

JUVNILE JUSTICE BOARD, SONIPAT

Principal Magistrate : Sh. VIKRANT
UID No. : HR0385
CIS No. : xxxxxxxxxxxx
CNR No. : xxxxxxxxxxxx
Date of Institution : 25.08.2023
Date of Decision : 17.01.2026
Duration : 2 years, 4 months, 23 days

State of Haryana	Versus	Sxxx son of ‘S’, resident of village Bxxxxx, District Jxxxxxx. Child in conflict with law (CCL)
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FIR No. xxx of 2023
Under Sections 302/34 IPC
Police Station Bxxxxxx, Sonipat

Present : Ms. Kavita, Ld. APP for State assisted by Sh. Jxxxx Kxxxxx, Advocate for the complainant.
CCL Sxxx on bail assisted by Sh. Mxxxx Rxxxx, Advocate.

(The name of the child in conflict with law is withheld in order to safeguard his identity as required under Section 3 (ii) of the JJ Act, 2015 as per which every child shall have a right to protection of his privacy and confidentiality by all means and throughout the judicial proceedings.)

DISPOSITIONAL ORDER:

1. The above mentioned child in conflict with law was forwarded by the Station House Officer of Police Station Bxxxxxx, Sonipat to face inquiry for the commission of offence punishable under sections 302 read with Section 34 of the Indian Penal Code, 1860 (for short ‘IPC’).
2. As per the prosecution, on 16.06.2023, an information was received in the police station that a dead body was found lying near the pond on *Chhichadana* road in village Madina. After receiving information, P/SI Rahul along-with Head Constable (HC) Naseeb, HC Kuldeep and other police officials immediately reached village Madina. FSL team was called. Ravinder



son of Rampal and his family members were found present on the spot. Ravinder made a complaint informing that he was Sports Couch at Shree Shyam Sports Academy in Gohana. On 16.06.2023, at about 03:00/03:30 pm, he had received a call that dead body of his father Rampal was lying near *thambu wali* pond in village Madina. He immediately reached the spot and found the dead body of his father with multiple injuries over head, face and rest of the body. One blood stained brick piece was also found near the dead body. He suspected that some unknown person had killed his father. On this complaint, *tehrir* was sent to police station. Immediately after registration of FIR, investigation was started. The FSL team collected all evidences from the spot. Inquest proceedings were carried out and after conducting postmortem examination, the dead body was handed over to the family members of the deceased. *Supplementary statement of witness Ravi son of deceased Rampal was recorded* on 17.06.2023 wherein he disclosed that on 16.06.2023, his father had called him over mobile phone (from 8222068251 to 9306477577) to inform that Sxxxxi son of Sxxx Cxxxx of village Madina and his nephew were plucking mango in the fields and he had scolded them. They had threatened to teach him a lesson. He suspected that his father was killed by Sxxxxi son of Sxxx Cxxxx and his nephew. Adult offender Sxxxxi was arrested on 18.06.2023 and on the basis of his disclosure statement, child in conflict with law Sxxx was apprehended from the house of his maternal uncle namely Sagar son of Sxxx Cxxxx. In his disclosure statement, child in conflict with law Sxxx disclosed that on 16.06.2023, in the noon time, he and his uncle Sxxxxi were plucking mango in the fields of Rampal. Rampal caught them and snatched the plucked mango. Rampal had slapped him and Sxxxxi



and thrashed them away. They both became inimical to him and thought of taking revenge. They sat near the pond of village Madina waiting for Rampal to come. After sometime, Rampal was seen coming on a bicycle. They pushed his bicycle because of which Rampal fell on the road and then adult offender Sxxxxi hit him with a brick on head and face. During this incident, he had held Rampal with his feet, the CCL disclosed. The child in conflict with law further informed that his maternal uncle Rampal had hit on face of Rampal so that he could not be identified and, thereafter, they both ran away. He further disclosed that he had hidden the blood stained clothes which he later on got recovered from the house of his *nani*. Similar disclosure statement was made by the adult offender. He further disclosed that he had taken away Aadhar Card and voter card of Rampal so that he could not be identified. He got the blood stained clothes and these documents recovered from his house. As per school record provided by Mxxxxxxxx Hxxx School, village Bxxxx, District Jxxxxx, the date of birth of child in conflict with law Sxxx was 04.12.2011 i.e. he was less than 12 years of age. After completion of investigation, he was forwarded to face inquiry. Supplementary police report with *Social Background Report* (SBR) and *Social Investigation Report* (SIR) was presented before the child in conflict with law Justice Board, Sonipat.

STATUS OF THE CHILDREN-IN-CONFLICT WITH LAW

3. The alleged occurrence took place on 16.06.2023. As per school record relied upon by the prosecution, the date of birth of the child is 04.12.2011. As such, on the day of the alleged occurrence, child Sxxx



was 11 years 06 months 12 days old. No dispute regarding juvenility of the child in conflict with law was raised by the prosecution.

4. Copy of *Police Report* and other related documents was supplied to the child in conflict with law. On finding a *prima facie* case under section 302 read with Section 34 IPC, notice of accusation was served to him. He pleaded not guilty and claimed inquiry.

5. To prove the accusation, the prosecution examined the following 20 witnesses:

<u>Sr. No.</u>	<u>Name of the witness</u>	<u>Relevancy</u>
PW-1	Ram Kishan	He is the brother of the complainant.
PW-2	Ravinder	He is the complainant/son of the deceased. He proved making of complaint Ex. PW-2/A.
PW-3	Vedpal	He is the neighbour of the complainant. He deposed about the incident of mango plucking by the child in conflict with law and his uncle.
PW-4	Ravi	He is the son of the deceased.
PW-5	Manish	He is the nephew of the deceased.
PW-6	Dr. Sudhanshu	He proved Medical Opinion Ex. PW-6/B and PMR Ex. PW-6/C.
PW-7	Rajeshwari, Headmaster, Mxxxxxx High School, Bxxxxx, Jxxxxxx	She proved school certificate along-with birth record of child in conflict with law i.e. Ex. PW-7/A.
PW-8	SI Mukesh Kumar	He is the second Investigating Officer.
PW-9	Dr. Shyam Sunder	He proved PMR Ex. PW-6/C.



PW-10	Krishan Kumar, Assistant Director, Incharge FSL.	He proved crime scene report Ex. PW-10/A.
PW-11	HC Kuldeep	He was associated with the Investigating Officer.
PW-12	EHC Sultan Singh	He is the Malkhana Mohrar.
PW-13	P/SI Rahul	He is first Investigating Officer.
PW-14	Aman Rishi, Nodal Officer	He proved certificate under section 65-B (4) (c) Ex. PW-14A, Customer Application Form Ex. PW-14/B and CDR Ex. PW-14/C running into 2 pages.
PW-15	Constable Vikas	He sent Special Report through e:mail to the Higher Officer concerned regarding which Certificate Ex. PW-15/A.
PW-16	Sh. Ajay, Halqa Patwari	He proved site plan of place of occurrence Ex. PW-16/A.
PW-17	ASI Manoj Kumar	He is the third Investigating Officer.
PW-18	ASI Sanjay Kumar	He was associated with the Investigating Officer. He is witness to disclosure statement of CCL.
PW-19	Sh. Yogender, Criminal Ahlmad, Sessions Court, Sonipat	He proved record pertaining to trial of other accused in the same FIR.
PW-20	Sh. Devender Pal, Nodal Officer	He proved certificate Ex. PW-20/A, CAF ID Ex. PW20/B and CDR Ex. PW-20/C.

6. The prosecution relied upon the following documents:

<u>Sr. No.</u>	<u>Description</u>
Ex. PW-1/A	Receipt of dead body



Ex. PW-1/B	Statement under section 175 Cr.P.C. of Ram Kishan regarding identification of dead body.
Ex. PW-2/A	Complaint made by Ravinder
Ex. PW-4/A	Seizure memo of bicycle of the deceased
Ex. PW-4/B	Seizure memo of blood stained sand and brick
Ex. PW-6/C	PMR of the deceased
Ex. PW-7/A	Copy of school certificate of child in conflict with law
Ex. PW-8/A	Disclosure statement of adult offender Sxxxxi
Ex. PW-8/B	Seizure memo of blood stained clothes of adult offender and documents of deceased.
Ex. PW-8/C	Disclosure statement of child in conflict with law Sxxx
Ex. PW-8/D	Site Plan of place of recovery
Ex. PW-8/E	Memo of demarcation of place of occurrence
Ex. PW-8/F	Seizure memo of blood stained clothes of child in conflict with law
Ex. PW-8/H	Memo of demarcation of place of occurrence
Ex. PW-8/I	Site plan of place of recovery
Ex. PW-10/A	Crime scene report
Ex. PW-11/A	Seizure memo of clothes of deceased Rampal
Ex. PW-13/A	<i>Tehrir</i>
Ex. PW-13/B & 16/A	Site plan of place of occurrence
Ex. PW-13/C	9 Photographs
Ex. PW-13/D	Application moved to doctor concerned
Ex. PW-13/E	Statement under section 175 Cr.P.C.
Ex. PW-14/A	Certificate under section 65-B (4) (c) of Indian Evidence Act, 1872.
Ex. PW-14/B	Copy of Customer Application Form
Ex. PW-14/C	Copy of call detail record
Ex. PW-15/A	Copy of certificate under section 65-B (4) (c) of Indian Evidence Act, 1872.
Ex. PW-17/A	Application moved to doctor concerned
Ex. PW-17/B	Application moved to Nodal Officer
Ex. PW-17/C	Application moved to Nodal Officer, Vodafone
Ex. PW-20/A	Certificate under section 65-B (4) (c) of Indian Evidence Act, 1872
Ex. PW-20/B	Copy of call detail record
Ex. PW-20/C	Copy of KYC Application Form
Ex. P-X	FSL report dated 25.09.2023



Case property	
Ex. PW-PO	Copy of voter card of deceased Rampal
Ex. PW-PO/1	Copy of Aadhar card of deceased Rampal

7. Statement of the child in conflict with law was recorded under Section 313 of Cr.P.C. by putting the entire incriminating evidence to him. He claimed false implication but did not lead any evidence in defence.

8. Ld. Assistant Public Prosecutor assisted by Ld. counsel for the complainant argued that the oral as well as the documentary evidence of the prosecution is sufficient to prove the accusation. As such, the child in conflict with law be dealt with strictly as per the child in conflict with law Justice (Care and Protection of Children) Act. 2015.

9. On the other hand, Ld. counsel representing the child in conflict with law contended before the Board that the prosecution has failed to prove its case. The testimony of the witnesses is not reliable. The evidence of the prosecution is insufficient. There is no eye witness. The testimony of star witnesses of the prosecution is based on hearsay information. The circumstantial evidence is vague. Therefore, child in conflict with law is entitled to be absolved of the allegations.

10. This Board has heard the submissions of both sides. The child in conflict with law has also been heard and the *Social Investigation Report (SIR)* as well as the inquiry file has been carefully perused. As per SIR, there was no history of involvement of the CCL or any of his family members in any kind of offence. The attitude of the family was got fearing and religious.



The discipline quotient of the child was found normal. There was no bad record in the school. The attitude of the child towards the friends and neighbour was also normal. His majority of friends were in the same age group having no criminal background. It was reported that the CCL required proper guidance and counselling. All these facts suggest that CCL Sxxx did not have a criminal bent of mind. No such incident was noted by the inquiry officer which could suggest that the child was matured enough to understand or judge the nature and consequences of the conduct.

11. Noteworthy, the child in conflict with law was less than 12 years of age but *no psychological examination of child in conflict with law was conducted to assess whether he had attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion, as provided under section 83 IPC*. There is no record on file showing interaction of Child Welfare Committee (CWC) with the CCL. Thus, before appreciating the evidence vis-a-vis the accusation, it is important to evaluate the impact of non-compliance of section 83 IPC.

12. Section 83 IPC provides that *nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity or understanding to judge the nature and consequences of his conduct on that occasion*. Section 82 IPC provides an absolute immunity to children below 7 years of age whereas section 83 IPC provides the conditional immunity or qualified immunity. This susceptibility find its roots in the principle *doli incapax i.e.* a doctrine in law used to safeguard people or entities that are incapable of committing



crime due to some physical, mental or other factor, from the rigors of the legal system. The Indian Penal Code, 1860 contemplates *doli incapax* for children aged 0 to 7 years and 7 to 12 years in Sections 82 and 83 respectively. “*Doli incapax*” quite literally translates into “incapable of evil”. In the law, this traditionally refers to groups of people or entities that are considered to be incapable of committing crime because they lack culpable intention or the *mens rea*, that is necessary for most crimes. It requires assessment if the child in question was able to differentiate between the right and the wrong in any given situation, particularly at the time of the crime.

13. Section 83 of the Indian Penal Code codified the doctrine of *doli incapax* making it quite clear that the doctrine is adopted in its presumptive form and not in a conclusive form, as it has been in Section 82 for children aged 0 to 7 years old. Meaning thereby, Section 83 encapsulates *doli incapax* as a rebuttable presumption.

14. Now, a question arises, that is, *whether the presumption is in favour of the prosecution or the child*. Putting it simple, whether the child is required to prove his innocence as a defence, as is the case for rest of the exceptions falling under sections 76 to 106 in Chapter IV of the Indian Penal Code, or it has to be presumed that the child between the age group 7 to 12 is incapable of understanding to judge of the nature and consequence of his conduct on that occasion and the prosecution needs to prove the contrary. Further, *whether this exercise of psychological assessment to ascertain mental capacity should be performed during investigation or*



inquiry. In the case at hand, the inquiry is already complete but still this Board feels duty bound to express its opinion on this legal issue considering the intent and object behind enactment of the Act of 2015 as well as the general principles to be followed in administration of Act.

15. It is argued by the prosecution that the general exceptions provided under sections 76 to 106 are fundamentally the grounds of defence. *As per section 105 of Indian Evidence Act, 1872, the burden of proving that the case falls within General Exceptions in IPC is on the person/accused who claims benefit of such circumstances. The court shall presume against existence of such circumstances.* On the other hand, Ld. counsel for CCL argued that the basic principle of law in cases of juvenile is presumption of innocence and not otherwise.

16. After hearing the submissions of both sides, I find no merits in the submissions of Ld. APP for State because the cardinal principle of criminal jurisprudence is ‘*an accused is presumed to be innocent unless proved guilty*’. Applying the same principle on a juvenile/CCL, he has to be presumed innocent too. ***Section 3 (i) of JJ Act, 2015 further strengthens this approach in cases of CCL by providing the ‘Principle of presumption of innocence’.*** All the proceedings under the provisions of the JJ Act shall be guided by the fundamental principles provided under section 3 of the Act.

17. *Section 3 (i) provides that a child shall be presumed to be an innocent of any malafide or criminal intent up to the age of 18 years.* Reading this provision in harmony with section 82 and 83 IPC makes it clear that the presumption *doli incapax* has to be in favour of child



innocence. That being so, *similar to the case of a child below 7 years, it has to be presumed that the child between age group of 7 to 12 has also not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on the occasion when offence was committed.*

The only difference is that the presumption under section 82 IPC is absolute but in cases of child between age group of 7 to 12 years, the investigating agency/prosecution can rebut this presumption by putting forth certain facts and circumstances, discovered during inquiry/investigation, making it apparent that the child had attained sufficient maturity of understanding the nature and consequence of his act. However, there is no fixed set of circumstances which can be used to make out an opinion that the child was capable of understanding the nature of the offence. It varies in each case. What suffices to rebut the presumption that a child is *doli incapax* will vary according to the nature of the allegation and the child. A child will more readily understand the seriousness of an act if it concerns values of which he or she has direct personal experience. For example, a child is likely better able to understand control of his or her own possessions and the theft of others' property compared to offences such as damaging public property, fare evading, receiving stolen goods, fraud or forgery. Answers given in the course of a police interview may serve to prove the child possessed the requisite knowledge. In other cases, evidence of the child's progress at school and of the child's home life will be required. It has been said that the closer the child is to the age of 10 the stronger must be the evidence to rebut the presumption. The test focuses on whether the specific child possessed the necessary maturity to understand



the consequences of his action on that particular occasion. *The law assumes a lack of maturity, placing the onus on the prosecution to prove that the child possessed sufficient maturity.* The philosophy behind this immunity is in consonance with the fundamental principle provided under section 3 (i) JJ Act which aims at protection of children from the full force of criminal law.

18. Viewed thus, *this Board can safely conclude that section 82 and 83 IPC makes out exception to section 105 of the Indian Evidence Act and the court shall not presume against the child but shall presume the existence of innocence vis-a-vis malafide or criminal intent.* As such, the prosecution must bring on record the facts and circumstances rebutting the presumption of innocence and in case the prosecution fails, the child needs to be absolved outrightly. Also, in view of the general principles provided under section 3 of JJ Act, best interest of the child must be kept in mind as primary consideration. Therefore, the assessment regarding his mental capacity and ability, as provided under section 83 IPC, must be made at the time of investigation only. In furtherance of the report of such assessment, a decision should be made to submit the report of investigation and put the child to undergo inquiry or close the file.

19. Reverting to the facts, in the case at hand, no interview was carried out during the course of investigation or initial inquiry. The child was not put to any assessment by psychologist or CWC. No effort was made to find out the mental capability of child in conflict with law Sxxx. Rather, the SIR would show that the child was not ever involved in any



unsocial or undisciplined activities. Therefore, the final report of investigation qua him should not have been filed without obtaining report of psychological assessment. This lapse on the part of prosecution is fatal and the benefit goes to the child. Even during inquiry before the Board, the presumption of innocence was not rebutted by producing any evidence showing the mental ability or maturity of CCL Sxxx to understand or judge the act and its consequences at that occasion. Therefore, he is entitled to be absolved and set free on this legal ground alone.

20. Nevertheless, since the prosecution has already examined all the witnesses and the inquiry is complete, the Board, in order to rule out this court of any review, deems it fit to appreciate the evidence produced by the prosecution to arrive at a lawful conclusion on merits.

21. PW-1 Ram Kishan is brother of deceased Rampal. He deposed that on 16.06.2023, he had received the information that dead body of his brother Rampal was lying on *kachha rasta* near *thambu wali* pond in village Madina. He was the first person to reach the spot after receiving this information and then he had made a call to the police. He noticed injury marks on head, face and body of his brother. Blood was coming out of head and mouth. A blood stained brick was lying near the dead body. He had alleged that his brother Rampal was murdered by some unknown person. Investigating officer had recorded his statement on 16.06.2023. The dead body was sent for postmortem examination. He deposed that receipt of dead body Ex. PW-1/A was signed by him and his nephew Ravi. On 17.06.2023, he had made a supplementary statement to the investigating



officer disclosing that his nephew Ravi was called by Rampal on his mobile phone No. 930647757 to inform that Sxxxxi son of Sxxx Cxxxx of village Madina and his nephew were scolded by him for plucking mango in the fields. The both had threatened that they would see him. All these facts were told by his nephew Ravi. As such, he had a reason to suspect that his brother was murdered by Sxxxxi and child in conflict with law Sxxx. He further deposed that this occurrence had taken place around 03:00 pm on 16.06.2023. When cross-examined, PW-1 Ram Kishan admitted that he did not witness the occurrence. Meaning thereby, the testimony of PW-1 Ram Kishan that adult offender Sxxxxi and child in conflict with law Sxxx were inimical towards the deceased because of scolding by him on the issue of plucking mango is only a hear-say information. This fact was not told by the deceased to PW-1 Ram Kishan. PW-1 Ram Kishan deposed that the basis of his supplementary statement Ex. PW-1/B was the information given by his nephew Ravi. It is further relevant to note that PW-1 Ram Kishan claims himself to be the first person who had received information that dead body of his brother Rampal was lying on *kachha rasta* near *thambu* wali pond but he did not disclose the name of the person who had given him the information and how. It is further relevant to note that PW-1 Ram Kishan deposed that he had made call to the police but the prosecution did not produce any evidence to prove this fact. In fact, as per the prosecution, it was Ravinder son of deceased Rampal who had informed the police.



22. PW-2 Ravinder is the star witness of the prosecution. It was on his complaint Ex. PW-2/A, FIR was registered. In his examination-in-chief, PW-2 Ravinder deposed that he was working as a Coach with Shree Ram Sports Academy in Gohana. He had received a telephonic information at about 03/03:30 pm that dead body of his father Rampal was lying near *thambu wali* pond. He had immediately rushed to the spot where he found dead body of his father with injury marks over head, mouth and other parts. The head and mouth was completely stained in blood. A blood stained brick was also found near the dead body. Thereafter, he called the police and made complaint Ex. PW-2/A. He alleged that his father was killed by adult offender Sxxxxi and his nephew Sxxx. He further deposed that adult offender Sxxxxi had even threatened him that he would kill his entire family in case he did not refrain from giving evidence.

23. When cross-examined, PW-2 Ravinder admitted that he mentioned no date on his complaint Ex. PW-2/A. He was proprietor of Shyam Sports Academy but he did not possess any documentary proof. He further deposed that his uncle Raju had informed him over phone at about 03/03:30 pm regarding this fact. His uncle Raju was present on the spot. His Sports Academy was situated at a distance of 8 to 10 kms from the village and he had arrived in the village within 10 minutes after receiving the information. His uncle Raju and the police was already present. He further deposed that his uncle Ajmer, Ram Kishan, Ombir, Sombir and other persons of the village were also present. This statement of PW-2 Ravinder prove that PW-1 Ram Kishan had not called him for giving the



information. It was Raju who had informed him. The police had recorded statement of his brother Ravi and uncle Ram Kishan on the spot. The mobile phone of his father was also seized. PW-2 Ravinder admitted that no person was named by him in the first information. He deposed that Vedpal, who was owner of the adjoining fields, had arrived on the spot after one hour. On the same day, the police had also recorded statement of Vedpal. At this stage, it is relevant to note that statement of Vedpal was not recorded on 16.06.2023 but on 17.06.2023. No explanation is given as to why statement of PW-1 Vedpal was not recorded on the same day when he was present on the spot.

24. During cross-examination, PW-2 Ravinder further admitted that two of his cousin brothers Manish and Sandeep, son of his *mama* Krishan, had been living at his house. However, he denied the suggestion that there was a constant scuffle between his mother and the father on this issue. He denied the suggestion that his father had scolded and beaten Sandeep and Manish and he used to live in the fields and Sandeep and Manish were inimical towards him.

25. PW-2 Ravinder further deposed that the information that adult offender Sxxxxi was planning to kill him was given to him by some person of the village whose name he did not want to disclose. No complaint of this sort was ever made by him by the IO or to the Board or to the trial court. This statement made by PW-2 Ravinder, thus, do not inspire confidence. His testimony on this fact is merely a hearsay information which remained unproved. The witness admitted that he did not see anyone committing



murder of his father because he was not present in the village. That being so, it is clearly proved that PW-2 Ravinder is not an eye witness. He did not see the child in conflict with law beating his father or causing his death. He did not allege any previous animosity against this child in conflict with law or his uncle i.e. the adult offender.

26. PW-3 Vedpal is another material witness of the prosecution. His testimony is in fact the only link evidence. Admittedly, no one had eye witnessed the incident of causing death of Rampal. The dead body was found lying unattended on a *kachha rasta* near *thambu wali* pond in village Madina. Vedpal was not the first person who had seen the dead body but, as per the prosecution, Vedpal was the only person who was sitting with deceased Rampal in the fields immediately before the occurrence. Although it is deposed by PW-2 Ravinder that Rampal had arrived on the spot somewhere around 04:30/05:00 pm on 16.06.2023 but his statement was not recorded by the IO. His statement for the first time was recorded on 17.06.2023. Why Vedpal did not give statement to the IO disclosing the facts in his knowledge is an important question which is relevant to decide the creditworthiness of PW-3 Vedpal.

27. In his examination-in-chief, PW-3 Vedpal deposed that on 16.06.2023, at about 02/02:30 pm, when he and Rampal were smoking *hukka* in his fields, two boys were seen plucking mango in the fields of Rampal. Rampal had scolded them away. Rampal had told him that Sxxxxi son of Shree Chand of village Madina with his nephew were plucking mango and he had scolded them. After 15-20 minutes of the incident i.e.



somewhere between 02:45 to 03:00 pm, Rampal left for his home on the bicycle. PW-3 Vedpal also left for his home on his *scooty*. On 17.06.2023, he got to know that adult offender Sxxxxi and his nephew i.e. child in conflict with law Sxxx had killed Rampal. *This deposition of PW-3 Vedpal completely contradicts testimony of PW-2 Ravinder* who categorically deposed that PW-3 Vedpal had arrived on the spot after one hour i.e. somewhere around 04:30-05:00 pm and his statement was recorded by the IO on the same day i.e. on 16.06.2023. However, no statement dated 16.06.2023 of PW-3 Vedpal is available on file. The first statement of Vedpal is dated 17.06.2023. Even PW-3 Vedpal deposed that his statement was recorded on 17.06.2023. The supplementary statement of another son of deceased Rampal i.e. Ravi and his brother PW-1 Ram Kishan was also recorded on 17.06.2023 only after recording statement of PW-3 Vedpal. PW-3 Vedpal is resident of the same village. It is not his statement that he had gone out of village in the afternoon on 16.06.2023. It is, therefore, unbelievable that PW-3 Vedpal could not have come to know about the fact of murder of Rampal on 16.06.2023. A daylight murder of any person in the village is a big thing. PW-3 Vedpal did not depose that he was not present in the village on 16.06.2023. What made him not to give statement to the IO or rush to the spot was not explained by PW-3 Vedpal. His conduct is highly unnatural which makes his statement and testimony highly dubious. This act and conduct of PW-3 Vedpal coupled with the fact that PW-2 Ravinder deposed that Vedpal was present on the spot when police had arrived and his statement was recorded on the same day makes the statement dated 17.06.2023 made by PW-3 Vedpal highly doubtful.



Furthermore, statement dated 17.06.2023 was not with exhibited in the testimony of PW-3 Vedpal. He admitted in the cross-examination that he had not eye witnessed the murder of Rampal. His fields were adjoining to the fields of Rampal. Adult offender Sxxxxi is also resident of the same village and was known to him. He contradicted PW-2 Ravinder stating that he was not present on the spot when the police had arrived. He further deposed that he had told all facts to the family members of the deceased who then took him to the police and his statement was recorded. He deposed that the statement was recorded on the day when last rites were performed.

28. Testimony of PW-4 Ravi is also the strong piece of evidence relied upon by the prosecution because investigation against the adult offender and child in conflict with law Sxxx was initiated only after recording supplementary statement of PW-4 Ravi. His supplementary statement was recorded on 17.06.2023 wherein he disclosed that his father i.e. deceased Rampal had informed him over phone call that he was threatened by adult offender Sxxxxi and child in conflict with law Sxxx that they would teach him a lesson for not letting them pluck mango. PW-4 Ravi deposed that PW-2 Ravinder was his elder brother. At about 03:30 pm, he had received a telephonic call that dead body of his father Rampal was lying on *kachaa rasta* near *thambu wali* pond. He immediately rushed to the spot and found dead body of his father with injury mark over head, mouth and body. Bicycle of his father was also lying near the dead body. The bicycle was seized by the IO through memo Ex. PW-4/A. Blood



stained brick was also found near the dead body which was seized by the IO through memo Ex. PW-4/B. His statement was recorded by the IO. *Nowhere in his examination-in-chief, PW-4 Ravi deposed that on the same day at about 02:30 or 03:00 pm, he had received a call from his father narrating him the incident of plucking mango by the adult offender and his nephew.* The prosecution has though relied upon call detail records of phone No. 822068251 (which was allegedly used by deceased Rampal) and phone No. 9306477577 (which was allegedly used by PW-4 Ravi) to prove that Rampal had made a phone call to Ravi. However, perusal of CDR Ex. PW-14/B and CDR Ex. PW-20/B shows that only one call was made between these two numbers on 16.06.2023. The phone call was made at 01:38 pm and the call duration was 54 seconds only. There was no phone call between these two mobile phone numbers during 02:00 to 3:00 pm. As per testimony PW-3 Vedpal, the incident of plucking mango had happened between 02:00 to 02:30 pm. Meaning thereby, before 02:00 pm, the incident had not even happened. Therefore, the question of deceased Rampal informing PW-4 Ravi about the incident of plucking mango at 01:38 pm do not even arise. It is apparently clear that no such incident had in fact happened, thus, no such telephonic conversation between deceased Rampal and PW-4 Ravi, as alleged by the prosecution, making the basis of allegation against the child in conflict with law Sxxx, took place.

29. The case of the prosecution is essentially based on statement of PW-4 Ravi that his father had informed him the fact of extending threat by the adult offender and his nephew on the issue of plucking mango which is



the alleged motive behind the crime. As per the prosecution, two persons only knew about the alleged fact of verbal altercation between deceased Rampal, adult offender Sxxxxi and child in conflict with law Sxxx i.e. PW-3 Vedpal and PW-4 Ravi. They both were allegedly informed by deceased Rampal. However, testimony of both the witnesses, as discussed above, do not inspire confidence and suffers from material contradictions. The testimony of PW-4 Ravi makes it clear that his supplementary statement was only an after thought story which he did not even affirm in his examination in chief. PW-4 Ravi did not prove the supplementary statement dated 17.06.2023 which he had made to the IO. In his examination-in-chief, he did not even depose that he had received any call from his father informing him about the act of plucking mango by the adult offender and child in conflict with law Sxxx. Likewise, the act and conduct PW-3 Vedpal is also extremely doubtful and unnatural because he was present in the village on 16.06.2023 but he did not disclose anything to anyone.

30. When cross-examined, PW-4 Ravi deposed that he used to run a parking at Panipat in the name of Shree Balaji Yard Parking. However, he did not place on record any documentary proof to establish the fact. He deposed that on the date of occurrence i.e. on 16.06.2023, he was present at Panipat. He was informed over telephone between 03/03:30 pm by his brother. Immediately after receiving the call, he had left for the village and reached between 04:00 to 04:30 pm. The police was already present but the FSL team had arrived later on. He further deposed that 200 people of the village were also present near the dead body. The police officials were



investigating and interrogating the persons present on the spot. He did not eye witness the murder of his father. The police had obtained his signatures on two papers. The police had read over his statement which he had admitted to be correct. The FIR was registered against unknown person. He did not tell the investigating officer the fact that his father Rampal had called him over telephone for informing about the incident of plucking mango. He further admitted during cross-examination that his brother Ravinder and Vedpal were present on the spot. Later on, he changed his statement stating that his brother Ravinder and uncle Ram Kishan were present on the spot but Vedpal was not present. He admitted that Vedpal was retired police official. The police had removed the dead body of his father at about 05:00 pm. after arrival of the FSL team. No finger prints were lifted from the spot. The blood stained brick was picked by FSL team and sealed in his presence. He had signed on the seizure memo. He further deposed that children of his maternal uncle namely Sandeep, Manish and Jyoti used to live in his house but he denied the suggestion that his father was not happy with this fact. He further denied the suggestion that his father used to scuffle with children of his maternal uncle because of which they killed him.

31. At this stage, it is relevant to note that the investigating officer did not record statement of any other person who was present on the spot. Why statement of any other individual was not recorded is a material lapse on part of the investigating officer. Considering the inconsistencies between the testimony of PW-1 Ram Kishan, PW-2 Ravinder, PW-3 Vedpal



and PW-4 Ravi, statement of independent witnesses of the village including Sarpanch or the persons who were present on the spot would have served the best evidence. However, the prosecution failed to examine the independent witnesses which gives this Board a reason to draw adverse inference against the prosecution.

32. PW-5 Manish is cousin brother of PW-4 Ravi. He deposed that mobile phone No. 8222068251 and 9306477577 were taken by him in own name. Mobile No. 8222068251 was used by his *fufa* Rampal and another phone was used by his cousin brother Ravi. He deposed that his *fufa* Rampal was murdered by adult offender Shaki and his nephew Sxxx but he did not eye witness the occurrence. He further deposed that he had received the information about death of Rampal at 02:45 pm and he had reached in the village at about 04:00 pm. He deposed that his brother Ravi had reached in the village at 02:45 pm after having received information. Whereas, it is specific case of the prosecution that the murder was committed somewhere between 03:00 to 03:30 pm. As per PW-4 Ravi, he was present at his parking Yard in Panipat which is around 40 kilometers from the village. The traveling time from the village to Panipat, in all circumstances, cannot be less than 30-45 minutes. If PW-5 Manish is believed to be truthful, his brother Ravi had received information about murder of Rampal at about 02:00 pm. Whereas, it is specific case of the prosecution that Rampal was sitting with PW-3 Vedpal in his fields between 02:00 to 02:30 pm. His murder happened somewhere around 03:30 pm. The testimony of PW-5 Manish clearly shows that he



exaggerated the version but in fact he was not aware about the facts of the case. PW-5 Manish further deposed that entire village was present when he had arrived at the place of occurrence. He did not know at what time Vedpal had arrived on the spot but Vedpal was definitely present. This statement of PW-5 Manish contradicts testimony of PW-3 Vedpal and PW-4 Ravi. The witness further deposed that he with his siblings had been living in the house of Rampal for 15-16 years but he denied the suggestion that Rampal used to constantly ask them to leave the house and go back to their home. He denied the suggestion that murder of Rampal was conspired by him with his siblings. He further deposed that he used to cultivate in the fields but it was deceased Rampal who used to maintain the accounts. Testimony of PW-5 Manish proves no material fact. He was not the eye witness. His narration of events after the occurrence appears to be based on hearsay information because it contradicts the documentary evidence as well as testimony of the other material witnesses.

33. PW-6 Dr. Sudhanshu deposed that he was member of Board which had conducted the postmortem examination. Postmortem report is Ex. PW-6/C and the opinion given by him is Ex. PW-6/B. PW-9 Dr. Shyam Sunder also corroborated testimony of PW-6 Dr. Sudhanshu regarding postmortem report. There is no dispute to the fact that Rampal had died on 16.06.2023 due to impact of head injury.

34. PW-7 Rajeshwari from Midfield High School, Badli proved the school record wherein date of birth of child in conflict with law as his



recorded is 04.12.2011. The record is Ex. PW-7/A. This fact is also not in dispute.

35. PW-8 ASI Mukesh Kumar is the investigating officer of the case. He deposed that he had recorded disclosure statement of adult offender Sxxxxi (Ex. PW-8/A) on 20.06.2023. The property seized by him on the basis of disclosure statement is Ex. PO/1. He prepared site plan Ex. PW-8/D. On the same day, he recorded disclosure statement of child in conflict with law Sxxx i.e. Ex. PW-8/E and seized the blood stained clothes through memo Ex. PW-8/F. He admitted that no public witness was joined at the time of making recovery. He created no digital evidence of the process of recovery.

36. PW-10 Dr. Krishan Kumar proved the crime scene report Ex. PW-10/A. He deposed that no document was recovered from the clothes worn by the deceased. The blood stained brick was seen by him on the spot which was told by the police. He further deposed that it was a possibility that blood stains could have been fixed on the brick by any other person. He did not depose about lifting of finger prints from the brick or the dead body. Admittedly, there is no forensic report or evidence proving that the blood stained brick which was lifted from the spot had finger prints of CCL Sxxx. The prosecution did not explain why finger prints were not matched when the blood stained brick Ex. 3 was sent for forensic examination. In fact, no conclusive opinion about the brick Ex. 3 was given because the material had disintegrated. Therefore, the material piece of scientific evidence is missing.



37. The above discussed evidence do not prove the accusation against the CCL beyond the all reasonable doubts. The chain of circumstances put forth by the prosecution is not consistent. The testimony of material witnesses is contradictory. The act and conduct of star witnesses of the prosecution is suspicious and not natural. There is no forensic evidence linking the CCL with seized material or dead body. Accordingly, child in conflict with law Sxxx is absolved of the accusation. Bail/surety bonds furnished on behalf of the child in conflict with law during the course of inquiry stands discharged. Case property, if any, be disposed of as per rules after the expiry of the period of appeal or revision whichever is applicable. The record be destroyed in term of section 24 JJ Act, 2015.

38. **Individual Care Plan** be prepared as per rules. File be consigned to the records. All pages have been checked and signed.

VIKRANT
Principal Magistrate
Juvenile Justice Board
Sonipat, 17.01.2026

Sohan Kumar
Member, Juvenile Justice Board
Sonipat, 17.01.2026

Virender Gera, Steno-II

