

**2023 STPL(WEB) 11 SC
SUPREME COURT OF INDIA**

(HON'BLE MR. JUSTICE VIKRAM NATH HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH JJ.)

LAXMAN PRASAD @ LAXMAN

Appellant

VERSUS

STATE OF MADHYA PRADESH

Respondent

Criminal Appeal No(s). 821 of 2012-Decided on 14-6-2023

Murder – Circumstantial Evidence – Chain not complete - Conviction set aside

Advocate(s): For Appellant(s) Mr. Ram Swarup Sharma, AOR (Not Present) (SCLSC)
For Respondent(s) Mr. Nachiketa Joshi, A.A.G. Mr. Yashraj Singh Bundela, AOR

ORDER

1. This appeal has been preferred assailing the correctness of the judgment and order of the High Court of Madhya Pradesh at Gwalior dated 28.09.2010 passed in Criminal Appeal No.231 of 2003 dismissing the appeal of the appellant and confirming the conviction and life sentence recorded by the Trial Court under Section 302 IPC.

2. The present one is a case of circumstantial evidence. The prosecution led evidence to establish three links of the chain, (i) motive, (ii) last seen, and (iii) recovery of weapon of assault, at the pointing out of the appellant. The High Court, while dealing with the evidence on record, agreed with the finding of motive and the last seen, however, insofar as the recovery of the weapon of assault and blood-stained clothes were concerned, the High Court in paragraph 18 of the judgment held the same to be invalid and also goes to the extent to say that the recovery which has been made does not indicate that the appellant has committed the offence. Still, it observed that looking to the entire gamut and other clinching evidence against the appellant of last seen and motive, affirmed the conviction.

3. We do not find such conclusion of the High Court to be strictly in accordance with law. In a case of circumstantial evidence, the chain has to be complete in all respects so as to indicate the guilt of the accused and also exclude any other theory of the crime. The law is well settled on the above point. Reference may be had to the following cases:

(i) Sharad Birdhichand Sarda vs. State of Maharashtra[(1984) 4 SCC 116] ;

(ii) Sailendra Rajdev Pasvan vs. State of Gujarat Etc. [AIR 2020 SC 180]

4. Thus, if the High Court found one of the links to be missing and not proved in view of the settled law on the point, the conviction ought to have been interfered with.

5. Accordingly, we allow this appeal and set aside the conviction and sentence of the appellant. The appellant is already on bail, his bail bonds are cancelled and sureties if any, stand discharged.

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