SUBHASH CHAND

*v.*

STATE OF RAJASTHAN

OCTOBER 16, 2001

[DR. A.S. ANAND, C.J., R.C. LAHOTI AND ASHOK BHAN, JJ.]

*Code of Criminal Procedure, 1973 :*

*Section 313—Scope and ambit of—Held : Is to afford the accused personally an opportunity of explaining any incriminating circumstance so appearing in evidence—The accused may or may not avail of such an opportunity.*

*Criminal Trial :*

*'Last seen together'—Evidence to substantiate—Held: Must be such that the victim and the accused were seen together at a point of time in close proximity with the time and date of commission of crime.*

*Semen and bood—Presence of—On the clothes of accused—Evidentiary value of—Held: Not by themselves an incriminating piece of evidence connecting the accused with the crime in question—Penal Code, 1860, S.376.*

*Circumstantial evidence—Conviction based on—Held : Accused can be convicted if the claim of circumstantial evidence is so forged as to rule out the possibility of the innocence of the accused—Between 'may be true' and 'must be true' there is a long distance to travel—Such distance must be covered by legal, cogent and unimpeachable evidence.*

*Criminal offences—Investigation of—Role of Investigating Officer—Explained and reiterated.*

*Words and Phrases : "Alibi"—Meaning of.*

**The appellant-accused was convicted by the trial court for offences under Section 302 and 376(2)(f) of the Penal Code, 1860 and sentenced to death. But the High Court altered the sentence to one of imprisonment for life. Hence this appeal.**

**According to the prosecution, S, a young female child aged about 5**

A years, was found brutally ravished and killed. Human blood of Group-B was found on the clothes of the deceased. The appellant-accused was arrested on suspicion and, at his instance, an underwear and 'baniyan' were found in a dry well. Human semen and human blood of Group-B were detected on the underwear. The following pieces of circumstantial
B evidence were against the accused :-

(i) last seen together;

(ii) abnormal conduct of the accused;

C (iii) recovery of underwear and 'baniyan' (which was found to be stained with semen and blood group 'B' which was the blood group of the deceased);

(iv) false plea of alibi; and

D (v) accused absconding since the date of offence.

Allowing the appeals, the Court

HELD : 1. *Last seen together*

E To constitute evidence of 'last seen together', the evidence must definitely permit an inference being drawn that the victim and the accused were seen together at a point of time in close proximity with the time and date of commission of crime. From the evidence of PW-7 such an inference cannot be drawn. [171-B]

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2. *Abnormal conduct of accused*

Any person even, if innocent, and not connected in any way with a gruesome crime which had recently occurred and was the talk of the
G town, if called by the police and interrogated as a suspect, would be scared and be apprehensive of the likelihood of his being implicated in the crime. Placed in such a situation if a villager, unaware of the law, happens to ask a person, who he feels knows the things better than what he himself does, as to what would be the period of incarceration to be suffered by any person for such an offence the impulse for inquiry may be
H the outcome of a feeling of nervousness or mere inquisitiveness; such

an enquiry is not necessarily suggestive of the working of a criminal mind. [172-F-G] A

3. *Recovery of underwear stained with blood and semen*

Presence of semen stain on the underwear, assuming that the underwear belonged to the accused, though there is no evidence adduced in this regard, is not by itself an incriminating piece of evidence connecting the accused with the crime in question. So also the discovery of 'B' group blood-stain on the underwear cannot be treated as an incriminating piece of evidence against the accused connecting him with the crime because there is no evidence that the underwear belonged to the accused and further the possibility of the underwear being stained with the blood of the person to whom it belonged, or the accused if he was wearing it, has not been ruled out. [173-H; 174-A-B] B C

*Shankarlal Gyarasilal Dixit* v. *State of Maharashtra,* AIR (1981) SC 765, relied on. D

4. *False plea of alibi*

(a) The purpose of asking questions during examination under Section 313 of the Code of Criminal Procedure, 1973 is to afford the accused personally an opportunity of explaining any incriminating circumstance so appearing in evidence against him. The accused may or may not avail of the opportunity of offering his explanation. [174-F] E

(b) Literal meaning of alibi is 'elsewhere'. In law this term is used to express that defence in a criminal prosecution, where the party accused, in order to prove that he could not have committed the crime charged against him, offers evidence that he was in a different place at the time. The plea taken should be capable of meaning that having regard to the time and place when and where he is alleged to have committed the offence, he could not have been present. The plea of alibi postulates the physical impossibility of the presence of the accused at the scene of offence by reason of his presence at another place. [174-H; 175-A] F G

*Law Lexicon : P. Ramantha Iyer,* Second Edn., p.87, referred to.

(c) Denial by an accused of an assertion made by the employer that the accused was on leave of absence from duty on the date of offence, does H

A not, by any stretch of imagination or logic, amount to pleading alibi. [1750-B]

5. *Absconding of the accused*

The accused was called several times to the police station during the B course of investigation and, therefore, he was always available to the police. Two days after the date of the incident the accused was present on his duty at the cinema hall. There is no evidence adduced by the prosecution to hold that soon after the date of the offence the accused was found missing from his residence or the place of his employment and was not available though searched, at the place or places where normally he ought C to have been. Hence, it could not have been held that the accused was absconding. [175-G-H]

6.1. None of the pices of evidence relied on as incriminating, by the trial court and the High Court, can be treated as incriminating pieces of circumastantial evidence against the accused. Though the offence is grue- D some and revolts the human conscience but an accused can be convicted only on legal evidence and if only a chain of circumstantial evidence has been so forged as to rule out the possibility of any other reasonable hypothesis excepting the guilt of the accused. [176-B]

*Dhananjoy Chatterjee* v. *State of West Bengal,* [1994] 2 SCC 220, E *Sharad Birdhichand Sarda* v. *State of Maharashtra,* [1984] 4 SCC 116 and *Shankarlal Gyarasilal Dixit* v. *State of Maharashtra,* AIR (1981) SC 765, relied on.

6.2. Between 'may be true' and 'must be true' there is a long distance to travel, which must be covered by clear, cogent and unimpeachable F evidence by the prosecution before an accused is, condemned a convict. [176-C]

7. There are clueless crimes committed. The factum of a cognizable crime having been committed is known but neither the identity of the accused is disclosed nor is there any indication available of the witnesses G who would be able to furnish useful and relevant evidence. Such offences put to test the wits of an investigating officer. A vigilant investigating officer, well versed with the techniques of the job, is in a position to collect the threads of evidence finding out the path, which leads to the culprit. The ends, which the administration of criminal justice serves, are not achieved H merely by catching hold of the culprit. The accusation has to be proved to

**the hilt in a court of law. The evidence of the investigating officer given in the court should have a rhythm explaining step by step how the investigation proceeded leading to detection of the offender and collection of evidence against him. This is necessary to exclude the likelihood of any innocent having been picked up and branded as culprit and then the gravity of the offence arousing human sympathy persuading the mind to be carried away by doubtful or dubious circumstances treating them as of 'beyond doubt' evidentiary value. [176-F-H; 177-A]**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal Nos. 230-231 of 1999.

From the Judgment and Order dated 18.12.95 read with 16.1.98 of the Rajasthan High Court in D.B. Crl. A. Nos. 453 and 455 of 1993.

Sushil Kr. Jain, A. Mishra, Ms. Anjali Doshi and Ms. Ruchi Kohli for the appellant.

Ms. Sandhya Goswami and Javed M. Rao for the Respondent.

The Judgment of the Court was delivered by

**R.C. LAHOTI, J.** The accused-appellant has been held guily of offences punishable under Section 302 and Section 376(2)(f) of Indian Penal Code. The trial Court sentenced the appellant to death under Section 302 IPC and to undergo rigorous imprisonment for life and pay a fine of Rs. 10,000, in default of payment to undergo further R.I. for 3 years, under Section 376(2)(f) IPC. While the learned Additional Sessions Judge made a reference to the High Court for confirmation of death sentence under Section 366 Cr.P.C., the appellant preferred an appeal putting in issue his conviction and sentence. The criminal reference and the criminal appeal were heard by a division bench of Rajasthan High Court. The two learned Judges, constituting the division bench, differed in their opinion. In the opinion of one learned Judge, the circumstantial evidence, on which rests the prosecution case, was not sufficient to record a finding of guilty against the appellant on any of the charges framed against him. In the opinion of the other learned Judge, the prosecution evidence was sufficient to sustain the conviction, as recorded by the trial Court, though, the case was not one of those 'rarest of rare cases' as would warrant death sentence being awarded to the appellant. In view of

A the difference of opinion, the learned acting Chief Justice assigned the case for hearing by a third Judge under Section 392 of Cr.P.C. The third learned Judge has, on an independent appreciation of evidence, recorded his own findings upholding the conviction of the accused on both the charges framed against him and thus agreeing with one of the two learned Judges constituting the B division bench in conclusion. In the result, the High Court has declined the confirmation of death sentence but upheld the conviction on both the charges found proved and dismissed the appeal laying challenge to the conviction subject to modification in the sentence by substituting sentence of life imprisonment for death sentence under Section 302 IPC. The accused-appellant has C filed this appeal by special leave.

Kumari S, a young child aged about 5 years, was last seen at about 4 p.m. on 18th March, 1991 and thereafter she did not return home. At about 7 a.m. on 19th March 1991, Kishori Lal, PW4 informed BD (PW2), the unfortunate father of S, that dead body of a girl was lying near Mohalla Basera on the D outskirts of village Kotputli. BD rushed to the place only to find that the dead body was of none else than his own daughter S. Blood was oozing out from her mouth and private parts. A noose was also found around her neck. At 7.25 a.m. on 19.3.1991 first information report was lodged by BD at police station Kotputli. Offence was registered under Sections 302 and 376 IPC. The investigation commenced. The dead body was sent for post-mortem examination E which was performed at 9.30 a.m., on the same day, by a medical board of three doctors. It was found that the victim was brutally ravished and thereafter killed. According to the medical opinion the probable cause of death of S was shock produced due to vaginal trauma and rupture of post-fornix along with asphyxia due to ligature around the neck. All injuries found on the person of the victim F could be around 6 of 24 hours old prior to the time of post-mortem examination. The vaginal injuries, clotted blood and injuries to post-fornix were indicative of rape having been committed on the victim. The clothes were removed from the dead body and seized. Slides of vaginal swab were prepared for cyto-chemical analysis for blood and seminal stains. The forensic science laboratory G confirmed presence of Group-B blood on the clothes of deceased.

The accused was arrested on 3.4.1991 on suspicion. On 4.4.1991, he was medically examined. There was no injury on his private parts or on any other part of body. The clothes on his person did not have any blood or seminal H stains. He was a grown up male of 21 years and capable of performing sexual

intercourse. On 5.4.1991, at about 12.30 p.m., he gave an information Exbt. P/23 and in confirmation of the information led the police to a dry well wherefrom an underwear and baniyan wrapped in a newspaper dated 18.3.1991 were recovered. The clothes so recovered were sent to forensic science laboratory. According to report Exbt. P/27 human semen was detected on underwear. According to report Exbt. P/30 of forensic science laboratory human blood of group 'B' was detected on the underwear.

The accused was challaned and charge-sheeted for the offences as already stated hereinabove.

The prosecution examined 21 witnesses in all. It is not necessary here to extensively deal with the evidence adduced by the prosecution. Suffice it to observe that there is no direct evidence connecting the accused with the offences charged. The prosecution case depends on circumstantial evidence. The pieces of circumstantial evidence which have been found proved and held as forging an incriminating chain against the accused are as under :-

(i) last seen together;

(ii) abnormal conduct of the accused;

(iii) recovery of underwear and baniyan (which was found to be stained with semen and blood group 'B' which is also the blood-group of the deceased);

(iv) False plea of alibi; and

(v) Accused absconding since the date of offence.

We would proceed to examine each of the pieces of incriminating circumstantial evidence so as to find out if each one of the circumstantial evidence is proved individually and whether collectively it forges such a chain of incriminating circumstances as would fasten the guilt on the accused beyond by shadow of reasonable doubt.

In *Dhananjoy Chatterjee* v. *State of West Bengal,* [1994] 2 SCC 220, (wherein one of us, Dr. A.S. Anand, J., as His Lordship then was, spoke for the Bench) this Court held as under :

"In a case based on circumstantial evidence, the circumstances

A from which the conclusion of guilt is to be drawn have not only to be fully established but also that all the circumstances so established should be of a conclusive nature and consistent only with the hypothesis of the guilt of the accused. Those circumstances should not be capable of being explained by any other hypothesis except the guilt
B of the accused and the chain of the evidence must be so complete as not to leave any reasonable ground for the belief consistent with the innocence of the accused. It needs no reminder that legally established circumstances and not merely indignation of the court can form the basis of conviction and the more serious the crime, the greater
C should be the care taken to scrutinize the evidence lest suspicion takes the place of proof.

In *Dhananjoy Chatterjee's* case (supra), the decision of this Court in *Sharad Birdhichand Sarda* v. *State of Maharashtra,* [1984] 4 SCC 116, was relied on. In the later case, it was also held that a false explanation or false
D plea taken by the accused can be used as an additional link in the chain of circumstantial evidence subject to satisfication of three essential conditions, namely (i) various links in the chain of evidence led by the prosecution have been satisfactorily proved, (ii) the said circumstance points to the guilt of the accused with reasonable definiteness, and (iii) the circumstance is in proxim-
E ity to the time and situation.

(i) *Last seen together :*

On the point of last seen together there is solitary testimony of a child witness Shalu, PW7, aged about 4 years on 23.3.1992, the date of her
F examination in the court. On asking a few questions by way of preliminary examination the learned Trial Judge found that the witness could 'answer some of the questions'. She stated that, accompanied by Phukla–another young girl, a cousin of hers, and S the deceased, she had gone to purchase balloon from the shop of Goma. While returning the accused told S that her
G feet were mudstained and he would wash her feet and saying so he took S inside his house, leaving behind the two girls, including Shalu PW7, who returned to their houses leaving S behind.

It is this testimony which has been relied upon by the Trial Court as also by the High Court as the evidence of 'last seen together'. The witness
H is a child witness of very tender age and examined in the Court almost a year

after the date of the incident. We have very carefully read the statement of this witness. There is nothing in her statement to suggest that what she is narrating in the court is the story of a day soon before the date and time of the incident or the date on which dead body of S was found. To constitute evidence of last seen together, the evidence must definitely permit an inference being drawn that the victim and the accused were seen together at a point of time in close proximity with the time and date of the commission of crime. From the evidence of Shalu, PW7 such an inference cannot be drawn.

Goma, to whose shop the three girls had gone to buy balloon, has not been examined.

There is something mysterious about the discovery of Shalu as a witness to the incident. S has died. The third girl who was with S and Shalu has not been examined either in the Court or during investigation. The statement of Shahu was recorded during investigation on 25.3.1991, i.e. about six days after the date of incident. Harish Chand Sharma, the Investigating Officer, was specifically asked how the name of this witness came to his knowledge during investigation? He gave an evasive answer saying that the fact that Shalu was accompanying S 'must have come in the staement of the witnesses'. He was further asked to name the witness in whose statement Shalu's reference was available but the investigation officer drew a blank and could not tell the name of the witness from whom any clue as to Shalu was received by him. Thus how and in what manner the investigating officer came to learn about Shalu, PW7 so as to record her statement during investigation remains shrounded in mystery.

The fact remains that the testimony of Shalu, PW 7 aged 4 years, even if taken at its face value, does not constitute such a circumstance as to draw an incriminating inference against the accused and connect him with the crime.

(ii) *Abnormal conduct of accused*

Kalu Ram, PW5 stated that two or three days after the date of dead body of S having been found, he and Santosh, PW9 had gone to see a movie in a cinema hall where the accused was employed as a gate-keeper. There the accused had enquired from them as to what was the punishment awardable to an offender who was found to have been committed rape on a girl and killed

her. The accused was told by the witness that the punishment could be 20 or even 40 years of imprisonment or imprisonment for life. Thereafter the witnesses went to see movie in the cinema hall. During cross-examination, Kalu Ram stated that the accused was his neighbour, previously known to him. On a pertinent question the witness stated that while making such a query there was no change in the facial expression of the accused, that is, he had remained normal.

Santosh, PW9, did not support the version of Kalu Ram and was declared hostile. Without going into the question as to whether the statement of Kalu Ram, PW5 is to be believed or not in view of the same having not been supported by Santosh PW9, let us assess the intrinsic value of such testimony as a piece of incriminating evidence.

It appears that to begin with the death of S was a blind murder and the police was clue-less about the likely offender. The police appears to have embarked upon a search akin to a combing operation and in that process several suspected characters were called and interrogated. Harish Chand Sharma, PW21 stated that between 19th and 25th March, 1991 the accused Subhash was called at the police station several times for making enquiries. He did not remember and was therefore not in a position to tell how many number of times the accused Subhash was called for interrogation or making enquiries. On seeing the case diary he stated that on 21.3.1991 the accused was definitely called twice on the same day though there is no mention of what enquiries were made from him. However, the accused was not detained and was sent back. Any person even if innocent and not connected in any way with a gruesome crime which had recently occurred and was talk of the town, if called by police and interrogated as a suspect, would be scared and be apprehensive of the likelihood of his being implicated in the crime. Placed in such situation if a villager, unaware of the law, happens to ask a person, who he feels knows the things better than what he himself does, as to what would be the period of incarceration to be suffered by any person for such an offence the impulse for inquiry may be outcome of a feeling of nervousness or mere inquisitiveness; such an enquiry is not necessarily suggestive of the working of a criminal mind.

(iii) *Recovery of underwear stained with blood and semen*

Strangely enough the underwear and baniyan though discovered and

seized, on an information given by the accused and on his pointing out apparently on a statement recorded under Section 27 of the Evidence Act, have not been produced and exhibited in the court. What happened to these clothes is not known? There is not investigation directed towards finding out and no evidence worth its name collected and adduced in the court to show that the underwear and baniyan were of the accused. Insofar as baniyan is concerned, it has no stains of any type on it and therefore its discovery and seizure is meaningless and irrelevant. So far as the underwear is concerned, the investigation suffers from another infirmity also. Blood sample of the accused was not collected and therefore not grouped. No evidence is available to show as to what was the blood group of the accused and therefore the possibility of blood on the underwear being of the accused himself cannot be and is not ruled out. The number and extent of spread of stains is also not known.

Shri Sushil Kumar Jain, the learned counsel for the accused-appellant has placed reliance on *Shankarlal Gyarasilal Dixit* v. *State of Maharashtra,* AIR (1981) SC 765. Therein a charge under Sections 376 and 302 IPC was sought to be substantiated on circumstanctial evidence. One of the circumstantial evidence relied on was that a human blood stain of 'B' group was found on the accused's pant which blood group was also of the deceased. Another circumstantial evidence relied on was that a stain of semen was found on the under-pant of the accused. Vide para 28, this Court held that the presence of blood-stain of 'B' group measuring 0.5 cm. in diameter on the appellant's pant and of a dried stain of semen on his under-pant, were circumstances for too feeble to establish that the appellant raped or murdered the victim. 'B' group is not uncommon group of blood and no effort was made to exclude the possibility that the blood of the accused belonged to the same group. As regards the dried stain of semen on the appellant's under-pant, the court observed that the accused was a grown-up man of 30 years and no compelling inference could arise that the stain was caused during the course of the sexual assault committed by him on the victim girl.

In the present case the age of the accused was about 21 years at the time of the incident. On his arrest he was subjected to medical examination and found to be a potent and capable person. Presence of semen stain on underwear, assuming that the underwear belonged to the accused though there is no evidence adduced in this regard, is not by itself an incriminating piece of

A evidence connecting the accused with the crime in question. So also the discovery of 'B' group blood-stain on the underwear cannot be treated as an incriminating piece of evidence against the accused connecting him with the crime because there is no evidence that the underwear belonged to the accused and further the possiblity of the underwear being stained with the blood of the B person to whom it belonged, or the accused if he was wearing it has not been ruled out.

(iv) *False plea of alibi*

C The High Court has gone completely amiss in holding that a plea of alibi was taken by the accused and that was found to be false. The accused has not stated during his statement under Section 313 Cr.P.C. and nowhere suggested during cross-examination of prosecution witnesses that at the time of the incident he was at a place wherefrom he could not have reached the place of the offence on the date and at the time of its commission. Although the dead D body of the victim was found on the outskirts of the village, however, there is no material available on record to fix the place and the likely time at which rape was committed on S and then she was murdered. What is being treated as the plea of alibi by the trial court and the High Court is this. The accused appears to have been engaged as a causal (not regular) gate-E keeper at 'Hira Moti'—a local talkies. The proprietor of the cinema hall was examined to state that on 18th and 19th March the accused had taken leave from his job and during those days he was not present on duty. This piece of evidence was put to the accused during his statement under Section 313 Cr.P.C. and in reply he stated '*Galat Hai*' (not correct). The purpose of asking F questions during examination under Section 313 Cr.P.C. is to afford the accused personally an opportunity of explaining any incriminating circumstance so appearing in evidence against him. The accused may or may not avail the opportunity for offering his explanation. The accused did not avail the opportunity and stood short by simply stating that the statement of cinema owner was not correct.

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Literal meaning of alibi is 'elsewhere'. In law this term is used to express that defence in a criminal prosecution, where the party accused, in order to prove that he could not have committed the crime charged against him, offers evidence that he was in a different place at that time. The plea taken should H be capable of meaning that having regard to the time and place when and where

he is alleged to have committed the offence, he could not have been present. The plea of alibi postulates the physical impossibility of the presence of the accused at the scene of offence by reason of his presence at another place. (See Law Lexicon, *P. Ramnath Iyer,* Second Edition, P.87). Denial by an accused of an assertion made by his employer that the accused was on leave of absence from duty on the date of offence does not, by any stretch of reasoning or logic, amount to pleading alibi.

We are clearly of the opinion that the accused-appellant has not taken a plea of alibi and therefore the question of finding it false, and then drawing an inference adverse to him, does not arise at all.

(v) *Absconding of the accused*

Was the accused absconding at all? Grave injustice has been done to the accused by holding it as a fact that the accused was absconding after the date of the incident and then treating the so-called absconding as a piece of incriminating circumstantial evidence against the accused. According to Harish Chand Sharma, the accused was arrested on 3.4.1991 (vide Exbt. P/21) at Behror, which is a place situated at a distance of about 30-35 kms. from village Kotputli where the incident had taken place. Though the accused is alleged to have been arrested at Behror but the memo of arrest was not prepared at Behror; it was prepared at village Kotputli. The memo of arrest does not state the arrest of accused having been made at Behror. If the accused was arrested at Behror there is no reason why the memo of arrest should not have been prepared at village Behror. At least this fact should have been mentioned in the memo of arrest even if the same was prepared at village Kotputli. Secondly, Harish Chand Sharma himself states that between 19.3.1991 and 25.3.1991 the accused was called several times at the police station and on 21.3.1991 itself he was called twice in a day. Thus, he was always available to the police. Kalu Ram, PW5, accompanied by a friend Santosh, PW9, had gone to see a movie in cinema talkies Heera-Moti two days after the date of the incident and there the accused was present on his duty. There is no evidence adduced by the prosecution to hold that soon after the date of the offence the accused was found missing from his residence or the place of his employment and was not available, though searched, at the place or places where normally he ought to have been. Hence, it could not have been held that the accused was absconding.

A *Conclusion*

Thus, none of the pieces of evidence relied on as incriminating, by the trial court and the High Court, can be treated as incriminating pieces of circumstantial evidence against the accused. Though the offence is gruesome and revolts the human conscience but an accused can be convicted only on legal evidence and if only a chain of circumstantial evidence has been so forged as to rule out the possibility of any other reasonable hypothesis excepting the guilt of the accused. In Shankarlal Gyarasilal Dixit's case (supra), this Court cautioned – "human nature is too willing, when faced with brutal crimes, to spin stories out of strong suspicions". This Court has held time and again that between may be true and must be true there is a long distance to travel which must be covered by clear, cogent and unimpeachable evidence by the prosecution before an accused is condemned a convict.

The Trial Court and the High Court have proceeded on an assumption of availability of five pieces forging links in the chain of circumstantial evidence out of which we have found, as stated hereinabove, four of the alleged circumstances not to be pieces of incriminating circumstantial evidence at all. We are left with circumstance no. 3 only, i.e., recovery of underwear and baniyan stained with semen and human blood group 'B', which alone, in the fact and circumstances of the case discussed hereinabove cannot form basis of conviction of the accused-appellant for the offence charged.

Before parting with the case we would like to place on record, an observation of ours, touching an aspect of the case. There are clueless crimes committed. The factum of a cognizable crime having been committed is known but neither the identity of the accused is disclosed nor is there any indication available of the witnesses who would be able to furnish useful and relevant evidence. Such offences put to test the wits of an investigating officer. A vigilant investigating officer, well-versed with the techniques of the job, is in a position to collect the threads of evidence finding out the path which leads to the culprit. The ends, which the administration of cirminal justice serves, are not achieved merely by catching hold of the culprit. The accusation has to be proved to hilt in a court of law. The evidence of investigating officer given in the court should have a rhythm explaining step by step how the investigation proceeded leading to detection of the offender and collection of evidence against him. This is necessary to exclude the likelihood of any innocent having

been picked up and branded as culprit and then the gravity of the offence arousing human sympathy persuading the mind to be carried away by doubtful or dubious circumstances treating them as of 'beyond doubt' evidentiary value. A

The appeals are allowed. Conviction of the accused-appellant under Sections 302 and 376(2)(f) of Indian Penal Code is set aside. He is acquitted of the charges framed against him. He shall be set at liberty forthwith if not required to be detained in connection with any other offence. B

V.S.S. Appeals allowed.