



2025 INSC 1269

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 2069 OF 2024

MOHAMED SAMEER KHAN

... APPELLANT(S)

VERSUS

**STATE REPRESENTED BY
INSPECTOR OF POLICE**

...RESPONDENT(S)

J U D G M E N T

AUGUSTINE GEORGE MASI, J.

1. The present appeal challenges the judgment passed by the High Court of Judicature at Madras (hereinafter, “High Court”) dated 28.10.2021, whereby the appeal preferred by Mohamed Sameer Khan (hereinafter, “Appellant”) against the order of conviction and sentence under Sections 302, 449,

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Reason:

376 and 394 of the Indian Penal Code, 1860 (hereinafter, "IPC") passed by the Second Additional Sessions Judge, Special Court for Bomb Blast Case, Coimbatore dated 17.11.2017, had been upheld and the appeal dismissed.

2. Learned Senior Counsel for the Appellant has asserted that the case of the prosecution is based upon circumstantial evidence. There is no direct evidence specifically connecting the appellant with the offence for which he had been accused. Her further submission is that the Appellant is falsely implicated. The prosecution has failed to establish the guilt of the Appellant beyond reasonable doubt and has also not probed in the right direction to find out the truth. No scientific evidence has been led connecting the Appellant with the crime, and some important and relevant persons who would have shed light on the incident have neither been associated in

the investigation nor produced in the court. On these basic assertions, with reference to the facts of the present case, the challenge is sought to be pressed to the judgments of the courts below by the learned Senior Counsel for the Appellant.

3. On the other hand, learned Senior Counsel for the Respondent-State has submitted that there are concurrent findings returned by the courts below holding the Appellant guilty of the offences for which he was charged and punishment has been handed out in accordance with law. It has further been submitted that the prosecution has been able to prove the case on the basis of circumstantial evidence leaving no unbroken link in string of events which pinned down the Appellant to be the person who had committed the offences. Recovery has been effected from the Appellant of the two (2) gold bangles worn by the deceased which he had taken after murdering

her. The said recovery has been proved on the basis of the statement of Raghavan (PW-8) to the effect that the Appellant produced the said bangles from his pocket, which were seized and the mahazar report was prepared. Reference has also been made to the statement of Senthil Kumar (PW-5) to assert that the Appellant was seen coming out of the compound where the deceased was residing. On this basis, he submits that judgments passed by the courts below being based on proper appreciation and assessment of the facts in accordance with law, do not call for any interference and therefore, the present appeal deserves to be dismissed.

- 4.** Briefly, the facts in the present case which can be summarized is that an 85-year-old lady, who lived alone in a house opposite to the house of her daughter Deivanai, Complainant (PW-1) who lives in the same area, was found dead. On 19.12.2016 at

5:30 a.m. in the morning, when the son of the complainant Karunakaran (PW-2) went to the house where his grandmother resided, he saw the door open and the deceased lying on the ground. He panicked and called his mother/Complainant (PW-1) and they found the deceased strangled with a towel around her neck with two gold bangles missing from her hands. At about 06:30 a.m. on the same day, a complaint was lodged and First Information Report (FIR) in Crime No.1119/2016 was registered by Sub Inspector of Police Padmavathi (PW-15) at Police Station Rathinapuri, Coimbatore. The investigation was taken over by Inspector of Police Gopi (PW-16), who visited the place of occurrence at about 07:15 a.m. Along with him, he associated a fingerprint expert, a sniffer dog and a photographer. He prepared the mahazar (Ex. P.2) and specifically collected samples of blood-stained cement mortar and blood-

stained green colour in-skirt. The statements of witnesses were recorded and inquest report of the deceased was prepared.

5. During the course of investigation, statements of the people from around the place of occurrence were recorded.
6. Statement of Deivanai, Complainant (PW-1) brings out the factual position that her mother, the deceased, was residing in the house situated in Door No. 369 owned by her other daughter living abroad. The Complainant's house was Door No. 362 which was situated in the same vicinity but on the other side of the road. Every night after serving the deceased with her dinner, she and her son Karunakaran (PW-2) would lock the door from the outside and the next morning the same would be unlocked in order to enable her mother to come out

of the house. On 18.12.2016 at about 09:00 p.m., she and her son had gone to the house where the deceased was residing and served her dinner and thereafter locked the door from outside as usual and returned to their house. On 19.12.2016, her son Karunakaran (PW-2) at about 05:30 a.m. went there to open the door. He found the door already open and his grandmother, lying on the floor with injuries. He got scared and called his mother, the Complainant (PW-1), who came there. She went in and saw her mother lying dead with two gold bangles missing from her hands. Similar was the statement of Karunakaran (PW-2), her son.

- 7.** As per the post-mortem report dated 19.12.2016 at 2:00 p.m., it came to light that the cause of death was asphyxiation, as she had been killed due to compression on the neck by a towel. Prior thereto, she had been put to sexual assault, as per the

opinion of the doctor – Dr. Jaisingh (PW-14). The viscera report as well as the vaginal and uterus sample analysis were received, which did not really reflect much as no semen was found.

8. The evidence which was further collected indicated that Senthil Kumar (PW-5) on the night of the incident on his way to his house in the neighbourhood while coming back from Erode, saw the Appellant coming out of the compound where the deceased was residing. He questioned him, to which he responded in Hindi and pointed to the neighbouring house indicating his place of residence. Senthil Kumar did not know Hindi and, thus, was unable to understand as to what the Appellant was saying but was aware of the fact that Hindi speaking people were residing nearby. He did not question him further.

9. Thulasi (PW-3) was a neighbour of the Complainant. She informed that on the night of the occurrence, she heard the deceased murmur 'viruta, viruta' meaning 'leave me, leave me' between 02:30 a.m. to 03:00 a.m. Since the deceased was suffering from senility and would often murmur in her sleep, she overlooked it.
10. It came to light in the statement of Akash Saxena (PW-6) that he was residing on rent along with Akhum and James in the compound near the place of occurrence. At the request of the two ladies residing next door on 16.12.2016, he permitted the Appellant to stay in his room for some days. He was told by the ladies that the Appellant was from Manipur, known to them and had come in search of work. Akash Saxena hosted his birthday party on 18.12.2016 in which he had invited his friends Alilie, Vimeshite, Nisamo, Akhum, James, Rivas, Manivel, Marcus. Appellant was also present. The said party

continued till late night and Rivas, Nisamo, Akhum, James, Vikas and Manivel left at 12:00 a.m. in the night.

10.1 At about 02:00 a.m., the Appellant and Marcus went out to smoke and stated that they will be returning soon. After about an hour, Appellant returned and hurriedly took out an object from his pocket and kept it in his bag. He looked perturbed and told that he is going to his friend's place as he had got a job.

11. In the light of the sudden moving out of the Appellant from Akash Saxena's house and that too at 03:00 a.m., he became the prime suspect as per the prosecution. The State Police was thus, on the lookout for him. On 22.12.2016 at about 04:00 a.m., an informant identified the accused near the over-bridge of North Coimbatore. Seeing the police party, Appellant jumped from the over-bridge and hurt

himself. The police party took him in custody and as he was injured, he was taken to the Government Hospital, Coimbatore at about 04:50 a.m. At about 06:00 a.m., witness Raghavan (PW-8) who knew both Tamil and Hindi was requested by the police to help communicate with the Appellant as he did not know Tamil and knew only Hindi and Manipuri language. During enquiry at the hospital, the Appellant gave voluntary confession and produced the gold bangles from his pocket taken by him from the deceased in the presence of Raghavan. The bangles were seized and the mahazar report prepared in front of him.

- 12.** The Magistrate was requested to come, who visited the hospital at about 11:47 a.m., took help of one Mr. Prasath, who knew Hindi and enquired about the injuries of the accused. He informed that he had fallen down. The Magistrate, thereafter, proceeded to remand the Appellant to judicial custody.

- 13.** After the completion of the investigation, chargesheet was filed under Sections 449 read with 457, 376, 302 and 394 IPC. On 17.03.2017, the Magistrate took cognizance of the same and committed the case, which was assigned for trial to the Additional Sessions Judge.
- 14.** After the charges were framed and the Appellant pleaded not guilty and claimed trial, sixteen (16) prosecution witnesses were examined to bring forth the charges against the accused.
- 15.** On completion of the evidence of the prosecution, the statement of the Appellant under Section 313 Cr.P.C. was recorded, wherein he denied the questions put to him. A glaring issue which needs to be pointed out here is that Appellant categorically stated that he was picked up from Punjab Restaurant by the police. He further stated that he received injuries on the left leg

because of torture at the hands of police. He denied being taken into custody from the over-bridge of North Coimbatore or that he had jumped from there and injured his leg.

16. The trial court proceeded to hold the Appellant guilty under Sections 302, 449, 376 and 394 IPC vide judgment dated 17.11.2017 and sentenced him to life imprisonment under Section 302 IPC and 10 years rigorous imprisonment under Sections 449, 376 and 394 IPC, which has been upheld by the High Court vide judgment dated 28.10.2021, and is under challenge herein.

17. On perusal of the above evidence, what is apparent is that there is no eyewitness to the alleged incident. This case, thus, is of circumstantial evidence. The parameters laid down by the judgements of this Court and the principles laid therein need to be

considered. The said principles have been culled out in the judgment of this Court in ***Karakkattu Muhammed Basheer v. State of Kerala***¹, paragraphs 13 to 15 therein read as follows:

“13. Before proceeding further, it would be appropriate to mention the principles as have been enunciated and settled by this Court, which would determine the parameters within which the case of the prosecution, if based on circumstantial evidence, is to be tested with regard to the establishment of the offence stated to be committed by the appellant.

14. This Court in *Ramreddy Rajesh Khanna Reddy v. State of A.P.* [(2006) 10 SCC 172 : (2006) 3 SCC (Cri) 512] while referring to the various earlier judgments which have been passed by this Court from time to time, summarised key principles which act as a guide for the courts to come to a conclusion with regard to the guilt of an accused in cases which are solely dependent on the circumstantial evidence. The same have been referred to as the ‘*panchsheel principles*’ and are discussed in paras 26 to 28 of the said judgment, which read as follows : (SCC p. 181)

‘26. It is now well settled that with a view to base a conviction on circumstantial evidence, the prosecution must establish all the pieces of incriminating circumstances by reliable and clinching evidence and the circumstances so proved must form such a chain of events as would permit no conclusion other than one of guilt of the accused. The circumstances cannot be on any other hypothesis. It is also well settled that suspicion, however grave it may be, cannot

¹ (2024) 10 SCC 813

be a substitute for a proof and the courts shall take utmost precaution in finding an accused guilty only on the basis of the circumstantial evidence. (See *Anil Kumar Singh v. State of Bihar* [(2003) 9 SCC 67 : 2004 SCC (Cri) 1167] and *Reddy Sampath Kumar v. State of A.P.* [(2005) 7 SCC 603 : 2005 SCC (Cri) 1710])

27. The last seen theory, furthermore, comes into play where the time-gap between the point of time when the accused and the deceased were last seen alive and the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. Even in such a case the courts should look for some corroboration.

28. In *State of U.P. v. Satish* [(2005) 3 SCC 114 : 2005 SCC (Cri) 642] this Court observed : (SCC p. 123, para 22)

‘22. The last seen theory comes into play where the time-gap between the point of time when the accused and the deceased were last seen alive and when the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. It would be difficult in some cases to positively establish that the deceased was last seen with the accused when there is a long gap and possibility of other persons coming in between exists. In the absence of any other positive evidence to conclude that the accused and the deceased were last seen together, it would be hazardous to come to a conclusion of guilt in those cases. In this case there is positive evidence that the deceased and the accused were seen together by witnesses PWs 3 and 5, in addition to the evidence of PW 2.’

(See also *Bodhraj v. State of J&K* [(2002) 8 SCC 45 : 2003 SCC (Cri) 201] .)’

15. Thereafter, the above principles have been reiterated in the subsequent judgments of this Court and hold the field till date.

17.1 Based on the above, the principles which need to be followed in cases of circumstantial evidence were carved out in paras 16 to 18 of the above judgement, which read as follows:

16. Thus, these basic established principles can be summarised in the following terms that the chain of events needs to be so established that the court has no option but to come to one and only one conclusion i.e. the guilt of the accused person. If an iota of doubt creeps in at any stage in the sequence of events, the benefit thereof should flow to the accused. Mere suspicion alone, irrespective of the fact that it is very strong, cannot be a substitute for a proof. The chain of circumstances must be so complete that they lead to only one conclusion, that is, the guilt of the accused.

17. Even in the case of a conviction where in an appeal the chain of evidence is found to be not complete or the courts could reach to any another hypothesis other than the guilt of the accused, the accused person must be given the benefit of doubt which obviously would lead to his acquittal. Meaning thereby, when there is a missing link, a finding of guilt cannot be recorded.

18. In other words, the onus on the prosecution is to produce such evidence which conclusively establishes the truth and the only truth with regard to guilt of an accused for the charges framed against him or her, and such evidence should establish a chain of events so complete as to not leave any reasonable ground for the conclusion consistent with the innocence of accused.”

- 18.** While considering the evidence as has been led by the prosecution, these principles need to be taken into consideration to analyse whether the prosecution has been able to prove the guilt of the accused beyond reasonable doubt.
- 19.** From the evidence before us, i.e the mahazar (Ex. P.2) as prepared by the investigating officer (PW-16), it is established that the deceased was staying in Door no.369 and the house of the Complainant (PW-1) was across the road i.e., Door no.362. The houses, therefore, are near but not contiguous. According to the post-mortem report dated 19.12.2016, the time between the death and the post-mortem is between 12 to 24 hours prior to autopsy. As the autopsy was done at 02:05 p.m., so the death of the deceased would be anywhere between 02:00 p.m. on 18.12.2016 to 02:00 a.m. on 19.12.2016. As per the evidence of Complainant (PW-1) and her son (PW-2),

they had given food to the deceased at 09:00 p.m. on 18.12.2016 and after she took her food, they left by closing the outer door. At 5:30 a.m. on 19.12.2016, she was found dead when PW-2, his grandson, came to open the door. So, the death would have taken place between 09:00 p.m. and 02:00 a.m.

- 20.** The evidence of Akash Saxena (PW-6) would indicate that the Appellant alongwith Marcus had gone out of the house to smoke at 02:00 a.m. So, the possibility of the Appellant being there at the relevant time cannot be ruled out, as the period within which the death would have occurred as has been given by the doctor in the post-mortem report is not far from what has been said could be the time of death. According to the testimony of Senthil Kumar (PW-5), the Appellant was found going out of the compound where the house was situated at around 02:45 a.m. What is significant to note is that it was not said that

he was going out of the house of the deceased, but that he was seen going out of the compound. Further, Senthil Kumar's testimony does not indicate that the Appellant looked nervous or shaky, in contrast to the testimony of Akash Saxena (PW-6), who stated so. In light of the fact that it has not come on record that the Appellant was in any manner involved in any other offence anywhere, his calm and composed response to the question put to him by Senthil Kumar, a stranger, without getting perturbed and that too right after having committed a gruesome crime appears to be unnatural.

- 21.** In this light, an aspect, which marks itself as a contradiction and may cast doubt on the efficiency, sincerity and fairness of the investigation is the non-recording of the statement of Marcus, who is the person, who had been with the Appellant and had last seen him. Both of them came out of the house

to smoke after the party was over at 2:00 a.m. His statement was not recorded nor was he associated with the inquiry or the investigation. Strangely, explanation of the prosecution in this regard is that he was not a material witness. This creates a doubt as he could be a suspect and in any case the person who would have indicated as to how long he and the Appellant were together, throwing some light as to whether the Appellant had the opportunity or time to go to the site of incident and/or commit such an offence. This doubt is further fortified from the fact that Marcus was a friend of Akash Saxena (PW-6) and could have been visiting the place and so would have known the area well. The possibility of he knowing about the vicinity, and the residents of the area and their social status etc. along with other aspects, cannot be ruled out. Whereas, the Appellant had come to the house of Akash Saxena only on

16.12.2016 which is just two (2) days prior to the date of occurrence. The benefit of doubt with regard to this has to be given to the accused.

22. Another aspect which needs to be highlighted herein is that the statement of the Investigating Officer Gopi (PW-16) mentions that at 4:00 a.m. on 22.12.2016 when the police party was on patrol, the Appellant, who was identified by the informant, saw them and jumped from the over-bridge of North Coimbatore, injuring his left leg leading to he being taken to hospital and then there his arrest. Nothing has come on record, either in the form of any document or in the statement of any of the witnesses including the investigating officer with regard to the identity of the informant. The said informant's statement has also not been recorded by the investigating officer nor has he been produced as a witness. Moreover, the evidence does not indicate that a sketch of the

suspect was prepared or any photograph was seized which could be taken as a reference for trying to search for the said suspect. The Complainant (PW-1) and her son (PW-2) did not know the Appellant nor have they met him ever so the question of them identifying the Appellant does not arise. As a matter of fact, no Test Identification Parade had been carried out of the Appellant after his arrest.

- 23.** In this light, the prosecution story regarding the Appellant being found at the over-bridge of North Coimbatore and arrested in the hospital becomes doubtful. Rather, the stand of the Appellant with regard to he having been taken into custody earlier and tortured could be a possibility. The Appellant could have been in the custody of police much prior to being taken to the hospital, where according to the prosecution, Raghavan (PW-8) was stopped outside the hospital while he was going on a two-wheeler and

was asked to help the investigating officer (PW-16) in communicating with the Appellant as he knew Hindi. It is the case of the prosecution that pursuant to this, the Appellant confessed to the crime and produced the two gold bangles from his pocket at the hospital. It appears to be unreasonable that the Appellant would be carrying the bangles with him at these odd hours i.e. 4:00 a.m., and that too, two days after the incident. Therefore, planting of the gold bangles upon the Appellant cannot be ruled out, casting serious doubt upon the alleged recovery.

- 24.** The unfortunate incident had taken place where an old lady of 85 years was not only robbed but was raped and murdered brutally, but the question would be as to whether the Appellant is the person who has committed the offence. The medical evidence would only point to the offence having been committed but unfortunately prosecution has not been able to

connect the Appellant to the offence on the basis of medical evidence except to the extent that the Appellant was found to be potent and thus capable of committing the said offence. But that would not suffice nor would it connect or associate him to the offence. No hair or skin sample has been collected from the site which would connect the Appellant in any manner with the place of the incident or the offence. Merely because the medical evidence proves the unfortunate loss of life would not be enough to convict a person since he happened to be in the vicinity. In the absence of any forensic evidence when there is no eyewitness and the case is of circumstantial evidence, benefit would go to the accused.

- 25.** As it is apparent from the statement of the investigating officer (PW-16), a sniffer dog, a fingerprint expert and a photographer had visited the

place of occurrence with him and that too in quick succession, rather simultaneously on the visit of the investigating officer at 07:30 a.m. on 19.12.2016. Nothing has come on record which would indicate any fingerprint of the Appellant having been found at the place of occurrence. The sniffer dog has also not been able to guide them to the house where the Appellant was residing. It may not be out of the way to mention here that the place where the Appellant was staying with Akash Saxena (PW-6) was not far off from the place of incident and that is one of the reasons which has been taken by the prosecution as a possible factor for the commission of the offence by the Appellant.

- 26.** The prosecution evidence raises doubts regarding the involvement of the accused. In the judgement of this

Court in ***Kali Ram v. State of Himachal Pradesh***², it has been held that in cases wherein the guilt of the accused is sought to be established by circumstantial evidence, if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.

27. In the present case, the prosecution has failed to connect the Appellant to the offence through medical or forensic evidence as no blood, hair or skin sample, or fingerprint belonging to him has been found on the body of the deceased, the recovered articles, or at the place of occurrence.

28. The testimony of Senthil Kumar (PW-5) has also failed to link the Appellant to the place of occurrence as it

² (1973) 2 SCC 808

has only established his proximity to the place, with him merely been seen coming out of the compound, and not specifically out of the house of the deceased.

- 29.** Further, the factum of finding the Appellant on the over-bridge of North Coimbatore at 4 am on 22.12.2016 is doubtful due to the undisclosed identity of the informant, creating uncertainty as to how the police identified the Appellant when none of the police officials had any occasion to see him. Consequently, doubt is also cast upon the cause of the injury on his left leg, with the Appellant denying the incident at the bridge and claiming that he was tortured in police custody. In this light, the subsequent recovery of the two gold bangles from the pocket of the Appellant also becomes doubtful.
- 30.** Another aspect which casts a serious doubt upon the investigation is the non-association and non-

examination of Marcus, who had accompanied the Appellant for a smoke at 2:00 a.m. from the house of Akash Saxena and therefore, was the only person with whom the Appellant had last gone out of the house. The Appellant returned alone to the house and therefore left from there. It is rather strange for the prosecution to claim that Marcus was not a material witness, when it is the case of the prosecution that the offence had been committed between 2:00 a.m. and 3:00 a.m.; this creates a strong possibility of false implication.

- 31.** All the above aspects when seen in the context of the case being dealt with by us, a case of circumstantial evidence, it would be difficult to bring it within the parameters set out in various judgments of this Court as mentioned in ***Karakkattu Muhammed Basheer case (supra)***.

- 32.** The prosecution has failed to bring forth reliable evidence forming a complete string of events, leading to the guilt of the Appellant. The chain of events being sought to be projected is laden with deficiencies creating significant gaps, leading to other possible hypotheses as aforementioned. Due to such missing links, a finding of guilt cannot be recorded. The benefit of the doubt with regard to this must flow to the accused. In this light, the guilt of the accused has not been proved beyond reasonable doubt and the impugned judgments are, thus, liable to be set aside.
- 33.** The present appeal is allowed. The impugned judgment passed by the High Court of Judicature at Madras dated 28.10.2021 and the judgment dated 17.11.2017 passed by the Second Additional Sessions Judge, Special Court for Bomb Blast Case, Coimbatore, convicting and sentencing the Appellant under Sections 302, 449, 376 and 394 of the Indian

Penal Code are thereby set aside. The Appellant Mohamed Sameer Khan is acquitted of the charges and is ordered to be released forthwith from Central Prison Kovai, Coimbatore, Tamil Nadu, if not required in any other case.

34. Pending application(s), if any, shall stand disposed of.

.....J.
[DIPANKAR DATTA]

.....J.
[AUGUSTINE GEORGE MASIH]

**NEW DELHI;
OCTOBER 29, 2025.**