
(2015) 09 KAR CK 0248

In the Karnataka High Court

Case No : Criminal Appeal Nos. 588/2011 and 626/2014

Manohar and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 29-09-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161
Evidence Act, 1872 — Section 114, 27
Penal Code, 1860 (IPC) — Section 396

Citation : (2015) 09 KAR CK 0248

Hon'ble Judges : Mohan M. Shantana Goudar and Budihal R.B., JJ.

Bench : Division Bench

Advocate : Parameswarappa C., Advocate, for the Appellant; K.R. Keshavamurthy, SPP-2, for the Respondent

Final Decision : Dismissed

Judgement

Mohan M. Shantana Goudar, J.—The Judgment & Order of conviction and sentence dated 25/30.3.2011 passed by the District & Sessions Judge, Ramanagara in Sessions Case No. 34/2008 is called in question in these appeals.

Five accused were charged for the offence punishable under Section 396 of IPC. However during the pendency of the trial, Accused No. 5 - Harish expired and hence the Sessions Case as against him abated. Thus the trial proceeded against Accused Nos. 1 to 4. The trial Court, on evaluation of the material on record convicted all the four accused for the offence punishable under Section 396 of IPC and sentenced them to undergo imprisonment for life. It is also specified by the Sessions Court that there shall not be any remission of sentence for a period less than 20 years.

2. Criminal Appeal No. 588/2011 is filed by Accused No. 1, whereas Criminal Appeal No. 626/2014 is filed by Accused Nos. 2 and 4. Convicted Accused No. 3 has not filed appeal and consequently, he has accepted the Judgment and Order of conviction and sentence passed by the trial Court.

3. Case of the prosecution in brief is that all the accused including deceased Accused No. 5 were in the business of old silk sarees; they used to visit house by house offering to purchase the old silk sarees; they used to visit number of places in Karnataka and Andhra Pradesh States; they knew Kannada as well as Telugu languages.

P.W. 1 is the first informant in this case; he is the husband of deceased Sridevi; he was running a shop; he used to have breakfast at 9 a.m. on everyday and go to attend his business in the shop which is situated at a different place; he used to come back to his house for lunch between 1.00 to 1.30 p.m. and at that point of time, his wife - deceased used to go to shop to do the business; On 5.8.2007 at 9 a.m., as usual P.W. 1 after having breakfast at home, left for the shop; deceased was alone at home; at about 10 a.m. the deceased called the complainant (P.W. 1) over phone and informed that a person from Hindupur came to their house to buy old silk sarees at a price of Rs. 6,000/- per saree and asked his opinion as to whether she should sell the old sarees for the said price or not; the complainant (P.W. 1) told the deceased to negotiate with the said person from Hindupur and to take decision accordingly; he informed the deceased that he is busy in shop and it may not be possible for him to come to house at that point of time; at 11 a.m. when the complainant became free, he called to his house over landline number, but he did not get any response; at 12 noon, he tried to the landline number of his house once again, but there was no response from his house; the complainant suspecting some foul play went to his house at 12.40 p.m. and noticed that door of the house was partially opened; after entering into the house, he found the dead body of his wife in a pool of blood; her neck was tied with a white petticoat and there were stab injuries on her chest. A gold Mangalya chain, four gold bangles, one set of diamond rings worn by her were found missing; a cash of Rs. 45,000/- apart from the necklace, two gold bangles and other gold ornaments worth Rs. 3 to 4 lakhs were also found missing from Almirah.

Immediately i.e., at 1.30 p.m. on 5.8.2007 P.W. 1 lodged the complaint as per Ex. P1 before Magadi Police Station which came to be registered in Crime No. 108/2007 by the SHO; the first information was dispatched to the jurisdictional Magistrate, which reached the Magistrate at 2.15 p.m. on the very day.

4. During the course of investigation, the Investigating Officer recovered the gold ornaments at the instance of the accused; a blood stained knife and number of incriminating articles were also recovered; P.W. 33 - Inspector of Police, Magadi Circle completed the investigation and laid the charge sheet against five accused for the offence under Section 396 of IPC.

5. In order to prove its case, the prosecution in all examined 34 witnesses and got marked 41 Exhibits and 21 Material Objects. On behalf of the defence, no witness is examined. The trial Court, on evaluation of the material on record convicted Accused Nos. 1 to 4 for the offence under Section 396 of IPC and sentenced them as mentioned supra. Since Accused No. 5 has expired in the

meanwhile, the Sessions Case against him abated.

6. Sri Parameswarappa, learned advocate appearing on behalf of the appellants in both the appeals taking us through the entire material on record submits that the recovery of knife at the instance of Accused No. 1 is highly artificial; it is unthinkable that Accused No. 1 would have retained the blood stained weapon with him for 18 days after the incident; since all the accused had allegedly thrown the blood stained clothes in the river immediately after the incident, Accused No. 1 would not have kept blood stained knife with him, only to be seized by the Police during the course of investigation; The aspect of recovery of gold ornaments also appears to be doubtful inasmuch as the stock witness - P.W. 28 has signed 5 recovery mahazars as witness; P.W. 28 has taken active role in the matter inasmuch as he himself took the Police in his Tata sumo vehicle to various places for the purpose of alleged recovery; the panchanama - Ex. P30 relating to recovery of gold articles at the instance of Accused No. 4 is not supported by independent mahazar witnesses inasmuch as only the Police Constable (P.W. 32) is examined by the prosecution to prove the said recovery; even the panchanama - Ex. P11 relating to recovery of certain gold ornaments at the instance of Accused No. 5 is not supported by independent witnesses, but merely supported by P.W. 28 who is the stock witness for the Police; Though certain material is forthcoming against Accused Nos. 2 and 3, the material gathered by the prosecution as against Accused Nos. 1 and 4 is not sufficient to bring home guilt against them; Merely on assumptions, the accused should not have been convicted by the trial Court. The reasons assigned and the conclusion arrived at by the trial Court are not proper and correct. On these among other grounds, he prays for acquittal of the accused.

Sri K.R. Keshavamurthy, learned SPP-II argued in support of the judgment of the Court below.

7. Case rests on the circumstantial evidence. There are no eye witnesses to the incident in question. The circumstances relied upon by the prosecution are:

1. Recovery of blood stained knife - M.O. 20 at the instance of Accused No. 1 from his house.
2. Recovery of robbed gold articles at the instance of the accused.
3. Forensic Science Laboratory Report - Ex. P43 and Serology report - Ex. P44 relating to blood stained clothes of the deceased and blood stained knife used for commission of the offence are supporting the case of the prosecution.
4. Accused has taken a room in Anand Ganapathi Lodge at Magadi one day prior to the incident in question. Accused No. 3 had hired the room in the name of Ramesh.
5. Abscondence of the accused.

Regarding recovery of blood stained knife - M.O. 20 at the instance of Accused

No. 1 from his house:

8. Case of the prosecution is that blood stained knife - M.O. 20 is recovered at the instance of Accused No. 1 from his house; the said knife - M.O. 20 was used by the accused for commission of the offence; the knife was seized under a panchanama - Ex. P29 and P.W. 28 was a witness for the said panchanama. Accused No. 1 was arrested on 23.8.2007. The recovery was made on 24.8.2007 under Ex. P29. P.W. 28, the mahazar witness has supported the case of the prosecution with regard to the seizure of blood stained knife.

P.W. 28 has deposed that he is a driver by profession; he was having a Tata Sumo vehicle during the relevant point of time; he used to drive the said vehicle though the said vehicle was belonging to his brother; he was working as a part time journalist (stringer); on coming to know that the accused were arrested in connection with the crime in question, he went to the Police Station; the Police took him in his Tata Sumo vehicle alongwith the accused to Mysore inasmuch as the accused volunteered to disclose certain material facts; Accused No. 1 took the Police and the panchas to his house and after going inside the house, he came out with a steel knife, which came to be seized under panchanama - Ex. P29; M.O. 20 is the knife. P.W. 28 identified the said knife before the Court. The same was seized and sealed in a cloth cover (M.O. 21). Curiously, the defence has not at all cross-examined P.W. 28 on the aspect of recovery of knife - M.O. 20 at the instance of Accused No. 1. Except making one or two suggestions to P.W. 28, which are denied by him, the defence has not tried to elicit anything from him to discredit his evidence. He has denied the suggestion that he has signed the mahazar in the Police Station. Since it is not even denied that the Police seized M.O. 20 - knife from the house of Accused No. 1 at the instance of the Accused No. 1, the trial Court is justified in relying upon the evidence relating to seizure of knife at the instance of Accused No. 1.

Learned advocate for the defence submits that it is unthinkable that Accused No. 1 would have retained blood stained knife with him for 18 days after the incident. Since all the accused had allegedly destroyed blood stained clothes, it is highly improbable that Accused No. 1 has retained blood stained knife with him. Though the arguments of the learned advocate for the appellants appear to be attractive, but the same cannot be accepted under the facts and circumstances of the case. The human behavior and conduct of the accused cannot be consistent. It is for the accused to explain as to why he had hidden the knife with him in his house. Nobody except Accused No. 1 would know as to the reasons for he retaining the blood stained knife with him for such a long time.

The aspect of recovery of knife is amply proved by the prosecution by sending the said knife alongwith the blood stained clothes of the deceased for Forensic Science Laboratory examination. The FSL report - Ex. P43 and Serology report - Ex. P44 clearly disclose that the knife - M.O. 20, which was used for commission of the offence and seized at the instance of Accused No. 1 and the blood stained clothes of the deceased apart from other articles sent for examination were all

containing "O" group human blood. Therefore it cannot be said that the recovery of knife by the Investigating Officer at the instance of Accused No. 1 is improbable. The said circumstance is proved by the prosecution.

Regarding recovery of gold ornament - M.O. 1 at the instance of Accused No. 1 on 24.8.2007:

9. A Gold Mangalya chain - M.O. 1 was recovered at the instance of Accused No. 1 on 24.8.2007 under panchanama - Ex. P19. P.Ws. 19, 20 and 28 are the witnesses for the said panchanama. However P.Ws. 19 and 20 have turned hostile to the case of the prosecution. Fortunately, P.W. 28 has supported the aspect of recovery at the instance of Accused No. 1. P.W. 28 has deposed that after recovery of M.O. 20 - knife at the instance of Accused No. 1, they went to the shop of pawn broker - Navarathan (P.W. 20); P.W. 20 was running the shop under the name and style of "Navarathan Pawn Broker Shop"; Accused No. 1 had sold Mangalya chain in the said shop and the same was seized under Ex. P19. P.W. 28 has identified his signature on Ex. P19 as well as the Mangalya chain - M.O. 1 which was recovered at the instance of Accused No. 1. Though P.Ws. 19 and 20 have turned hostile to the case of the prosecution and though they have refused to support the case of the prosecution on that aspect of the matter, the evidence of P.W. 28 amply proves the recovery of M.O. 1 - Mangalya chain from the shop of P.W. 20 at the instance of the accused No. 1.

It is relevant to note here itself that though P.W. 20 has turned hostile to the case of the prosecution, he has clearly admitted in the cross-examination by the Public Prosecutor that he has not maintained any records in his shop to show that M.O. 1 - Mangalya chain was prepared and was displayed in his shop for sale; he has not given any complaint to the higher Police officer regarding the so called illegal seizure of M.O. 1 from his shop; he has not given any application before the Court to return Mangalya chain to him. These admissions of P.W. 20 amply prove that he is not the owner of M.O. 1 - Mangalya chain. If really he was the owner of M.O. 1 - Mangalya chain and the said chain was seized by the Police illegally and high handedly, he would not have left without informing the same to the higher police officer and without submitting an application for return of the said chain in his favour. The very fact that P.W. 20 has not taken any steps to lodge the complaint before the higher police officer and the very fact that he has not maintained any records to show that M.O. 1 - Mangalya chain was prepared and displayed for sale in his shop and that he had not filed any application for release of gold chain in his favour, would clearly reveal that M.O. 1-Mangalya chain was not belonging to him. It is incumbent on P.W. 20 to explain as to how he got M.O. 1 - chain in his shop. Such explanation is not forthcoming from him. The aforementioned facts clearly reveal that the prosecution has proved recovery of Mangalya chain - M.O. 1 at the instance of Accused No. 1 from the shop of P.W. 20 under the mahazar - Ex. P19.

Regarding recovery of gold ornaments - M.Os. 3, 4 and 6 at the instance of Accused No. 2 on 25.8.2007:

10. The records disclose that M.O. 3 - robbed gold article was seized under panchanama - Ex. P21 at the instance of Accused No. 2 in presence of P.Ws. 21, 22, 28 and 31. M.Os. 4 and 6 were seized under panchanama Ex. P24 in presence of P.Ws. 22 and 28. All these witnesses P.Ws. 21, 22 and 28 have supported the case of the prosecution whole heartedly. They have supported the recovery made at the instance of Accused No. 2 under the panchanama - Ex. P21. P.W. 22 was possessing a gold necklace and a bracelet i.e., M.Os. 4 and 6 respectively and those gold ornaments were handed over to him by Accused No. 2 - Suresh; when Accused No. 2 approached him alongwith the Police and the panchas and when he asked for return of necklace and bracelet given by him, P.W. 22 returned the same and the same was seized under mahazar Ex. P24. Thereafter the Accused No. 2 lead the Investigating Officer as well as the panchas to the shop of Sanjay (P.W. 21). It is relevant to note here itself that Accused No. 2 has handed over M.O. 3 to P.W. 31 - Anil and P.W. 31 in turn had pledged the said gold ornaments in the shop of P.W. 21. The same was seized under panchanama - Ex. P21 in presence of P.Ws. 21, 22, 28 and 31. P.W. 21 also supports the case of the prosecution with regard to the said recovery at the instance of Accused No. 2. Nothing worth is elicited by the defence in the cross-examination of P.Ws. 21, 22, 28 and 31 to discard their evidence. We have already mentioned supra that the defence has merely put certain suggestions to these witnesses which are denied by them. The evidence of P.Ws. 21, 22, 28 and 31 relating to recovery of M.Os. 3, 4 and 6 under mahazars Ex. P21 and Ex. P24 is consistent, cogent and reliable. All these witnesses are independent with one another. They were not interested in the case of the prosecution. As a matter of fact P.W. 22 and P.W. 21 were the friends of Accused No. 2, with whom the Accused No. 2 had hidden the gold ornaments.

Recovery of gold ornaments M.Os. 2, 5, 7 and mobile phone M.O. 19 at the instance of Accused No. 3 on 10.9.2007 under panchanama Ex. P28 in presence of P.Ws. 26 and 27;

11. Accused No. 3 was arrested on 10.9.2007 and on the very day, based on his voluntary statement, the recovery has been made by the Investigating Officer.

P.W. 26 has deposed that the Police seized two gold bangles and certain other gold ornaments M.Os. 2, 5 and 7 under the panchanama Ex. P28. At the time of seizure of gold ornaments, M.O. 19 - Mobile phone was also seized, which may not be material for deciding this case. In the cross-examination, P.W. 26 has reiterated that Accused No. 3 alone was present when the Police came to the house of Accused No. 3 and recovery was made by the Police from the house of Accused No. 3 at the instance of Accused No. 3. During the relevant point of time, Accused No. 3 was running utensils business. The evidence of P.W. 26 is fully supported by the evidence of P.W. 27. He has also deposed about recovery of M.Os. 2, 5 and 7 at the instance of Accused No. 3 from his house. He has identified the mobile phone - M.O. 19 seized apart from identifying the gold ornaments recovered. The evidence of P.Ws. 26 and 27 is not shaken in the cross-

examination by the defence. Their evidence fully supports the case of the prosecution with regard to the recovery of gold ornaments - M.Os. 2, 5 and 7.

Recovery of M.O. 10 - white pearl ear ring (ole) and M.O. 11 - eight silver coins at the instance of Accused No. 4 on 10.9.2007 under panchanama Ex. P30 in presence of P.W. 32:

12. The records reveal that P.W. 32 was deputed by the Sub-Inspector of Police to find out the whereabouts of Accused Nos. 3 and 4. Accordingly, on 10.9.2007, Accused No. 4 was apprehended by P.W. 32 and he was produced before the Sub-Inspector of Police. At the time of arrest itself, M.Os. 10 and 11 were seized from the possession of Accused No. 4. P.W. 32 has in detail deposed as to how he has apprehended Accused No. 4 at Bangalore. P.W. 32 alongwith the other Police staff went to Mandi Mohalla of Mysore in search of the accused, but having come to know that accused has proceeded towards Bangalore, they came to Bangalore; at about 6 p.m. on 10.9.2007, the Accused No. 4 was apprehended at Balepet, Bangalore; At that point of time, Accused No. 4 was possessing diamond stones ear ring, five big silver coins and three small silver coins. They were seized under panchanama Ex. P30 in presence of P.W. 32. Though P.W. 32 was a Police Constable, he has signed the recovery panchanama/seizure panchanama.

It is no doubt true that none of the other independent witnesses are examined to support Ex. P30 - recovery panchanama. The Police Constable P.W. 32 is examined to prove the recovery of M.Os. 10 and 11 at the instance of Accused No. 4. Merely because P.W. 32 is the Police Constable, his evidence cannot be discarded by the Court. It is by now well settled that seizure evidence cannot be discarded on the ground that the article was recovered in presence of the Police official instead of independent witness. There is no requirement either under Section 27 of the Evidence Act or under Section 161 of the Code of Criminal Procedure, to obtain signature of independent witnesses on the record in which statement of an accused is written. The legal obligation to call independent and respectable inhabitants of the locality to attend and witness the exercise made by the police is cast on the police officer when the searches are made under Chapter VII of the Code of Criminal Procedure. The legislative idea in insisting on such searches to be made in the presence of two independent inhabitants of the locality is to ensure the safety of all such articles meddled with and to protect the rights of the persons entitled thereto. But recovery of an object pursuant to the information supplied by an accused in custody is different from the searching endeavour envisaged in Chapter VII of the Code of Criminal Procedure. Moreover, it is not a legally approvable procedure to presume the police action as unreliable to start with, nor to jettison such action merely for the reason that police did not collect signatures of independent persons in the documents made contemporaneous with such actions {see the judgments in State, Govt. of NCT of Delhi Vs. Sunil and Another, and Modan Singh Vs. State of Rajasthan, }. It is well settled that if the evidence of the Investigating Officer who recovered Material Objects is convincing, the evidence as to recovery need not be rejected

on the ground that independent witnesses have not supported the recovery panchanama. Therefore the evidence of P.W. 32 cannot be brushed aside. Even otherwise, we find that his evidence is above board and nothing is brought out in his cross-examination by the defence to discard his evidence.

Recovery of M.Os. 8 and 9 at the instance of Accused No. 5 on 24.8.2007 under panchanama Ex. P11:

13. P.Ws. 9, 10 and 28 are the witnesses who are supposed to depose about the recovery of M.Os. 8 and 9 at the instance of Accused No. 5 under panchanama Ex. P11. But, P.Ws. 9 and 10 have turned hostile to the case of the prosecution. P.W. 28 has supported the case of the prosecution fully. He withstood the cross-examination. Be that as it may, since Accused No. 5 has expired, we do not propose to discuss in detail with regard to the recovery made at the instance of Accused No. 5 while disposing of this appeal. But the fact remains that Accused No. 5 also shared the booty alongwith the other accused and the recoveries were made by the Investigating Officer at the instance of Accused No. 5 immediately after his arrest i.e., on 24.8.2007.

14. The aforementioned discussion makes it amply clear that the robbed articles were recovered at the instance of Accused Nos. 1 to 5. Detailed panchanamas are drawn by the Investigating Officer. All the panchanamas were supported by the versions of the witnesses whole heartedly. Nothing worth is elicited by the prosecution to discard the evidence of mahazar witnesses relating to recovery of gold ornaments. Looking to the totality of facts and circumstances, we are of the considered opinion that the trial Court is justified in concluding that the aspect of recovery of each of the gold ornaments at the instance of the accused is proved by the prosecution beyond reasonable doubt.

Regarding FSL report and Serology report:

15. We have already discussed supra that knife-M.O. 20 recovered at the instance of Accused No. 1 was blood stained and the same was sent to FSL for examination alongwith the blood stained clothes of the deceased. Ex. P43 is the FSL report and Ex. P44 is the Serology report. These reports fully disclose that all the articles sent to FSL examination and Serology examination were containing "O" group of human blood. If really knife - M.O. 20 was not used for commission of the offence by the accused, it would not have contained "O" group blood of the deceased. Since the recovery of knife is proved by the prosecution beyond reasonable doubt, these reports fully support the case of the prosecution.

Accused has stayed at Magadi a day prior to the incident:

16. All the accused are generally residing at Mysore; a day prior to the incident i.e., on 4.8.2007 they had hired a room in Anand Ganapathi Lodge at Magadi. The room was taken by Accused No. 3 in the name of Ramesh. During the course of investigation, Investigating Officer P.W. 33 has seized the bill book maintained by the said lodge in presence of P.W. 6 under panchanama Ex. P9. The bill book

is at Ex. P36. The said register contained the handwriting of Accused No. 3 which is disputed by the defence. Thus in order to compare the disputed handwriting as found in Ex. P36, the Police have obtained admitted handwriting of Accused No. 3 as per Ex. P39 and P40 in presence of Gangaraju and Krishnaiah. Though the said panchas Gangaraju and Krishnaiah are examined, the evidence relating to seizure of Ex. P36 from the lodge does not lose importance inasmuch as the same was seized under mahazar Ex. P9 in presence of P.W. 6 has fully supported the case of the prosecution. P.W. 6 has deposed that after 20 days of the incident in question, the Police had brought 5 accused to the scene of offence. Thereafter accused took the Police and P.W. 6 to Ananda Ganapathi lodge and showed two rooms of the said lodge wherein they had stayed a day prior to the incident. During the course of investigation, the bill book was seized under panchanama Ex. P9. Not even the suggestion is made to P.W. 6 during cross-examination suggesting that she was not a witness for panchanama Ex. P9 etc., On the other hand, the suggestions made by the defence during the cross-examination of P.W. 6 would reveal that at the time of conducting the panchanama Ex. P9, the Police had brought three accused, which means the defence practically admits drawing up of panchanama - Ex. P9 in presence of P.W. 6 under which the register of the hotel/lodge was seized. Hence the said circumstance is also rightly proved by the trial Court.

Abscondence of the accused:

17. The last circumstance relied upon by the prosecution is relating to abscondence of the accused. Accused No. 1 and 5 were arrested on 23.8.2007. Accused Nos. 3 and 4 were arrested on 10.9.2007 and Accused No. 2 was arrested on 25.8.2007. Immediately after their arrest, the notings were made in the investigation records. Either on the date of arrest or on the next day of arrest, the recoveries are effected. The incident has taken place on 5.8.2007, which means all the accused absconded for about minimum of 18 days and maximum of 35 days. Absolutely no explanation is forthcoming from the accused as to why they were not found in the ordinary place of living at Mysore. All these accused were arrested from different places. Thus the circumstance of abscondence is also proved.

18. In the matter on hand, none of the accused have explained about the possession of the stolen articles; no explanation is forthcoming from any of the accused as to why and how the gold ornaments belonging to the deceased came in their possession; recent and unexplained possession of stolen articles can be taken to be prescriptive evidence of the charges of murder as well as the robbery. Though there is no direct evidence to prove that the appellants have committed the murder of the deceased, or the offence of robbery for which they were tried and convicted and though the case of the prosecution depends entirely on circumstantial evidence, we find that the circumstantial evidence is sufficient to prove the guilt of the accused. All the circumstances relied upon by the prosecution are proved beyond reasonable doubt. They form a chain of

circumstances. Such chain of circumstances does not give any scope for any of the accused to escape from the clutches of law. The proof of chain of circumstances would lead to only hypothesis that the accused and the accused only has committed murder of the deceased and robbed the articles. Thus the prosecution has proved that it is a case of murder for gain. The prosecution has succeeded to prove beyond any doubt that the commission of murder and robbery form part of one transaction and recent and unexplained possession of the stolen property by the appellants justify the presumption that it was they and no one else has committed the murder and robbery.

19. The Apex Court in the case of Gulab Chand Vs. State of Madhya Pradesh, has observed that it is true that simply on the recovery of stolen articles no inference can be drawn that a person in possession of the stolen articles is guilty of the offence of murder and robbery. But culpability for the aforesaid offences will depend on the facts and circumstances of the case and the nature of evidence adduced. In the present case, the material on record clearly reveals that the accused were not affluent enough to possess the ornaments in question and from the nature of evidence adduced in this case and from the recovery of the said articles from the possession of the accused and their dealing with the ornaments of the deceased immediately after the murder and robbery, a reasonable inference of the commission of the offence of murder and robbery can be drawn against the accused. The accused have not even claimed that the ornaments belonged to their family. No plausible explanation for lawful possession of the said ornaments after the murder has been given by the accused. Under the facts and circumstances of the case, it is clear that the murder and robbery have been proved to have been integral parts of the same transaction and therefore the presumption arising under Illustration (a) to Section 114 of the Evidence Act is that not only the appellants committed the murder of the deceased, but also committed the robbery of the ornaments.

20. In view of the above, we do not find any ground to interfere in the judgment and order of conviction passed by the trial Court. Even on the question of sentence, we do not see any ground to take lenient view in the matter. The accused have taken undue advantage of loneliness of the helpless lady in the house, who genuinely believed that the accused have come for purchase of sarees. The accused taking undue advantage of the said situation, committed murder of the deceased and robbed the gold ornaments from her house. Since such incidents are on the raise in the society, the accused should be dealt with iron hand and no leniency can be shown in favour of the accused.

Accordingly, the appeals fail and the same stand dismissed.