
(2013) 05 BOM CK 0080
In the Bombay High Court
Case No : Criminal Appeal No. 236 of 2007

Sikandar alias Raju Vajir Inamdar	Vs	APPELLANT
The State of Maharashtra		RESPONDENT

Date of Decision : 10-05-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302

Citation : (2013) 05 BOM CK 0080

Hon'ble Judges : V.K. Tahilramani, J;P.D. Kode, J

Bench : Division Bench

Advocate : Murtuza Nazmi, for the Appellant; M.M. Deshmukh, Assistant Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Kode, J.—The appellant assails the judgment and order dated 6th May, 2006 passed by the learned II Ad-hoc Additional Sessions Judge, Pune, in Sessions Case No. 208 of 2005 convicting him for commission of the offences u/s 302 and 201 of Indian Penal Code and sentencing him on the first count to undergo rigorous imprisonment for life and to pay fine of Rs. 1000/- and, in default to payment of fine, to undergo further rigorous imprisonment of six months and on second count to undergo the rigorous imprisonment for five years and to pay a fine of Rs. 1000/- and in default of payment of fine to undergo further rigorous imprisonment for six months. The appellant was thus convicted and sentenced for committing murder of his step son Jaykumar and for causing disappearance of the evidence of said murder by cutting head, hands and legs from trunk of Jaykumar and throwing the trunk and other parts at different places in Pawna river. According to the prosecution, on 2nd November, 2004, the then P.S.I. PW-13 Galinde, attached with Hinjewadi Police Station, at about 16.00 hours received a phone call from Sou. Vimal Jagtap, Corporator of Pimpri-Chinchwad Municipal Corporation, that a gunny bag containing body was seen in bank of Pawna river, at rear side of Thergaon Crematorium. PW-13 along with staff

rushed to spot and took out gunny bag with the assistance of people gathered. He found a trunk of male of age 25 to 30 years without head and limbs with sando baniyan (Art. 1) on said trunk. PW-13 brought the trunk to Yashvantrao Chavan Memorial Hospital. After Dr. Pakhale examined the trunk PW-13, drew inquest panchanama Exh. 21 in presence of panch PW-6 Bhagvat Raut and forwarded trunk along with Police Constable Daundkar for postmortem. PW-12 Dr. Bal Ughade performed postmortem examination of said trunk. PW-13 also sent viscera received from PW-12 to Chemical Analyzer.

1.1. On 2nd November, 2004 PW 13 lodged the complaint (Exh. 44) against unknown culprit for committing murder of unknown person for unknown reason at unknown place by cutting head, limbs and inflicting injury on abdomen, causing disappearance of cut off organs at some place and disposing beheaded trunk without limbs in gunny bag, by throwing it at some place in Pawna river. Crime No. 98 of 2004 for the offences u/s 302 and 201 of Indian Penal Code was registered on the said complaint at Hinjewadi Police Station. PW-13 Galinde, on 3rd November, 2004 took charge of sando banian on the person of deceased, bearing advertisement mark the "Triple Power Detergent Soap 250 grams" brought by Police Constable Daundkar from the doctors after post mortem; by drawing seizure panchanama Exh. 23 in presence of panch PW-7 Bharat Jadhav and another.

1.2. PW-16 Senior P.I. Jafarbai took up the investigation of the crime registered. PW-16 on 2nd November, 2004, in presence of panch PW-8 Manoj Sitaram Jagtap and another recorded situation prevailing at the spot by drawing scene of offence panchanama Exh. 26. PW-16 on 4th November, 2004 traced out the distributor of the soap i.e. PW-1 Chettiar who had distributed baniyans containing advertisement as found on baniyan (Art. 1).

1.3. PW-16 traced out PW-3 Pandurang Damle, owner of Ganga Provision Stores who had given two such baniyans received from PW-1 Chettiar to Jaykumar working in his shop. PW-16 thus receiving the clue about deceased being Jaykumar, recorded statement of his mother-PW-2 Jyoti, sister PW-4 Priyanka and the neighbour PW-5 Rajendra and received further clue regarding involvement of the appellant.

1.4. According to prosecution, PW-2 had married with one Prashant Sitaram Chavan. He passed away in the year 1983 leaving behind his son Jaykumar, then of age one and half year and a daughter PW-4 Priyanka. On 2nd February, 1988, PW 2 got service in Talera Hospital/PCMC Hospital as "Aaya". She purchased house at Raj Complex. She developed acquaintance with the appellant at said hospital which culminated in love affair and she married the appellant on 29th December, 1994. She adopted Muslim religion for marriage. She had a daughter out of the said marriage, but since childhood she stayed at the native place of the appellant i.e. at Rahimatpura.

1.5. As the appellant began coming to house of PW-2 at Raj Complex, the

quarrels ensued in between appellant and children of PW-2 on the count of his stay at said house. The deceased used to tell the appellant for not residing at said house as his sister (PW-4) was still to be married. PW-4 ultimately went for residing at the house of elder sister of PW-2 i.e. Monica alias Neeladevi and after completing nursing course commenced working at Ratna Hospital.

1.6. According to the prosecution, as the deceased was quarrelling with the appellant for his stay at said house, the appellant was having grudge against deceased and hence murdered deceased while sleeping in house by hitting him with grinding stone. The appellant cut off his head and limbs with "Sattur (sura)" and disposed pieces of his body at various places in Pawna river.

1.7. PW-16 on 5th November, 2004, arrested the appellant and seized his clothes as well as key of house at Raj Complex found with him by drawing panchanama Exh. 18. PW-16 on 5th November, 2004 as a sequel to the statement leading to the discovery of "Pata" and blood stained knife, made by the appellant in presence of panch PW-10 Santosh Chaudhary and one other, seized "Pata" (Art. 5) kept below the kitchen platform and "Sattur/Sura" (Art. 6) from the drum of bathroom taken out by the appellant in Flat No. 37 to which he had led PW-10 and police by drawing memorandum panchanama Exh. 32 and seizure panchanama Exh. 33. PW-16, then also seized blood stained mattress (Art. 11) and blood stained curtain (Art. 13) from the said flat.

1.8. According to the prosecution, on the same day, PW-16 as a sequel to the statement made by the appellant in presence of panch PW-11 Nana Pol and one another seized two legs wrapped in newspaper found at the place in Pawna river to which the appellant led them by drawing memorandum and discovery panchanama Exh. 46. PW-16 then had drawn inquest panchanama Exh. 37 regarding the legs seized and sent the said legs for postmortem to YCM Hospital.

1.9. On 6th November, 2004, PW-16 vide letter Exh. 58 dated 6th November, 2004 sent the legs and trunk to the Sassoon Hospital. PW 15 Dr. Mrs. Vaidya examined the trunk and legs and gave opinion Exh. 54 & Exh. 55 that age was of 22 to 26 years and sex male and legs and trunks was of the same individual. PW-16 also vide letter Exh. 59 sent left hand received from Yerwada Police to the said hospital. The Yerwada Police seized said hand found in the water of Mutha river on 4th November, 2004 by drawing panchanamas Exh. 29 of the said left hand and of spot Exh. 30 at which the same was found in presence of panch witnesses P.W. 9 Pappu Bhor and another. P.W. 4 Dr. Bhosale performed post mortem examination of the said limb and gave post mortem notes Exh. 47.

2. Since the offence in question was committed within the jurisdiction of Nigdi Police Station, PW-16 handed over the same to the said police station. A.P.I. D.G. Kadam of Nigdi Police Station submitted the charge-sheet against the appellant for the offence under Sections 302 and 201 of IPC.

3. The appellant pleaded not guilty to the charge Exh. 3 for such offence framed against him by the Court of Sessions after case was committed to said Court.

The prosecution examined the above referred 16 witnesses at the trial and also relied upon the documentary evidence which came to be prepared during the course of investigation.

4. The defence of the appellant was that of total denial. He claim that he was falsely implicated in this case merely upon the suspicion. He claimed that the trunk and the limb found by the police were not of Jaykumar. He claimed that, on 2nd November, 2004 he met his wife PW-2 and told her that he will bring their daughter for Diwali and had been to Ahmadpur. He returned on 4th November, 2004 in the evening. As he came nearby his house, he was arrested by the police.

5. Mr. Murtuza Nazmi, appointed advocate for the appellant submitted that there was no eye witness for the crime in question and the prosecution solely rested upon the circumstantial evidence. The learned counsel by taking us meticulously through the evidence of the prosecution witness regarding the parts of the body seized by the police firstly, urged that their evidence of identification is neither cogent nor convincing nor based upon material which can be said to be sufficient for accepting the identification of corpse as of Jaykumar made by them. He contended that the prosecution has miserably failed to established that parts of the corpse seized were that of Jaykumar. He contended that the prosecution case is contradictory to the documentary evidence produced, in as much as, the document reveals that two hands were seized by Yerwada police and out of them one was that of a male while another containing tattoo mark was that of a female. It was urged that, hence the identification of the said hands as being that of Jaykumar made by PW-2 and PW-4 deserves no credence. It was urged that, in view of failure of the prosecution to establish the said part being that of Jaykumar, the prosecution failed to establish that Jaykumar had met with homicidal death. It was contended that hence the appellant can neither be convicted for the murder of Jaykumar nor for offence u/s 201 of IPC. It was contended that though the evidence of PW 15 Dr. Vaidya reveals that deceased had sustained injury on stomach, no corresponding cut mark was found on baniyan allegedly seized along with the trunk. It was urged that in the event of the deceased having sustained injury on abdomen, then the baniyan worn by him was bound to get such a cut mark. It was contended that the absence of such cut mark on the baniyan which is made as the basis for identification takes away sanctity of such a claim staked by prosecution witnesses. It was urged that, even the prosecution did not bother to examine the constable who had collected said baniyan after postmortem nor relevant panchanama denote that there was any such cut mark. It was urged that, inquest panchanama also does not reveal that the baniyan was on the trunk as it reveals that the body was in naked condition. It was urged that, even spot panchanama Exh. 26 does not reveal that any baniyan was found.

6. The learned counsel contended that, in view of the say of the appellant that he had been for fetching his daughter and admittedly the room was belonging to PW-2 and his say that deceased was also having the key of the said room, the

collection of incriminating material from flat No. 37 is inconsequential.

7. It was contended that, even accepting the evidence of PW-2, PW-4, PW-5, on the backdrop that PW-2 had married the appellant in the year 1994 and having further regard to the fact that they had a daughter, the motive alleged is apparently stale. It was urged that evidence of PW-2 reveals that she had purchased the said flat. As she had married the appellant, the deceased or PW-4 could not have any grievance against him. It was contended that, even assuming that they had some grudge or there were quarrels on the count, as alleged by the prosecution, in between the appellant and the deceased, the same cannot be said to be an adequate motive for committing murder of step son after about 10 to 12 years of the marriage. It was urged that, even accepting the prosecution evidence that the hand with tattoo mark, was seized by Yerwada police, the evidence thereto is far from convincing.

8. The learned counsel further contended that, in the cases involving circumstantial evidence, the prosecution is required to firstly establish each of the circumstances relied and secondly, such circumstances established within themselves forming a chain leading to sole inference of the guilt of the culprit. It was urged that in the instant case as the prosecution evidence miserably fails to establish the identity and thereafter other links of the chain, the appellant deserves to be acquitted or at least deserves to be given benefit of doubt.

9. Mrs. M.M. Deshmukh, A.P.P., on the contrary supported the judgment delivered by the Trial Court. It was urged that, as rightly concluded by the Trial Court, the prosecution has proved that the appellant had a motive for commission of the crime and from the place shown by the appellant, the missing legs of the trunk were recovered. So also the prosecution has established the occurring of the violence in flat No. 37 and the recovery of blood stained stone/patta and the knife from said flat at the behest of the appellant. The identity of deceased has been established by the prosecution through the evidence of mother and sister i.e. PW-2 and PW-4 and hardly any material has surfaced on the record for doubting their claim which is on the contrary convincing. Since the trial Court has given cogent reasons for arriving at the conclusion of the guilt of the appellant, no interference is warranted with the judgment delivered and the appeal sans merit, be dismissed.

10. Thoughtful consideration was given by us to the submissions advanced and for ascertaining the merits of the said submissions, the record and proceedings were carefully considered by us.

11. At the outset, it can be said that as there was no eye witness to the crime in question, the prosecution rested upon various circumstances established by the prosecution by adducing evidence of above referred 14 witnesses. Since the legal position regarding the circumstantial evidence is well settled that in such a case, the prosecution is required to establish each circumstance relied firmly by cogent and convincing evidence and circumstances established in such manner within it

must form a complete formidable chain leading to the sole inference of guilt of the concerned culprit, we find it necessary to examine the prosecution evidence accordingly.

12. Now, with regard to the first circumstance of Jaykumar having met with a homicidal death, learned counsel for the appellant has hardly made any dispute that the parts of the corpse were collected by the police from various places and the nature of injuries noticed on abdomen, and such segregation of parts being fully indicative of the concerned person having met with a homicidal death and the grievance being made only regarding the identity of the said person i.e. whether being Jaykumar or otherwise, we find it necessary to examine the relevant evidence pertaining to identification of the said parts/corpse adduced by the prosecution.

13. Before taking up the said process, we briefly record that the prosecution through the evidence of PSI PW 13 Dalinde and the panch witness PW 6 Bhagwat had established the body without head and limbs in the gunny bag along with sando baniyan, article 1 was found in the bank of river Pawna and after drawing the inquest panchanama Exh. 21, post mortem examination upon the same was performed by PW 12. Reference to the evidence of PW 12 and his post mortem notes reveals that he had noticed ante mortem incised wound on the abdomen of the trunk of 21 x 5 cm. and during the internal examination 6 x 1 cm injury along the curvature of stomach. There was amputation of cervical region. The evidence of PW 12 reveals the final probable cause of death was given by him as "amputation of neck along with all four limbs which all are missing with injury over abdomen with corresponding injury to stomach." He also opined that the injuries observed by him being possible by share weapon like knife Article 6 shown to him i.e. knife which as seized at the behest of the appellant.

14. Similarly, reference to the evidence of P.W. 11 panch reveals that he has deposed in accordance with the prosecution case narrated hereinabove in paragraph 2.2. The said evidence considered along with the panchanama Exh. 36 reveal the recovery of two legs at place in Pawna river, to which appellant has led police and panchas. In the said context, reference to the evidence of PW 16 15 Dr. Vaidya and the opinion given by her at Exhs. 54 & 55 clearly reveals that the limbs examined by her was of one individual of age 22 to 26 years and sex male. Similarly, the prosecution through the evidence of PW 9 Pappu Bhor along with panchanama Exh. 29 has established the seizure of one left hand by Yerwada police station in the water of Mula Mutha river on 4th November, 2004. Reference to the evidence of PW 14 Dr. Bhusale and post mortem notes Exh. 47 regarding the said hand examined by him reveals that in his opinion said hand was separated from the body by means of a sharp edged weapon. After perusal of the said evidence and in the light of answers received during the cross examination by the concerned witness, we do not find that said evidence has been shaken in any manner. In view of no serious dispute being made by learned counsel for the appellant regarding the facet referred hereinabove, we do not propose to embark

upon the dilation on the said aspect. Thus, by the said evidence, prosecution has duly established that the person whose parts of body were seized by the police in river had met an homicidal death.

15. Now, in the context of the identity of the said parts of the body being that of Jaykumar, after careful scrutiny of the evidence of PW 2 Smt. Jyoti and PW Priyanka, respectively mother and sister of Jaykumar, we find that by their evidence, the prosecution has duly established that said parts of corpse were that of Jaykumar. We are of such a view because from the evidence of PW 2, we find that her evidence that on 7/11/2004 PW 2 and her daughter were called to Hinjewadi police station and they were taken to Sasoon hospital and shown one hand. It further reveals that on the basis of tattoo marks on the hand, she came to the conclusion that it was the hand of her son Jaykumar. It reveals that police thereafter had taken her to YCM Hospital and shown the legs and trunk and she confirmed same being that of her son Jaykumar.

16. The corroborative evidence of similar nature is found in the deposition of PW 2. We find that the said aspect has remained unsheltered during the cross examination and corroboration is found particularly for tattoo marks on the hand seized from the evidence of Dr. 14 as well post mortem notes Exh. 47 prepared by him. Considering the evidence in proper perspective bearing in mind that the person identifying said parts were mother and sister of Jaykumar, it can be safely said by their evidence the prosecution has established the identity of the said deceased whose parts were seized by the police as being Jaykumar. We are of such opinion as it is human tendency of near relatives of not readily accepting the fact of a death of their dear ones.

17. On the aforesaid backdrop, now considering the submission of learned counsel for the appellant and after carefully considering the evidence of PW 9 in the light of the panchanamas Exh. 29 & Exh. 30, we do not find any substance in the submission canvassed that Yerwada police had seized two hands from Mula Mutha river. After closely considering the matters stated in the panchanamas Exh. 29 & Exh. 30 we do not find any substance in the said contention probably canvassed on the basis of the two panchanamas being drawn. We are of such a view because precisely panchanama Exh. 29 reveals said panchanama is regarding taking charge of hand by the police while panchanama Exh. 30 reveals the same was regarding the place at which said hand was seized by the police.

18. With regard to further submission canvassed that Yerwada police had seized a hand of a women person, we do not find any substantive evidence to such effect, as evidence of PW 9 reveals that human hand from shoulder was found in river and it was seized by police. Though it was pointed out by learned counsel that the panchanamas Exh. 29 & Exh. 30 contain recitals that said hand was of women, the recitals in the panchanama being not substantive evidence and substantive evidence of PW 9 does not transcend beyond the said hand being that of a human being, the submission appears to be without any merit. It appears that at the time of seizure of the said hand on the basis of tattoo marks

found on the hand possibly such erroneous description of gender has crept in said panchanamas.

19. Now, taking up further submission canvassed that baniyan which was found on the said trunk was produced by constable Daundkar before PW 16 and the same was seized by drawing panchanama Exh. 23, it was urged that the prosecution had not examined said Daundkar. It was tried to urge that the identity of the baniyan article 1 containing advertisement as found on the said trunk is not convincingly established. We find no force in the said submission as evidence of PW 16 does not reveal that he was questioned regarding the said aspect and particularly no challenge was made about the production of the said baniyan by constable Daundkar. In context of the said baniyan, we find that evidence of PW 16 in terms of disclose that on the basis of advertisement on said baniyan, he had traced out the distributor of soap of which advertisement was printed on the said baniyan i.e. PW 1 Chettiar and thereafter, PW 3 Pandurang Damle to whom PW 1 had given two of such banyans and who in his turn had handed over the same to Jaykumar, who was working in his shop by name "Ganga Provision Stores". After careful scrutiny of evidence of PW 1 and PW 3, we find that said facet of prosecution case is duly established by their evidence. We do not find that core of their evidence to such effect is shattered in any manner during cross examination. Thus, the said evidence considered in proper perspective leads to plausible conclusion of the deceased being Jaykumar. Needless to add that hardly anything surfaced during cross examination of PW 1 and PW 3 of themselves having any animus for giving such evidence against the appellant.

20. Similarly, it was canvassed that evidence of PW 12 who performed the post mortem of the trunk reveals that he has noticed injuries on the abdomen, no such injury cut mark was found on the baniyan article 1. It was tried to canvass that it creates grave doubt regarding baniyan produced being related with the said trunk found. A submission was made that in the event of the said person whose trunk was found in the river was wearing a baniyan, then corresponding cut marks would have been found upon said baniyan. We do not find any substance in submission which pre-supposes of part of trunk containing the injury being covered with baniyan when deceased was assaulted by the assailant. In said context, the prosecution case reveals that the said deceased was attacked while he was sleeping in a room and the relevant event having taken place in the month of October. Hence we do not find any substance in the said submission without anything being on record to establish said facet as if there existed every possibility of relevant part then being not covered.

21. Learned counsel thereafter by drawing our attention to the evidence of PW 12 and particular the opinion given by him that death of the said person might have been probably caused before more than 48 hours of the post mortem examination urged that the same raised doubt about identification made by PW 2 & PW 4 as body then being in highly decomposed condition. Similar submission

was made by making reference to the evidence of PW 14 that Adipocere formation of left upper limb was present due to lying of the hand in water. In the said context, evidence of PW 12 reveals that during the cross examination he denied that human trunk was highly decomposed. Apart from it, further careful consideration of the evidence relating to seizure of the said part, we find that though the body was decomposed, the evidence on record does not indicate that decomposition body was to such effect making it beyond recognition. Hence we do not find any force in such submission canvassed and particularly the identification being made by mother and sister and the same being not based only on the basis of baniyan containing advertisement and being primarily based upon the tattoo marks found on the left hand. Learned counsel by making reference to the panchanama Exh. 21 and particularly the recitals therein that the body was in naked condition and body was decomposed with maggot formation urged that it also supports his contention that no baniyan as claimed by the prosecution was found on the body and body being beyond the position of recognition. We are unable to accept the said submission. It is common knowledge that the inquest panchanama, is primarily draw regarding the body and not regarding the clothes on the body as purpose of it is for noticing injuries on body and clothes, if any, are removed for observing the injuries on the body. We are of such a view because the evidence of PW 6 nowhere reveals any admission elicited therein that body was naked. On the contrary, evidence of PW 7 along with panchanama Exh. 23 and the evidence of PW 16 reveals that police constable Daundkar had produced the baniyan given to him after post mortem at YCM hospital and the same was seized under said panchanama.

22. Resultantly, we find that the prosecution has established that the parts found in the river were that of Jaykumar and consequently on basis of above referred evidence having established that Jaykumar had met with homicidal death.

23. Now, taking up the second circumstances of the appellant possessing motive for commission of crime in question, reference to the evidence is that PW 2 reveals that she has deposed in detail regarding the manner in which in the year 1988 she came across with the appellant while working in PCMC hospital after expiry of her earlier husband and the relationship having culminated into love affairs and having married with appellant in 1994. Her evidence also discloses of having purchased house at Chinchwad in Raj Complex while she was working in Talera hospital. Her evidence further discloses that quarrels commenced in between her children and the appellant and deceased used to say that the applicant should not stay at the house, as marriage of his sister was yet to be performed. It further reveals that as quarrels increased, upon the said issue, her daughter Priyanka went to the house of her sister Mohini for residence and after passing 12th standard examination joined and completed nursing course and commenced working at Ratna Hospital. It further reveals that even thereafter quarrels repeatedly occurred in between deceased and Sikandar and due to said quarrels about 15 to 20 days prior to the incident, PW 2 went to the house of her sister for residence and was attending her duties from the said house.

24. Similar type of corroborative evidence has surfaced on record during the deposition of PW 4 Priyanka, daughter of PW 2 and sister of Jaykumar. Additionally it reveals that deceased having lodged a complaint with Chinchwad police chowky regarding Sikander having tried to assault him with knife. After careful scrutiny of the deposition of each of the witnesses independently, we do not find any circumstance having surfaced rendering the evidence of PW 2 & PW 4 either unbelievable or unacceptable.

25. Thus, after carefully considering the cogent and convincing evidence of PW 2 and PW 4 regarding the relations prevailing in between deceased and the appellant and particularly the fact that quarrels had ensued even after Priyanka had left the house and joined the house of her aunt Mohini and due to the quarrels about 15 to 20 days prior to the incident, PW 2 also required to leave the said house and stay at the house of her sister Mohini, we are unable to find any merit in the criticism advanced that prosecution has adduced evidence about such motive. Hence factors pointed out by learned counsel for the appellant that marriage in between PW 2 and the appellant had taken place in the year 1994 and the incident in question had occurred in the year 2004 appears to be insignificant. It is also true that evidence also points out of PW 2 having embraced Islam for marriage and out of the wedlock she had a daughter and the said daughter since her childhood was staying at the native place of the appellant. However, merely because of the said factor, the motive about the evidence adduced by the prosecution cannot be said to be stale. Hence we do not find any error committed by the trial Court in coming to the conclusion of the prosecution having established the second circumstances under consideration.

26. Now, coming to the third circumstances of the appellant having an opportunity to commit the crime, bare reference to the evidence of PW 16 reveals that he arrested the appellant on 5th November, 2004. His evidence reveals that he had drawn arrest panchanama. Reference to the said arrest panchanama Exh. 18 reveals that at the time of arrest, PW 16 had seized that the clothes on the person as well one key found with him. The appellant had then informed that the said key was of his house in Raj Complex. The possession of the key of the house in which the crime in question was committed considered in the backdrop of the prosecution case that the deceased was assaulted while he was sleeping in the house denotes that the appellant had all the opportunity to commit the crime in question, due to himself having the key, enabling him to enter the said flat as per his will. Thus, by such evidence, prosecution has duly established the third circumstances consideration.

27. Now, coming to the fourth circumstance of the appellant possessing knowledge regarding the place at which weapons of offence were concealed, the reference to the evidence of panch PW 10 Chaudhari and investigating officer PW 16 reveals that the appellant while in custody of police in presence of PW 10 made a statement leading to discovery and seizure of stone, article No. 5 and Sura, article No. 6 and thereafter led PW 10, other panch and police to the flat in

Raj Complex i.e. the flat purchased by PW 2 and from the said place, taken out stone (patha) concealed in kitchen platform and blood stained knife hidden in plastic drum in a bathroom. The said fact deposed by PW 10 and PW 16 is not at all shattered by any circumstance brought on record during the cross examination. In the same context, reference to the evidence of PW 16 shows that Exh. 60 and Exh. 61 are C.A. reports regarding seized muddemal sent to C.A. The said C.A. report reveals that the human blood was found on said articles. Thus, from the said evidence, prosecution has duly established the circumstance under consideration.

28. The aforesaid evidence considered in proper perspective duly indicate the violence had taken place in the said house. Thus, even de hors the evidence of the statement made by the appellant, the finding of such articles in the said flat also establishes that the offence in question was committed in said house. Thus, by such evidence, prosecution has also established the further circumstance of the appellant possessing knowledge about the place at which the crime was committed.

29. Now, coming to the fifth circumstance of the appellant possessing knowledge regarding the place where legs and other part of the deceased was found, reference to the evidence of panch PW 11 so also the evidence of PW 16 reveals that the appellant while in custody of the police on 5th November, 2004 in presence of PW 11 had made a statement of showing the place at which legs were dropped and had led police and panchas in river water below the Ganpati bridge and at the said police, police after search had taken out human legs and buttocks in decomposed condition by drawing memorandum panchanama Exh. 35 and discovery/seizure panchanama Exh. 36. The account of the said events occurred as given by PW 11 and PW 16 has remained unshattered after the cross examination. As stated earlier, the said legs were sent by police for post mortem. The evidence of PW 15 Dr. Mrs. Vaidya and her report reveals that the said legs and the trunk seized by the police were of the same person. Needless to add that PW 2 and PW 4 had identified the said parts being that of her son Jaykumar. Thus, by all the said evidence, prosecution has duly established the circumstance under consideration.

30. In the premises aforesaid, considering the cumulative effect of all the circumstances, we find that the said circumstances within themselves form a formidable chain leading to the sole inference of guilt of the appellant and excludes any hypothesis of his innocence. Thus, the said circumstance within themselves not only establishes that the appellant being the perpetrator of the crime of murder of his step son Jaykumar but also further establish that he had disposed of the various parts of the body of Jaykumar by throwing the same in Pawna river for causing disappearance of offence committed by him, obviously for screening himself from legal punishment.

31. Resultantly, we do not find that any error was committed by the trial Court in coming to the conclusion about the guilt of the appellant for the offences u/s 302

& 201 of the Indian penal Code and awarding him appropriate sentence. Thus, we do not find any merit in the appeal and the dismiss the same.

32. Office to communicate this order to the Superintendent of prison where the appellant is lodged and to the appellant-original accused. At this stage, we record our appreciation for the valuable assistance rendered by learned Advocate Mr. Murtuza Nazmi. We quantify fees to be paid to him at Rs. 2,200/-.