2025 INSC 800

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1643 OF 2012

VAIBHAV …APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA …RESPONDENT(S)

J U D G M E N T

SATISH CHANDRA SHARMA, J.

1. This is a tale of two friends, Vaibhav and Mangesh, who were studying at Bagla Homeopathy Medical College, Arvat Chandrapur, Maharashtra. They were students of first year and often used to commute together on their two-wheelers. On the fateful day of 16.09.2010, both friends left the college together on the scooter belonging to Mangesh, had tea at the tea stall of PW-3 and arrived at Vaibhav's house in the afternoon. When Mangesh's father/PW-1 discovered late in the evening that his

son had not reached home, he tried to find out and eventually lodged a missing report. The next day, on 17.09.2010, the dead body of Mangesh was found and accordingly, the present criminal case came to be registered against unknown persons.

2. Investigation commenced and a supplementary statement of PW-1 was recorded wherein he raised suspicion against Vaibhav, Mangesh's friend, classmate, scooter partner and appellant before us in the present appeal. Upon investigation, the police prepared the chargesheet wherein the appellant was alleged to have caused death of deceased Mangesh by shooting him by the gun belonging to the appellant's father/PW-12.

3. Upon trial, the Trial Court found that the appellant had killed Mangesh using the service gun belonging to his father when he came to drop him after college. Thereafter, the appellant called his friends Vishal and Akash (juvenile at the time of incident) for helping him in the disposal of the dead body. The appellant was found guilty for the commission of the offences under Sections 302, 201 read with Section 34 of Indian Penal Code, 1860 (hereinafter referred as "IPC" for brevity) and Section 5 read with 25(1)(a) of Arms Act, 1959. His friend Vishal was also found guilty for the commission of the offence under Section 201 read with Section 34 of IPC. Both the convicts had preferred separate appeals before the Bombay High Court and both the appeals came to be disposed of by the impugned

judgment, wherein the conviction of the appellant was upheld and Vishal was acquitted for want of evidence. The present appeal assails the said impugned judgment dated 13.06.2012 passed in Criminal Appeal No. 57/2012.

IMPUGNED JUDGMENT

4. While upholding the conviction of the appellant, the High Court appreciated the testimonies of the prosecution witnesses and acknowledged that the case is based on circumstantial evidence as no direct evidence of the alleged act could be found. After examining the testimonies of the prosecution witnesses, the High Court observed that the material against the accused could be summed up as follows:

> *"17. The material evidence adduced by the prosecution an admitted by the defence which are necessary for the decision of this appeal are enumerated thus:-*
>
> *(a) PW12 Khushal Tijare, father of the deceased, is a Police Officer to whom the 9mm pistol was entrusted along with 30 rounds.*
>
> *(b) The accused and the deceased were known to each other.*
>
> *(c) On 16.9.2010, PW12 Khushalrao had kept the pistol under the mattress in his bedroom.*
>
> *(d) A1 and the deceased had been to the house of A1. On 16.9.2010 after 3 p.m. nobody was at home.*

(e) A1 called upon his father telephonically and demanded the keys of the rear door which leads to the abandoned quarter.

(f) PW12 informed A1 that the keys were behind the wall.

(g) On 16.9.2010, the deceased was lastly seen in the company of the accused as admitted by him.

(h) On 16.9.2010 after 8 p.m., PW1 was searching for his son and in the course of searching visited the house of A1 to inquire about Mangesh and that A1 informed PW1 that he had lastly seen Mangesh at 4 p.m.

(i) A1 visited the house of PW1 at 10 p.m. on 16.9.2010 and inquired about Mangesh. He returned home. His parents were at home. However, he did not disclose anything.

(j) On 17.9.2010, A1 visited the house of PW1 i.e. father of Mangesh at 9 a.m. Thereafter he revisited the house of PW1 with four friends and assured PW1 that they would search for Mangesh and made PW1 believe that Mangesh was alive.

(k) After the dead body was noticed in the courtyard behind the residential house of A1 and was being removed from the spot, A1 accompanied the Police still pretending ignorance about cause of death of Mangesh.

(l) The admission of A1 that his acquaintance with the deceased was just one month prior to the incident.

(m) The admission of A1 as a defence witness that when he went to change his clothes in his room, Mangesh was sitting on the bed in the living room, A1 heard the noise of firearm and came in the living

room and found Mangesh lying on the ground with the pistol in his hand and that pistol was of his father.

(n) The admission of defence witness A1 that as soon as he saw Mangesh lying on the ground with the pistol, his first reaction was that he took the pistol and kept under the mattress of the bed i.e. the place where it was left by his father. Yet he has stated that he had no knowledge as to where his father had left the pistol. This contention cannot be believed.

(o) The admission of A1 that out of fear he removed the dead body from the living room and took it to the courtyard on the rear side of his house, that he cleaned the floor due to fear.

(p) The admission of A1 that when he had gone to change his clothes, Mangesh had not left the living room. Therefore, Mangesh had no access to the bed room and location of the pistol from beneath the mattress within a span of few minutes.

(q) The fact that although there was memorandum of recovery of clothes and it was not followed by a seizure, coupled with the statement of A1 that he had given it to the Police but they said that it was not required. The act of the accused disposing the cartridge at a particular place, showing the place to the Police, attempting to search the bullet at that place and yet not finding it.

(r) The explanation of PW12 below Exh.83 which is denied in the cross-examination of PW12.

(s) The sanction order issued by the District Magistrate for prosecuting the accused showing that the weapon of assault was used in the offence."

5. The High Court laid great emphasis on the fact that after the death of Mangesh, the appellant had tried to stifle the investigation by removing evidence. It observed thus:

> *"20. The fact that the accused attempted to stifle the investigation is relevant under Section 8 of the Indian Evidence Act. The fact of fear as deposed by A1, accepted by the accused is relevant."*

6. On a careful perusal of the impugned judgment, it could be seen that the High Court has heavily relied upon Section 8 of the Indian Evidence Act, 1872 (*hereinafter referred as "Evidence Act"*) to draw inferences from the subsequent conduct of the appellant, especially removal of the dead body, concealment of clothes, visits by the accused to the residence of PW-1 pretending to enquire about the deceased etc. As regards the causal link between the appellant and the alleged act, the High Court observed that the link was established as the 9 mm pistol belonging to the father of the appellant had caused the death of the appellant. The following para is indicative of the same:

> *"23. ...In the present case, the accused has himself admitted the weapon to be the service pistol of his father and that it was in the hand of deceased when he first saw him. The prosecution has led cogent and convincing evidence to prove that Mangesh had sustained the bullet injury with the same 9mm pistol. There is no ambiguity of the identity or description of weapon. The link evidence between the crime and the accused is established beyond*

> *reasonable doubt and by the admission of the accused himself and his father."*

7. The appellant had taken two primary defenses before the High Court – impossibility of homicidal death in light of the trajectory of the bullet and report of PW-9 which pointed towards accidental death. Both the contentions were turned down in the impugned judgment assigning different reasons. While rejecting the former contention, the High Court again adverted to the subsequent conduct of the appellant and observed thus:

> *"22. The learned counsel for the accused also pleaded that it appears from the evidence that the bullet was fired from a close range of 15cm would show that it is accidental. He has argued that there was no blackening around the eye. The direction in which the bullet had travelled through the eye to the occipital region would show that it is a case of accidental firing. The counsel has further argued that falsity of defence or giving a false explanation does not provide an additional link and cannot be made a ground for conviction. In the present case, it is not the falsity of defence which is being considered and, therefore, we have referred to Section 8 of the Indian Evidence Act. The accused had prepared a good ground and given false explanation or rather made up a new story at the threshold i.e. even prior to investigation, at the time of investigation and, therefore, his conduct indicates the act of guilty mind."*

8. On the second aspect, the High Court observed that it was not obligatory for PW-9 to have given her opinion regarding the cause of death, as the cause of death was well known and was "*admitted by the accused on oath*". The relevant part of the impugned judgment reads thus:

> *"28. The learned counsel has heavily relied upon the deposition of PW9 wherein it is stated that she cannot say as to whether the death is accidental or homicidal. We have already discussed that it is not obligatory on the part of the Doctor to give the cause of death when the cause is known and is established by the cogent and convincing evidence and moreover admitted by the accused on oath."*

THE CHALLENGE

9. Taking exception to the impugned judgment, Ld. Counsel on behalf of the appellant submits that the High Court did not examine the grounds taken by the appellant. It is submitted that as per the evidence of PW-9, the trajectory of the bullet was such that it had exited from the downward portion of the skull of the deceased and then hit the ventilator above the door. It is submitted that such a trajectory was only possible in case of a suicidal death and not homicidal. It is further submitted that the courts below have erred in not appreciating the testimony of PW-9, who had clearly deposed that she could not ascertain the

cause of death and could not tell with certainty whether the death was suicidal or homicidal.

10. Relying upon medical jurisprudence, it is further submitted that in cases of accidental injuries by fire arm, bullet is hit from a close distance. Further, in such cases, the injury is often singular. It is submitted that in the present case, both the elements of accidental death are present and the Courts below erred in not appreciating so.

11. As regards the conduct of the appellant after the incident, it is submitted that the appellant has categorically deposed that the death of Mangesh was caused by his father's pistol at his residence. He has also deposed that as he heard the gunshot, he came out and saw the dead body of Mangesh lying in pool of blood. He got scared of his father and tried to clean up the scene and in doing so, he removed the dead body of the deceased and cleaned the blood by using phenyl. It is further submitted that there was no motive for the appellant to have caused the death of Mangesh and the relationship between the appellant and the deceased was friendly. To buttress this submission, it is submitted that in a case based on circumstantial evidence, absence of motive is a crucial fact which renders the prosecution case doubtful.

12. It is further submitted that the Courts below had placed undue burden upon the appellant to offer explanation for certain

circumstances and his subsequent conduct. It is contended that it was for the prosecution to prove its case beyond reasonable doubt and mere inability of the appellant to explain certain aspects could not be read against him to arrive at a finding of guilt. Lastly, it is submitted that in a case based on circumstantial evidence, if two views are possible, the Court must lean in favour of the view favourable to the accused.

DISCUSSION

13. We have carefully considered the grounds of appeal, respective submissions advanced at Bar and have heard both sides at length. We may now consider the principal issue whether the finding of the High Court regarding the conviction of the appellant is sustainable in light of the evidence on record.

14. In the factual matrix of the present case, it could be observed at the outset that certain facts stand duly admitted. We may first consider such facts. The cause of death of the deceased is undisputed, as it is admitted that the deceased was shot by the service pistol belonging to PW-12, the father of the appellant. Although, the investigating officer did not obtain any ballistic report to ascertain the nexus between the bullet injury and the service pistol of PW-12, however, it could be seen from the record that the nexus has not been questioned by the defence. In fact, both the appellant and PW-12 have admitted that the bullet

was shot from the pistol of PW-12 which was lying in the house. Furthermore, PW-11 has also confirmed that when the service pistol was re-deposited by PW-12, one bullet was missing from the sanctioned number of bullets.

15. Going further, it is also admitted that the appellant had indeed removed the dead body of the deceased and had cleaned up the scene of crime. It is also a matter of record that the discoveries made under Section 27 of Evidence Act were not challenged by the appellant as the appellant had admitted that various articles belonging to himself and the deceased, and connected with the alleged incident, were discovered in furtherance of his disclosures. All these aspects, however, assume greater relevance for the offence under Section 201 IPC. Insofar as the offences under Section 302 IPC and Section 25 of Arms Act are concerned, the prosecution case leaves us wanting for answers. No doubt, the deceased was shot by the pistol belonging to the father of the appellant and in the house of the appellant, but the pertinent question that craves for an answer is – *who pulled the trigger?* Despite two rounds of litigation, the question is yet to find an answer.

16. In a case based on circumstantial evidence, answers to such questions are not found on the face of the record. Rather, the truth is found concealed in the layers of incriminating and exonerating facts, and the Court is required to arrive at a judicial

finding on the basis of the best possible inference which could be drawn from a comprehensive analysis of the chain of circumstances in a case. As per the record and the analysis carried out by the Courts below, the circumstances weighing against the accused could briefly be summarized as:

i. The presence of deceased at the house of the appellant prior to and at the time of incident;

ii. Admitted removal of dead body of the deceased by the appellant;

iii. Admitted removal, concealment and subsequent discovery of various articles as per the disclosure made by the appellant;

iv. Fatal gunshot by the pistol lying in the house of the appellant;

v. Subsequent conduct of the appellant in trying to show concern to the father of the deceased despite knowing about the death;

vi. Failure of the appellant to explain certain circumstances such as the manner in which the pistol fell in the hands of the deceased, how was it re-concealed etc.

17. Having observed the incriminating circumstances, we may now advert to the circumstances which leave missing links in the

chain of the prosecution. Such instances include the doubt expressed by PW-9 regarding the nature of death, trajectory of bullet, possibility of accidental injury etc. The case of the appellant is that a proper appreciation of the exonerating circumstances would make the version of the prosecution highly improbable and doubtful. We may now examine the same by first considering the version of PW-9. Notably, PW-9 has deposed regarding the trajectory of the bullet as it entered and exited the skull of the deceased. PW-9 had also annexed a diagram of the trajectory, which revealed that the bullet entered through the eye of the deceased and exited from the lower part of the skull from the back. It would have been possible to reconcile this trajectory with the version of homicidal death. However, questions arise when the journey of the bullet is analyzed after it exited from the lower part of the skull. For, after taking an exit from the lower skull, the bullet hit against a ventilator which was installed above the door of the living room. Admittedly, the ventilator was installed at a height significantly higher than the height of the deceased, thereby meaning that the bullet travelled upwards after it left the skull of the deceased. The version of the prosecution is simply that the appellant shot the deceased in the eye and there has been no effort to prove the directions of entry or exit or to explain the inward or outward journey of the bullet. The prosecution version remains acceptable only till the point of entry

of the bullet through the eye, but it starts becoming cloudy when the upward trajectory of the bullet is analyzed further, as discussed above.

18. In usual course of things, such trajectory of the bullet could have been possible only if the deceased was sitting and looking downwards towards the barrel of the pistol from a close distance. It was only then that the bullet could have hit the ventilator despite exiting from the lower part of the skull. In fact, this is precisely the defence of the appellant - that the deceased, on finding the service pistol of PW-12, got curious, picked it up, started looking into it with one eye from a close distance and accidentally pressed the trigger. The probability of the version put across by the appellant is on the higher side as compared to the version put across by the prosecution, which simply does not give any explanation for the trajectory of the bullet.

19. In gunshot cases wherein the nature of death – suicidal, accidental or homicidal – is not ascertainable from direct evidence, multiple factors are taken into account for arriving at a conclusion. Such factors include, but are not limited to, the point of entrance, the size of wound, direction of wound, position of wound, possible distance of gunshot, number of wounds, position of weapon, trajectory of bullet after entering into the human body, position of exit wound (if bullet has exited), direction of exit wound, direction of the bullet after exit, distance travelled by

the bullet after exit, nature of final impact on surface (if any) etc. All such factors, to the extent of their applicability to the facts of the case, need to be examined by the Court before arriving at a judicial finding of fact. Undoubtedly, no such analysis could be found in the impugned judgment. The High Court merely brushed aside the defence of the appellant by referring to the subsequent conduct of the appellant and by raising adverse inference on that basis.

20. Similarly, the inconclusive opinion of PW-9 regarding the death being homicidal or suicidal/accidental was also a relevant fact. No doubt, PW-9 was not bound to give a conclusive opinion as observed by the High Court, however, it ought to have been examined whether the failure to do so had a bearing on the judicial determination of the real cause of death. The nature of death ought to have been examined in light of the surrounding circumstances discussed above, which weigh against the possibility of a homicidal death. The appellant has also placed reliance on medical jurisprudence regarding the nature of injuries in accidental or suicidal gunshot cases. More often than not, in accidental gunshot cases, the injury is found to be singular and inflicted from a close range. The present case ticks the boxes of an accidental gunshot injury, both in theory and in fact. Contrarily, the aforesaid discussion indicates that the possibility of a homicidal death is very weak in the present case. It must also

be kept in mind that the imprints on the pistol have not been matched with the appellant and therefore, no direct nexus exists to conclude that the trigger was pulled by the appellant. On this aspect as well, we may note with dismay that the High Court rejected the defence of the appellant by simply observing that the homicidal death of the deceased was '*admitted'* by the appellant on oath. There is no such admission qua the nature of death. Contrarily, the appellant had deposed on oath that the death was 'accidental', a version that he has carried consistently up to this Court.

21. Having said so, we may now examine what weighed with the High Court to arrive at the finding of guilt of the appellant. On a careful reading of the impugned judgment, one would unmistakably note that the subsequent conduct of the appellant in indulging in destruction of evidence weighed heavily against him in the mind of the Court. The inability of the appellant to explain certain aspects also weighed against him. Undoubtedly, in a case based on circumstantial evidence, facts indicating subsequent conduct are relevant facts under Section 8 of the Evidence Act. Equally, the inconsistencies in the version of the appellant are also relevant. However, the occasion to examine the version/defence of the appellant could have arisen only if the prosecution had succeeded in discharging its primary burden beyond reasonable doubt. In criminal jurisprudence, it is a time-

tested proposition that the primary burden falls upon the shoulders of the prosecution and it is only if the prosecution succeeds in discharging its burden beyond reasonable doubt that the burden shifts upon the accused to explain the evidence against him or to present a defence. In the present case, the version of the prosecution suffers from inherent inconsistencies and doubts, as discussed above, and in such a scenario, the inability of the appellant to explain certain circumstances could not be made the basis to relieve the prosecution from discharging its primary burden. The High Court fell in a grave error in doing so, as it placed greater reliance on the loopholes in the appellant's version without first determining whether the chain of circumstances sought to be proved by the prosecution was complete or not. Pertinently, the inability of an accused to offer plausible explanation on certain aspects would not automatically absolve the prosecution of its evidentiary burden, which must be discharged first and beyond doubt.

22. In law, there is a significant difference in the evidentiary burden to be discharged by the prosecution and the accused. Whereas, the former is expected to discharge its burden beyond reasonable doubt, the latter is only required to prove a defence on the anvil of preponderance of probabilities. If the accused leads defence evidence in the course of a criminal trial, the same ought to be tested as probable or improbable in the facts and

circumstances of the case. The present case, we are afraid, reveals that the defence taken by the accused since the beginning of the case was not tested by the Trial Court and the High Court. Despite a specific defence taken by the appellant before both the Courts, the Courts simply did not examine the same in the manner required by law. The probability of the version put across by the appellant ought to have been tested against the circumstantial theory of the prosecution. In other words, it was incumbent upon the Courts below to have examined whether the defence taken by the appellant was a probable defence or not. The failure to do so has certainly resulted into a failure of justice and it is sufficient to reopen the evidence in the instant appeal, as we have done.

23. We may now come to the next aspect of the case i.e. absence of motive and consequence thereof. It is trite law that in a case based on circumstantial evidence, motive is relevant. However, it is not conclusive of the matter. There is no rule of law that the absence of motive would *ipso facto* dismember the chain of evidence and would lead to automatic acquittal of the accused. It is so because the weight of other evidence needs to be seen and if the remaining evidence is sufficient to prove guilt, motive may not hold relevance. But a complete absence of motive is certainly a circumstance which may weigh in favour of the accused. During appreciation of evidence wherein favourable

and unfavourable circumstances are sifted and weighed against each other, this circumstance ought to be incorporated as one leaning in favour of the accused. In ***Anwar Ali & Anr. v. State of Himachal Pradesh***[1], this Court analyzed the position of law thus:

> *"24. Now so far as the submission on behalf of the accused that in the present case the prosecution has failed to establish and prove the motive and therefore the accused deserves acquittal is concerned, it is true that the absence of proving the motive cannot be a ground to reject the prosection case. It is also true and as held by this Court Suresh Chandra Bahri v. State of Bihar*[2] *that if motive is proved that would supply a link in the chain of circumstantial evidence but the absence thereof cannot be a ground to reject the prosecution case. However, at the same time, as observed by this Court in Babu*[3]*, absence of motive in a case depending on circumstantial evidence is a factor that weighs in favour of the accused. In paras 25 and 26, it is observed and held as under:*
>
> > *"25. In State of U.P. v. Kishanpal*[4]*, this Court examined the importance of motive in cases of circumstantial evidence and observed : (SCC pp. 87-88, paras 38-39)*
> >
> > *'38. ... the motive is a thing which is primarily known to the accused themselves and it is not possible for the prosecution to explain what actually promoted or ex- cited them to commit the particular crime.*

[1] (2020) 10 SCC 166
[2] 1995 Supp (1) SCC 80
[3] Babu v. State of Kerala, (2010) 9 SCC 189
[4] (2008) 16 SCC 73

> *39. The motive may be considered as a circumstance which is relevant for assessing the evidence but if the evidence is clear and unambiguous and the circum- stances prove the guilt of the accused, the same is not weakened even if the motive is not a very strong one. It is also settled law that the motive loses all its importance in a case where direct evidence of eyewitnesses is available, because even if there may be a very strong motive for the accused persons to commit a particular crime, they cannot be convicted if the evidence of eye- witnesses is not convincing. In the same way, even if there may not be an apparent motive but if the evidence of the eyewitnesses is clear and reliable, the absence or inadequacy of motive cannot stand in the way of conviction.'*
>
> *26. This Court has also held that the absence of motive in a case depending on circumstantial evidence is a factor that weighs in favour of the accused. (Vide Pannayar v. State of T.N.*[5]*)"*

24. In the subsequent decision in ***Shivaji Chintappa Patil v. State of Maharashtra***[6]**,** this Court relied upon the decision in Anwar Ali and observed as under:-

> *"27. Though in a case of direct evidence, motive would not be relevant, in a case of circumstantial evidence, motive plays an important link to*

[5] (2009) 9 SCC 152
[6] (2021) 5 SCC 626

> *complete the chain of circumstances. The motive.....”*

More recently, in ***Nandu Singh v. State of Madhya Pradesh (now*** Chhattisgarh***)***[7], the position was reiterated by this Court in the following words:

> *“10. In a case based on substantial evidence, motive assumes great significance. It is not as if motive alone becomes the crucial link in the case to be established by the prosecution and in its absence the case of Prosecution must be discarded. But, at the same time, complete absence of motive assumes a different complexion and such absence definitely weighs in favour of the accused.”*

25. Thus, a complete absence of motive, although not conclusive, is a relevant factor which weighs in favour of the accused. No doubt, the final effect of such absence on the outcome of the case shall depend upon the quality and weight of surrounding evidence. In the present case, the testimonies of prosecution witnesses have invariably revealed that the appellant and the deceased were friends and there was no ill-will between them. Even the father of the deceased has testified to that effect. The relevance of motive in a case of homicide has been a subject of prolonged discussion. Ordinarily, in cases involving direct evidence of the commission of crime, motive has little role to

[7] Criminal Appeal No. 285 of 2022

play as presence or absence of motive is immaterial if the commission of the crime stands proved through other evidence. Even otherwise, motiveless crimes are not unknown to the society. However, in cases purely based on circumstantial evidence, the absence of motive could raise serious questions and might even render the chain of evidence as doubtful. It is so because the presence of motive does the job of explaining the circumstantial evidence. For instance, in the facts of the present case, any evidence of enmity between the appellant and the deceased would have made suspicious the act of the appellant of taking the deceased to his home prior to his death. However, since the evidence suggests that they were friends, the fact that the appellant brought him home could not be termed as *per-se* incriminating. Therefore, motive explains the circumstances on record and enables the Court to draw better inference in a case based on circumstantial evidence.

26. As regards the subsequent conduct of the appellant, before parting, we may also note that the same was consistent with the theory of accidental death. That his act of removal of the dead body and concealment of articles was a result of fear of his father - is quite natural. A young boy studying in first year of college, with no criminal background and with no motive in sight, would certainly have become scared on seeing that his friend has accidentally shot himself in the living room of his house with the

pistol belonging to his father and is lying in a pool of blood. The subsequent conduct of cleaning up the scene and restoring the living room in its original shape, although punishable in law, does not become so unnatural that it could be made the basis to convict him for the commission of murder without additional evidence to that effect. More so, when such conclusion is not consistent with the surrounding evidence on record, especially medical evidence, as discussed above.

27. No doubt, the subsequent acts of cleaning up the crime scene and making false enquiries amount to disappearance of evidence and raise grave suspicion against the appellant. However, mere suspicion, no matter how grave, cannot take the place of proof in a criminal trial. The suspicion ought to have been substantiated by undeniable, reliable, unequivocal, consistent and credible circumstantial evidence, which does not leave the probability of any other theory. In the present case, the theory put across by the appellant is fairly probable and is supported by medical evidence including the examination of the bullet injury and trajectory. Contrarily, the conclusion drawn by the Courts below is not supported by medical evidence and is not consistent with the bullet injury and trajectory, as discussed above. We have come far since our acknowledgement that in a case purely based on circumstantial evidence, it must be established that the chain of circumstances is complete. Such

chain must be consistent with the conclusion of guilt only and must not support a contrary finding. The rigid principles underlying an examination based on circumstantial evidence are based on the premise that the very act of arriving at a finding of guilt on the basis of inferences must be performed with great caution and margin of error must be kept at a minimum. Having said so, we may also observe that naturally, there could be some inconsistencies in the chain of circumstances in the natural course of things and mere presence of inconsistencies does not automatically demolish the case of the prosecution. However, the prosecution must be able to explain the inconsistencies to the satisfaction of the Court. For, the ultimate test is the judicial satisfaction of the Court. In the present case, the counter probabilities and inconsistencies in the chain of circumstances have not been explained.

28. Momentarily, even if it is believed that the view taken by the Courts below is a possible view, it ought to have been examined whether a reasonable counter view was possible in the case. It is a time-tested proposition of law that when a Court is faced with a situation wherein two different views appear to be reasonably possible, the matter is to be decided in favour of the accused. The benefit of a counter possibility goes to the accused in such cases.

29. In light of the foregoing discussion, we hereby conclude that the High Court has erred in arriving at the finding of guilt and in upholding the verdict of the Trial Court. The circumstantial evidence on record is not consistent and leaves a reasonable possibility of an alternate outcome i.e. of innocence of the appellant on the charges of murder and illegal usage of fire arm. Accordingly, the impugned order and judgment are partially set aside to the extent of conviction of the appellant for the offences punishable under Sections 302 IPC and Section 5 read with 25(1)(a) of Arms Act. Consequently, the appellant is acquitted for the offences under Section 302 of IPC and Section 5 read with 25(1)(a) of Arms Act. His conviction under Section 201 IPC is sustained and he is sentenced for the period already undergone by him, for reasons discussed above.

30. The captioned appeal stands disposed of in the aforesaid terms. Interim application(s), if any, shall also stand disposed of.

…….J.
[B.V. NAGARATHNA]

…….J.
[SATISH CHANDRA SHARMA]

NEW DELHI
June 04, 2025