2026 INSC 578

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 1342-1343 OF 2018

MEHTAB ....APPELLANT(S)

VERSUS

STATE OF UTTARAKHAND ....RESPONDENT(S)

WITH

CRIMINAL APPEAL NO.(S) 1340-1341 OF 2018

J U D G M E N T

Mehta, J.

1. Heard.

BACKGROUND OF THE CASE

2. The appellants herein[1] were tried by the learned Special Judge (SC/ST Act), Dehradun,[2] in Special Sessions Trial No. 3 of 2013 for offences punishable under Sections 302, 376(2)(g), 201 read with Section

[1] **Accused No. 1-Mehtab** (Appellant in Criminal Appeal Nos. 1342-1343 of 2018) and **Accused No. 2-Sushil @ Bhura** (Appellant in Criminal Appeal Nos. 1340-1341 of 2018). Collectively, they are being referred to as "appellants".
[2] Hereinafter, being referred to as 'trial Court'.

Signature Not Verified
Digitally signed by NEETU KHAJURIA
Date: 2026.05.27 18:35:26 IST
Reason:

34 of the Indian Penal Code, 1860[3] and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989[4]. *Vide* judgment dated 23rd January, 2014, the trial Court convicted the appellants for the offences punishable under Section 302 read with Section 34 and Section 376(2)(g) of IPC as well as Section 3(2)(v) of SC/ST Act. The appellants were acquitted of the charge under Section 201 read with Section 34 of IPC. By order of sentence dated 27th January, 2014, the appellants were sentenced in the terms indicated below: -

Section	**Sentence**
Section 302 read with Section 34 of IPC	**Death Sentence** along with fine of Rs.5,000/- and in default to undergo 6 months Simple Imprisonment.
Section 376(2)(g) of IPC	**Life Imprisonment** along with fine of Rs.5,000/- and in default to undergo 4 months Simple Imprisonment.
Section 3(2)(v) of SC/ST Act	**Life Imprisonment** along with fine of Rs.5,000/- and in default to undergo 4 months Simple Imprisonment.

[3] For short, 'IPC'.
[4] For short, 'SC/ST Act'.

3. Being aggrieved, the appellants preferred separate criminal appeals[5] before the High Court of Uttarakhand at Nainital[6] for assailing the conviction and the sentences awarded to them. The trial Court also forwarded a reference[7] under Section 366 of the Code of Criminal Procedure, 1973[8] for confirmation of the death sentence awarded to the appellants. The learned Division Bench of the High Court, *vide* common judgment dated 27th April, 2018, partly allowed the appeals preferred by the appellants by acquitting them of the charge under Section 3(2)(v) of the SC/ST Act, while maintaining their conviction and sentences for the remaining offences. The High Court also answered the death reference in the affirmative and confirmed the sentence of death awarded to the appellants by the trial Court. The said common judgment of the High Court is the subject matter of challenge in these appeals by special leave.

4. At the outset, it may be noted that this Court, *vide* order dated 29th October, 2018 granted leave and

---

[5] Criminal Appeal Nos. 49 and 60 of 2014.
[6] Hereinafter, referred to as 'High Court'.
[7] Criminal Reference No. 1 of 2014.
[8] Hereinafter, referred to as 'CrPC'.

stayed the execution of the death sentence pending further orders.

FACTUAL MATRIX

5. Succinctly stated, the prosecution case in a nutshell is that on 29th December, 2012, at about 2:00 p.m., Munni Devi, a 55-year-old woman and mother of the complainant, Anil Chauhan (PW-1)[9], had gone to the forest for grazing goats. At about 3:00 p.m., three girls who had gone near the forest for collection of grass were approached by two unknown youths, who enquired about the whereabouts of a *"Pahadan"*. Initially, the girls feigned ignorance, however, later presuming that the enquiry pertained to Munni Devi, they pointed towards the general direction in which she had gone along with the cattle. Munni Devi, did not return home by 5:00 p.m. and the goats returned unattended, upon which, the complainant (PW-1) became alarmed and he along with Guddu (cousin), Vinay (nephew), Charan, and others, began searching for her at around 5:30 p.m.

6. While the search was going on, information was received at about 8:00 p.m., that one Bhardwaj had

[9] Hereinafter, being referred to as 'complainant (PW-1)'.

discovered the dead body of Munni Devi[10] lying in bushes near a water channel. Upon receiving the said information, the complainant (PW-1) along with a few others proceeded to the spot where the dead body of the deceased-victim was found. It is alleged that there were no clothes on the lower part of her body and that there were bite marks on her face and body, which were smeared with blood. One Bharadwaj, who had noticed the dead body, immediately informed the police through a mobile phone, whereupon the information about the murder came to be recorded in the General Diary.

7. Pursuant thereto, the police officials reached the place of occurrence. However, owing to darkness, gathering of a large crowd and the prevailing agitated atmosphere, the police placed the dead body in a private vehicle and shifted the same to the nearby police station, where inquest proceedings[11] were conducted. Thereafter, a written report *(tehrir)*[12] regarding the incident was lodged by the complainant (PW-1) at Reporting Chowki Sabhawala, Police

---

[10] Hereinafter, being referred to as 'deceased-victim'.
[11] Exhibit Ka-2.
[12] Exhibit Ka-1.

Station Sahaspur, at about 11:45 p.m. on the same day, on the basis whereof an FIR bearing Crime No. 255 of 2012[13] for offences punishable under Sections 302 and 376 of IPC came to be registered against unknown persons.

8. The prosecution further alleges that one of the three girls, Anusuiya (PW-2), who had earlier directed the two unknown youths towards the deceased-victim, received information regarding the murder at about 8:30 p.m. on the same day and, being a close relative residing nearby, she raised a suspicion that the said two youths were involved in the murder.

9. On the following day, i.e., 30th December, 2012, at about 8:30 a.m., the police team again visited the place of occurrence and during inspection recovered a small piece of cloth, allegedly a pocket torn from a shirt, from the crime scene.[14] Along with the said piece of cloth, blood-smeared and plain soil were also collected.[15] On the very same day, Anusuiya (PW-2) informed the police regarding the two unknown youths who had enquired about the deceased-victim.

---

[13] Exhibit Ka-7.
[14] Exhibit Ka-4.
[15] Exhibit Ka-3.

Thereafter, an expert was summoned for preparation of sketches of the said youths on the basis of the description furnished by Anusuiya (PW-2), which sketches were subsequently circulated in the locality, pasted on notice boards and also published in newspapers.

10. It is further the case of the prosecution that on 3rd January, 2013, the appellants were apprehended while moving on a road near the forest area and were thereafter taken to the police station.[16] During interrogation, both the accused allegedly broke down and confessed to the crime. It is alleged that pursuant to the disclosure statement of Accused No.1-Mehtab, his shirt[17] was seized, whereas pursuant to the disclosure statement of Accused No.2-Sushil @ Bhura, a *salwar*, earrings and nose pin allegedly belonging to the deceased-victim were recovered from bushes situated near the place where the dead body had been found.[18]

11. The dead body of the deceased-victim was subjected to post-mortem examination by a board

---

[16] Exhibit Ka-39.
[17] Exhibit Ka-32.
[18] Exhibit Ka-5.

comprising three doctors including Dr. Mahabir Singh (PW-3).[19] The seized articles, except the *salwar*, were forwarded for forensic examination. Upon completion of the investigation, the Investigating Officer submitted a chargesheet against the appellants for the offences punishable under Sections 302, 376(2)(g), 201 read with Section 34 of IPC and Section 3(2)(v) of SC/ST Act.[20]

12. Since the offences alleged were exclusively triable by the Court of Sessions, the learned Chief Judicial Magistrate, Dehradun, *vide* order dated 25th April, 2013, committed the case to the Court of Sessions for trial, from where the matter was transferred to the trial Court. Thereafter, the trial Court on 15th May, 2013, framed charges against the appellants for the offences punishable under Sections 302, 376(2)(g), 201 read with Section 34 of IPC and Section 3(2)(v) of SC/ST Act. The appellants abjured their guilt and sought trial.

13. In order to bring home the charges against the appellants, the prosecution examined as many as 19 witnesses and exhibited 44 documents. Anil

---

[19] Exhibit Ka-6.
[20] Exhibit Ka-44.

Chauhan (PW-1; complainant and son of the deceased-victim) deposed regarding his mother having gone to the forest for grazing goats, the subsequent search conducted by him and the recovery of the dead body. Anusuiya (PW-2) and Alka Chauhan (PW-4) were examined as material witnesses of fact regarding the circumstance of the appellants enquiring about the whereabouts of the deceased-victim and proceeding towards the forest in the direction where she had gone. Dr. Mahavir Singh (PW-3), a member of the medical board that conducted the post-mortem examination and proved the post-mortem report noting multiple *ante-mortem* injuries on the body of the deceased-victim. Gajendra Singh (PW-5) and Narayan Singh (PW-6) supported the prosecution case regarding recoveries effected from the place of occurrence including blood-stained soil, *salwar*, ornaments and the torn piece of pocket. Constable Basudev Singh Rana (PW-7) proved the *chik* FIR, whereas Dinesh Chauhan (PW-8) proved the written report and *panchnama*. Head Constable Sanjay Singh Negi (PW-9), Sanjay Kumar (PW-14), Constable Vijendra Kumar (PW-17) and Constable Sushil Kumar (PW-18) were examined as formal

witnesses. Sub-Inspector Pramod Sah (PW-10), Sub-Inspector Surya Bhushan Negi (PW-16)[21] and Superintendent of Police (City), Dr. Jagdish Chandra (PW-19), the Investigating Officers, deposed regarding the investigation conducted by them including preparation of the site plan, arrest of the appellants and the recoveries allegedly effected at their instance. Bhakt Darshan (PW-11) and Dr. Manoj Kumar Agarwal (PW-13) proved the forensic science laboratory reports, including the matching of the torn pocket piece with the shirt allegedly belonging to Accused No. 1-Mehtab and the blood group detected thereon. Dr. B.S. Aswal (PW-12) medically examined the appellants. Rakesh Kashyap (PW-15), was declared hostile and was cross-examined by the prosecution.

14. Upon conclusion of the prosecution evidence, the statements of the appellants were recorded under Section 313 of CrPC, wherein they denied the allegations levelled against them by the prosecution and claimed to have been falsely implicated. Accused No. 1-Mehtab stated that he did not know the co-

[21] Hereinafter, being referred to as "Station Officer (PW-16)".

accused (Accused No. 2-Sushil @ Bhura) and had seen him for the first time in jail. Accused No. 2-Sushil @ Bhura also denied the prosecution case and claimed that on the date of the incident, he was engaged in loading sand from the Asan River along with his brother Ashok. The appellants examined Ashok (DW-1)[22], Tahir Hasan (DW-2)[23], and Satish Kumar (DW-3)[24] in support of their defence.

15. The trial Court, upon appreciation of the submissions advanced by the learned Public Prosecutor and the defence counsel and upon detailed scrutiny of the oral as well as documentary evidence available on record, found the appellants guilty of the offences punishable under Section 302 read with Section 34 and Section 376(2)(g) of IPC as also Section 3(2)(v) of SC/ST Act, *vide* judgment of conviction dated 23rd January, 2014 passed in Special Sessions Trial No. 3 of 2013. However, the appellants came to be acquitted of the charge under Section 201 read with Section 34 of IPC. *Vide* separate order of sentence dated 27th January, 2014,

---

[22] Brother of Accused No. 2-Sushil @ Bhura.
[23] Father of Accused No.1-Mehtab.
[24] Brother-in-law of Accused No. 2-Sushil @ Bhura.

the trial Court sentenced the appellants to death for the offence punishable under Section 302 read with Section 34 IPC along with fine of Rs.5,000/- each and in default thereof, to undergo six months' simple imprisonment. For the offence punishable under Section 376(2)(g) IPC and Section 3(2)(v) of the SC/ST Act, the appellants were sentenced to undergo imprisonment for life along with fine of Rs.5,000/- each and in default thereof, to undergo four months' simple imprisonment.

16. Being aggrieved by the judgment of conviction and order of sentence passed by the trial Court, the appellants preferred separate criminal appeals under Section 374(2) of CrPC before the High Court assailing their conviction and the sentences imposed upon them. Simultaneously, the trial Court submitted a reference under Section 366 of CrPC seeking confirmation of the death sentence awarded to the appellants. The learned Division Bench of the High Court, *vide* common judgment dated 27th April, 2018, partly allowed the appeals preferred by the appellants by acquitting them of the charge under Section 3(2)(v) of the SC/ST Act, while affirming their conviction and sentences for the remaining offences.

The High Court also answered the death reference in the affirmative and confirmed the sentence of death awarded to the appellants by the trial Court. The said common judgment passed by the High Court is subject matter of challenge in the present appeals by way of special leave.

SUBMISSIONS ON BEHALF OF THE ACCUSED-APPELLANTS: -

17. Mr. A. Sirajudeen, learned senior counsel appearing for the appellants vehemently and fervently contended that the entire case of the prosecution is false, fabricated and riddled with material contradictions, improbabilities and serious investigative lapses. It was urged that the case rests entirely on circumstantial evidence and yet, the clutch of circumstances relied upon by the prosecution fails to form a complete chain pointing unerringly towards the guilt of the appellants. According to learned counsel, the evidence of the material prosecution witnesses is untrustworthy, inconsistent and miserably falls short of the standard required to sustain the conviction recorded by the Courts below.

18. It was contended that the prosecution has failed to establish any credible motive for the commission of the alleged offences. According to the prosecution, the appellants committed rape upon the deceased-victim for satisfaction of their carnal desire and thereafter murdered her when she resisted. However, no credible evidence was led in support of this theory. Learned counsel referred to the testimony of the police officials and medical jurists to urge that none of the doctors had conclusively opined that the deceased-victim had been subjected to rape. It was further pointed out that Dr. B.S. Aswal (PW-12), the doctor who medically examined Accused No. 1-Mehtab, had specifically deposed that owing to a medical condition, it was not possible for him to engage in sexual intercourse.

19. Learned senior counsel further contended that the forensic evidence completely belies the prosecution theory regarding rape. It was submitted that except for traces of semen detected in the vaginal swab, no semen stains were found on any of the seized articles. DNA examination was not conducted to scientifically establish the identity of the

perpetrators of the crime. Learned counsel urged that scientifically, semen may remain in the vaginal tract of a woman for four to five days after intercourse and therefore, in the absence of any determination regarding the age of the semen, no inference could be drawn that the deceased-victim had been subjected to sexual intercourse proximate to the time of death or that the semen belonged to either of the appellants.

20. Learned counsel next assailed the prosecution case regarding recovery of the shirt pocket allegedly found near the dead body and its subsequent matching with the shirt of Accused No. 1-Mehtab. Referring to the testimony of the expert from the Forensic Science Laboratory, Mr. Bhakt Darshan (PW-11), it was contended that the pocket had not been torn during a scuffle as would ordinarily be expected if it had become detached during the incident but appeared to have been carefully unpicked, since the stitching at the corners remained intact and no tearing of the cloth was noticed. It was argued that, had the pocket been detached in course of a violent struggle, the shirt fabric at the stitched

portions would undoubtedly have been torn. The absence of such tearing, therefore, suggests deliberate removal and possible planting of the pocket at the spot to falsely implicate the appellants.

21. Learned counsel further submitted that the prosecution relied upon the alleged presence of blood group "O" on the shirt pocket recovered from the place of occurrence and the fact that the deceased-victim also had blood group "O". The prosecution, however, never determined the blood group of the appellants. Since group "O" is a common blood group, the mere presence of blood of that group on the recovered article cannot, by itself, be treated as an incriminating circumstance against the appellants. Furthermore, since the very recovery of the shirt pocket is doubtful, the matching of blood group is inconsequential.

22. Assailing the "last seen together" theory as propounded by the prosecution, learned senior counsel submitted that the evidence of Anusuiya (PW-2) and Alka Chauhan (PW-4) is wholly unreliable and unworthy of belief. It was urged that the witnesses had allegedly seen two unknown youths

proceeding towards the forest at about 3:00 p.m. on the date of occurrence. However, admittedly, the said youths were not previously known to the witnesses. Learned counsel pointed out glaring inconsistencies regarding the preparation of sketches of the suspects on the basis whereof, the appellants were allegedly traced and arrested. It was submitted that, on one hand, Anusuiya (PW-2) stated that, on 30th December, 2012 itself, she had disclosed the facial features of the suspects to the police and that a sketch artist had allegedly prepared sketches at her residence, whereas, on the other hand, Station Officer (PW-16) deposed that statements of Anusuiya (PW-2) and the other girls were recorded much later. Thus, according to learned counsel, the very genesis of the process relating to the preparation of sketches of suspected accused persons becomes doubtful.

23. It was further contended that the sketch artist who had allegedly prepared the sketches was neither cited as a witness nor examined during trial. Even his statement under Section 161 of CrPC was not recorded. The investigating officials themselves were unable to disclose the identity of the sketch artist.

Learned counsel urged that although the prosecution claimed that the sketches were circulated in the locality and published in newspapers, no documentary evidence pertaining to the newspaper publication or the General Diary entry corroborating this theory was produced to substantiate the said claim. Accordingly, learned counsel submitted that the entire exercise relating to the preparation and circulation of the sketches remains unsubstantiated and devoid of evidentiary credibility.

24. Learned senior counsel also contended that despite the fact that the appellants were allegedly apprehended only because their faces matched with the sketches prepared at the instance of Anusuiya (PW-2) and Alka Chauhan (PW-4), no Test Identification Parade[25] was conducted during investigation. The appellants were identified by the witnesses for the first time in Court after a considerable lapse of time. It was urged that immediately after the arrest, the appellants were not kept *baparda* and were shown to the witnesses by the police and hence, the dock identification loses all

[25] For short, "TIP".

evidentiary significance. According to learned counsel, failure to conduct a TIP is fatal to the prosecution case, particularly when the appellants were previously unknown to the witnesses.

25. Learned counsel further submitted that the place from where the dead body of the deceased-victim was recovered was situated deep inside the forest with multiple access routes leading thereto. No witness deposed to having seen the appellants together with or nearby the deceased-victim around the probable time of occurrence. Merely because certain persons were allegedly seen proceeding towards the forest, it cannot be inferred that they were solely responsible for the offence committed deep inside the forest area. It was, thus, urged that the circumstance of "last seen together" remains wholly unproved and unsubstantiated.

26. It was further contended on behalf of the appellants that the prosecution has failed to lead any evidence whatsoever to establish that the appellants were known to each other or were acting in concert prior to the alleged occurrence. Learned counsel submitted that apart from the bald allegation that

both appellants were seen together in the forest, no material was brought on record to show any prior association, acquaintance, common intention or meeting of minds between them. No witness deposed to having seen the appellants together before the date of the incident, nor was any evidence collected during investigation indicating any relationship, friendship or association between them. It was urged that in the absence of such evidence, the prosecution's theory that the appellants jointly committed the offences pursuant to a common intention is rendered highly doubtful and lacks any factual foundation.

27. Learned counsel further pointed out that although photographs of the place of occurrence and the appellants were admittedly taken by the police, no photograph depicting the alleged pocket either at the spot or on the shirt of Accused No. 1-Mehtab was produced. Head Constable Sanjay Singh Negi (PW-9) and Station Officer (PW-16), i.e., one of the Investigating Officers admitted in the cross-examination that no such photographs were taken. It was also submitted that though the pocket was allegedly seized on 30th December, 2012 and the shirt

on 3rd January, 2013, both articles were forwarded to the Forensic Science Laboratory[26] only on 24th January, 2013, i.e., after significant delay whereas other seized articles had been sent much earlier. No plausible explanation has been furnished for this unexplained delay, thereby rendering the alleged recovery highly doubtful and being a planted one.

28. Questioning the alleged recovery of the *salwar*, earrings and nose pin at the instance of Accused No. 2-Sushil @ Bhura, learned senior counsel submitted that the same is wholly unbelievable and fabricated. It was pointed out that much before the appellants had been arrested, several police officers had repeatedly inspected the place of occurrence and surrounding area on multiple occasions. Even according to the prosecution witnesses, a large crowd had gathered at the spot. In spite thereof, the *salwar*, which was allegedly lying merely about 25 metres away from the dead body, was never noticed by anyone until its so-called recovery pursuant to the disclosure statement of Accused No. 2-Sushil @ Bhura. Learned counsel contended that if a tiny shirt

[26] For Short, "FSL".

pocket could allegedly be recovered during the inspection of the crime scene, there was no reason why a comparatively larger article such as a *salwar* would remain unnoticed. Furthermore, as the appellants were free birds after committing the alleged crime, there was no reason as to why they would conceal the worthless incriminating article, i.e., the *salwar* near the crime scene after taking meticulous care to tie the earrings and nose pin in it and risk creating evidence against themselves. It was further submitted that the *salwar* itself was not even sent for forensic examination, thereby rendering the alleged recovery devoid of evidentiary value.

29. Learned senior counsel further urged that the prosecution suppressed the earliest information received by the police regarding the incident. Drawing attention to the deposition of Head Constable Sanjay Singh Negi (PW-9) and the General Diary entry, it was submitted that one Sanjay Bharadwaj had telephonically informed the police at about 8:45 p.m. regarding the dead body of a woman lying in the forest area. According to learned counsel, this constituted the earliest information regarding the

occurrence and ought to have been treated as the First Information Report. However, the said information was neither registered as an FIR nor brought on record during the trial which tantamounts to withholding of material evidence. It was further submitted that although Bharadwaj was the first person to notice the dead body and inform both the complainant and the police, his statement under Section 161 of CrPC was neither recorded nor was he cited as a witness in the chargesheet and was not examined during trial despite the fact that several prosecution witnesses admitted his presence at the crime scene. Learned counsel submitted that withholding such a material witness gives rise to an adverse inference against the prosecution.

30. Learned senior counsel for the appellants further contended that the prosecution has utterly failed to establish an unimpeachable chain of custody with regard to the *muddamal* articles allegedly recovered during the course of investigation. It was urged that the prosecution witnesses are conspicuously silent regarding the safe custody and proper transmission of the seized articles from the

time of recovery till their receipt at the FSL. Though Sanjay Singh Negi (PW-9), the Head *Moharrir* of the police station, deposed regarding seizure and deposit of certain articles in the general diary, his testimony does not disclose the manner in which the *muddamal* articles were preserved and transmitted to the FSL. Likewise, the constables who allegedly carried the articles to the FSL, namely Sushil Kumar (PW-18) and Vijendra Singh (PW-17), failed to prove any contemporaneous record or forwarding documents evidencing the handing over of the sealed articles to them from the police station in the self-same condition. It was further submitted that even the forms allegedly accompanying the articles to the FSL were not duly proved in evidence. On this basis, it was vehemently argued that the prosecution has failed to establish the sanctity and integrity of the seized forensic articles and, consequently, the forensic reports based thereon lose all evidentiary value.

31. On these grounds, learned senior counsel representing the appellants submitted that the impugned judgment passed by the High Court

affirming the conviction of the appellants and the sentences awarded by the trial Court suffers from serious errors and flaws in appreciation of facts and law. It was urged that the prosecution has failed to establish a complete chain of incriminating circumstances consistent only with the hypothesis of guilt of the appellants. The material omissions, contradictions and procedural irregularities, particularly the failure to conduct a TIP, non-examination of crucial witnesses, suppression of the earliest information, doubtful recoveries, lack of chain of custody of the forensic samples, strike at the very root of the prosecution case. It was, therefore, contended that the judgments of the Courts below have resulted in grave miscarriage of justice and deserve to be set aside and the appellants are entitled to be acquitted of the charges.

SUBMISSIONS ON BEHALF OF THE RESPONDENT-STATE: -

32. *Per contra*, learned counsel appearing for the respondent-State vehemently and fervently opposed the submissions advanced on behalf of the appellants and contended that the prosecution has successfully

established a complete chain of circumstances unerringly pointing towards the guilt of the appellants. It was urged that the evidence of the witnesses of fact, namely, Anil Chauhan (PW-1), Anusuiya (PW-2) and Alka Chauhan (PW-4) is cogent, reliable and inspires confidence. According to the learned counsel, the deceased-victim had gone to the forest at about 2:00 p.m. on the date of occurrence and shortly thereafter, the appellants were seen enquiring about her whereabouts from Anusuiya (PW-2) and Alka Chauhan (PW-4). The said witnesses had pointed out the direction in which the deceased-victim had gone. It was further submitted that according to Anusuiya (PW-2), the appellants were under the influence of liquor at the relevant time. The deceased-victim did not return home thereafter and her dead body was ultimately recovered from the forest area. Thus, according to the respondent-State, the circumstance of the appellants enquiring about the deceased-victim and proceeding to that very direction immediately before the occurrence constitutes a vital incriminating circumstance against them.

33. Learned counsel for the respondent-State further submitted that the medical and forensic evidence fully corroborates and lends complete assurance to the prosecution case. Reliance was placed upon the testimony of Dr. Mahavir Singh (PW-3), who conducted the post-mortem examination and found as many as ten *ante-mortem* injuries on the body of the deceased-victim including abrasions and contusions. According to the medical jurist, the injuries suffered by the deceased-victim were sufficient in the ordinary course of nature to cause death. The witness (PW-3) further opined that some of the injuries could have been caused by physical assault and teeth bites. It was submitted that the post-mortem findings clearly establish the brutal nature of the assault committed upon the deceased-victim.

34. It was further urged that the reports of the Forensic Science Laboratory lend substantial credence to the case of the prosecution. Learned counsel submitted that during forensic examination semen traces were detected from the material collected from the deceased-victim's dead body and the blood found on the shirt recovered from Accused

No. 1-Mehtab tested positive for Group "O", which matched the blood group of the deceased-victim. It was further pointed out that the torn piece of pocket recovered from the place of occurrence was scientifically matched with the shirt belonging to Accused No. 1-Mehtab. According to the respondent-State, the forensic experts, i.e., Bhakt Darshan (PW-11) and Dr. Manoj Kumar Agarwal (PW-13) duly proved the reports during trial and no material contradiction could be elicited in their cross-examination so as to discredit their testimony. It was urged that at the instance of Accused No. 2-Sushil @ Bhura, the *salwar* and ornaments belonging to the deceased-victim were recovered from the bushes near the place of occurrence. The appellants failed to furnish any plausible explanation for the recovery of these highly incriminating articles which could only have been within their exclusive knowledge.

35. Learned counsel further contended that the recoveries effected during investigation constitute significant incriminating circumstances against the appellants. It was submitted that the recoveries, read together with the medical evidence, forensic reports and other attending circumstances, establish the

involvement of the appellants beyond reasonable doubt. Learned counsel further pointed out that Tahir Hasan (DW-3), father of Accused No. 1-Mehtab, admitted in his testimony that Accused No. 1-Mehtab had returned home only later during the night, thereby lending support to the prosecution version regarding his presence away from home at the relevant point of time.

36. Dealing with the contention regarding non-conduct of TIP, learned counsel for the respondent-State submitted that although no TIP was conducted, the appellants were apprehended on the basis of the sketches prepared with the assistance of Anusuiya (PW-2) and Alka Chauhan (PW-4), who had seen the appellants in the forest area on the date of occurrence. It was urged that the sketches were prepared pursuant to the detailed description of the suspects furnished by the said witnesses and on that basis, the appellants were identified and apprehended by the police. The said witnesses thereafter identified the appellants in Court and nothing substantial could be elicited in cross-examination so as to discredit their testimony. According to the respondent-State, mere non-holding

of TIP would not be fatal to the prosecution case when there exists sufficient corroborative evidence connecting the appellants with the crime.

37. Learned counsel lastly submitted that both the trial Court and the High Court have meticulously appreciated the entire evidence on record and recorded well-reasoned concurrent findings of guilt against the appellants. It was urged that the prosecution has successfully established the chain of incriminating circumstances including the fact of appellants enquiring about the deceased-victim immediately before the occurrence, the recovery of the dead body from the forest area, the medical and forensic evidence, the matching of the torn pocket piece with the shirt recovered at the instance of Accused No. 1-Mehtab and the recoveries effected at the instance of Accused No. 2-Sushil @ Bhura. According to the respondent-State, no perversity, illegality or miscarriage of justice has been demonstrated in the impugned judgments so as to warrant interference by this Court in exercise of its jurisdiction under Article 136 of the Constitution of India and therefore, the present appeals deserve to be dismissed.

DISCUSSION AND ANALYSIS

38. We have given our anxious and thoughtful consideration to the submissions advanced at the Bar and have undertaken a meticulous examination of the impugned judgments together with the entirety of the material placed on record. Upon a comprehensive appraisal of the rival contentions and the evidence available on record, we proceed to analyse the issues arising for determination in the present matter.

39. At the outset, it may be noted that the prosecution case is founded entirely on circumstantial evidence and there is no eyewitness to the actual commission of the crime. The prosecution has endeavoured to establish the guilt of the appellants by proving a chain of incriminating circumstances which, according to it, is complete in all respects and points unerringly towards the guilt of the appellants, while excluding every possible hypothesis consistent with their innocence. The circumstances relied upon by the prosecution, broadly stated, are the following: -

I. the last seen together circumstance, coupled with the identification of the appellants on the basis of the sketch prepared pursuant to the statement of Anusuiya (PW-2), which, according to the prosecution, establishes the presence and involvement of the appellants in the occurrence;

II. the disclosure statements suffered by the appellants while in custody, the recoveries effected consequent thereto, and the forensic science examination reports pertaining to the articles so recovered, which are relied upon by the prosecution as incriminating circumstances connecting the appellants with the crime in question.

40. It is a settled proposition of criminal jurisprudence that in a case resting solely on circumstantial evidence, the prosecution carries the onerous burden of establishing each incriminating circumstance beyond reasonable doubt. Unlike a case founded on direct ocular testimony, where the commission of the offence is spoken to by eyewitnesses, a case based on circumstantial

evidence requires the Court to carefully evaluate whether the circumstances relied upon by the prosecution have been firmly and cogently proved and that the circumstances so proved form a complete chain pointing unerringly towards the guilt of the accused person. Each circumstance forming part of the chain must stand independently established and the cumulative effect thereof must be such as to lead only to the irresistible conclusion that the accused alone is the perpetrator of the crime. Mere suspicion, however grave, cannot take the place of legal proof, and the circumstances proved must be incompatible with the innocence of the accused.

41. It is equally well settled that the chain of incriminating circumstances must be so complete and conclusive so as to exclude every possible hypothesis other than the guilt of the accused. The circumstances proved must not only be consistent with the hypothesis of guilt, but must also be inconsistent with any reasonable hypothesis of innocence or the guilt of anyone else. Unless the prosecution succeeds in establishing a complete and unbroken chain of circumstances pointing unerringly towards the guilt of the accused, a conviction cannot

be sustained. Put differently, the cumulative effect of the proved circumstances must be such as to satisfy the judicial conscience of the Court that, in all natural probabilities, the offence was committed by the accused and none else.

42. Keeping in view the aforesaid settled principles governing appreciation of circumstantial evidence, we shall now proceed to examine the prosecution evidence in order to ascertain whether the circumstances relied upon by the prosecution have been duly proved and whether the same form a complete and unbroken chain pointing unerringly towards the guilt of the appellants. We shall evaluate each incriminating circumstance independently and thereafter consider the cumulative effect thereof so as to determine whether the prosecution has succeeded in establishing the charges against the appellants beyond reasonable doubt.

I. LAST SEEN TOGETHER CIRCUMSTANCE AND IDENTIFICATION OF THE APPELLANTS BASED ON THE SKETCH PREPARED AT THE INSTANCE OF ANUSUIYA (PW-2)

43. We shall first advert to the circumstance of "last seen together", which has been heavily relied upon by

the prosecution as a vital incriminating circumstance against the appellants. The prosecution seeks to contend that the appellants were lastly seen following the deceased-victim towards the forest area and that, soon thereafter, the victim was subjected to sexual assault and then murdered. According to the prosecution, this circumstance constitutes a vital link in the chain of incriminating circumstances sought to be established against the appellants. In order to prove the said circumstance, the prosecution has principally relied upon the testimonies of Anusuiya (PW-2) and Alka Chauhan (PW-4).

44. Anusuiya (PW-2), in her deposition, stated that on 29th December, 2012, she had gone to the forest along with Alka Chauhan (PW-4) and one Neha for collecting grass leaves, while the deceased-victim had proceeded ahead of them into the forest for grazing goats. According to the witness, at about 3:00 p.m., two boys approached them in the forest and enquired about the whereabouts of a *"Pahadan"* (lady residing in the hills) who had gone with goats. Upon her expressing ignorance, the boys clarified that they were referring to the elderly woman residing near the *"Khale"* (water channel). The witness stated that both

the boys appeared to be intoxicated and, believing that they were searching for the deceased-victim, i.e., Munni Devi, in order to procure liquor, she pointed towards the direction in which the deceased-victim had gone. The witness further deposed that after sometime, she along with Alka Chauhan (PW-4) and Neha returned home. At about 5:00-5:30 p.m., Neha informed her that their goats had returned home, however, *"Nani"* (Maternal Grandmother) had not returned. Thereafter, the complainant (PW-1), the son of the deceased-victim, along with some persons from the surrounding area, went into the forest in search of his mother. The witness further deposed that later in the evening at 8:30-9:00 p.m., when it came to light that the deceased-victim had been subjected to rape and murdered in the forest, she developed suspicion against the said boys and informed the police accordingly.

45. On the basis of the description furnished by the witness (PW-2), sketches of the suspects were allegedly prepared. Those sketches were pasted in and around the village and, consequently, it came to light that the suspects were residents of the same village in which the witness herself resided. However,

she claimed that the village was quite large and densely populated and, therefore, she did not recognise all the residents thereof. The witness identified the appellants in Court and asserted that the sketches matched the appellants. She further stated that on 3rd January, 2013, the police informed her that the suspects had been apprehended, whereupon she went to the forest road near Tiparpur and identified the appellants as the very same persons who had enquired about the deceased-victim on the date of the incident.

46. In her cross-examination, Anusuiya (PW-2) admitted that the appellants were previously not known to her, though she subsequently learnt that they belonged to her own village. She further admitted that she had not entertained any suspicion at the time when the boys made enquiries regarding the deceased-victim and that suspicion arose only after she came to know about the death of the deceased-victim. She also acknowledged that the sketches prepared by the police did not bear her signatures. The witness further admitted that she had seen the appellants for the second time only on 3rd January, 2013, when they were already in police

custody. At that time also, the accused persons were wearing the same clothes which they had allegedly worn on the day of the incident.

47. Alka Chauhan (PW-4), who was about 12 years of age at the relevant point of time, substantially corroborated the version of Anusuiya (PW-2). She stated that while she, Anusuiya (PW-2) and Neha were collecting leaves in the forest, the appellants approached them and enquired about the whereabouts of the elderly woman grazing goats. The witness further identified the appellants present in Court and stated that both of them had asked where the *"Pahadan"* had gone. According to the witness, Anusuiya (PW-2) pointed towards the direction where the deceased-victim had gone, after which the appellants proceeded into the forest in the same direction. In her cross-examination, the witness (PW-4) admitted that she had given her statement to the police on the instructions of her father, although she maintained that the assertion regarding seeing the appellants in the forest was based on her own knowledge.

48. The prosecution has also relied upon the testimonies of Sub-Inspector Pramod Sah (PW-10)

and Surya Bhushan Negi, Station Officer (PW-16) in relation to the preparation of sketches and subsequent apprehension and identification of the appellants. Sub-Inspector Pramod Sah (PW-10) deposed that during the course of investigation, information was received that the persons whose sketches had been prepared on the basis of suspicion were present somewhere between Tiparpur Barrier and the Junglat road. Acting upon the said information, the police party proceeded towards the forest road and, at a distance of about one kilometre ahead, noticed two young men approaching from the opposite direction. According to the witness, the public witnesses accompanying the police party and the complainant (PW-1) indicated that the said persons resembled the suspects depicted in the sketches. Thereupon, both the appellants were arrested at around 11:30 a.m. The witness (PW-10) further stated that the facial features of the apprehended persons matched the sketches prepared during investigation. He deposed that, thereafter, Anusuiya (PW-2) was called to the spot and she stated that the appellants were the same persons whom she had seen in the forest on 29th

December, 2012 asking about the deceased-victim. The witness also proved the arrest memo[27] prepared at the time of apprehension of the appellants.

49. Surya Bhushan Negi, Station Officer (PW-16) stated that during the investigation, one Narayan Singh (PW-6) informed him that Anusuiya (PW-2), Neha and another girl had seen two suspicious persons in the forest on the date of the incident. Pursuant thereto, the statements of Anusuiya (PW-2), Neha and Alka Chauhan (PW-4) were recorded. According to the witness, a sketch expert was thereafter summoned from Dehradun and sketches of the suspects were prepared on the basis of the description furnished by Anusuiya (PW-2). The witness (PW-16) stated that multiple copies of the sketches were circulated in the surrounding areas and were also published in newspapers. He further deposed that on 2nd January, 2013, during the supplementary inquiry, the complainant (PW-1) stated that one of the sketches matched Accused No.1-Mehtab. It was also revealed that Accused No.1-Mehtab and another boy, Accused No.2-Sushil @

[27] Exhibit Ka-39.

Bhura, had been missing from the village since the incident and were allegedly living in the forest, occasionally visiting the village at night, which was verified by one Ravindra Singh. The names of the appellants were thereafter recorded in the case diary and the General Diary. Acting on further secret information received on 3rd January, 2013, the police party proceeded towards the forest road near Tiparpur barrier and apprehended the appellants. According to the witness, after the apprehension of the appellants, Anusuya Singh (PW-2) was called to the spot and she identified the appellants as the very same duo who had enquired about the whereabouts of the deceased-victim in the forest on the date of occurrence.

50. In his cross-examination, the witness (PW-16) admitted that no Test Identification Parade of the accused persons was conducted. He further admitted that Neha had stated that the boys whom they had met in the forest had also come to her grandmother's (deceased-victim) house on the same day and that she had informed them that her grandmother had gone to the forest. However, the witness (PW-16) admitted that he could not recollect whether this fact

had been conveyed to the Circle Officer (PW-19). Regarding the preparation of the sketches[28], the witness stated that the same were prepared by an expert allegedly called from Dehradun. However, no name or identity of such expert was disclosed, and a wholly flimsy and unconvincing explanation was offered that the identity was being kept confidential for security reasons. The witness further admitted that the case diary did not specifically record the time or place where the sketches were prepared. Most significantly, the photocopies of the sketches produced on record do not bear the signatures of the sketch artist, the witness who attested the same and even that of Mr. Surya Bhushan Negi, Station Officer (PW-16). This fact was candidly admitted by the witness (PW-16) in his cross-examination. Further, the sketches produced before the Court were merely photocopies. The witness (PW-16) further admitted that he could not state where the originals were.

51. The witness (PW-16) also stated in his cross-examination that these sketches were published on 31st December, 2012 in newspapers including Amar

[28] Material Exhibits 18 and 19.

Ujala, Dainik Jagran and Hindustan. He further admitted that the name of Accused No.1-Mehtab surfaced through information provided by a secret informer, who stated that the sketch resembled a resident of Village Sabhawala, yet despite receiving such information, the witness (PW-16) did not immediately visit Sabhawala and merely constituted a team for further inquiry. The witness while narrating the version allegedly given by Anusuiya (PW-2), stated that she had informed him that two boys, one of whom was tall, dark-complexioned and long-haired, had come inquiring about the deceased-victim who used to graze goats and that the said persons appeared to be intoxicated. **According to the version attributed by the witness (PW-16) to Anusuiya (PW-2), she suspected that the boys were searching for liquor, as Munni Devi (deceased-victim), allegedly used to sell liquor.**

52. It is pertinent to note in this context that the prosecution did not examine Neha, who was allegedly accompanying Anusuiya (PW-2) and Alka Chauhan (PW-4) in the forest at the relevant time and was also stated to be the granddaughter of the deceased-victim. According to the prosecution version itself,

Neha was present when the appellants allegedly approached the girls and enquired about the whereabouts of the deceased-victim. The evidence on record further reveals that Neha had also given statements to the Station Officer (PW-16) during the course of investigation. She was, therefore, not only a natural and material witness to the circumstances immediately preceding the incident, but also a witness whose version had been recorded by the investigating agency itself. Despite this, the prosecution withheld her from the witness box and no explanation has been brought on record for such non-examination.

53. The omission assumes considerable significance particularly because the testimonies of Anusuiya (PW-2) and Alka Chauhan (PW-4) constitute the very foundation of the prosecution case with regard to the alleged "last seen together" circumstance and the identification of the appellants. In such circumstances, the failure of the prosecution to examine Neha, despite her being an available and material witness closely related to the deceased-victim whose statement had admittedly been recorded during investigation, assumes the character

of suppression of best available evidence. The withholding of such a crucial witness, without any explanation, gives rise to a serious infirmity in the prosecution case and casts a substantial doubt on the integrity and fairness of the investigation as well as on the reliability of the prosecution's version of events.

54. The aforesaid infirmity assumes greater significance when the evidence relating to the identification of the appellants is examined in its entirety. Having carefully appreciated the aforesaid evidence, we find it difficult to accept the prosecution case regarding the circumstance of "last seen together" as having been proved beyond reasonable doubt. Admittedly, the appellants were not previously known to either Anusuiya (PW-2) or Alka Chauhan (PW-4). The entire process of identification of the appellants rests substantially upon the alleged sketches said to have been prepared on the basis of the description furnished by the Anusuiya (PW-2). However, serious infirmities and inconsistencies emerge from the prosecution evidence in this regard. Anusuiya (PW-2) stated that she disclosed the facial features of the suspects to the police on 30th

December, 2012 and that the sketches were prepared at her residence. On the other hand, Station Officer (PW-16) deposed that on 31st December, 2012, after recording the statements of Narayan Singh (PW-6), Anusuiya (PW-2), Neha, and Alka Chauhan (PW-4) regarding the sighting of two suspicious persons in the forest on 29th December, 2012, a sketch expert was called and sketches were prepared as per Anusuiya's instructions. Hence, the sketch expert was summoned only after recording the statements of witnesses on 31st December, 2012. These material inconsistencies regarding the sequence of events cast serious doubt on the very genesis and reliability of the alleged sketches.

55. A further serious infirmity in the prosecution case is the complete failure of the investigating agency to conduct a TIP, despite the admitted position that the appellants were not previously known to the material witnesses, i.e., Anusuiya (PW-2) and Alka Chauhan (PW-4). The prosecution itself asserts that the appellants came to be suspected on the basis of sketches allegedly prepared during the course of investigation. Immediately, after their apprehension on 3rd January 2013, the appellants

were shown to Anusuiya (PW-2) while in police custody, and were thereafter identified by the witnesses for the first time in Court. In these circumstances, the evidentiary value of the dock identification stands substantially diminished. It is a well settled proposition that where the accused are strangers to the witnesses, a TIP assumes considerable significance in providing assurance as to the sanctity of the dock identification. The rank failure of the investigating agency to hold a TIP, particularly in the facts of the present case, materially undermines the credibility of the prosecution version insofar as the identification of the appellants is concerned. That apart, there is no explanation forthcoming from the record regarding the failure of the Investigating Officer to get the suspects identified at the hands of Neha, the granddaughter of the deceased-victim.

56. Equally doubtful is the prosecution story regarding the preparation of sketches of the alleged suspects. Though the prosecution asserted that the sketches were prepared at the instance of Anusuiya (PW-2), the sketch artist who allegedly prepared the sketches was neither cited as a witness nor examined

during trial. Surprisingly, even the identity of the sketch artist was withheld by the prosecution. Station Officer (PW-16) sought to justify this omission by offering the flimsy and wholly unconvincing explanation that the sketch expert had been kept anonymous for reasons of safety. No material whatsoever was placed on record to substantiate such an unusual course of action.

57. Further, the witness (PW-16) admitted that the original sketches were never produced before the Court. We have ourselves examined the exhibited sketches (Material Exhibits 18 and 19) and find that they do not bear the signatures of Anusuiya (PW-2), the Investigating Officers, or any other witness. The sketches also do not bear any indication that the same had been prepared on the instructions of Anusuiya (PW-2). Moreover, Alka Chauhan (PW-4), did not claim to have played any role in the preparation of the sketches. Significantly, even the date and time of preparation of these sketches are conspicuously absent from the documents. The absence of any such contemporaneous endorsement lends credence to the defence contention that the sketches were prepared only after the arrest of the

appellants. Thus, we are of the considered opinion that the prosecution has failed to establish the authenticity and reliability of the sketches on the basis whereof the appellants are alleged to have been identified and apprehended which completely demolishes the pivotal circumstance of identification of the appellants on which the entire prosecution case hinges.

58. A further infirmity in the prosecution case emerges from the recital contained in the common arrest memo (Exhibit Ka-39). The document records that after the apprehension of the appellants, Anusuiya (PW-2) was called to the spot and she identified Accused No.1-Mehtab as one of the persons seen by her in the forest on the date of the incident. However, the said arrest memo does not record that Anusuiya (PW-2) similarly identified Accused No.2-Sushil @ Bhura. This omission assumes significance because the prosecution case itself is that both appellants had jointly approached the witnesses and thereafter proceeded towards the direction where the deceased-victim had gone. Had both the appellants in fact been identified at the time of arrest, there was no reason for the Sub-Inspector Pramod Sah (PW-10),

i.e., the witness who prepared the arrest memo, to omit recording such a material fact. The omission, therefore, seriously undermines the prosecution case regarding the identification of the appellants.

59. We also find significant embellishments and improvements in the testimony of the Station Officer (PW-16), which cast a serious cloud of suspicion on the prosecution case. The witness (PW-16) deposed that Anusuiya (PW-2) had informed the police that the appellants were asking about "that old woman selling liquor". However, a careful reading of the testimony of Anusuiya (PW-2) reveals that she never stated that the appellants had specifically enquired about a woman selling liquor. Her version was that she herself presumed that the boys might be searching for the deceased-victim in order to procure liquor because people used to say that the deceased-victim sold liquor. This material improvement introduced by the Station Officer (PW-16) appears to be a clear embellishment intended to lend credibility to the prosecution case. Furthermore, there is no independent evidence on record to establish that the deceased-victim was actually engaged in the business of selling liquor, whether legally or illicitly.

In the absence of any such evidence, the aforesaid embellishment assumes significance and renders the prosecution narrative highly doubtful.

60. A further material contradiction emerges from the evidence of the Circle Officer (PW-19) regarding the facial features allegedly disclosed by the witnesses at the time of preparation of the sketches. Anusuiya (PW-2), while describing the suspects, specifically stated that Accused No.1-Mehtab had a slight moustache and that both the suspects had long hair at the relevant time. She further stated that the sketches prepared on the basis of her description closely resembled the appellants. However, the Circle Officer (PW-19), during his cross-examination, categorically admitted that Material Exhibit-18 was a combined photograph and that neither of the persons depicted therein had a moustache or long hair. He further admitted that even Material Exhibit-19 did not depict any moustache or long hair. The inconsistency between the features allegedly narrated by Anusuiya (PW-2) and the actual features reflected in the exhibited sketches materially undermines the evidentiary value of the identification process relied upon by the prosecution.

61. The deficiencies in the investigation become even more apparent from the admissions of the Circle Officer (PW-19) regarding the verification of those sketches. The witness (PW-19) candidly admitted that during the course of investigation he neither recorded any detailed statement of Neha and Alka Chauhan (PW-4) regarding the facial features of the suspects nor made any effort to show the sketches to them for the purpose of ascertaining whether the persons depicted therein were the same individuals whom they had allegedly seen in the forest on the date of occurrence. These admissions assume considerable significance because, according to the prosecution itself, Neha and Alka Chauhan (PW-4) were accompanying Anusuiya (PW-2) at the relevant time and had allegedly seen the suspects in close proximity. In such circumstances, the complete failure of the investigating agency to seek confirmation from these crucial witnesses regarding the genuineness of the sketches, creates a serious gap in the chain of identification and further weakens the prosecution case insofar as the identity of the appellants is concerned.

62. Apart from the aforesaid infirmities, the evidence of Anusuiya (PW-2) and Alka Chauhan (PW-4), even if accepted in its entirety, merely establishes that the appellants had enquired about the whereabouts of an elderly woman grazing goats in the forest and had proceeded in the general direction indicated by the witnesses. Neither of the witnesses claimed to have actually seen the appellants in the company of the deceased-victim at or around the probable time of occurrence. The place where the dead body of the deceased-victim was eventually recovered was situated deep inside the forest and admittedly had multiple access routes leading thereto. In such circumstances, the possibility of ingress and egress by several other persons cannot be ruled out. Consequently, merely because two individuals were allegedly seen by Anusuiya (PW-2) and Alka Chauhan (PW-4) proceeding towards the forest, no conclusive or irrefutable inference can be drawn that they alone were the perpetrators of the offence committed therein.

63. We are, therefore, of the considered opinion that the prosecution has miserably failed to establish the circumstance of "last seen together" in a cogent and

reliable manner known to law. The evidence led by the prosecution on this aspect suffers from material inconsistencies, procedural lapses and serious infirmities which render the prosecution case on this circumstance wholly unreliable.

II. DISCLOSURE STATEMENTS OF THE APPELLANTS, CONSEQUENT RECOVERIES, AND FORENSIC EXAMINATION OF THE RECOVERED ARTICLES

64. Having discarded the circumstance of "last seen together" and the evidence relating to the identification of the appellants, we shall now advert to the second set of incriminating circumstances relied upon by the prosecution, namely, the disclosure statements allegedly made by the appellants while in custody, the recoveries purportedly effected pursuant thereto, and the forensic examination reports relating to the recovered articles. According to the prosecution, these recoveries constitute vital links in the chain of circumstantial evidence connecting the appellants with the crime in question.

65. The prosecution case, insofar as the recoveries are concerned, is that during the search of the crime

scene conducted on 30th December, 2012, a torn shirt pocket was recovered from the place of occurrence.[29] According to the prosecution, after the appellants were apprehended on 3rd January, 2013, Accused No.1-Mehtab made a disclosure statement to the effect that the shirt worn by him at the time of the incident was still being worn by him. Pursuant thereto, the Station Officer (PW-16) allegedly opened the jacket worn by Accused No.1-Mehtab and noticed that the left-side pocket of his shirt worn underneath the jacket was torn. The prosecution asserted that the torn portion of the shirt appeared to *prima facie* match with the shirt pocket recovered earlier from the spot in terms of colour and fabric. Thereupon, the shirt allegedly worn by accused Mehtab, described as a striped shirt having blue, green, black and white colours, was taken into possession, sealed and seized *vide* seizure memo[30] prepared by Sub-Inspector Pramod Sah (PW-10) on the dictation of the Station Officer (PW-16) in the presence of police personnel, witnesses and Accused No.1-Mehtab.

---

[29] *Supra* Note 14.
[30] *Supra* Note 17.

66. The prosecution further alleged that Accused No.2-Sushil @ Bhura, while in police custody, made a disclosure statement to the effect that after subjecting the deceased-victim to rape and causing her death, Accused No.2-Sushil @ Bhura, with the intention of screening the offence and destroying the evidence, had concealed the *salwar* of the deceased-victim, along with her earrings and nose pin, which had allegedly fallen off during the course of the scuffle, in bushes situated near the place of occurrence. Acting upon the said disclosure statement, the police party, accompanied by independent witnesses, i.e., the complainant (PW-1) and Gajendra Singh (PW-5), proceeded to the place indicated by Accused No.2-Sushil @ Bhura. According to the prosecution, Accused No.2-Sushil @ Bhura, thereafter, pointed out thick bushes situated near the place of incident, from where a green-coloured *salwar*, a pair of white-metal earrings and a broken yellow-coloured nose pin were allegedly recovered. The prosecution further asserted that these articles were identified by the complainant (PW-1) as belonging to the deceased-victim, whereafter the

recovered articles were separately sealed and seized *vide* seizure memo dated 3rd January, 2013.[31]

67. In order to substantiate the aforesaid recoveries and the incriminating circumstances purportedly arising therefrom, the prosecution relied principally upon the testimonies of Sub-Inspector Pramod Sah (PW-10) and Surya Bhushan Negi, Station Officer (PW-16). According to the prosecution, upon scientific evaluation, FSL report (Exhibit Ka-33) established that the torn shirt pocket recovered from the place of occurrence matched the shirt allegedly seized from Accused No.1-Mehtab. Further, the *salwar* and ornaments recovered pursuant to the disclosure statement of Accused No.2-Sushil @ Bhura, were identified as belonging to the deceased-victim, thereby allegedly linking both the appellants with the crime in question.

68. Sub-Inspector Pramod Sah (PW-10), who conducted the initial investigation, deposed that on receiving telephonic information about the dead body of an elderly woman lying in the forest, he reached the place of occurrence at about 9:20 p.m. along with

[31] *Supra* Note 18.

other police personnel. On reaching there, he noticed that a few people were already present from before and the dead body was lying in a partially denuded condition, with the clothes on the upper part also in disarray. He noticed bite marks on the face of the deceased-victim. Since it had become dark and visibility was poor, the body was shifted and the inquest *panchnama* was prepared at the police outpost. According to the witness, on the next day, i.e., 30th December, 2012, he went to the place of occurrence along with Station Officer (PW-16) and various articles including blood-stained soil, plain soil and the torn shirt pocket were recovered from the spot and seized *vide* memoranda prepared by him. The witness further stated that the Accused No.1-Mehtab, after being arrested, disclosed that the shirt worn by him at the time of the incident had got torn and that he was still wearing the same shirt. Pursuant thereto, the shirt allegedly worn by Accused No.1-Mehtab was seized and sealed *vide* possession memo bearing Exhibit Ka-32. The witness (PW-10) further deposed that Accused No.2-Sushil @ Bhura made a disclosure statement to the effect that after the incident, the *salwar*, earrings and nose pin of the

deceased-victim had been concealed in bushes situated near the place of occurrence and, pursuant to the said disclosure, the aforesaid articles were allegedly recovered from the indicated place. Accused No.2-Sushil @ Bhura further stated that the recovered *salwar* had been worn by the deceased-victim at the time of the incident. The said articles were thereafter identified by the complainant (PW-1) as belonging to the deceased-victim.

69. On a careful scrutiny of the seizure memo pertaining to the torn shirt pocket, we find that the same merely records that during the search conducted near the place where the dead body was lying, a detached shirt pocket was found and seized. Significantly, the seizure memo does not indicate the exact place or the distance from where the shirt pocket was allegedly recovered *vis-à-vis* the place where the dead body was found. This omission assumes significance in view of the submission advanced by the learned counsel for the appellants that the torn shirt pocket was planted by the prosecution in order to falsely connect Accused No.1-Mehtab with the alleged offence.

70. In his cross-examination, the witness (PW-10) admitted several material deficiencies in the seizure process of the *muddamal* articles which seriously undermine the credibility and sanctity of the alleged recoveries heavily relied upon by the prosecution. The witness (PW-10) categorically admitted that none of the sealed bundles bore dates beneath the signatures or thumb impressions of the witnesses, police officials, or accused persons. In respect of the sealed bundle containing the shirt allegedly recovered from Accused No.1-Mehtab, the witness (PW-10) admitted that although the bundle bore his signature, there was no date beneath it. He further stated that another signature appearing on the bundle bore the date 20th March, 2013, though he could not identify whose signature it was. He also admitted that there was no date below the alleged thumb impression of Accused No.1-Mehtab, nor beneath the signatures of Sub-Inspector Dilbar Singh Negi and Station Officer (PW-16). He further admitted that the seizure memo was prepared at the police station on the dictation of the Station Officer (PW-16), and despite noticing the distinct identifying features on the shirt, including the "F.N.G. Fashion of New Guys" label and company

logo, such details were palpably omitted from the seizure memo. **He also conceded that although the seizure memo recorded that signatures/thumb impressions of Accused No.1-Mehtab had been obtained, the accused's signatures did not appear on the said memo, nor was it recorded that thumb impressions had been affixed.**

71. The witness (PW-10) in his further cross-examination, made similar admissions regarding the sealed bundles containing the *salwar*, earrings and nose pin allegedly recovered pursuant to the disclosure statement of Accused No.2-Sushil @ Bhura, as well as the torn shirt pocket allegedly recovered from the place of occurrence. He admitted that none of these bundles bore dates beneath any signatures; could not explain these omissions; and even gave contradictory versions regarding the date and time of preparation of the bundle containing *salwar*. He further admitted that the earrings and nose pin bore no blood stains, that identifying details of the articles were not mentioned in the seizure memos. Significantly, he also admitted that no photographs were taken of the appellants at the time of apprehension while allegedly wearing the

incriminating clothes. These omissions, inconsistencies, and procedural irregularities, more particularly, the absence of dates and thumb impression/signatures of the accused on the crucial memoranda when viewed cumulatively cast grave doubt upon the genuineness of the alleged recoveries and materially erode their evidentiary value, lending credence to the submissions advanced on behalf of the appellants that the alleged recoveries were planted and subsequently fabricated at the police station.

72. On going through the evidence of Surya Bhushan Negi, Station Officer (PW-16), we find that the witness broadly referred to the preparation of documents and seizures effected by Sub-Inspector Pramod Sah (PW-10), but did not clearly indicate his own active role in the actual process of search, seizure and sealing of the recovered articles.

73. The witness (PW-16) further stated that after the shirt, *salwar* and ornaments had been seized, the police party returned to the police station. However, the witness remained completely silent regarding the subsequent handling of these seized articles, particularly with regard to their deposit in the

malkhana of the police station and their safe custody thereafter. The witness was completely silent on the aspect that the seized articles relating to Accused No.1-Mehtab and Accused No.2-Sushil @ Bhura were transmitted to the FSL through any authorised person in a duly sealed condition. The witness stated that on 7th January, 2013, the investigation of the case was handed over to the Circle Officer, Dr. Jagdish Chandra (PW-19).

74. The Head *Moharrir* of the police station, namely Sanjay Singh Negi (PW-9), deposed regarding the seizure of various articles and the recording thereof in the general diary of the police station. However, even his testimony is silent regarding the recording of the said articles in the *malkhana*, as well as the movement and transmission of the *muddamal* articles from the police station to the FSL.

75. The prosecution examined two constables who allegedly carried the *muddamal* articles to the FSL. Constable Sushil Kumar (PW-18), who allegedly transported the first set of *muddamal* articles to the FSL on 2nd January, 2013, merely proved the

forwarding memo[32] issued to the FSL. Likewise, Constable Vijendra Singh (PW-17), who allegedly carried another set of articles to the FSL on 24th January, 2013, stated that the articles, were accompanied by a forwarding memo[33] issued to the FSL. None of the witnesses examined by the prosecution proved or stated about the proper procedure of handing over and transmission of the seized forensic articles from the *malkhana* to the FSL.

76. Thus, we are satisfied that there is no reliable evidence on record establishing the safe custody and sanctity of the *muddamal* articles from the time of their seizure till the time they reached the FSL. In addition, we may reiterate and emphasize that the entire sequence of recoveries, particularly the alleged recovery of the torn shirt pocket from the place of occurrence and its purported matching with the shirt allegedly worn by Accused No.1-Mehtab, to be highly suspicious and unworthy of implicit reliance. The circumstances attending such recovery do not inspire confidence and cast a serious doubt on the

[32] Exhibit Ka-43.
[33] Exhibit Ka-42.

genuineness and credibility of the prosecution version.

77. The glaring deficiencies noticed hereinabove in relation to the seizure, sealing, safe custody and transmission of the *muddamal* articles and forensic samples assume considerable significance while evaluating the evidentiary worth of the scientific evidence relied upon by the prosecution. The prosecution has miserably failed to lead cogent and reliable evidence establishing an unbroken chain of custody of the seized articles from the stage of their recovery till their examination at the FSL. Neither were the relevant forwarding documents and *malkhana* records duly proved nor were the witnesses responsible for handling and transmitting the forensic samples examined in a satisfactory manner so as to rule out the possibility of tampering, contamination or interpolation. In the absence of a duly proved chain of custody, the sanctity and integrity of the forensic samples become doubtful and, consequently, the scientific reports based thereon lose their evidentiary value. In this regard, we may gainfully refer to the judgment of this Court in ***Prakash Nishad @ Kewat Zinak Nishad v. State***

of Maharashtra[34], wherein it was observed as under: -

> "53. Perusal of these documents reveals that samples of the blood and semen of the appellant were sent for forensic analysis. **Importantly though, there is nothing on record to establish as to who took such samples, on what date, on how many occasions and why were they not sent all at once, we notice that none of the police officials have testified to the formalities of keeping the samples safe and secure being complied with.**
>
> … … … …
>
> 58. **As has been hitherto observed, there is no clarity of who took the samples of the appellant. In any event, record reveals that one set of samples taken on 14-6-2010 were sent for chemical analysis on 16-6-2010 and the second sample taken, a month later on 20-7-2010 is sent the very same day. Why there exist these differing degrees of promptitude in respect of similar, if not the same-natured scientific evidence, is unexplained.**
>
> … … … …
>
> 60. **In the present case, the delay in sending the samples is unexplained and therefore, the possibility of contamination and the concomitant prospect of diminishment in value cannot be reasonably ruled out.** On the need for expedition in ensuring that samples when collected are sent to the laboratory concerned as soon as possible, we may refer to "Guidelines for Collection, Storage and Transportation of Crime Scene DNA Samples For Investigating Officers — Central Forensic Science Laboratory, Directorate Of Forensic Sciences Services, Ministry of Home Affairs, Government of India" which in particular reference to blood and semen, irrespective of its form i.e. liquid or dry (crust/stain or

[34] (2023) 16 SCC 357.

spatter) records the sample so taken: "Must be submitted in the laboratory without any delay."

61. The document also lays emphasis on the "chain of custody" being maintained. Chain of custody implies that right from the time of taking of the sample, to the time its role in the investigation and processes subsequent, is complete, each person handling said piece of evidence must duly be acknowledged in the documentation, so as to ensure that the integrity is uncompromised. It is recommended that a document be duly maintained cataloguing the custody. A chain of custody document in other words is a document, "which should include name or initials of the individual collecting the evidence, each person or entity subsequently having custody of it, dated the items were collected or transferred, agency and case number, victim's or suspect's name and the brief description of the item".

... ...

66. **In the present case, even though, the DNA evidence by way of a report was present, its reliability is not infallible, especially not so in light of the fact that the uncompromised nature of such evidence cannot be established; and other that cogent evidence as can be seen from our discussion above, is absent almost in its entirety.**"

[Emphasis supplied]

78. It is further relevant to note that the forwarding memo dated 24th January, 2013 records that the articles, namely, the plain soil, blood-stained soil, torn pocket allegedly collected from the place of occurrence, and the shirt purportedly belonging to Accused No.1-Mehtab and worn at the time of the incident, were forwarded to the FSL on the said date,

although these articles had allegedly been seized/recovered much earlier, i.e., on 30th December, 2012 and 3rd January, 2013 respectively. Significantly, the other seized articles in the present case had already been forwarded to the FSL on 2nd January, 2013 itself. The prosecution has failed to furnish any plausible or satisfactory explanation for the inordinate and unexplained delay in forwarding the aforesaid articles for forensic examination. This unexplained lapse assumes considerable significance in the facts of the present case, particularly in view of the specific allegations levelled by the learned senior counsel representing the appellants that the recoveries were planted and subsequently fabricated to falsely implicate the appellants. In all probability, the shirt must have been recovered fully intact and the recovery of the detached pocket has been created later in order to lend succour to the otherwise flimsy prosecution story. The delayed forwarding of these crucial articles materially affects the sanctity of the chain of custody and undermines the authenticity and evidentiary value of the alleged recoveries, thereby rendering this part of the prosecution case highly doubtful and unsafe to be relied upon. In all

probability, the shirt must have been fully intact and the recovery of the detached pocket has been created later in order to lend succour to the otherwise flimsy prosecution story.

79. In this regard, learned senior counsel appearing for the appellants had contended that the FSL report itself renders the prosecution story regarding the torn shirt pocket wholly doubtful. It was urged that the FSL examination revealed that the shirt pocket had been removed carefully stitch by stitch rather than being violently torn away during the course of any scuffle or struggle. On a careful perusal of the FSL report (Exhibit Ka-33), we find substance in the aforesaid contention. The seizure memo pertaining to the shirt allegedly seized from Accused No.1-Mehtab does not record the presence of any marks indicative of the pocket portion having been violently sheared off. Furthermore, Mr. Bhakt Darshan, Assistant Director, FSL, Panditwadi, Dehradun, Uttarakhand, examined as PW-11, admitted in his cross-examination that the shirt pocket did not appear to have been uprooted forcibly because the shirt itself was not torn from any place and stitching was found intact on both corners of the shirt.

80. In the backdrop of the aforesaid analysis, we are constrained to observe that the prosecution story regarding the recovery of the torn shirt pocket from the place of occurrence and its alleged matching with the shirt purportedly worn by Accused No.1-Mehtab appears highly doubtful and unworthy of credence. We are of the considered view that the alleged recovery and matching of the shirt pocket is nothing but a padded and created circumstance introduced by the investigating agency in an attempt to lend support to the prosecution case. The forensic evidence, rather than lending assurance to the prosecution version, materially undermines the theory sought to be projected by the investigating agency.

81. The prosecution theory regarding the recovery of the *salwar*, earrings and nose pin of the deceased-victim pursuant to the disclosure statement of Accused No.2-Sushil @ Bhura is equally unconvincing. It is difficult to comprehend that while the investigating agency allegedly succeeded in recovering a small detached shirt pocket from the forest area during the initial search itself, the apparel and ornaments of the deceased-victim, which were

allegedly lying nearby, escaped notice altogether. Once the dead body had been found in a partially denuded condition, it would be expected of a diligent Investigating Officer to conduct an extensive search of the surrounding area for tracing the missing clothes and ornaments of the deceased-victim. The prosecution version that these articles surfaced only after the disclosure statement allegedly made by Accused No.2-Sushil @ Bhura does not inspire confidence. Furthermore, it does not stand to reason that the accused would take such meticulous pains to tie the nose pin and the earrings to the *salwar* and then hide the same nearby the place of occurrence so as to create evidence against himself.

82. Apparently, thus, the possibility that the articles allegedly recovered pursuant to the alleged disclosure statement of the appellants were withheld during investigation so as to be subsequently planted upon the appellants cannot be ruled out. Once the recoveries themselves become doubtful, the FSL report indicating the presence of blood group 'O' on the shirt allegedly seized from Accused No.1-Mehtab, as also the opinion regarding similarity in the colour of the cloth, design and stitching thread of the torn

pocket with the said shirt, completely loses significance. In any case, in the absence of reliable evidence establishing the safe custody and sanctity of the recovered articles from the time of seizure till their examination at the FSL, the entire exercise of forensic examination loses its evidentiary value.

83. We are of the firm opinion that even if the alleged recoveries and the FSL report are accepted in their entirety, the same do not materially advance the case of the prosecution. The FSL report merely indicates the presence of blood group 'O' on the shirt allegedly seized from Accused No.1-Mehtab and on the shirt pocket recovered from the place of occurrence. Admittedly, the deceased-victim also had blood group 'O'. However, the prosecution never determined the blood group of the appellants. Since blood group 'O' is a common blood group, the mere presence of blood of that group on the recovered articles cannot, by itself, be treated as an incriminating circumstance against Accused No.1-Mehtab.

84. This Court in ***Allarakha Habib Memon v. State of Gujarat***[35] has expounded that even if the FSL report establishes that the blood group detected on the article recovered at the instance of the accused matches that of the deceased, such circumstance in isolation is not sufficient to link the accused with the crime. It was observed that the mere recovery of a bloodstained article, in absence of reliable evidence connecting the same with the commission of the offence, cannot constitute a determinative incriminating circumstance against the accused. The relevant excerpts from the said judgment are reproduced hereinbelow: -

> "42. The trial court as well as the High Court heavily relied upon the FSL reports (Exts. 111-115) for finding corroboration to the evidence of the eyewitnesses and in drawing a conclusion regarding culpability of the appellants for the crime. We may reiterate that the testimony of the so-called eyewitnesses has already been discarded above by holding the same to be doubtful. **Thus, even presuming that the FSL reports (Exts. 111- 115) conclude that the blood group found on the weapons recovered at the instance of the accused matched with the blood group of the deceased, this circumstance in isolation, cannot be considered sufficient so as to link the accused with the crime.**
> 43. **In this regard, reliance can be placed on the judgment of Mustkeem v. State of Rajasthan**

[35] (2024) 9 SCC 546.

[Mustkeem v. State of Rajasthan, (2011) 11 SCC 724: (2011) 3 SCC (Cri) 473], wherein this Court held that sole circumstance of recovery of bloodstained weapon cannot form the basis of conviction unless the same was connected with the murder of the deceased by the accused. The relevant portion is extracted hereinbelow: (SCC p. 730, para 19)

> **"19. The AB blood group which was found on the clothes of the deceased does not by itself establish the guilt of the appellant unless the same was connected with the murder of the deceased by the appellants. None of the witnesses examined by the prosecution could establish that fact. The blood found on the sword recovered at the instance of Mustkeem was not sufficient for test as the same had already disintegrated. At any rate, due to the reasons elaborated in the following paragraphs, the fact that the traces of blood found on the deceased matched those found on the recovered weapons cannot ipso facto enable us to arrive at the conclusion that the latter were used for the murder."**

44. On a perusal of the deposition of the investigating officer (PW 18), we find his evidence on the aspect of disclosure statements made by the appellant-accused leading to the recoveries to be totally perfunctory and unacceptable. The witness did not elaborate upon the words spoken by the appellant-accused at the time of making the disclosure statements."

[Emphasis supplied]

85. We are further of the considered view that the forensic evidence regarding the detection of semen and blood on the vaginal swab and the clothes allegedly worn by the deceased-victim does not

inspire sufficient confidence so as to conclusively connect the appellants with the crime in question. The FSL report merely records the presence of semen traces in the vaginal swab collected during the post-mortem examination and does not, in the absence of any corroborative material, establish the appellants' complicity in the alleged offence.

86. A careful scrutiny of the material placed on record makes it evident that no DNA examination or scientific profiling was undertaken in order to establish the identity of the source of semen or to connect the same with either of the appellants. The prosecution also failed to lead any evidence regarding the probable age or duration of the semen traces detected in the vaginal swab. In the absence of such scientific evidence, no definite inference could be drawn that the deceased-victim had been subjected to sexual intercourse proximate to the time of her death or that the semen detected in the vaginal swab belonged to either of the appellants. Consequently, the aforesaid forensic evidence, viewed in the backdrop of the serious infirmities attending the recoveries and chain of custody of the seized articles,

cannot be treated as a conclusive incriminating circumstance against the appellants.

87. The prosecution has sought to attribute a motive to the appellants by alleging that they subjected the deceased-victim to sexual assault in order to satisfy their carnal desires and thereafter caused her death when she resisted. However, the evidence brought on record does not lend credence to this theory of motive. Significantly, Dr. B.S. Aswal (PW-12), who medically examined Accused No.1-Mehtab, categorically deposed that owing to a medical condition suffered by the said accused, it was not possible for him to engage in sexual intercourse. This aspect assumes considerable importance because the prosecution case itself proceeds on the footing that the alleged sexual assault constituted the genesis of the entire occurrence. In the absence of any cogent evidence substantiating the alleged motive, coupled with the medical evidence noticed above, the prosecution theory that the appellants committed the offence for satisfaction of their carnal desires becomes highly doubtful and does not inspire confidence.

88. Upon a cumulative evaluation of the disclosure statements, the recoveries allegedly effected pursuant thereto, and the forensic evidence relied upon by the prosecution, we find that none of these circumstances inspire confidence or withstand judicial scrutiny. The prosecution has failed to establish the genuineness of the recoveries, the sanctity of the seized articles, or an unbroken chain of custody from the stage of seizure till their examination at the FSL. The evidence on record is replete with material omissions, procedural irregularities and unexplained deficiencies which substantially erode the evidentiary value of both the recoveries and the forensic reports founded thereon. Even otherwise, the forensic evidence, in the absence of any conclusive scientific linkage such as DNA profiling and in view of the doubtful provenance of the samples themselves, falls far short of establishing the involvement of the appellants beyond reasonable doubt. Consequently, this entire set of circumstances fails to provide a reliable incriminating link in the chain of circumstantial evidence and is wholly insufficient to sustain the conviction of the appellants.

CONCLUSION: -

89. In wake of the discussion made hereinabove, we are of the considered view that the prosecution has failed to establish either of the two prime incriminating circumstances sought to be relied upon against the appellants. Neither does the evidence regarding the alleged "last seen together" circumstance and identification of the appellants through Anusuiya (PW-2) and Alka Chauhan (PW-4) inspire confidence, nor can the alleged recoveries and the forensic evidence flowing therefrom be accepted as genuine and reliable. On the contrary, the material placed on record creates a serious doubt regarding the fairness of the investigation and the credibility of the recoveries allegedly effected at the instance of the appellants, which constituted the entire edifice of the prosecution case and formed the basis for the conviction of the appellants.

90. It is well settled that in a case resting entirely on circumstantial evidence, each incriminating circumstance must be firmly proved, and the chain of circumstances must be so complete as to unerringly point towards the guilt of the accused and rule out every hypothesis consistent with innocence.

In the present case, the prosecution has miserably failed to establish any of the so-called incriminating circumstances so as to connect the appellants with the crime in question. The evidence led by the prosecution suffers from material inconsistencies, procedural irregularities and serious infirmities which strike at the very root of the prosecution case. Consequently, the appellants are entitled to the benefit of doubt.

91. Upon a careful and minute examination of the judgments passed by the trial Court as well as the High Court, we find that, while arriving at the conclusion regarding the guilt of the appellants, both Courts glossed over the patent infirmities and loopholes in the prosecution case, particularly in relation to the alleged "last seen together" circumstance and the recoveries purportedly effected at the instance of the appellants. As these vital incriminating circumstances have not been proved beyond all manner of doubt, it would not be safe to sustain the conviction of the appellants or the sentence of death awarded to them. Resultantly, the impugned judgment of conviction and order of sentence passed by the trial Court, as affirmed by the

High Court, do not withstand judicial scrutiny and deserve to be set aside.

92. Resultantly, the appeals are allowed. The impugned judgment of conviction dated 23rd January, 2014 and order of sentence dated 27th January, 2014 passed by the trial Court and the common judgment dated 27th April, 2018 passed by the High Court are hereby set aside. The conviction of the appellants and the sentences awarded to them, by the trial Court and affirmed by the High Court are also set aside.

93. The appellants are acquitted of all the charges levelled against them. They are in jail and shall be released from custody forthwith, if not wanted in any other case.

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

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

.....J.
(VIJAY BISHNOI)

NEW DELHI;
MAY 27, 2026.