



2026 INSC 951

Non-Reportable

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No.4512 of 2025

**KONDAPAKA SRIDHAR @SHEKAR
@MADHU @GOPI @CHINNA**

...APPELLANT (S)

VERSUS

THE STATE OF TELANGANA

...RESPONDENT (S)

J U D G M E N T

K.VINOD CHANDRAN, J.

The prosecution story commences with a person having left home for Hyderabad, who could not be reached on the telephone, even on the next day. After two days, his father receives a ransom call and instructions to deposit an amount of Rs.2,00,000/- in an account in a bank. Two days later, father-PW1 lodges a complaint (Exhibit P1) with the police and also deposits an amount of Rs.1,50,000/- in the account of one Geetanjali. Analyzing the calls between the two phone numbers, the Investigating Officer (I.O) was led to A6, who was arrested. A6 is said to have pointed out a flat, inside which the

missing person's body was recovered, tucked away in a refrigerator. A6 also confessed about the involvement of A1 to A5.

2. Six persons were arrayed as accused responsible for the kidnapping and murder. A4 died in the course of trial and A1, A2, A3, A5 and A6 stood convicted and sentenced by the Trial Court. The High Court acquitted A2, A3, A5 and A6 but affirmed the conviction of A1. The conviction was on the sole testimony of PW3 and the circumstance of A1 having not explained the presence of the body inside the apartment he leased out, found to be incriminating under Section 106 of the Indian Evidence Act, 1862¹.

3. The story projected by the prosecution on the confessions elicited from the accused was that, A1 was a habitual criminal who met A4 while both were in jail. On release from the prison, A1 took up residence at Siricilla, from where A4 hailed and they indulged in politics. A1 developed intimate relationship with A2, who was a tenant in the house of the deceased who too had an illicit relationship with A2. A1 and A2

¹ Hereinafter referred to as 'the Evidence Act'

hatched a plot to kidnap the deceased for ransom since A2 informed A1 that his father had the wherewithal to pay the ransom. Though, A2 tried to lure him into the flat where she was staying with A1, the deceased could not come, due to his personal commitments. Later, A1 is said to have married A3, with whom also he had intimacy and then A1, together with A3 to A6 hatched the plan to carry out the kidnapping of the deceased, which led to the murder.

4. We have to immediately notice that there was nothing to substantiate the above story but for the confessions, which definitely cannot be relied on to inculcate any of the accused.

5. The Trial Court convicted the accused on the circumstances of the missing of the victim for two days, the phone call for ransom received by PW1, the amounts deposited by PW1, money withdrawn by the accused and the cash seized at the instance of A1 and A6. The further circumstances relied on were the call details leading to apprehension of A6, the information provided by A6, which led to the discovery of the body from an apartment, the recovery of the body itself, the circumstance of A1 having taken the flat on rent from PW4, the

testimony of PW3 with respect to handing over the key of the flat to A1 on behalf of PW4, last seen theory of PW3 having seen A1 with the deceased entering the flat and A1 & A3 to A5 leaving the flat after four days. The identification of A1 & A3 to A5 by PW3 in the Test Identification Parade (TIP) was also relied on.

6. The High Court found that the CCTV footage showing the withdrawal of the amounts, can only be disbelieved since it was not possible to identify the accused from the footage and also for the absence of a certificate, as required for an electronic evidence to be brought in evidence under Section 65B of the Evidence Act. The cellphone records, as produced by the I.O, were also not looked into since the Nodal Officer of the service provider was not examined and here too, there was absence of the certificate under Section 65B of the Evidence Act.

7. It was also noticed by the High Court that PW3, but for the statement that the apartment had five floors consisting of 17 flats, could not provide the details of the occupants, neither produced the register of visitors nor did he speak of any prior acquaintance with A1. The TIP conducted of A1, A3 and A5 could also not be trusted since PW3 admitted that the

photographs of the suspects were shown to him before he was taken to the jail for the purpose of identification of the unknown accused.

8. Despite this, on the two circumstances hereinabove, the High Court confirmed the conviction and sentencing of A1 while acquitting the other accused who were put to trial.

9. One of the circumstances relied on by the High Court was the testimony of PW3. PW3 is said to have been working as a watchman in ARK Residency, Uppal, from where the body was recovered. His testimony was that A1 had taken Flat No.402 on lease on 17.06.2011 and that he moved in with his wife-A3, her brother-A5 and A4. Two days prior to A3 and A5 leaving the house, he saw A1 bringing the deceased to the apartment. He does not speak as to who owned the flat in his chief examination or that he gave the keys of the flat, to A1 on the owner's instructions. There was, of course, no lease agreement entered into. There was nothing produced by the prosecution to prove that PW3 was a watchman of the apartment complex.

10. As rightly found by the High Court, there was no register of visitors produced and there was no lease deed between A1

and the owner produced by PW3. PW3 was also not able to speak of the details of the persons living in the apartment nor did the prosecution examine any residents of the apartment to prove the presence of A1 and A3 to A5 in the said apartment complex.

11. PW4 was proffered as a witness to prove the ownership of the flat. No documents were produced by PW4 to substantiate the claim of ownership and he responded to a question in cross examination that the police had not sought for any document to prove his ownership. It was the testimony of PW4 that he entrusted PW3 to let out Flat No.402. This was not specifically corroborated by PW3. Though he spoke on the name and identity of the owner in cross examination. The absence of proof of ownership of the flat from which the *corpus delicti* was recovered and the employment of PW3 as a watchman in the flat, debunk the theory of lease to A1 and consequently reliance placed on Section 106 of the Evidence Act; ie: no proper explanation for the dead body's presence in the apartment occupied by A1, on lease. It also casts a long shadow of doubt

insofar as the last seen theory of A1 having taken the deceased to the apartment from where his body was recovered.

12. As we noticed at the outset, there was no substantive evidence led before the Trial Court by the prosecution. The investigation was shoddy and merely relied on the confessions and the lewd story coming out of the confessions connecting A1 to A2 & A3 and A2 to the deceased. The money recovered at the instance of A1 and A6, was not traced to the crime of 'kidnapping and ransom demand'. As we already found, the prosecution case was that, it was on analyzing the call records that PW11, the I.O, was led to A6, resulting in his arrest and confession. The call records having not been properly proved through the Nodal Officer of the service provider and no certificate under Section 65B having been produced and proved, the entire story of careful analysis of the call records, falls flat.

13. It is said that A6 led the police to the apartment but no independent witness is examined for either the statement regarding the concealment of the body or the discovery on the pointing out of the body by A6, from the place of its

concealment. A6 having been acquitted, his statement leading to the discovery, if at all proved, cannot incriminate A1.

14. The money too, though, asserted to have been withdrawn by the accused as evident from the CCTV footage taken from the ATM counter, the CCTV footage could not be properly proved in evidence for reason of non-production of certificate under Section 65B of the Evidence Act. The High Court has also noticed that there was no clarity in the footage to identify the accused as such. The money recovered from A1 and A6, hence, cannot be connected with the crime. More importantly, there was a deposit made in an account in the name of one Geetanjali, there was no investigation on that front and the person who maintained that account has not been brought to the dock. The account statement showing the withdrawals through an ATM counter were also not produced and proved, by examining an official of the Bank, in which the account was maintained.

15. That the deceased died of 'asphyxia due to smothering, associated with strangulation', is established by the post-mortem report and the dead body was detected, tucked away

in a refrigerator inside an apartment. But for these, there is no scrap of evidence, worthy of reliance, to connect A1 to A6 to the murder or even the flat. The I.O definitely was led by the confessions and failed to collect any substantive evidence connecting the accused to the crime.

16. We, hence, find absolutely no reason to sustain the order of conviction entered against A1 by the High Court, and therefore, we set aside the same.

17. We have already directed A1 to be released and if he has been so released, the bail bonds executed shall stand cancelled. If A1 is still in custody, he shall be released forthwith, if not wanted in any other case.

18. The appeal stands allowed.

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

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
SEPTEMBER 03, 2026.**