

(2019) 12 P&H CK 0139

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 156-DB Of 2017 (O&M)

Surender Singh Alias Tinku And Others

APPELLANT

Vs

State Of Haryana

RESPONDENT

Date of Decision : 19-12-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 201, 302, 364
Arms Act, 1959 — Section 27, 54, 59
Code Of Criminal Procedure, 1973 — Section 313
Evidence Act, 1972 — Section 27, 65B

Citation : (2019) 12 P&H CK 0139

Hon'ble Judges : Rajiv Sharma, J; Harinder Singh Sidhu, J

Bench : Division Bench

Advocate : Vinod Ghai, Kanika Ahuja, Shubra Singh

Final Decision : Dismissed

Judgement

Rajiv Sharma, J

1. This appeal is instituted against the judgment dated 22.12.2016 and order dated 11.1.2017, rendered by learned Additional Sessions Judge, Jhajjar, in Session Case No. 255 of 2013. Appellants Surender Singh alias Tinku, Anil, Amit alias Sunda and Vikas alias Chotiya were charged with and tried for the offence punishable under Sections 364, 302, 201, 120-B, 34 IPC and Section 27/54/59 of the Arms Act. They were convicted and sentenced to undergo imprisonment as under:-

Sr.

No.

Name of convict

Under Sections

Imprisonment

Fine in (`)

In default of payment of fine

11.

Surender @ Tinku

(1) 120-B Indian Penal Code, 1860

(1) Life Imprisonment

10,000/-

2 months

(2) 364 read with 120-B Indian Penal Code, 1860

(2) 8 years

5,000/-

1month

(3) 302 read with 120-B Indian Penal Code, 1860

(3) Life Imprisonment till death in natural course

25,000/-

1 year

(4) 201 read with 120-B Indian Penal Code, 1860

(4) 3 years

2,000/-

1 month

2.

Anil

(1) 120-B Indian Penal Code, 1860

(1) Life Imprisonment

10,000/-

2 months

(2) 364 read with 120-B Indian Penal Code, 1860

(2) 8 years

5,000/-

1month

(3) 302 read with 120-B Indian Penal Code, 1860

(3) Life Imprisonment till death in natural course

25,000/-

1 year

(4) 201 read with 120-B Indian Penal Code, 1860

(4) 3 years

2,000/-

1 month

3.

Amit @ Sunda

(1) 120-B Indian Penal Code, 1860

(1) Life Imprisonment

10,000/-

2 months

(2) 364 read with 120-B Indian Penal Code, 1860

(2) 8 years

5,000/-

1month

(3) 302 read with 120-B Indian Penal Code, 1860

(3) Life Imprisonment till death in natural course

25,000/-

1 year

(4) 201 read with 120-B Indian Penal Code, 1860

(4) 3 years

2,000/-

1 month

4.

Vikas @ Chotiya

(1) 120-B Indian Penal Code, 1860

(1) Life Imprisonment

10,000/-

2 months

(2) 364 read with 120-B Indian Penal Code, 1860

(2) 8 years

5,000/-

1month

(3) 302 read with 120-B Indian Penal Code, 1860

(3) Life Imprisonment till death in natural course

25,000/-

1 year

(4) 201 read with 120-B Indian Penal Code, 1860

(4) 3 years

2,000/-

1 month

2. The case of the prosecution in a nutshell is that on 8.9.2012, ASI Aas Mohammad was present on patrol duty at Bus-stand, Jahangirpur. PW1 Ram Kumar moved an application stating that on 6.9.2012 his son Amit had gone for learning computer typing at RIIT, Ambedkar Chowk, Jhajjar. He went out of the house at 7 O'clock. He received a telephonic call from his mobile that his friend's father had died in village Talao. He would come back in the evening after cremation. When he did not come back by 3.45 P.M., he again contacted his son. He told that cremation had not yet taken place and he would come back after cremation. When he did not come back till 6.00 P.M., they tried to contact him on his phone from 6.00 P.M. to 8.00 P.M. They went to village Talao. They found that no death had taken place in village Talao. It is in these circumstances, the application was filed. FIR was registered under Section 364 IPC. Accused Suresh @ Kala was arrested on 10.9.2012 by ASI Aas Mohammad. He made a disclosure statement. He got demarcated the place where the dead-body of Amit was set ablaze. Photographs of the dead-body of Amit were shown to Ram Kumar. He identified the dead-body of his son Amit. The dead-body was also shown to Ram Kumar at Police Station, Chidawa in Rajasthan. He identified the dead-body of his son Amit. Thereafter, Sections 302/201 read with Sections 34 IPC and 27 of the Arms Act were added. On 11.9.2012 police remand of accused Suresh @ Kala was sought. Accused Amit @ Sunda, Surender @ Tinku and Anil were arrested by Inspector/ SHO Surender Singh. Their disclosure statements were recorded. Thereafter, Section 120-B IPC was also added. The place of occurrence was got demarcated. Place of occurrence was got inspected by Forensic Science

Laboratory Team. The recoveries were effected from the accused including car, pistol, arm license and mobile phones. The post-mortem was conducted. The statements of the witnesses were recorded. Investigation was completed and challan was put up after completion of all the codal formalities.

3. The prosecution examined as many as twenty witnesses in support of its case. The statements of the accused were also recorded under Section 313 Cr.P.C. They have denied the case of the prosecution. One of the accused Suresh @ Kala died during the course of trial. Appellants Surender Singh alias Tinku, Anil, Amit alias Sunda and Vikas alias Chotiya were convicted and sentenced, as noticed above. Hence, the present appeal.

4. Learned counsel appearing on behalf of the appellants vehemently argued that the prosecution has failed to prove its case. Learned counsel appearing for the State vehemently argued that the prosecution has proved its case beyond reasonable doubt and supported the judgment and order of the learned trial Court.

5. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

6. PW1 Ram Kumar testified that his son Amit had gone to learn computer typing on 6.9.2012 at RIIT, Ambedkar Chowk, Jhajjar. He left at about 7.00 A.M. His son was carrying mobile phone with him. At about 1.00 P.M., his son Amit made a telephonic call to him that the father of his friend had died in village Talao. He would attend the funeral ceremony and would come back in the evening. He did not return upto 3.45 P.M. He made a telephonic call on his mobile phone. Amit told him that funeral rites of the father of his friend have not been conducted. When his son Amit did not come back home upto 6.00 P.M., he and other family members kept on making calls on his mobile phone from 6.00 P.M. to 8.00 P.M. Thereafter, he had gone to village Talao. He asked various persons about the death of any person in the village. The villagers told him that no body had died in the village. Thereafter, he again tried to contact his son, however, he could not contact him. He moved an application, Ex.PW1/A, to SHO, Police Station, Jhajjar. On 9.9.2012, he had gone to Surajgarh in Rajasthan and visited Police Station, Surajgarh. He identified the dead-body of his son Amit at Chidawa Hospital. He had also identified the partly burnt clothes of his son Amit. He came to know that accused Suresh had disclosed that some altercation had taken place between his brothers and Raj Kumar and his son Amit on the issue of erection of electric poles. He also disclosed that accused Amit alias Sunda was having some enmity with Amit (deceased). He disclosed that 15 days prior to the incident, he along with his brothers Surender, Anil, Vikas had hatched a criminal conspiracy. They had taken Amit to Rohtak in a car. Amit tried to alight from the car near Bus-stand Jahangirpur. He pointed his pistol towards Amit and not allowed him to come out of the car. At about 7.30/8.00 P.M., accused Amit had inflicted danda blow on the head of Amit (deceased). Amit fell down. They tied the hands of Amit. Accused Surender and Anil strangled Amit (deceased) with the help of

parna. He also inflicted kick and fist blows on the chest of deceased Amit. They wrapped the dead-body of deceased Amit. It was put in the dicky of the car. They reached at village Fartiya. Accused Vikas alias Chotiya brought the bottle of petrol. He also sat in the car. They reached in the area of Surajgarh (Rajasthan). The dead-body of Amit was placed in the fields. The dead-body was set on fire. When he tried to set on fire the dead-body of Amit, he also received burn injury on his right hand. He also disclosed that he had kept concealed mobiles, pistol and license in his residential house at village Jahangirpur. The disclosure statement is Ex.PW1/B. Accused Suresh also led the police party to village Jahangirpur and got recovered one pistol, one license and one mobile phone by opening an almirah of his residential house. The pistol along with license and the mobile phone were made into a parcel and sealed with the seal of 'AM'. The same were taken into possession vide recovery memo, Ex.PW1/D. Accused Suresh Kumar also pointed out the place to the police party at village Jahangirpur bus-stand from where they had abducted Amit (deceased) vide demarcation memo Ex.PW1/E. Accused Suresh Kumar also led the police party along with him to kothra constructed in his agricultural fields and got demarcated the place where they had murdered Amit vide demarcation memo Ex.PW1/F. FSL Team also reached at the spot. The police party along with him and accused Suresh reached at village Fartiya where accused Vikas alias Chotiya was found present. He was interrogated by the IO.

Accused Vikas alias Chotiya made a disclosure statement, Ex.PW1/G. In pursuance to the disclosure statement, accused Vikas got demarcated the place where they had disposed of the dead-body of Amit at Surajgarh vide demarcation memo, Ex.PW1/H. He was again joined in the investigation of the case by the Investigating Officer on 13.9.2012. On that day, accused Surender led the police party along with him to village Jahangirpur. In pursuance to his disclosure statement, he got recovered one Ford Fiesta car bearing registration no. HR-14-F-2196. He had also taken out one mobile phone from the dash board of that car. The aforesaid car and the mobile phone were taken into possession. The FSL Team found the blood stains on the mat of the car. On 13.9.2012, accused Anil also led the police party to his residential house in village Jahangirpur. He also got recovered one white colour parna having black lining and one coloured bag. On the same day, he (PW1) went to the house of accused Amit alias Sunda along with police party. He got recovered one mobile phone. It was taken into possession. Thereafter, accused Amit @ Sunda led the police party to JBC Brick-kiln and took out one bamboo danda from inside the bushes. Thereafter, accused Amit, Anil and Surender led the police party in the kothra constructed in the fields of Surender and Anil. Accused Amit @ Sunda had demarcated the place where they had murdered deceased vide demarcation memo. Ex.PW1/O. Thereafter, all the accused persons led the police party to Bus-stand Jahangirpur. Firstly, accused Amit had demarcated the place from where Amit (deceased) was abducted vide demarcation memo Ex.PW1/Q. On 14.9.2012, he was again joined in the investigation by the IO. He along with

accused Amit alias Sunda, Surrender and Anil went to village Surajgarh in Rajasthan. It was the place where they had disposed of the dead-body of Amit by setting it on fire. He was re-called for further examination-in-chief. He was cross-examined. In his cross-examination he admitted that he left village at around 8.10 p.m. in search of his son. He denied the suggestion that the dead-body was not identifiable. He also admitted in his cross-examination that previously he was serving in Delhi Police till 1992 as Drill Instructor on the rank of Head Constable. On 9.9.2012, in the morning, he was at his house when Sunil, brother of his wife, came to his house. He informed that he had seen Amit along with Surrender, Suresh, Anil and Amit @ Sunda at D-Park, Rohtak.

7. PW2 Vivek deposed that Amit son of his maternal uncle had gone missing since 6.9.2012. His maternal uncle had inquired regarding whereabouts of Amit from various relatives and other persons. On 9.9.2012, he visited the house of his maternal uncle Ram Kumar at village Jahangirpur, where he met Sunil Kumar, brother-in-law of Ram Kumar. He along with them had gone to Surajgarh (Rajasthan). They visited Police Station, Surajgarh in connection with the discovery of some un-known dead-body of a person lying in that area. He identified the clothes of Amit. He had also identified the dead-body of Amit from the photo shown to them. Thereafter, they were taken to Chidawa Hospital by the police officials. He identified the dead-body in the hospital.

8. PW3 Sunil Kumar deposed that they were seven brothers and sisters. His elder sister Sunita was married with Ram Kumar of village Jahangirpur. He used to visit the house of his sister. On 6.9.2012, he had gone to PGIMS, Rohtak, at about 1.00 P.M. for his personal work. When he reached at D-Park, Rohtak, at that time his sister's son, Anil, Suresh, Surrender sons of Risal Singh, Amit alias Sunda resident of village Jahangirpur, were standing in front of a juice shop. They were talking with each other. He asked his sister's son Amit why he had come. He told that he had come to get the first aid certificate. Thereafter, he went to PGIMS, Rohtak. Thereafter, he went to Delhi. On 9.9.2012, he went to his sister's house at Jahangirpur. He came to know that his nephew Amit was missing since 6.9.2012. He suspected that Suresh, Surrender, Anil sons of Risal Singh and Amit alias Sunda had done something wrong with his nephew or he has been killed by them. Thereafter, he along with his Jija (Brother-in-law) Ram Kumar and Vivek (son of his sister) went to Surajgarh in Rajasthan in police station. They identified the photographs and clothes to be of Amit. Thereafter, they went along with SHO Surajgarh to Chidawa Hospital. They identified the dead-body of Amit. Post-mortem was conducted on 10.9.2012. In his cross-examination, he deposed that on 6.9.2012, he had come to D-Park, Rohtak from Bus-stand, Rohtak by taking auto rickshaw. He denied the suggestion that he never met Amit on 6.9.2012.

9. PW6 Neetu SSO/SOC deposed that on 12.9.2012 she was posted in the office of SP Office, Jhajjar. She prepared report, Ex.PW6/A. She also examined white colour Ford Fiesta car bearing registration no. HR-14F-2196. She found blood on

the carpet of boot of the car. She also found an identity card inside the boot of the car.

10. PW7 HC Parveen Kumar deposed that on 11.9.2012 he was posted as HC at Police Station, Jhajjar. He along with ASI Aas Mohammad was joined in the investigation. Accused Suresh Kumar was interrogated. He made disclosure statement, Ex.PW7/A. He disclosed that he had kept concealed a pistol and dogha in a kotha in village Fartia. Accused Anil also suffered disclosure statement, Ex.PW7/B. Accused Surender made disclosure statement, Ex.PW7/C. Accused Amit alias Sunda also made disclosure statement, Ex.PW7/D.

11. PW8 Hari Singh deposed that on 7.9.2012 he had noticed a dead-body lying near road about 20-25 feet away from the berm of road in the fields. Hands of the dead-body were tied. He moved an application, Ex.PW8/A. On his application, police reached at the spot. Dead-body was taken into possession by the police. One plastic bottle was taken into possession vide memo, Ex.PW8/B. Burnt earth was also lifted from the spot and converted into a parcel. It was taken into possession. The burnt clothes were also taken into possession. The site plan was prepared. In his cross-examination, he deposed that he had no agriculture land. He was cultivating the land owned by the temple.

12. PW9 HC Rakesh Kumar deposed that accused Suresh Kumar was interrogated by ASI Aas Mohammad in his presence. He made disclosure statement, Ex.PW9/A. Accused Suresh Kumar admitted his involvement in the case. He also disclosed that he could get recovered one car and blood stained clothes. He could also get recovered the weapon from village Fertia. He could also get demarcated where they burnt the dead-body.

13. PW11 ESI Surender Kumar took the photographs, Ex.PW11/A to Ex. PW11/D.

14. PW12 ASI Kuldeep Singh tendered his evidence by filing affidavit, Ex.PW12/A. He deposed that on 12.9.2012 ASI Aas Mohammad deposited in the Malkhana of Police Station, Jhajjar, one parcel of pistol 9 mm 32 bore with two cartridges, one parcel of arms license along with one parcel of mobile phone with him. On 13.9.2012 Inspector Surender Singh deposited the case property one parcel of bag, parna, one parcel of piece of mat appended with seal 'DV' with him. The case property was deposited with FSL, Madhuban, on 3.12.2012.

15. PW13 Dr. Mahesh Aggarwal conducted the post-mortem examination. He tendered his evidence by filing affidavit, Ex. PW13/C. He noticed following injuries on the dead-body of Amit:-

"1. Lacerated wound of size 5x2 cm right side fronto parietal region with blackish clotted blood over it.

2. Haematoma present on right foot 8x5 cm blackish green colour.

3. Haematoma on planter aspect right and left foot 7x5 CM blackish green colour.

4. Lacerated wound of size 5x3 cm on nose, Nasal bone fractured and skin

blackish due to burn.

5. Ligature mark - Transverse below thyroid cartilage encircling neck, width 5 cm, skin parchment like glistening. On dissection - Subcutaneous tissue underneath is ecchymosed with hemorrhage at places.

6. Cervical vertebrae fractured C2, 3 and 4 and spinal cord lacerated, ecchymosed at corresponding level, neck freely movable.

7. Right side upper chest muscles ecchymosed and ribs 3 and 4th fractured interiorly. Thoracic cavity full of bloody fluid."

According to the opinion of the doctor, the cause of death was asphyxia due to strangulation supported by cervical injury and internal hemorrhage. All the injuries were ante mortem in nature except burn injuries.

16. PW14 SI Aas Mohammad deposed that he was on patrol duty on 8.9.2012. Ram Kumar submitted a written complaint, Ex.PW1/A, before him. On 9.9.2012 Sunil resident of village Julani, District Jind, came to Police Station, Jhajjar. He disclosed him that on 6.9.2012 he had gone to PGIMS, Rohtak, for his personal work. When he reached at D-Park, Rohtak, he saw Surrender, Suresh, Anil, Amit alias Sunda and his nephew Amit (his sister's son) in front of shop. He enquired from his nephew what was he doing. He disclosed that he had come to take his first aid certificate. He went to village Jahangirpur from where he came to know that his nephew Amit was missing since 6.9.2012. His statement was recorded. Accused Suresh Kumar was interrogated by him. He made disclosure statement, Ex.PW9/A. He prepared rough site plan, Ex.PW14/B. He reached Police Station, Surajgarh, District Jhunjhunu, Rajasthan on 10.9.2012. The dead-body was identified by father of deceased Amit. The dead-body was handed over to Ram Kumar by the police of Police Station, Surajgarh. Inspector Surrender Singh interrogated Suresh in his presence. He made disclosure statement, Ex.PW7/A. Accused Suresh also suffered another disclosure statement, Ex.PW1/B. Suresh Kumar led the police party on 12.9.2012 to Bus-Stand, Jahangirpur, from where Amit was kidnapped. He prepared memo of demarcation, Ex.PW1/E. Accused Suresh Kumar led the police party along with witnesses to his residential house at village Jahangirpur. He got recovered a pistol, license of pistol and one mobile phone and two live cartridges in the magazine of the pistol. He prepared sketch of the pistol. Accused Suresh Kumar also led the police party to the tubewell kotha in village Jahangirpur. Accused Suresh Kumar demarcated the place where they committed the murder of Amit. He prepared memo of demarcation, Ex.PW1/F. Thereafter, he along with police party reached at the residence of accused Vikas, which was situated in the fields. Accused Vikas met them. He was arrested. Accused Vikas was interrogated. He made disclosure statement, Ex.PW1/D. He disclosed that on 6.9.2012, he received a telephonic call from accused Suresh that they have committed the murder of Amit. They were coming with the dead-body. He also disclosed that he had taken the kerosene and reached at Fartia road. He also accompanied them in the vehicle. Thereafter, they

threw the dead-body after pouring kerosene oil and set it ablaze. Disclosure statement, Ex.PW1/G, was reduced into writing. On 14.9.2012, he along with Ram Kumar was joined in the investigation of the case by Inspector/ SHO Surender Singh. In pursuance of disclosure statement, accused Amit, Surender and Anil led the police party to the place where the body of Amit was set ablaze by them. In his cross-examination, he testified that Sunil had alone came into the police station at 9.30 A.M. He did not join any public witness at the time of arrest of accused Suresh. There was no person present on the tea shop.

17. PW17 Constable Anil Kumar has collected the call details of phones belonging to accused Vikas, Surender, Amit, Suresh and Anil. The call details and locations are Ex.PW17/A. He was recalled for cross-examination. In his cross-examination, he admitted that he has not submitted in his evidence the certificate as required under Section 65-B of the Indian Evidence Act.

18. PW18 Inspector Surender Kumar deposed that on 11.9.2012 he was posted as Inspector/SHO, Police Station, Jhajjar. Accused Suresh was interrogated. He was medically examined. He arrested accused Anil, Surender and Amit from Bus-Station of village Badali on 11.9.2012. Accused Anil made disclosure statement, Ex.PW7/B that parna, which was used in the occurrence, was hidden at Fartia in the field of Vikas. Accused Surender also made disclosure statement, Ex.PW7/C. Accused Amit @ Sunda also made disclosure statement, Ex.PW7/D. On 13.9.2012, accused Amit @ Sunda, Anil and Surender resiled from their earlier disclosure statements. Thereafter, accused Amit @ Sunda again made disclosure statement, Ex.18/B. FSL Team also arrived at the spot. It inspected the car. Accused Amit led the police party to his residential house and got recovered one mobile phone. He also prepared rough site plan of the place of recovery of mobile phone. Accused Amit also led the police party to JBC Brick Kiln. He got recovered a danda from the bushes. Accused Amit alias Sunda also led the police party to the place where he along with other co-accused committed the murder of Amit. He prepared memo of demarcation. Accused Anil led the police party and got demarcated the place where he along with co-accused committed the murder of Amit. He prepared the memo of demarcation, Ex.PW1/P. Accused Surender led the police party and got demarcated the place where he along with other co-accused committed the murder of Amit. He prepared the memo of demarcation. Accused Amit led the police party to the place where from Amit was abducted. Accused Surender led the police party and got demarcated the place from where Amit was abducted by the accused. In his cross-examination, he admitted that they had received a secret information that accused Anil, Surender and Amit were present at Bus-Stand, Badali. No finger prints were lifted from the car. No clue was found at the place from where the deceased was allegedly kidnapped by the accused. He enquired from 2-3 persons regarding their joining in the proceeding but they had shown their inability.

19. PW19 HC Jitender deposed that he was posted as Naib Moharar Malkhana of Police Station, Jhajjar, on 3.10.2012. EASI Kuldeep Singh handed over to him

one sealed parcel with the seal of 'DV' with the direction to deposit at the office of FSL, Madhuban. He deposited the same with FSL, Madhuban.

20. Forensic Science Laboratory report is Ex.PX. According to it, exhibit-1 (mat piece) was stained with few small blood stains. According to State Forensic Science Laboratory, Rajasthan, Jaipur, Ex.PX/A, residue of inflammable petroleum hydrocarbon (kerosene) was detected in the extract of the exhibits contained in packet-A (a deformed and melted large size plastic bottle) and packet-D (partially burnt pieces of clothes).

21. What emerges from the facts enumerated above is that Amit was missing from his house on 6.9.2012. Case was lodged by his father PW1 Ram Kumar. His son told him that his friend's father had died in village Talao and he would come back in the evening after cremation. When he did not come back, he again contacted his son, who told him that cremation had not yet taken place and he would come back after attending cremation. When he did not come back, he went to village Talao and enquired about the death in the village. A dead-body was found in Rajasthan. It was identified by the father of the deceased. Post-mortem was conducted. The cause of death was asphyxia due to strangulation.

22. The prosecution has placed reliance upon the theory of "last seen together". PW3 Sunil Kumar had seen deceased Amit in the company of the accused. He disclosed this fact to PW1 Ram Kumar and to the police. The presence of PW3 Sunil Kumar at the place where accused were seen in the company of Amit is not doubtful. He was real maternal uncle of deceased Amit. The accused were arrested. They made disclosure statements on the basis of which recoveries were effected. They led the police party to the place from where Amit was abducted and also the place where he was killed and the place where the dead-body was burnt. The car used in the crime was got recovered by them. The mat of the car was sent to the Forensic Science Laboratory. It was found stained with small blood stains. Remnant fractions of inflammable petroleum were detected in the extract of the exhibits contained in packet-A (a deformed and melted large size plastic bottle) and packet-D (partially burnt pieces of clothes).

23. The dead-body was duly identified by the family members. It has come in the evidence that there was enmity of the accused with deceased Amit with regard to erection of electric poles. The prosecution has proved the theory of "last seen together" in the instant case on the basis of statement of PW3 Sunil Kumar. The accused were examined under Section 313 Cr.P.C. They have not taken the defence that their disclosure statements were taken by the police forcibly. There was no occasion for PW1 Ram Kumar to falsely implicate the accused. The dead-body was seen by PW8 Hari Singh. He informed the police. Recovery of the car at the instance of accused Surender Singh alias Tinku, in which Amit deceased was kidnapped, was also effected. The police has tried to join the witnesses from where the accused were arrested but no body joined. The court can take judicial notice of the fact that though persons are present but do not come forward to record their statements. The deceased was seen, as noticed above, in the

company of the accused on 6.9.2012. This part has been discharged by the prosecution. Thereafter, the onus shifted on the accused to explain under what circumstances Amit was killed. The statements made by the accused are not hit by Section 27 of the Evidence Act, 1872. The accused have made disclosure statements that the deceased was kidnapped.

He was taken in a car. He was killed by strangulation. Thereafter, his body was burnt. The injuries were also noticed on the person of one of the accused Suresh. The blood was detected on the mat of the car. The plastic bottle was also got recovered by the accused vide recovery memo, Ex.PW8/B.

24. In view of the aforesaid discussion, the prosecution has proved the case against the appellants beyond reasonable doubt. There is no occasion for us to interfere with the well reasoned judgment and order rendered by the learned trial Court. Accordingly, there is no merit in the appeal. The same is dismissed.

25. Sentence of one of the appellants, namely, Vikas @ Chotiya, was suspended vide order dated 18.7.2018. He is directed to be taken into custody for undergoing remaining sentence awarded by the learned Trial Court.