seeing the same, accused Gurpreet Singh @ Gopi left the spot. I alongwith other persons of village conducted the search of the house of accused Gurpreet Singh and found the dead body of the victim/prosecutrix from the backside room of the house. The villagers arranged the vehicle and took said girl i.e. victim/prosecutrix to Civil Hospital, Phagwara where the concerned Doctor declared the victim/prosecutrix dead. Accused killed the victim/prosecutrix by giving beatings and after committing rape upon her.”

65. Further, this witness deposes about Gurpreet @ Gopi having sneaked from the spot when the people gathered and conducted search. The aforesaid deposition is more in tune with the statement Ex. P1/PA of PW-1 DR and not in harmony with the statement of PW-1 DR recorded as Ex. P2 or his deposition in Court. This witness again does not state anything about the house being locked or the room being locked. During the cross-examination, however, it is stated by her that the house of the accused was searched in the presence of ASI Labh Singh when the body was found. The relevant part of the cross-examination reads thus:-

“We reached the house of accused at about 9 PM. The house of the accused was searched in the presence of police by ASI Labh Singh. The dead body of the victim/ prosecutrix was

found in the house of the accused. After that, ASI and other police officials took the victim/ prosecutrix and locked the house of accused. We came to know that the girl was died in the night at about 9 PM. In my presence, the site plan was prepared by me. The site plan of the house of accused was prepared by ASI Labh Singh in my presence but I do not know at what time and date the site plan was prepared.”

66. As per the testimony of the said witness, the house was locked after the body had been recovered. She further acknowledges that Gurpreet @ Gopi-accused was arrested at the same time and he remained present when the Police came to the village. The said part of the cross-examination reads thus:-

“Accused Gurpreet Singh @ Gopi was present at the time when the police came to our village and he remained through out time of investigation with the police. NO proof of ownership was taken by the police in my presence. It is wrong to suggest that the dead body of the victim was never recovered from the house of accused. It is wrong to suggest that I accompanied the police in the investigation of this case. It is correct that my signatures were obtained by police but I do not remember how many papers were signed by me. All the investigation was took place in his presence. He was not arrested at the spot. All the recovery in this case was effected in the presence of accused. Blood stain earth was also taken in presence of accused. Pyjamma of accused was also taken by the police in our presence and accused was also present on the day of occurrence. It is wrong to suggest that I have deposed falsely with the enmity with the accused.”

67. She thus contradicts herself in the cross-examination. While in her examination-in-chief, she stated that Gurpreet @ Gopi had left the spot, however, in her cross-examination she admitted that he was present

at the spot all the while. During the cross-examination, she, however, contended that he was not arrested at the spot despite acknowledging that the 'Pajama' of the accused was taken by the Police in their presence and all the recovery was effected in the presence of the accused and that he was present on the day of occurrence. Thus, there is a shifting stand by the private witnesses or the prosecution with respect to the material facts pointed out above. In the said background, deposition of PW-5 Harjinder Kaur, another resident of the village is also significant. The relevant extract of a statement reads thus:-

“Our village resident Gurpreet Singh @ Gopi was residing alone at his home in the neighbourhood of the complainant, as the parents of accused had expired. Due to news of missing of victim/prosecutrix, people of our village started gathered and on seeing the same, accused Gurpreet Singh @ Gopi left the spot. I alongwith other persons of village conducted the search of the house of accused Gurpreet Singh and found the dead body of the victim/prosecutrix from the backside room of the house.”

68. The examination-in-chief of PW-5 Harjinder Kaur is a verbatim reproduction of the chief of PW-4 Daljit Kaur and that even she, in chief examination admits to Gurpreet @ Gopi residing alone and nowhere states about the house being locked or room being locked even though they are witnesses to the recovery of the dead body. The relevant part of the cross-examination of PW-5 Daljit Kaur reads thus:-

“Accused Gurpreet Singh @ Gopi was present at the time when the police came to our village and he remained through out time of investigation with the police. All the investigation was took place in his presence. He was not arrested at the

spot. All the recovery in this case was effected in the presence of accused. Blood stain earth was also taken in presence of accused. Pyjamma of accused was also taken by the police in our presence and accused was also present on the day of occurrence.

69. She also reiterates the presence of the accused alongwith the Police at the time of search. There is no reference to the aspect of the keys being brought by Vikas @ Sonu or the doors being locked.

70. Having noticed the above discrepancies in the narrative of the turn of events and also the sequence, by the private witnesses, it now becomes necessary to advert to the evidence of the official witnesses.

71. As per the official version, the statement of PW1-DR (Ex. P1/PA) was recorded by PW-11 Inspector Ranjana Devi at 4:10 A.M. on 14.02.2021 at the bus stand. She further admits in her chief that PW-2 JP was also accompanying PW-1 DR and stayed during recording of the statement. In her cross-examination, she specifically denies the suggestion that JP had not accompanied, however, notwithstanding that PW-2-JP had accompanied the complainant, there is no reason as to why statement of JP, being the last seen witness, would have not been recorded. She stated that despite receipt of the information, she did not visit the spot and handed over the investigation to ASI Labh Singh.

72. The said Asstt. Sub Inspector has appeared as PW-13 and he claimed that he was present alongwith SI Ranjana Devi when the statement of PW-1 DR was recorded. He further acknowledged that JP PW-2 also accompanied PW-1 DR. It is contended by him that immediately on receipt of the information, he visited the place of occurrence and prepared

the site plan of the place of occurrence and also visited the Civil Hospital, Phagwara and took possession of the dead body of the victim. The inquest proceeding and applications of postmortem etc. moved where after he came back to the spot to collect the blood-stained soil and recovery parcels were got prepared. Hence, as per his deposition, the dead body of the victim was not recovered in the presence of the police official, which demolishes the case of PW-1 who stated to the effect that the discovery of the dead body had been effected in the presence of Police officials.

73. The witness further stated that they arrested respondent-accused Gurpreet @ Gopi on 14.02.2021. The aforesaid official version of the incident and the investigation however is completely in conflict with the version given by PW-1 DR, PW-2 JP, PW-4 Daljit Kaur and PW-5 Harjinder Kaur who not only asserted that the Police had reached the spot on 13.02.2021 itself but also that the discovery of the body and arrest of Gurpreet @ Gopi have been effected on 13.02.2021.

74. The official witness Labh Singh further acknowledges that the date of occurrence was 13.02.2021 but the information was given to them after about 10/12 hours. He, however, submits that no recovery was effected from accused during his investigation except for the Pajama which was worn by the accused at that time. He further contends during his investigation, accused Gurpreet @ Gopi confessed about the commission of murder.

75. The Inspector SHO Hardeep Singh appeared as PW-12 proved the disclosure Ex. P3 made by accused Gurpreet @ Gopi during custodial interrogation. He admits to having prepared the site plan as well

as the plan of place of recovery. It is further stated by him that he did not call Sarpanch/Panch of the village at the time of recovery of the hammer and the slippers of the deceased.

76. At this juncture, it is also being noticed by the Court that while initially one Mr. M.S. Minhas, Advocate appeared for the accused during the time of cross-examination of PW-1-DR and PW-2, at the time of cross-examination of PW-4 Daljit Kaur another Advocate viz. Mr. Vimal Sachdeva appeared. During the cross-examination of PW-5, the Court has noticed that the earlier engaged Counsel Mr. M.S. Minhas refused to cross-examine the witness stating that he had no instructions from the accused and that the accused informed that he engaged one Subhash Chand and that the said Advocate had died. The cross-examination of the said witness was thereafter conducted by Mr. Vimal Sachdeva. Eventually, a Legal Aid defence Counsel who represented the accused and seemingly, it appears that the accused being an orphan and also a Labourer had no resources at his command or any member of the family pursuing for his case.

77. In the above setting of the case, it is evident that while the entire evidence of official witnesses has proceeded on the basis of the statement of the complainant Ex. P1/PA recorded on 14.02.2021, however, the deposition of the complainant and his family members as a witnesses has been in line of the statement of PW-1 DR which is Ex. P2. The discrepant points in the testimony of private PW's, when compared to the deposition of the official witnesses can be summarized as under:-

i) While the case of the private witnesses is that the Police was informed on 13.02.2021 at around 6:00 P.M., the case of the official witnesses is that intimation was received only on at 4:10 A.M. on 14.02.2021.

ii) While the evidence of private witnesses asserts that discovery and recovery of dead body had been effected on 13.02.2021 at around 8:00/9:00 P.M. in the presence of the Police officials, the official witnesses viz. the Investigating Officers and the SHO nowhere admit recovery of the body in their presence.

iii) While the case of the private witness is that the Police had reached at the Village Rurki on 13.02.2021 at around 7:00/7:15 P.M., the case of the official witness is thus that they reached the place of occurrence only at 6:00 A.M. on 14.02.2021 and at no point in time prior thereto.

iv) While the case of the private witness is that Gurpreet @ Gopi had been arrested at the spot on 13.02.2021, the case of the official witnesses is that he was arrested only on 14.02.2021.

v) While the case of official witnesses is consistent with the statement of Gurpreet @ Gopi which is Ex.P1/PA, however, while appearing as PW-1, he denies the aforesaid statement Ex. PA to be a correct version of his allegations. Thus, the foundation of the case of the prosecution, zealously guarded and pursued by the Investigating Agency is denied to be a correct narrative of the incident.

vi) While private witnesses contend that the hammer and the slippers etc. were lying next to the body itself, however, the Police did not recover the same even though they took care to not only draw the site plan

but also take possession of blood stained soil as well as the bed sheet. No explanation has been offered by the Police as to why the hammer as well as the slippers were not taken in possession there and then. The presence of the seized article viz. Hammer and Slipper being at the same place stands established from the comparison of the site plan of the place of occurrence to the site plan of the recovery. The place mark 'A' happens to be the same place in both the site plans. Thus, the invocation of Section 27 to justify the recovery, based on an alleged disclosure, fails to satisfy the test prescribed in law of evidence. The aforesaid recovery cannot thus said to be a protected recovery.

vii). That the complainant PW-1 DR having disapproved the statement Ex. P1/PA to be a correct version of his allegations, the investigation conducted by the Police thus itself comes under a scanner. The role and attribution against the other suspect viz. Vikas @ Sonu having not been investigated or considered at all.

viii) That despite a specific query as to whether any investigation was conducted qua the involvement of accused Vikas @ Sonu in the offence and as to whether he was found innocent during the investigation, the final report prepared by the Police is completely silent and does not indicate or reflect even an iota of investigation into the allegations leveled by PW-1 DR, as per his statement Ex. P2, against Vikas @ Sonu.

ix) Investigating Agency has also failed to take note of a crucial fact i.e. that accused Vikas @ Sonu used to reside along with the accused Gurpreet @ Gopi, in the same house. When the said testimony is read along with the deposition of PW-1 that on 13.02.2021, he had seen Vikas

@ Sonu alongwith the accused Gurpreet @ Gopi in the same locality and they were together, the investigation cannot be said to be thorough. This aspect gains further significance when the deposition of PW-1 is considered in light of statement Ex. P2 wherein he had stated that the main door of the house was locked and that the keys of the house were with Vikas @ Sonu who was called to the place and that immediately after handing over the keys, he ran away. There was no mention of the room, where the dead body was recovered, being locked, in statement Ex.P2. The said fact emerges only in the testimony of PW-1 who made a further improvement that even the room was locked and the keys thereof were produced by accused Gurpreet @ Gopi and the body was recovered thereafter. No other prosecution witness i.e. including PW-2 JP, PW-4 Daljit Kaur, PW-5 Harjinder Kaur, PW-11 Ranjana Devi, PW-12 Inspector Harpreet Singh and PW-13 SI Labh Singh mention of any lock on the house or on the room wherefrom the body was recovered. The effect and consequence of such material improvement would be discussed in later part of the judgment, however, it can be said that the testimony of the witnesses have been largely consistent to the effect that the house or room wherefrom the body was recovered was not locked. Hence, sole and exclusive possession and access to the house of accused Gurpreet @ Gopi thus falls short of proof beyond reasonable doubt.

x) That while PW-1 initially stated that they suspected Gurpreet @ Gopi since he tried to sneak away, all the prosecution witnesses are consistent that Gurpreet @ Gopi did not make any attempt to run away and

was not only assisting in search of the girl but was also present during the entire duration even after the Police had arrived at the scene.

xi) While PW-13 SI Labh Singh stated that he had proceeded to the Civil Hospital where the dead body had already been taken whereas the postmortem report (Ex.PW9/A) shows that the dead body was brought by the Police.

78. It is thus evident from the above that there are material inconsistencies, contradictions and improvements in the case of prosecution. It varied from the time when the victim went missing, the unnatural conduct of last seen witness rendering his presence and testimony doubtful, the inconsistency about the date and time of information to the Police, the recovery of body in the presence of Police or not, the presence of articles at the spot, the time of arrest of accused as well as the house being under lock or not.

79. While the Investigating agency has built up its case around the statement Ex.P1, the author of the statement viz. D.R. denies its accuracy and instead claims that the version as per Ex.P2 is the only correct version. Significantly, while the prosecution itself proved the above statement Ex. P2 but it carried out no investigation into the allegations as per Ex.P2. The author of the statement Ex.P1/PA having himself disowned the correctness of his above statement, the investigation and collection of evidence to prove a disowned statement, itself renders the entire investigation, as flawed. It gets hard to reconcile to a situation where the Investigating agency is fully focused on proving a version which the complainant disputes.

80. The reason for such rigidly and disinclination to carry out a deep and pervasive investigation to rule out every other possibility, are not forthcoming.

81. The Investigating agency has completely failed to investigate the other alleged angle notwithstanding that the statement Ex.P2 pointed the needle to Vikas @ Sonu followed by his conduct of having absconded. Besides, PW-1 also admitted that he used to stay in the same house and PW-2 having also seen him with accused Gurpreet @ Gopi.

82. While an Investigating agency should be focused, its not that it has to wear blinkers. Every other suspicion or a suspicious circumstance or involvement has to be eliminated through investigation before an investigation is said to be complete. The case in hand has however failed to take note of the allegations as levelled.

Discrepancies as to the medical evidence:-

83. Having noticed the aforesaid discrepancies, we proceed to examine the evidence that has come on record against the accused Gurpreet @ Gopi.

84. The evidence which has come forth to complete the chain of events and to link the accused Gurpreet @ Gopi with the commission of the offence are; a) the suspicion expressed by PW-1 DR-complainant-father of the deceased; b) discovery of the dead body from the room of the house belonging to Gurpreet @ Gopi, c) the recovery of hammer at the disclosure of Gurpreet @ Gopi from his house; d) recovery of the *Pajama* worn by the accused which showed presence of blood stains of the victim as well as semen of the accused.

85. Adverting to the scientific evidence first including the postmortem report, the report of the chemical examiner and the forensic DNA test reports. The postmortem examination report Ex.PW9/B makes a mention that the dead body had been brought to the hospital by Head Constable Harbhajan Singh. There were five injuries reported on the body of the deceased which are tabulated as under: -

<i>Examination of External Injuries</i>			
<i>Sr. No.</i>	<i>Injuries</i>	<i>Marked</i>	<i>Injury Number</i>
1	<i>Lacerated wound (4x2.5cm) muscle deep over middle of forehead 4cm above nasal bridge.</i>	<i>No</i>	<i>1</i>
2	<i>Abrasion (1.5x1cm) over middle of lower lip.</i>	<i>No</i>	<i>2</i>
3	<i>Contusion (3x1cm) below lower jaw over submental region.</i>	<i>No</i>	<i>4</i>
4	<i>Contusion and swelling of both ear pinna.</i>	<i>No</i>	<i>5</i>
5	<i>Multiple reddish contusions over left, right cheek, nose, below both eyes.</i>	<i>No</i>	<i>3</i>

86. There was one fatal injury i.e. lacerated wound 4x2.5 cm, muscle deep over middle of the forehead, 4 cm above the nasal bridge. The other injuries were, however, simple, being abrasions and contusions on the face. There was no injury seen on any private part of the deceased. The doctor then stated that no definite opinion could be given about cause of death and it could be determined only after Chemical Examiner’s Report and final opinion about rape can be given only after the report of the FSL. The Chemical Examiners Report Ex. PW8/C however showed absence of any poison in the viscera drawn from the body of the deceased. The cause

of death thus opined was the intracranial injury leading to shock and death and the same being ante-mortem in nature. The forensic DNA test report EX. PW9/E was received. The details of the parcels and receipts are extracted as under:-

<i>Parcel No.</i>	<i>Seal Impression/ No. of seals</i>	<i>Description</i>
<i>D</i>	<i>LS/01</i>	<i>One white cloth parcel which further contained the following exhibit stated to be of Gurpreet Alias Gopi alleged to be stained with human blood/ human semen:</i> <i>Exhibit D: Pyjamma</i> <i>One black colored Pyjamma having reddish brown colored stains.</i>
<i>E</i>	<i>HS/01</i>	<i>One white cloth parcel which further contained the following exhibit alleged to be stained with human blood:</i> <i>Exhibit E: Hammer</i> <i>One hammer having reddish brown colored stains.</i>
<i>F</i>	<i>Y.P/01</i>	<i>One white cloth parcel which further contained the following exhibits stated to be the victim alleged to be stained with human blood/ human semen:</i> <i>Exhibit F-1: T-shirt</i> <i>One multicolored t-shirt having dirty stains.</i> <i>Exhibit F-2: Pajama</i> <i>One blue colored pajama with foul smell having mud stains.</i> <i>Exhibit F-3: Sphagetti</i> <i>One white colored sphagetti having reddish brown and dirty stains.</i>

		<i>Exhibit F-4: Jacket</i> <i>One black colored jacket extensively stained with mud stains.</i> <i>Exhibit F-5: Underwear</i> <i>One black colored underwear having dirty stains on crotch area enclosed in white cloth parcel sealed with one seal of Y.P.</i>
G	Y.P/06	<i>One white cloth parcel having a multicolored cardboard box which further contained the following exhibits stated to be of the victim:</i> <i>Exhibit G-1: Superficial Swab</i> <i>One cotton swab stick having yellow-colored stains in a transparent plastic tube with red cap.</i> <i>Exhibit G-2: Superficial Swab</i> <i>One cotton swab stick having yellow-colored stains in a transparent plastic tube with red cap.</i> <i>Exhibit G-3: Middle Swab</i> <i>One cotton swab stick having yellow-colored stains in a transparent plastic tube with red cap.</i> <i>Exhibit G-4: Middle Swab</i> <i>One cotton swab stick having yellow-colored stains in a transparent plastic tube with red cap.</i> <i>Exhibit G-5: Deep Swab</i> <i>One cotton swab stick having light yellow-colored stains in a transparent plastic tube with red cap.</i> <i>Exhibit G-6: Deep Swab</i>

		One cotton swab stick having light yellow-colored stains in a transparent plastic tube with red cap. Exhibits G-7, G-8 & G-9: Superficial, Middle and Deep Smears on slides Three transparent glass slides each having white colored smears together in a transparent plastic container with blue cap. Exhibit G-10: Nail Clippings Few nails in a transparent plastic tube with blue cap.
Xx xxx xxx	xxx xxx xxx	xxxx xxx xxx xxx xxx xxxx
J	Y.P/04	One white cloth parcel having a white and red cardboard box which further contained the following exhibit in a white cloth parcel stated to be of Gurpreet alias Gopi: Exhibit J: Reference blood sample One EDTA vial with purple cap containing liquid blood sample wrapped in green and white plastic further wrapped in white paper.

87. The results/observation reads thus:-

OBSERVATIONS:

From the comprehensive analysis of the results obtained, the following observations have been made:

1. Human blood was detected on the Exhibit A (Source: Soil), Exhibit C (Source: Bedsheet), Exhibit D (Source: Pyjamma stated to be of Gurpreet Alias Gopi), Exhibit E (Source: Hammer) and Exhibit F-3 (Source: Sphagetti stated to be of the victim).

2. *Human blood was not detected on the Exhibit B (Source: Soil alleged to be simple soil), Exhibits F-1, F-2, F-4 & F-5 (Source: T-shirt, Pyjamma, Jacket and Underwear stated to be of the victim) and Exhibit I (Source: Soil).*
3. *Human semen was detected on the Exhibit D (Source: Pyjamma stated to be of Gurpreet Alias Gopi).*
4. *Human semen was not detected on the Exhibits G-1 to G-10 (Source: Swabs, smears and nails stated to be of the victim).*
5. *DNA profile obtained from the female fraction of the Exhibits G-1 to G-9 (Source: Swabs and smears on slides stated to be of the victim) is identical with the genetic profile obtained from the Exhibit H-1 (Source: Reference blood stated to be of the victim).*
6. *DNA profile obtained from the blood present on the Exhibit A (Source: Soil), Exhibit C (Source: Bedsheet), Exhibit E (Source: Hammer) and Exhibit F-3 (Source: Sphagetti stated to be of the victim) is identical with the genetic profile obtained from the Exhibit H-1 (Source: Reference blood stated to be of the victim).*
7. *Mixed DNA profile is obtained from the Exhibit D (Source: Pyjamma stated to be of Gurpreet Alias Gopi).*
8. *The alleles present in the DNA profiles obtained from the Exhibit H-1 (Source: Reference blood stated to be of the victim) and Exhibit J (Source: Reference blood stated to be of Gurpreet Alias Gopi) are accounted to be present in the mixed DNA profile obtained from the Exhibit D (Source : Pyjamma stated to be of Gurpreet Alias Gopi).*

CONCLUSION:

From the observations, it is concluded that:

1. *Human blood present on the Exhibit A (Source: Soil), Exhibit C (Source: Bedsheet), Exhibit D (Source: Pajama stated to be of Gurpreet Alias Gopi), Exhibit E (Source: Hammer) and Exhibit F-3 (Source: Sphagetti stated to be of the victim) **belongs to** the victim (Source: Exhibit H-1).*

2. *Human semen present on the Exhibit D (Source: Pajama stated to be of Gurpreet Alias Gopi) **belongs to** Gurpreet Alias Gopi (Source: Exhibit J).*

88. The said conclusions were thereafter put to the Medical Board for the final report (Ex. P9/F) which reads thus:-

“According to the above DNA report confirms the act of culprit, and is performed by him.”

89. While human blood was detected on Ex. A i.e. the soil, Ex. C i.e. the bedsheet; Ex. D i.e. the pajama worn by accused Gurpreet @ Gopi, Ex.E i.e. the Hammer and Ex. F-3 i.e. the Sphagetti belonging to the victim, however, no blood was detected on the other clothes worn by the deceased i.e. T-shirt, pajama, jacket and underwear. Further, even semen was detected on Ex.D i.e. the pajama worn by Gurpreet @ Gopi but no human semen was detected on the swabs, smears and nails of the victim. Even the DNA profile obtained from the female fraction of the swabs, smears and slides of the victim was relatable solely to the victim. Mixed DNA was, however, obtained from Ex. D i.e. the pajama worn by Gurpreet @ Gopi.

90. The alleles, which are the specific numeric value or repeating co-balance found at specific marker points in a particular DNA, present in the DNA profile obtained from Ex. H1 i.e. blood of victim and Ex. J blood of Gurpreet @ Gopi were accounted to be present in the mixed DNA profile obtained from the pajama stated to be of Gurpreet @ Gopi.

91. It is undisputed that there were no signs of any sexual assault or offence of rape on the deceased. There was also no vulvovaginal injury and even though the hymen was ruptured, however, there were no signs of any internal injuries. Further, PW-9 Dr. Ravi Ram Sarankhera stated that at the time of postmortem examination, no definite opinion regarding rape could be given. It was further stated that the Board of Doctors had prepared swabs and smears from the vaginal canals and nails of the deceased for detection of spermatozoa and the same were sealed for the FSL examination. There was, however, no human semen detected on the swabs, smears and slides drawn from the vaginal canal and nails etc. and semen was detected only on Pajama alleged to be worn by the deceased. The Board, however, gave an opinion of rape having been committed upon the deceased only on presence of semen on the pajama worn by Gurpreet @ Gopi. It would be also apposite to refer to the cross-examination of the doctor and the same reads thus:-

“All the injuries on the person of the victim/ prosecutrix are simple in nature. The cause of death in this case intracranial injury. Injury no.1 is matching with Hematoma. The possibility of injury no.1 cannot be ruled out by falling of person on hard surface. The police official had not shown any weapon to me at the time of postmortem. There was no injury on the private part of the victim/ prosecutrix. There was no injury on the breast of the victim/ prosecutrix. The samples of the nails were taken and sent for detection of spermatozoa to FSL. There is nothing mention about the nails report in the FSL. I cannot comment whether force was used by the accused in committing offence of rape with victim/ prosecutrix. It is wrong to suggest that my report is

incomplete. I cannot comment upon the duration of time between sexual act and death of the victim/ prosecutrix.

92. An identical deposition has been recorded of PW-14 Dr. Lovedeep Singh, who was Medical Officer, which is a verbatim reproduction of the deposition made by PW-9 Dr. Ravi Ram Sarankhera. Identical suggestions were put to him where he again reiterated that there were no injuries on any private body part of the deceased.

93. In the disclosure statement of the accused that has been recorded, there is a specific attribution that the accused committed an act of rape on the deceased and then hit with a hammer as she was making noise. The hammer and the slippers were alleged to be hidden under the sandbag lying in the room which the accused promise to get recovered. As already discussed, neither the slipper nor the hammer was lying under the sand bag the witnesses to the recovery of dead body admitted the articles lying next to the body. Thus, a doctored version has been adduced by the Investigating agency to portray the recovery to be consequent to the disclosure for effecting recovery and thus creating the chain of events. The site plans as prepared on the basis of disclosure of the accused are inconsequential since the said disclosure is recorded on 16.02.2021 and undisputedly, the official witnesses had already visited the place of occurrence on 14.02.2021. Hence, the demarcation of the said place has no evidentiary value. Besides, the site plan of recovery of slippers and hammer shows the same to have been effected from the exact same place where the dead body was recovered to be lying. The said fact is thus only an attempt by the prosecution to create a link evidence. Additionally, in the disclosure of the accused, there is nothing to the effect as to whether the

accused used any contraceptive/condom while committing the offence or as to whether he cleaned the private parts of the deceased after having committed the offence of rape. The said aspect needs to be examined dispassionately and dissected from the prism of emotions, particularly when the private parts of the deceased did not reveal any evidence suggestive of intercourse, forcible sexual assault or penetration. There was no internal vaginal injury as well or any fresh signs of bleeding attributable to ruptured hymen. It is very unlikely that while the trouser/pajama worn by the accused, which may invariably have been lowered to commit an intercourse, did carry the semen stains, however, there was no presence of any semen or spermatozoa on the body of the victim. The possibility of complete absence of semen on deceased becomes a significant missing link since neither any semen nor any blood stains were present on any of the lower part of the body of the deceased including her underwear, t-shirt, pajama or even the jacket worn by her.

94. The Board of doctors has, however, opined in favour of rape having been committed not because of any visible signs of the deceased having been subjected to rape but based upon presence of semen on the pajama of the accused coupled with presence of blood of the deceased on the pajama. It is also alleged that the causing of injury with the hammer took place after the rape had been committed. Hence, the semen stains ought to be have been normally present on earth, private parts of the deceased or her clothes.

95. In any ordinary and common away of committing rape, an accused would have either lowered the pajama worn by him or would have

only pulled it down to a limited extent or would have open the zipper. Considering it from either perspective, the blood stain on the pajama, if any, could at best only have been caused as a result of fresh bleeding from the vaginal area of the deceased. The only bleeding wound on the deceased was over the middle of forehead, 4 cm above the nasal bridge. There is nothing on record to suggest that the blood had flown towards the legs to leave a stain mark on the Pajama worn by the accused. At this juncture, it would also be significant to keep in mind that the floor of the room, where the body was recovered was kutcha (considering that blood-stained earth was lifted from the room), hence, ordinarily it would be improbable for the blood to have flown that far as it would have been soaked by earth. Hence, there would be no occasion for the said blood to have left any stains on the Pajama worn by the accused

96. Considering that the alleged murder with the hammer injury took place after the offence of Rape, hence, the possibility of the blood stains due to the injury caused on the forehead becomes remote. More so in view the fact that as per the case of the prosecution (PW-1), the search for the missing daughter started at around 4:00 P.M. (in his statement as Ex. P2, he mentions of the search to commence at around 4:00/4:15 P.M. but in his evidence he states that the search commenced at around 3:15/3:30 P.M.) and as per the deposition of PW-1 DR, the accused was accompanied them in search of the deceased. At the same time, the deposition of PW-2 JP about he is seeing the deceased in the company of the appellant at around 3:45-4:00 P.M. is also a fact which needs to be noticed to keep the chain of events in mind. Hence, the entire episode was

completed within a time range of less than half an hour. It has also come in evidence that he was wearing the same pajama. It would be highly unlikely and unnatural for a person to be accompanying in search of the girl, while wearing a blood-stained pajama. Needless to mention that since the house belonged to the house himself, any person of ordinary produce would have changed the clothes to avoid being detected but no such attempt has seemingly being made. Significantly, even the place of the blood stained on the pajama has not been mentioned. The said spots could have been a very crucial link to even connect the commission of offence of rape.

97. Noticeably, the memo of recovery dated 14.02.2021 records that the Police effected recovery of navy blue colour trousers on which characters “Mavericks” were written with purple and white colour. The Police, in its recovery mentions that it was a navy coloured trouser on which characters “Mavericks” was written with purple which is Ex. PJ. However, when the sealed parcels were sent for chemical examination, the forensic DNA test report shows that “parcel No. D” contained “one black coloured pajama having reddish brown coloured stains”. Thus, notwithstanding that the Police had seized a trouser of navy blue colour, what was actually sent for FSL examination was a black coloured pajama. Additionally, while the recovery memo does not make any reference of stains, the parcel description as recorded by the FSL mentions of reddish brown colour stains.

98. A trouser being a distinct mens clothing wear is different from a pajama in its stitching and all other parameters. In the present case, not only the content of the parcel has changed from trouser (as recorded in the

recovery memo Ex. PJ) to pajama (as recorded in the forensic DNA test report Ex. PW9/E), even the colour thereof has changed from 'navy blue' to 'black' and strangely, the stains appeared in the parcel that was sent for forensic examination. This Court also notices that even though the recovery of the trouser had been effected on 14.02.2021, however, the parcels were delivered to the FSL, Mohali, Punjab on 03.03.2021 i.e. after a lapse of merely 17 days. The circumstances when seen in totality create a doubt with respect to the sanctity of the seized material on account of the differences in the contents of the seized material viz-a-viz. the contents of the parcel received at the FSL. There has been no explanation offered by the prosecution about the change of the contents as well. Since the entire case of the prosecution draws its strength about commission of the offence of rape as well as murder, against the accused on the basis of presence of mixed DNA from the blood stains and semen of the deceased and the accused found on the black coloured pajama, such significant change in the content reflects adversely on the sanctity of the seized material and fairness of the Police investigation.

99. Hon'ble Supreme Court in the matter of ***Karandeep Sharma @ Razia @ Raju vs State of Uttarakhand*** reported as ***(2025) 3 SCR 1482***, held as under"-

"54. in order to make the DNA report acceptable, reliable and admissible, the prosecution is required to prove the sanctity and chain of custody of the samples/articles right from the time of their preparation/collection till the time they

reach the FSL. For this purpose, the link evidence would have to be established by examining the concerned witness.”

100. It is evident from the above that chain of custody in a matter of sampling and determination of a DNA sample is of utmost significance and more so in case when the outcome of a case is predominantly dependent on the DNA report. The entire chain of custody and its sanctity has to be preserved and proved to rule out any possibility of contamination of the seized DNA sample.

101. Besides, other significant aspect pertains to the place of stains. If the projection of the prosecution is to be accepted about the blood stains having featured on the recovered cloth during the performance of the offence of rape, the presence of the blood stains should have been in close proximity to the detection of semen stains.

102. Needless also to mention that while trousers are generally worn for work or formal occasions, a Pyjamma is ordinarily intended to be worn while sleeping. Presence of semen stains on Pyjamma thus could be for various reasons including any act of masturbation by the accused who was grown up and was single and had no parents. The presence of the semen stains to be integrally linked only to the commission of offence of rape thus is not conclusively established.

103. The observations as above *de hors* the anomaly that the pajama sent for FSL examination was not actually the wear seized by the Police vide recovery memo Ex. PJ.

104. In view of the anomalies as above, we are of the view that a reasonable suspicion has been created in the chain of events about the

deceased having been subjected to rape by the respondent-accused as the cardinal link evidence i.e. the recovered pajama is not linked to the accused herein and there is nothing recovered from any part of the body of the deceased-victim as could be linked to the DNA profile of the accused herein. Needless to mention at this juncture that no fingerprints were lifted from the hammer to establish existence of any fingerprints of the accused. Thus, the available scientific evidence is only indicative of death having been caused on account of a hammer blow but the same does not establish she being subjected to rape before the injury and is in no manner conclusive to establish that rape, if any, had been committed by the accused herein.

Evidence of Last Seen: Discrepancies

105. Adverting to the evidence of PW-2 JP who is the last seen witness. As per his case, he had last seen the deceased in the company of the appellant-accused and he had seen her taking her away holding her hand. The reported time is about 3:45-4:00 P.M. The testimony of the aforesaid witness, however, fails to inspire confidence not because he is related to PW-1 DR as his brother and uncle of deceased but for the reason that he admits to have acquired knowledge of his niece missing at about 6:00 P.M. by way of a telephone call given to him by his sister. Ordinarily, any person of ordinary prudence would have immediately apprised the sister or members of his family about he having seen the deceased in the company of the accused. The witness, however, does not do so.

106. It has also come in the testimony of PW-1 as well as PW-2 that he was present at the place on 13.02.2021 at around 6:00 P.M. and before the Police arrived. He does not even inform the family members, despite having reached the village, about he having seen the deceased in the company of accused.

107. Even when the search commenced after the arrival of the Police, he did not inform the police officials about the last seen. Even on 14.02.2021 when the statement of PW-1 DR is recorded at 4:10 A.M. by PW-11 Ranjana Devi, despite PW-2 JP accompanying his brother PW-1 DR, there is still no whisper of the last seen evidence. The reference is made about the last seen, for the first time, on 16.02.2021 when his statement was recorded by the Police under Section 161 Cr. P.C. The aforesaid delay in reporting an event of such vital significance notwithstanding the discovery of the death as well as recovery of the body of the deceased is a crucial non-disclosure. It only leads to one possibility i.e. of the prosecution trying to complete the chain of events in a case based upon circumstantial evidence and in its anxiety introducing a witness of last seen. We are thus disinclined to accept the deposition or evidence of PW-2 JP as a truthful account of the actual circumstances and instead see the same as an attempt to carry out doctrine of the prosecution witnesses.

Suspicion about involvement

108. The next evidence is in the form of expression of suspicion by PW-1 about the involvement of the Gurpreet @ Gopi. We find that there are numerous material discrepancies that have come in the narration given

by PW-1. The details thereof have already been mentioned in the preceding paras No. 33 to 37 which shows that the PW-1 strongly suspected Vikas @ Sonu to be the culprit and it was for the said reason that he also moved an application under Section 319 Cr. P.C. wherein the said accused was summoned and later declared as proclaimed offender. Other than the deposition of PW-1, no other witness has referred to the house of Gurpreet @ Gopi being locked. PW-1 DR suspected accused Gurpreet @ Gopi because he attempted to sneak away and there is no mention of any lock on the house. In his deposition Ex. P2 (produced by the prosecution itself), he submits that the house was locked and the key was Vikas @ Sonu who later handed over the key and ran away from the spot but in his deposition before the Court, he introduced the second lock theory about the room, wherefrom the dead body was recovered, was also stated to be locked. But none of the aforesaid improvements find any mention in the Police investigation which in fact does not acknowledge any of the proceedings that took place on 13.02.2021 and refers only to the proceedings after 14.02.2021.

109. The PW-1-DR also admit that the accused was single and his parents had already died. He also acknowledges that accused Vikas @ Sonu used to reside with him. In the said circumstances, it becomes crucial to examine conduct of the two suspects i.e. the appellant-accused who remained present at the spot and was searching for the girl alongwith the complainant party and would made no attempt to run away from the place of incident. On the other hand Vikas @ Sonu is admitted by the PW-1 DR to have brought the keys and to have run away after handing the

keys. He even absconded from the village alongwith his mother and has remained as a proclaimed offender. Even though it was stated by him that accused Gurpreet @ Gopi ran away, however, in a latter breath, all the witnesses have stated that Gurpreet @ Gopi was arrested on the same day and he was present at the spot. Thus, his conduct prior to the discovery of the body or during the search of the minor or even thereafter does not reflect a suspicious reaction whereas the conduct of Vikas @ Sonu signals towards some misconduct and guilt. While it may be normal for a person of sharp criminal skills or mind to join the search party to avoid arousing of suspicion pointing towards him, however, when the mental acumen and abilities of the accused are seemingly ordinary, noticing that he is stated to be wearing the blood and semen stained cloth during the search. He cannot thus be perceived of a person who would have sharp criminal acumen. There is thus a complete absence of shrewdness of an active criminal mind or strong attributes of a criminal. The same thus reinforces the probability of Vikas @ Sonu i.e. the other suspect to possibly be the accused.

110. Significantly, while the Police acknowledges and admits recording the statement Ex. P2, yet, no effort worth a penny was undertaken to investigate into the same and even to rule out the possibility of involvement of the said accused. Rather, the investigation and evidence brought on record by the prosecution indicates that he was never in the line of suspects investigated by the Police. No reasons are forthcoming for extending such indulgence to the accused whose conduct of running away from the village with his mother raised serious fingers about his involvement. The prosecution has not been able to establish that the house

was in sole and exclusive possession that of the accused and having no access of any other person. With no such evidence been adduced by the prosecution, the deposition of PW-1 DR about Vikas @ Sonu residing alongwith the accused-appellant Gurpreet @ Gopi becomes significant as he is an immediate neighbour and would be in better knowledge who all were occupying the house. Thus, the statement of PW-1, about suspicion against accused i.e. Gurpreet @ Gopi is nothing more than an instance of needle of suspicion but does not substitute for proof of the offence.

111. Having dealt with the other issues as above, we move on to the last aspect of the case i.e. recovery of the dead body from the house of the accused.

112. Undisputedly, the recovery has been effected from the house belonging to the accused-appellant Gurpreet @ Gopi. The said evidence is a valuable piece of evidence and circumstances in which the dead body came into his house needs some explanation before any benefit can be extended to the accused. Even though there is no such document on record on the basis whereof it may be proved that the house is owned by Gurpreet @ Gopi, however, there is no denial of the said fact by the accused of the house not belonging to him, hence, the said aspect is not being gone into at this stage. The death is an evidence which travels no far beyond then recovery of the body itself. The offence of murder or rape having been committed by the owner of the house does not statutorily flow from a mere recovery of the body, as per any of the provisions of the Evidence Act, 1872. It is only amongst many relevant facts which are to be kept in mind while adjudicating the issue.

113. Section 106 of the Evidence Act, 1872 puts a burden on a person in knowledge of a fact to prove that fact, however, the evidence or the circumstances of the case do not prove that the appellant had any knowledge of the offence of rape and murder in the present case. Thus, recovery of the dead body from the house of the accused is a fact which establishes nothing more than the place of recovery. It cannot be read as proof of the commission of offence. The said burden is hence to be discharged by the prosecution.

114. Section 8 of the Evidence Act, 1872 takes into consideration the previous or subsequent conduct of a person and Section 14 treats the facts showing existence of state of mind or body or bodily feeling to be relevant fact. The conduct and the state of mind to the feeling of the accused who was present all along with the prosecution witnesses and even with the Police, however, does not give rise to any suspicion against him.

115. We find that the entire case of the prosecution has moved in a peculiar way where the case has been built up to prosecute the appellant-accused for commission of the offence of rape and murder immediately on recovery of the body of the victim from the house.

116. Undisputedly, it is a case based upon circumstantial evidence. The position in law is well settled to the effect that in a case of circumstantial evidence, the chain of event should be complete to an extent from which conclusion of the guilt is to be drawn and it should not be a mere possibility. Further, the circumstantial evidence have to be consistent only with the hypothesis of the guilt of the accused and should exclude every other possible hypothesis except for one to be proved. The chain of

events has to be so complete as to not leave any reasonable ground for the conclusion consistent with innocence of the accused. Reference in this regard may be made to judgment of the Supreme Court in the matter of **“Vijay Thakur versus State of Himachal Pradesh”** reported as 2015 (1) SCC (Cr1) 454. While reiterating the aforesaid, the Supreme Court had relied upon the judgment in the matter of **“Sharad Birdhichand Sarda versus State of Maharashtra”** reported as (1984) 4 SCC 116. The relevant extract of the judgment reads thus:-

“13. It is to be emphasised at this stage that except the so-called recoveries, there is no other circumstances worth the name which has been proved against these two appellants. It is a case of blind murder. There are no eyewitnesses. Conviction is based on the circumstantial evidence. In such a case, complete chain of events has to be established pointing out the culpability of the accused person. The chain should be such that no other conclusion, except the guilt of the accused person, is discernible without any doubt. Insofar as these two appellants are concerned, there is no circumstance attributed except that they were with Rajinder Thakur till Sainj and the alleged disclosure leading to recoveries, which appears to be doubtful. When we look into all these facts in entirety in the aforesaid context, we find that not only the chain of events is incomplete, it becomes somewhat difficult to convict the appellant only on the basis of aforesaid recoveries.

14. In Mani v. State of Tamil Nadu, (2008) 1 SCR 228, this Court made following pertinent observation on this very aspect :

"21. The discovery is a weak kind of evidence and cannot be wholly relied upon on and conviction in such a serious matter cannot be based upon the discovery.

Once the discovery fails, there would be literally nothing which would support the prosecution case...."

15. There is a reiteration of the same sentiment in ***Manthuri Laxmi Narsaiah v. State of Andhra Pradesh, 2012(6) RCR (Criminal) 1916 : (2011) 14 SCC 117*** in the following manner :

"6. It is by now well settled that in a case relating to circumstantial evidence the chain of circumstances has to be spelt out by the prosecution and if even one link in the chain is broken the accused must get the benefit thereof. We are of the opinion that the present is in fact a case of no evidence."

16. Likewise, in ***Mustkeem alias Sirajudeen v. State of Rajasthan, 2011(3) RCR (Criminal) 766 : 2011 (4) Recent Apex Judgments (R.A.J.) 346 : (2011) 11 SCC 724***, this Court observed as under :

"24. In a most celebrated case of this Court, Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116, in para 153, some cardinal principles regarding the appreciation of circumstantial evidence have been postulated. Whenever the case is based on circumstantial evidence the following features are required to be complied with. It would be beneficial to repeat the same salient features once again which are as under: (SCC p.185)

"(i) The circumstances from which the conclusion of guilt is to be drawn must or should be and not merely 'may be' fully established;

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

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

(iv) They should exclude every possible hypothesis except the one to be proved; and (v) There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

25. With regard to Section 27 of the Act, what is important is discovery of the material object at the disclosure of the accused but such disclosure alone would not automatically lead to the conclusion that the offence was also committed by the accused. In fact, thereafter, burden lies on the prosecution to establish a close link between discovery of the material object and its use in the commission of the offence. What is admissible under Section 27 of the Act is the information leading to discovery and not any opinion formed on it by the prosecution." It is settled position of law that suspicion, however strong, cannot take the character of proof.

117. The aforesaid judgment further holds that suspicion howsoever strong does not partake the character of proof. Further, in the matter of **“Nagender Sah versus State of Bihar”** reported as 2021 (4) RCR (Criminal) 180, the Supreme Court observed that Section 106 of the Evidence Act would apply only to the cases wherefrom the prosecution has succeeded in establishing the facts from which a reasonable inference can be drawn regarding insistence of certain facts which are within the special knowledge of the accused. In a case of circumstantial evidence, If a accused fails to offer a reasonable explanation, towards discharge of burden placed on him after the discharge of initial burden by the

prosecution, such a failure provides an additional link to the circumstance. Thus, the Supreme Court held that the recovery of a body, by aid of Section 106 would only be a circumstance about the recovery but would not be conclusive proof for commission of offence. The relevant extract of the judgment reads thus:-

*“19. Under Section 101 of the Evidence Act, whoever desires any Court to give a judgment as to a liability dependent on the existence of facts, he must prove that those facts exist. Therefore, the burden is always on the prosecution to bring home the guilt of the accused beyond a reasonable doubt. Thus, Section 106 constitutes an exception to Section 101. On the issue of applicability of Section 106 of the Evidence Act, there is a classic decision of this Court in the case of **Shambu Nath Mehra v. The State of Ajmer, (1956) SCR page 199** which has stood the test of time. The relevant part of the said decision reads thus :-*

"Section 106 is an exception to section 101. Section 101 lays down the general rule about the burden of proof. "Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist".

Illustration (a) says-"

A desires a Court to give judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime".

This lays down the general rule that in a criminal case the burden of proof is on the prosecution and section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution

*to establish facts which are "especially" within the knowledge of the accused and which he could prove without difficulty or inconvenience. The word "especially" stresses that. It means facts that are pre-eminently or exceptionally within his knowledge. If the section were to be interpreted otherwise, it would lead to the very startling conclusion that in a murder case the burden lies on the accused to prove that he did not commit the murder because who could know better than he whether he did or did not. It is evident that that cannot be the intention and the Privy Council has twice refused to construe this section, as reproduced in certain other Acts outside India, to mean that the burden lies on an accused person to show that he did not commit the crime for which he is tried. These cases are **Attygalle v. Emperor** and **Seneviratne v. R.***

Illustration (b) to section 106 has obvious reference to a very special type of case, namely to offences under sections 112 and 113 of the Indian Railways Act for travelling or attempting to travel without a pass or ticket or with an insufficient pass, etc. Now if a passenger is seen in a railway carriage, or at the ticket barrier, and is unable to produce a ticket or explain his presence, it would obviously be impossible in most cases for the railway to prove, or even with due diligence to find out, where he came from and where he is going and whether or not he purchased a ticket. On the other hand, it would be comparatively simple for the passenger either to produce his pass or ticket or, in the case of loss or of some other valid explanation, to set it out; and so far as proof is concerned, it would be easier for him to prove the substance of his explanation than for the State to establish its falsity. We recognise that an illustration does not exhaust the full content of the

section which it illustrates but equally it can neither curtail nor expand its ambit; and if knowledge of certain facts is as much available to the prosecution, should it choose to exercise due diligence, as to the accused, the facts cannot be said to be "especially" within the knowledge of the accused. This is a section which must be considered in a commonsense way; and the balance of convenience and the disproportion of the labour that would be involved in finding out and proving certain facts balanced against the triviality of the issue at stake and the ease with which the accused could prove them, are all matters that must be taken into consideration. The section cannot be used to undermine the well established rule of law that, save in a very exceptional class of case, the burden is on the prosecution and never shifts."

(emphasis added)

20. *In the instant case, the prosecution failed to prove the circumstances to bring home the guilt of the appellant-accused and the prosecution miserably failed to establish a complete chain of events from which an inference can be drawn regarding the guilt of the appellant-accused. Therefore, the trial Court as well as the High Court have erred in placing the burden on the appellant-accused to discharge the burden under Section 106 of the Evidence Act and drawing an adverse inference against the appellant-accused.*

21. *It has come in the evidence that the appellant-accused was found on the spot and he sustained burn injuries. It was the case of the prosecution that the appellant-accused was found on the spot by the neighbours and thereafter he was taken to the hospital. The said circumstances cannot be said to be established beyond a reasonable doubt that the burn*

injuries were caused while setting his wife ablaze. It is required to be noted that the prosecution has not even examined the doctor who treated the appellant. Therefore, the circumstances established by the prosecution do not lead to only one possible inference regarding the guilt of the appellant-accused.

22. *As we have already held in this case, the circumstances established by the prosecution do not lead to only one possible inference regarding the guilt of the appellant-accused. Therefore, the High Court has erred in convicting the appellant-accused for the offences punishable under Sections 302 and 498A of the IPC.*

118. Similarly, reference may also be made to the judgment of the Supreme Court in the matter of **“Shiekh Wahid Sheikh Hamid versus the State of Maharashtra”** bearing Criminal Appeal No. 1907 of 2011 decided on 20.09.2023. The relevant part thereof reads thus:-

“9. Thus, what remains is only a presumption under section 106 of the Indian Evidence Act, 1872 (for short "the Evidence Act"). The law on this aspect is very clear. The prosecution can invoke Section 106 of the Evidence Act when it succeeds in establishing the facts from which a reasonable inference can be drawn regarding the existence of certain other facts which are within the special knowledge of the accused. In a case based on circumstantial evidence, if the chain of circumstances which is required to be established by the prosecution is not established, the failure of the accused to discharge the burden under Section 106 of the Evidence Act is not relevant at all. When the chain is not complete, the falsity of his defence is no ground to hold the accused guilty.”

119. The circumstances as aforesaid, we find that except for the circumstantial evidence of recovery of the body from the house of the

deceased, there is no other conclusive evidence as would point out or prove the commission of offence by the appellant-accused Gurpreet @ Gopi. The said stand alone circumstance, however, proves nothing more than just the said fact.

120. The Hon'ble Supreme Court in Criminal Appeal No **1715 OF 2017** titled as "***Sangappa V/s The State of Karnataka***" vide order dated **27.02.2025** , while acquitting the appellant/accused therein of the offence under section 302 of the IPC, held as follows :

*"16. Considering all these factors in totality, it is our considered opinion that the prosecution has fallen short of demonstrating an unbroken chain of circumstances leading to the singular conclusion of the appellant's guilt. The essential requirement that every circumstance must be clearly established and must exclude every hypothesis other than guilt is simply not met. This higher threshold of proof required in cases of circumstantial evidence has been consistently upheld by this Court in a catena of decisions. A succinct reiteration of this principle is found in **Indrajit Das v. State of Tripura** , wherein it has been observed as under:*

"10. The present one is a case of circumstantial evidence as no one has seen the commission of crime. The law in the case of circumstantial evidence is well settled. The leading case being Sharad Birdhichand Sarda v. State of Maharashtra². According to it, the circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused;

the circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and they should be incapable of explanation on any hypothesis other than that of the guilt of the accused and inconsistent with his innocence. The said principle set out in the case of Sharad Birdhichand Sarda (supra) has been consistently followed by this Court. In a recent case - Sailendra Rajdev Pasvan v. State of Gujarat³, this Court observed that in a case of circumstantial evidence, law postulates two-fold requirements. Firstly, that every link in the chain of circumstances necessary to establish the guilt of the accused must be established by the prosecution beyond reasonable doubt and secondly, all the circumstances must be consistent pointing out only towards the guilt of the accused. We need not burden this judgment by referring to other judgments as the above principles have been consistently followed and approved by this Court time and again.”

17. In a criminal trial resting on circumstantial evidence, any reasonable doubt as to the completeness or consistency of the chain must result in an acquittal. The instant factual matrix clearly discloses uncertainties about the precise sequence of events and lacks indispensable proof regarding the appellant's direct commission of the offence. The potential for an alternative hypothesis, that someone else might have perpetrated the crime or that the actual manner of death was not as alleged, cannot be conclusively ruled out on

the basis of the present record. Hence, the prosecution evidence does not fulfil the standard of proof beyond reasonable doubt. The fatal gaps in the last-seen account, the absence of reliable corroboration for alleged recoveries, and the inconsistent testimonies collectively warrant the benefit of doubt in favour of the appellant. Such benefit arises not out of mere technicalities, but from the fundamental principle that an accused cannot be convicted when the circumstances are as consistent with innocence as with guilt, or, at least, do not rule out other plausible scenarios.

121. It seems that the Investigating Agency found an easy prey in the appellant-accused Gurpreet @ Gopi who is an orphan and has no other member of the family and with no stable means of sustenance to douse the unrest and commotion which may have arisen as a result of a perceived rape and murder of a minor girl child. The accused with no members of family to pursue his defence and with minimal means of defending himself thus have little shot.

122. In the circumstances as aforesaid we are of the opinion that let alone it be a case where capital punishment ought to be awarded to the appellant-accused Gurpreet @ Gopi, it is a case where benefit of doubt needs to be extended to the respondent-accused.

123. Accordingly, MRC-7-2024 filed by the State of Punjab is dismissed and CRA-D-1635-2025 preferred by the appellant-Gurpreet @ Gopi is allowed. The judgement of conviction dated 23.09.2024 and order

of sentence dated 26.09.2024 awarding capital punishment to the
appellant-Gurpreet @ Gopi is set aside.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 07, 2026.
Vishal Sharma

(SUKHVINDER KAUR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No