IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 418 of 2013

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA

and
HONOURABLE MR. JUSTICE R. T. VACHHANI

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Approved for Reporting	Yes	No

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KAMAL KISHOR @ RAJU SURENDRASINGH SUDAMASINGH YADAV
Versus
STATE OF GUJARAT

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Appearance:
MR P P MAJMUDAR(5284) for the Appellant(s) No. 1
MR. VIPUL B SUNDESHA(6689) for the Appellant(s) No. 1
MR JK SHAH APP for the Opponent(s)/Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 06/02/2026

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

1. Feeling aggrieved and dissatisfied with the judgment and order of conviction and sentence dated 01/11/2012 passed by the learned Sessions Judge (Principal Court), Gandhinagar in Sessions Case No.31 of 2012, whereby the appellant – accused has been is convicted and sentenced to undergo life imprisonment for offence punishable under sections 302 of the Indian Penal Code along with the fine of Rs. 20,000/-, in default of

which further six months of simple imprisonment; convicted and sentenced to undergo life imprisonment for offence punishable under sections 307 of the Indian Penal Code along with the fine of Rs. 10,000/-, in default further four months of simple imprisonment is imposed; convicted and sentenced to undergo five years of rigorous imprisonment for offence punishable under sections 328 of the Indian Penal Code along with the fine of Rs.6,000/- in default of which further three months of simple imprisonment, the appellant has preferred the present appeal under Section 374 of the Code of Criminal Procedure, 1973 ("the Code" for short).

2. The brief facts leading to the filing of the present appeal are as under:

2.1 It is the case of prosecution that the sister of the appellant was having an affair with one Gaurang Prajapati and when the appellant came to know about the said affair prior to four months from filing of the F.I.R., the appellant sought help of his friends namely deceased Mangalsinh Maiyadin Prajapati, the informant- Manish Rathod and the victim- Pankaj Upadhyay, to help him in eliminating the said Mr.Gaurang Prajapati, but the said three friends of the appellant denied helping him in eliminating Gaurang Prajapati. It is further alleged that keeping grudge of the same after four months, the appellant with the intention to commit murder of all his three friends namely deceased- Mangalsinh Maiyadin Prajapati, Manish Rathod and Pankaj Upadhyay, on 22.01.2012, the appellant invited them to party saying that it is being arranged towards his pending birthday party. It is further alleged that thereafter, liquor was arranged and all of them decided to involve in such party, whereby the appellant brought three dabelis mixing aconite poison therein and when they were partying the appellant gave them the said dabeli to eat, and

after consuming the same, three friends of the appellant started vomiting, thereafter, they were admitted to the Satyamev Hospital, where the deceased- Mangalsinh Maiyadin Prajapati died and the two were given medical treatment and thus, the appellant committed offence punishable under section 307, 302, 328 and 120B of the Indian Penal Code, 1860.

2.2 Accordingly, FIR being CR No.14 of 2012 came to be registered with Chandkheda Police Station. The Police after investigation charge-sheeted the accused for the aforesaid offences before the learned JMFC, Court. However, as the said Court lacks jurisdiction to try offence under Section 302 IPC, the case was committed to the Sessions Court. On conclusion of evidence on the part of the prosecution, the learned Sessions Court put various incriminating circumstances appearing in the evidence to the respondent-accused so as to obtain explanation/answer as provided under Section 313 of the Code. In the further statement, the respondents-accused denied all incriminating circumstances appearing against them as false and further stated that he is innocent and a false case has been filed against him. After examining the evidence, witness testimonies and submissions from both sides, the learned Sessions Court recorded the finding convicting the respondent-accused.

3. We have heard learned Advocate for the appellant – convict and learned APP for the respondent-State and minutely examined oral and documentary evidence adduced and produced before the learned Sessions Court concerned.

4. Learned advocate appearing for the appellant – accused has submitted that since the entire case of the prosecution rests on the circumstantial evidence, the prosecution has failed to prove its case beyond the reasonable doubt and does not prove that the entire chain and

therefore, learned Sessions Court has erred in convicting the appellant – accused. It is further submitted that if the FIR in question is seen at the first instance, as such no specific role pointing out in commission of the crime. It is therefore submitted that when the conduct of the prosecution witnesses are highly unnatural and improbable and inconsistent and therefore, learned Sessions Court ought to have awarded the benefit of doubt to the appellant – accused.

4.1 It is further submitted that the learned Sessions Court has awarded the conviction on the appellant – accused on the basis of the scientific evidence whereby the so-called poison was used in commission of crime but as per the evidence on record the said so-called poison is not available in the State of Gujarat and the prosecution has failed to bring on record the source of purchase of such poison at the instance of the appellant-accused. It is further submitted that as such no direct evidence to link the accused with the crime in question has come forward and therefore, the theory on the basis of which the conviction has been recorded is erroneous and therefore the appellants – accused ought to have been acquitted.

4.2 It is further submitted that the learned Sessions Court has heavily relied upon the evidence of the complainant and victim who were in fact with the appellant – accused at the time of commission of offence and therefore evidence of these witnesses also come under the shadow of doubt and therefore, it is submitted that present appeal may be allowed and the conviction and sentence recorded by the learned Sessions Court may be set aside.

4.3 In support of his submissions, learned advocate for the appellant – accused has relied upon the decision in case of ***Shail Kumari v. State of***

Chhattisgarh*, reported in 2025 (0) AIJEL-SC 75681**, where the Hon'ble Apex Court while considering the judgment in ***Sharad Birdhichand Sarda v. State of Maharashtra, reported in (1984) 4 SCC 116 has held that prosecution must stand and fall on its own legs and in case of circumstantial evidence, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved.

4.4 He also relied upon the decision in case of ***Laxman Prasad Alias Laxman vs. State of Madhya Pradesh [(2023) 6 SCC 399]*** and ***Munikrishna alias Krishna etc. vs. State by Ulsoor PS [2022 SCC OnLine SC 1449]*** and has submitted that as per the ratio laid down by the Hon'ble Apex Court if one link in chain of circumstances to be missing and not proved, the conviction based on circumstantial evidence is required to be set aside.

4.5 By making the above submissions, learned advocate for the appellants – accused would submit to allow this appeal and to quash and set aside the judgment and order of conviction and sentence.

5. Mr.J K Shah, learned APP appearing for the respondent – State submits that the impugned order of conviction and sentence does not require to be interfered with as the learned Sessions Court has after thorough appreciation of evidence has come to the conclusion and recorded the conviction of the appellant – accused on the basis of the evidence adduced before the Court. It is further submitted that the evidence produced on record proves the involvement of the accused in the commission of crime in question. He has further submitted that evidence of the witnesses examined before the Court has supported the case of prosecution and narrated the incident as it was happened. It was

submitted that no such omission or contradiction in the evidence of the said witnesses have come on record to discard their evidence. He has further submitted that the prosecution witnesses have deposed before the Court narrating the entire chain of sequence whereby the involvement of the accused is proved which corroborates with the scientific evidence produced and proved by the prosecution and therefore, the judgment and order of conviction and sentence may not be interfered with.

6. Heard the learned Advocate for the appellant – accused Mr.P P Majmudar and learned APP Mr.J K Shah for the respondent – State and perused the deposition of witnesses as also documentary evidence placed on record as well as the order passed by the learned Sessions Court.

7. At the outset, if the case on hand is seen, it is a case of a circumstantial evidence and while leading the case, the prosecution is required to establish the link of chain to connect the accused with the crime. Thus, while dealing with the evidence on record, the Court concerned is required to appreciate as to whether the evidence produced on record is sufficient to prove the case of prosecution or not and if no then the benefit of that would go to the accused as the prosecution has failed to prove its case beyond reasonable doubt while missing to complete the entire of circumstance.

8. Now, reverting to the facts of the case on hand is concerned, it appears from the record if the case of the prosecution is seen, the appellant-accused by keeping grudge over the relationship of his sister with one Gaurang Prajapati asked his friends to eliminate him; to which his friends denied and therefore keeping grudge over the said aspect and to kill all his friends, he invited them to give his pending birthday party where he offered them Dabeli mixed with some poisonous substance and

out of them one Mr.Mangal Prajapati was died while two were admitted in the hospital and survived.

Thus, in background of the above facts the evidence of the important witnesses examined by the prosecution is required to be re-appreciated.

9. PW 16 – Manish Pappubhai Rambabu Rathod complainant is examined at Exh-69. Witness has deposed in his testimony that he was driving his CNG passenger Rikshaw bearing Registration No.GJ-1CU-1801. Witness has further deposed that the incident took place on 22/01/20212. Witness has further deposed that after parking his rickshaw, Kamal and Pintu @ Pankaj met him and shook his hand with Kamal. Kamal asked him that he had seen after a long time and he wanted to offer his birthday party since it was overdue and thereafter they decided to arrange a party. Witness has further deposed that Pankaj called Janak for liquor bottle and therefore this witness alongwith Kamal went to bring liquor bottle and came to house of Pinku @ Pankaj and hid the liquor bottle. Witness had gone to his home and thereafter returned and waiting on the road where Kamal came on his bike carrying one polythene bag containing Dabeli for his home and it was stated by Kamal that after giving it at his home, he will come back and thereafter Mangal came and they waited near J P Pan Parlour. This witness has further deposed that Kamal and Pinku came in the car near J P Pan Parlour and sat in the car and thereafter came on the highway and party was started. Kamal brought Dabeli. Kamal brought three Dabeli after giving two Dabeli at his home and thereafter liquor peg was prepared and having asked as to where-from, he bought this Dabeli, he stated that that it was bought from Maheshabhai's lorry. This witness has further deposed that Mangal offered his half Dabeli to Kamal; to which he stated that he

already ate this at his home and thereafter, they prepared another peg and Mangal and Pinku continued to eat Dabeli; Mangal completed his half Dabeli whereas this witness after completing his half Dabeli felt some sensation on his tongue and stated that it is salty and thereafter witness alongwith Mangal and Pankaj ate Dabeli and since witness felt some sensation on his tongue, he did not eat and threw the Dabeli. Witness after eating Dabeli started vomiting and thereafter Mangal and Pankaj also started vomiting where Kamal stated that liquor is not good and thereafter Mangal called Janak that due to consumption of alcohol and eating of Dabeli, he is not well and to come soon and therefore Janak came on his bike and thereafter all four of them had gone to Panchshil Hospital in the Wagon R Car of Pankaj where Kamal informed that police case would be filed and therefore, they went to Parimal Hospital where they met Parulben and treatment was given to him; however since health of Mangal got deteriorated, Parulben asked him to take him at another hospital and therefore Mangal called his two friends viz., Anil and Morari where-from they had been to Pokhraj Hospital however since there was no bed, they went to Indus Hospital where also ICU bed was not available and thereafter they went to Satyamev Hospital where treatment of this witness, Mangal and Panakaj was started and thereafter made a call in the night at the residence of Mangal and this witness. This witness has deposed that in the night, he came to know that Mangal was dead. While treatment was going on for them, at that time, Kamal was present at the hospital. This witness has further deposed that Kavita, sister of Kamal was having affair with one Gaurang and Mangal had seen both of them, who in turn informed this to Kamal and after about one or two days thereof, Kamal informed to this witness and Mangal to kill Gaurang to which they asked him not to do such thing and thus Kamal kept grudge over the same. Kamal also stated that why they were sitting with his enemy. Witness has identified the accused before the Court.

During the cross-examination of this witness, witness has stated that he does not know the date of birth and month of the Kamal. Witness has also stated that he does not know as to who did mix-up in the liquor, panipuri or Dabeli on the day of the incident. This witness has also stated and admitted during the cross-examination the facts which he did not mention in the complaint. Thus, from the narration of above facts, it would appear that there are contradictions in the facts stated in the complaint given by the complainant and the facts stated by him on oath before the Court and therefore, it would create a doubt on the case of the prosecution. In such circumstances, when there are omissions and contradictions in the evidence of the complainant, it would be risky to believe the evidence of the complainant. Thus, the evidence of the complainant is shaky and therefore cannot be relied upon to award conviction.

10. PW 21 – Mahesh Desaji Prajapati who has been examined at Exh.75 who was the seller of the Dabeli. Witness has deposed in his testimony that on 22/01/2012 while he was standing at Visat Three Roads, Near Jogni Mata's Temple, at that time, at about 9:00 to 9:15 hours in the night, Kamal resident of Shiv Shakti Society, Motera, Behind Parimal Hospital came to him and took five Dabeli for which he took Rs.30/- and went away on his bike.

During the cross-examination of this witness, this witness has stated that he does not know the fact as to who had come to purchase Dabeli at about 9:15 p.m. Thus, though the witness has examination in chief has stated about the fact of accused having come to bring Dabeli but; in the cross-examination, he stated that he does not remember as to who came to bring Dabeli and therefore, evidence of this witness also is not credible to corroborate with the evidence of the complainant and to

prove the case of prosecution.

11. PW 24 – Pankaj Ashokbhai Upadhyay who was victim in the incident in question has been examined at Exh.78. Witness has deposed his evidence before the Court and narrated the incident; however during the cross-examination, he has admitted such facts of he having not recorded in his police statement. Thus, the evidence of this witness also found to be shaky to believe the case of prosecution and therefore evidence of this witness also comes under the shadow of doubt.

12. PW 25 – Gaurang Dilipbhai Prajapati has been examined at Exh.80. Witness has deposed in his testimony that he and Kavita were studying together and having having love affair and therefore, he performed court marriage with her on 10/10/2011; however as the family members were not happy, after about one and half month, they took divorce and Kavita was sent to her native Village. Witness has further deposed that prior to eight months of the incident, Kamal came to him and asked as to why did he keep relationship with his sister as he did not like, as also Manish, Mangal and Pankaj also informed him about not to keep any relationship with Kavita and therefore, they took divorce.

Now, if the evidence of PW 24 – Pankaj and PW 25 – Gaurang is examined, Pankaj in the cross-examination of his evidence stated that prior to four months of the incident Kamal informed him, Mangal and Manish to kill one boy named Gaurang who is having affair with his sister. Whereas, PW 25 – Gaurang has deposed in his evidence before the Court that they did court marriage in the year October, 2011 and after about one and half month, they took divorce. Thus, there are major contradictions in the evidence of these two witnesses with regard to the fact of scuffle having taken place of the appellant-accused with any of

these two witnesses prior to incident in question.

13. Now, insofar as the medical evidence is concerned, the prosecution has examined PW 3 – Dr. Anish Mahashanker Joshi, at Exh.38. Witness has deposed in his testimony that on 23/01/2012, he was serving as Consultant at Satyamev Hospital, Chandkheda. Witness has deposed in his testimony that when he reached to Hospital, Mangalsing Maiyuddin Prajapati brought to the hospital where he was declared as dead and to that effect certificate at Exh.22 was issued. This witness has further deposed that he attended Pankaj first and took history for causation wherein he stated that he ate two Dabeli and took three peg of alcohol on 22/01/2012 at about 10:00 p.m. and since he did not feel good, he went to Panchshil Hospital and Indus Hospital where bed is not available and therefore, came to Satyamev Hospital. This witness has deposed that he kept them for treatment from 23/01/2012 to 26/01/2012 at the hospital and as per the history given aconite poison was suspected for which sample was sent to Search Poison Lab, Vadaj, Ahmedabad; but aconite was not found to be confirmed. Witness has further deposed that he further called Poison Specialist, Dr. Aruna Divan who had confirmed the aconite poison.

During the cross-examination, this witness has stated that he specifically asked the patients as to whether they added any additional substance in the alcohol to increase the intoxication, to which they replied in affirmative; but did not indicate as to which kind of substance was mixed up. He further stated in the cross-examination that it is true that drugs addicts would add tablets or powder in the alcohol. Thus, from the evidence of above witness, it does not appear that aconite poison is confirmed to have been added.

Furthermore, as per the postmortem report at Exh.23 issued by PW No.1 – Dr. Hetalben Chinubhai Patel, who has been examined at Exh.18, the cause of death was cardio-respiratory arrest due to aconite poisons. In this regard, if the cross-examination of PW 1 – Dr.Hetalben is examined, she admits that she does know about the aconite poison which is a kind of a plant growing in Himalaya and a kind of unstable poison. She states that it is true that aconite poison is not available in Gujarat.

Thus, there are major contradictions in the scientific / medical evidence as regards the presence of aconite poison wherein one lab does not confirm the presence of aconite poison whilst the postmortem report speaks about aconite poison and the Doctor who performed the postmortem states that this aconite poison is not found in State of Gujarat.

14. PW 26 – Somaji Thavarji Asari, PSI, Chandkheda Police Station has been examined at Exh.81 who has deposed that on 22/01/2011 as per written order, he went for investigation of the offence in question with appellant - accused at Uttar Pradesh where he inquired at the Ayurvedic Shop owned by one Jayprakash Balmukand Gupta and recorded his statement. However, during the cross-examination, he has admitted that said statement of the shop owner does not become the part of charge-sheet.

Thus, the prosecution has failed to establish the source as to where-from the aconite poison, if any, was brought by the appellant-accused to kill the deceased and it was the specific case of the prosecution that deceased was died due to consumption of poison like aconite substance as is revealed from the postmortem report.

15. PW 2 – Mohammed Zakir Abdul Ajij Shaikh has been examined at

Exh.25 who was serving as Scientific Officer, FSL Office, Ahmedabad and this witness has deposed in his testimony about the procedure of being analysis of the muddamal sent by the IO is narrated. Witness has also referred in his testimony about the analysis report of the Biology Department wherein on the Mark–A, the marks of vomiting is not found. Witness has further deposed that total 21 articles were forwarded by the IO through forwarding letter at Exh.26 wherein the IO has cited ten reasons for examination of the muddamal article. However, the said reasons were not dealt with or given reply by the FSL after examining comprehensive reports. Thus, this also speaks volume about the conclusion of the report.

16. In light of the above mentioned re-appreciation of evidence, the facts which would emerge from the record are that there are omissions and contradictions in the version of the complainant as regards to non-mention of some of the facts in the evidence recorded before the Court and the facts stated by him while recording the complaint; the motive part of the appellant – accused to commit murder is that since deceased – Mangal had seen Kavita sister of appellant – accused with Gaurang Prajapati who in turn told this fact to appellant – accused and therefore accused told to Manish (complainant), Pankaj and deceased – Manish to kill Gaurang; who have refused to do so and thus by keeping grudge over the said dispute, he after mixing up the poison in the Dabeli offered to these persons to kill them which is the case of prosecution. However, as per the evidence of the complainant, the so-called incident of having seen Gaurang and Kavita took place prior to four-five months of registration of the FIR and it also appears from the evidence of the complainant that two persons viz., Ashok and Murari are the best friend of the accused and therefore, if the appellant – accused wanted to kill Gaurang, he could have talked to them and neither of them have been examined by the

prosecution. Furthermore, as regards the timing of the purchase of Dabeli, there are contradictions in the said timing because the person from whom the Dabeli was purchased stated that it was purchased at 9:00 p.m., however during the cross-examination he stated that he did not remember as to who had purchased the Dabeli; as also the witnesses examined before the Court have also stated that appellant – accused went away at 8:00 p.m. after purchasing Dabeli. Thus, there are omissions and contradictions in the evidence of the witnesses examined before the Court and therefore the case of the prosecution comes under the shadow of doubt.

17. Insofar as the presence of aconite poison is concerned, the prosecution has failed to point out as to where-from it was purchased by the appellant – accused though efforts were made by the IO by sending the PSI to UP alongwith appellant – accused to one Ayurvedic Store and statement was also recorded of the said owner of Ayurvedi Store; but that was not made the part of charge-sheet which also creates doubt on the case of prosecution. Furthermore, as per the evidence of PW No.1 – Dr. Hetalben Chinubhai Patel (Exh.18), she does know about the aconite poison which is a kind of a plant growing in Himalaya and a kind of unstable poison and states that aconite poison is not available in State of Gujarat. Simultaneously, in the cross-examination of PW 3–Dr.Anish Mahashanker Joshi, at Exh.38 who has examined the patients at the first instance specifically asked them as to whether they added any additional substance in the alcohol to increase the intoxication, to which they replied in affirmative; but did not indicate as to which kind of substance was mixed up. Thus, the possibility of additional substance added by them in their drink proved to be fatal and harmful also cannot be discarded in absence of any other evidence produced by the prosecution. All these aspects have not been satisfactorily answered by the prosecution to prove

its case beyond reasonable doubt and therefore in such circumstances such benefit would go to the appellant – accused.

18. In ***Hariprasad @ Kishan Sahu vs State Of Chhattisgarh [2023 INSC 986]***, the Hon'ble Apex Court after referring ***Sharad Birdhichand Sarda vs. State of Maharashtra (1984) 4 SCC 116*** has observed that in the case of murder by poison, the prosecution must prove following four circumstances: -

> "*(1) there is a clear motive for an accused to administer poison to the deceased,*
> *(2) that the deceased died of poison said to have been administered,*
> *(3) that the accused had the poison in his possession,*
> *(4) that he had an opportunity to administer the poison to the deceased.*"

However, as discussed in the earlier paragraph, in the instant case none of these circumstances were proved by the prosecution.

19. In light of the appreciation of the aforesaid evidence, it appears that this is not a case where the entire chain of circumstantial evidence is completed as required under the law so as to indicate the guilt of the accused and also exclude any other theory of crime. In the case on hand, the learned Sessions Judge has erred in noticing such aspect as to whether any such motive is proved by the prosecution. Likewise, the omissions and contradictions in the evidence of the complainant and its non-corroboration with other evidence which takes the entire story of the prosecution under the shadow of doubt.

20. In view of the detailed discussed in the foregoing paragraphs, in consonance with the material placed for consideration as relied upon by

the prosecution and confronted by the defence, and having regard to the conclusion arrived at by the learned Sessions Judge, it is undisputed that, as elaborately discussed hereinabove, the entire case of the prosecution rests solely on circumstantial evidence. Recently, the Hon'ble Supreme Court in ***Shail Kumari v. State of Chhattisgarh*****, reported in 2025 (0) AIJEL-SC 75681**, while considering the judgment in ***Sharad Birdhichand Sarda v. State of Maharashtra (supra)*** has held that prosecution must stand and fall on its own legs and in case of circumstantial evidence, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistence with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused.

21. In a case of circumstantial evidence, the chain is required to be completed as mandated under the law so as to indicate the guilt of the accused while discarding any other theory of the crime. If one of the link goes missing and not proved, in view of the settled law on the point, the conviction is required to be interfered with. At this stage, with profit, we may refer to the decision in case of ***Laxman Prasad Alias Laxman (supra)*** where the Hon'ble Apex Court after referring to ***Sharad Birdhichand Sarda vs. State of Maharashtra [(1984) 4 SCC 116]*** and ***Shailendra Rajdev Pasvan vs. State of Gujarat [(2020) 14 SCC 750]*** has quashed the conviction by making observations in paragraph 2 to 4 as under:

> *"2. The present one is a case of circumstantial evidence. The prosecution led evidence to establish three links of the chain:*

(i) motive, (ii) last seen, and (iii) recovery of weapon of assault, at the pointing out of the appellant. The High Court, while dealing with the evidence on record, agreed with the finding of motive and the last seen, however, insofar as the recovery of the weapon of assault and bloodstained clothes were concerned, the High Court in para 18 of the judgment held the same to be invalid and also goes to the extent to say that the recovery which has been made does not indicate that the appellant has committed the offence. Still, it observed that looking to the entire gamut and other clinching evidence against the appellant of last seen and motive, affirmed the conviction.

3. We do not find such conclusion of the High Court to be strictly in accordance with law. In a case of circumstantial evidence, the chain has to be complete in all respects so as to indicate the guilt of the accused and also exclude any other theory of the crime. The law is well settled on the above point. Reference may be had to the following cases:

(1) Sharad Birdhichand Sarda v. State of Maharashtra,
(ii) Shailendra Rajdev Pasvan v. State of Gujarat.

4. Thus, if the High Court found one of the links to be missing and not proved in view of the settled law on the point, the conviction ought to have been interfered with."

22. In view of the settled law that one must look for a complete chain

of circumstances and not on snapped and scattered links which do not make a complete sequence. 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; in the present case, the chain is not completed.

23. In light of the above legal position and for the reasons recorded in the foregoing paragraphs, coupled with the fact that the case of the prosecution does not get support from the evidence recorded by the learned Sessions Court, the present appeal deserves to be allowed and is accordingly allowed. The judgment and order of conviction and sentence dated 01/11/2012 passed by the learned Sessions Judge (Principal Court), Gandhinagar in Sessions Case No.31 of 2012 is quashed and set aside. The appellant is acquitted of the charges levelled against him and he is ordered to be set at liberty, forthwith, if not required in any other case. Bail Bond shall stand discharged. Records and Proceedings, if any, be remitted to the Court concerned forthwith.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

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