

**Shanti Devi
v.
State of Haryana**

(Criminal Appeal No. 2861 of 2025)

06 August 2025

[Manoj Misra and Sandeep Mehta,* JJ.]

Issue for Consideration

Issue arose whether the courts below were justified in convicting and sentencing the appellant for the offences punishable u/ss.302/34 and 201/34 IPC for the alleged murder of the son of the informant.

Headnotes[†]

Penal Code, 1860 – ss.302/34 and 201/34 – Murder – Prosecution case that three persons-appellant, her son and another lady convicted and sentenced u/ss.302/34 and 201/34 for the alleged murder of the son of the informant – Informant’s case that the appellant and her son, were in illegal occupation of the house owned by the victim together with the other lady and some unknown persons murdered his son because he wanted to get the house vacated – Other lady died pending appeal – High Court upheld the order passed by the trial court – Correctness:

Held: Evidence led by the prosecution not sufficient and lacks credibility so as to form a complete chain of incriminating circumstances warranting the affirmation of the prosecution case – Entire case of the prosecution discarded – Prosecution failed to prove even a single of these so-called incriminating circumstances so as to justify the conviction of the appellant for the charge of murdering the informant’s son – Trial court as well as the High Court in appellate jurisdiction grossly erred while appreciating the evidence and holding the testimony of the witnesses who gave evidence on the last seen together theory and the extra-judicial confession theory to be reliable – Theory of motive attributed by the prosecution to the appellant and her son not convincing – Alleged motive neither justified nor substantiated by evidence – Both the

* Author

Supreme Court Reports

courts have, despite the negative FSL report, relied upon the so-called incriminating recoveries – Reliance placed by the courts below on the recoveries misplaced and unjustified – Furthermore, the negative FSL report makes the recoveries inconsequential – Impugned judgment by the High Court and the trial court do not stand to scrutiny and are quashed and set aside – Appellant is acquitted of the charges – Entire case of the prosecution being discarded, the benefit extended to the non-appealing accused, son of the appellant and is acquitted of the charges. [Paras 13-39]

Case Law Cited

Sharad Birdhichand Sarda v. State of Maharashtra [1985] 1 SCR 88 : (1984) 4 SCC 116; *Sahadevan v. State of Tamil Nadu* [2012] 4 SCR 366 : (2012) 6 SCC 403 – referred to.

List of Acts

Penal Code, 1860; Evidence Act, 1872; Code of Criminal Procedure, 1973.

List of Keywords

Murder; Illegal occupation; Chain of incriminating circumstances; Appellate jurisdiction; Testimony of the witnesses; Last seen together theory; Extra-judicial confession theory; Theory of motive; Negative FSL report; Incriminating recoveries; Recoveries; Benefit to the non-appealing accused.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 2861 of 2025

From the Judgment and Order dated 24.05.2024 of the High Court of Punjab & Haryana at Chandigarh in CRAD No. 178 of 2023

Appearances for Parties

Advs. for the Appellant:

Dr. Nirmal Chopra, Ms. Aaina Verma, Amit Kumar.

Advs. for the Respondent:

Vishal Khattar, A.A.G., Akshay Amritanshu, Ms. Drishti Rawal, Ms. Drishti Saraf, Sarthak Shrivastava, Mayur Goyal.

Shanti Devi v. State of Haryana**Judgment / Order of the Supreme Court****Judgment****Mehta, J.**

1. The accused-appellant Shanti Devi, Rajbir (accused No. 2) and Veena (accused No.3) faced trial in the Court of Additional Sessions Judge, Hisar¹ for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860² and Section 201 read with Section 34 IPC.
2. The learned trial Court *vide* judgment dated 14th January, 2003, held all the three accused guilty of the aforesaid charges and *vide* sentencing order dated 16th January, 2003, all the three accused were sentenced to undergo imprisonment for life for the commission of offence punishable under Section 302 read with Section 34 IPC and a fine of Rs. 1000/- with default stipulation and to undergo rigorous imprisonment for 3 years and fine of Rs. 500/- each for the charge under Section 201 IPC read with Section 34 IPC with the default stipulation.
3. The accused-appellant Shanti Devi and Rajbir (accused No.2) preferred CRA-D-178-DB of 2003 before the High Court of Punjab and Haryana³ for assailing the judgment of the trial Court. Likewise, Veena (accused No.3) also preferred an appeal for assailing her conviction. However, Veena (accused No.3) expired and hence her appeal abated. The learned Division Bench of the High Court rejected the appeals preferred by the accused-appellant and Rajbir (accused No.2) *vide* judgment dated 24th May, 2024,⁴ which is assailed by the accused-appellant Shanti Devi in this appeal by special leave.
4. The prosecution story, in a nutshell, is that the Police Post, HTM, Hisar was informed by K.S. Sardana (PW-1), Junior Engineer from Water Works, Mahabir Colony, Hisar in the evening of 23rd December, 1997, that a human dead body concealed in a gunny bag was lying in

1 Hereinafter, referred to as the 'trial Court'.

2 Hereinafter, referred to as the 'IPC'.

3 Hereinafter, referred to as 'High Court.'

4 Hereinafter, referred to as 'impugned judgment'.

Supreme Court Reports

the water works tank. On receiving this information, ASI Shish Ram, along with other police officials reached the location and the bag was taken out of the water tank. The body was removed from the gunny bag and was placed outside. Several persons gathered there. One Har Nath (PW-11)⁵ came around and identified the dead body to be that of his son Balwant (the deceased). He gave a complaint⁶ to the police officials on the basis whereof, FIR⁷ came to be registered at Police Station City Hisar. The gist of allegations as set out in the complaint of Har Nath (PW-11) are extracted below.

5. Har Nath (PW-11) had five sons. His second eldest son was Balwant (deceased), who had constructed one house, in Gagandeep Colony on Balsamand Road, Hisar and another house in Dhani Badwali near Hanuman Mandir at Hisar. Balwant (deceased) resided with his family in the house at Gagandeep Colony. Accused-appellant Shanti Devi, widow of Dilip Dhanky was holding illegal possession of the inner room of the house of Balwant (deceased) at Dhani Badwali, whereas the outer room had been retained by Balwant (deceased) for his own occupation. Many times, he would stay in the said room during night. Balwant (deceased) was involved in an illicit relationship with Veena (accused No.3), wife of Ram Chander who was also on visiting terms with accused-appellant Shanti Devi. On 23rd December, 1997, in the morning, Savitri, wife of Balwant (deceased), approached the informant (PW-11) and told that her husband Balwant (deceased), had left on Saturday, 20th December, 1997, for Hisar city and thereafter, he did not return home. The informant (PW-11) started a search for Balwant (deceased), in the city and made inquiries from his friends but his whereabouts could not be ascertained. During this process, he reached the water works tank, where he learned about the recovery of a dead body and identified it as that of his son Balwant (deceased). The body bore multiple injuries inflicted by sharp-edged weapons. The informant (PW-11) suspected that accused-appellant Shanti Devi, her son Rajbir (accused No.2), who are in illegal occupation of the house owned by Balwant (deceased) together with Veena (accused No.3) and some unknown persons had murdered his son Balwant (deceased) because he wanted to get the house vacated due to which the accused bore a grudge against him.

5 Hereinafter, referred to as 'informant.'

6 Exhibit P.A.

7 FIR No. 1307 of 1997; Exhibit P.C.

Shanti Devi v. State of Haryana

6. After registration of the FIR, inquest report⁸ was prepared and the dead body of Balwant (deceased) was subjected to autopsy at the hands of a team of Doctors who issued the post mortem report⁹, taking note of 13 incised wounds and few abrasions on the dead body of Balwant (deceased). The cause of death was opined to be fracture of frontal bone leading to intra-cerebral hemorrhage which caused shock and hemorrhage. All injuries were stated to be ante-mortem and sufficient to cause death in the ordinary course of nature. The time gap between death and post mortem was opined to be 2 to 5 days.
7. The prosecution claims that Veena (accused No.3) was arrested, and she suffered a disclosure statement¹⁰ to the effect that she, along with accused-appellant Shanti Devi and Rajbir (accused No.2) had committed the murder of Balwant (deceased). Veena (accused No.3) caused injuries to Balwant (deceased) with an axe (*Kulhari*), whereas accused-appellant Shanti Devi had inflicted injuries with a *Bugda*. Rajbir (accused No.2) had caught hold of Balwant (deceased) when he was being assaulted. Initially, the dead body was buried in the kitchen of the house taken on rent by accused-appellant Shanti Devi and later the same was stuffed in a gunny bag and discarded in the water works tank.
8. The accused-appellant Shanti Devi allegedly made an extra-judicial confession in the presence of Nathu Ram, who produced the accused-appellant Shanti Devi before the police and accordingly she was arrested. The prosecution alleges that upon interrogation, the accused-appellant Shanti Devi suffered a disclosure statement¹¹ and in furtherance thereof, a blood-stained bed sheet (*Chaddar*)¹² was recovered from the kitchen of the house taken on rent by accused-appellant Shanti Devi and the *Bugda*¹³ allegedly used in the incident was recovered from the sewerage. The prosecution also placed reliance on the evidence of Krishan @ Kuli (PW-15) who claimed that on 20th December, 1997, while he was passing from near the

8 Exhibit PH/2.

9 Exhibit P.J.

10 Exhibit P.N.

11 Exhibit P.S.

12 Exhibit P20.

13 Exhibit P17.

Supreme Court Reports

house of accused-appellant Shanti Devi, he saw Veena (accused No.3), Rajbir (accused No.2) and accused-appellant Shanti Devi quarrelling with Balwant (deceased). He attempted to intervene and stop the quarrel, but his efforts went in vain, whereupon he left the place. A few days later, he came to know that Balwant (deceased) had been murdered. After 15 to 16 days of the occurrence, Rajbir (accused No.2) s/o accused-appellant Shanti Devi approached him and confessed to the crime and requested to produce him before the police. Upon this, the witness (PW-15) produced Rajbir (accused No.2) before the police. Based on these pieces of circumstantial evidence, i.e., last seen theory [based on the evidence of Krishan @ Kuli (PW-15)], motive as alleged by the informant (PW-11), the allegedly incriminating recoveries and the extra-judicial confessions, the investigating officer (PW-18) proceeded to file a report under Section 173(2) of the Code of Criminal Procedure, 1973¹⁴ against all the three accused persons. The case was committed to the trial Court who conducted trial and convicted all the accused as above.

9. The High Court rejected the appeal preferred by the accused-appellant Shanti Devi by judgment dated 24th May, 2024, which is assailed in this appeal by special leave.
10. We have heard and considered the submissions advanced by learned counsel for the parties and have meticulously gone through the original record.
11. Indisputably, the case of the prosecution is based totally on circumstantial evidence. The law is well settled that in cases based purely on circumstantial evidence, the onus lies upon the prosecution to prove the chain of incriminating circumstances beyond all manner of doubt. The five golden principles to be followed in a case based on circumstantial evidence formulated by this Court in the celebrated case of **Sharad Birdhichand Sarda v. State of Maharashtra**,¹⁵ are reproduced hereinbelow:-

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

¹⁴ Hereinafter, referred to as the “CrPC”.

¹⁵ (1984) 4 SCC 116.

Shanti Devi v. State of Haryana

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793] where the observations were made:

“Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.”

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

(Emphasis Supplied)

12. Keeping in view the above principles, we shall now proceed to analyse and evaluate the evidence led by the prosecution.
13. The informant (PW-11) came out with a categorical theory regarding motive based on an allegation that the accused-appellant Shanti Devi was illegally occupying the house of Balwant (deceased) located at

Supreme Court Reports

Dhani Badwali along with her son, Rajbir (accused No.2) and they were refusing to vacate the same, which as per the witness (PW-11) constituted the motive to commit the offence. An additional theory of motive has been propounded with the allegation that Balwant (deceased) was involved in an illicit affair with Veena (accused No.3), which also could have been the cause of the murder.

14. Before we discuss the evidence of the informant (PW-11), we may note that Balwant (deceased) along with his wife Savitri was admittedly living in a separate house and as per the version of the informant (PW-11), his interaction with Balwant (deceased) was minimal and spaced with significant intervals. Thus, the best person to state about inimical relations of Balwant (deceased) with the accused-appellant Shanti Devi or his extra marital affair with Veena (accused No.3) would be his wife Savitri, who was surprisingly not examined as a witness in this case.
15. We shall now proceed to analyze the testimony of the informant (PW-11) to find out if the theory of motive was actually substantiated by his evidence. On a perusal of the deposition of the informant (PW-11), we find that he did not utter a single word in his examination-in-chief regarding the existence of any extra marital affair between his son Balwant (deceased) and Veena (accused No.3). The only aspersion cast by the witness (PW-11) against the accused-appellant Shanti Devi was that she had forcibly occupied one room of the house owned by Balwant. However, the said version is contradicted by the witness himself who also stated that the room which accused-appellant Shanti Devi was occupying, was given to her on rent. These two versions i.e., forcible occupation and possession as a tenant are diametrically opposite and cannot be reconciled.
16. In cross-examination, the witness (PW-11) admitted that Balwant (deceased) met him 10 to 12 days prior to his death. He could not say where Balwant was staying in the intervening period. He had visited the house of Balwant (deceased), where accused-appellant Shanti Devi was a tenant, four to five days prior to the incident. The witness (PW-11) was put pertinent suggestions in cross-examination regarding execution of rent note *qua* the portion of the house given on rent to accused-appellant Shanti Devi, to which he feigned ignorance. He further claimed that he had seen Veena (accused No.3) in the house of Balwant (deceased), 7 days prior to his death. In the same

Shanti Devi v. State of Haryana

breath, he admitted that Veena (accused No.3) was not previously known to him. He also admitted that he had talked to Mahavir, Nathu and various other persons in connection with the search of his son Balwant (deceased). He also contacted certain women.

17. From the tenor of evidence of this witness, we can safely conclude that he has given contradictory version regarding the manner in which accused-appellant Shanti Devi was occupying the house of Balwant (deceased). The indication given by the witness regarding contacting certain women in connection with the search for Balwant (deceased) gives rise to a suspicion regarding the promiscuous conduct of the deceased. Even though Veena (accused No.3) was not previously known to the witness (PW-11) in spite thereof, her name was introduced in the FIR on the purported allegation of extra marital affairs with Balwant. Thus, from the very inception, the informant (PW-11) has been indulging in making patently false aspersions so as to substantiate the theory of motive.
18. The tenor of the allegations in the FIR shows that accused-appellant Shanti Devi was illegally occupying the inner room in the house of Balwant (deceased) whereas the informant (PW-11) in his evidence categorically stated that she was staying as a tenant and that Balwant (deceased) was trying to evict her from the house. The witness (PW-11) also stated that Balwant (deceased) often used to stay in the outer room of the same house when he got late in the night. The witness (PW-11) also admitted that Balwant (deceased) was residing separately from him for the last 7 to 8 years and had been implicated in a case of murder earlier.
19. Apparently, the theory of enmity falls flat to the ground when we consider that Balwant (deceased) frequently stayed over in night time in the same house where the accused-appellant Shanti Devi used to stay. Had there been any acrimony in the relationship, Balwant (deceased) would not have taken the risk of staying in the very same house where the family inimical to him was staying. Hence, we are not convinced with the theory of motive attributed by the prosecution to the accused-appellant Shanti Devi and her son, Rajbir (accused No.2). The informant's version gives rise to a suspicion that Balwant (deceased) might have been involved in affairs with many women. It is a fact that he had been arraigned as an accused in a murder case. Collectively taken, these facts as appearing in the testimony of PW-11 persuade us to raise an

Supreme Court Reports

inference that more than one person could be bearing animosity against Balwant (deceased) and imputing the accused-appellant Shanti Devi and Rajbir (accused No.2), the alleged motive is neither justified nor substantiated by evidence. Hence, the theory of motive is not established by cogent evidence.

20. The next in the chain of incriminating circumstances is the theory of extra-judicial confession. In this regard, Indraj (PW-12) testified that on 25th December, 1997, Veena (accused No.3) was interrogated by police in the flower market. She gave a confessional statement admitting that she was on visiting terms with accused-appellant Shanti Devi; On 20th December, 1997, accused-appellant Shanti Devi was present in the house of Veena (accused No.3); Balwant (deceased) was sleeping in the house of accused-appellant Shanti Devi; all the accused, i.e., Shanti, Veena and Rajbir conspired to commit the murder of Balwant (deceased); Veena (accused No.3) armed with an axe (*Kulhari*) and assaulted Balwant (deceased) with the said weapon and accused-appellant Shanti Devi had assaulted Balwant (deceased) with a *Bugda*. At that point of time, Rajbir (accused No.2) had caught hold of Balwant (deceased). The witness (PW-12) then went on to narrate about the disclosure statements made by the accused persons regarding the concealment of the weapons. From the deposition of the witness in his examination-in-chief, it becomes clear that whatever confession this witness attributes to Veena (accused No.3) was made in the presence of the police officials and hence, the same would be hit by Sections 25 and 26 of the Indian Evidence Act, 1872¹⁶.
21. We are of the firm opinion that the trial Court fell into grave error in even allowing the said inculpatory version of Veena (accused No.3) to be reproduced in the testimony of the said witness. Law is well-settled that confessional statement of an accused recorded in presence of a police officer cannot be admitted in evidence, except to the extent as provided under Section 27 of the Evidence Act and that too, when such disclosure leads to the discovery of incriminating fact/s. The witness (PW-12) admitted in his examination-in-chief that all the memos were signed by Veena (accused No.3) after the recovery of the axe. This admission by the witness completely

16 Hereinafter, referred to as "Evidence Act".

Shanti Devi v. State of Haryana

demolishes the theory of the investigating officer (PW-18) that the disclosure statements were recorded first and the recoveries were made as a consequence thereof. It seems that all the documents including the disclosure statements and the recovery memos were prepared at one go after the recoveries had been allegedly effected.

22. The next important witness whose evidence needs to be referred to is of Bhagatu (PW-14) who took out the *Bugda* and the axe from the sewerage. The entire version of this witness in the examination-in-chief reads as below:-

“On 27.12.97 police had summoned me. I had gone *Subji* Mandi, Hisar and on the direction of police I recovered *Bugda*. Just ahead of this place, I also recovered on the direction of police, *Kulhari* and quilt from the sewerage.”

23. On a perusal of the above statement, it becomes apparent that the witness (PW-14) did not acknowledge the presence of any female (accused) in the company of the police officials when he took out the axe and the *Bugda* from the sewerage. Had there been an *iota* of truth in the prosecution story, the witness (PW-14) who was presumably engaged to make a search in the sewerage, would not have missed out noticing the presence of the women accused on whose purported disclosures these recoveries were affected.
24. Hence, the recoveries of the weapons allegedly effected by the investigating officer (PW-18) pursuant to the alleged disclosure statements made by the accused fall under a grave cloud of doubt and cannot be believed.
25. The witness Krishan @ Kuli (PW-15) was examined by the prosecution for proving the purported theory of last seen together and extra-judicial confession. He stated that on 20th December, 1997, he was going to the Badwali Dhani at Hisar. At about 08:00 pm, while he was passing from near the house of accused-appellant Shanti Devi, he saw her quarrelling with Balwant (deceased). He then improved his version and said that accused-appellant Shanti Devi, her son Rajbir (accused no.2) and Veena (accused No.3) were quarrelling with Balwant (deceased). The witness (PW-15) tried to intervene but to no avail. He then left that place. After a few days, he came to know that Balwant (deceased) had been murdered. The witness (PW-15) stated that after about 15 to 16 days from the occurrence, the accused-appellant Shanti Devi's son, Rajbir

Supreme Court Reports

(accused No.2) approached him and requested that he should be produced before the police. At that time, Rajbir (accused No.2) confessed before the witness (PW-15) that he, along with accused-appellant Shanti Devi and Veena (accused No.3) had murdered Balwant (deceased). The accused gave out details of the manner of committing the murder and disposal of the body as part of the so-called extra-judicial confession.

26. In cross-examination, the witness (PW-15) admitted that Balwant (deceased) was previously known to him because he was a taxi driver. The witness (PW-15) admitted that he was not on visiting terms with Balwant (deceased). On the fateful day, he was going to the house of a gardener named Tony who used to live in the same locality. He had never visited the house of accused-appellant Shanti Devi before. He had neither seen Veena (accused No.3) in the house of accused-appellant Shanti Devi nor was she known to him from earlier. He could not state about the cause of the quarrel. He also admitted that before the disclosure was made by Rajbir (accused No.2), he did not know about the death of Balwant (deceased). He also admitted that he had been imprisoned earlier in a double murder case wherein he had been sentenced to life imprisonment.
27. From the tenor of the evidence of the witness (PW-15), we find that he is a chance witness who has been planted by the prosecution to lend succor to the flimsy story portrayed to prove the charges. There is no plausible reason whatsoever as to why the witness (PW-15) would have gone to the locality where accused-appellant Shanti Devi was living on the particular day i.e., 20th December, 1997. Furthermore, the theory put-forth by the witness (PW-15) that out of the blue, Rajbir (accused No.2) approached him after about 15 to 16 days of the incident and requested him to assist his production before the police and made a detailed confession is absolutely unworthy of credence. Neither there was any such affinity between the witness (PW-15) and Rajbir (accused No.2) nor was the witness (PW-15) wielding such influence that Rajbir (accused No.2) would make a confession before him and ask for his assistance to be produced before the police. There is a significant delay in the recording of statement of the witness (PW-15) by the investigating officer (PW-18), which was recorded on 16th January, 1998. All these facts taken cumulatively make the

Shanti Devi v. State of Haryana

evidence of PW-15 totally unreliable and his testimony deserves to be discarded.

28. Another person named Shamsheer Singh (PW-17) was examined by the prosecution who stated that in the month of November or December, 1997, Veena (accused No.3) came to his house and disclosed that she was living with Rajbir (accused No.2) in the rented house of accused-appellant Shanti Devi, which was owned by Balwant (deceased) and that she along with Rajbir (accused No.2) and accused-appellant Shanti Devi had murdered Balwant (deceased). She requested the witness (PW-17) to produce her before the police.
29. The law on the evidentiary value of extra-judicial confessions is well settled that such a confession has very weak evidentiary value and should be accepted with great care and caution. This court in ***Sahadevan v. State of Tamil Nadu***¹⁷ undertook a thorough examination of the jurisprudence on the evidentiary value of extra-judicial confessions and laid down certain guiding principles, which are reproduced hereinbelow:-

“22. Upon a proper analysis of the above-referred judgments of this Court, it will be appropriate to state the principles which would make an extra-judicial confession an admissible piece of evidence capable of forming the basis of conviction of an accused. These precepts would guide the judicial mind while dealing with the veracity of cases where the prosecution heavily relies upon an extra-judicial confession alleged to have been made by the accused.

The Principles

i) The extra-judicial confession is a weak evidence by itself. It has to be examined by the court with greater care and caution.

ii) It should be made voluntarily and should be truthful.

iii) It should inspire confidence.

iv) An extra-judicial confession attains greater credibility and evidentiary value, if it is supported

Supreme Court Reports

by a chain of cogent circumstances and is further corroborated by other prosecution evidence.

v) For an extra-judicial confession to be the basis of conviction, it should not suffer from any material discrepancies and inherent improbabilities.

vi) Such statement essentially has to be proved like any other fact and in accordance with law.”

(Emphasis Supplied)

30. The coincidental similarities in the prosecution case that accused-appellant Shanti Devi randomly approached Nathu Ram and made the extra-judicial confession as was made by her son Rajbir (accused No.2) before Krishan @ Kuli (PW-15) and Veena (accused No.3) before Shamsheer Singh (PW-17) convinces us that the theory of extra-judicial confessions is nothing but a cock and bull story created by the police, just in order to lend credence to the flimsy web built up by them for solving the blind murder of Balwant (deceased).
31. The fact that Krishan @ Kuli (PW-15) did not know the name of Veena (accused No.3) from before and yet he tried to include her name in the array of assailants convinces us regarding the blatant falsity being spoken by the witness (PW-15). The sheer coincidence that all the three accused randomly approached totally unconnected persons i.e., Nathu Ram, Krishan @ Kuli (PW-15) and Shamsheer Singh (PW-17) to make the extra-judicial confessions and then asked for their assistance to be produced before the police reinforces our conviction that both the witnesses who deposed about the extra-judicial confessions are gotten up witnesses. None of these witnesses to the extra-judicial confessions had any prior connection with the accused nor did they have any such status which could have inspired or compelled the accused to take their assistance for production before the police. Furthermore, Nathu Ram was not even examined by the prosecution. Thus, the theory of extra-judicial confession is palpably false and cannot be accepted by any stretch of imagination.
32. The last link of circumstantial evidence relied upon by the prosecution was in the form of recoveries of the weapons and other alleged incriminating articles, viz, *chaddar*, soil, etc. As per the prosecution case, these incriminating articles were recovered at the instance of the accused-appellant Shanti Devi and the accused Veena (accused

Shanti Devi v. State of Haryana

- no.3). So far as the recoveries of weapons are concerned, while discussing the statement of Bhagatu (PW-14), we have already concluded that these recoveries are fake and planted and cannot be relied upon for any purpose whatsoever.
33. So far as the other recoveries are concerned, the same also pale into insignificance when we peruse the Forensic Science Laboratory¹⁸ report¹⁹ dated 14th October, 1998 issued by FSL, Madhuban. The Government scientist upon analysing the samples, could not arrive at any conclusion regarding the presence of human blood on any of the material objects, including the *Kulhari* and *Bugda*. These articles were forwarded to the serological analyst who also analysed the same and found human blood only on the *Chaddar* and the blanket. However, no opinion was given regarding grouping of the blood on any of the so-called incriminating articles.
34. It is interesting to note that the weapons were not sent for serological examination because no blood was detected thereupon. Seen in light of the FSL report, the recoveries allegedly effected at the instance of the accused-appellant Shanti Devi cannot be termed to be incriminating as they do not provide any link with the murder of Balwant.
35. Consequently, we are of the firm opinion that the prosecution has failed to prove even a single of these so-called incriminating circumstances so as to justify the conviction of the accused-appellant for the charge of murdering Balwant (deceased).
36. The trial Court as well as the High Court in appellate jurisdiction grossly erred while appreciating the evidence and holding the testimony of the witnesses who gave evidence on the last seen together theory and the extra-judicial confession theory to be reliable. Both the Courts have, despite the negative FSL report, relied upon the so-called incriminating recoveries. Manifestly, the reliance placed by the Courts below on the recoveries is misplaced and unjustified. Furthermore, the negative FSL report makes the recoveries inconsequential.
37. Resultantly, the impugned judgment dated 24th May, 2024 rendered by the High Court and the judgment dated 14th January, 2003 passed

18 Hereinafter, referred to as the 'FSL'.

19 Exhibit P.C.C.

Supreme Court Reports

by the trial Court do not stand to scrutiny and are hereby quashed and set aside. The appellant-accused herein is acquitted of the charges. She is in custody and shall be released forthwith, if not wanted in any other case.

38. We may, at this stage, note that the appellant-accused herein as well as Rajbir (accused No.2), being the son of the appellant-accused were both provided legal aid counsel in the appeal before the High Court, manifestly for the reason of their poor financial status. Rajbir (accused No.2) has not even preferred an appeal against the judgment of the High Court. However, while discussing the case of accused-appellant Shanti Devi, we have found that the evidence led by the prosecution is not sufficient and lacks credibility so as to form a complete chain of incriminating circumstances warranting the affirmation of the prosecution case. The entire case of the prosecution having being discarded, the benefit of this judgment deserves to be extended to the non-appealing accused Rajbir (accused No.2), who has unfortunately not preferred an appeal to assail his conviction. In this regard, we may gainfully refer to ***Sahadevan*** (*supra*), wherein this Court observed that:-

“Where the Court finds that the prosecution evidence suffers from serious contradictions, is unreliable, is ex facie neither cogent nor true and the prosecution has failed to discharge the established onus of proving the guilt of the accused beyond reasonable doubt, the Court will be well within its jurisdiction to return the finding of acquittal and even suo moto extend the benefit to a non-appealing accused as well, more so, where the Court even disbelieves the very occurrence of the crime itself. Of course, the role attributed to each of the accused and other attendant circumstances would be relevant considerations for the Court to apply its discretion judiciously. There can be varied reasons for a non-appealing accused in not approaching the appellate Court. If, for compelling and inevitable reasons, like lack of finances, absence of any person to pursue his remedy and lack of proper assistance in the jail, an accused is unable to file appeal, then it would amount to denial of access to justice to such accused.”

(Emphasis Supplied)

Shanti Devi v. State of Haryana

39. Thus, we give the benefit of our conclusions to Rajbir (accused No.2) as well and also acquit him of the charges. He shall be released from custody, if not wanted in any other case.
40. The appeal is allowed accordingly.
41. Pending application(s), if any, shall stand disposed of.

Result of the case: Appeal allowed.

[†]Headnotes prepared by: Nidhi Jain