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**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
J.K. MAHESHWARI; J., VIJAY BISHNOI; J.
CRIMINAL APPEAL NO. 5641 OF 2024; NOVEMBER 14, 2025
GOVIND *versus* STATE OF HARYANA**

Evidence Act, 1872; Section 27 - Circumstantial Evidence - Recovery of Weapon – Held, conviction cannot be solely based on the recovery of a pistol and an FSL Report when the alleged eye-witnesses turn hostile, the motive is unproved, and the recovery is made from a place accessible to other family members; the prosecution must prove the guilt beyond reasonable doubt on the basis of cogent material and evidence- For a recovery under Section 27 of the Evidence Act to be relevant, the information received from the accused must "relate distinctly to the fact thereby discovered" - The disclosure statement must make it clear that the recovered pistol was the one used in the commission of the offence - Mere recovery of a weapon, even with a supporting FSL report, is not sufficient to sustain a conviction for murder in the absence of other corroborative evidence connecting the accused to the crime - Appeal allowed. [Relied on *Manjunath & Ors. v. State of Karnataka* (2023) SCC OnLine SC 1421; Paras 15-25]

For Appellant(s) Mr. Gagan Gupta, Sr.Adv. Mr. Tanuj Agarwal, Adv. Mr. Apoorva Singhal, AOR Mr. R.Venkataraman, Adv. Mr. Alok Kumar, Adv. Mr. Ashfaq, Adv. Mr. Saurabh Gupta, Adv.

For Respondent(s) Mr. Akshay Amritanshu, AOR Ms. Drishti Rawal, Adv. Ms. Drishti Saraf, Adv. Mr. Mayur Goyal, Adv.

J U D G M E N T

J.K. MAHESHWARI, J.

1. This appeal is directed against the judgment of conviction of the appellant dated 08.11.2023¹ for the charges under Section 302 of the Indian Penal Code (in short, IPC) and for Section 25 of the Arms Act, 1959. The High Court¹ vide impugned judgment affirmed the Trial Court² judgment dated 29.08.2018³ and also the sentence as directed.

FACTS IN BRIEF

2. The prosecution's case, in brief, was that an incident took place on 12.06.2016 at 6 am in village M.P. Majra of committing murder of Promila (deceased). An FIR was registered at Police Station Beri, Jhajjar, Haryana by her brother Pradeep. The basis of registration of FIR was a vocal telephonic message received from the Control Room of alleged commission of murder by three boys who arrived in an Alto car bearing registration No. HR-13D-0163 and shot the deceased by means of pistol. Upon receiving the said information, Investigating Officer (IO) ASI Jagbir Singh along with Head Constable Parveen, Head Constable Sandeep and Constable Rajesh rushed to the place of occurrence. They found huge congregation on spot where Pradeep @ Pradeep Kumar s/o Om Parkash gave his statement that his deceased sister was married to one Jai Bhagwan who had killed his three children and for the said offence, he was convicted and sentenced. While undergoing jail sentence, he committed suicide in jail. Thereafter, deceased's mother-in-law Daya Kaur and brother-in-law (jeth) Ved Prakash did not allow

¹ In CRA-D-913-DB-2018 (O&M) passed by High Court of Punjab and Haryana at Chandigarh

² Additional Sessions Judge, Jhajjar

³ In Sessions Case No. 39/2016

her to step into the matrimonial home and threshed her out. It is said that possession of her house and land was forcefully taken by them, however, they were still having grudge against deceased. It was stated that the deceased succeeded in court case involving the said property and her in-laws were expected to deliver the possession of the house. Therefore, hatching a criminal conspiracy with the help of three young boys, deceased was shot by firearm and succumbed to the injuries. The complainant persuaded the police to register FIR against Daya Kaur, Ved Prakash and three unknown persons who came in the car. He also stated that out of these three unknown persons, he can identify two who came out of car and shot his deceased sister. As such FIR No. 206 of 2016 was registered against Daya Kaur, Ved Prakash and three unknown persons. After five days, on 17.06.2016, Pradeep (PW1) gave his supplementary statement and said that pursuant to his own investigation, he came to know that the murder of his sister has been committed by Sanoj @ Sonu s/o Ved Prakash, Amit (son of sister of co-accused Sanoj) and Govind (appellant herein) by using firearm, as such, they were implicated by name.

3. On 18.06.2016, the appellant and co-accused Amit were arrested, and as per their disclosure statements, a motorcycle bearing registration No. HR-12-AA-5040 was seized from Amit, while the recovery of country made pistol along with two live cartridges were made from the appellant, respectively. The other co-accused Sanoj @ Sonu was arrested on 04.07.2016 and on his disclosure statement, a car bearing registration No. HR-13D-0163 and pistol kept in the dashboard of the car were recovered. After the investigation, chargesheet was filed on 28.09.2016 only against appellant, co-accused Amit and Sanoj @ Sonu. Daya Kaur (mother-in-law) and Ved Prakash (jeth) though named in the FIR, but absolved in the investigation and no chargesheet was filed against them.

4. After cognizance by Jurisdictional Magistrate, the case was committed to the Court of Sessions on 15.09.2016 and the charges under Section 302 read with Section 34 of IPC and Section 25 of the Arms Act were framed on 23.12.2016 against all the three accused. They abjured their guilt and took the defence of false implication. During the trial, prosecution examined 22 witnesses while accused did not bring any witness in defence.

5. Learned Trial Court vide judgment dated 29.08.2018 acquitted the co-accused Sanoj @ Sonu and Amit, and convicted the appellant only. Vide order dated 31.08.2018, the Court directed him to undergo the imprisonment for life under Section 302 of IPC and six months RI under Section 25 of the Arms Act with default stipulations. The said judgment was affirmed by the High Court mainly relying upon the recovery of the pistol, two live cartridges and the FSL Report. Being aggrieved, the appellant preferred the present appeal.

SUBMISSIONS OF THE APPELLANT AND RESPONDENT

6. Mr. Gagan Gupta, learned senior counsel arguing on behalf of the appellant, vociferously urged that conviction solely based on recovery of pistol and live cartridges supported by FSL Report, is not justified. In particular, when eyewitness Pradeep PW-1 and other important witness Sandeep PW-5 have not supported the case of prosecution. From the disclosure of the appellant which resulted into recovery, it is not clear that the same pistol was used in commission of the offence. The alleged recovery is from unlocked iron box lying in a room of the house of the accused accessible to other family members. However, in absence of any cogent evidence to connect the appellant to commission of the offence or the scene of incident, mere recovery of the weapon cannot be the sole basis of conviction.

7. It is further submitted, after the incident of murder, on receiving message, the Police personnel reached on the spot and the congregation of various villagers was there. As per cross-examination of the complainant, he was not present at the scene of crime and reached later on receiving information, hence, he has not seen the incident. In addition, he has not supported the case of prosecution in Court. The alleged recovery was not made in presence of independent witness. Therefore, recovery of pistol and cartridges has not been proved beyond reasonable doubt.

8. It is urged when an eyewitness to the incident is not supporting the case of prosecution, in that situation, to prove the charge of murder on basis of circumstances, motive must be proved. In the facts of the case, Daya Kaur (mother-in-law) and Ved Prakash (jeth), Sanoj @ Sonu s/o Ved Prakash and Amit (nephew of Sanoj) may have some motive because they have lost the case against the deceased. Nonetheless, Daya Kaur and Ved Prakash were absolved in the investigation and no chargesheet was filed against them. Other two accused who were of the same family have been acquitted by the Trial Court and no appeal was preferred against, either by the State or the complainant. In support of his contentions, learned senior counsel placed reliance on the judgments of this Court in the cases of Manjunath & Ors. v. State of Karnataka⁴ and Raja Khan v. State of Chhattisgarh⁵ and urged that the judgment of Trial Court, as affirmed by the High Court, may be set aside, acquitting the accused.

9. Per contra, Mr. Akshay Amritanshu, learned counsel arguing for the State, defended the findings of the impugned judgment contending that as per the disclosure, the pistol and two live cartridges were recovered from an iron box lying in the house of the appellant himself. The bullets found in the body of the deceased were similar to the live cartridges and can be fired by the recovered pistol. The FSL report correlates the cartridges found in the body of deceased and hence, proves the guilt. Thus, even if the eye-witnesses may not have supported the case of prosecution, the recovery of pistol and its use is enough to prove the complicity of the appellant in commission of the offence.

10. It is submitted that the recovery of pistol is not from a public place as contended by the appellant, but from a house wherein appellant was staying along with other family members. Therefore, the plea that the iron box from which the recovery was made was accessible to other family members, is of no substance. In support of his contentions, reliance has been placed on the judgments of this Court in the cases of State of Himachal Pradesh v. Jeet Singh⁶, State of Maharashtra v. Bharat Fakira Dhiwar⁷ and Lochan Srivas v. State of Chhattisgarh⁸ and submitted that the appeal may be dismissed.

APPRECIATION OF THE ARGUMENTS

11. After having heard the learned counsels for the parties, in the backdrop of the above facts and arguments advanced across the Bar, the central question that falls for consideration is whether the judgment of Trial Court, as affirmed by the High Court, convicting the appellant for the charges under Section 302 of IPC and Section 25 of the Arms Act and the sentence as directed, is based on cogent material and evidence sufficient to prove the charges beyond reasonable doubt?

⁴ (2023) SCC OnLine SC 1421

⁵ (2025) 3 SCC 314

⁶ (1999) 4 SCC 370

⁷ (2002) 1 SCC 622

⁸ (2022) 15 SCC 401

12. The incident in the present case is of 12.06.2016 at about 6 AM in the morning in village M.P. Majra. As per the FIR that was recorded on the basis of the statement of Pradeep (PW-1), while deceased was throwing cow dung in a manure pit, three persons came in one car. One of them was driving and two were sitting on the rear seat of car, which took a round. The persons sitting on the rear seat came out, one caught hold of the deceased and another shot bullet from his pistol. As alleged, Pradeep (PW-1) saw both of them and can identify if produced. He could not see the driver of the vehicle. He disclosed the number of the vehicle. After five days, his supplementary statement was recorded on 17.06.2016 wherein he named Sanoj @ Sonu, Amit and Appellant being the persons who committed murder of his sister by gun shot and also alleged that he came to such conclusion on basis of investigation done by himself. As such he claimed to be the eyewitness of the incident.

13. The said Pradeep (PW-1) came in the witness box to depose before Court but he has not supported the prosecution's story and turned hostile. His brother Sandeep (PW-5) was also an alleged witness having turned up to the place of incident after hearing noises made by bullet shots, but did not support the prosecution allegations and turned hostile. Both the said witnesses have resiled from their police statements and denied that Sanoj @ Sonu, Amit and Govind have committed murder of the deceased. PW-1 has further stated that the Police officials have obtained his signature on the blank papers and the FIR alleged to be registered on the basis of his statement was not given by him to the Police. On being declared hostile, in cross-examination done by public prosecutor nothing has been elucidated to prove the allegations of commission of murder as alleged. Nonetheless, during cross-examination by the defence, he stated that the information of death of his sister was given to him at about 8 AM by a villager and then he reached on the spot, where villagers were already present. When he reached, Police personnel had shown him a pistol allegedly used in commission of the murder of his sister. He has also denied his supplementary statement naming the accused persons. Even otherwise, for proving the allegations, nothing has been brought on record to show how and in what manner PW-1 made his own investigation naming the appellant and two other acquitted co-accused persons. No independent witnesses have deposed anything to prove the prosecution allegation against appellant. It must be kept in mind that the case of prosecution against appellant is based on the testimony of the said eyewitness PW-1, who has turned hostile and failed to prove the presence of the appellant at the place of incident and his complicity in commission of offence. Be that as it may, the FIR was based on the statement of Pradeep allegedly against three unknown persons, out of them, he could identify two as stated by Pradeep (PW-1). But due to naming the accused subsequently the test identification parade was not conducted. Later, on point of identification, PW-1 has turned hostile during cross-examination. Therefore, as appreciated, Pradeep (PW-1) being the alleged eyewitness and Sandeep (PW-5) allegedly being the first responder to the incident, have not supported the case of prosecution and could not prove the guilt beyond reasonable doubt. Therefore, on the above set of evidence implication of the appellant has not been proved beyond reasonable doubt.

14. For purpose of appreciating other circumstances, including motive, the Prosecution contends that Daya Kaur (mother-in-law) and Ved Prakash (jeth) along with Sanoj @ Sonu and Amit were having grudge against the deceased because of losing the case in Court against her and the Appellant is friend of co-accused Sanoj @ Sonu. However, no order passed in favour of the deceased has been produced except to make such bald allegations. In addition, against Daya Kaur (mother-in-law) and Ved Prakash, Police could not collect any material and no chargesheet was filed against them. While Sanoj @ Sonu

and Amit have been acquitted by the Trial Court. The alleged motive has been attributed against appellant merely that he was a friend of Sanoj @ Sonu and may have some quid pro quo in anticipated reciprocation of help from Sanoj @ Sonu in the future. The details for such quid pro quo have not been brought on record. As per disclosure of the appellant, Exhibit P-7/D, it is revealed that the appellant and the co-accused Sanoj @ Sonu belong to the same village. Sanoj @ Sonu conveyed to the appellant regarding success of the deceased in a land case and sought help from him for committing murder of Promila. In those circumstances, Sanoj @ Sonu decided to commit murder of the deceased and as such help of the appellant was sought. In the disclosure of Sanoj @ Sonu, Exhibit PW-18/A, it is alleged that the pistol recovered from the appellant was handed over by him to the appellant and he has one more pistol with him. The disclosure statement Exhibit P-7/D of the appellant recorded in custody as far as it distinctly discloses the commission of offence cannot be used against the accused. It is only the recovery made in furtherance to the said disclosure may have some relevance. Even otherwise, in his disclosure he has not stated that the pistol used in committing murder of the deceased was the same which was concealed and the same was recovered by Police on his insistence. As such it is not clear that the pistol recovered from the appellant was the same which was used in commission of the offence of murder of the deceased.

15. As per Section 25 of the Evidence Act, the confession given in the Police custody, cannot be proved against a person accused of an offence unless it is given in the immediate presence of the Magistrate. However, Section 27 deals with how much of the information as received from the accused, in Police custody may be proved. The said Section is relevant, therefore, reproduced below:

27. How much of information received from accused may be proved. - Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

On a glance of the language of the said section, which starts with the expression “provided that”, it is apparent that this Section is an exception to the preceding Sections 25 and 26. The language further indicates that when any fact is deposed to as discovered in consequence of information received from a person who is in custody of the Police in connection of an offence, it must relate distinctly to the fact so discovered. For relevancy, the “facts thereby discovered” is preceded with the words “so much of such information, whether it amounts to confession or not as relates distinctly”. Special emphasis must be given to the word ‘distinctly’. The word “distinctly” has its own importance which is a derivative of the word ‘distinct’. As per Concise Oxford English Dictionary⁹ it means recognizable, different in nature, individual or separate, readily distinguishable by the senses. As per Advance Law Lexicon¹⁰, “distinctly” means clearly, explicitly, definitely, precisely, unmistakably, in a distinct manner. Therefore, “distinctly”, as used in Section 27, is meant to exclude certain language and to limit and confine the information which may be proved within definite limits and not necessarily to include everything which may relate to that information. The said word “distinctly” indicates directly, indubitably, strictly and unmistakably, apparently, used in Section 27 to limit and define the scope of probable information. Therefore, only that much information as is clearly connected with the fact discovered can be treated as relevant under the phrase ‘facts discovered’.

⁹ Concise Oxford English Dictionary (10th Edition, Revised in 2002, Edited by Judy Pearsall)

¹⁰ P Ramanatha Aiyar, Advanced Law Lexicon (3rd Edition, 2005)

16. In sequel of the said discussion, the veracity of the disclosure made by appellant in Exhibit PW-7/D and recovery may be examined. Moreover, the memo of recovery, Exhibit PW-7/E, was drawn by Inspector Lalit Kumar (PW-7). He testified in Court and stated that one country made pistol and two cartridges kept concealed in an iron box lying in one of the rooms inside the house of accused was recovered by him. The said article was sealed putting stamp T2 and kept in Malkhana of Police Station, Beri. In cross-examination, he admits that the place of recovery was a dwelling house where family members were also staying. At the time of the said recovery, no independent witness from neighborhood has been joined. The iron box was found to be in an open and unlocked state and it was accessible by family members also, wherein other household articles were also kept though not seized separately by him. Head Constable Naresh Kumar (PW-15), one of the recovery witnesses, has also deposed in similar lines. Moreover, Constable Baljeet Singh (PW-6) is the person who deposited the recovered pistol in FSL. As per his testimony, the recovered pistol was deposited in the Malkhana of the police station on 19.06.2016. It is not clear on which date the said articles were taken out from Malkhana, to deposit the same in FSL which was on 08.07.2016 i.e., after a period of 19 days. As such mere indication of seal T2 as affixed is not sufficient to connect the recovery and deposit of the same recovered articles in FSL, particularly when no independent witness has been examined to prove recovery. The High Court while proving guilt against the appellant has relied upon the recovery and the FSL report which co-relates the two cartridges recovered and the bullets found in the body of the deceased. In the above factual backdrop, it becomes necessary to examine, when the eye-witness has turned hostile and has not supported the prosecution case and no evidence of 'last seen' has been adduced, and the alleged motive against the appellant remains unproved, however, mere recovery and the FSL report can, by itself, sustain the conviction of the appellant – more particularly when other co-accused having motive has been acquitted.

17. In the present case, the alleged recovery was made from a place accessible to other family members, hence, the extent to which such recovery can be relied upon to establish the appellant's guilt requires careful scrutiny in light of judicial precedents. In this regard, we can profitably refer the judgment of this Court in the case of Jaikam Khan v. State of U.P.¹¹, wherein the conviction was based on recovery of knives from the accused, one from room and two from an open field, which were later found not relevant to connect the accused in commission of offence when such recoveries were from a place accessible to others and also from place of public use. The relevant portion of the said judgment is reproduced as under:

58. As already discussed hereinabove, since no public witness has been examined to support the said memo, the statement made therein will have to be scrutinised with greater caution and circumspection. All the statements made therein with regard to the confession of committing the crime would not be admissible in evidence. Only such information, which distinctly relates to the discovery of facts will be admissible under Section 27 of the Evidence Act, 1872 (hereinafter referred to as "the Evidence Act"). The evidence of PW 9 Brahmesh Kumar Yadav (IO) would reveal that immediately after the FIR was lodged, he had come to the spot of incident for further investigation. According to him, Accused 1, 3 and 4 were arrested at around 2.00 a.m. on 24-1-2014. Even according to him, the police party was very much there at the spot. One of the alleged recoveries is from the room where deceased Asgari used to sleep. The other two recoveries are from open field, just behind the house of deceased Shaukeen Khan i.e. the place of incident. It could thus be seen that the recoveries were made from the places, which were accessible to one and all and as such, no reliance could be placed on such recoveries.

¹¹ (2021) 13 SCC 716

18. In *Manjunath & Ors. v. State of Karnataka* (supra), this Court while dealing with the recovery from the place accessible to public or areas accessible to others observed that such recovery alone is not sufficient and it becomes suspicious. In the said case, eucalyptus sticks found from eucalyptus plantation and iron chains recovered from houses shared with other occupants were not found sufficient to prove the guilt and to bring home the charge of murder. The court in para 28 held as thus:

“28. As reflected from record, and in particular the testimony of PW15 it is clear that the discoveries (stick as shown by A10, for instance) was a eucalyptus stick, found from the eucalyptus plantation, which indisputably, is a public place and was found a week later. A second and third stick purportedly found half kilometre away on that day itself, was found by a bush, once again, a place of public access. Two further sticks recovered at the instance A6 and A7, were also from public places. An iron chain produced from the house of A1 and A2, is not free from the possibility that any of the other occupants of their house were not responsible for it. We, further cannot lose sight of the fact that sticks, whether bamboo or otherwise, are commonplace objects in village life, and therefore, such objects, being hardly out of the ordinary, and that too discovered in places of public access, cannot be used to place the gauntlet of guilt on the accused persons.”

19. Similarly, in *Nikhil Chandra Mondal v. State of West Bengal*¹², the appellant was accused of murdering his wife with a bhojali (knife) which was found from an open place accessible to others. The Trial Court acquitted the accused though the High Court reversed the findings. While confirming the order of the Trial Court, this Court observed as under:

“20. The trial court disbelieved the recovery of clothes and weapon on two grounds. Firstly, that there was no memorandum statement as required under section 27 of the Evidence Act, 1872 and secondly, the recovery of the knife was from an open place accessible to one and all. We find that the approach adopted by the trial court was in accordance with law.....”

20. While accepting the reliance of the said judgments, it is necessary to also refer the judgments as relied by the Respondent. The case of *Jeet Singh* (supra) was a case where the accused murdered his own wife by means of insecticide poison within the house where the accused and deceased were living together. The bottle of the insecticide was recovered beneath dry leaves within the compound of the same house. Therefore, the said recovery in the circumstances was found relevant along with other circumstances brought to prove the guilt.

21. Similarly, in the case of *Bharat Fakira Dhiwar* (supra), a child of three years old went missing from home. The two last seen witnesses deposed that the accused was going with a bag on his shoulder wherefrom blood was dripping down. In the said sequence, the recovery of the body of the deceased from sugarcane field was connected with the accused therein. In the case of *Lochan Srivas* (supra), the dead body of the victim was recovered from bushes near a pole nearby main road contained in a sack as indicated by the accused person consequent to story of some worship. Such knowledge was found to be unnatural and conviction of the accused person was maintained by this court. Therefore, in the factual backdrop of the above-mentioned cases, recoveries were found relevant along with other evidence connecting the accused in commission of offence to prove the guilt. As indicated, in our view, all the said judgments relied by the respondent are distinguishable on facts.

22. In conclusion, we reiterate that in this case, Pradeep (PW-1) is the brother of the deceased and the alleged eye-witness of her murder. He along with his brother, Sandeep

¹² (2023) 6 SCC 605

(PW-5) have not supported the case of prosecution to prove the presence of the appellant on the spot. Any other circumstance connecting the accused in commission of the offence and to show his presence on spot or with deceased has not been proved by the prosecution. Initially in the FIR, the accused was not named. His name came up after five days of the incident on suggestion by the eyewitness Pradeep (PW-1) in form of supplementary statement implicating the appellant and other co-accused. Pursuant to the disclosure statement of the appellant, a country-made pistol and two live cartridges were allegedly recovered. However, the prosecution has not established that the said recovery distinctly relates to the commission of the offence or that the weapon so recovered was the same which was used to commit murder so as to constitute a relevant fact distinctively related to the disclosure. The recovery was effected from an iron box lying in a room accessible to other family members, wherein various household articles were kept, which were neither seized nor proved examining any independent witness from neighborhood.

23. After the recovery, the pistol and cartridges were kept in the Malkhana, but the record does not indicate on which date these were handed over to PW-6 Baljeet Singh for deposit to the Forensic Science Laboratory (FSL) and the same article was sent for forensic examination. The chain of recovery linking the seizure, storage, and deposit of the material exhibits thus remains incomplete and was not duly proved. Though the FSL report indicates that the pistol and cartridges recovered correlate with the bullets found in the body of the deceased, such evidence by itself is not sufficient to establish the appellant's guilt in the absence of any proof that the recovered pistol was indeed used in the commission of the offence. Furthermore, the alleged motive, as projected by the prosecution, primarily pertains to the co-accused persons, who have either not been chargesheeted or have been acquitted by the Trial Court. The purported motive attributed to the appellant is founded merely on a speculative quid pro quo arrangement with the acquitted co-accused and lacks support from any credible evidence.

24. In our considered view, the Trial Court and the High Court failed to appreciate the facts and evidence, as discussed hereinabove in right perspective. As such, the findings of conviction of the appellant for the alleged offences and sentence to undergo imprisonment for life cannot be sustained. In the totality of the circumstances, the prosecution has failed to prove the guilt of the appellant beyond reasonable doubt.

CONCLUSION

25. In light of the above discussion, the Trial Court and the High Court both have committed error in convicting the appellant without advertent to the fundamental aspects applying the principles of criminal jurisprudence, as discussed hereinabove. Accordingly, the appeal stands allowed. The judgment of the High Court and also of the Trial Court insofar they relate to the conviction and sentence of the appellant stand set aside. The appellant is acquitted of all the charges and directed to be released forthwith from custody, unless required in any other offence. Pending application(s), if any, shall stand disposed of.