



1

CRA-664-2018

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&amp;

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 24<sup>th</sup> OF MARCH, 2026CRIMINAL APPEAL No. 664 of 2018*SHRAWAN KUMAR SINGH**Versus**THE STATE OF MADHYA PRADESH*

.....  
Appearance:

*Shri Rishabh Singh - Advocate for the appellant.*

*Shri Manasmani Verma - Govt. Advocate for respondent State.*

.....

ORDER

*Per. Justice Avanindra Kumar Singh*

This appeal has been filed against the judgment dated 8.12.2017 passed by the learned IV Additional Sessions Judge, Rewa in S.T No. 143/2016 - *State of M.P. through Police Station, Civil Lines, Rewa v. Shrawan Kumar Singh* by which the learned trial Court has convicted the accused under Sections 302 and 498-A of Indian Penal Code and punished him under Section 302 I.P.C with life imprisonment and fine of Rs.2,000/- and under Section 498-A I.P.C with three years R.I. and fine of Rs.500/-, in default to undergo additional six months and three months R.I. respectively.

2. The accused was charged under Section 498-A and 304-B I.P.C alternatively 302 I.P.C for causing death of his wife Priya Singh by demanding motorcycle as dowry for the last four years before her death and causing physical and mental cruelty due to which she died in unnatural



circumstances and in alternative by strangulation of his deceased wife Priya Singh.

3. In the trial Court it was not disputed that deceased Priya Singh was wife of the accused and she was married about 5 years ago before her death with the accused and they had a young girl child aged two years and a half at the time of death and deceased was living with her husband in Rewa City near Manas Bhawan in a rented house where the incident took place.

4. As per the prosecution story on 8.4.2016, Priya Singh was brought at about 8:40 p.m. in S.G.M.H Hospital in dead condition. Therefore, her body was kept in mortuary, Police was informed and Merg Number 202/2016 under Section 174 I.P.C (Ex. P-8) was lodged. During course of merg inquiry, Naksha Panchayatnama (Ex. P-2) was prepared on 9.4.2016, postmortem of the body was done and in postmortem it was found that she died due to strangulation which caused asphyxia (P.M. report is Ex. P-6); therefore, an F.I.R (Ex. P-16) was registered, on the memorandum statement of accused (Ex. P-4) a *Terricot Duptta* was seized (Seizure Memo is Ex. P-13), accused was arrested, visra was sent to F.S.L vide Ex. P-15, statement of witnesses were recorded and charge-sheet was filed.

5. During the trial when charged with the aforementioned Sections, accused denied the charges and sought trial. After recording of prosecution evidence under Section 313 Cr.P.C examination accused stated that he is innocent, on 8.4.2016 he was working as Driver with Head Master Raju Patel (D.W.-1) and he came back from duty at 8 p.m. when he found his wife was lying in unconscious condition, he informed his brother-in-law Ashok



Singh (P.W.3). He stated that he never demanded any dowry from his deceased wife or her family members. In his absence his brother-in-law Ashok Singh and brother-in-law of Ashok Singh used to visit the deceased wife and it might be possible that he had murdered his wife.

6. Learned trial Court recorded evidence of the prosecution witnesses viz., P.W.-1 Uday Raj Singh Father of the deceased, P.W.-2 Rajkumari Mother of the deceased, P.W.-3 Ashok Singh Chouhan Brother of the deceased, P.W.-4 Farida Begum in whose house the deceased was living with her husband, P.W.-5 Javed Ansari, P.W.-6 Dr. S.K. Pathak who conducted the P.M., P.W.-7 Nayab Tahsildar Santosh Kumar Tiwari, P.W.-8 Sarmina Singh Baghel Sister of the deceased, P.W.-9 Head Constable Parkhat Singh, P.W.-10 G.S. Baghel Sub Inspector, P.W.-11 Meena Singh Sister of the deceased, P.W.-12 Bharat Dubey C.S.P. Accused has examined D.W-1 Raju Prasad Patel, Incharge Principal, Govt. School Devghata, District Sidhi.

7. Against the judgment of conviction, the appeal has been filed on the ground that conviction is not based on facts and law and is arbitrary. There is no presumption that since appellant is husband, therefore, he has caused the death of Priya Singh. P.W.-4 Farida Begum and P.W.-5 Javed Ansari have stated in their statement that they never heard any type of dispute between deceased and accused. P.W.-6 Dr. S.K. Pathak has opined that cause of strangulation is due to throttling. At the time of Panchnama of the body, parents did not make any allegation against accused person but after two months their statement was recorded. When two possibilities are



there then the possibility which favours the accused should be accepted in case of circumstantial evidence and hence prays for allowing the appeal and acquitting the appellant of the charges.

8. On the other hand, learned Govt. Advocate Shri Manasmani Verma supports the impugned award and prays for dismissal of the appeal.

9. Considered the arguments and perused the record.

10. Counsel for appellant has relied on the following judgments:-

(i) *Sunil Kumar Sambhudayal Gupta (Dr.) and others v. State of Maharashtra* [(2010) 13 SCC 657] wherein in paragraph 31 and 33 the Hon'ble Supreme Court has held as under:

"31. Where the omission(s) amount to a contradiction, creating a serious doubt about the truthfulness of a witness and the other witness also makes material improvements before the court in order to make the evidence acceptable, it cannot be safe to rely upon such evidence.

33. In case, the complainant in the FIR or the witness in his statement under Section 161 CrPC, has not disclosed certain facts but meets the prosecution case first time before the court, such version lacks credence and is liable to be discarded."

(ii) *Ashok v. State of Maharashtra* [(2015) 4 SCC 393] (specific paragraphs 12, 15 and 16).

12. .... Therefore, last seen together itself is not a conclusive proof but along with other circumstances surrounding the incident, like relations between the accused and the deceased, enmity between them, previous history of hostility, recovery of weapon from the accused, etc. non-explanation of death of the deceased, may lead to a presumption of guilt.



15. Now, it may be noted that the following lackings in the case of prosecution cannot be overlooked:

(1) The FIR was lodged after a delay of one month and no explanation has been given for such delay.

(2) There has been no previous incident of any physical cruelty committed by the accused against any of the deceased.

16. ... .. First and foremost, the delay of one month in filing FIR at the very face of it makes the entire case of the prosecution as concocted and an afterthought. There is no explanation as to why did the parents of Shubhangi not make any complaint or FIR immediately after the recovery of her dead body. It is surprising that nowhere in the case of the prosecution this delay has been explained.

(iii) *Rambir v. State* (NCT of Delhi) [(2019) 6 SCC 122]. In paragraph 18 the Hon'ble Supreme Court has held as under:

"17. From the evidence on record it is clear that the incident occurred in a sudden fight and there was no premeditation. Even the primary witness PW 7, the son of the accused and deceased, has deposed that he had seen the appellant strangulating his mother, deceased, with the "saria" when she had taken out some money from the appellant's wallet. It is not as if "saria" was brought in a pre-planned way to murder the wife of the appellant. The iron rod (saria) was picked up at the spur of the moment at the time of incident and used to compress the neck forcefully. In that view of the matter it is nothing but an act committed by the appellant in a heat of passion. Further, the High Court has not given the benefit of Exception 4 to Section 300 IPC on the ground that the appellant compressed his wife's neck also depicts an act of extreme cruelty. Having regard to the nature and manner of incident it cannot be said that the act of the appellant was extremely cruel. Unless it is barbaric, torturous and brutal, strangulation of the appellant's wife cannot be said to be an act of extreme cruelty for denying the benefit of Exception 4 to Section 300 IPC.



18. Having regard to the evidence on record, we are of the view that the case of the appellant falls within Exception 4 to Section 300 IPC. Further, the judgment in *Surinder Kumar v. State (UT of Chandigarh)* [*Surinder Kumar v. State (UT of Chandigarh)*, (1989) 2 SCC 217 : 1989 SCC (Cri) 348] also supports the case of the appellant. In the aforesaid case, the knife-blows were inflicted in the heat of the moment, one of which caused death of the deceased, this Court has held that the accused is entitled to the benefit of Exception 4. In the aforesaid judgment, this Court further held that in a sudden quarrel, if a person, in the heat of the moment, picks up a weapon which is handy and causes injuries one of which proves fatal, the accused would be entitled to the benefit of Exception 4. We are of the view that the said judgment supports the case of the appellant and further having regard to the evidence on record we are of the view that all the four ingredients which are required to extend the benefit of Exception 4 to Section 300 IPC, apply to the facts of the case on hand. Since the occurrence was in sudden quarrel and there was no premeditation, the act of the appellant-accused would fall under Exception 4 to Section 300 IPC. As such, the conviction recorded against the appellant under Section 302 IPC is liable to be set aside and is accordingly set aside and the conviction of the appellant-accused under Section 302 IPC is modified, as the one under Section 304 Part II IPC and we impose a sentence of 10 years' simple imprisonment on the accused."

(iv) **Avdesh Kumar Singh v. State of H.P.** -Cr.A No. 721/2020 Order dated 18.1.2023 wherein Hon'ble Supreme Court has observed as under:-

"The crime was not committed in a pre-meditated manner, and was apparently committed in a sudden fight in the heat of passion upon a sudden quarrel. No weapon or sharp/blunt object was used."

(v) **Sanju Tiwari v. State of M.P.** - Cr. A No. 534/2011 Order dated 27.04.2021. In paragraph 42 Hon'ble Co-ordinate Bench of this Court has



held as under:

"42. Having regard to the nature and manner of incident and looking to the view taken by the Hon'ble Supreme Court in above referred cases, it cannot be said that the act of the present appellant was extremely cruel since the occurrence was in sudden quarrel and there was no pre-meditation. Having regard to the evidence on record, we are of the view that the case of the appellant falls within Exception 4 to Section 300 of IPC. As such, the conviction recorded against the appellant under Section 302 of IPC is liable to be set aside and appellant is liable to be convicted under Section 304 Part I of IPC. The appellant is in jail since 07.06.2010 and thus, he has suffered 10 years and 10 months of jail sentence."

(vi) **Ramavtar Kol v. State of M.P.** - Criminal Appeal No. 7943/2023 order dated 18.03.2025. In paragraphs 28 and 29 this Court has held as under:

"28. In the present case, it is evident from the evidence of prosecution witnesses that there was no premeditation on the part of the appellant. Incident took place at the spur of moment when he saw Mamta Kol in a compromising position with the deceased. He lost his temper and threw stones and strangulated him with the 'Gamchha' of the deceased itself, then it cannot be said that he was armed with any weapon and, thus, in the present case also exception 4 of Section 300 IPC, can be invoked.

29. Appellant is in custody since 10.01.2019. All the three ingredients, namely, provocation was sudden; the provocation was grave and there was loss of control, are available in the present case. Thus, appellant's conviction is converted from one under Section 302 to 304 Part-I IPC and he is directed to undergo 07 years R.I., with the fine of Rs.5,000/- (Rupees Five Thousand), as imposed by the learned trial Court, with default stipulation and further 03 months R.I. Record be sent back. Case property be disposed off as per the orders of the trial Court. 30. In above terms, appeal is allowed and disposed of."



11. In the light of admitted facts and place of death and defence evidence, this Court would like to first see whether plea of alibi has been proved/established.

12. If D.W.-1 statement is seen, it is found that he has stated that the accused Shrawan Kumar Singh is his driver. He was working as Incharge Principal on the relevant day, i.e., 8.4.2016. The driver accused came to his house at 7:30 a.m. on 8.4.2016, they went to the school where they remained till 5 p.m. and came back to house at about 7:40 p.m. and thereafter after locking the vehicle Shrawan Kumar Singh (accused) went to his house. After one hour the accused phoned him that his wife has died and he is in hospital. In cross-examination he stated that his house is about 84.5 k.m. from his working place and he does not require any government permission for travelling from his working place at District Sidhi to the house at Rewa. He also stated that there is no attendance Register for the accused driver but he made a note of it either in calendar or on Register. He denied this suggestion of prosecution that he is stating wrong facts about driver. In paragraph 8 he stated that when he asked the accused stated that his wife has died due to attack.

13. Now there is no document filed by the defence to substantiate his plea of alibi. If the accused wanted he could have called his C.D.R details of his phone which he used to call his in-laws and D.W.-1 but that has not been done. Further if statement of P.W.-1 Uday Raj Singh father of the deceased, P.W.-2 Rajkumari Mother, P.W.-3 Ashok Singh, P.W.-8 Sarmina Singh,



P.W. 11 Meena Singh is seen, it is seen that this suggestion has not been given to them that on the relevant date, i.e., 8.4.2016 throughout the day, i.e., about 7:30 a.m. to about 8.00 p.m. he was with his employer D.W.-1 Raju Prasad Patel. Similarly P.W.-4 Farida Begum in paragraph 1 stated that on the day of incident she was not at her house, she had gone in a marriage ceremony and when she came back she came to know that Priya is dead but she stated that accused and his wife used to live happily in her house but she also stated that she leaves for her duty in the morning and comes back in the evening. Therefore, she cannot say that what was the nature of relationship between the deceased and accused but to her knowledge there was no dispute. She cannot say whether any other person came to her house although she agreed that accused is working as a driver but she does not know that accused used to go in the morning and comes back in the evening. She does not know that any relatives, brother and sister of the deceased or whether any other person comes to accused's house. P.W.-5 Javed Ansari has also stated that he does not know whether any person used to visit Priya Singh and stated that they (deceased and accused) were having good relations. P.W.-12 C.S.P. Bharat Dubey, Investigation Officer was also not suggested that at the relevant time on 8.4.2016 accused was not present at his home in Rewa City District but was with his employer Raju Prasad Patel (D.W.-1). Now not giving above mentioned suggestion of plea of alibi even to the Investigation Officer in the facts as mentioned above only goes to show that in the accused statement under Section 313 Cr.P.C, it was for the first time that a plea of alibi has been raised as an after thought.



14. In the case of *Pappu Tiwary v. State of Jharkhand and Law Tiwari @ Upendra Kumar Tiwari v. The State of Jharkhand* [2022 LiveLaw SC 107], Hon'ble Supreme Court has laid down the following directions regarding plea of alibi:

"16. Learned counsel for the State also submitted that there are three eye witnesses, Pankaj Kumar Singh (PW-6), Subodh Kumar Singh (PW- 13) and Chandraman Singh (PW-18) and their testimonies have broadly been consistent, which assign the role to Law Tiwari. The endeavour to apprehend him on 07.03.2000 was not successful as he was found absconding by the IO on six different occasions when his premises were visited. He was only subsequently arrested and taken on remand on 04.04.2000. The contention of learned counsel for the State was that neither the advise of Dr. M.P. Singh nor the x-ray having been produced, and Dr. M.P. Singh not having been produced as a defence witness or summoned, there was not a piece of paper evidencing the admission and treatment of Law Tiwari in the hospital which could be produced in support of his plea of alibi. He also drew our attention to the fardbeyan to indicate that Law Tiwari and other accused had demanded a motorcycle of the deceased to go to Meral in connection with a case, which was declined. Learned counsel for the State also submitted that the conduct of Law Tiwari even during custody was not proper as he had extended a threat to the informant and the informant had suffered fire arm injury on 13.06.2001. Consequently, case No.107/2001 was registered at the Garhwa Police Station. In the end it was contended that there was no attempt made to distinguish the appellant's role from that of Ajay Pal and the appeal of Ajay Pal being dismissed, the only aspect which had to be examined was whether the concurrent findings of the two courts below rejecting the plea of alibi was required to be interfered with by this Court when the burden lay heavy on the appellant as when such a plea is raised the accused must discharge that burden. We may refer to the judicial view in this behalf in *Vijay Pal v. State (Government of NCT of Delhi)*, (2015) 4 SCC 749 wherein this Court held that:

"27. In our considered opinion, when the trial court as well as the High Court have disbelieved the plea of alibi



which is a concurrent finding of fact, there is no warrant to dislodge the same. The evidence that has been adduced by the accused to prove the plea of alibi is sketchy and in fact does not stand to reason. It is not a case where the accused has proven with absolute certainty so as to exclude the possibility of his presence at the place of occurrence. The evidence adduced by the accused is not of such quality that the Court would entertain a reasonable doubt. The burden on the accused is rather heavy and he is required to establish the plea of alibi with certitude.”

In *Jitender Kumar v. State of Haryana*, (2012) 6 SCC 204 this Court stated that:

“71. .... The burden of establishing the plea of alibi lay upon the appellants and the appellants have failed to bring on record any such evidence which would, even by reasonable probability, establish their plea of alibi. The plea of alibi in fact is required to be proved with certainty so as to completely exclude the possibility of the presence of the accused at the place of occurrence and in the house which was the home of their relatives.”

17. We have given our thought to the limited scope of appeal of Law Tiwari and we do not find any merit whatsoever in the same. It has been rightly pointed out by the learned counsel for the State that the burden was on Law Tiwari to establish the plea of alibi (*Vijay Pal (supra)* and *Jitender Kumar (supra)*), which he failed to discharge. It was not a case where opportunity was not granted to him. In fact, two witnesses were produced in defence by Law Tiwari and two court witnesses were also summoned. However, the relevant evidence was not led.

Therefore, in the light of discussion of evidence regarding plea of alibi and in the light of judgment in *Pappu Tiwary (supra)*, plea of alibi is not proved.

15. Although there is no law that if the plea of alibi is not proved then



automatically it shall be deemed to be proved that accused has committed a crime. In fact accused has a legal right to remain silent but if he willingly choses to raise a plea of alibi (that at the relevant point of time the accused was not at the scene of the crime but was elsewhere) and if he fails to prove the same plea then in the final evaluation of evidence of the case, this fact can be taken into consideration coupled with other facts for example in this case while D.W.-1 Raju Prasad Patel has stated that accused informed him that his wife died due to attack (cross-examination paragraph 8), similarly P.W.-3 Ashok Singh Chouhan brother-in-law of the accused in Examination-in-Chief paragraph 1 stated that accused informed him on phone that Priya is ill and come, so that she may be treated but when he went there, Priya was not there and ultimately she was found dead in hospital. Now giving this false information to his brother-in-law (P.W.-3) and to defence witness Principal Raju Prasad Patel (D.W.-1) is a very serious circumstance against the accused.

16. P.W.-1 Uday Raj Singh, P.W.-2 Rajkumari, P.W.-3 Ashok Singh Chouhan, P.W.-8 Sarmina Singh Baghel and P.W.-11 Meena Singh Baghel have all stated that accused was demanding motorcycle towards dowry and earlier also the deceased Priya was assaulted and harassed although there is no earlier report of harassment or the earlier medical treatment of Priya but there is no reason for the family members of the deceased Priya to falsely implicate the accused who was husband of the Priya as Priya and accused had a daughter aged about 2 years and a half.

17. If one looks to the prosecution evidence then statements of above



mentioned prosecution witnesses are on record and has been evaluated in detail by the learned trial Court correctly and repetition of the entire evidence is not required, in this case of circumstantial evidence, as it is not in dispute that the death of Priya Singh is of homicidal in nature as established fully by the evidence of Dr. S.K. Pathak (P.W.-6) and P.M. report (Ex. P-6) who has stated that death was due to throttling which caused asphyxia within 36 hours of the postmortem. In cross-examination this doctor witness has stated that the size of the thumb is not mentioned in postmortem report (Ex. P-6) but in the facts and circumstances of the case for not writing the size of the thumb impression on the neck of the deceased is hardly a ground on which accused can be acquitted. Investigation Officer, Bharat Dubey (P.W.12) has denied that he has wrongly or deliberately implicated the accused in this case.

18. During the course of argument, learned counsel for appellant very strongly argued that although the incident took place on 8.4.2016 but as per F.I.R (Ex. P-16) the case was registered on 28.4.2016, i.e., on the 20<sup>th</sup> day of incident but on perusal of the report (Ex. P-16) it is seen that the Police was doing mere inquiry as mentioned in paragraph 3 of the F.I.R (Ex. P-16) that information of death was received about this incident on 9.4.2016. It is also seen that the defence has not asked any question about the delay in this case to the Investigation Officer who would have been the best person to answer the question about delay, if any and not asking the question to the Investigation Officer (P.W. 12) and without asking about delay in F.I.R this argument at the appellate stage would not give any benefit to the appellant. Similarly, it is a matter of common knowledge that when the family of the



deceased who have lost their daughter/sister etc. then the family members would hardly be in a position to immediately start making allegations, against people.

19. It is also not an uncommon situation in India that many times report of harassment by in-laws of husband are not made so as not to aggravate the matter and spoil the future of their married daughter. At the end of argument, learned counsel for the appellant argued that it can also be considered by this Court that there was no planning or premeditation to commit the crime, therefore, it could have been a sudden incident by the husband but the legal position on this point is very clear that Appellate Court cannot make out a new case that in a sudden rage or fight with deceased wife the accused might have caused the death of the deceased by strangulation to be more specific by throttling because it is not the case of the prosecution or defence.

In **Rama KT. Barman (Died through L.Rs. v Md. Mahim Ali and others** (Civil Appeal No. 3500/2024), Hon'ble Supreme Court in a Civil matter in paragraph 14 has held that "it is well settled principle of law that the Court cannot create any new case at the appellate stage for either of the parties, and the appellate court is supposed to decide the issues involved in the suit based on the pleadings of the parties". Now this principle applies to criminal law also in the facts and circumstances of the case and this Appellate Court cannot make out a new case for the appellant/accused-husband.

20. The various citations relied by the learned counsel for appellant as



mentioned in paragraph 10 of this judgment do not give any benefit to the appellant as the facts of the present case are different from the facts in the cited judgments.

21. Therefore, taking into consideration prosecution and defence evidence when it is proved on the basis of statement of Dr. S.K. Pathak (P.W-6) and postmortem report (Ex.P-6) and when there is nothing on record, i.e., on the fateful day, i.e., 8.4.2016 anyone except the accused left the house where he was living with his wife deceased Priya and he came back in the evening then it was he who had to explain the homicidal death of his wife but he has failed to do so.

22. In **R. Baiju v. The State of Kerala** [2025 LiveLaw (SC) 441] in paragraphs 7, 13 and 14 Hon'ble Supreme Court has laid down this principle of law that defective investigation does not automatically invalidate a prosecution case if other credible evidence exist and upheld the conviction under Section 304 Part II and 120 I.P.C and emphasized that flaws in investigation are not fatal when corroborated evidence such as witness testimony and motive establish guilt.

23. In the case under appeal the learned trial Court has considered the evidence of both the parties in paragraph 50 of its judgment and applied the relevant law correctly because there is no law that evidence of the relatives cannot be accepted if otherwise found reliable. The Hon'ble Supreme Court recently in the case of **Baban Shankar Daphal and others v. The State of Maharashtra** (Criminal Appeal No. 1675 of 2015) judgment dated 22.01.2025 has held as below:-



27. One of the contentions of the learned counsel for the appellants is that the eyewitnesses to the incident were all closely related to the deceased and for prudence the prosecution ought to have examined some other independent eyewitness as well who were present at the time of the unfortunate incident. This was also the view taken by the Trial Court, but the High Court has correctly rejected such an approach and held that merely because there were some more independent witnesses also, who had reached the place of incident, the evidence of the relatives cannot be disbelieved. The law nowhere states that the evidence of the interested witness should be discarded altogether. The law only warrants that their evidence should be scrutinized with care and caution. It has been held by this Court in the catena of judgments that merely if a witness is a relative, their testimony cannot be discarded on that ground alone.

28. In criminal cases, the credibility of witnesses, particularly those who are close relatives of the victim, is often scrutinized. However, being a relative does not automatically render a witness "interested" or biased. The term "interested" refers to witnesses who have a personal stake in the outcome, such as a desire for revenge or to falsely implicate the accused due to enmity or personal gain. A "related" witness, on the other hand, is someone who may be naturally present at the scene of the crime, and their testimony should not be dismissed simply because of their relationship to the victim. Courts must assess the reliability, consistency, and coherence of their statements rather than labelling them as untrustworthy.

29. The distinction between "interested" and "related" witnesses has been clarified in *Dalip Singh v. State of Punjab* where this Court emphasized that a close relative is usually the last person to falsely implicate an innocent person. Therefore, in evaluating the evidence of a related witness, the court should focus on the consistency and credibility of their testimony. This approach ensures that the evidence is not discarded merely due to familial ties, but is instead assessed based on its inherent reliability and consistency with other evidence in the case. This position has been reiterated by this Court in:

- i. *Md. Rojali Ali and Ors v. The State of Assam Ministry of Home Affairs through secretary*;
- ii. *Ganapathi v. State of T.N.*;



iii. *Jayabalan v. Union Territory of Pondicherry.*"

24. Regarding not mentioning the size of thumb impression on the neck of the deceased Priya, Hon'ble Supreme Court in the case of **Karnail Singh v. State of M.P.** [(1995) 5 SCC 518] has held that for deficiency in investigation, accused cannot be acquitted and similar view has been taken by Hon'ble Supreme Court recently in the case of **R. Baiju (supra) and Edakkandi Dineshan @ P. Dineshan & Ors v. State of Kerla** (Cr.A No. 118 of 2013) dated 06.01.2025 specific paragraph 22:-

"22.....Hence, the principle of law is crystal clear that on the account of defective investigation the benefit will not inure to the accused persons on that ground alone. It is well within the domain of the courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eyewitnesses, medical report etc. It has been a consistent stand of this court that the accused cannot claim acquittal on the ground of faulty investigation done by the prosecuting agency....."

**In Paras Yadav v. State of Bihar** [(1999) 2 SCC 126] it has been held that if investigation officer negligently or unknowingly makes some lapses in investigation even then the trial Court has to consider the case minutely.

In the case of **Sunil Kundu v. State of Jharkhand** [(2013) 4 SCC 422] it has been held that unless lapses or faults go into the root of the matter, acquittal cannot be granted on that basis.

25. Therefore, taking into account all the facts and circumstances this Court is of the considered view that in the facts and circumstances of the case, looking to the evidence of both the rival parties, the learned trial Judge has rightly convicted the accused as mentioned above as there are no serious



contradictions or omissions in prosecution case. There is no ground to interfere.

26. For the reasons mentioned above appeal is dismissed. Accused to undergo remaining jail sentence as awarded by the trial Court. Disposal of the property shall be as per the judgment of the trial Court.

**(VIVEK AGARWAL)**  
**JUDGE**

**(AVANINDRA KUMAR SINGH)**  
**JUDGE**

VKT