2025 INSC 499

Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. of 2025
(@ Special Leave Petition (Crl.) No.1069 of 2025)

SUBHASH AGGARWAL ...APPELLANT

Versus

THE STATE OF NCT OF DELHI ...RESPONDENT

J U D G E M E N T

K. VINOD CHANDRAN, J.

1. Leave granted.

2. Filicide or suicide is the vexing question in the above case where a father was tried and convicted under Section 302 of the Indian Penal Code, 1860[1] read with Section 25/27 of the Arms Act, 1959. The Trial Court sentenced the accused to imprisonment for life under Section 302 and rigorous imprisonment respectively of one year and seven years for offences under Sections 25 and 27 of the Arms Act,

[1] 'the I.P.C.'

1959 besides a fine of Rs.1,000/- with default sentence, confirmed by the High Court.

3. We heard Mr. Varun Dev Mishra, learned counsel appearing for the appellant and Ms.Aakanksha Kaul, learned counsel representing the State.

4. Learned counsel for the appellant contended that the family of the accused had resorted to character assassination of the accused before the police and the Court, which alone led to the prosecution and the resultant conviction. There is no direct evidence, and the circumstances attempted to be proved by the prosecution fails to find the guilt, squarely on the accused. The deceased was the only son of the accused and there was absolutely no motive not even alleged, to support the accusation of murder. The wife of the accused examined as PW-3 stated in cross-examination that the accused maintained very good relations with his son. PW-1, his daughter, also said that just prior to the incident she saw the accused sleeping peacefully in his room. There is no motive or even a proximate incident which could lead to the accused killing

his own son. Even his daughters who were examined as PW-1 and PW-4 did not speak of any instance of harassment or violence perpetrated by the accused on his son.

5. There was no definitive opinion of the death being homicide and the clear indication is that it was a suicide. The doctor, examined as PW-20, refused to give a definite opinion on the death and even the ballistic expert was not able to come forth with a definite opinion. In fact, the appellant is right-handed, and gunshot residue was found only on the swab taken from his right hand; while the possibility of such residue being present is more probable on the hand which holds the barrel, that too more likely on the back of the hand and not on the palm. More pertinently, though similar swabs were taken from the hands of the deceased, there is no report or evidence regarding the analysis made. The appellant has explained in his statement under Section 313 of the Code of Criminal Procedure, 1973[2] that except his wife all the other family members could handle and operate the gun, and it was kept hidden by the

[2] 'the Cr.P.C.'

children. The learned counsel fervently argued for acquittal also on the plea taken that there was no conceivable reason why he should kill his only son, who is the youngest of his five children.

6. The learned counsel for the State pointed out that there is clinching evidence against the accused. The accused was the first person to detect the body, and he tried to convince the family and the neighbours, who came to the scene of occurrence, that his son had killed himself with a screwdriver. There was no blood stain on the screwdriver and PW-11, the neighbour who was summoned to his house deposed that when he accosted the accused with the fact of absence of blood on the screwdriver, the accused had no explanation. Clearly the death was a homicide and there is no plausible reason to find suicide as has been categorically deposed by the ballistic expert, PW-10. Motive is not imperative, if there are very strong circumstances pointing to the guilt of the accused and the evidence of the family members clearly indicates the wayward ways of the

accused and that he did not maintain good relations with his wife and children.

7. On facts, the family of the accused consisted of himself, his wife and five children: the deceased was the youngest son. Two of his elder daughters were married and the accused was staying along with his wife and three younger children in the house which was the scene of occurrence. On the night of 14th/15th December 2012, the mother and two daughters were sleeping in a room, the deceased son in an adjacent room and the father in the drawing room. At about 12:45 am, the mother and daughters woke up hearing the shouts of the father; that the brother is no more. The mother and daughters in their deposition corroborated each other on the narration of how they came out of the room and found the deceased in a pool of blood. The mother who was examined as PW-3 and the sisters of the deceased who were examined as PW1 and PW-4 spoke in tandem about the accused having brandished a screwdriver, trying to convince them that the death was a suicide by reason of a self-inflicted wound, with the

screwdriver. PW-11, a nearby resident, who was summoned by PW1, in his deposition corroborated the said version. PW-11 also went on to say that he had confronted the accused on the absence of blood stains on the screwdriver.

8. The cause of death is spoken of by PW-20, the doctor and PW-10, the ballistic expert. A single firearm entry wound was noticed as below: -

> *"Firearm entry wound with irregular margin present from central line of chest 2cms between 5 and 6th rib of left side of chest, sorrounding area of wound show abrasion collar, blackening present and margin of wound is inverted wound is round in shape and size of wound is 2 x2 cms. It is 14cms away from the left nipple and 16 cms from the right nipple and 20 cms. away from centre of clavical and 21 cms., away from umblicus and depth of the wound is about 15 cms. No other external injury were noted." [sic]*

9. The death was deposed to be by reason of hemorrhagic shock and huge blood loss consequent upon firearm injury which was ante-mortem in nature, fresh in duration, caused by a bullet fired from close range. The

sole injury was sufficient to cause death in the ordinary course of nature, as deposed by the doctor. The doctor also spoke of the trajectory of the bullet inside the body, which was obliquely downwards from the left side of chest, first puncturing the lung and then taking an oblique turn to hit the heart. On cross examination, the doctor was queried on what was meant by close range. The doctor distinguished close range and contact range to depose that close range means below one meter, which excludes contact range; the latter of which denotes that the weapon was in touch with the human body, when it was fired. On the question whether it could be a self-inflicted injury, the doctor did answer that it could only be spoken of by the ballistic expert.

10. The evidence of the doctor must be considered in juxtaposition with the evidence of the ballistic expert who was examined as PW-10; who was not questioned on the suicide angle as to whether the injury could be self-inflicted, even when he was recalled under Section 311, after the doctor's examination. PW-20 was also not the doctor who conducted the post-mortem but spoke based on the report

and his expertise. PW-10 categorically deposed *"On the basis of above observations, the range of firing with reference to hole H1 on the shirt marked Ex.C1 and double barrel breech loading gun was within 3 feet (approximately) distance from the muzzle end of the barrel of double barrel breech loading gun." [sic].* In cross examination PW-10 had also deposed that during test fire conducted by him with the weapon of offence, it did not exhibit any performance resulting in an injury to the person who fired it. The Counsel for the accused never questioned PW10 as to the theory of suicide, even after the doctor deposed that the ballistic expert only could speak on that. When the witness was recalled, there was only a casual query whether the police had enquired with him as to the wound being self-inflicted or caused by someone else, without being followed up. The evidence of the ballistic expert coupled with that of the doctor clearly indicates that the death was caused due to a gunshot injury sustained by the deceased and that it could not have been a self-inflicted injury.

11. The accused argues that the gunshot residue would normally be on the arm holding up the barrel and not the firing arm. The deposition of PW-10 indicates that parcel no. 8 contained the swab used to hand wash the right hand of the accused marked as RHS-1 and parcel no. 9 contained the swab from the left hand of the accused marked as LHS-1. The swab taken from around the hole of the entry wound marked as H-1 and H-2 showed gunshot residue particles both on the shirt and the banyan, respectively numbered as H-1 and H-2; worn by the deceased at the time of his sustaining the wound. Characteristic gunshot residue particles were detected in swab RHS-1 relating to the right hand.

12. That the accused was right-handed was elicited from PW-1, the daughter, in her cross examination. It also must be emphasized that the accused does not have a case that he handled the weapon after the body was found. This clinches the culpability of the accused insofar as the gunshot residue particles having been found in the right hand of the accused. His explanation in the Section 313 statement, is

also that he was tortured at the police station, made to sign on blank papers and the police officers inserted a cotton into the barrel of the gun and forcefully rubbed it on his hands. PW-1, 3 & 4 and PW-11 spoke of the accused having tried to convince them that the deceased killed himself with a screwdriver and brandished one, to fortify the contention. There were no blood stains seen on the screwdriver and the injury clearly is a gunshot injury and not one caused by a screwdriver. The falsity of the assertion of suicide with a screwdriver, at the scene of occurrence, coupled with the falsity of the claim of forceful rubbing of a cotton with a gunshot residue particle on his hands; since then, gun-shot residue would have been detected on both hands of the accused, is another circumstance against the accused.

13. Another plea taken by the learned counsel was that the best evidence of gunshot residue in the hands of the deceased was suppressed. True, the IO spoke of the doctor who conducted the post-mortem having taken swabs from the hands of the deceased; the result of analysis of which has not been placed before Court. We cannot but observe that

even if gunshot residue was found in the hands of the deceased that would not lead to a definite conclusion of a self-inflicted injury, since the shot fired was in close range, as deposed by PW-20, which could even otherwise have left gunshot residue on the hands of the injured who was shot. '***Medical Jurisprudence'*** by Dr. R.M. Jhala and Sh. V.B. Raju, Retired Judge, speaks of the "**Nature of injuries whether suicidal, homicidal or accidental**" in the following manner:

> *"The most important and interesting point from legal point of view in the fire-arm injuries is the nature. It is always necessary to decide the question of the suicidal, homicidal or accidental nature of the injury. However, it should be realized and appreciated that the question cannot be answered correctly and confidently. A useful policy, from point of view of investigation would be to consider every fire-arm injury as homicidal unless proved otherwise. As with other types, of injuries, accessibility is the main factor. Certain situations are very often preferred in case of suicide. About 80% of the wounds are in the*

region of temple. It is peculiar that heart is rarely the site for suicide, while chest is often the choice of homicidal fire-arm injury. Cadaveric spasm when present with revolver grasped firmly in hand is a very important confirmatory sign pointing to suicidal nature. The other important sign helping in determining the nature is the distance from which the weapon is alleged to be fired. As discussed in the earlier pages, the distance can be assessed from the type of the injury, powder marks, marks of explosion and burning. These prove useful in arriving at an authentic opinion as to the alleged weapon as well as the way in which it could be caused. In suicidal cases generally signs of firing from close vicinity and in accessible areas are present."

(underlining by us for emphasis)

The gun in the present case was not in the grip of the deceased and the wound was on the chest and not on the temple.

14. ***Taylor's; 'Principles and Practice of Medical Jurisprudence',*** in Chapter XI deals with '*Firearm Injuries*'.

Under the heading *"Evidence of the proximity of the weapon when fired',* it is stated that*: 'Self-inflicted firearm wounds are usually contact wounds. Accidents may occur when a person is cleaning a gun or pistol with the muzzle pointed towards him, and then the wound is situated in front, close but not in contact." [sic-page 303]*. It has also been stated that *"If a near wound be inflicted by a second person it may be impossible, in the absence of evidence, to say whether it was accidental or homicidal. It is very necessary to compare the particulars of the wound very carefully with the statements made by the person implicated. They must be consistent*" *(sic-page-304).* In the present case, it has been deposed by the doctor that the injury was inflicted at close range, as distinguished from contact range. Though the doctor had specifically spoken of a definite opinion being possible only by the ballistic expert; no such question was put to PW-10, even when he was recalled after the evidence of PW-20. In the wake of the above, it is our duty to examine the conduct of the person implicated, the accused, and the attendant circumstances,

to understand whether they are consistent with the case set up of a self-inflicted injury.

15. At the risk of repetition, it must be stated, as already found by us that the accused had a case that the deceased died by a self-inflicted injury with a screwdriver and he does not have any explanation as to how he detected the body in the night when everybody was asleep. What assumes significance is also the aspect of gunshot residue detected on the right hand of the accused. The appellant has a contention that gunshot residue would be normally seen on the left hand which holds up the barrel, which remains a mere conjecture without any substantiation, not even from the ballistic expert. No questions were asked to the ballistic expert, confronting him with the weapon as to whether it could have been fired with one hand, without holding up the barrel. Here we must notice that PW4, one of the police officers who reached the crime scene first, deposed, on identifying the gun as Ext. P1, that it was a small double barrel gun. PW10 the ballistic expert also deposed that the weapon was a double-barreled gun, without butt and a

shortened barrel. PW14, the Investigating Officer spoke of the gun as a small one without a handgrip; thus, capable of being fired with one hand. The gunshot residue found on the right hand of the accused also has not been explained properly by him and the version in the Section 313 statement has been found to be a deliberate falsehood. The statement made by the accused and the explanation proffered are not consistent with the theory of self-inflicted injury. The decision in ***Machindra v. Sajjan Galfa Rankhamb & Ors.***[3] is not relevant. We also must presume; in accepting the contention, without any substantiation, that a right-handed man would only shoot with that hand.

16. In ***C.T. Ponnappa v. State of Karnataka***[4], the gun belonging to the father was recovered from the joint family house and the ballistic expert report also indicated that the shot was fired by the said gun. Since there was nothing to show that the owner of the gun handed it over to the accused, the mere fact of the shot having been made from the gun was not sufficient to implicate the appellant, was the

[3] (2017) 3 SCR 36
[4] (2004) 11 SCC 391

finding. In the present case, the gun was owned by the father and his only explanation is that the gun was hidden by the children. No such suggestion was made to PW-1, 3 & 4. The accused towards the end of his Section 313 questioning also stated that the gun was in the house accessible to all and that the licence was misplaced: quite contrary to his earlier statement.

17. One other compelling contention taken by the accused is that there was no motive ascribed to the accused to kill his son, who was the only boy child of his five children. We cannot accept the fervent plea, as to the impossibility of the father killing the only boy child, which argument we reject at the outset as puerile. The thrust of the argument was on no motive existing for the alleged crime; especially when the accusation was that the father killed the son. There was neither a long-standing animosity between the father and son nor was there any immediate proximate incident which could lead to any inference of any motive is the argument, relying on precedents.

18. ***Nandu Singh v. State of Chhattisgarh***[5]**,** was a case in which the deceased was found missing and later his body recovered. One of the witnesses deposed that the deceased was seen going out with the accused from a hotel which was the sole circumstance connecting the accused with the deceased which according to the learned Judges could not even be brought under the theory of last seen together, since there was nothing to indicate that they were seen together proximate to the crime. The total absence of motive also weighed with the Court in acquitting the accused.

19. Reliance was placed on ***State of U.P. v. Kishanpal***[6] wherein it was held that motive is something which is primarily known to the accused themselves and it is not possible for the prosecution to always explain what prompted or excited them to commit a particular crime. Motive is a very important link in the circumstances which could prove the guilt of the accused, and it loses its importance only when there is direct evidence of eyewitnesses, which is convincing and conclusive as to the

[5] 2022 SCC OnLine SC 1454
[6] (2008) 16 SCC 73

guilt of the accused. However, it was also noticed that even if there may be a very strong motive for the accused to commit a particular crime, it does not lead to a conviction by itself, if the eyewitnesses are not convincing or the chain of circumstances is not complete.

20. The declaration in the cited decisions and the decisions relied on therein, is to the effect that if the case is built solely upon circumstantial evidence, absence of motive will be a factor that weighs in favour of the accused. Just as a strong motive does not by itself result in a conviction, the absence of motive on that sole ground cannot result in an acquittal. When the eyewitnesses are not convincing, a strong motive cannot by itself result in conviction, likewise when the circumstances are very convincing and provide an unbroken chain leading only to the conclusion of guilt of the accused and not to any other hypothesis; the total absence of a motive will be of no consequence.

21. We extract paragraph 17 from a three-judge bench decision, ***Jan Mohammad v. State of Bihar***[7]***;*** which also is of vintage flavour, succinctly putting forth the proposition***:***

> *"Motive is a relevant fact under the Evidence Act (Section 8). It is an important element in a chain of presumptive proof where the evidence is purely circumstantial, but it may lose importance in a case where there is direct evidence by witnesses implicating the accused. In a case such as the present where the prosecution evidence itself shows that the relations between the deceased and the appellants were cordial, the absence of an apparent motive, though not necessarily fatal to the prosecution case, may reasonable be regarded as a fact in favour of the accused. We think, therefore, that the attempt to prove a motive against any of the appellants has failed." [sic]*

22. ***Suresh Chandra Bahri v. State of Bihar***[8] held that in a case based on circumstantial evidence, proof of motive would 'supply a link in the chain of circumstances' but all

[7] (1953) 1 SCC 5
[8] 1995 Supp (1) SCC 80

the same, absence of motive cannot be a ground to altogether reject the prosecution case. Para 21 reads as follows:

> *"21. At the very outset we may mention that sometimes motive plays an important role and becomes a compelling force to commit a crime and therefore motive behind the crime is a relevant factor for which evidence may be adduced. A motive is something which prompts a person to form an opinion or intention to do certain illegal act or even a legal act but with illegal means with a view to achieve that intention. In a case where there is clear proof of motive for the commission of the crime it affords added support to the finding of the court that the accused was guilty of the offence charged with. But it has to be remembered that the absence of proof of motive does not render the evidence bearing on the guilt of the accused nonetheless untrustworthy or unreliable because most often it is only the perpetrator of the crime alone who knows as to what circumstances prompted him to a certain course of action leading to the commission of the crime….."*

(underlining by us for emphasis)

23. ***Sukhpal Singh v. State of Punjab***[9] found that if prosecution establishes motive, it will undoubtedly strengthen the prosecution case, but to say that absence of motive will be fatal to the prosecution, irrespective of other material before the court in the form of circumstantial evidence is far-fetched. Para 15 reads as follows:

> *"15. The last submission which are called upon to deal with is that there is no motive established against the appellant for committing murder. It is undoubtedly true that the question of motive may assume significance in a prosecution case based on circumstantial evidence. But the question is whether in a case of circumstantial evidence inability on the part of the prosecution to establish a motive is fatal to the prosecution case, we would think that while it is true that if the prosecution establishes a motive for the accused to commit a crime it will undoubtedly strengthen the prosecution version based on circumstantial evidence, but that is far cry from saying that the absence of a motive for*

[9] (2019) 15 SCC 622

the commission of the crime by the accused will irrespective of other material available before the court by way of circumstantial evidence be fatal to the prosecution. In such circumstances, on account of the circumstances which stand established by evidence as discussed above, we find no merit in the appeal and same shall stand dismissed.

(underlining by us for emphasis)

24. Motive remains hidden in the inner recesses of the mind of the perpetrator, which cannot, oftener than ever, be ferreted out by the investigation agency. Though in a case of circumstantial evidence, the complete absence of motive would weigh in favour of the accused, it cannot be declared as a general proposition of universal application that, in the absence of motive, the entire inculpatory circumstances should be ignored and the accused acquitted.

25. The other decisions relied on by the accused/ appellant are all with respect to the missing link and presumption of innocence unless proved guilty, and we need only refer to the celebrated judgment in ***Sharad***

Birdhichand Sarda v. State of Maharashtra[10]***.*** In the present case, the accused and the deceased along with the wife of the accused and his two other children were residing in the house which was the scene of occurrence. The wife and two daughters were sleeping in another room, and they woke up hearing the shouts of the accused, who first detected the body. They came out and saw the youngest child lying in a pool of blood and one of the daughters summoned the neighbours. The family members and the neighbour who were examined before Court spoke of the accused having tried to convince them that it was a suicide by a self-inflicted injury; found to be a deliberate falsehood. The accused does not say what led him to the body at the dead of the night, when all were asleep. The accused admitted that he owned the gun, but his explanation was that it was hidden by his children, which is not plausible in the teeth of the corroborated deposition of PW-1, 3 & 4 that it was in the custody of the husband and that only he could use it.

[10] (1984) 4 SCC 116

26. The accused, admittedly a right-handed person, had gunshot residue particles in his right hand. There were also gunshot residue particles around the gunshot wound by reason of which the son succumbed. Though a definitive opinion was not given by the doctor as to whether the wound was homicidal, no question was put to the ballistic expert. In fact, the suggestion was that since the gun did not have a butt, it could cause injury to the person shooting, which was denied based on the tests carried out. The doctor deposed that the wound was not from a contact range. The circumstances coupled with the falsity of the claim made by the accused immediately after the detection of the body, to the onlookers and the false explanation given by the accused in his statement under Section 313, regarding both his hands having been forcefully smeared with gunshot residue provides further links in the chain of circumstances which is complete and leads only to the hypothesis of the guilt of the accused and not to any hypothesis of innocence.

27. We find absolutely no reason to interfere with the conviction and sentence of the accused as handed down by the Trial Court and confirmed by the High Court.

28. The appeal stands dismissed.

29. Pending applications, if any, shall also stand disposed of.

..... J.
(SUDHANSHU DHULIA)

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

NEW DELHI;
APRIL 17, 2025.