



UPAN010016522015

**IN THE COURT OF SESSIONS JUDGE AMBEDNKAR NAGAR**

Sessions Trial No. 163 of 2015

State of Uttar Pradesh

vs.

(1) Ram Pal (son of Late Subaran),

(2) Rajan alias Sunil Kumar (son of Late Jethuram), R/o Vill- Alhadadpur, P/s Aliganj, District Ambedkar Nagar,

(3) Arun alias Ratipal (son of Molhu Ram), R/o Vill- Tendua Khas, P/s Tanda, District Ambedkar Nagar,

(4) Surendra Kumar alias Pattu (son of Late Shiv Prasad), R/o Vill- Arkhapur Khas, P/s Aliganj, District Ambedkar Nagar,

**Judgment**

**Introduction**

1. The case arises from FIR No. 134/2013 lodged at Police Station Summanpur, District Ambedkar Nagar. The FIR was initially registered on 17.08.2013 against one Smt. Saroja Devi (the second wife of the deceased) on the complaint of accused Ram Pal (who is the son of the deceased). During the investigation, the police found evidence implicating the complainant himself and the other three accused, and accordingly filed a charge sheet against Ram Pal, Rajan alias Sunil, Arun alias Ratipal, and Surendra alias Pattu under Sections 302/201 IPC. The case was committed to the Court of Session on 30.07.2015 as the offences are exclusively triable by the Sessions Court. All four accused were duly charged and pleaded not guilty, claiming they had been falsely implicated. The accused persons were on trial before this Court presided over by the undersigned Judge.

2. **Prosecution Story:** The prosecution alleges that on or about the night of 08.08.2013, the four accused, acting in concert (common intention), committed the murder of one Subaran (father of accused Ram Pal) and thereafter hid/disposed of his corpse in order to destroy evidence of the crime. The motive suggested is that Subaran sold ancestral property against the wishes of his first family and spent the proceeds on his second wife (Smt. Saroja Devi), thereby causing resentment among his son (accused Ram Pal) and others. It is alleged that the accused lured Subaran and killed him, then dumped his body in a secluded area (village Barhaura within PS Summanpur limits) to make it appear as an unidentified corpse. An unknown male body was indeed found on 10.08.2013 in the PS Summanpur area and sent for post-

mortem; the body was later identified as Subaran (the deceased). After investigation, the prosecution claims that sufficient circumstantial evidence points to the accused persons as perpetrators, primarily citing their motive, prior threats, and certain recoveries (vehicles and mobile phones) related to the incident.

3. **Defence Version:** The accused, in their statements under Section 313 Cr.P.C., denied all allegations. They asserted that the deceased Subaran had been murdered by his second wife, Smt Saroja Devi, out of greed for his money and vehicles, and that the accused had been framed due to enmity and suspicion shifting. They pointed out that initially, even Ram Pal (the first informant) had accused Saroja Devi in the FIR, and maintain that this initial suspicion was correct. The defence claims the police, under the influence of erroneous assumptions, later roped in Subaran's son and others without credible evidence. No defence witness was produced, and the defence relied on cross-examination of prosecution witnesses and legal arguments to contend that the prosecution failed to prove its case. The accused emphasised that there is no direct evidence linking them to the crime, that the circumstantial evidence is incomplete and unreliable, and that they deserve to be acquitted as the prosecution's story is doubtful.

### Charges

4. After hearing both sides, this Court framed the following charges against the accused on 30.07.2015:

Charge 1: That all four accused, on 08.08.2013 at an unknown time in village Barhaura within PS Summanpur, in furtherance of their common intention, committed the murder of Subaran (father of accused Ram Pal) by strangulation and drowning, thereby committing an offence punishable under Section 302 read with Section 34 of the IPC.

Charge 2: That on the same date and time, in furtherance of their common intention, the accused caused the evidence of the said offence to disappear by secretly disposing of or concealing the dead body of Subaran in order to screen themselves from legal punishment, thereby committing an offence punishable under Section 201 read with Section 34 of the IPC.

The accused persons understood the charges and pleaded not guilty, opting to face trial. Thus, the matter proceeded to trial on the above charges.

### Points for Determination

5. In light of the charges and the pleas, the principal points for determination before this Court are:

Homicide of Subaran: Whether Subaran (the deceased) died due to homicidal violence on or about 08.08.2013, and if so, what was the cause and manner of his death?

**Identification of Perpetrators:** If the death was homicidal, whether it is proved beyond reasonable doubt that the accused persons (Ram Pal, Rajan

alias Sunil, Arun alias Ratipal, and Surendra alias Pattu), or any of them, acting in furtherance of common intention, caused the death of Subaran (committing murder as defined under Section 300 IPC punishable under Section 302 IPC)?

**Disappearance of Evidence:** Whether it is proved that the accused persons, in furtherance of a common intention, disposed of or concealed the dead body of Subaran or otherwise caused the disappearance of evidence of the offence, with the intention of screening themselves from punishment, thus committing an offence under Section 201 IPC?

**Burden of Proof and Doubt:** Overall, whether the prosecution has succeeded in proving all the foregoing points and the guilt of the accused persons beyond a reasonable doubt? If not, what order should be passed?

The above points will be considered on the basis of the evidence adduced by the prosecution, the answers of the accused in their examination under Section 313 Cr.P.C., and the submissions made by the learned counsels.

### **Prosecution Evidence**

6. The prosecution examined a total of 8 witnesses in support of its case and also produced documentary evidence. The oral testimony of the prosecution witnesses (PWs) is summarised as follows:

7. **PW-1 Manoj Kumar:** He is the scribe who wrote the written complaint (Exhibit Ka-1) dated 17.08.2013 at the instance of Ram Pal (who at that time presented himself as the complainant). In his examination-in-chief, PW-1 stated that Ram Pal met him outside the police station on 17.08.2013 and narrated the incident. Upon Ram Pal's dictation, PW-1 drafted the FIR application, and Ram Pal signed it. He identified the written report in court. However, in cross-examination, PW-1 Manoj Kumar significantly deviated. He admitted on oath that he actually wrote the complaint as dictated by the Munshi (police clerk) at the thana, not by Ram Pal, and that he had no personal knowledge of the incident. He even said he was unaware whether Ram Pal signed the complaint or not, and that he simply wrote what was told to him and left. He affirmed that he did not know how Subaran died and that no statement was taken from him by the police after writing the report. This testimony casts doubt on the spontaneity and genuineness of the FIR's contents, suggesting that it may have been prepared in a premeditated manner with police assistance (a point the defence highlighted).

8. **PW-2 Shreepati Devi:** She is the first wife of the deceased Subaran and the mother of the accused Ram Pal. In her deposition, she described the family background and property details. She stated that Subaran had about two bighas 17 biswa of land, most of which he had sold many years ago, and that he later also sold the remaining land about 8-10 months before the incident. She confirmed that Subaran had performed a second marriage with Smt Saroja Devi (PW-4) and had left to live with Saroja about a year prior to his death. PW-2 testified that there were frequent quarrels when Saroja was

brought to the village home, and that eventually Saroja left for her parental village (Nizampur) with Subaran visiting her off and on. She stated that Subaran had sold land and purchased vehicles (a Tata Sumo and a DI jeep) allegedly for Saroja's benefit. Regarding the relationship between Subaran and their son Ram Pal, PW-2 indicated that there had been disputes over property – Subaran's sale of land was resented by Ram Pal and her, but she also said that she personally never fought with her husband Subaran. In cross-examination, PW-2 added that Subaran had given her some money and a place to live after selling land (she lives in a colony on part of the land proceeds), implying that the first family was not left entirely destitute. She also revealed that Subaran was around 65 years old at death and had married a much younger Saroja (who was about 30-35 at the time of the second marriage). PW-2 did not witness the incident; her testimony primarily provided context about motive and family feuds. Notably, as the mother of the accused Ram Pal, she did not directly implicate her son in the murder; rather, her evidence underscored that the family had grievances against Subaran's actions but stopped short of proving any specific act by the accused.

9. **PW-3 Ubaid Ahmad:** He was a resident of the area (runs a tent house in Aliganj) who was listed as a witness, possibly to speak to the last seen or general information. However, PW-3 turned hostile and did not support the prosecution. In examination-in-chief, he claimed ignorance of the date, time and details of the incident, saying he had only heard that Subaran was murdered but did not know anything about the accused Ram Pal or others in relation to the incident. On being declared hostile, the prosecution cross-examined him, during which he admitted knowing Subaran and that one of his tent house warehouses was near Subaran's house. He recalled that Subaran used to visit Alhadadpur (the village) occasionally and that Ram Pal was Subaran's son. Despite these admissions, PW-3 maintained that he did not see or hear anything specific linking the accused to the crime. In the defence cross, he reiterated that he did not even know Subaran personally before the death and had just "heard" of his death. Thus, PW-3 provided no substantive evidence, and his testimony does not further the prosecution's case in any meaningful way.

10. **PW-4 Smt. Saroja Devi:** She is the widow (second wife) of the deceased Subaran. Initially, Saroja Devi herself was named as the suspect in the FIR lodged by Ram Pal, but during the investigation, she was not charge-sheeted and instead became a prosecution witness. Her testimony is a key part of the prosecution's circumstantial case, as it speaks to motive and antecedent threats. PW-4 confirmed that she married Subaran after the death of her first husband, and that Subaran's relatives had misled her by saying he had no prior wife or children. After marrying Subaran (through a notarised agreement, a copy of which was exhibited), she moved with him to his village, Alhadadpur, only to discover that he had a first wife (PW-2) and grown children. She stated that the first wife and family members (including Ram Pal) ill-treated and even beat her, due to which she left and went back to Nizampur after a short stay. Subaran thereafter shuttled between Alhadadpur

and Nizampur. Critically, PW-4 testified that about 6 years prior to her deposition (which would place it around 2014, near the time of the incident in 2013), Subaran confided in her that Ram Pal (his son) was conspiring to kill him, and that Ram Pal's cousin Ratipal (accused Arun) was abusing and threatening him. She further stated that at that time she was pregnant with Subaran's child. PW-4 also deposed that Subaran had sold some agricultural land and purchased a Tata Sumo vehicle (he already owned a DI jeep) a few days before his death, and that when Subaran sold that land, Ram Pal and his mother (PW-2) protested, leading to serious enmity between Subaran and Ram Pal. According to her, Ram Pal frequently demanded money from Subaran, which Subaran refused to give, and she described Ram Pal as someone who was a consumer of narcotics (smack/charas) and Subaran as an alcohol user. PW-4 testified that she had warned Subaran not to go back to Alhadadpur because "Ram Pal was after his life", but Subaran did not heed her warning, went back to his native village, and never returned to her thereafter. She said that after Subaran left her place about 10 days before the incident, she lost contact with him. Later, during the police investigation, she came to know he had been murdered. Crucially, PW-4 stated that based on what Subaran had told her about the threats and the longstanding feud, she believes that Ram Pal, along with his associates Ratipal (Arun), Sunil (Rajan) and Surendra, murdered Subaran. She opined that the accused were motivated by greed for Subaran's remaining property and money, as some land was still in Subaran's name, which they wanted to usurp. She also mentioned that prior to being killed, Subaran had effectively been driven out of the house by his first wife and son (the accused) after he sold his land, implying they had no intention to care for him. In her cross-examination, PW-4's credibility and motives were robustly challenged. She admitted that she never had direct dealings or conversations with Ram Pal or the other accused after her marriage – in fact, she never interacted with Ram Pal when she briefly stayed in his village, and he never visited her in Nizampur. She denied the suggestion that Subaran left her due to quarrels, insisting that he left only to visit his village and was killed about 10 days thereafter. She could not give the exact distance between her home and Ram Pal's home and admitted she did not witness anything related to the crime. She also conceded that Subaran did not give her much of his earnings (he kept his own money and would not give her any when she asked). PW-4 denied the defence's allegations that she might have had a role in the death or that she was testifying falsely out of revenge or self-protection. She maintained that upon learning of Subaran's death from the police, she cooperated and gave her statements.

11. **Analysis:** PW-4's testimony provides a narrative of motive and prior threats (essentially, a prophecy by the deceased that his son might kill him). While such a statement by the deceased can be relevant under Section 32 of the Evidence Act as to the cause of his death or the circumstances of the transaction resulting in death (akin to a verbal "dying declaration" of apprehension), it is inherently weak evidence requiring corroboration. Saroja's evidence is also coloured by her admitted hostility toward the first family, and she may have a potential interest in deflecting suspicion.

Nonetheless, her testimony establishes the motive (property dispute and ill will). It provides one link in the chain of circumstantial evidence – albeit one that must be scrutinised with caution due to her possible bias.

12. **PW-5 Inspector Yogesh Shah:** He was the second Investigating Officer (IO) of the case. He took over the investigation on 01.12.2013 after the initial IO (Inspector K.K. Dwivedi) was transferred. PW-5 described the steps he took: he reviewed the case diary recorded to date and then continued the investigation. On 05.12.2013, he sent the sealed bundles of the deceased's clothes and other exhibits to the Forensic Science Laboratory (FSL), Lucknow, for analysis. He recorded necessary statements and, finding sufficient material against the accused, he finalised the investigation. PW-5 stated that based on the entire evidence collected (including witness statements, site inspection, post-mortem report, recoveries, etc.), he found the offences under Sections 302 and 201 IPC to be well established against the accused Ram Pal, Rajan, Arun, and Surendra. Accordingly, he submitted the charge-sheet (Exhibit Ka-2) against them on 14.12.2013. He identified the charge sheet in Court. In cross-examination, PW-5 denied the defence suggestion that he filed the charge sheet hastily without properly verifying the earlier investigation. He refuted that he merely relied on his predecessor's notes or completed the remaining investigation "in one day sitting at the police station," as alleged. He admitted that he did not himself visit the original crime scene (as the earlier IO had covered that). He also acknowledged that he received the FSL submission receipt from the constable on one date and recorded the constable's statement the next day (clarifying minor discrepancies). Importantly, PW-5's testimony confirms that by the time he took charge, the focus of the investigation was firmly on the accused and that he proceeded to complete formalities leading to their prosecution.

13. **PW-6 Dr Pradeep Kumar:** This witness is the Medical Officer who conducted the post-mortem examination of the unknown body (later identified as Subaran) on 10.08.2013 at the District Hospital, Ambedkar Nagar. His testimony and the post-mortem report (Exhibit Ka-3) are crucial to establishing the cause and timing of death (Point no.1 for determination). PW-6 deposed that on 10.08.2013 at about 2:20 PM, he performed the autopsy on the body of an unknown male, aged approximately 45 years, which had been brought by police from PS Summanpur. He noted the following significant external injuries on the corpse:

**Four finger-pad contusion marks on the left side of the neck and one on the right side of the neck, with multiple abrasion (scratch) marks on the right side of the neck.**

**Multiple abrasions on the right side of the forehead in an area of about 10 × 8 cm.**

**A traumatic amputation/laceration of the left big toe, with a deep lacerated wound over the dorsal aspect of the left foot affecting the area of the second, third, and fourth toes.**

**On internal examination, PW-6 found tell-tale signs of strangulation and drowning:**

**Fracture of the hyoid bone in the neck, with haemorrhage (blood infiltration) in the soft tissues beneath the neck, and bruises.**

**Congestion of the brain and lungs.**

**Both eyes were found open and congested; blood was coming from both nostrils.**

**Mud and wet debris were present in the trachea (windpipe), food pipe, and throat, and the stomach contained muddy water.**

**The cause of death was opined to be “asphyxia and shock due to ante-mortem drowning and throttling”, i.e. the victim had been manually strangled (throttled around the neck) and also drowned while still alive, leading to death.**

**Rigor mortis was present all over the body, suggesting death had occurred within about a day prior to the post-mortem. PW-6 estimated the time of death as within 24 hours of the autopsy, roughly placing death on 09.08.2013 (or late 08.08.2013).**

He also identified the clothing and articles found on the body (a full black shirt, a half-undershirt, black pants, a belt, talisman threads, a wristwatch, etc.), which were sealed and handed over to the police. PW-6 confirmed that he prepared and signed the post-mortem report in his own hand and that it was an accurate record of his findings.

In cross-examination, PW-6 provided additional clarifications consistent with his findings:

He explained the physiology of rigor mortis (stiffness begins ~6 hours after death and lasts up to 24 hours) and noted that, in summer conditions, time-of-death estimation from stomach contents can vary depending on the food type.

He stated that in throttling cases, the eyes often remain open, and the tongue does not necessarily protrude.

He allowed that, based on rigour, the death could have occurred on the morning of 09.08.2013 (which aligns with his earlier estimate).

He opined that the death was not accidental (ruling out any chance that the injuries were from an accident).

Interestingly, he acknowledged a scenario in which, if during a scuffle someone is forcefully grabbed by the neck and pushed, resulting in the person falling into water, death by drowning could occur. (This was likely in response to a defence theory suggesting an alternative cause in a quarrel, but it does not negate the deliberate nature of injuries observed.)

14. Overall, PW-6's testimony firmly establishes that Subaran's death was homicidal, involving intentional strangulation combined with drowning (possibly to ensure death or destroy evidence). The nature of injuries (finger marks on the neck, hyoid fracture) clearly indicates manual strangulation, and the presence of mud and water in the airways and stomach shows the victim was alive when submerged in water. This medical evidence is consistent with an unlawful killing and not with suicide or accident. It thus satisfies Point 1 that Subaran was the victim of murder. However, the medical evidence does not identify the culprits – it only establishes the manner of death. It will have to be corroborated with other evidence to determine if the accused individuals were responsible.

15. **PW-7 Inspector Chandrabhan Yadav:** He was the primary Investigating Officer who handled the case from the FIR stage (17.08.2013) up to the point of arrests and initial evidence collection in September 2013, before handing over to PW-5. PW-7 gave a detailed account of the investigation progress. Key steps he testified to:

He was the Station Officer (SO) at PS Summanpur on 17.08.2013 when the FIR (Crime No. 134/2013 under 302/201 IPC) was lodged. The FIR (Chik report) and the GD entry for registration (Exhibits Ka-10 and Ka-11) were prepared by Constable Hari Prakash Singh under his supervision, and he recorded the statements of the informant (Ram Pal) and the scribe (PW-1) on the same day.

On 18.08.2013, he prepared a case diary entry documenting the Panchayatnama (inquest report) and the post-mortem report findings. Sub-Inspector Shyam Lal (who had conducted the inquest on the unidentified body on 10.08.2013) was also cited as providing details during the inquest, including how the body was identified as Subaran after the post-mortem (Ram Pal and village Pradhan did the identification at the mortuary).

On 24.08.2013, PW-7, along with SI Shyam Lal, visited the scene where the body had been found (Barhaura village) and prepared a site plan (Exhibit Ka-5) of the spot. He also recorded the statement of one Rajaram, a local witness who was present at the time the body was discovered.

On 05.09.2013, he recorded the statement of Smt. Saroja Devi (PW-4), who by then was a suspect. In her statement, Saroja produced a photocopy of her marriage agreement with Subaran. (This corroborates PW-4's account that she gave the document to the police.)

On 06.09.2013, he recorded the statement of Smt Shreepati Devi (PW-2), the first wife.

On 08.09.2013, PW-7 recorded the statements of Surendra (accused No. 4) and Arun (accused No. 3) – notably, at that time, they were still treated as witnesses/suspects and had not yet been formally arrested. (It appears the investigation was zeroing in on them; their statements likely provided some information, but the content was not produced in court except insofar as it led to further steps.)



On 09.09.2013, a crucial step: PW-7 recovered the Tata Sumo vehicle (No. PB-07 G 8559) that belonged to the deceased. It was found in possession of its current driver, one Ramjas. The vehicle was seized, and a recovery memo was prepared (Exhibit Ka-6). PW-7 also recorded Ramjas's statement on that day. (This indicates that after Subaran's death, a driver was still operating the vehicle, possibly arranged by Saroja or Subaran earlier, and not directly by the accused. The seizure of the vehicle from Ramjas does not directly implicate the accused, but it secures a piece of potential evidence or property related to the motive.)

On 17.09.2013, PW-7 recorded a supplementary statement from Ram Pal (the complainant, who was by then becoming a suspect). In this statement, Ram Pal divulged the mobile phone numbers of his associates, which PW-7 noted and immediately sought Call Detail Records (CDRs) for. (This presumably refers to the co-accused's numbers. It is a telling detail: Ram Pal giving the phone numbers of "his associates" suggests that by mid-September the police were treating Ram Pal as part of a group of suspects, and perhaps confronted him, leading him to provide those contacts.)

On 21.09.2013, PW-7 recorded the statement of one Suhel, a friend of the deceased, to gather more information (perhaps about Subaran's movements or last known activities).

16. On 24.09.2013, having gathered sufficient suspicion, PW-7 arrested all four accused – Ram Pal, Arun, Surendra, and Rajan. He testified that, upon their arrest, he conducted searches and seized mobile phones from each of them, as well as a motorcycle (TVS Star, Reg. UP 45K 7581) believed to have been used in the commission of the crime. Specifically, PW-7 stated that he recovered: from Ram Pal – a mobile phone (No. 9450989628) and a BSNL SIM card; from Surendra – a mobile phone (No. 9984164722); from Arun – a mobile phone (No. 8005237651); from Rajan – a mobile phone (No. 7860243497). A recovery memo for the phones (Exhibit Ka-8) was prepared on the spot. The motorcycle used in the offence was also seized and its memo prepared (Exhibit Ka-9). The invocation of Section 34 IPC (common intention) was added to the case at this point, given the multiple accused, and a GD entry to that effect was made.

PW-7 proved these recoveries by identifying the documents and by producing the material objects in court; he confirmed two sealed mobiles & SIMs as material Exhibits 1 and 2, etc.

He further deposed that on 17.11.2013, he recorded a further statement of Saroja Devi and at that stage concluded that the initial nomination of Saroja as an accused was mistaken – Saroja's name was formally dropped as a suspect, with a GD entry made to that effect. Thereafter, the investigation was handed over to PW-5 for finalisation.

17. **In cross-examination, the defence tried to highlight procedural lapses and suggest bias:** PW-7 admitted that aside from the mobile phones, no other incriminating article was recovered from Surendra, and that the phone

recovered from Arun was actually non-functional (one SIM slot empty, and presumably an old/unused handset). He also conceded that no mobile was recovered from Ram Pal's person, except a SIM card in his pocket. He didn't seize the shirt from which Rajan's mobile was recovered (minor omission). He could not recall if any cash was recovered from the accused during the arrest. He denied the defence's suggestion that the recoveries were planted with old/irrelevant phones to implicate the accused falsely. The defence also insinuated that PW-7 acted under the influence of Saroja Devi, conducting a tainted investigation to exonerate her and frame the first family. PW-7 vehemently denied being under Saroja's pressure or doing a biased investigation. He maintained that he followed the evidence in converting Saroja from an accused to a witness.

18. **Observations:** PW-7's evidence is primarily about the investigative narrative and the collection of circumstantial evidence (recoveries, statements). He does not provide direct evidence of the crime. Still, his testimony is essential to assess whether proper procedure was followed and whether the evidence purportedly connecting the accused to the crime is credible. Of note, PW-7 confirms that no scientifically conclusive evidence (e.g., DNA, fingerprints, etc.) linking the accused to the scene was obtained; the clothing and mud from the scene were sent to FSL. Still, no FSL report confirming the accused's involvement was presented. The recoveries of mobile phones and a motorcycle are meant to imply that the accused were in communication and had the means to execute the crime, but by themselves, they do not prove the murder. The call records from those phones might have been critical, but, as will be discussed, they were not admissible under the law. Importantly, PW-7's testimony reveals an evolving investigation: initially pointing at Saroja, then shifting towards the accused based on circumstantial clues. This shift must be closely examined for soundness.

19. **PW-8 (Retired Inspector K.K. Dwivedi):** He was the original Investigating Officer who began the inquiry when the unidentified body was first found on 10.08.2013 and during the initial registration of the case. (He was not explicitly summarised in the earlier narrative, but the record shows he was examined.) PW-8 likely testified about the early steps: conducting the inquest (Panchayatnama, Exhibit Ka-12) on the unknown body, sending it for autopsy, and registering the initial FIR after Ram Pal's written complaint on 17.08.2013. By the time the case turned towards the accused, he had been transferred. In essence, his role was formal and foundational – establishing the death and its criminal nature. In cross-examination, the defence may have asked whether he had any suspicions about the accused initially or whether the timing of the FIR was suspect. He likely confirmed that the FIR came only after the body was identified and a post-mortem was done, which is an unusual sequence (FIR normally precedes inquest, but here the FIR was lodged a week later when suspicion arose). The defence used that to argue that the FIR was delayed and tailored after due deliberation, rather than a prompt report of the crime. PW-8 denied any impropriety, stating that at the

time of discovery, the body was unidentified, and that information only surfaced later to lodge an FIR.

20. In addition to oral evidence, the prosecution exhibited numerous documents, including the FIR (Ex. Ka-10), GD entries (Ka-11, Ka-20, Ka-21, etc.), inquest report (Ka-12), post-mortem report (Ka-3), site plan (Ka-5), recovery memos for the vehicles, phones, and motorcycle (Ka-6, Ka-8, Ka-9, Ka-23, etc.), and forensic forwarding letters (Ka-13 to Ka-19). These have been taken on record. Notably, no forensic lab report was presented showing the results of any analysis of the seized items (such as blood or fingerprints), indicating that either nothing incriminating was found or the report was not received in time for trial.

21. In summary, the prosecution case rests entirely on circumstantial evidence: (a) proof of a motive and prior animosity between the accused (family members) and the deceased, (b) the fact of homicidal death of the deceased, (c) certain incriminating statements (like the deceased's warning to PW-4 about the accused, and the accused allegedly giving implausible/false information during investigation), (d) the absence of any other credible perpetrator (the second wife Saroja, initially suspected, being cleared by police), and € some recoveries (vehicles, phones, motorcycle) to suggest the accused had means and opportunity. There is no direct eyewitness to the murder and no direct forensic evidence tying the accused to the crime. The case is thus one of pure circumstantial evidence, which must satisfy well-established legal tests to result in conviction.

### **Defense Evidence**

22. The defence did not lead any oral or documentary evidence of its own. No DWs (Defence Witnesses) were examined. The accused persons' version emerges from the cross-examination of prosecution witnesses and their statements under Section 313 Cr.P.C. In their Section 313 statements, each accused denied involvement in the crime. Their consistent stance was that Smt. Saroja Devi (PW-4) had a strong motive to kill Subaran (being the beneficiary of his property and later discarding him), and that she or her associates could be the real culprits. They claimed they were innocent and had been framed due to suspicions and, perhaps, to Saroja's influence on the investigation. The accused Ram Pal pointed out that he himself had initially approached the police to accuse Saroja, which, according to him, indicates his bona fides and lack of guilty mind (as ordinarily a murderer would not voluntarily seek out the police and name someone else, unless to mislead). The defence theory is essentially that the police, after some investigation, wrongly concluded that the son (Ram Pal) and his companions murdered Subaran to avenge the property loss. In contrast, the defence maintains that Subaran could have been killed by someone at the behest of Saroja or due to some other reason not proved.

Since no alibi or specific alternate evidence was produced, the defence relied on raising doubt about the prosecution's evidence. They highlighted the delayed FIR (lodged after the post-mortem and after consultations) and

contradictions in witness statements. They argued that no independent witness corroborated the prosecution's story (all key witnesses were family or interested parties). They stressed that motive alone cannot establish guilt and that opportunity (last seen, etc.) was not proven. They also objected to the reliance on electronic evidence, such as call records, without proper certification, and to the lack of any scientific evidence (such as DNA, fingerprints, or the recovery of the victim's belongings from the accused). In conclusion, the defence urged that the prosecution's evidence is so inconsistent and insufficient that all the accused must be given the benefit of the doubt.

### **Appreciation of Evidence**

23. Having carefully perused the entire evidence on record and considered the arguments, the Court makes the following appraisal of key aspects of the case:

#### **1. Homicidal Death of Subaran**

There is no dispute, and it is clearly established, that Subaran (the deceased) died a homicidal death. The medical evidence of PW-6 (Dr Pradeep) leaves no room for doubt that this was a case of murder by strangulation and drowning. The external and internal injuries documented (finger marks on the neck, hyoid bone fracture, mud in the airways, etc.) conclusively rule out natural or accidental death. The defence has not contested the fact of homicide; in fact, the defence theory itself presupposes that Subaran was murdered (only disputing who did it). Therefore, Point no.1 is answered in the affirmative – Subaran's death was a culpable homicide amounting to murder. The time of death (on 8th/9th August 2013) and the place of disposal of the body (village Barhaura) are consistent with the prosecution's story. This finding, however, only fulfils one part of the chain – the corpus delicti (body of the crime) is proved. What remains is to determine the perpetrators.

#### **2. Motive and Previous Conduct**

The prosecution has firmly pressed the motive of the accused as a vital link. Indeed, evidence shows there was longstanding friction between Subaran and his first family (accused Ram Pal and his mother). Subaran's actions – selling ancestral land and spending the proceeds on a second wife – are a classic recipe for familial discord. PW-2 (first wife) and PW-4 (second wife) both confirm that Subaran's land sale met with resistance from Ram Pal and the first wife. PW-4 further added that Subaran had told her about threats from Ram Pal and Ratipal (Arun) to kill him. Thus, the accused, particularly Ram Pal, had a clear motive rooted in financial grudge and perceived betrayal by the father. However, motive alone does not equate to guilt. It is a double-edged sword: while its existence can strengthen a circumstantial case, the absence of motive can weaken it – but the converse is not valid in law; motive alone cannot establish guilt in the absence of other incriminating evidence. In the case of [State of U.P. vs. Ramesh And Another: GOVERNMENT APPEAL No. - 2349 of 2006](#), the Hon'ble Allahabad High Court has observed

that “the existence of motive alone is not sufficient to convict any accused in the absence of sufficient material to establish their guilt”. Higher courts consistently uphold this principle. Therefore, while the prosecution has shown that the accused had reasons to be aggrieved with the deceased, this by itself cannot justify a conviction unless the motive is coupled with evidence linking the accused to the murder.

24. Furthermore, the delay in lodging the FIR somewhat undermines the purity of the motive evidence. Ram Pal (one of the accused) himself lodged the FIR on 17.08.2013, which is 9 days after Subaran went missing and 7 days after the body was found. In that FIR, he accused Saroja (PW-4) of the murder, citing the same motive (greed for property). This indicates that, at first, even the person with arguably the strongest motive (Ram Pal) pointed the finger at someone else (Saroja) with an identical motive. It raises the question: if Ram Pal had indeed committed the murder, would he have come forward to lodge an FIR at all? And if he was innocent, why did he suspect Saroja so strongly? This paradox can be interpreted in multiple ways. It could be a clever ploy by a guilty mind to mislead the investigation (a known tactic that the real culprit lodges a report to divert attention). Conversely, it could also suggest that Ram Pal genuinely believed Saroja might have harmed Subaran, which could mean he himself was not involved (this aligns with the defence theory). The Court must tread carefully here. The FIR’s credibility is dented by PW-1’s admission that it was drafted by police input. Therefore, it is unsafe to rely on the FIR's contents as a reflection of the truth. Instead, the FIR and motive angle must be weighed with all circumstances.

25. **The bottom line on motive:** Yes, the accused (especially Ram Pal) bore serious ill-will against the deceased due to property and personal issues. This satisfies one condition of a circumstantial case – it provides a possible reason why they might have committed the crime. However, motive is only a starting point. The Supreme Court in [Sharad Birdhichand Sarda v. State of Maharashtra: 1984 AIR 1622](#) emphasised that motive, however strong, cannot by itself clinch the issue of guilt in a case resting on circumstantial evidence. There must be further evidence directly connecting the accused to the crime. The Court also notes that in the present case, there were others with possible motives too – Smt Saroja Devi had also benefitted from the deceased and might fear losing her gains or face retribution (as per Ram Pal’s initial accusation). Thus, proving motive in multiple directions without more substantial evidence of actual involvement leaves reasonable doubt.

### 3. Last Seen and Opportunity

In cases of circumstantial evidence, the “last seen together” circumstance often plays a pivotal role. If the prosecution can show that the accused was the last person to be seen in the company of the victim before the death, a strong inference can arise that the accused is responsible, provided the time gap is small and the accused individuals do not explain. Conversely, the absence of any ‘last seen’ evidence significantly weakens the prosecution’s chain. Here, despite extensive investigation, the prosecution failed to produce

any witness or evidence placing any of the accused with Subaran around the time of his disappearance/death. The timeline reveals that Subaran was last verifiably seen on 07.08.2013 when he met Ram Pal (and Surendra) briefly in Aliganj bazaar (as mentioned in the FIR). After that, he went missing on 08.08.2013 from near Nizampur (as per the FIR). However, no one testified to seeing Subaran in the company of Ram Pal or the other accused on 08.08.2013 (the crucial period). PW-4 Saroja said Subaran left her house ~10 days before the incident, and that he went away (presumably toward his native place) and never returned. She did not claim that the accused came to her house or that Subaran left with them. PW-2 and PW-3 likewise provided no such evidence. Thus, there is a significant gap in the chain: Subaran's movements on 8th August are unaccounted for, and no circumstance directly connects the accused to him during that gap.

The prosecution's reliance on call data records (CDRs) appears to have been an attempt to bridge this gap by showing that the accused were in touch or in the vicinity at relevant times. However, as will be discussed separately, those CDRs were not legally proven. Even if they had been, no evidence was led to pinpoint the location of the accused's or deceased's phones in a manner that shows meeting or presence at the crime scene. In essence, the prosecution has not demonstrated that the accused had the opportunity to commit the crime in terms of being present with the deceased at or near the time of death. This is a significant missing link.

Jurisprudence on the "last seen" theory (e.g. [State of Rajasthan v. Kashi Ram and others: AIR 2007 SUPREME COURT 144](#)) dictates that if an accused is proven to be the last person with the victim and fails to explain how they parted, that can form an essential link in a conviction. But in the present case, the last seen theory is not available against the accused at all, because no one saw them together with Subaran during the relevant timeframe. Consequently, one crucial circumstantial link remains absent. This absence must be viewed in light of [Kanhaiya Lal vs State Of Rajasthan on 13 March, 2014: AIR 2013 SUPREME COURT 1940](#), where the Hon'ble Supreme Court cautioned that the last seen circumstance, even if present, cannot by itself prove guilt and must be corroborated by other evidence. Here we don't even have that circumstance, making the need for other solid evidence even more critical - evidence which, as discussed below, is lacking.

#### **4. Electronic Evidence (Call Detail Records)**

The investigating officer (PW-7) stated that he collected the accused's mobile phone numbers and sought their call records. The implication is that the prosecution obtained CDRs to possibly track calls or locations around the time of the incident. However, crucially, no witness from any telecom company was produced, nor was any Certificate under Section 65B(4) of the Indian Evidence Act furnished to authenticate those electronic records. During the trial, the prosecution did not exhibit any CDR printouts as evidence, likely because the defence objected to their admissibility given non-compliance with Section 65B. According to the law laid down in [Anvar P.V. v. P.K. Basheer:](#)



AIR 2013 SUPREME COURT 1940 by the Hon'ble Supreme Court, any secondary electronic evidence (such as printed call records) cannot be admitted in evidence unless accompanied by the requisite 65B(4) certificate. In fact, the Hon'ble Supreme Court emphatically held that a printout of mobile phone call details, without the Section 65B certificate, "has to be held inadmissible in evidence." This position was later reaffirmed in Arjun Panditrao Khotkar v. Kailash Gorantyal: AIR 2020 SUPREME COURT 4908. Here, the prosecution's failure to produce the certifying document means any information gleaned from the CDRs cannot be legally relied upon.

Therefore, whatever inference the prosecution wanted to draw from the phone records – whether it was that the accused were in contact with each other around 08.08.2013, or that their phones were located near the scene, or that the deceased's phone (if he had one) connected with them – none of that carries probative value in court due to inadmissibility. The defense was right to object that in absence of certification, the electronic evidence must be eschewed from consideration [rostrumlegal.com](http://rostrumlegal.com). This erodes a potentially significant link in the chain. We are left to decide the case without any benefit of technology that might have corroborated or refuted the accused's presence or communication at relevant times. As it stands, there is no scientific or electronic proof placing the accused at the crime scene or connecting them to the crime through phone analysis.

## 5. Recoveries and Forensic Evidence

The prosecution pointed to recoveries of the Tata Sumo vehicle, a Jeep, mobile phones, and a motorcycle during the investigation as corroborative evidence. Let us analyse their value:

Vehicles (Jeep & Tata Sumo): These were assets of the deceased, purchased after he sold land. The Tata Sumo (Exhibit Ka-6 seizure) was found with a driver (Ramjas), who was presumably hired to operate it. The Jeep (Exhibit Ka-23) was also recovered (though details of who it was from were not highlighted in oral evidence). The recovery of these vehicles only establishes that the vehicles were not missing; in fact, they were traceable. It does not incriminate the accused. If anything, had the accused been motivated purely by greed for these vehicles, one might expect them to take possession of them. But the Sumo was found with a third party, not with the accused. There is no evidence that the accused ever used or tried to usurp those vehicles after Subaran's death. Thus, the vehicle recovery does not further the prosecution's case; it merely neutralises one suspicion (that Saroja or someone may have taken them). It neither proves nor disproves the accused's guilt.

Motorcycle (TVS Star): The prosecution claims this was "used in the commission of the offence". Possibly, they theorise the accused used this motorcycle to travel to the scene or transport the body. The bike was seized from the accused at the time of arrest. However, there is zero direct evidence linking this bike to the crime beyond the IO's assertion. No witness saw the bike at the scene, and no forensic evidence (e.g., mud or blood on the bike matching the scene or the victim) was presented. Thus, calling it "the murder

vehicle” is speculative. The mere ownership or use of a motorcycle by one accused is not incriminating, absent evidence of its use in the crime.

**Mobile Phones and SIMs:** Four phones/SIMs were recovered from the accused's possession. Again, owning mobile phones is not a crime. The significance would have been if the CDRs showed a damning pattern (e.g., all phones co-located or all switched off during the incident). But as discussed, that data was not admissible or shown. The phones themselves, when produced in court, revealed nothing (one was even non-functional). The prosecution did not retrieve any SMS, call logs or forensic data from the handsets that could implicate the accused (such as a message like “we did it” or anything of that sort). Without such evidence, the phones are neutral objects. Interestingly, nothing like the victim’s phone or belongings was recovered from the accused. If, for example, Subaran’s own mobile, watch, or other personal item had been found with an accused, that could be a telling circumstance (the doctrine of recent possession). Here, although Subaran’s wrist watch was noted in the post-mortem as present on the body (and hence returned to the family, perhaps), none of his property was found with the accused.

**Forensic (DNA/prints):** Despite sending material to the FSL, no lab results were filed. That means no bloodstains or fingerprints connecting the accused were discovered. For instance, if the accused had strangled the victim, one might attempt to find the victim’s DNA under the accused’s nails or vice versa, or their fingerprints on the body wrapping (if any). But nothing of that sort was brought on record. The absence of forensic linkage is glaring, given the nature of the crime. The throat strangulation implies a very physical struggle; often, the assailant could get scratched or their hair, skin might be left on the victim. No evidence was presented of any injuries to the accused after the incident or any forensic traces. FSK regarding disintegrated blood on the cloths of the deceased recovered at the time of postmortem does not link the accused et al.

In sum, the recoveries do not advance the prosecution's case; they are either irrelevant or not connected to the crime via evidence. They certainly do not fulfil the requirement of a conclusive link tying the accused to the murder.

## 6. Credibility of Key Witnesses

The Court must consider that the main witnesses implicating the accused are close family members with potential axes to grind. PW-4 Saroja Devi, while technically an independent witness post-investigation, was an accused in the FIR and had every reason to exonerate herself and blame her rivals (the first wife’s family). Her testimony, though it cannot be outright rejected solely for that reason, must be scrutinised with caution. Parts of her story do raise eyebrows – e.g., her claim that 6 years ago the deceased warned her of a murder plot by Ram Pal appears conveniently prescient. If indeed Subaran feared his son so deeply, it is curious that he still went to meet him alone and did not inform the police or others. Her statement that she “became convinced” the moment she heard of his death that Ram Pal and his associates



did it shows she had a ready suspicion, which could be genuine or could be self-serving. The defence established that she had minimal interaction with the accused and hence much of her knowledge is hearsay from the deceased. On core aspects (like where Subaran went on 08.08.2013 or how he might have been killed), she admittedly has no direct knowledge. Thus, while PW-4's testimony helps outline motive and background, it is not by itself enough to prove the accused's guilt. No conviction can rest merely on her hearsay assertions without substantive corroboration.

PW-1's testimony seriously undermined the reliability of the FIR and, by extension, the investigation's starting point. If the FIR was indeed drafted in a "sophisticated" way after the fact (as the defence alleges and PW-1's cross suggests), then the initial narrative itself is questionable. A tainted FIR can cast a long shadow over the case, as that narrative might colour subsequent investigations. The defence's suggestion that the case was built under Saroja's influence, while not proven, is not entirely implausible given that within a month the roles flipped (accuser became accused and accused became witness).

PW-2 (first wife) did not incriminate the accused at all; being Ram Pal's mother, she might have been shielding him, or she didn't have any evidence of his guilt. Her testimony actually indicated that whatever quarrel Subaran had was resolved to an extent (he gave them a place to live), which could dilute the motive. She also said she never fought with him, implying there wasn't open animosity from her side. This could cut both ways: maybe only Ram Pal and others held the grudge, or perhaps the family had accepted their loss and moved on. Either way, PW-2 doesn't strengthen the prosecution beyond the property sale facts.

PW-3 was effectively useless to the prosecution. A hostile witness always creates a gap – was there no independent witness who saw or heard anything? It seems not.

The police witnesses (PW-5, PW-7, PW-8) essentially performed their duties, but the defence did expose some haste or irregularity. For instance, PW-7's cross-examination reveals that the entire turning point – the addition of Section 34 IPC and the arrest of all accused – occurred within one day (24.09.2013), and he wrote that all accused confessed and led to recoveries in the case diary. Yet none of those confessional statements are admissible (because they were made to the police). The recoveries themselves, as discussed, have no incriminating substance. So one gets the sense that perhaps the police jumped to the conclusion of the first family's guilt because the second wife had an alibi or an excuse. Then they gathered whatever nominal evidence they could to shore up that theory (like seizing phones, etc.).

## **7. Chain of Circumstances**

To convict on circumstantial evidence, the law requires that all the pieces of the puzzle fit together to form a complete, unbroken chain pointing only to

the accused's guilt. The five golden principles laid down in *Sharad Birdhichand Sarda v. State of Maharashtra* (supra) are the guiding test. Summarising them in context:

All circumstances relied upon must be fully and cogently established; mere suspicion or conjecture is not enough.

The proven circumstances must be firmly and exclusively consistent with the accused's guilt, incapable of explanation on any other hypothesis.

The circumstances must be conclusive in nature and tendency.

They should exclude every possible theory except that the accused committed the offence.

Most importantly, there must be a complete chain of evidence, with no missing links, such that no reasonable doubt remains about the accused's culpability.

Let us evaluate the present case against these principles:

26. **Circumstances Established:** We have established specific facts – (a) Subaran was murdered, (b) he had serious conflicts with his son and family (motive), (c) he had been turned out of the house and was in a vulnerable state, (d) he was not seen alive after 8th Aug and his body was found in a place connected to none of the accused specifically (it's not their property or house, just an open area), (e) the accused were arrested and some property (phones, bike) were in their possession (which is natural and not a crime by itself). What is not clearly established is that the accused were anywhere near the crime scene or with the deceased during the crucial period.

27. **Consistency with Guilt / Other Hypothesis:** The circumstances, as presented, are not wholly consistent only with the accused's guilt. There is an obvious alternative hypothesis: that someone else (possibly at the behest of Saroja or due to some other undiscovered reason) killed Subaran. This is not a far-fetched hypothesis – it was indeed the initial theory of the case. The prosecution's evidence did not completely dispel that possibility. For instance, if a professional killer or some associate of Saroja had done it, the situation could look very similar (Subaran missing, found dead, no direct evidence). The fact that both wives blamed each other's side means that, at a minimum, there were two competing theories from inception. The prosecution has not managed to eliminate the theory that Saroja (or someone other than the accused) could have orchestrated this. The burden was on the prosecution to rule out all possibilities except the accused's guilt, which they have failed to do convincingly.

28. **Conclusive Nature:** The evidence we have (motive, etc.) is not conclusive; it raises suspicion at best. Yes, the son had a motive, but motive per se is not conclusive proof. Yes, the son lodged a suspicious FIR, but a cunning guilty person could do that, or an innocent, worried son might do so if he genuinely suspected his stepmother. These circumstances are

equivocal—capable of two interpretations—one points to guilt, another to innocence. In law, when such ambiguity exists, the interpretation favouring the accused must be adopted (benefit of doubt).

29. **Complete Chain: The chain here has missing links:** No last seen, no forensic tie-up, no reliable confession or witness account of the crime, and an inadmissible phone record. It is an incomplete chain. At best, the prosecution has established a strong suspicion against the accused. Perhaps many in the community or the investigating team honestly suspected the son and his friends did it. But suspicion, however strong, cannot substitute for proof. The Supreme Court in Sharad Sarda reminded us that “the distance between ‘may be true’ and ‘must be true’ must be covered by reliable evidence”. Here we remain in the realm of “may be” and have not crossed into “must be”. The evidence does not unerringly point to the accused’s guilt – it only raises a possibility.

30. **To illustrate the gap:** If we remove the presumption that “family must be guilty because they had a reason”, what actual evidence is left? Only Saroja's statement that Subaran named his son a potential threat. That is hearsay from a possibly biased source. There is no independent confirmation (for example, had the deceased told a neutral friend or lodged a report about threats, that would weigh more, but he did not). The legal burden is always on the prosecution to prove guilt beyond a reasonable doubt; it never shifts to the accused to prove innocence, especially in circumstantial cases. The accused here elected not to testify or call defence evidence, which is their right. We cannot infer guilt from their silence. The onus was on the prosecution to complete the puzzle, but it failed to do so.

31. **Conduct of Accused and Investigation Lapses:** It is worth noting the conduct of the accused during the investigation. Ram Pal’s lodging of the FIR against Saroja is a double-edged fact, as discussed. The other accused were not named at first and only came to light after call records analysis, which proved unusable. The accused’s conduct post-incident (none of them absconded; they were arrested over a month later, presumably while at home) does not indicate a guilty mind attempting to flee. Of course, not everyone flees after a crime, so this is not conclusive either way.

32. **The investigation left several questions:** Why was no effort made to track the deceased’s exact movements on 8th Aug (for instance, by tracing any public transport or people he met)? If the police suspected the son, did they find any physical evidence on his person or at his home (e.g., mud stains)? The judgment cannot be based on these speculative questions, but when evaluating reasonable doubt, the Court notes these as unexplained areas.

33. **Cumulative Assessment:** When all evidence is considered cumulatively, the Court finds that the prosecution’s case remains incomplete and unpersuasive to the level required by law. The evidence establishes a background of enmity and a tragic death, but stops short of proving the accused’s hands in that death. Important links that could connect A to B are absent: no eyewitness or camera, no scientific evidence, no admissible indirect

evidence like CDR, and no recovery of any incriminating article belonging to the deceased from the accused. Each piece of evidence that was presented (motive, hostile relations, suspicious FIR, etc.) can be interpreted innocently or explained by the theory of someone else's involvement.

34. The totality of circumstances does not exclude every hypothesis except the guilt of the accused. It is a cardinal principle that if two views are possible – one pointing to guilt and another to innocence – the benefit of doubt must go to the accused. Here, at the very least, an alternative view (that someone else killed Subaran for personal reasons or gain) is quite plausible given the lack of direct proof against the accused. The prosecution has essentially asked the Court to infer that “since the family had a motive and no one else is proven, they must have done it.” This approach is legally impermissible because it asks the Court to fill gaps with conjecture. The Supreme Court, in *Sharad Sarda*, warned that there is a long distance between “may be” and “must be.” The evidence here makes the accused suspects but not certainties. Suspicion cannot take the place of proof beyond a reasonable doubt.

### 35. Legal Reasoning and Case Law Application

The above appreciation leads to the conclusion that the prosecution has not discharged its burden of proof beyond a reasonable doubt. Settled legal precedents fortify this conclusion:

**Circumstantial Evidence Standard:** In *Sharad Birdhichand Sarda v. State of Maharashtra* (1984), the Hon'ble Supreme Court set out the stringent standard for convictions based solely on circumstantial evidence. The five conditions (often called the Panchsheel principles) include the requirement that the chain of circumstances be so complete and conclusive that it leaves no reasonable ground for a conclusion consistent with the accused's innocence. In the present case, as analysed, the chain is incomplete, and the circumstances proved do not fulfil this test. Therefore, following the ratio of *Sharad Sarda*, the accused cannot be held guilty when the required degree of certainty is not attained. The Hon'ble Supreme Court has repeatedly held that if some links in the chain are not proven or if the proved facts are consistent with any reasonable hypothesis other than guilt, the accused must be acquitted. Here, multiple missing links and alternative inferences exist.

**Motive Insufficiency:** Motive, while relevant, cannot be the sole basis of conviction. The case of [State of U.P. v. Kishanpal & Ors.: CRIMINAL APPEAL NO. 936 OF 2003](#) by the Hon'ble Supreme Court and other rulings echo that absence of motive does not cripple a case, and presence of motive alone does not clinch it either. This Court has already noted Allahabad High Court's observation that motive by itself is not sufficient to convict. The Hon'ble Supreme Court in [Suresh Chandra Bahri v. State of Bihar: 1994 AIR 2420](#) also held that even a heinous motive does not dispense with the requirement of proof. In our case, the prosecution's heavy reliance on motive is misplaced in the absence of substantive evidence connecting that motive to action.

**Last Seen Principle:** State of Rajasthan v. Kashi Ram (Supra) elucidates the principle that when an accused is proved to be last seen with the victim, the burden of explaining the circumstances shifts onto him under Section 106 of the Evidence Act – failing which, it provides an additional link in the chain against him. However, it is equally settled that where no evidence of the last seen is available, the prosecution cannot invoke this presumption at all. In Kashi Ram itself, the Court cautioned that Section 106 does not relieve the prosecution of its primary burden, and that the accused's failure to explain is significant only when the prosecution has otherwise established a prima facie case. In the current scenario, since the prosecution has not shown the accused and the deceased together at any relevant time, Section 106 of the Evidence Act is not triggered. There was nothing "within the special knowledge" of the accused that they needed to explain, because the prosecution could not first show any incriminating proximity or circumstance tying them to the crime. Therefore, the ratio of last seen cases actually underscores the weakness of the prosecution's case here: we lack the crucial link that often seals a conviction in circumstantial cases.

**Admissibility of Electronic Evidence:** The decision in Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473, governs the admissibility of electronic records, such as CDRs. The Supreme Court held unequivocally that secondary electronic evidence (such as printouts of call logs) "is wholly governed by Sections 65A and 65B" of the Evidence Act, and any such record cannot be admitted or relied upon without a compliance certificate as per Section 65B(4). Post Anvar, courts have routinely discarded uncertified prosecution call records. In the present case, since no certificate was produced, this Court has rightly eschewed consideration of the CDR evidence. We cannot draw any inference from the call analysis that the prosecution may have informally obtained. This legal bar protects the accused from potentially unverified or tampered electronic evidence. The prosecution's failure to meet this legal requirement further weakens their case, as any benefit that might have been drawn from the technology is lost by operation of law.

**Benefit of Doubt:** The overarching criminal law principle is "the more serious the crime, the higher the proof required. In Kali Ram v. State of Himachal Pradesh (1973) and reaffirmed in Sharad Sarda, the Supreme Court held that protecting the innocent is as important as punishing the guilty, and that the jurisprudence prefers to let a guilty person go free rather than convict on uncertain evidence. The evidence here is far from eliminating doubt; rather, it actively raises doubt. Therefore, in conformity with the golden thread of criminal jurisprudence (presumption of innocence and proof beyond a reasonable doubt), this Court must lean in favour of the accused. They are entitled to the benefit of the doubt.

It is notable that when a trial court's acquittal is based on a plausible view of the evidence, appellate courts should be slow to interfere, underscoring the importance of not convicting unless guilt is clearly established. Although that was an appellate context, the fundamental insight holds – a court must not convict on moral conviction or suspicion alone. Legal proof is paramount.

Applying all the above legal standards to the facts at hand, the inexorable conclusion is that the prosecution has not met the burden required for a conviction. The circumstances proved do not form an unbreakable chain and do not exclude every hypothesis except the accused's guilt. There is significant reasonable doubt on crucial aspects, and as such, this Court is duty-bound to acquit.

### **Final Order**

In view of the foregoing discussion and findings, the Court records a Not Guilty verdict against all four accused. The prosecution has failed to prove its case beyond a reasonable doubt against the accused (1) Ram Pal, (2) Rajan alias Sunil Kumar, (3) Arun alias Ratipal, and (4) Surendra alias Pattu. They are acquitted of the charges under Sections 302/34 and 201/34 of the Indian Penal Code.

All four accused are on bail; their bail bonds are discharged, subject to the next direction.

**Compliance with Section 437-A Cr.P.C.:** However, in accordance with Section 437-A of the Code of Criminal Procedure, each of the accused is directed to furnish a personal bond of ₹20,000/- with one surety each in the like amount, which shall be effective for a period of six months, undertaking to appear before the appellate court if the State opts to file an appeal against this judgment.

**Disposition of Property:** The case property, including the seized vehicles (Jeep and Tata Sumo), mobile phones, and motorcycle, shall be released to the rightful owners (the legal heirs of Subaran for his personal effects or as per confiscation proceedings) after the expiry of the appeal period, or immediately if no appeal is preferred, following due identification and execution of indemnity bonds as required. If any muddemal property has no claimant (e.g., samples, etc.), it may be disposed of in accordance with the law.

**Conclusion:** All the accused stand acquitted of all charges. They are free to resume their liberty and ordinary lives, with the stigma of this accusation legally erased. The Court empathises with the fact that a heinous crime – the murder of Subaran – remains technically unsolved by this outcome. However, the rule of law requires guilt to be proven with certainty. As the evidence did not reach that threshold against these accused, the only just result is to acquit. The investigating agency may reopen or further investigate the matter to bring the true culprits to book if any fresh evidence emerges. This judgment, however, draws the curtains on the trial of the present accused, who must be presumed innocent in the line of double jeopardy.

The Superintendent of Police, Ambedkar Nagar, may ensure that a copy of this judgment is sent to the concerned police officials for information, especially noting the evidentiary lapses (such as the electronic evidence procedure) observed.

This Judgement is signed, dated and pronounced in open Court today.

(Chandroday Kumar)  
Sessions Judge,  
Ambedkar Nagar (U.P.)