

State vs . 1. Deep Chand on 28 January, 2010

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FIR No.:- 198/2006

IN THE COURT OF MS. MADHU JAIN, ADDITIONAL
SESSIONS JUDGE-03,NORTH, DELHI.

FIR No.:- 198/2006

PS:- Roop Nagar

U/s:-302/201/120 B IPC

S.C. No.: 92/2006

In the matter of:

State Vs. 1. Deep Chand
S/o Sh. Amra
R/o Gaushala Wali Gali,
Inder Puri,
Palwal, Haryana

2. Kanti Prasad
S/o Sh. Ram Lal
R/o N 12B-590, Kabir Nagar
Rana Pratap Bagh,
P.S. Model Town, Delhi.

3. Subhash @ Raju
S/o Sh. Deep Chand
R/o Gaushala Wali Gali,
Inder Puri,
Palwal, Haryana

4. Pramod @ Hakla
S/o Sh. Babu Lal
R/o Bhagwati Vihar,
Near Gulab Masjid,
Uttam Nagar, Delhi

5. Dharmender

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FIR No.:- 198/2006

S/o Sh. Hukam Singh
R/o T-261, Kabir Nagar,
Rana Pratap Bagh,
P.S. Model Town, Delhi.

Date of receiving in Sessions Court: 18.12.06

Arguments Heard: 1.12.2009
4.1.2010,
& 28.01.2010

Date of Judgment:

28.1.2010,

JUDGMENT

Case of the prosecution:

1. On 14.7.2006, DD No. 12-A was registered in Police Station Roop Nagar on a PCR call sent by ASI Puran Mal that at Jhuggi no. 3, Railway Line, Shakti Nagar, dead body of a female is lying. This information through PCR was registered as DD No.12-A and was handed over to SI Ajay Solanki for further investigation. SI Ajay Solanki alongwith Constable Satish reached at the place of incident near Railway Line, Behind FCI godown, Shakti Nagar, Delhi and Additional SHO P.S. Roop Nagar was also informed about the same. There on a lane between trees and bushes, naked dead body of a female was lying. Inspector Dinesh Kumar was also informed on the wireless set through DD No.11 A who also reached at the place of incident through government motorcycle. SI Ajay Solanki inspected the spot but could not find any eye witness there. DD No. 11 A was endorsed and sent to the Police Station for the registration of FIR. To conceal the identity of dead body, the face and head of the dead body was damaged and from the investigation, it transpired that the murder has been committed by hitting with some heavy object on the head. Since no witness could be found on the spot, therefore case U/s 302/201 IPC was registered and further investigation was handed over to Additional SHO P.S. Roop Nagar. The crime team and photographer alongwith the dogs squad were called at the spot and FIR was sent through Special Messenger to senior officers. On the pointing out of SI Ajay Solanki, the site plan was prepared and the public persons who collected at the spot were enquired but none of them could identify the dead body or were able to give any clue about the dead body.

Government photographer Constable Dalip Lal came at the spot and took the photographs of site and dead body. The big stone smeared with blood which was lying at the spot was taken into possession. A plastic bottle having acid in the same was also lying at the spot which was also seized and sealed. Two ladies sandal and a paper having blood stains were also seized and sealed from the spot. The blood stained sand and grass was also seized and sealed from the spot. A hair pin was also found at the spot. The dead body was sent to Subzi Mandi Mortuary through Constable Satish for preservation for 72 hours. Statement of witnesses at the spot U/s 161 Cr.P.C. was recorded and regarding the identity of dead body, investigation was made from the persons and hue and cry notice, telecast from Doordarshan, CRO Gazette Notification, Publication in newspaper, pamphlets distribution, Missing of Surrounding police stations and Telecast on cable network etc. were done but no clue could be found out regarding the dead body. Even after checking from NCRB dead body could not be identified. On 20.7.2006 after completion of postmortem formalities, CMO Subzi Mandi was requested for the postmortem of dead body. The postmortem was got conducted upon the dead body. The doctor had removed a black thread with locket of cross, a blue colour thick thread, a black colour thread having crystal and also a Coca-cola colour thread, a copper ring

having "Ram" engraved on the same, a brass ring, two ear rings, a small nose pin and Jhumka from the dead body. Same was also seized. After the postmortem, Constable Satish handed over a jar containing Feesh of finger tips and some other jars containing nails, teeth and vaginal swab of the dead body to the Inspector. All the jars were sealed with the seal of Subzi Mandi Mortuary. Viscera of the dead body was also seized. The dead body was sent to the Electric crematorium for cremation. On 30.7.2006, the postmortem report was obtained by the IO. On 20.8.2006 IO received a DD no. 39-B vide which Head Constable Harpal Singh gave an information from Uttam Nagar Police Station on telephone that accused Pramod @ Hakla has been arrested U/s 41.1 (A) Cr.P.C. who has made the disclosure statement of the present case and has also pointed out to the place of incident. He was to be produced in the court of Sh. Digvijay Singh, MM Rohini. On 21.8.2006 IO reached at the Rohini Court Complex where accused Pramod @ Hakla was produced. He was arrested in the present case. He made disclosure statement that on 13.7.2006 he alongwith his accomplices Dharmender, Kanti Prasad, Deep Chand and Raju had committed the murder of Kamlesh D/o Deep Chand at about 8/9 p.m. Three days P.C. remand of accused Pramod was taken. On 22.8.2006 on the pointing out of accused Pramod @ Hakla from Rana Pratap Bus Stand, accused Subhash @ Raju, Deep Chand and Kanti Prasad were arrested. Accused Subhash also made disclosure statement regarding the murder of Kamlesh. He further disclosed that after the murder, he had thrown away the clothes of Kamlesh after tearing the same and he can get recover the same from Ganda Nala. He further disclosed that he had thrown away those clothes in the Nala near the place where they had committed the murder of Kamlesh and he can get it recovered from the Nala. Accused Deep Chand also made disclosure regarding the murder of Kamlesh and stated that he can get recover his clothes from Palwal. He further disclosed that he had hit Kamlesh with a stone lying at the spot. Accused Kanti Prasad also made disclosure statement regarding the murder of Kamlesh and stated that he can get recover the remaining acid from his jhuggi and also pointed out the shop from where he had purchased the bottle of acid. IO recorded the statement of witnesses and obtained the P.C. remand of all the three accused persons. On 23.8.2006 accused Subhash @ Raju, Deep Chand and Kanti Prasad pointed out to the place of incident and accused Subhash also pointed out to the Ganda Nala where he had thrown away the suit and salwar worn by the deceased Kamlesh. The diver Mohd. Abdul Sattar on the pointing out of accused Subhash took out a ladies suit and salwar in the presence of witness Madan Lal. The clothes i.e. suit and salwar were sealed in cloth pullanda and the water from Ganda Nala was also sealed in a plastic jar. Accused Kanti Prasad pointed out to the shop from where he had purchased the acid and thereafter accused Subhash and Deep Chand was taken to Palwal, Haryana from where accused Deep Chand got recovered the pant and sky blue colour shirt which he was wearing at the time of incident and had washed the same after coming to his home. The clothes were also sealed. From the house of Deep Chand, a ration card containing the particulars of members of his family including his daughter Kamlesh was seized. Accused Deep Chand also produced the marriage photograph of his daughter Kamlesh with Subhash which were also seized. On the pointing out and disclosure of accused Deep Chand, the police officials also reached at the house of witness Bhagat Singh who disclosed that on 24.7.2006 on asking of accused Deep Chand he had given him Rs. 5,000/- on interest. He produced the papers in this regard which were also taken into possession. During further investigation, it transpired that accused Deep Chand had lodged the FIR regarding his daughter on 19.4.2006 in Palwal, Haryana vide FIR No. 222/06 U/s 363/366 IPC. On 20.4.2006 his daughter Kamlesh was recovered and was handed over to him. The photograph of deceased was identified by her mother Smt. Kiran and other

witnesses from her Chunni, Shamij and other articles. In the postmortem report, it was also mentioned that the finger adjoining to left toe was shorter than the finger adjoining the right toe of deceased. Witness Kiran also disclosed about this identification mark of her daughter. During further investigation, it transpired that on 10.7.2006 deceased Kamlesh alongwith DeepChand and Subhash @ Raju had gone to her Fufa Kanti Prasad's place at Jhuggi no. N-12/B- 590, Kabir Nagar. She was last seen going from the Jhuggi alongwith her father Deep Chand, brother Subhash @ Raju and Fufa Kanti Prasad. Statement of the witnesses to this fact was recorded. On 24.8.2006 on the pointing out of accused Kanti Prasad, the acid bottle was recovered having 1/5th acid in it. The bottle was also seized and case property was deposited in the Malkhana. During further investigation, the case property was sent to FSL and on 6.9.2006 on a secret information, accused Dharmender was also arrested who during interrogation disclosed that he alongwith co-accused Pramod was to be given Rs. 10,000/- by accused Deep Chand and Kanti Prasad for the murder of the daughter of accused Deep Chand. As planned both of them on 13.7.2006 committed the murder of said Kamlesh alongwith DeepChand, Kanti Prasad and Subhash @ Raju at about 8/9 p.m. near Shakti Nagar Railway Line. Deepchand had given him Rs. 5,000/- on 25.7.2006 as promised. He further disclosed that he had burnt the clothes which he was wearing at the railway line itself and money has been spent by him. One day P.C. remand of accused Dharmender was taken. He pointed out to the place of occurrence and regarding the place where he had burnt his clothes, he did not point out the same. Statement of the witnesses were recorded and remaining case property was also sent to FSL. On further investigation, it transpired that regarding missing of his daughter Kamlesh, no complaint was made by her relatives in Palwal, Haryana and despite the fact that Kamlesh was missing for the last three/four months. She was last seen on 13.7.2006 alongwith his father Deep Chand, brother Subhash @ Raju and Fufa Kanti Prasad at about 8/9 p.m. going from the Jhuggi, Kabir Nagar. Witnesses identified the deceased as Kamlesh and the scaled site plan was prepared. During further investigation, the marriage documents of deceased Kamlesh alongwith a boy Subhash was obtained by the IO. On the affidavit, the thumb impression of Kamlesh were there which was sent to finger print expert for comparison. After completion of investigation, challan was filed in the court against all the accused persons U/s 302/201/120-B IPC.

2. Since the offence U/s 302 IPC is exclusively triable by the court of sessions, therefore, after supply of the documents, the Ld. MM committed the case to the court of Sessions.

Charge Against The Accused:-

3. Prima facie case under section 302/201/120-B IPC was made out against the accused persons. Charge was framed against them to which they pleaded not guilty and claimed trial.

Witnesses Examined:

4. In support of its case, prosecution has examined 49 witnesses in all.

5. PW1 is Dr. S. Lal, Jr. Specialist, Forensic Medicine from Aruna Asaf Ali Hospital who conducted the postmortem upon the dead body of unknown 24 years female and has proved the report as Ex. PW1/A.

6. PW2 is Sh. Subhash Chand, Finger print expert who examined the specimen thumb impression slips of unknown deceased and the original copy of affidavit executed by one Kamla Rani and proved his report as Ex. PW2/C.

7. PW3 is Head Constable Jitender Singh who took the FIR to senior police officers.

8. PW4 is Ved Prakash who stated that on 23.8.2006 at about 7 p.m. when he was present at his house, Delhi, police came to his house and the accused Deep Chand was also with them. Deepchand had told in his presence that he had taken Rs. 5,000/- from his brother Bhagat Singh. His brother Bhagat Singh was also present in his house who used to give money on loan. This witness further stated that the police asked his brother Bhagat Singh if he know DeepChand on which his brother told the police that he know Deep Chand through his guarantor Ramesh Chand. He further stated that the police had seized the relevant papers and stamp papers on which photographs of Deep Chand and Ramesh Chand were already affixed and the copy of ration card of Deep Chand and Ramesh Chand were also taken from his brother and seized by the police vide seizure memo Ex. PW4/A.

9. PW5 is Bhagat Singh who had given loan of Rs. 5,000/- to accused Deep Chand and has deposed on the lines of PW4.

10. PW6 is Pushpa who stated that she only knows accused Kanti Prasad and does not know any other accused. She further stated that she does not know the lady shown in photographs and dead body of a woman shown in the photographs and knows nothing about this case. She further stated that about 8/9 months ago, police came at the house of her brother Dharampal. A girl had come at the house of accused Kanti Prasad who is the Fufa of that girl and talks about her marriage was being done by accused Kanti Prasad . The marriage was to be settled with her nephew Mahesh and the girl was selected by them. She further stated that after some day, she came to know that, that girl has run away with someone and that girl was from Palwal. The police had come to enquire about that girl and had shown her photographs but she did not identify the girl. She was cross examined at length by Ld. APP for the state.

11. PW7 is Head Constable Jhamman Singh from Faridabad, Palwal who stated that after checking the DD register, he found that no such missing report was lodged from 1.7.2006 to 21.8.2006.

12. PW8 is Constable Sunder Lal who took the photographs of site and has proved the same as Ex. PW8/1 to Ex. PW8/11.

13. PW9 is ASI Mahavir Singh from Palwal, Haryana who deposed that accused Deep Chand had lodged a report regarding abduction of his daughter by one Subhash. He recorded the statement and got recorded the FIR no. 222/06 U/s 36/366 IPC. Thereafter during the investigation on 20.4.2006, his daughter Kamlesh was recovered from the possession of accused Subhash and after getting her medical examination, she was handed over to accused Deep Chand and age of the prosecutrix Kamlesh was about 20 years.

14. PW10 is DharamPal who stated that he only know accused Kanti Prasad and Deep Chand as Kanti Prasad is his neighbour and accused DeepChand had come to him alongwith accused Kanti Prasad to talk about the engagement of his son Mahesh with daughter of Deep Chand. They came in the month of June. He asked accused Deep Chand and Kanti Prasad to show the girl to his family members and thereafter the accused persons had shown the girl to his family members. His family had liked the girl and the accused persons had liked his son. The girl was shown at the house of accused Kanti Prasad. He further stated that accused Deep Chand had told him that he and his family members will come after two or four days for engagement but they did not come. Later on the police of P.S. Roop Nagar had called him in the Police Station and enquired about the engagement. Nothing else happened in his presence.

15. PW11 is ASI Vimlesh who was working as duty officer and registered the FIR Ex. PW11/A as well as DD no. 14-A and 15-A Ex. PW11/B and Ex. PW11/C respectively.

16. PW12 is Head Constable Dalip Singh from mobile crime team who stated that on receipt of the information they reached at the place of incident. He tried to develop the chance print from the plastic bottle with scientific aid but no chance print could be developed from the bottle. He proved his report Ex. PW12/A.

17. PW13 is SI Bhram Singh from Crime Team. He inspected the scene of crime and gave his report Ex. PW13/A.

18. PW14 is Kirti who stated that she knows only accused Kanti Prasad as accused Kanti Prasad is her neighbour. She went to see a girl at the house of Kanti Prasad for engagement of her brother and the girl was present at the house of accused Kanti Prasad. Thereafter she returned to her house and she knows nothing about this case.

19. PW15 is Ashfaq Ali who deposed that on 14.7.2006 at about 8 a.m., he went to ease himself and went behind a Mazar of Peer Baba, Shakti Nagar. There he saw naked body of a woman and he informed the police on 100 number through his mobile.

20. PW16 is Harpreet Singh, Senior Lab Technician from Aruna Asaf Ali Hospital who had taken the blood samples of accused Deep Chand and his wife Kiran in the presence of doctor and officials of FSL and had put the same in two separate vials and handed over the same to concerned officials of FSL.

21. PW17 is Head constable Mahavir Singh who recorded DD No. 11-A and proved the same as EX. PW 17/A.

22. PW18 is SI Manohar Lal who took the rough notes and measurement of the place where dead body was lying and prepared the scaled site plan Ex. PW18/A.

23. PW19 is the diver Abdul Sattar who stated that on the pointing out of accused Subhash, he went inside the Ganda Nala in muddy water and found some clothes struck in the dry bushes in the

muddy water of Ganda Nala. The police seized the clothes which was a lady Salwar and Suit and the same were taken into possession vide seizure memo Ex. PW19/A.

24. PW20 is Constable Pradeep Kumar from the Dogs Squad. He stated that dogs did not go in any direction for pointing out the direction of accused persons.

25. PW21 is ASI Puran Mal who was posted as ASI in PCR and received the information through mobile regarding lying of dead body of a female near FCI Godown, Shakti Nagar. He recorded this information in the required form and proved the same as Ex. PW21/A.

26. PW22 is Head Constable Harpal Singh who stated that on 20.08.2006 he was on patrolling duty alongwith constable Mahavir and constable Rajesh and at about 3 p.m. he received a secret information that a boy is standing near Metro Railway Station, West Uttam Nagar and is waiting for someone. He is involved in the murder case of a girl near Shakti Nagar Railway Line. He organized a raiding party and requested 4/5 passers by to join the raiding party but none agreed and thereafter they apprehended the accused Pramod @ Hakla on the pointing out of secret informer and the accused made disclosure statement regarding this case. The accused was arrested U/s 41.1 (a) Cr.P.C. . He further proved the disclosure statement of accused Pramod @ Hakla as Ex. PW22/A and thereafter pointing out memo as Ex. PW22/B. He further deposed that the information was sent to P.S. Roop Nagar and accused Pramod @ Hakla was arrested from the court concerned by the IO of this case.

27. PW23 is SI Mahavir Singh who sent the copies of FIR to the Senior officers through the Special Messenger.

28. PW24 is Head Constable Mohd. Raza, the MHC(M) who deposed that IO had deposited the sealed parcels in the Malkhana and has proved the relative entries.

29. PW25 is Constable Attar Singh who took the sealed parcels to the FSL, Rohini.

30. PW26 is Constable Mahavir Singh who was on patrolling duty on 20.8.2006 alongwith Constable Rajesh and Head Constable Harpal and has deposed on the lines of PW22.

31. PW27 is Shyamwati, wife of accused Kanti Prasad who stated that accused Deep Chand is her brother and accused Subhash @ Raju is her nephew but she does not know the rest of accused. She stated that her brother Deep Chand, nephew Subhash @ Raju and their daughter Kamlesh came to her house before one month of the arrest of her husband Kanti Prasad. They came in the morning and went in the evening. Thereafter she does not know what happened and police never came at her house and never joined her in the investigation.

32. PW28 is Subhash who deposed that he know accused Deep Chand and his son Subhash @ Raju and he also knew deceased Kamlesh, the daughter of accused Deep Chand. He stated that he had love affair with Kamlesh before two/two and half years ago and he and Kamlesh had run away from the house and came to Delhi. Thereafter he and deceased Kamlesh got married with each other in

Arya Samaj Temple. After marriage, they returned to their houses and he left Kamlesh at the house of accused Deep Chand but again he stated that they were arrested by the police and further stated that he does not know if Kamlesh was threatened by her father Deep Chand. They were from different caste and caste was not barrier between their marriage. He further stated that he came to know that Kamlesh has died. He further stated that photographs mark A to mark D are his photographs with Kamlesh but he refused to identify the photographs of dead body.

33. PW29 is Jagdish who deposed that about two years ago, Kamlesh the daughter of accused Deep Chand had ran away with a boy namely Subhash of the locality and they both got married with each other in Delhi. Thereafter a case was registered against them and police had recovered Kamlesh who was handed over to him and his brother Deep Chand. Thereafter he had not seen Kamlesh at the house of Deep Chand or in the locality and nothing was revealed to him about Kamlesh after that.

34. PW30 is Madan Lal, inspector Food & Supplies from Palwal, Haryana who stated that the ration card Ex. PW30/A of Deep Chand was issued by their office.

35. PW31 is Constable Satish Kumar who on receipt of information went with SI Ajay Solanki at the spot and remained with the IO during the investigation of the case.

36. PW32 is Madan Lal who stated that he was standing at some distance and therefore could not see any articles which were recovered by the police from Ganda Nala.

37. PW33 is Vikas who stated that he is employed as Sewadar in Arya Samaj Vedic Marriage Mandal, Delhi. He stated that the certificate Ex. PW 33/A was issued by the President of their institution.

38. PW34 is Balbir Singh who stated that he does not know anything about the case and he never sold acid to anybody. He further volunteered that he does not sell acid on his shop and only sells cloth washing soap and bathing soap and none else. He further stated that he never made any statement to the police.

39. PW35 is Constable Ashok Kumar who recorded the DD no. 39 B dated 20.08.2006 and proved the same as Ex. PW35/A.

40. PW36 is Rishi Lal Dua who proved the admission record and the date of birth of Kamla Rani D/o Deep Chand as Ex. PW 36/A to Ex. PW36/C.

41. PW37 is R.K. Singh, Nodal Officer from Bharti Airtel Ltd. who stated that mobile no. 9871256678 was issued to customer Shyamwati W/o Kanti Prasad and proved the call details as Ex. PW37/C.

42. PW38 is Kiran wife of Deep Chand who stated that she knows nothing about this case.

43. PW39 is Bhagwan Sahay @ Devi Ram who stated that he know accused Deep Chand as the accused is living in the same locality where he is living. Before two years, his son Subhash had got

love marriage with Kamlesh D/o accused Deep Chand and accused Deep Chand had got lodged an FIR against his son and his son was arrested by the police of P.S. Palwal. Thereafter accused Deep Chand had compromised the matter and after two or three months, he came to know that Kamlesh has died.

44. PW40 is M.N. Vijayan, Nodal Officer from Tata Tele Services Ltd. who proved the call details of mobile no. 9255597461 belonging to Deep Chand as Ex. PW40/C.

45. PW41 is Constable Rajesh Kumar who has deposed on the lines of PW22 and PW26.

46. PW42 is ASI Satbir Singh from P.S. Palwal Camp, Faridabad, Haryana who recorded the arrival and departure entries of Inspector Dinesh Kumar and proved the same as Ex. PW42/A and Ex. PW42/B.

47. PW43 is Rakesh Kumar who stated that the ration card in the name of accused Deep Chand had been issued from his shop.

48. PW44 is Head constable Jagbir who alongwith the IO went to Rohini Courts to join the investigation of this case and was with the IO during the arrest of accused Pramod @ Hakla and seizure of the case property.

49. PW45 is SI Ram Phal who had registered the FIR no. 222/06 in Palwal, Haryana regarding the missing of the daughter of accused Deep Chand and has proved the same as Ex. PW45/A.

50. PW46 is SI Ajay Solanki who reached at the spot on receipt of the call and remained with the IO during the whole investigation. He has duly proved all the memos and case property.

51. PW47 is Balwant Singh Yadav, Record Keeper from District Sessions Court, Faridabad who stated that case FIR No. 222/-06 U/s 363/366/376/34 IPC, P.S. City Palwal was decided by the concerned court and the accused persons had been acquitted vide order dated 7.1.2008.

52. PW48 is Head Constable Rakesh who joined the IO during the investigation of the case and has duly proved all the memos and case property.

53. PW49 is Inspector Dinesh Kumar, IO of the case who conducted the investigation of the case and has duly proved all the memos and case property.

54. Statement of accused persons U/s 313 Cr.P.C. was recorded wherein accused stated that they have been falsely implicated in the present case and police have framed them in a blind murder case. Accused Deep Chand further stated that he had brought his daughter to Delhi to get her married in a good family. In Delhi they showed her to a good family and both the families liked the boy and girl. Happily they came back to Palwal but in late night his daughter Kamlesh went missing. As earlier also she had gone once without telling or asking anyone in the family, so they concluded that she was not interested for arrange marriage and therefore they did not report the matter to anyone

fearing insult etc. After about a month police came to his house in Palwal and told them that their daughter was killed and they arrested them falsely.

55. Accused Deep Chand, Pramod @ Hakla and Kanti Prasad did not chose to lead any evidence in defence. Accused Subhash @ Raju and Dharmender chose to lead evidence in defence.

56. Accused Dharmender examined himself as DW1. He deposed that on 6.9.2006, he had come to Tis Hazari Courts to attend a date of hearing in the court of Police Station Model Town in case FIR No.792/05 u/s 306/34 IPC and at around 11.30/12.00 noon, he was picked up by the police officials of Police Station Roop Nagar from the court premises itself. He produced the certified copy of the court order-sheet dated 6.9.2006 which is Ex. DW1/A.

57. Accused Deep Chand was examined as DW2 who deposed that on 13.7.2006, he had brought his daughter to Delhi at Kanti Prasad's house for the purpose of showing her to a good family in order to get her married. Both the families had liked the boy and the girl respectively and around at 11/12 p.m. he , his son Subhash and his daughter Kamlesh reached back to their house at Palwal. Early morning on the next day, his wife Kiran woke him up and told that Kamlesh is missing. They searched her for the entire day but could not locate her and finally they concluded that as earlier also once she had gone without telling or asking anybody in the family, she was not interested in arrange marriage and, therefore, they did not suspect anyone and did not make any formal report. However, they moved an informal application to Police Station Palwal stating the abovementioned facts. He proved the report as Ex. DW2/A.

58. I have heard the Ld. Counsel for accused persons at length as well as Ld. APP for the state and have carefully perused the record.

59. Ld. APP for the state argued that the prosecution has established the chain of circumstances beyond any reasonable doubt; the contradictions as pointed out are minor in nature which are liable to be ignored; there is no major discrepancy in the prosecution story and all material witnesses have fully supported the prosecution case and there is nothing in their lengthy cross-examination so as to assail their deposition. Ld. APP for the state vehemently argued that the prosecution had established its case by completing the chain of circumstantial evidence and the evidence on record has nowhere been assailed in any manner therefore, accused be convicted for the offence of murder.

60. On the other hand, Ld. Defence Counsel argued that chain of circumstantial evidence is not complete. There is no last seen evidence and identity of dead body is not established by prosecution. Therefore, all the accused are entitled for acquittal.

61. Admittedly there is no eye witness of the present case and entire case rests upon the circumstantial evidence. The law relating to circumstantial evidence is very clear and has been laid down by the Hon'ble Apex Court in various judgments again and again.

62. It has been held in Ramesh Bhai & Anr. Vs. State of Rajasthan 2009 VIII AD (S.C.) 313 that:-

"It has been consistently laid down by this court that where a case rests squarely on circumstantial evidence, the reference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of accused or the guilt of any other person. (See Hukam Singh Vs. State of Rajasthan, AIR 1977 SC 1063, Eraden & Ors. Vs. State of Hyderabad AIR 1956 SC 316, Erabhadrapa Vs. State of Karnataka AIR 1983 SC 446, State of U.P. Vs. Sukhban & Ors. AIR 1985 SC 1224, Balvinder Singh Vs. State of Punjab AIR 1987 SC 350, Ashok Kumar Chatterjee Vs. State of M.P. AIR 1989 SC 1890. The circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances".

63. In Bhagat Ram Vs. State of Punjab AIR 1954 SC 621, it was laid down that :-

"Where the case depends upon the conclusion drawn from circumstances the cumulative effect of circumstances must be such as to negative the innocence of the accused and bring the offence home beyond any reasonable doubt".

64. In C.Chenya Reddy & Ors. Vs. State of A.P. 1996 (10) SCC 193, it has been observed that :-

"In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence....."

65. In Padala Veera Reddy Vs. State of A.P. & Ors. AIR 1990 SC 79, it was laid down that :-

"When a case rests upon circumstantial evidence, such evidence must satisfy the following tests:-

(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established.

(2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused.

(3) The circumstances, taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and (4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his

innocence"

66. In state of U.P. Vs. Ashok Kr. Srivastava 1992 Cr.L.J. 1104, it was pointed out that:-

"Great care must be taken in evaluating the circumstantial evidence and if the evidence relied on is reasonably capable of an inference, the one in favour of the accused must be accepted. It was also pointed out that the circumstances relied upon must be found to have been fully established and the cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt".

66. Sir Alfred Mills in his admirable book "Mills Circumstantial Evidence"(Ch. VI) lays down the following rules specially to be observed in the case of circumstantial evidence:-

(i)the facts alleged on the basis of any legal inference must be clearly proved and beyond reasonable doubt connected with the factum propandum,

(ii)the burden of proof is always on the party who asserts the existence of any fact, which infers legal accountability,

(iii)in all cases, whether of direct or circumstantial evidence the best evidence must be adduced which the nature of the case admits.

(iv)in order to justify the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused and incapable of explanation, upon any other reasonable hypothesis than that of his guilt.

(v)If there be any reasonable doubt of the guilt of the accused, he is entitled as of right to be acquitted.

68. These aspects were also highlighted in State of Rajasthan Vs. Rajaram, 2003 (8) SCC 180, State of Haryana Vs. Jagbir Singh & Anr. 2003 (II) SCC 261 & in State of U.P. Vs. Ram Balak & Anr. 2008 (13) scale 541.

66. The present case of prosecution is also based entirely on the circumstantial evidence as there is no eyewitness to the incident. I have considered the rival submissions made at bar and have carefully gone through the evidence on record. The case of prosecution is based on circumstantial evidence and the prosecution has claimed to have established its case by proving the following circumstances in evidence which form the chain of circumstantial evidence:-

(i) Last seen evidence.

(ii) Recovery of the dead body of unknown female.

(iii) Identification of the deceased.

(iv) Recovery of the weapon of offence i.e. stone and

the acid bottle.

- (v) Arrest of accused persons and their disclosure statements.
- (vi) Recovery of the clothes of deceased at the instance

of accused persons and also the clothes of accused at their own instance.

(vii) Motive of Crime.

67. In order to prove the guilt of the accused beyond reasonable doubt, it is bounden duty of the prosecution to establish that the circumstances concerned must have been established and the circumstances should be of a conclusive nature excluding every hypothesis except the one that proves the guilt of the accused. It is further required to prove that the chain of circumstantial evidence is complete as not to leave any reasonable ground for the conclusion which is consistent with the innocence of the accused and it must have been shown that in all human probability, the offence must have been committed by the accused.

68. I have closely scrutinized the evidence and the material on record to find out whether the prosecution has succeeded in fulfilling the above requirement and has established its case beyond reasonable doubt.

Last Seen Evidence:-

69. Witnesses of the last seen evidence are PW6 Pushpa, PW10 Dharampal, PW14 Smt. Kirti, PW27 Shyamwati W/o accused Kanti Prasad, PW29 Sh.Jagdish, brother of accused Deep Chand, PW38 Smt. Kiran, wife of accused Deep Chand and mother of deceased.

70. PW6 Pushpa has stated that she only know accused Kanti Prasad present in the court. She stated that a girl had come at the house of accused Kanti Prasad who is the Fufa of that girl. Talks about her marriage was being done by accused Kanti Prasad and the marriage was to be settled with her nephew Mahesh S/o Dharam Pal. After some days, she came to know that the girl has run away with someone and that girl was from Palwal. She denied making any statement to the police. She admitted that the name of girl was Kamlesh and on 13.7.2006, she alongwith her neighbour Dharam Pal and Kirti went to see Kamlesh at the jhuggi of Kanti Prasad but she denied the remaining facts of the prosecution case that Kamlesh had refused to get married or that she had an arguments with her brother Raju, father Deep Chand and Fufa Kanti Prasad regarding her marriage and that accused persons became irritated with her. She also denied that at about 8/9 p.m. on the same day, accused Deep Chand, Raju and Kanti Prasad left their jhuggi alongwith Kamlesh and she alongwith her neighbour Dharam Pal and Kirti had seen them going from the Jhuggi of Kanti Prasad. Again she stated that she did not identify Kamlesh in the photographs shown to her by the police. Nor she identified the photographs of dead body shown to her as that of Kamlesh in the court. In her cross, she stated that when they went to the house of Kanti Prasad then, at that time, no person or relative from the side of girl Kamlesh was present and she had not seen the father and brother of Kamlesh

on that day or before. This witness has not supported the case of prosecution except for the fact that she had gone to Jhuggi of accused Kanti Prasad to see the girl Kamlesh for the marriage of her nephew. Though she has stated that the girl was from Palwal but she has not stated that the girl was the daughter of accused Deep Chand or the girl shown in the photographs is the same Kamlesh. She has further denied the fact that she saw Kamlesh going with accused Deep Chand, Raju @ Subhash and Kanti Prasad at about 8/9 p.m. on 13.7.2006.

71. PW10 is Sh. Dharam Pal, father of the boy Mahesh and also the neighbour of accused Kanti Prasad who had also gone with PW6 to see the girl Kamlesh as per the prosecution case. This witness stated that he only know accused Kanti Prasad and Deep Chand and he does not know remaining three accused persons. He stated that accused Deep Chand had come to him alongwith accused Kanti Prasad to talk about the engagement of his son Mahesh with his daughter. He asked accused Deep Chand and Kanti Prasad to show the girl to his family members and thereafter the accused persons had shown the girl to his family members. His family had liked the girl and the accused persons had liked his son. He further stated that accused Deep Chand had told him that he and his family members will come after two or four days for engagement but thereafter they did not come and nothing else happened in his presence. This witness was also cross examined at length by Ld. APP for the state but he denied having made any statement to the police. He stated that he had not seen the girl of accused Deep Chand who was shown to his family members for the engagement of his son Mahesh. He further stated that police had not shown him the photographs of dead body of a girl and he had not identified the same as that of Kamlesh. He also denied the fact that Kamlesh refused for the marriage before them and she had a hot talk with her father, brother and Fufa in this regard. He further denied the suggestion that they lastly saw the accused Deep Chand, Subhash @ Raju and Kanti Prasad taking their daughter Kamlesh from the Jhuggi at about 8/9 p.m. Even in the court he stated that he does not know the girl who is shown in the photographs and he has not seen that girl. In his cross, he stated that when they went to see the girl , neither accused Deep Chand nor Kanti Prasad were present there.

72. PW14 is Smt. Kirti who is the sister of said boy Mahesh and had also gone to the Jhuggi of accused Kanti Prasad to see the girl. She stated that she saw the girl and returned to her house and thereafter she does not know anything about the case and nothing else happened in her presence. This witness has also been cross examined at length by Ld. APP for the state but she stated that she had not seen the photographs of dead body of the girl and had not identified the dead body as that of Kamlesh on the basis of her body structure, rings, a thread and chunni. She further admitted that her neighbour DharamPal and Pushpa also went to see the girl at the jhuggi of accused Kanti Prasad and the name of that girl was Kamlesh but she denied that the accused Deep Chand, Subhash@ Raju and Kanti Prasad were present there at that time. She also denied that Kamlesh refused to get married with her brother and started abusing her father and brother. She also denied the fact that accused persons became irritated and during that night on 13.7.2006 at about 8/9 p.m. she saw the girl Kamlesh being taken away by her father, brother and Fufa Kanti Prasad to somewhere while she was standing with Dharam Pal and Pushpa outside their jhuggi. She further denied the fact that police had shown any photographs to her and she had not identified the dead body as of Kamlesh.

73. Similarly PW 27 is Smt. Shyamwati W/o accused Kanti Prasad and sister of accused Deep Chand. She stated that her brother Deep Chand, nephew Subhash @ Raju and niece Kamlesh had come at her house before one month of the arrest of her husband Kanti Prasad but they came in the morning and went in the evening. Nothing else happened in her presence. She stated that her statement had been forcibly obtained by the police and she does not remember about that statement. She further stated that the police had not shown the photographs of dead body of a girl to her and she had not identified the same as that of Kamlesh D/o Deep Chand. She further denied that in the photographs the Shamiz, Chunni, a thread worn in neck and finger rings is of Kamlesh and on the basis of finger rings, she had identified the same as that of Kamlesh. She further denied the fact that Kamlesh was also known with the name of Kamla Rani and Neelam. She further stated that accused Deep Chand, Subhash @ Raju, Kanti Prasad alongwith Kamlesh had left her house at about 8/9 p.m but her husband returned after 5/10 minutes. She has admitted that she has not seen Kamlesh after that day but she denied that the photographs of dead body of a girl shown in the court are that of Kamlesh.

74. PW29 is one more witness Sh. Jagdish, the younger brother of accused Deep Chand who stated that Kamlesh ran away from her house and got married with a boy namely Subhash who was not of their caste. Thereafter a case was registered against them and police had recovered Kamlesh and handed over to him and his brother Deep Chand. Thereafter, he has not seen Kamlesh at the house of Deep Chand or in the locality. He denied having made any statement to the police. He denied the suggestion that accused Deep Chand and Subhash @ Raju had taken Kamlesh to Delhi for getting her married with some other boy and thereafter they returned after two/three days and on inquiry, they disclosed that they had got married Kamlesh in Delhi somewhere. He has admitted the fact that Kamlesh has not been seen thereafter till today but he denied having made any statement to the police and the rest of the case of prosecution.

75. PW 38 Smt. Kiran is the mother of deceased and wife of accused Deep Chand. This witness also has not identified the dead body of deceased and stated that she does not know anything about this case. She denied making any statement to the police. She further denied that since Kamlesh eloped with one Subhash, therefore they were feeling insulted in the society and thereafter she was taken to house of accused Kanti Prasad, her Fufa for her marriage but thereafter she did not return with accused Deep Chand and Subhash. She further stated that she did not identify the photographs of dead body of female as that of her daughter. She even refused to identify the same in the court also.

76. Thus, so far as the witnesses examined by the prosecution are concerned, then though PW6, PW10, PW14, PW27, PW29 and PW38 all are hostile and have not supported the case of prosecution but during their examination, one or two things that have come on record in favour of prosecution is that the daughter of Deep Chand was Kamlesh and Kamlesh was shown to one boy Mahesh and his family members at the house/jhuggi of accused Kanti Prasad, Fufa of the girl Kamlesh. But the story of prosecution regarding the last seen evidence that Kamlesh was seen going from the jhuggi of accused Kanti Prasad in the company of her father Deep Chand, brother Subhash @ Raju and Fufa Kanti Prasad has not been established by the prosecution. PW6, PW10 and PW14 are the witnesses of last seen evidence but none of them have deposed that they saw Kamlesh going with accused Deep Chand, Subhash @ Raju and Kanti Prasad from the jhuggi of Kanti Prasad at about 8/9 p.m. in

the evening. Accused Deep Chand has examined himself as DW2 and in the court also, he has stated that he brought his daughter to Delhi on 13.7.2006 for the purpose of showing her to a good family in order to get her married and thereafter at about 11/12 p.m. he alongwith her son Subhash @ Raju and daughter Kamlesh reached back to their house at Palwal. On the next day, in early morning, his wife Kiran woke him up and told that Kamlesh is missing. They searched her for the entire day but could not locate her. Thereafter, they concluded that as earlier also she had gone once without telling anybody in the family, now again she has eloped with someone. They did not make any formal complaint to the police but moved an informal application to police station Palwal stating the abovementioned facts that they did not suspect anyone and did not want any investigation. Thus, so far as the fact that Kamlesh was shown to a boy Mahesh and his family members at the house of accused Kanti Prasad on 13.7.2006 is concerned, then same stands proved by the prosecution but the fact that thereafter Kamlesh was lastly seen going with accused Kanti Prasad, Deep Chand and Subhash @ Raju from the jhuggi of accused Kanti Prasad at about 8/9 p.m. on the same day has not been stated by any of the prosecution witnesses.

Recovery of Dead Body of Unknown Female:

77. The next circumstantial evidence is the recovery of dead body of unknown female near FCI Godown, Shakti Nagar and the witnesses to this circumstantial evidence are PW1, PW8, PW15, PW20, PW21, PW31, PW46, PW48 and PW49, IO of the case. So far as the recovery of dead body of unknown female is concerned then, same has been duly proved on record by the prosecution.

78. PW8 is Ct. Sunder Lal from Mobile Crime Team who stated that a wireless message was received to the Mobile Crime Team that the dead body of a woman is lying behind FCI Godown in vacant space near Railway Line, Shakti Nagar, Delhi. He alongwith the other staff of crime team reached at the spot and took the photographs of site and dead body. A blood spotted big stone and an empty plastic bottle was lying near the dead body. It appeared that acid was thrown on the face of dead body. He took the photographs of the site and duly proved the same. In his cross, nothing material has come out and he has stated that dead body was lying on the Pagdandi in between the ground and this Pagdandi could not be depicted in the photographs.

79. PW15 is Asfaq Ali who stated that on 14.7.2006 at about 8 a.m. he went to ease himself. When he went behind the Mazar of Peer Baba, Shakti Nagar, he saw the naked dead body of a woman. He came to his house and informed the police on 100 number though his mobile no. 9891176251.

He stated that the police had recorded his statement on the same day when he informed the police but he admitted that the mobile number given in Ex. PW15/Dx does not belong to him. It may be mentioned that in Ex. PW15/Dx, the mobile number of 9 digits is mentioned instead of 10 digits. Nothing material has come out of the cross examination of this witness also.

80. PW20 is Constable Pradeep Kumar who took the dog squad to the spot. He stated that the scene of crime was got smelled to the dog but the dog did not go in any direction for pointing out the direction of accused. Though there are slight discrepancies in the statement of witnesses regarding the fact as to whether the dead body was wearing Salwar Kamij or was naked as PW 20 has stated that the dead body was lying wearing Salwar Kamiz where as the photographer deposed otherwise but from these minor discrepancies, the recovery of the dead body of unknown female cannot be ruled out. PW20 was cross examined by the Ld. APP for state when he stated that the dead body was naked and a grey colour Sahmmez was wearing on some portion of her body but due to confusion with the facts of other case, he has deposed otherwise.

81. PW 21is ASI Puran Mal who was posted as ASI in PCR on 14.7.2006. He stated that on that day, at about 8.41 a.m. he had received an information through mobile phone from one Yashpal that the dead body of a woman is lying near FCI Godown, near Mazar, Shakti Nagar. He recorded this information in the required form and submitted the form to NET for further actions. This witness has admitted that the mobile number recorded by him in PCR form is 989117621 and he stated that a mistake might have occurred by him in recording the mobile number of informant. So far the discrepancies in the name of informant is concerned, then as per the prosecution, the name of informant was Ashfaq whereas PW21 has stated that he received the phone from one Yashpal. Since there is phonetic similarity between Ashfaq and Yashpal, therefore, if PW21 had recorded some wrong name, no adverse inference for the same can be drawn as the person who gave the information to PCR i.e. PW Ashfaq has been duly examined by the prosecution and nothing has come out of his cross examination also. Moreover, the fact still remains that the dead body of an unknown female was recovered.

82. PW31 is Constable Satish Kumar who alongwith SI Ajay Solanki, went to the spot after the receipt of information regarding the dead body of unknown female at FCI Godown, Shakti Nagar. This witness also has stated that a heavy stone was lying near the head of dead body and there were blood stains on the stone. He has further stated that a plastic bottle was also lying near the dead body, that bottle was checked and it contained half filled acid. PW46 is SI Ajay Solanki. From the testimony of this witness also, it stands proved that the recovery of dead body of an unknown female was made on 14.7.2006 behind FCI Godown, Railway Line, Shakti Nagar, Delhi and on receipt of the information, the police officials of P.S. Roop Nagar reached at the spot.

83. PW1 is Dr. S. Lal, Jr. Specialist Forensic Medicine from Subzi Mandi Mortuary who conducted the postmortem on the dead body of unknown female on 20.7.2006 and he stated that the grey colour Shamiz soaked in blood, a loose violet colour Chunni, two silver colour metallic bangles on left wrist, black sacred thread around the right wrist and beaded black colour hair band was present on hair. The face was disfigured due to injury present over the face. There were 14 ante mortem injuries which he had detailed in his postmortem report Ex. PW1/A. The cause of death was shock due to ante mortem cranio-cerebral damage produced by heavy blunt force impact and the injuries were sufficient to cause death in ordinary course of nature. The time since death was about one week. Thus, from the postmortem report also, it stands proved that the injuries were antemortem in nature and the time of death was intervening night of 13.7.2006/14.7.2006 as the dead body was recovered in the morning of 14.7.2006 itself . The injury no. 1 to 13 were caused by blunt force

impact and injury no.14 was caused by corrosive acid burn.

Identification of Deceased:-

84. After the recovery of dead body of unknown female, the next circumstantial evidence to be established by the prosecution is identification of the same. As discussed above in circumstantial evidence no.1, PW6, PW10, PW14, PW27, PW29 and PW38, none of these witnesses have identified the photograph of dead body. They have stated that the photographs of dead body of unknown female is not of the Kamlesh, daughter of accused Deep Chand. In addition to these witnesses, the other witnesses examined by the prosecution to established the identity of deceased is PW2, PW9, PW12, PW16, PW28, PW30, PW33, PW36, PW39, PW43, PW46, PW48 and PW49.

85. PW2 is Sh. Subhash Chand, Finger Print Expert. He deposed that on 15.11.2006, a letter was received in the office of Finger Print Bureau and was diarised in their office. The letter was having enclosures of specimen thumb impression slips of unknown deceased and one original copy of Affidavit executed by one Kamla Rani D/o Sh. Deep Chand on 17.4.2006 bearing questioned thumb impression. He tallied the questioned thumb impression with specimen thumb impression and on examination, he found that all the thumb impressions tallied with each other. He gave his report Ex. PW2/C. It may be mentioned that this is the only evidence on record brought by the prosecution to establish the identity of deceased. So far as the relatives i.e. the mother and Bua or the other relatives of deceased are concerned, then they have neither identified the photographs of dead body nor other belongings of the dead body. They have stated that the photographs does not belong to Kamlesh and the articles shown to them also does not belong to Kamlesh. Thus, PW2 is the solitary evidence brought on record by the prosecution to establish the fact that the thumb impression of dead body match with that of the thumb impression of affidavit which was executed by one Kamla Rani at the time of her marriage with one Subhash. It may be mentioned that during the entire chief examination of PW 46 SI Ajay Solanki who immediately reached at the spot after receiving the information of dead body and remained with the IO during the whole investigation and PW49 Inspector Dinesh Kumar IO of the case, this fact has not been cleared by both of them as to when they took the thumb impression of the dead body. The crime team was also called at the spot and one of the witness PW12 of Crime team has deposed that he was not able to develop any chance prints from the acid bottle. This witness also has not stated that he took the thumb impression of the dead body on the instructions of IO. Neither PW49 who is the IO of case has stated that he took the thumb impression of the dead body. The dead body was sent for postmortem on the same day and thereafter it was preserved there for 72 hours as it was not identified by anybody. Whether these thumb impressions were taken before sending the dead body to Mortuary or in the Mortuary, when the IO took the thumb impressions has not been explained by the IO. Whether the thumb impressions were taken in the presence of some doctors at the mortuary or in the presence of any police official has not been explained either by PW46 or by PW49, IO of the case. I have gone through the entire record again and again but this fact is quite baffling as to when the thumb impressions of the dead body were taken. Thus, the important link evidence in the chain is missing. One PW9 ASI Mahavir Singh from Palwal has been examined and he stated that accused Deep Chand had reported the abduction of his daughter Kamlesh by one Subhash on 19.4.2006 at P.P. Bhawankund of P.S. Palwal City. He further stated that on the statement of accused Deep Chand, he recorded the FIR no.

222/06 dated 19.4.2006. This witness was cross examined by the Ld. APP for state also and during his cross examination, he stated that he came to know that prosecutrix Kamlesh was also known with the names of Neelam and Kamla Rani. Admittedly, the affidavit which has been sent to PW2 for examination contained questioned thumb impression of Kamla Rani and not of Kamlesh. PW9 in his cross has admitted that he had only mentioned the name of prosecutrix as Kamlesh and he had not mentioned that she was also known with the name of Kamla Rani and Neelam. He has admitted this fact that he did not record the statement of accused Deep Chand to the regard that at the time when he handed over the prosecutrix Kamlesh to Deep Chand, he was uttering that due to the act of Kamlesh they are defamed in the society.

86. PW12 is Head Constable Dalip Singh from Mobile Crime Team who stated that he tried to develop the chance print from the plastic bottle but no chance print could be developed from the acid bottle found at the spot. It may be mentioned that he has also not stated this fact he obtained the thumb impressions of deceased and handed over the same to IO of the case or the IO instructed him to obtain the thumb impressions of deceased. Even the Doctor i.e. PW1 has not stated any such thing. What to talk of other witnesses even the IO or PW46 SI Ajay Solanki who accompanied the IO has not stated about this fact as to when they took the thumb impression of deceased on the paper and sent the same to Finger Print Expert for his report.

87. PW16 Sh. Harpreet Singh, Senior Lab Technician from Aruna Asaf Ali Hospital is one more important witness who stated that on 22.9.2006, the IO of the case called him and they went to FSL office in Forensic Science Laboratory. Accused Deep Chand alongwith a lady named Kiran W/o Deep Chand were present there. The concerned official of FSL had given him a labeled vial of FSL and on the direction of IO of the case, he had taken the blood samples of accused Deep Chand and his wife Kiran in presence of doctor and officials of FSL and had put the same in two vials for DNA purpose. PW16 has stated that he had taken the blood samples of accused Deep Chand and his wife Kiran for DNA purpose, but it may be mentioned that there is no DNA report on record. There is no expert from the FSL examined by the prosecution in this regard. What to talk of examination, even no witness from FSL has been cited by the IO who can depose about this fact that the DNA report of accused Deep Chand or his wife matched with that of deceased. DNA report was the exclusive proof regarding the identity of deceased but for obvious reasons, it seems that the same has been withheld by the IO from the court. If the blood samples of accused Deep Chand and his wife were taken for DNA purpose in Forensic Science Laboratory itself, then why that DNA report has not been placed by the IO on record, why the official from FSL who examined the blood samples and gave the DNA report has not been cited as witness by the prosecution during the whole period of four years has not been explained by the prosecution. The DNA report is an important piece of evidence and for withholding the same from the court, not only an adverse presumption shall be drawn against the prosecution but the only inference that can be drawn is that the prosecution has failed to establish the identity of dead body.

88. PW28 is Subhash, the boy who had love affair with Kamlesh. He has stated that he had love affair with Kamlesh before two or two and half years ago and he and Kamlesh ran away from their houses and came to Delhi and they got married with each other in Arya Samaj Temple. After marriage, they returned to their house and police handed over Kamlesh to her father Deep Chand.

He denied that Kamlesh was threatened by her father or the caste was barrier between their marriage. He further stated that he came to know that Kamlesh has died. He further proved the photographs of his marriage but he stated that he cannot identify the photographs of dead body. Neither in his examination in chief nor in his cross examination by Ld. APP for the state, this witness has proved the affidavit sworn by them at the time of their marriage. Though this witness has proved the factum of marriage at Arya Samaj Temple, Delhi but he has not deposed the fact that Kamlesh had put her signatures as Kamla Rani on the affidavit or she married him with the name of Kamla Rani. Neither in examination in chief nor in his cross examination by Ld. APP for the state this fact has come on record nor any such suggestion has been put to PW28 that Kamlesh was also known with the name of Kamla Rani and Neelam and she signed the affidavit of marriage as Kamla Rani. This witness denied the whole statement being made to the police.

89. PW30 is Sh. Madan Lal who proved the ration card of accused Deep Chand as Ex. PW30/A but in his cross this witness admitted that SI Jagdish Chand, Food and Supply Department, Palwal had not signed Ex. PW30/A in his presence and the ration card was not issued in his presence. He further stated that Sh. Jagidsh Chand who signed the same is still posted in their office. In the ration card Ex. PW30/A also the name of daughter of Deep Chand is mentioned as Kamlesh and not Kamla Rani.

90. PW 33 is one Vikas, a Sewadar in Arya Samaj Vedic Marriage Mandal, Delhi who brought the summoned record of marriage between Subhash and Kamla Rani. He stated that the certificate Ex. PW33/A is issued by the President of Arya Samaj Vedic Marriage Mandal. During the cross, this witness admitted that Sh. Deepak Chaudhary who is the President of their institution is an Advocate and is practicing in Tis Hazari Courts and is having his own chamber. He has admitted that the marriage was not solemnized in his presence. Neither Ex. PW33/A or Ex. PW33/B i.e. the marriage certificate and affidavit were signed in his presence. He stated that he has never seen Mr. Deepak Chaudhary signing any other documents except the marriage certificate. He further admitted that the photographs of marriage and certificate have become fade due to water and moisture. So far as the factum of marriage is concerned, then Subhash himself has admitted that he got married with Kamlesh in Arya Samaj Temple, Delhi but whether the said Kamlesh was also known with the name of Kamla Rani is a question to be proved by the prosecution.

91. PW36 is one more witness from the Government Girls Senior Secondary School, Palwal City, Haryana who proved the date of birth record of Kamla Rani D/o Deep Chand. He duly proved the admission and withdrawal register of students of the school and as per that record, Kamla Rani D/o Deep Chand was admitted in 7th class in their school. As per his testimony, on 28.3.2006, school leaving certificate was issued to her and date of birth of said Kamla Rani is 15.6.1987. So far as Ex. PW36/A is concerned, then it mentions the name of one Kamla Rani D/o Deep Chand but whether the accused Deep Chand and his daughter Kamla Rani are the one and the same person for whom the prosecution has lodged the present case is not clear as except for the date of birth no other particulars are mentioned in Ex. PW36/A.

92. PW39 is Sh. Bhagwan Sahay, father of boy Subhash but this witness has also not stated anything against the accused except for the fact that about two years ago, his son Subhash had got love

marriage with Kamlesh.

93. PW43 is one more witness who has proved the ration card entry of accused Deep Chand. But it also mentions Kamlesh and not Kamla Rani, neither he has identified the photographs of dead body in the court. He stated that he did not make any statement to the police.

94. PW 46, PW48 and PW49 are the police officials but as discussed above, their testimony also creates a doubt regarding the identity of dead body. Therefore the one important link of circumstantial evidence i.e. identity of dead body has not been established by the prosecution beyond reasonable doubt.

Recovery of Weapon of Offence:-

95. PW12, PW13, PW34, PW46, PW48 and PW49 are the witnesses of prosecution regarding the next circumstantial evidence - recovery of weapon of offence.

96. PW12 is Head Constable Dalip Singh, a member of Mobile Crime Team who reached at the spot after receiving the information. He stated that a heavy stone was lying near the dead body and a plastic bottle of acid which contained some liquid was also lying near the dead body. He tried to develop the chance print from that plastic bottle but no chance print could be developed. He submitted his report Ex. PW12/A.

97. PW13 is SI Bhram Singh who was also in the mobile crime team. He also deposed that a heavy stone was lying near the dead body along with a plastic bottle having some yellow coloured liquid. There were blood stains on the stone which was lying near the dead body.

98. So far as the recovery of blood spotted stone or the said bottle of acid is concerned, then same stands duly proved by the prosecution. But the link evidence i.e. the purchase of acid bottle by accused Kanti Prasad has not been proved on record by the prosecution.

99. PW34 is one Sh. Balbir Singh who as per the prosecution sold the acid bottle to accused Kanti Prasad but this witness has stated that he is running a shop of soap under the name and style of Burma Soap. He never sold acid to anybody. He further volunteered that he does not sell acid on his shop and only sell cloth washing soap and bathing soap and none else. This witness has been cross examined at length by Ld. APP for the state but he stated that he did not make any statement to the police. He further denied that on 23.8.2006, the police came to his shop along with accused Kanti Prasad and that accused had told the police that he had purchased a bottle of acid from his shop on 13.7.2006 and used the acid in commission of murder of Kamlesh. He stated that he had not identified the accused Kanti Prasad as the same person who had purchased a bottle of acid on 13.7.2006 from his shop. He denied that police prepared any pointing out memo of his shop at the instance of accused Kanti Prasad. He further stated that he did not make any statement before the police that he had not issued bill for sale of acid bottle to Kanti Prasad. However he admitted his signatures on the pointing out memo and when again asked, he stated that he is an old man and he does not remember how and when he had signed on this memo. Someone might have played a

deceit upon him and might have obtained his signatures and he does not remember who was he due to lapse of time and his old age. Thus, the important link witness of prosecution who as per the prosecution sold the acid bottle to accused Kanti Prasad has also not supported the case of prosecution and once again, the chain of circumstantial evidence regarding the acid bottle breaks here.

Arrest of accused persons and their disclosure statements:-

100. Now coming to the next circumstantial evidence i.e. arrest of accused persons and their disclosure statements.

PW22, PW26, PW35, PW37, PW40, PW41, PW44, PW49, PW4 and PW5 are the witnesses of prosecution regarding this circumstantial evidence. As per the prosecution case, PW22, PW26 and PW41 were on patrolling duty on 20.8.2006 at P.S. Uttam Nagar when Head constable Harpal Singh received a secret information that a boy is standing near Metro Station, West Uttam Nagar and he is involved in the murder case of a girl near Shakti Nagar Railway Line. PW22 further deposed that on this information, he organized a raiding party and requested 4/5 passers by to join the raiding party but none agreed. Thereafter he alongwith the raiding party and secret informer went near Metro Station, Uttam Nagar where the accused Pramod @ Hakla was standing and he was apprehended by them. On inquiry, the accused Pramod @ Hakla disclosed his name and made disclosure statement that he alongwith accused Dharmender, Kanti Prasad, Raju and Deep Chand has committed the murder of Kamlesh D/o Deep Chand near FCI Godown, Shakti Nagar, Delhi. The disclosure statement of accused Pramod @ Hakla is Ex. PW22/A . Thereafter the accused was taken to FCI Godown, Railway Line, Shakti Nagar, Delhi and he pointed out to the place of occurrence vide memo Ex. PW22/B. A message was sent to P.S. Roop Nagar regarding the arrest of accused Pramod @ Hakla. Accused Pramod @ Hakla was produced before the concerned MM from where he was arrested in this case. There is slight improvement in the testimony of PW22 given in the court with that given to the IO. He was confronted with all these improvements and he further stated that he told these facts to the IO but when confronted none of these improvements finds mention in his statement given to the IO. Moreover there are discrepancies in the statement of PW22, PW26 Constable Mahavir Singh and PW41 Constable Rajesh Kumar.

101. PW22 has stated that it took about 30 minutes in interrogating the accused Pramod @ Hakla whereas PW26 has stated that it took about one hour and fifteen minutes in interrogating the accused Pramod on the spot. PW41 though has not been cross examined on this point but thereafter as per PW22, from the spot the accused Pramod led them to FCI Godown, Railway Line, Shakti Nagar where they went in TSR and they stayed there for about 15 minutes. They did not try to join any public witness there and thereafter they came back to Police Station Uttam Nagar in the same TSR. As per PW22, they informed the police officials of Police Station Roop Nagar on telephone after reaching back at Police Station Uttam Nagar. They made the telephone call from landline number of Police Station Uttam Nagar at about 5 p.m. Whereas as Per PW26 from the spot, they reached first to P.S. Uttam Nagar where DD entry regarding arrest of accused was recorded and thereafter they went to the spot at Shakti Nagar alongwith accused Pramod @ Hakla in a TSR. From the spot they went to DDU hospital and then to P.S. Janak Puri on the TSR at around 7/7.30 p.m.

PW26 further stated that there was nobody present at the spot at that time and Head Constable Harpal informed the P.S. Roop Nagar regarding the arrest of accused from his mobile phone at about 6 p.m. PW41 has given an entirely different version where in he has stated that from the spot they reached to P.S. Uttam Nagar where they made the DD entry and thereafter they proceeded to FCI Godown, Shakti Nagar, Delhi in a TSR. They reached there at about 6 p.m. in the evening and thereafter they went to DDU hospital for getting the medical examination of accused Pramod @ Hakla done and thereafter they proceeded to P.S. Janak Puri in a different TSR at about 7.30/7.45 p.m. He has further stated that Head Constable Harpal had informed the police station Roop Nagar regarding the arrest of accused from the landline phone of a telephone booth. Thus, all the three witnesses have given different stories regarding how they proceeded when accused Pramod @ Hakla was arrested by them.

102. PW35 is Constable Ashok Kumar, the DD writer who proved the DD entry regarding arrest of accused Pramod @ Hakla. PW37 and PW40 are the Nodal Officers from Bharti Airtel and Tata Tele Services Ltd. Respectively. PW37 has proved the call details of Shyamwati W/o Kanti Prasad from the period 1.7.2006 to 9.11.2006 as Ex. PW37/C and PW40 has proved the call details of accused Deep Chand of his mobile phone number 9255597461 for the period 1.7.2006 to 31.7.2006 as Ex. PW40/C.

103. PW44 is Head Constable Jagbir who joined the IO during the investigation of the case on 21.8.2006 and went to Rohini Courts for the arrest of accused Pramod @ Hakla. He has stated that the disclosure statement of accused was recorded and thereafter the accused Pramod @ Hakla took them to Rana Pratap Bagh in main bus stand and on his pointing out, accused Deep Chand, Kanti Prasad and Subhash @ Raju were arrested and thereafter their disclosure statement Ex. PW44/H1 to Ex. PW44/H3 were recorded. Accused also pointed out to the place of occurrence behind FCI Godown and also led them to Ganda Nala, Shakti Nagar from where the clothes of deceased were recovered. So far as the recovery of clothes is concerned, then same shall be discussed in the next circumstantial evidence. So far as the call details of accused persons are concerned, then neither the mobile phone numbers of accused Pramod @ Hakla or Dharmender are on record nor any other evidence regarding their mobile phone numbers is on record. The fact that accused Deep Chand or Kanti Prasad talked with each other on these mobile phones is concerned, then they are the relatives of each other. Accused Deep Chand is the brother of the wife of accused Kanti Prasad and they both are brother in laws of each other. In such circumstances, if they both talked with each other, then no inference can be drawn that the talks were only regarding the murder of deceased. As per the settled principle of law, the disclosure statement of accused is not admissible in evidence unless and until in consequence of that disclosure statement, recovery of fact or thing is made. So far as the pointing out memo of the place of incident or the weapon of offence i.e. the blood spotted stone and acid bottle is concerned, then recovery of dead body from FCI Godown already stands proved. However the identification could not be proved by the prosecution. The recovery of weapon of offence i.e. the stone with blood stains stands proved and also of the acid bottle. But these recoveries are not in consequence of disclosure statement of accused persons and these recoveries were already effected prior to the arrest of accused persons. In consequence of the disclosure statement of accused persons, the only recovery that has been made by the police officials is the agreement papers signed by accused Deep Chand for taking the loan from PW5.

104. PW4 is Sh. Ved Prakash, the brother of one Bhagat Singh. He deposed that on 23.8.2006 he was present at his house with his brother Bhagat Singh. Police came at his house and accused Deep Chand was with them. The police had asked his brother Bhagat Singh if he know accused Deep Chand on which he told that he know Deep Chand through his guarantor Ramesh Chand. Thereafter his brother had produced some papers on which the photographs of accused Deep Chand and Ramesh Chand were affixed and the police had seized the same. The page of one register was also given to the police by his brother Ex. P1. In his cross, this witness stated that when Rs. 5,000/- was taken by accused Deep Chand he was not present there and accused Deep Chand had not taken Rs. 5000/- from his brother in his presence. Bhagat Singh is examined as PW5 who deposed that on 24.7.2006 accused Deep Chand had taken a loan of Rs. 5,000/- from him. He was accompanied by one Ramesh Chand who used to work with him. The loan deed was reduced into writing in his loan register by him and accused Deep Chand and Ramesh Chand had put their thumb impressions on the written documents and also on stamp papers. He further stated that accused Deep Chand had not disclosed the reasons for taking loan of Rs. 5000/- to him. Thereafter on 23.8.2006, police came at his house alongwith accused Deep Chand and took away the page of register on which the loan agreement was written alongwith photocopies of ration card and blank stamp papers of Deep Chand and Ramesh Chand. This witness also did not support the case of prosecution fully and thereafter he was cross examined by the Ld. APP for state at length and he stated that he had asked accused Deep Chand to come on 24.7.2006 for taking loan of Rs. 5000/- alongwith a guarantor and stamp papers and copies of ration card for executing the loan agreement but accused Deep Chand told him that he has no time for executing the loan agreement as he has to give money urgently to somebody. Nothing material has come out of the cross examination of this witness. The only thing that has come on record after the disclosure statement of accused persons is the fact that accused Deep Chand had taken loan of Rs. 5000/- from PW5 Bhagat Singh and he needed the same for making the payment to someone. But again, the connecting evidence in the present case i.e. whether the same was required for the purpose of giving to hired killers i.e. to accused Pramod @ Hakla and Dharmender is missing and moreover for this amount of Rs. 5000/- which accused Deep Chand had taken after 10 days of incident, no inference can be raised that the amount was given to co- accused Pramod and Dharmender.

Recovery of clothes of deceased and accused peresons:-

105. Next circumstantial evidence is the recovery of clothes of deceased. PW19, PW24, PW32, PW42, PW46, PW48 and PW49 are the witnesses of this fact.

106. PW19 is the Diver Abdul Sattar who as per the prosecution case took out the dirty clothes of deceased from Ganda Nala. As per PW19, on 23.8.2006 he was called by the police of P.S. Roop Nagar from Wazirabad Pul where he used to say for diving in day time and police took him to Ganda Nala near railway line. The witness pointed out towards accused Subhash @ Raju and stated that he was present with the police and pointed to the place in Ganda Nala by throwing a small stone and told that he had thrown the clothes of deceased at that place in Ganda Nala. Thereafter he went inside the Ganda Nala in muddy water after removing his clothes and wearing only an underwear. He tried to search the clothes in Ganda Nala and after efforts, he found some clothes struck in the dry bushes in muddy water of Ganda Nala. He took out the clothes and the clothes were in torn

condition and were smeared with mud. Accused had identified those clothes in his presence and told that these clothes are the same clothes which he had thrown in Ganda Nala. This witness further identified the ladies salwar and suit smeared with dry mud. In his cross, he has stated that his statement was recorded on the same day and he put his thumb impressions on his statement. But perusal of the entire record shows that there is no such statement of this witness bearing his thumb impression. He stated that many police officials and public persons had gathered there. He further stated that no public person was joined by the police officials during the investigation in his presence. Moreover there is slight improvement in the testimony of this witness given in the court to that given to the IO but for these slight improvements, no adverse inference can be drawn.

107. However the testimony of this witness is in contradiction to the testimony of PW32 who as per the prosecution is the witness of recovery of the clothes from Ganda Nala. This witness has taken the name of accused Deep Chand and Pramod @ Hakla. He stated that he was coming from the side of Karol Bagh and when he reached on the Ganda Nala in the area of Roop Nagar, he saw a crowd of people and police and one diver was diving in the muddy water of Ganda Nala. This witness has not taken the name of accused Subhash @ Raju whereas PW19, the diver has taken the name of accused Subhash on whose pointing out, he took out the clothes from Ganda Nala. This witness again has stated that something was taken out from the Ganda Nala by the diver but he could not see any articles as he was standing at a distance of 100 metres and nothing else happened in his presence. He denied having made any statement to the police. He further denied the suggestion that accused Subhash was also with the police or that accused Subhash had pointed out towards Ganda Nala with his finger to the police and told that he had thrown the suit, salwar of the deceased after tearing and removing the same from the dead body of deceased Kamlesh. PW19 on the one hand has stated that accused Subhash pointed out to the place of Ganda Nala by throwing a small stone whereas a suggestion has been given to PW32 by the Ld. APP for state that accused Subhash pointed his finger towards Ganda Nala. This witness has denied the suggestion that Diver Abdul Sattar took out the clothes from Ganda Nala or accused Subhash identified the same or the police had dried the suit, salwar and had seized the same. This witness denied making any supplementary statement to the police. In his cross by Ld. Defence Counsel, this witness stated that his signatures were obtained by the police officials on some blank papers and he does not know anything about this case. Thus, the recovery of clothes of the deceased at the instance of accused Subhash or at the instance of other accused persons also becomes doubtful.

108. PW24 is Head Constable Mohd. Raza who was working as MHC(M) P.S. Kotwali with whom the sealed parcels were deposited. So far as PW42, PW46 or PW48 are concerned then these are the police officials.

109. PW42 is ASI Satbir Singh who deposed that on 23.8.2006 Inspector Dinesh Kumar had come to Police Station alongwith other staff and accused Subhas and Deep Chand for investigation of this case and he had recorded the arrival and departure DD vide DD no.16. PW46, PW48 and PW49 are the police officials i.e. SI Ajay Solanki, Head Constable Rakesh and PW49 is Inspector Dinesh Kumar, who is the IO of the case.

110. So far as the recovery of clothes of deceased from Ganda Nala is concerned, then PW 46 has stated that accused Subhash alongwith Kanti Prasad and Deep Chand took them to the Ganda Nala and pointed out the place where he had thrown the clothes of deceased in Ganda Nala and the IO of the case had called the Diver Abdul Sattar and requested some public persons to join the raiding party. Whereas PW48 has stated that the IO joined one public witness Madan Lal and Adbdul Sattar as witness and PW Adbdul Sattar was already present there whereas as per PW Abdul Sattar he was called from Wazirabad Pul and PW 46 also has stated that PW Abdul Sattar was called by the IO. PW49 in his cross has stated that all the three accused persons i.e. accused Deep Chand, Kanti Prasad and Subhash were with them and only one public person Madan Lal agreed to join and thereafter he called the Diver Abdul Sattar from his Village Jagatpur, Delhi through Duty Officer of P.S. Timar Pur as his home address and mobile phone number wee available with the duty officer of P.S. Timar Pur and he came on his own whereas as per the Diver Abdul Sattar, he came alongwith one police official.

111. So far as the recovery of clothes of accused persons are concerned then, PW49 in his cross has stated that accused Deep Chand went inside the room of his house and brought his clothes and he was standing outside. Wife of accused Deep Chand was also present in the house but she was not joined in the recovery proceedings and seal after use was not handed over to any public person and no public person had collected there during the search and seizure proceedings at the house of accused Deep Chand. Similarly accused Kanti Prasad also got recovered half bottle of acid from his house and a lot of people including the wife and children of accused Kanti Prasad were present but none were joined in the investigation. This witness has also admitted that whatever has been seized by the police officials in the present case is easily available in the market.

112. As per PW42, Inspector Dinesh Kumar had reached at P.S. City, Palwal, Haryana and he made their arrival and departure entry whereas as per PW 48, they took the accused to Palwal straightway and he alongwith accused, IO and other police officials went inside the room of accused Deep Chand from where he produced his clothes . Whereas as per PW 49, accused Deep Chand alone went inside the room and brought his clothes. As per PW48, they had gone directly to the house of accused Deep Chand from Delhi and from the house of accused Deep Chand, they went to Bhagat Singh's house and then they came back to Delhi. But PW 46 has stated that they took accused Deep Chand and Subhash to Palwal for the recovery proceedings and accused Deep Chand alone went inside his house and brought out his pant and shirt. It may be mentioned that none of the witness has stated that these clothes had some blood marks which were tallied with the blood stains of deceased nor anything specific regarding these clothes have been stated by any of the witnesses which may lead to inference that accused has committed the murder of deceased.

113. There are also discrepancies in the statement of PW 46 and PW 49 regarding the use of seal as SI Ajay Solanki has stated that the seal after use was handed over to him by the IO on the spot and he returned the seal to IO after four months. What happened to all the remaining pullandas which were subsequently seized and sealed by the IO i.e the clothes of deceased or the clothes of accused. He has stated that IO used another seal for the same and he handed over the same to him and this seal too was returned by him to the IO alongwith the first seal. Thus, the recovery of clothes of accused Deep Chand from his house does not lead to any inference since neither any witness has

stated that these clothes had some blood marks which tallied with the blood of deceased nor anything specific regarding these clothes have been stated by any of the witnesses.

Motive of Crime:-

114. So far as the motive of crime is concerned, then PW 28 Subhash has admitted that he had love affair with Kamlesh D/o Deep Chand and they both ran away from their house and got married with each other in Arya Samaj Temple, Delhi.

Testimony of PW 28 is further corroborated by his father PW 39 Bhagwan Sahay as well as by PW 29 Jagdish who is the brother of accused Deep Chand but neither PW 27 nor PW 28 or PW 39 have stated that there was any caste barrier between the marriage of Subhash and Kamlesh. They have also not stated that due to this marriage accused Deep Chand was feeling insulted in the society as a result of which he alongwith other co-accused committed the murder of his daughter. Even PW 6 , PW10 and PW14 have not stated any such thing that in their presence Kamlesh and Deep Chand had any hot talks. The marriage between Kamlesh and Subhash stands proved from the testimony of PW 28 but it does not stand proved that Kamlesh signed as Kamla Rani. PW33 has proved the marriage certificate on record. So far as the photographs are concerned, the same became fade due to water and moisture as a result of which, whether the affidavit is of the same parties also becomes doubtful and the thumb impression on this affidavit was of deceased Kamlesh also becomes doubtful.

115. So far as the daughter of accused Deep Chand is concerned, then she is missing from her house also stands proved from the testimony of the mother of deceased i.e. PW 38 and PW 29 Jagdish, Uncle of deceased Kamlesh and it also stands proved on record that despite Kamlesh being missing, accused Deep Chand did not lodge any report before the police as she had eloped previously also. But again the question arises as to whether the dead body which had been recovered was that of Kamlesh or not and prosecution has failed to establish the identity of dead body.

116. So far as the marriage of Kamlesh and Subhash at Arya Sama Mandir is concerned, then Subhash himself has admitted the same but he has stated that there was no caste barrier between their marriage and the father of deceased i.e. accused Deep Chand was not unhappy with the marriage. Similarly PW 38 wife of accused Deep Chand has also stated the same fact in this regard. But lodging of FIR by accused Deep Chand speaks otherwise.

117. In nut shell, the only inference that can be raised from the abovesaid discussion is that the chain of circumstantial evidence proved on record by the prosecution is not complete and many of the important link witnesses are missing. So many question remains unanswered by the prosecution. Identity of the dead body also has not been established by the prosecution and therefore, in such circumstances benefit of this must go to the accused persons.

118. As such, all the accused persons are acquitted of the offence. They are in J/C. They be released forthwith, if not required in any other case. File be consigned to Record Room.

(MADHU JAIN) Additional Sessions Judge-3 (North) Tis Hazari Courts, Delhi.

Announced in the open court today i.e. on 28.01.2010.