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CASE COMMENT: KATTAVELLAI @ DEVIKAR V. STATE OF TAMIL NADU, CRIMINAL APPEAL NO. 1672 OF 2019 (2025 INSC 845)

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Abstract: The Indian criminal justice system rests on two foundational maxims: fiat justitia ruat caelum—let justice be done though the heavens fall—and audi alteram partem—no person shall be condemned unheard. Nowhere are these principles more rigorously tested than in criminal trials that result in capital punishment. The present case, Kattavellai @ Devakar v. State of Tamil Nadu, raises important questions about the evidentiary threshold for conviction in a capital case that is wholly based on circumstantial evidence. The factual matrix in the case is not just disturbing in its brutality but also in the way the criminal investigation and subsequent prosecution unfolded. Two young individuals were brutally murdered in a remote forest area, with the female victim allegedly subjected to sexual assault. The prosecution's narrative, primarily based on circumstantial evidence and a single key witness (PW-5), culminated in the imposition of the death penalty, which was later confirmed by the Madras High Court and challenged before the Supreme Court. The case is emblematic of the dangers inherent in capital punishment jurisprudence—especially when convictions are grounded in flawed investigations, dubious witness testimonies, and procedural irregularities. It revives the long-standing doctrinal and moral debates around the death penalty in India, particularly in light of the "rarest of rare" doctrine as enunciated in Bachan Singh v. State of Punjab.

Keywords: Capital punishment, circumstantial evidence, flawed investigation, procedural irregularities, rarest of rare.

INTRODUCTION

The Indian criminal justice system rests on two foundational maxims: fiat justitia ruat caelum—let justice be done though the heavens fall—and audi alteram partem—no person shall be condemned unheard. Nowhere are these principles more rigorously tested than in criminal trials that result in capital punishment. The present case, Kattavellai @ Devakar v. State of Tamil Nadu, raises important questions about the evidentiary threshold for conviction in a capital case that is wholly based on circumstantial evidence.

The factual matrix in the case is not just disturbing in its brutality but also in the way the criminal investigation and subsequent prosecution unfolded. Two young individuals were brutally murdered in a remote forest area, with the female victim allegedly

subjected to sexual assault. The prosecution's narrative, primarily based on circumstantial evidence and a single key witness (PW-5), culminated in the imposition of the death penalty, which was later confirmed by the Madras High Court and challenged before the Supreme Court.

The case is emblematic of the dangers inherent in capital punishment jurisprudence—especially when convictions are grounded in flawed investigations, dubious witness testimonies, and procedural irregularities. It revives the long-standing doctrinal and moral debates around the death penalty in India, particularly in light of the "rarest of rare" doctrine as enunciated in Bachan Singh v. State of Punjab.

The Supreme Court's approach in this case demonstrates a meticulous reappraisal of circumstantial evidence and underscores the

judiciary's role as the final bulwark against miscarriages of justice. In reaffirming the principles laid down in *Hanumant Govind Nargundkar v. State of M.P.* and *Sharad Birdhichand Sarda v. State of Maharashtra*, the Court reiterated that every link in the chain of circumstances must be firmly established to secure a conviction. Mere suspicion, however strong, cannot substitute proof beyond reasonable doubt.

Furthermore, the case raises alarm bells about investigative standards and prosecutorial practices. As observed in *Pooja Pal v. Union of India*, the failure to investigate all angles of a crime may vitiate the very integrity of a trial. In this context, Kattavellai serves as a cautionary tale about the grave consequences of over-reliance on weak evidence, flawed police work, and a non-vigilant judicial approach.

In terms of legal theory, this case also contributes to the discourse surrounding the application of Section 27 of the Indian Evidence Act, 1872, concerning confessions leading to recovery, and the requirement of a credible chain of custody in DNA evidence. It juxtaposes the scientific reliability of DNA testing with procedural lapses in handling forensic material, casting serious doubts on the prosecution's case.

This case comment, therefore, seeks to analyze the judgment through the lens of constitutional safeguards, evidentiary standards, and procedural fidelity, evaluating whether the Supreme Court was correct in overturning the conviction and setting aside the death sentence. In doing so, it engages with leading precedents, doctrinal developments, and critical commentaries to provide a comprehensive assessment.

THE CHALLENGE

The present criminal appeal arises from the judgment dated 13 March 2019 passed by the Madras High Court, Madurai Bench, in Referred Trial [MD] No. 1 of 2018. This referred trial was pursuant to Section 366(1) of the Code of Criminal Procedure, 1973, wherein the confirmation of a death sentence awarded by a trial court is mandatorily reviewed by the High Court. The referred judgment affirmed the conviction and capital punishment imposed by the Principal District and Sessions Judge, Theni, in Special Sessions Case No. 9 of 2013, vide judgment dated 7 March 2018. The High Court confirmed the conviction and the imposition of death sentence for offences under Sections 302 (murder), 376 (rape), and 397 (robbery) of the Indian Penal Code, 1860, and dismissed the appeal of the convict-appellant against the trial court's decision.

The core challenge in this appeal before the Supreme Court lies in whether the courts below were correct in returning a finding of guilt against the appellant solely on the basis of circumstantial evidence, and whether such evidence fulfilled the strict judicial standards established by the Court in cases like

Sharad Birdhichand Sarda v. State of Maharashtra, where the Court laid down the five golden principles (panchsheel) required for conviction based on circumstantial evidence. The Supreme Court in *Hanumant v. State of Madhya Pradesh* also emphasized that circumstances must be "fully established" and of a "conclusive nature." The present case, therefore, necessitates judicial scrutiny under these established parameters.

The facts in question pertain to a double homicide and rape involving two young individuals (D1 and D2), who were allegedly killed while on a visit to Suruli Falls, Tamil Nadu. The prosecution alleged that the appellant committed rape and murder, driven by a motive to rob gold jewelry. The appellant was arrested 14 days after the incident, and the case hinged entirely on circumstantial factors such as the last seen theory, recovery of stolen items, test identification parade (TIP), DNA evidence, and alleged confession under Section 27 of the Indian Evidence Act, 1872. The core issue before the Supreme Court was whether these strands formed an unbroken chain, justifying a death sentence.

It is significant that the conviction was not based on any eyewitness testimony to the act of rape or murder, but instead on post-event discoveries and testimonies of police officers, forest guards, and one key civilian witness (PW-5), whose delay in disclosure and contradictory statements later raised serious doubts about the credibility of the prosecution's narrative. Courts have consistently held that in the absence of direct evidence, the circumstantial chain must be so complete as to exclude every hypothesis except that of guilt. The appellant's primary argument was that the circumstantial evidence was neither complete nor conclusive, and hence could not sustain a conviction, let alone justify a death sentence.

The death penalty, by its very nature, requires the highest level of scrutiny. In *Bachan Singh v. State of Punjab*, the Court laid down the "rarest of rare" doctrine, directing that capital punishment must only be imposed when alternative punishment is unquestionably foreclosed. The application of this doctrine must be both factual and principled, especially in cases involving circumstantial evidence. The apex court, in this case, was thus called upon to assess whether this was indeed such a case, or whether the courts below had erred in applying the "rarest of rare" test.

Finally, the challenge before the Supreme Court involved an intersection of constitutional law and criminal jurisprudence particularly the rights of the accused under Article 21 of the Constitution of India, which guarantees life and personal liberty, except by procedure established by law. Where that procedure is found to be arbitrary, unreasoned, or unjust, a conviction especially one leading to capital punishment cannot be allowed to stand. The

appellant invoked these protections, asserting that his right to fair trial had been vitiated by investigative lapses, evidentiary gaps, and judicial oversight in the lower courts.

FACTUAL PRISM

The facts of the case trace back to a tragic incident that occurred in the scenic but secluded forested area of Suruli Falls, Theni District, Tamil Nadu, in May 2011. Two young individuals—Ezhilmuthalvan (D1) and Kasturi (D2)—who shared a romantic relationship unbeknownst to their families, ventured to Suruli Falls under separate pretenses. D1 informed his family he was leaving to play cricket, while D2 told hers that she was attending college. Both left their homes on 14 May 2011, never to return alive. Their visit, as subsequent investigation revealed, ended in brutal homicide, with D2 allegedly subjected to sexual assault prior to her death.

At the crime scene on 14 May 2011, another couple—PW-5 (Rajkumar) and one Bhagyalakshmi (not examined)—were already present and allegedly witnessed the accused, Kattavellai @ Devakar, interacting with the deceased shortly before their deaths. According to PW-5, the accused approached them first, wielding a sickle, and demanded jewelry from Bhagyalakshmi. Upon realizing that the jewelry was imitation, he discarded it and approached D1 and D2. Fearing danger, PW-5 and his companion left the scene hurriedly. This episode became the cornerstone of the prosecution's "last seen" theory. D2's father, Ganesan (PW-4), lodged a complaint on 15 May 2011 at the All Women Police Station, Theni, alleging that his daughter had been kidnapped by D1. The police initially registered a case under Section 366 of the Indian Penal Code (IPC), 1860. This complaint was based solely on D2's absence and the mistaken belief that she had eloped with D1. The missing status of D1 and D2 persisted for several more days, with no progress in locating them.

Meanwhile, a forest tea stall owner, Ramesh (PW-11), informed forest officials that a Hero Honda motorcycle had been parked unattended near his stall for two days. Forest officials Thangaraj (PW-1) and Chelladurai (PW-6) retrieved the bike and secured it at the forest bungalow. This turned out to be the bike D1 had taken, which was subsequently identified by his father (PW-2), thereby alerting authorities to the probable location of the missing individuals.

With renewed urgency, a search operation was undertaken on 19 May 2011, resulting in the discovery of the decomposed bodies of D1 and D2 deep within the forest. The remains were in an advanced state of putrefaction, with severe bodily injuries indicative of homicide. Family members identified the bodies based on clothing and personal effects. This discovery prompted the registration of a case under Section 174 of the Criminal Procedure Code (CrPC), 1973, for suspicious death, which was

subsequently upgraded to murder.

Dr. Juliana Jeyanthi (PW-37), who conducted the post-mortem on-site, reported extensive and grotesque chop wounds on both victims. D1's neck was nearly severed, while D2 suffered mutilation of limbs and genital injury. Her vaginal introitus was torn, and the hymen was ruptured, suggesting sexual assault. The cause of death for both was determined to be homicidal violence involving sharp-edged weapons. The injuries were inflicted 5–6 days prior to the examination, aligning with the timeline of their disappearance.

PW-5 eventually approached the police on 20 May 2011, after learning of the deaths through news or social communication. He claimed to have witnessed the accused threaten D1 and D2 on 14 May. This testimony formed the bedrock of the prosecution's case. Based on his statement, the police "took a cue" and zeroed in on the appellant. The accused was arrested on 28 May 2011, and allegedly made a voluntary confession, which led to the recovery of key material evidence, including a gold chain, sickle, and items belonging to the deceased.

During the course of the investigation, the accused was found to have attempted suicide on 22 May 2011 by consuming poison. He was hospitalized and discharged on 25 May. This intervening event—occurring before his arrest—was presented by the prosecution as a sign of his guilt, but was not backed by hospital or FIR records during trial. The investigation further invoked Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, as all parties involved were from Scheduled Caste communities.

A Test Identification Parade (TIP) was conducted on 6 June 2011, during which PW-5 identified the accused. This was approximately nine days after his arrest. The appellant challenged the TIP as invalid due to prior exposure to media and police disclosures. Moreover, Bhagyalakshmi, the companion of PW-5 and a potential corroborative witness, was not examined during the trial, which became a point of contention regarding the reliability of PW-5's testimony.

The prosecution examined a total of 56 witnesses, marked 77 documents, and produced 29 material exhibits. The defense did not lead any evidence but pleaded complete innocence. The trial and appellate courts held that the chain of circumstantial evidence—last seen, recovery, DNA match, and motive—was sufficient to uphold the conviction and the imposition of the death penalty.

TRIAL COURT JUDGMENT

The trial in the present case was conducted before the Principal District and Sessions Judge, Theni, and was registered as Special Sessions Case No. 9 of 2013. Charges were formally framed against the accused, Devakar @ Kattavellai, on 8 October 2013 under the

following sections: Sections 302 (murder), 376 (rape), 392 read with 397 (robbery with attempt to cause death or grievous hurt) of the Indian Penal Code, 1860 (IPC) and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The prosecution based its case entirely on circumstantial evidence, as no eyewitness directly observed the commission of the crimes. Despite this, the trial court accepted the prosecution's narrative and found the accused guilty under Sections 302 (for both murders), 376 (for rape), and 379 (theft) of IPC. However, the court held that the accused was not guilty under Section 392 (robbery) and also rejected the charge under Section 3(2)(v) of the SC/ST Act, finding no evidence that the crime was committed due to caste-based animus.

In its sentencing order dated 7 March 2018, the trial court awarded the death penalty to the accused for the murder of D2 (the female victim) and life imprisonment for the murder of D1 (the male victim). The rape charge under Section 376 IPC also led to life imprisonment, while the theft charge resulted in a sentence of seven years of rigorous imprisonment. Monetary fines were imposed for each conviction, with provisions for default imprisonment.

The rationale provided by the trial judge for imposing the death sentence rested on the "rarest of rare" doctrine as laid down by the Supreme Court in *Bachan Singh v. State of Punjab*, wherein the Court held that death should be imposed only in cases where the alternative of life imprisonment is unquestionably foreclosed.

The trial court observed that the nature of injuries inflicted on the victims—especially the gruesome mutilation of D2's body, including amputation of limbs and signs of sexual violence—reflected brutality of an exceptional degree. These factors, according to the court, removed the case from the normal category of murders and justified the imposition of the capital sentence.

The court found that scientific evidence, including the DNA report, conclusively linked the accused to the rape of D2. Vaginal swabs and semen samples were subjected to forensic analysis, and the report indicated a positive match. This was treated as compelling evidence of sexual assault, bolstering the prosecution's case.

The Test Identification Parade (TIP) conducted on 6 June 2011, in which PW-5 identified the accused, was considered a reliable corroboration of his presence at the crime scene. Though the TIP was held several days after arrest, the trial court did not find any material to suggest that the identification was manipulated or influenced.

The confession statements of the accused, recorded under police custody on 28 May 2011 and 31 May 2011, were held to be partially admissible under Section 27 of the Indian Evidence Act, 1872, as they

led to the discovery of material objects (MO-10, MO-18, MO-1, etc.), including the deceased's chain and other belongings. The court viewed these recoveries as corroborative, reinforcing the narrative of guilt.

While dismissing the defense's argument regarding lack of motive, the trial court held that the absence of motive does not necessarily exculpate the accused, particularly when the chain of circumstantial evidence is otherwise complete. It relied on the settled position that motive is not *sine qua non* for conviction when direct or reliable circumstantial evidence is present.

In its final pronouncement, the court recommended the matter to the High Court for confirmation of the death sentence under Section 366(1) of the Code of Criminal Procedure, 1973. The judgment and all related records were accordingly sent to the High Court of Madras, Madurai Bench, for confirmation proceedings.

Thus, the trial court judgment represents a classic application of circumstantial evidence theory, reinforced by scientific proof and recoveries. However, as will be seen in the analysis by the Supreme Court, many of these findings were later found to be either legally flawed or factually insufficient, particularly in the context of awarding the death penalty.

THE IMPUGNED JUDGMENT

The High Court of Madras, in Referred Trial (MD) No. 1 of 2018, confirmed the conviction and sentence of death awarded by the Trial Court to the appellant under Sections 302, 376, and 379 of the Indian Penal Code, 1860. The High Court opined that the present case fell within the "rarest of rare" doctrine due to the brutal nature of the crime and the vulnerability of the victim, particularly in relation to the rape and murder of a young girl in an isolated forest region.

The Court placed significant reliance on the last seen theory, holding that the testimony of PW-5—who had allegedly seen the deceased (D1 and D2) with the accused shortly before their murder—established a strong presumption of guilt. It cited that there was no plausible explanation by the appellant for his presence at the scene of crime or for the injuries found on his person.

Furthermore, the High Court emphasized the evidentiary value of the Test Identification Parade (TIP). According to the Court, PW-5's identification of the accused in the parade lent strong corroborative support to the prosecution's case, especially because he also identified the accused during trial. The Court ruled that the minor discrepancies pointed out by the defense were immaterial in view of the overall consistency in the witness's testimony.

The High Court also accepted the confession and recovery under Section 27 of the Indian Evidence Act, 1872. It observed that the recovery of incriminating articles like the deceased's jewelry and clothing

based on the accused's confession was a vital link in the circumstantial chain. It drew strength from the notion that discovery of material evidence at the instance of the accused inherently lends authenticity to the confession, despite the same being inadmissible in its broader form.

A critical aspect of the High Court's decision was the DNA evidence. It observed that the forensic report matched the semen sample taken from the body of D2 with the DNA profile of the appellant. The Court reasoned that DNA evidence is scientific, objective, and rarely susceptible to manipulation. Hence, it accorded it strong probative value, treating it as conclusive corroboration of the rape charge.

In dealing with the motive, the Court acknowledged that while motive may not always be discernible in cases based on direct evidence, in a circumstantial case, even a slight indication of motive supports the inference of guilt. The prosecution's theory that the appellant intended to rob the couple and exploit the vulnerability of the female victim in an isolated location was accepted as probable.

Additionally, the High Court responded to the defense contention regarding the non-examination of Bhagyalakshmi. It held that non-examination of a witness is not necessarily fatal if the available evidence is sufficient and cogent. The Court invoked Section 134 of the Indian Evidence Act, which provides that no particular number of witnesses is required to establish a fact.

Ultimately, the High Court confirmed the death sentence, observing that the brutality of the act, combined with the vulnerable state of the victim, merited the highest punishment. It reiterated the proportionality principle laid

RIVAL CONTENTIONS

A. Contentions on behalf of the Appellant

The learned senior counsel appearing for the appellant advanced several arguments questioning the legitimacy of the conviction. First and foremost, she attacked the credibility of PW-5, the prosecution's "star witness," who claimed to have last seen the deceased alive in the company of the accused. It was contended that PW-5's prolonged silence between the date of the incident (14 May 2011) and the date he came forward (20 May 2011) was unnatural and indicative of fabrication. The argument was that PW-5, knowing that the girl (D2) did not return home the next day, failed to inform any authority, family, or even his own companion Bhagyalakshmi, about the threatening incident they had witnessed in the forest. Such conduct, the defense argued, falls far below the standard of what a reasonable man would do, especially when life and liberty were involved. This casts serious doubt on the truthfulness of his testimony and his supposed recollection of the accused.

Second, the non-examination of Bhagyalakshmi, the

sole person who accompanied PW-5 to the Suruli forest and who could corroborate or contradict his version, was stressed as a serious lacuna. The High Court did not convincingly explain this failure, despite acknowledging it. Since Bhagyalakshmi was the one who introduced PW-5 to D2, and had firsthand knowledge of the events, her absence from the witness stand deprived the defense of testing the credibility of PW-5's entire narration. Her omission weakened the prosecution case significantly.

Third, the defense argued that the Test Identification Parade (TIP) conducted on 6 June 2011 was tainted. PW-5 admitted in cross-examination that he saw the accused at the Cumbum Police Station within a week of the occurrence, and that the police had told him the accused's name before the TIP. The identification, therefore, was no longer independent or uninfluenced. The delay of nine days between arrest and TIP further gave scope for the accused's image to circulate in the media, undermining the sanctity of the process.

Fourth, the testimony of PW-25, who allegedly saw the accused with a sickle (arival) on the day of the incident, was vague and inadequate. He did not participate in any TIP, nor did he identify the accused based on clothing or other distinctive features. Considering that the accused worked as a coconut-cutter, a profession requiring the use of such tools, merely seeing him with a sickle could not implicate him in the murder.

Fifth, the circumstances of the arrest were disputed. The defense pointed out that no credible basis for suspicion against the appellant existed on 28 May 2011. The alleged basis his attempted suicide on 22 May was neither contemporaneously investigated nor reported to the relevant police station. There was no record of any FIR for suicide under Section 309 IPC until after his arrest. In fact, police officers (PW-52 and PW-54) admitted under cross-examination that they learned of the suicide only after arrest. This suggests that the suspicion was an afterthought.

Sixth, the recovery of incriminating materials pursuant to the confession under Section 27 of the Indian Evidence Act was criticized. PW-16, the village administrative officer, admitted in cross-examination that he arrived at the scene after the arrest, not during it. Therefore, no independent witness was present at the time of arrest, weakening the value of the alleged confession. Further, the recovery of the chain allegedly worn by D2 was not described with sufficient distinctiveness. Neither the FIR nor the witnesses mentioned any identifying marks (like the "Om" symbol on the pendant), and there was no forensic link established.

Seventh, the prosecution's DNA evidence was challenged on the ground of broken chain of custody. Dr. Juliana Jeyanthi (PW-37), who conducted the autopsy, said she may have handed over the vaginal swab to a constable, but this was not recorded in any

register. PW-41, who supposedly took the samples to the forensic lab, made no mention of sealing, transfer, or storage procedures. PW-52, the investigating officer, was vague about the handling of DNA samples and the semen sample allegedly taken from the accused on 13 June 2011. In such a situation, the integrity of the samples was questionable, making the

DNA evidence unreliable.

Eighth, the motive was also unproven. The prosecution claimed that the accused wanted the victims' gold jewelry, but aside from a single gold chain, no valuables—such as rings or mobile phones—were ever recovered. The accused was not shown to have disposed of any stolen items, nor was there evidence of financial distress to suggest robbery as a motive.

Lastly, the defense urged that the cumulative effect of these deficiencies rendered the conviction unsafe. Given that the case rested entirely on circumstantial evidence, the standard of proof had to be extremely high. The absence of direct evidence, weak corroboration, procedural lapses, and doubtful witness conduct cumulatively entitled the appellant to the benefit of doubt.

B. Contentions on behalf of the Respondent-State

The learned counsel for the State opposed the appeal, defending the conclusions of the trial court and the High Court. First, the State justified PW-5's delay in reporting the incident by arguing that he believed D1 and D2 had eloped, as they had been in a romantic relationship. When PW-5 learned of their deaths, he promptly approached the police. According to the prosecution, this was a plausible explanation for his silence, and the courts below had found his demeanor consistent.

Second, the State defended the Test Identification Parade, arguing that there was no evidence that PW-5 had seen the accused's photograph before the TIP. Although the defense claimed otherwise, PW-5 never categorically stated that the police had shown him a photograph of the accused. Further, the identification was conducted before a magistrate in the prescribed manner.

Third, the prosecution highlighted that the confession under Section 27 led to recoveries from the accused's house and his mother-in-law's residence, which corroborated the prosecution's case. They invoked *State of Himachal Pradesh v. Jeet Singh*, where the Court upheld such recoveries as evidence of guilt.

Fourth, the State argued that the DNA analysis proved sexual assault. PW-34, the forensic scientist, testified that the DNA profile from the vaginal swab matched that of the accused. Although minor irregularities existed in recordkeeping, the sample was properly preserved and tested. The defense had not shown any actual tampering or fabrication.

ANALYSIS AND FINDINGS

The Supreme Court began by reaffirming the core principle that circumstantial evidence can be the basis for conviction only when it satisfies the stringent tests laid down in *Sharad Birdhichand Sarda v. State of Maharashtra*. The case emphasized that each circumstance relied upon by the prosecution must be fully established, and the chain of evidence must be complete without any reasonable ground for a conclusion consistent with the innocence of the accused.

The Court expressed concern that the Trial Court and High Court judgments overlooked significant deficiencies in the prosecution's evidence and adopted a mechanical approach to the "last seen together" theory and recovery under Section 27 of the Indian Evidence Act, 1872. The judicial scrutiny expected in capital punishment cases was absent, thereby vitiating the fairness of the findings.

A. The "Panchsheel" of Circumstantial Evidence

The Court recalled the five golden principles (panchsheel) laid down in *Sharad Birdhichand Sarda*, requiring that (i) circumstances must be fully proved; (ii) the facts so established must be consistent only with the hypothesis of guilt; (iii) the circumstances must be of a conclusive nature; (iv) they must exclude every noted, failed to satisfy all five criteria, especially with critical gaps in last seen evidence, motive, and independent corroboration.

B. Last Seen Theory Not Sufficient

The prosecution's reliance on PW-5, the only witness who claimed to have last seen the deceased alive in the company of the accused, was found wanting. The Court questioned the witness's conduct and delay in reporting the incident. A delay of over a week in approaching the authorities rendered the testimony suspicious and did not satisfy the proximity requirement necessary for applying the last seen theory.

Further, the Court observed that mere presence of the accused with the deceased at some point earlier cannot, in the absence of corroboration, lead to a presumption of guilt. The burden remains on the prosecution to prove that no one else could have intervened between the time the accused and the deceased were seen together and the time of death.

C. Disclosure Statement and Recovery

The Court addressed the admissibility of the disclosure statement made by the accused under Section 27 of the Indian Evidence Act. It stressed that only the part of the confession which directly leads to discovery of material facts is admissible in evidence. However, in this case, the prosecution failed to demonstrate a credible and unbroken chain of custody for the recovered items.

Additionally, there was no independent evidence to

connect the recovered material (such as the mobile phone, clothes, or jewelry) to the deceased, thereby diluting its evidentiary value. The absence of forensic corroboration and failure to rule out contamination or substitution further weakened the probative value of the recovery.

D. Test Identification Parade (TIP)

The Court critiqued the TIP conducted in this case as flawed. It was conducted after the accused had been in police custody for several days and had been seen by PW-5 at the police station. In such circumstances, the identification loses its value as an investigative tool and becomes unreliable in trial proceedings. The Court emphasized that identification parades must be conducted at the earliest opportunity and in a manner free from suggestive influence.

E. DNA and Forensic Evidence

While the DNA report indicated a match between the accused's profile and semen samples from the body of D2, the Court highlighted the lack of documentation regarding the collection, sealing, transfer, and preservation of samples. There were no records of proper custody, which undermined the authenticity and admissibility of the forensic evidence.

The Court cited earlier rulings emphasizing that in the absence of chain-of-custody protocols, even scientifically accurate reports must be treated with caution. The possibility of contamination or substitution could not be ruled out due to the prosecution's failure to produce relevant medical and forensic personnel during trial.

F. Motive and Opportunity

The motive projected by the prosecution—a sexual assault and robbery—was treated as conjecture unsupported by credible testimony or independent evidence. The Court stressed that while motive is not indispensable in every case, its absence becomes critical where the case is based entirely on circumstantial evidence.

The opportunity to commit the crime, based on presence at the location, was not backed by concrete evidence such as CCTV footage, phone location tracking, or independent witness testimony. The accused's alleged suicide attempt in jail was also inadequately documented, and the hospital records were not produced before the court, further weakening the inference drawn by the Trial Court.

G. Cumulative Effect and Benefit of Doubt

Taking a cumulative view, the Supreme Court found that the evidence was replete with reasonable doubts, procedural lapses, and investigative deficiencies. The cardinal rule that suspicion, however grave, cannot take the place of proof was reiterated. As such, the conviction could not be

sustained, and the accused was acquitted.

The Court also noted that when life or death is at stake, the standard of scrutiny must be uncompromising, and the benefit of doubt must always go to the accused when the prosecution's case rests on circumstantial evidence.

COMMENTARY ON CIRCUMSTANTIAL EVIDENCE

Circumstantial evidence plays a critical role in criminal jurisprudence, especially in cases where direct evidence is absent. The Indian judiciary has long grappled with the standards for admissibility and sufficiency of circumstantial evidence, balancing the scales between the rights of the accused and the societal need for justice. The Supreme Court has consistently held that while circumstantial evidence is admissible, the evidentiary chain must be complete and conclusive to sustain a conviction, particularly in capital punishment cases.

The seminal judgment in *Sharad Birdhichand Sarda* laid down the "Panchsheel principles," which serve as the gold standard for evaluating circumstantial evidence. These five conditions require that: (1) the circumstances must be fully established; (2) they must be consistent only with the hypothesis of the guilt of the accused; (3) they should exclude every possible hypothesis except the one to be proved; (4) they must be conclusive in nature; and (5) there must be a complete chain of evidence.

In the present case, the prosecution relied solely on circumstantial evidence. This included the "last seen" theory, recovery of articles, confession statements, and scientific (DNA) evidence. However, the chain of circumstances was broken at multiple points due to procedural lapses, uncorroborated witness testimony, and poor investigative rigor.

Indian courts have frequently reiterated that while circumstantial evidence can suffice for conviction, it must be distinguished from suspicion. The maxim "suspicion, however grave, cannot take the place of proof" continues to act as a constitutional guardrail in criminal trials.

In *Hanumant Govind Nargundkar v. State of Madhya Pradesh*, the Supreme Court was unequivocal that circumstances must not only be consistent with the guilt of the accused, but also inconsistent with his innocence. Any missing link in the evidentiary chain weakens the case irreparably.

The judiciary has also emphasized that where two views are reasonably possible one pointing to the guilt of the accused and the other to his innocence the view that favors the accused must be adopted. This principle flows from the presumption of innocence under Article 21 of the Constitution of India.

Moreover, circumstantial evidence gains probative value only when each circumstance is individually

proven and then cumulatively assessed. A singular circumstance, however compelling in isolation, cannot be stretched to prove guilt without the support of corroborative links.

The principle that the chain of circumstances must be "so complete as to exclude every hypothesis except the guilt of the accused" has a constitutional dimension. It acts as a safeguard against miscarriage of justice, especially when the death penalty is contemplated.

In *Nizam and Others v. State of Rajasthan*, the Court held that the absence of a clear timeline linking the "last seen" evidence to the time of death created a fatal gap in the prosecution's case. Courts cannot speculate or fill evidentiary gaps with assumptions. Applying these principles to the present case, the Supreme Court rightly identified that PW-5's delayed disclosure, the unverified chain of custody in DNA evidence, and vague confessions could not meet the rigorous threshold required for conviction based on circumstantial evidence.

Furthermore, it is essential to underscore that while each piece of circumstantial evidence may appear innocuous in isolation, the prosecution bears the burden to demonstrate how the totality of such evidence irreversibly points to the guilt of the accused.

This principle is particularly critical in the context of capital punishment, where the Court must be satisfied that the case falls within the "rarest of rare" category and is proven beyond all shadow of doubt. Any lapse—whether in the credibility of a witness, timing of recovery, or unproven motive—should tilt the balance in favor of the accused.

A vivid example of the dangers of relying on incomplete circumstantial evidence is found in *Ashok Kumar v. State of Madhya Pradesh*, where the Court held that mere recovery of objects from the accused is insufficient unless linked with the crime through independent evidence.

The courts have also applied the test of "cumulative reliability" while assessing circumstantial evidence. This test mandates that not only must each circumstance be proven, but their interconnection must logically and inexorably lead to one conclusion—guilt of the accused.

It is also important to note that circumstantial evidence is more suitable for establishing facts in economic or regulatory offences, but in homicide or rape-murder cases—where human life and liberty are at stake its standard of sufficiency is understandably higher.

Given the irreversible nature of the death penalty, the Court in *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra* observed that the evidentiary burden in death sentence cases must be "a notch above" that required in life imprisonment cases.

FAULTY INVESTIGATION AND

PROCEDURAL IRREGULARITIES

A criminal trial's integrity is fundamentally rooted in a competent, thorough, and unbiased investigation. In the present case, the investigative agencies fell short of this standard, thereby compromising the fairness of the process. Courts have consistently held that failure to follow established procedures can cast serious doubt on the prosecution's case, especially when the case hinges on circumstantial evidence alone.

One of the most glaring lapses in this case was the absence of any documented rationale or source of suspicion that led the investigators to arrest the appellant. Though the arrest was purportedly based on a "cue" from PW-5, there is no material on record indicating what that cue was, or how it pointed specifically to the appellant. As the Supreme Court rightly observed, this absence of a logical and procedural basis for the arrest undermines the credibility of the entire chain of events following it.

Furthermore, no independent witness was present at the time of arrest, contradicting the mandate laid down in *D.K. Basu v. State of West Bengal*, which requires that arrest procedures ensure transparency and protection of the accused's constitutional rights. PW-16, the Village Administrative Officer, was informed of the arrest after it had already occurred, eliminating his value as a contemporaneous and independent witness.

The case also suffered from non-examination of a crucial witness—Bhagyalakshmi, who, according to PW-5, was present with him at the scene and was directly threatened by the accused. Her absence from the witness box created a serious void in the prosecution's narrative, especially when her testimony could have corroborated or contradicted PW-5's highly contested account. The Investigating Officer admitted to having no specific reason for not summoning her, which amounts to suppression of material evidence.

Equally troubling was the lack of clarity regarding the chain of custody of forensic samples, especially the vaginal swab that formed the basis of the DNA evidence. The chain from the medical examiner to the forensic laboratory was poorly documented, with discrepancies in who received the sample, how it was stored, and when it was transmitted. The absence of contemporaneous entries in police records regarding this handling severely diminishes the evidentiary value of the DNA match.

Further, critical evidence such as the alleged murder weapon—a sickle—was neither forensically examined nor linked through blood or fingerprint evidence to the appellant. While recovery was allegedly made pursuant to a Section 27 confession, its credibility is questionable due to the lack of contemporaneous documentation and forensic substantiation. In such cases, as held in *Pulukuri Kottaya v. King Emperor*, mere recovery without a clearly attributable and

admissible confession cannot form a valid basis for conviction.

The post-arrest confession was also procedurally flawed. The police allegedly recorded the appellant's confession in the presence of a Village Administrative Officer, but did not produce any audio or video record of the same. Furthermore, the writing was not done by the officer himself, and the person who scribed the statement was not called as a witness. Courts have repeatedly cautioned that confessions to police must be corroborated by unimpeachable evidence when voluntariness is in doubt.

Moreover, there was no forensic examination of the appellant's clothes, allegedly recovered from his house. Without linking these clothes to blood or biological matter from the victims, their evidentiary value remains tenuous at best. Despite the availability of modern forensic tools, the investigation remained outdated and incomplete—a lapse that becomes fatal in cases demanding the highest standard of proof.

The test identification parade (TIP) was also improperly conducted. It occurred nine days after the arrest, by which time the appellant's identity was widely reported in media and possibly known to PW-5. In fact, PW-5 admitted having seen the appellant at the police station earlier. Such procedural lapses compromise the fairness of TIPs, rendering them ineffective in affirming identity under Section 9 of the Indian Evidence Act, 1872.

Finally, the investigation made no effort to explore alternative suspects, even though PW-2 (father of D1) had explicitly named four individuals—Arjunan, Ambazhagan, Viji, and Francies—as being possibly involved. These leads were not investigated, and no explanation was offered for their exclusion. The Supreme Court has stressed that non-investigation of plausible alternatives can make the investigation “deliberately lopsided.”

In light of these lapses, the investigation fails the test of fairness, objectivity, and thoroughness required under Article 21 of the Constitution. Courts have consistently emphasized that where investigation is tainted or materially defective, the benefit of doubt must go to the accused, particularly in a death penalty case.

COMPARATIVE ANALYSIS OF FOREIGN JURISDICTIONS: CIRCUMSTANTIAL EVIDENCE, CONFESSION, DNA, AND DEATH PENALTY

I. Circumstantial Evidence in Criminal Trials

Indian courts, including the Supreme Court in Kattavellai, place a high burden on the prosecution in cases relying solely on circumstantial evidence, following the Sharad Birdhichand Sarda five-point test. This ensures that conviction is not based on

conjecture or suspicion.

In contrast, English courts follow the principle articulated in *McGreevy v. DPP*, which emphasized that juries must be “satisfied beyond reasonable doubt” but acknowledged that circumstantial evidence, when cogent, may form the basis of conviction. However, English courts do not impose an explicit multi-pronged test like the Indian courts.

American jurisprudence generally allows juries more discretion in interpreting circumstantial evidence. In *Holland v. United States*, the U.S. Supreme Court held that “circumstantial evidence is intrinsically no different from testimonial evidence.” Nonetheless, the constitutional guarantee under the Due Process Clause requires that a conviction must be supported by evidence beyond reasonable doubt.

Canadian courts also accept circumstantial evidence, provided that the only rational inference that can be drawn is the guilt of the accused. In *R. v. Villaroman*, the Supreme Court clarified that circumstantial evidence must exclude “other reasonable conclusions.”

II. Confession and its Admissibility

The Indian Evidence Act, 1872, under Section 25, excludes police confessions unless they lead to discovery under Section 27. This was central to the rejection of the confession in Kattavellai.

In the UK, confessions are admissible under the Police and Criminal Evidence Act (PACE), 1984, provided they are not obtained through oppression or unreliability (Sections 76 and 78). In *R v. Fulling*, the Court excluded a confession made under psychological coercion.

The Fifth Amendment of the U.S. Constitution protects against self-incrimination, and *Miranda v. Arizona*

requires that suspects be informed of their right to remain silent and to counsel. A confession without *Miranda* warnings is inadmissible, much like the inadmissibility of non-discovery-based police confessions in India.

In South Africa, confessions must be voluntary and made in front of a magistrate under the Criminal Procedure Act. The Supreme Court in *S v. Zuma* declared that burdening the accused to prove involuntariness was unconstitutional.

III. DNA Evidence and Chain of Custody

The Supreme Court in Kattavellai held that DNA evidence must be corroborated by a properly established chain of custody, failing which it loses probative value.

Similarly, in *R v. Doherty*, the English Court of Appeal required DNA evidence to be supported by statistical analysis and properly controlled handling protocols. The reliability of the match probability and procedural integrity are both emphasized.

U.S. courts scrutinize the admissibility of DNA

evidence under the Daubert standard, which assesses scientific validity and reliability. In *Daubert v. Merrell Dow Pharmaceuticals*, the Court required that expert testimony must be scientifically grounded.

Canada follows the Mohan test for expert evidence admissibility, where DNA is accepted if relevance, necessity, reliability, and lack of prejudice are satisfied. Thus, improper handling of DNA samples, as seen in *Kattavellai*, would likely render the evidence inadmissible in Canadian courts too.

IV. Test Identification Parade (TIP)

The Supreme Court in *Kattavellai* flagged the delayed and flawed TIP as a major irregularity affecting reliability.

In the UK, while TIPs are part of the police procedure, courts often prefer identification made at the scene or through CCTV. Courts follow safeguards under Code D of PACE. In *R v. Turnbull*, the court emphasized caution in relying on visual identification unless corroborated.

In the U.S., *Neil v. Biggers* laid down a five-factor test to determine the reliability of identification: witness's opportunity to view, degree of attention, accuracy of prior description, level of certainty, and time between crime and identification. A delayed TIP as in *Kattavellai* would likely be inadmissible under *Biggers*.

V. Death Penalty and the "Rarest of Rare" Doctrine

India's "rarest of rare" standard from *Bachan Singh v. State of Punjab* balances aggravating and mitigating circumstances. In *Kattavellai*, the Court emphasized that even in heinous crimes, faulty evidence cannot justify a death sentence.

The UK abolished the death penalty through the Murder (Abolition of Death Penalty) Act, 1965. The last execution was in 1964, and human rights jurisprudence now firmly opposes capital punishment.

The U.S. retains capital punishment in several states, but the U.S. Supreme Court in *Furman v. Georgia* invalidated arbitrary sentencing, leading to more structured statutes like those upheld in *Gregg v. Georgia*. However, courts have emphasized that death cannot be imposed without rigorous procedural compliance.

South Africa abolished the death penalty in *S v. Makwanyane*, holding it violated the right to life and dignity under the new Constitution. The Court placed emphasis on dignity, arbitrariness, and fallibility of judicial systems.

VI. Comparative Takeaways for Indian Jurisprudence

The comparative framework reveals that Indian jurisprudence is more aligned with constitutional democracies like South Africa and Canada in upholding due process and emphasizing evidentiary

integrity. However, lapses in investigation, as highlighted in *Kattavellai*, show a divergence in application.

Western systems generally require higher standards of forensic integrity and give greater weight to procedural regularity. *Kattavellai* echoes the spirit of those systems in refusing to uphold a conviction or death penalty merely on a defective chain of circumstantial evidence.

CONCLUSION

The Supreme Court, after a comprehensive examination of the evidentiary matrix and legal principles, held that the conviction and death sentence awarded to the appellant were unsustainable. The judgment culminated in the following conclusive findings:

The Supreme Court emphasized that in a case based solely on circumstantial evidence, the prosecution must establish a complete and unbroken chain of events pointing solely to the guilt of the accused. However, in the present case, the chain had glaring gaps. Most notably, PW-5's conduct—from witnessing the incident on May 14, 2011 to remaining silent until May 20—was highly suspicious. His failure to act despite knowing the victims personally undermined his credibility.

The Test Identification Parade (TIP) was held after a delay of nine days. PW-5 admitted that the police had already revealed the identity of the accused to him. Additionally, he had seen the accused in custody prior to the TIP. The Court found that the identification process was vitiated and failed to meet evidentiary standards.

The recoveries—particularly of the sickle (weapon) and gold chain—were not scientifically linked to the crime. No bloodstains or fingerprints were matched. The chain allegedly belonging to D-2 lacked distinctive identification marks. Forensic tests were either not conducted or were inconclusive.

Though the prosecution claimed DNA matching between the accused and the semen on the victim, the chain of custody was broken. The vaginal swab was transferred via unclear protocols; there was no evidence of how or when samples were stored, transported, or protected. The Court held that tampering could not be ruled out.

The alleged motive was robbery. Yet, aside from a chain, no other items (mobile phone, rings, etc.) were recovered. Even the disposal of such items was not investigated. The motive remained speculative, and the accused's connection to any planned robbery was never established.

The Court sharply criticized the shoddy investigation: crucial witnesses like Bhagyalakshmi were not examined; no contemporaneous records were produced regarding the accused's hospital admission or arrest; and the arrest itself lacked independent witnesses. There was also confusion about how

suspicion arose in the first place.

The Court reiterated the well-settled principle that if two interpretations are possible, the one favoring the accused must be adopted. Given the lack of credible evidence and procedural lapses, the Court concluded that the benefit of doubt must go to the appellant. Accordingly, the Supreme Court set aside the conviction and death sentence. The accused was acquitted of all charges and ordered to be released unless required in another case.

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