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CNR No-UPKJ010005492021

In The Court of Sessions Judge, Kannauj

Presiding Officer- Chandroday Kumar (HJS)-UP06553

Session Trial Number-117 of 2021

State of Uttar Pradesh

... Prosecution

Versus

1. Chhannu Chaturvedi son of Harimohan,
 2. Lalu Chaturvedi son of Swatantra Babu,
 Both residents of Village- Gadanpur Turra, Police Station- Jahanganj, District- Farrukhabad, and
 3. Anmol Shukla son of Rakesh Shukla.
 Resident of village- Rampura, Police Station- Pali, District Hardoi.... Accused
 Crime Number- 545/2020
 Under Sections 302, 201 IPC
 Police Station- Chhibramau, District Kannauj.

Prosecution Counsel: Shri Tarun Chandra, ADGC (Criminal),
 Defence Counsels: Shri Rajendra Babu Divedi, Shri Ramesh Chandra Pandey
 and Shri Mulayam Sharma, Advocates.

JUDGMENT

Factual Matrix

Chhannu Chaturvedi, Lalu Chaturvedi, and Anmol Shukla have been formally charged and prosecuted for offences punishable under sections 302 and 201 of the Indian Penal Code (IPC).

Discovery of the Body

2. According to the prosecution story, the epitomised facts related to the case are as follows: On date August 02, 2020, PW8, Sushil, son of Rana Pratap Singh, resident of Village- Udaipur, Police Station- Chhibramau, District- Kannauj presented a death report Exhibit Ka-11 to the effect that he learned that a dead body is laying inside of his tubewell. Police visited the spot, but due to fear of gas in the well, the body could not be extracted. On August 03, 2020, the NDRF team from Lucknow visited the spot and extracted the body. It came to know that the body was found inside the

tubewell belonged to Aman Singh, son of Santosh Chaturvedi, resident of Village- Gadanpur Turra, Police Station- Jahanganj, District- Kannauj.

Inquest

3. On August 03, 2020, SI Ajab Singh visited the spot and conducted an inquest between 12:11 pm and 12:30 pm regarding the cause of the death of Aman. He prepared the panchayatnama. Panchayatnama revealed that Aman's death appears to be due to injuries sustained on falling in the well of the tubewell and to know the exact cause of death, postmortem was suggested. So, a letter to CMO Exhibit Ka-5, Panchayatnama Exhibit Ka-6, Photo Corpse Exhibit Ka-7, and Challan Corpse Exhibit Ka-8 weren't prepared.

Postmortem Report

4. On August 03, 2020, Dr Munish Ansari conducted the post-mortem of Aman Chaturvedi between 03:40 pm and 04:30 pm and prepared the report, Exhibit Ka-2. The findings of the postmortem are as follows:-

Injury No. 1- The bruises are present all around the neck (neck measurement 36 cm) and interrupted at injury sites placed horizontally over and below the thyroid cartilage, 3.5 cm below the right ear in the area of width 6.5 cm; 1.4 cm width each bruise mark (fingermark).

Injury No. 2 - The bruises present 4 cm below the chin in an area width of 3.5 cm.

Injury No. 3 - The bruises present 4 cm below the left ear in a width of 2 cm.

Injury No. 4 – All bruises are radish brown in colour.

On dissection of bruises, subcutaneous tissues are found ecchymosed. Hematoma present on platysma and sternocleidomastoid muscle.

The doctor believes the deceased was 170 cm in height, had a medium physique and had an average build. The rigour-mortis was passed on from the upper limbs and partially present in the lower limbs. The body was swollen, and the skin was peeling off with blister formation and frothy secretion from the nose and mouth. Face congested, nails cynosed. Both fist clinched. Mud over body. Both eyes were congested with petechial haemorrhage. He was bleeding from his nostrils. Meninges, meningeal spaces and cerebral vessels were congested. Brain congested. Teeth 15/16. The mouth, tongue, pharynx, larynx, thyroid and other cartilage were congested. **The hyoid bone was fractured.** The trachea was filled with froth mixed with blood. The trachea and bronchial tree and left and right pleural cavities were congested. Lungs were congested with emphysematous bullae present. The heart's right chamber was filled with dark-coloured blood, and the left was empty. 150 ml

of semi-digested food material was found in the stomach. Gases and pasty material were present in the small intestine. Gases and faecal matter were present in the large intestine and mesenteric vessels. The liver, spleen, and both kidneys were congested. 30 ml urine was found in the bladder and urethra. Scrotal swelling was present. The duration of death was one and a half days. The cause of death was asphyxia due to antemortem throttling, and the manner of causation of death was compression. The cloth contained one blue-coloured underwear, a black thread wrapped in the right hand, Om-written two red-black threads and an electric wire wrapped in the waist.

Tahrir

5. On date August 07, 2020, a Tahrir (application) Exhibit Ka-1 was presented by the mother of the deceased, PW1, complainant, Babli Chaturvedi, before Police Station Chhibramau District Kannauj stating therein that on August 01, 2020, at around 9 pm, the only son of the complainant Aman was killed by Chhannu Chaturvedi, son of Harimohan Chaturvedi and Lalu Chaturvedi, son of Swatantrababu Chaturvedi resident of Village- Gadanpura Turra, Police Station- Jahanganj, District- Farrukhabad and Anmol Shukla, son of Rakesh Shukla, resident of Village- Rampura, District- Hardoi. He has lived with his uncle Bhole and Ashish, known as Nanu, for several years in Gadanpura. They, with an unknown person, all called the complainant's son and took him away due to an old quarrel. After much searching, there was no trace of my son. The next day, these people brought his son's clothes and mobile phone to hide the incident. They said that your son is lying dead in the well of Rana's tubewell at Village- Udaipur, PS- Chhibramau, District- Kannauj. About 15 days ago, an attempt was made by these people to kill the complainant's son, Aman, but could not succeed. All these people are criminals and domineering. No one in the village will speak out against their dominance out of fear. The complainant is convinced that these people have killed her son. The complainant requested that legal action be taken by lodging a report.

FIR & GD

6. Based on the above written Tahrir, Exhibit Ka-1, a First Information Report under Sections 302, 201 of the IPC was registered at the Police Station Chhibramau, District Kannauj, on August 07, 2020, at 21:00 at Crime No. 545 of 2020 against the accused Chhannu Chaturvedi, Lalu Chaturvedi and Anmol Shukla and an unknown. Simultaneously, the same extract was entered into General Diary (GD) No. 45, dated August 07, 2020. On this FIR, the case investigation was entrusted to the Sub-Inspector (SI) Harishankar at Police Station Chhibramau.

Investigation

7. The IO, Harishankar, visited the scene, prepared the site map Exhibit Ka-9, collected inquest and postmortem reports, and recorded witnesses'

statements. Upon completing the investigation, the IO submitted a charge sheet Exhibit Ka-10 against the accused, Chhannu Chaturvedi, Lalu Chaturvedi and Anmol Shukla, under sections 302 and 201 of the IPC in the Court of Chief Judicial Magistrate, Kannauj.

Cognisance and Committal

8. The learned CJM, Kannauj, took cognisance of the matter and, upon determining the case to be triable by the Court of Sessions, committed the case to the Court of Sessions on January 12, 2021, following compliance with section 207 of the Code of Criminal Procedure (CrPC).

Charge

9. This court registered the case as Session Trial Number 117 of 2021. It charged Chhannu Chaturvedi, Lalu Chaturvedi, and Anmol Shukla under sections 302 and 201, read with section 34 of the IPC. The accused pleaded innocence and claimed trial.

List of Evidence

10. The prosecution examined eight witnesses to substantiate the charges against the accused, which are as follows:

Witness of facts:

PW1, Babli Chaturvedi, the complainant,

PW2, Km Raunak, sister of the deceased,

PW3, Khushi, sister of the deceased and

PW8, Susheel Kumar, tubewell owner.

Formal witnesses:

PW4, Dr Ajay Kumar, conducted the post-mortem,

PW5, SI Ajab Singh, prepared the Panchayatnama, Letter to CMO, Challan Corps and Photo Corps.

PW6, HM Heeralal Rajpoot, proved the FIR and GD, and

PW7, SI Harishankar, the investigating officer, prepared the site map and submitted the chargesheet.

11. The prosecution produced seven papers under documentary evidence, which are as follows:

Exhibit Ka-1, Tahrir by the complainant, Babli Chaturvedi, proved by PW1,

Exhibit Ka-2, Postmortem report, proved by PW4,

Exhibit Ka-3, Panchayatnama, proved by PW5,

Exhibit Ka- 4, Letter to CMO for postmortem, proved by PW5,

Exhibit Ka-5, Challan Corps, proved by PW5,

Exhibit Ka-6, Photo Corps, proved by PW5,

Exhibit Ka-7, FIR, proved by PW6,

Exhibit Ka-8, GD, proved by PW6,

Exhibit Ka-9, Sitemap, proved by PW7,

Exhibit Ka-10, Chargesheet, proved by PW7,

Exhibit Ka-11, Death report, proved by PW8, and

Exhibit Ka-12, FSL report regarding clothes of the deceased collected by the postmortem doctor, tendered by the prosecution.

12. In his examination under section 313 of the CrPC, the accused defended false implication due to animosity.

13. No oral or documentary evidence has been produced in the defence.

Arguments

14. I heard the arguments of the learned D.G.C. (Criminal) and learned counsel for the defence, and I went through the evidence and material available on the record with all anxiety. Learned DGC vehemently argued that before the incident, the accused attempted to strangle the deceased just 15 days back. The accused confessed and gave clothes and a mobile phone. The accused are criminal types. Hence, there is no room for doubt. Only accused individuals have murdered the deceased. Learned defence counsel argued that the prosecution could not prove any link in the chain of circumstantial evidence. FIR is delayed by 7 days. No motive has been established.

Evidence

15. Prosecution witness **PW1**, complainant Babli Chaturvedi, has stated in her examination-in-chief that her husband has been serving a life sentence in Fatehgarh jail for the last ten years in a case. She had three daughters and a son, Aman. **On August 01, 2020, at 09.00 pm, Chhannu Chaturvedi, alias Lalu Chaturvedi, and Anmol Shukla from her village came to her house and took Aman away.** Another person was standing outside the house whom she could not identify. After that, when her son did not return, she searched for him in vain. **The next day, Anmol and Chhannu came to her house to give her son's clothes and mobile. On asking, they told her son Aman was lying dead in Rana's well in Udaipur. Even before the incident, they had tried to kill Aman by strangulating him. The said accused are criminal-type people.** They all killed her son Aman and threw his body in the tubewell. She got the report of this incident typed and gave it to the Police Station. Based on which the report was written. Which is paper no. 4a/3 on the record. The complainant confirmed the signature on her report. Tahrir was marked as Exhibit Ka-1.

16. When the witness was cross-examined, she said that **she had filed a report against Lalu and Chhanu on the seventh day of the boy's death.** The dead body was found the next day after the boy had gone. Her house is on

the outskirts of the village. The people around did not see the accused, Chhanu, Lalu and Anmol, taking the boy away at nine in the night. The accused Chhanu's house is three to four houses away from her house, and Lalu's is ten to twelve houses away. **When the boy did not return at night, She did not go to the accused's house the next day.** His son did not tell him where he was going. When the boy was not found the next day, she did not go to Jahanganj Police Station to lodge a report. **When she got the information about the boy's death, she called the police, but till then, she had not gone to lodge a report.** First, the police went to the well, but then they did not come to the house. The body was found at the tubewell on the farm in the area of Udaipur, Police Station- Chhibramau. Chhannu and Anmol had told about the death of the boy. She had given statements to the Daroga Ji. She told the Daroga Ji that Chhannu and Anmol had brought clothes and a mobile and showed her. **The Daroga Ji did not take the clothes.** There was no blood on the clothes. **The police came after she reached the well.** The police did not go to the well with any accused. It took two days to retrieve the body. The body was retrieved on the third day after the boy left home. **She was in grief and shock due to the death of her son, due to which she could not write the report on time.** Her husband was serving life imprisonment in Central Jail at Farrukhabad at the time of the incident. Her husband, Santosh, came out on parole on the fourth day of the murder of her son Aman. She had the report typed at a shop in Chhibramou. Her brother-in-law Anoop had accompanied her to Chhibramou.

17. The typewritten application was directly submitted to the Police Station. When she returned home from the Police Station, she told her husband that she had filed a report against Chhannu, Lal, Anmol and another person. Her husband did not say anything about the report. It is wrong to say that after returning home from the Police Station, her husband told her that she had wrongly written Lalu and Anmol's names in the report. The killers belong to his rival party, who have got them punished. Why did you not file a report against them? Accused Chhannu's father, Harmohan Chaturvedi, was murdered much before the time of the incident. I had heard this. Keshav Verma and Kamlesh Pandey of the village murdered Harmohan. She had come to know about this. Much litigation happened between Chhannu's father and his uncle's son, Rajiv. There was much animosity between them. The witness had denied the suggestion that it is wrong to say that she has written the names of the above accused in this case at the behest of Rajiv and the family of the deceased Vedprakash. Baburam is the real uncle of her family. It is wrong to say that her husband had murdered Baburam's son, and hence, Baburam had her son murdered to take revenge. It is wrong to say that she had falsely implicated the accused Lalu at the behest of Triloki Verma of the village.

18. The police Daroga Ji had questioned her at home and at the place where the dead body was found. She had told the names of the accused at the well. After removing the dead body from the Tubewell, they took it straight to the postmortem house in Kannauj. She does not remember if the police got any signatures on the Tubewell. There was no written compromise. Her daughter Raunak was also questioned at the Tubewell. She had written in her report that ten-fifteen days before the incident, the accused had tried to kill her son Aman by strangulating him. She had informed the police at 100 number in this regard, on which the police came and, after counselling, left.

19. When the body of her son Aman was taken out of the well, his body was unrecognisable. The whole body had turned blue. At that time, the boy was wearing only a Chaddi and nothing else was found. **The accused, Lalu, had gone to Ganga ji for the cremation of the boy.** She does not remember whether or not Daroga Ji went to her house after writing the report. She cannot tell if the Daroga Ji made the map of her home, but he made the map of the tubewell. She watched, and the Daroga Ji made it. She cannot tell on whose indication he was making the map. She had informed the police about the dead body at the tubewell, and if someone else had informed, she did not have any information about it. Indeed, she did not see her son Aman being murdered and thrown into the well, and if someone had seen it, she could not tell. No one indeed told her whether anyone saw Aman being murdered and the body being thrown into the well or not. It is true that when her son Aman left the house at 9 pm, the neighbours did not see him with the accused. She had dictated the person typing the FIR. It is wrong to say that the accused, Lalu and Chhannu, did not take her son from her house and that these people did not kill him. It is wrong to say that she wrote the names of the accused, Lalu and Chhannu, in this case, at the behest of her opponents. It is also wrong to say that Baburam Chaturvedi of the same village murdered her son Aman to take revenge for the murder of his son Vedprakash, and the accused were wrongly named.

20. Her son's body was found in the well. When she went there, people from the nearby village were there. The body was not taken out of the well. It was told that gas is being produced in the well. When the body was taken out, it was said that the boy had died standing in the well. Her husband was in jail. She had written the report on her own that the boy had died in the well. **Her son had no enmity with Anmol, etc.** Anmol's maternal grandmother is in her village. She is a resident of Hardoi. The body was found on the 2nd, but the body was taken out on the 3rd. **Chhannu and Anmol had told her that the police were present near Rana's well, and the body was lying in the well. Chhannu and Anmol had brought the boy's clothes home.** Her son was wearing shorts. The clothes that the boy had worn while leaving home were not found. Her son had gone wearing shorts and a shirt. She had come after seeing the body in the well. After the police took the body away, she did not try to know how the boy fell into the well. Tubewell had a submersible pump. **She did not mention in her complaint that she believed that these people killed her son.** The Panchayatnama was not filled in her presence. She was at home. Her daughter informed the police that her brother had died in the well. There was no witness from the village to this incident. The police Daroga Ji did not meet her after the day the body was found. It is wrong to say that her son went to open the motor in the well and died in the well due to the motor wire catching fire from the gas in the well.

21. **PW2**, Sister of the deceased, Raunak Chaturvedi, has stated in her examination-in-chief that on August 01, 2020, at 09:00 pm, four people of the village, namely Chhannu Chaturvedi, Lalu, Anmol Shukla and an unknown person called her brother Aman from her house and took him away. Aman did not return home for a long time. The next day morning, Chhannu Lal and Anmol brought his brother Aman's clothes and mobile to her house and told her that her brother Aman's body was lying in the tubewell of Udaipur village. Then she informed the police about it. Accused Chhannu, Lalu and Anmol had murdered her brother and hidden the body by throwing it in the well of

Udaipur village. **Fifteen days before this incident, the above three accused had tried to kill Aman by strangulating him. Her uncle had complained about this to the police on the 100 number. The police had caught Chhannu but later released him.** Her mother, Babli, had filed a report of brother Aman's murder by giving an application at the Police Station. The Daroga Ji inquired about the incident and took the statement.

22. When the witness was cross-examined, she stated that the incident occurred on August 01, 2020; she was at her home that day. It was 9 o'clock in the night. Her brother was taken away from home by Chhannu, Lalu, Anmol and another person. All three had come inside the house to the verandah; one person was standing outside. When these people came to call him, she was cooking food in the verandah. The Daroga Ji took her statement regarding the incident at the home. Apart from us, no one had seen Aman being taken away by these people. When Aman left the house, the neighbourhood had a lot of hustle and bustle. Then she said that we were awake. She does not know about the neighbourhood. She came to know in the morning that the body of her brother Aman was lying in the well of village Udaipur. Chhannu and Anmol had informed her at home that her brother's body was lying in the well. Chhannu and Anmol brought clothes and a mobile to her house and gave them to her. Chhannu was called to the scene of the incident, where the body was lying. When her brother left the house, he was wearing a shirt and half pants and slippers on his feet. Her brother was wearing blue jeans. The shirt was of green check. The slippers were black. The slippers were made of rubber. **She had no enmity with Lalu and Chhannu.**

23. She had gone to the well of village Udaipur with her uncle, who was a neighbour to her. The well where her brother was found was dry initially, but later, it flooded. This well was inside the room. There was an iron gate in the room. The gate was also locked. She had gone to the roof of the well. **There was a 12-13 inch hole in that room. Her brother's body was taken out on the third day. That is why she did not lodge a report on the third day.** A team came from Lucknow to take out Aman's body from the well. The Chhibramau police were present on the spot. Udaipur village would be 2-3 km away from her village. The well was about twenty-five to thirty feet deep. The Panchayatnama for her brother's body was filled on the spot. Until the Panchayatnama was prepared, her mother had not presented a report at the Police Station. After preparing the Panchayatnama, they took her brother's body to Sikandarpur Police Station. She saw her brother's body being taken out of the well. When the body was taken out, Aman was wearing only a chaddi (underwear). She did not see her brother being murdered or the body being thrown into the well. Her brother did not die in front of her; she does not know when and how he fell into the well. When she reached near the well, the body was in the well. The dead body was taken out of the well by the police. When the body was taken out, it was lying down. The body was taken out on the 3rd. The clothes he was wearing were not found there. Rana was the owner of the well. **Rana's sons brought the keys. The police opened the lock after taking the keys from him.** She did not meet Rana before submitting the FIR. Rana is a good man. It is wrong to say that she saved Rana, and along with the people of her village, she has a rivalry with Anmol's maternal uncle, whose relatives are in her village, so she got a false case registered against Anmol.

24 The report was filed seven days after the incident. Her brother's body was taken out on the third day. That is why she did not lodge a report on the third day. The report her mother filed was not based on what the villagers had told her. The police reached Udaipur on August 02, 2020. On August 02, 2020, she told the police the names of Lalu, Chhannu and Anmol. Her father was in jail at the time of the incident. After her brother's murder, her father had come out on parole for three days. **It is wrong to say that her father killed Ved Prakash, and so Ved Prakash's family members might have taken her brother Aman and thrown him into the well in an inebriated state.**

25. Fifteen days before the incident, Chhannu, Lalu and Anmol had tried to kill her brother. Her family members had not filed any report in this regard at the Jahanganj Police Station.

26. **PW3**, sister of the deceased Khushi, stated in her examination-in-chief that her father was already serving life imprisonment. **Therefore, Chhannu, Lalu and Anmol started keeping her in touch with him.** These people used to call Aman outside the house. Aman often used to go with these people. On August 01, 2020, at 09:00 pm, these people called her brother Aman from home and took him away. When she asked Aman where he was going, he said he was going with Chhannu, Anmol and Lalu. He said he would return, but he did not return at night. Then, in the morning, Aman was searched, and when these people were asked where Aman was, they said that Aman was lying dead in the tubewell of Udaipur village, and these people had shown the clothes worn by Aman. Other people from the Village were also present at that time. They immediately informed the police. The family and the villagers went to the place told by the accused. When the sun rose, the body was seen in its light, and the police took it out, and then they recognised that the body was of the brother. **These people had also tried to kill Aman by strangulating him 15 days ago. But that day, the accused were not successful in killing Aman. Her uncle had complained about the incident to the police on 100 number.** After the incident, when the family and the villagers asked the above accused, **the accused confessed to his crime and said that Aman used to oppose their wrong deeds. Therefore, to hide their wrongdoing, they killed him and threw him in the well.** On the night of the incident, some people from the village saw Aman with the above accused near the tubewell of Udaipur village. Later, they said they had seen Aman going towards Udaipur with the accused. The accused people had returned, but Aman was not with them. Due to fear of the accused people, these people told us this in a hushed voice. Later, the incident report was written.

27. The witness stated under oath in her cross-examination that Daroga Ji had recorded her statement. She had gone to the tubewell where the dead body was found. She had gone there the next day. At that time, she told the Daroga Ji that Lalu, Chhannu and Anmol had taken away her brother Aman. Later, Her mother reported the incident. Her mother was with her when her statement was recorded at the tubewell. Her statement was also recorded, and the names of the accused were given. **The people of the village have seen her brother Aman being taken away by the accused. The people of the village told her and her family that these people had taken him away.** She did not tell the Daroga Ji the names of the people in her village who had seen Aman being taken away. People from other villages had told her they saw the

accused taking him away. She did not know their names, and she did not tell the police.

28. Fifteen days before the incident, the accused tried to kill her brother Aman, but she and her family did not report it at the Police Station. **She did not stop Aman from going with the accused at 9 o'clock in the night.** On the second day of the incident, the accused came home with her brother's clothes. The neighbours and she saw the clothes. She told Daroga Ji about this in her statement. **The accused had thrown those clothes on the road. Those clothes are kept at home. Those clothes were shown to Daroga Ji later. They had taken the clothes with them after sealing them. Then, the Daroga Ji returned the clothes.** It is wrong to say that her brother went inside the tubewell to commit theft at the time of the incident and died after falling into it. Her father was serving life imprisonment at the time of the incident. She does not know for what crime her father was convicted. She knows Ved Prakash. She does not know how Ved Prakash died.

29. On the second day of the incident, she and her family members went to the tubewell where the dead body was found. They went there after the accused informed them. At the same time, her family members and her sister Raunak called the police. She does not know at what time she reached the tubewell. But when she arrived, the police were present there. She had seen the tubewell; there was a room built in it. The owner of the tubewell was Rana of Udaipur. **The police had unlocked the tubewell at that time. There was no net on the roof of the room. There was a boring hole.** When the dead body was found, Aman was wearing underwear. There were many injuries on Aman's face. Teeth were broken. There was a mark on the neck. Nothing was found at the tubewell except the dead body. The shoes and slippers were not recovered. She does not know how far Udaipur is. She knows that one has to cross the river. She had told the Daroga Ji that her family members and the people of the village had gone to the place mentioned by the accused. The sun had not risen till then, so nothing was visible. She cannot tell which direction the tubewell is from her village. She and her family members did not see Aman being murdered. It is wrong to say that Lalu and Chhannu did not call her brother Aman from home and take him away. It is wrong to say that she did not go to the tubewell and did not see the dead body. It is also wrong to say that because of party politics in the village, her mother might have filed a false report against the accused at the Police Station.

30. On August 2, 2020, **PW5** Sub Inspector Ajab Singh, then serving as the outpost in charge at Chhibramau Police Station, testified that he received information at the station. He then proceeded to Rana's tubewell in the village of Udaipur, accompanied by Constable Nishu Chaudhary and Home Guard Ramveer. They brought the necessary forms to prepare the Panchayatnama for the deceased Aman Chaturvedi. The Panchayatnama of the deceased Aman Chaturvedi was completed on August 3, 2020, at 01:30 pm. He conducted the Panchayatnama after appointing the Panchs, considered their (Panchs) opinions, and inspected the injuries on the body. The witness verified the Panchayatnama of deceased Aman as Exhibit Ka-3, the letter to the Chief Medical Officer as Exhibit Ka-4, the challan of the dead body as Exhibit Ka-5, and the photo of the dead body as Exhibit Ka-6 were all in his handwriting and signature.

31. In the cross-examination, this witness said he was informed about the deceased from the Police Station. Written information was given to the Police Station. When he reached, the family members of the deceased were present. The witnesses written on the Panchayatnama had told the name and address. When he arrived, the dead body was lying outside. The report of this case was written after the Panchayatnama. The deceased was wearing only underwear. The dead body was sent for post-mortem. When he went to fill the Panchayatnama, the police of the outpost and the Police Station were present. When the Panchayatnama was filled, the First Information Report was not written till then. Sushil gave the information about the death at the Police Station. **The person who gave the information at the Police Station said that a man had died after falling into a well.** The NDRF and the police had taken out the dead body.

32. Injuries on Panchayatnama: Right eye was bloodied, nose and mouth were bloodied, chest was bloodied, neck was blackened. The wire was tied around the waist. The wire was not seized, nor was the report made. The deceased was wearing underwear. None of his clothes were found there. **The forensic team was not called on the spot, and no fingerprints were taken.** The Tubewell owner was not made witness on Panchayatnama. When he reached, the tubewell was open. The application was given at the Police Station on August 03, 2020. The application was written that poisonous gas was being reported inside the well, and it was written that his family identified the deceased. No information was indeed given to the Police Station by the family of the deceased, nor was any report written before filling the Panchayatnama.

33. PW6, chik writer, Sub-Inspector Hiralal Rajput, testified that on August 07, 2020, he was posted as Head Clerk at Police Station Kotwali Chhibramau. On that day, he was on duty at the Police Station. On that day, a written application was filed at the Police Station by the complainant Babli, wife of Santosh Chaturvedi, resident of Madanpur Turra, Police Station- Jahanganj, District- Farrukhabad, during his duty. On which, on the written order of the then SHO, he had the lady constable Reena Bhartiya posted with him on the computer, typed it word by word from the complaint (Tahrir) of the complainant and got a fresh FIR numbered on the computer as case no. 545/2020, sections 302, 201 IPC vs. Chhannu Chaturvedi and others. Papers 4A/1 to 4A/2, available on the record, were shown to the witness. The witness said that this is the same original FIR that he had typed on the computer by the lady constable Reena Bhartiya, posted with him on the computer duty, word by word, from the complaint of the complainant and had matched it word by word with the complaint of the complainant. He confirmed the signature of the then SHO Shailendra Mishra and the seal of the Police Station on this. Exhibit Ka-7 was marked on this. He disclosed this case on the same day at around 16:57 in GD Report 45. He also got the GD report written by him, dictating it to Constable Reena Bhartiya, who was posted as the computer operator. When paper number 6A from the record was shown and read out, the witness said that this was the same original GD report, which he got written on the computer by Constable Reena Bhartiya, dictating to her. He confirmed his signature and the seal of the Police Station on this. Exhibit Ka-8 was marked on this. The witness said that in this regard, his statement was recorded by the investigating officer.

34. The witness in the cross-examination stated that this case incident date was mentioned in the complainants's complaint as August 01, 2020. The case was registered on August 07, 2020, at 16:57. When the complainant came to the Police Station, Bablu alias Anoop Kumar had come with her. She had brought a typed complaint. On the orders of the SHO, he recorded the matter of Tahrir by speaking to the computer operator, and the case was registered in the GD on the same day. Before the case was registered, no accused related to this case was present at the Police Station. He had sent a copy of the FIR to the Circle Officer the next day. In this case, the dead body of the deceased was found on August 03, 2020, before the case was registered. The investigating officer took his statement on August 07, 2020, when the FIR was registered. The Panchayatnama and post-mortem of the deceased were done before the case was registered. After registering the FIR, he informed the higher authorities about it through RT-Set. He does not know whether the deceased, complainant or any other person had lodged any report in Police Station-Jahanganj.

35. PW7 investigating officer Inspector Harishankar testified that on Aug 07, 2020, he was posted as an Additional inspector at Chhibramau Police Station. On the same day, based on the complaint filed by the complainant, Mrs Babli, wife of Santosh Chaturvedi, resident of village Gadanpur Turra Police Station Jahanganj District Farrukhabad, FIR No. 545/2023 under section 302, 201 IPC vs. Chhannu Chaturvedi and others was registered and the investigation was handed over to him. After taking over the investigation, CD 01, dated August 07, 2020, was written by him, and copies of the chick, copy report, and statement of FIR writer Head Constable Hiralal were recorded. CD 02, dated August 09, 2020, was written, wherein the statement of complainant Mrs Babli and her daughter Ms Raunak was recorded, and the map of the incident site was prepared on the identification of the complainant. The statements of independent witnesses, Mr Pankaj Kumar, Mr Jagmohan Chaturvedi, and Mr Anurag Singh, were recorded. The site map is present on the record as paper no. 7A/1 is in his handwriting and signature. He confirms this. Exhibit Ka-9 was marked on it. CD 03 was written on August 10, 2020, in which the Panchayatnama and postmortem report of the deceased Pawan Chaturvedi, son of Santosh Kumar Chaturvedi, related to the allegation, were observed. Details were recorded on the CD. According to the PM report, the cause of death due to antemortem throttling was mentioned.

36. CD 4 was written on August 12, 2020, in which the named accused, Chhannu Chaturvedi and Anmol Shukla, were sent for arrest as per rules after their statement before the Hon'ble Court on remand. CD 05 was written on August 19, 2020, and the accused, Lalu Chaturvedi, who was the other wanted, was searched. CD 06 was written on August 25, 2020, in which statements of witnesses Panchan Shri Anoop Kumar, Shri Dhunnu Dubey, and Shri Ashutosh Mishra were recorded, and details were recorded after conducting a thorough investigation regarding the sequence of events. CD 7 was written on August 31, 2020, in which the statement of Sub Inspector Ajab Singh, who prepared the Panchayatnama, was recorded, and other action was taken. CD 08 was written on August 02, 2020, in which further statements of accused Chhannu Chaturvedi and accused Anmol Shukla, lodged in District Jail Kannauj, were recorded after obtaining permission from the Hon'ble Court. CD 09 was written on August 15, 2020, wherein the statement of the death informant and witnesses Panchan Shri Sushil Kumar and Ramveer were

recorded. Accused Lalu was searched, action under NBW and Section 82 CrPC was taken against him, and details were recorded. CD 10 was written on August 26, 2020, during which raids were conducted at possible places where the accused, Lalu Chaturvedi, could be found. CD 11 was written on August 28, 2020. A search was conducted for wanted accused Lalu Chaturvedi. CD 12 was written on August 08, 2020, wherein a request for issuing NBW of accused Lalu was submitted. CD 13 was written on August 09, 2020, wherein raids conducted at possible places searching for wanted accused Lalu Chaturvedi were mentioned.

37. CD 14 was recorded on October 12, 2020, wherein the statements of independent witnesses Shri Ashwani Kumar and Shri Arun Kumar were recorded. NBW was obtained to arrest the accused, Lalu Chaturvedi, who was wanted. CD 15 was recorded on October 15, 2020, in which the arrest of the wanted accused, Lalu Chaturvedi, as per rules after serving the NBW, was mentioned. After the accused, Lalu Chaturvedi's statement, he was sent to the Hon'ble Court for remand. CD 16 was recorded on October 16, 2020, in which the statement of the complainant's daughter, Ms Khushi, was recorded, and information and other details received from a special informant regarding the sequence of events were recorded. Statements of independent witnesses Akash Kumar, Shri Maharaj Singh, Shri Jaikrishna Mishra, Shri Ramveer, and Shri Vinod Kumar were recorded. CD 17 was recorded on October 19, 2020, wherein the statement of postmortem officer Dr Munish Ansari was recorded. CD 18 was recorded on October 20, 2020, wherein surveillance details and BTS-related proceedings were recorded. CD 19 was made on October 22, 2020, in which it was mentioned that, after reviewing all the evidence, the crime was proved, and the investigation was ended by challaning the accused Chhannu Chaturvedi alias Sheelendra Kumar, Lalu Chaturvedi and Anmol Shukla through charge sheet no. 623/2020, dated October 22, 2020, under section 302, 201 IPC in the Hon'ble Court. He confirmed his signature on paper no. 3A/1 and 3A/4 are available on the record. Exhibit Ka-10 was marked on this.

38. During the cross-examination, the witness deposed that the incident in this case was on August 01, 2020. The complainant filed a report of the incident in Chhibramau on August 07, 2020. He had gone to the spot when the body of the deceased Aman was found in the well. He had gone to the well at the spot 3 to 4 times. He does not remember whether the complainant and his family met him when he went to the tubewell. Then he said that on August 03, 2020, the complainant, Babli, met him at the tubewell where the body was found. Babli had reached the tubewell herself. He does not remember whether Babli had told the name of any accused on August 03, 2020. No written complaint was also given by the complainant at the tubewell. During the investigation, he went to the village Gadanpur Turra and recorded the statement of Jagmohan Chaturvedi, son of Shivnath Chaturvedi, under Section 161 CrPC. However, this witness did not give him the statement that he had seen the deceased Aman going with the accused named in the First Information Report. Apart from this, he had also recorded the statements of Ashwani Kumar and Arun Kumar, but they did not see the accused going with the deceased Aman. Both these witnesses had told him that some people in the village had seen them going at night. He had tried to take statements from them, but they did not tell anyone's name. Village Gadanpur Turra falls in the Police Station area of Jahanganj, District- Farrukhabad. He tried to get

information about this incident at the Police Station in Jahanganj, but the complainant registered no case. Even if the complainant gave any application, he has no information about it.

39. He traced the complainant's mobile number but received no data. The complainant or his family did not give him the deceased's clothes, shoes, etc.. The tubewell near which the dead body was found was lying was closed. A locked room was built on the tubewell. There was a lintel on the roof of the room. There was a big hole in the middle of the lintel from which a pipe came out. The room was closed. There was no staircase to the room's roof, but a wooden ladder was found. This wooden ladder was found inside the room when the lock was opened. The police took that ladder, and no report was made. He does not remember whether the dead body was found in the tubewell and whether there was any cloth on the body or not. After seeing the Panchayatnama, the witness said that no shoes or slippers of the deceased are mentioned, but the details of the clothes are mentioned. The deceased was wearing only underwear, and a thread was tied on the right arm, and there was an electric wire around his waist. The electric wire around his waist was covered with plastic. He did not receive this wire during the investigation, and he did not make a report on it. The tubewell where the dead body of deceased Aman was recovered from the tubewell was under Village- Udaipur, Police Station- Chhibramau. By someone from Udaipur and nearby **villages during the Investigation**: He was not told that he had seen the deceased Aman and the accused together. He took complainant Babli's statement on August 09, 2020, by going to the complainant's village. He also took the statement of the complainant's daughters. The complainant and her daughters had not mentioned in their statements that they had seen any person from the village going with the deceased Aman and the accused. He had received the investigation of the case on August 07, 2020. On August 09, 2020, he met the case complainant for the first time in her village. On the verbal information of the complainant, the body of the deceased was recovered from the well of the tubewell. The body was not recovered on the indication of the accused. The accused were arrested many days after the recovery of the body. No item related to the deceased was recovered from the accused. He has not made any map of the place where the deceased and the accused were told to go from the complainant's house. **The size (diameter) of the hole he mentioned in the tubewell room was 13 inches.** The distance of the complainant's village from Udaipur (where the body was found) is about 4 to 5 km. The distance varies if you go by other routes. The Kali River lies between the incident site Tubewell and Gadanpur. The Kali River was not in flood at the time of the incident. He did not see a boat running in the river. Animals and people could cross the river from where there was less water, but people could not cross the river from where there was more water without a boat. During the investigation of the incident, he was told by the villagers that complainant Babli's husband, Santosh Chaturvedi, is serving a life sentence in a murder case. When he went to the complainant's house, he did not find Santosh.

40. It is wrong to say that he filed a chargesheet against the accused superficially without conducting a proper investigation. **It is also wrong to say that he did not put the mobile numbers of the complainant and the accused on surveillance, and it is also wrong to say that he did not put the mobile number of the deceased Aman on surveillance.**

41. Witness PW8 Sushil Kumar, son of Shri Ranapratap Singh, age 49 years, occupation- agriculture, village resident- Udaipur, Police Station- Chhibramau, District- Kannauj, stated on oath that his main occupation is farming. The Nauli village is about 01 km from his village, where he has farming. He has a tubewell installed in the fields there. A room is built there, and a door is installed. At the time of irrigation, the door of the tubewell was opened, and irrigation was done; the rest of the time, it remained closed. There is a 13-14 inch circular hole in the lintel on the roof of the tubewell above the well to take out the motor and pipe, etc. On August 02, 2020, he got information that a person's dead body was lying inside his tubewell. When he went to the spot of information, the police were present there; the police got the lock of the tubewell opened. When the lock was opened, a dead body of a person was seen lying in the tubewell. The police tried hard to remove it, but they could not. Then, the NDRF team was called from Lucknow. The next day, on August 03, 2020, in the morning, the NDRF team reached the spot. The team had taken out the dead body with the help of the police. The dead body was identified on the spot as Aman Chaturvedi, son of Santosh Chaturvedi, resident of Gadanpur Turra, Police Station- Jahanganj, District- Farrukhabad. After the dead body was taken out of the well, he gave the death report to the Police Station. He had dictated the death report to Amit Kumar, son of Chandrabhan Singh, resident of Village- Turra, Police Station- Gursahaiganj, and submitted it to the Police Station. When paper no. 8A/20 present on the case record was shown to the witness and read out; the witness said that this was the same death report that he had written by Amit Kumar, son of Chandrabhan Singh and submitted to the Police Station. This death report was read out to me by Amit Kumar. This death report is in Amit Kumar's handwriting. He confirms his signature on this death report. Exhibit Ka-11 was marked on it. The Panchayatnama of the dead body was conducted by the police on the spot. His signature was taken on the Panchayatnama on the record by the police on the spot. He confirms his signature on the copy of 8A/2. After filling the Panchayatnama, the dead body was sealed and sent for postmortem. The police had taken his statement regarding the incident.

42. In the cross-examination, the witness stated that his field with tubewell is about 2 to 2.5 km from his village towards the west. There is no other village near this tubewell. Gadanpur Turra is about 7-8 km from his village. The Kali River lies in between. At the time of the incident, it was rainy season, and Kali River was flooded. He did not know the deceased Aman and his parents before this incident, and he also does not know the accused in this case because he did not visit Gadanpur Turra village. About one month before the incident, his tubewell was closed because there was no irrigation from the tubewell. There is a room built on the tubewell, which remains locked. At the time of the incident, the tubewell room was closed. He cannot tell who informed him about the dead body being found in the tubewell. When the police called him, he went to the tubewell. When he reached there, he gave the keys to the police and the police opened the tubewell lock. The body was right inside the well. There was no water in the well, but the body was on the surface below the well.

43. His siphon pipe, which he had not kept there, was found lying on the roof of the tubewell. He had kept it inside the room. In his estimation, the deceased had gone inside the tubewell room with the intention of stealing.

44. There was poisonous gas present inside the well at that time, due to which the police of Chhibramau Police Station could not take out the body from the well. The next day, the police called NDRF from Lucknow. The NDRF was the one who took the said body out of the well. He did not see the body. He stayed at the spot till the paperwork was done by the police.

45. He cannot tell whether the family members of the deceased Aman came to see the body or not because he does not know them. The police took him to the police post of Sikandarpur Police Station- Chhibramau, where he had to write a complaint regarding the discovery of the body. He does not know where the police sealed the dead body.

46. The people present at the spot could not identify Aman. Since he did not see the dead body, he could not tell whether any cloth, electric or iron wire was found with the body or not. Sometime after the incident, one day, the police Daroga Ji came to the house and made inquiries. He has no information about whether the deceased's family members lodged a report before he arrived and the dead body was retrieved at the tubewell.

Analysis

47. The prosecution case is built on circumstantial evidence since no one witnessed the incident. In the case [Sharad Birdhichand Sarda vs. State of Maharashtra \(17.07.1984 - SC\): MANU/SC/0111/1984](#), the Hon'ble Apex Court has held that the following five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence shall be observed-

“(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra MANU/SC/0167/1973: 1973CriLJ1783 where the following observations were made:

Certainly, it is a primary principle that the accused must be and not merely may be guilty before a Court can convict, and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions.

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

(3) the circumstances should be of a conclusive nature and tendency.

(4) they should exclude every possible hypothesis except the one to be proved and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of

the accused and must show that in all human probability, the act must have been done by the accused.”

48. There is no dispute that Aman died at any time one and a half days before the postmortem. There is no infirmity in the postmortem doctor's testimony. The cause of death was due to asphyxia as a result of throttling, so it was a culpable homicide, not an accident due to falling in the well. Moreover, the tubewell room was locked, and it was impossible to slip into a 12-13-inch hole in the roof.

49. Upon considering the whole prosecution story, it is evident that the prosecution is required to substantiate the following link elements to prove his chain of narrative:

1. **Motive,**
2. **Animosity,**
3. **The accused people's last-seen with the deceased,**
4. **Return of clothes of the deceased by the accused.**
5. **Confession to PW3, and**
6. **Throwing of the body into the well by the accused.**

50. A sufficient **motive** is usually vital in heinous criminal offences against the human body. Only an insane person may kill someone without a motive. Sufficiency of motive is a relative term to the temperament of the accused. In most cases, the criminal act is done with a particular motive. In cases based on circumstantial evidence, the motive is an essential link in the chain of circumstances. However, it is a different matter that the prosecution cannot prove the motive in all cases as it mostly remains hidden in the mind of the accused only. For a man of normal temperament, there should be a strong motive for killing a human. Still, it should not be forgotten that by taking advantage of the situation of animosity and settling a grudge, some other person may have killed the deceased. The onus is now on the prosecution to establish the motive. For this purpose, the prosecution referred to the statement of the PW1, which stated that the accused were **criminal types**. No criminal histories of the accused individuals have been produced. For the sake of argument, even if I consider that the accused individuals possess characteristics typically associated with criminal behaviour, it is essential to note that such characteristics do not constitute a valid motive. Generally, no one kills just for fun. The prosecution also referred to two statements of the PW3, the sister of the deceased, which firstly stated that **Aman used to oppose their wrong deeds. Therefore, to hide their wrongdoing, they killed him.** There is nothing to show what were wrongdoings. Unless and until it is not revealed what the wrongdoings were, it is difficult to assess the sufficiency of the motive. Secondly, her father was already serving life imprisonment, so Chhanu, Lalu, and Anmol started keeping her in touch with him. These people used to call Aman outside the house, and Aman often went with them. This is also not a motive. Contrarily, it appears that the accused individual, the deceased, and his family had cordial relations. It is not a case that the deceased opposed the helpfulness of his sisters by the accused. PW2,

sister of the deceased, said nothing about motive. Hence, the motive remained unproven.

51. The second point to be considered is **animosity**. PW1 has stated that even before the incident, accused individuals had tried to kill Aman by strangulating him. PW3 also said that these people had also tried to kill Aman by strangulating him 15 days ago. But that day, the accused were not successful in killing Aman. Her uncle had complained about the incident to the police on 100 number. PW2 has said nothing regarding the previous attempt at strangulation. The prosecution has produced neither uncle nor any police officials of 100 number to establish such fact. If there was an earlier attempt, why the deceased would go with the accused individuals at night is unanswered. Moreover, why the family members kept mum for seven days after the deceased went with the accused individuals is also unexplained. Grief and sorrow are not plausible explanations offered by the prosecution. Learned defence counsel rightly argued that the whole story of witnesses is cooked up after long deliberation. The prosecution failed to establish any reason behind the killing.

52. Now, it is to be assessed whether there was any last-seen. The **last-seen** theory is based on English common law principles and has been used in Indian criminal jurisprudence. It is circumstantial evidence that can be used to establish guilt, but it should not be the sole basis for a conviction. The time between when the accused and the victim were last-seen and when the victim was found dead is essential. If there is a long time gap, it can be challenging to establish that the accused was the last person with the victim. The last-seen theory is most effective when other evidence corroborates it. For example, suppose there is no proof of motive or evidence that the accused and the victim had a cordial relationship. In that case, the last-seen theory may not be sufficient to establish guilt. Who will go with the people who attempted to strangle him just before 15 days, as in this case? Needless to say, the judiciary should uphold the presumption of innocence and avoid misusing the last-seen theory. The last-seen theory is most effective when other evidence corroborates it. For example, suppose there is no proof of motive or evidence that the accused and the victim had a cordial relationship. In that case, the last-seen theory may not be sufficient to establish guilt. Here, in this case, how can it be presumed that relations were cordial if there was an attempt of strangulation just before fifteen days of last? No independent witness has been produced even though the last-seen place was a populated area, and the dead body has been found far distant. The postmortem report at 3:40, dated August 03, 2020, reveals the duration of death was one and a half days. The last-seen is said to be on August 01, 2020, at around 9 pm. The time of death falls at 3:40 am on August 02, 2020. The time gap is about seven hours. In the case of [**Nizam and Ors. vs. State of Rajasthan \(04.09.2015 – SC\): MANU/SC/0964/2015**](#), Hon'ble Apex Court has held that when the time gap is long, there is no reason to conclude that the Appellants are guilty of murdering the deceased. Where the time gap is long, it would be unsafe to base the conviction on the "last-seen theory"; it is safer to look for corroboration from other circumstances and evidence adduced by the prosecution. There is no other evidence corroborating the last-seen theory. Hence, the last-seen is highly suspicious.

53. A voluntary **confession** of guilt is a statement without force, threats, or promises made by someone. The principle underlying confession is rooted in redemption, which provides individuals with hope for forgiveness, ultimately enhancing the liberation of both the soul and the body; that is why a confession that is not voluntary is not admissible as evidence in a trial. The prosecution is responsible for proving that a confession was voluntary. It is well settled that courts must exercise caution when relying on confessions and consider them in conjunction with other evidence. In this context, PW1 testified that Anmol and Chhannu visited her residence to deliver her son's clothing and mobile phone. Upon her inquiry, they conveyed that her son, Aman, had been found deceased in Rana's well in Udaipur. PW2 stated that Chhanu Lal and Anmol brought his brother Aman's clothes and mobile to her house, informing her that Aman's body was lying in the tubewell of Udaipur village. PW3 stated that after the incident, the family and villagers confronted the accused, **who confessed to his crime, saying that Aman opposed their wrong deeds. Therefore, to hide their wrongdoing, they killed him and threw him in the well.** Aman was lying dead in the tubewell of Udaipur village, and these people had shown the clothes worn by Aman. Notably, no independent villagers have been produced to corroborate the fact of showing clothes, mobile and confession. Suppose the evidence of showing clothes, mobile and confession was gathered the day following Aman's last-seen. In that case, it is troubling that such details emerged only later during the investigation under section 161 of the CrPC. The seven-day delay in filing the First Information Report (FIR) raises significant concerns, as it implies that the accused parties had informed only of the body's location, along with the clothes and mobile phone. PW1 stated that she told the Daroga Ji that Chhannu and Anmol had brought clothes and mobile, **showed them, and gave them** to her. The Daroga Ji did not take the clothes. There was no blood on the clothes. In contrast, PW3 stated that the accused came to her home with her brother's clothes. The neighbours and she saw the clothes. She told the Daroga Ji about this in her statement. The accused had **thrown** those clothes on the road. Those clothes are kept at home. Those clothes were shown to the Daroga Ji later. They had taken the clothes with them after sealing them. Then, the Daroga Ji returned the clothes. In my view, no clothes were found on the body, which is why the witnesses fabricated the story about the deceased's clothes being shown by the accused. Additionally, the witnesses are inconsistent regarding how many accused individuals provided the clothes. Even if we assume, for the sake of argument, that clothes were given, this information does not qualify as a confession. So far as PW3's statement regarding confession is concerned, no other witness confirms it. Notably, the confession is corroborative evidence as held in [Kalinga vs. the State of Karnataka by Police Daroga Ji Hubli \(20.02.2024 – SC\): MANU/SC/0121/2024](#). I quote the relevant part of the Judgment as follows:

“14. The conviction of the Appellant is largely based on the extra-judicial confession allegedly made by him before PW-1. So far as an extra-judicial confession is concerned, it is considered a weak type of evidence and is generally used as a corroborative link to lend credibility to the other evidence on record. In Chandrapal v. State of Chhattisgarh MANU/SC/0727/2022: 2022:INSC:629, this Court reiterated the evidentiary value of an extra-judicial confession in the following words:

11. At this juncture, it may be noted that as per Section 30 of the Evidence Act, when more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the court may take into consideration such confession as against such other person as well as against the person who makes such confession. However, this Court has consistently held that an extra-judicial confession is a weak kind of evidence and unless it inspires confidence or is fully corroborated by some other evidence of clinching nature. Ordinarily, conviction for the offence of murder should not be made only on the evidence of extra-judicial confession. As held in the case of State of M.P. Through CBI v. Paltan Mallah, the extra judicia- confession made by the co-Accused could be admitted in evidence only as a corroborative piece of evidence- In the absence of any substantive evidence against the Accused, the extra-judicial confession allegedly made by the co-Accused loses its significance, and there cannot be any conviction based on such extra-judicial confession of the co-accused.

15. It is no more res integra that an extra-judicial confession must be accepted with great care and caution. If it is not supported by other evidence on record, it fails to inspire confidence and in such a case, it shall not be treated as a strong piece of evidence for the purpose of arriving at the conclusion of guilt. Furthermore, the extent of acceptability of an extra-judicial confession depends on the trustworthiness of the witness before whom it is given and the circumstances in which it was given. The prosecution must establish that a confession was indeed made by the Accused, that it was voluntary in nature and that the contents of the confession were true. The standard required for proving an extra-judicial confession to the satisfaction of the Court is on the higher side, and these essential ingredients must be established beyond any reasonable doubt. The standard becomes even higher when the entire case of the prosecution necessarily rests on the extra-judicial confession.”

Given the probative value of the confession and its reliability based on the facts and circumstances of the case and the evidence produced, I ultimately find that the confession is unreliable and should not be acted upon.

54. PW1 and PW8 are giving inconsistent statements regarding the presence of PW1 when the body was taken out of the well. It makes a dent in the prosecution story that on August 02, 2020, PW1, PW2 and PW3 came to know from the accused that Aman had died and lay in the tubewell; otherwise, they necessarily would have come to the tubewell on August 02. There is no narration of NDRF in the evidence of PW1 and PW2, creating doubt on the disclosure of death by the accused and the presence of witnesses at the spot at the time of retrieval of the body.

55. It is difficult to believe that the deceased would have been thrown by the accused from a 12-13-14 inch hole in the roof. I firmly believe that a proper scientific investigation was not conducted in this case. There is no DNA evidence, fingerprints, footprints, mobile location data of the accused and perpetrators, or thorough interrogation of the tubewell owner.

Surprisingly, the body was found locked in the tubewell room, making it nearly impossible for someone to have thrown it inside. Despite this, the investigating officer readily accepted the tubewell owner's explanation that the deceased may have accidentally fallen through a 12-13-14 inch hole while attempting to steal the siphon pipe. The demeanour of PW8 was inappropriate. He declined to see the body despite acknowledging his signature on the Panchayatnama. Additionally, the police did not recover any siphon pipe, concluding that the allegation of theft was fabricated. The needle of suspicion turns to the tubewell owner's side.

Conclusion

56. Having evaluated all the evidence on the record, I am of the considered view that the prosecution miserably failed to substantiate the charge levelled against the accused individuals, Chhannu Chaturvedi, Lalu Chaturvedi and Anmol Shukla. Hence, they deserve to be acquitted.

ORDER

Accused Chhannu Chaturvedi, Lalu Chaturvedi and Anmol Shukla are acquitted of the charges punishable under Sections 302 and 201 of the IPC. The accused are on bail. Their bail bond stands cancelled, and sureties are discharged.

A copy of this judgement shall be sent to the District Magistrate, Kannauj.

A copy of this judgement shall also be sent to the Superintendent of Police and Secretary, Kannauj, for improvements in future investigations.

Records shall be consigned as per law to the record room.

Dated: October 21, 2024

(Chandroday Kumar)
Sessions Judge
Kannauj

I signed, dated, and pronounced this judgment in open Court today.

Dated: October 21, 2024

(Chandroday Kumar)
Sessions Judge
Kannauj.