

(2023) 05 SC CK 0068

Supreme Court Of India

Case No: Criminal Appeal Nos. 1636-1637 Of 2023

Prakash Nishad @ Kewat Zinak
Nishad

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision: May 19, 2023

Acts Referred:

- Indian Penal Code, 1860 - Section 201, 302, 376, 377
- Code of Criminal Procedure, 1973 - Section 53A, 53A(2)
- Evidence Act, 1872 - Section 27

Hon'ble Judges: B.R. Gavai, J; Vikram Nath, J; Sanjay Karol, J

Bench: Full Bench

Advocate: B.H. Marlapalle, Rishad Ahmed Chowdhury, Pratiksha Basarkar, Avinash Kumar Saurabh, Stuti Rai, Anuja Mishra, Siddharth Dharmadhikari, Aaditya Aniruddha Pande, Bharat Bagla, Shreya Saxena, Yamini Singh, Sourav Singh

Final Decision: Allowed

Judgement

S.No.,Prosecution Witness,Type,,,,,,,,

PW 1,"Mustakin Mohd. Ismail

Shaikh.",Father of prosecutrix,,,,,,,,

PW 2,Rehanabano Mohd. Shaikh,Mother of prosecutrix,,,,,,,,

PW 3,"Falim Ahmed Ibrahim

Shaikh",Uncle of prosecutrix,,,,,,,,

PW 4,Dr. Anjali Pimple,Medical Examiner,,,,,,,,

PW 5,Bipin Sohanlal Bafna,"Panch Witness for search
conducted on 13.06.2010",,,,,,,,,

PW 6,"S.I. Suresh Ganpat

Chillawar","First Investigating Officer -

conducted search on 12.06.2010" ,,,,,,,,,

PW 7,Suresh Jagdish Khandelwal,"Panch Witness - for search conducted on

16.06.2010" ,,,,,,,,,

PW 8,Vishal Navin Chandra Saha,"Panch Witness - for search

conducted on 17.06.2010" ,,,,,,,,,

PW 9,Vijay Sudama Soni,"Panch Witness â€" crime spot

witness on 12.06.2020" ,,,,,,,,,

PW 10,Ramlakhan Jaiswal,"Panch Witness â€" crime spot

witness on 12.06.2020" ,,,,,,,,,

PW 11,Ashok Sonar,"Head Constable â€" registered

Report on 12.06.2010" ,,,,,,,,,

PW 12,"A.P.I. Sudhir

Shantararn Kudalkar","Second Investigation Officer â€"

conducted search on 13.06.2010 and on

17.06.2010." ,,,,,,,,,

PW 13,"Deputy Commissioner of

Police, Deepak Pundalik

Devraj","Third Investigation Officer â€" conducted

search on 16 06.2010 and 17.06.2010" ,,,,,,,,,

residing in the â€"chawlâ€"™ being seen at the spot of the crime,,,,,,,,,

27. PW 1 and PW 2 stated that the appellant resided in the very same chawl as they, although they did not identify his house. Well, thatâ€"™s about all. There being no other evidence" ,,,,,,,,,

of he residing there. Even if the version of the mother of having seen the appellant and giving him a matchbox, in the early hours of 12.6.2010, is believed, the same does not advance" ,,,,,,,,,

the case of the prosecution any further. The appellant was not found at the place where the alleged crime took place or the place from where the body was

recovered. The,,,,,,,,,

prosecution has not been able to establish the distance between the two places - that of the crime and the place where the appellant was spotted in the morning hours. There is no spot,,,,,,,,,

map or any ocular evidence to this effect. As noted above, what led these witnesses to discover the appellant of having committed the crime has gone unstated. It is only on the basis",,,,,,,,,

of the information furnished by PW 1, expressing his suspicion on the appellant, that he was on 13.6.2010 arrested and the same day, his residence was searched. It is here that the" ,,,,,,,,,

major contradiction, if not falsity, in the prosecution case emerges. The Investigating Officer PW 12 is categorical of having suspected the appellant only on the basis of the information" ,,,,,,,,,

furnished by the father of the prosecutrix, i.e., PW 1. PW 12 states that "the father of deceased expressed suspicion against the appellant and at the time of his house search was" ,,,,,,,,,

taken." and PW 1 states that "He did not suspect anyone prior to 14.6.2010." The search was conducted on 13th and not on 14th of June, 2010. He added that finding the house" ,,,,,,,,,

of the appellant to be locked, he called the medical analyzer, Mumbai, whereafter, he, by breaking open the lock of the house of the appellant, recovered incriminating articles vide" ,,,,,,,,,

Ext.36 on 13.6.2010 and such articles being;,,,,,,,,

"Article 1 " Square cardboard;,,,,,,,,

Article 2 " Blanket;,,,,,,,,

Article 3 " Floor tiles pieces;,,,,,,,,

Article 4 " Mat;,,,,,,,,

Article 5 "Towel;,,,,,,,,

Article 6 "Spanner;,,,,,,,,

Article 7 "Hair found on pillow;,,,,,,,,

Article 8 " Mat; and;,,,,,,,,

Article 9 " Pillow" ,,,,,,,,,

28. Having conducted the search in the presence of PW 5 and Piyush Ramesh Kumar Jain (unexamined), he locked and sealed the house. Out of the two, the prosecution

examined" ,,,,,,,,,,

only one witness, namely PW 5. Perusal of the testimony of this witness as also the Investigating Officer and the relatives of the prosecutrix, does not establish one major fact, that" ,,,,,,,,,,

being, who actually identified the house of the appellant." ,,,,,,,,,,

29. A "chawl" is a group of tenements clustered together, very small in size and densely populated. It's an inexpensive accommodation, temporary for some, permanent for" ,,,,,,,,,,

others. Living in the same chawl, cannot be, in the attending facts of no one having identified with certainty the exact house/room of the appellant, a circumstance pointing to the guilt" ,,,,,,,,,,

of the appellant. As is evident from the decisions referred (supra), for a circumstance to be established, there shouldn't be doubt; it should not leave room for the possibility that," ,,,,,,,,,,

not the appellant against whom the circumstance is sought to be proved but someone else, may have done the said crime." ,,,,,,,,,,

30. None of the witnesses have deposed that it was at the instance of the appellant that the prosecutrix left the house, nor has anyone deposed to the effect of having seen the" ,,,,,,,,,,

appellant and the prosecutrix together at any point in time; Appellant was not even a visitor to the house of PW 1. They have no relationship, be it of whatever nature. All that is stated" ,,,,,,,,,,

is that after having dinner prosecutrix left home, and PW 3 states that he thought she may have gone to the neighbour's house to watch TV. With this being the case, last seen" ,,,,,,,,,,

theory, does not come into play. Although argued before us, the Trial Court has correctly not considered the same to be a circumstance of consequence, in either direction." ,,,,,,,,,,

The Circumstance Disclosure Statement of the appellant and the Recovery of incriminating articles,,,,,,,,,,

31. Conjoint reading of the testimonies of PW 12 and PW 13 further renders the prosecution case to be inherently improbable, if not self-contradictory and impossible on this" ,,,,,,,,,,

circumstance.,,,,,,,,,,

32. Unlike PW 5, who is categorical about having seen the blood-stained nicker in the house of the appellant, PW 12 does not disclose such fact. Undisputedly, both

these witnesses" ,,,,,,,,,

together visited the alleged house of the appellant only once, i.e., on 13.6.2010. It is a matter of record that police recovered only one nicker belonging to the prosecutrix, which was" ,,,,,,,,,

recovered at the time of the second search conducted on 16.6.2010, which renders the recovery by PW 13 in the presence of PW 9 to be extremely doubtful, specifically when the" ,,,,,,,,,

search and subsequent recovery of incriminating articles is refuted.,,,,,,,,,

33. There is yet another contradiction which bears significance in the attending facts and that being the time of the seizure of the articles recovered during the first search. The,,,,,,,,

Panchnama (Ext. 36) reveals that the same was prepared in the night of 13.6.2010 between 9.00 p.m. to 9.30 p.m., whereas according to PW 5, all proceedings of recovery appear to" ,,,,,,,,,

have been completed before 2.00 p.m. to 2.30 p.m. by which time the witness had returned home. In fact, the factum of search itself is in doubt as PW 5 categorically states that after" ,,,,,,,,,

conducting the search he visited the police station where his "œsignatures" were obtained, though, he clarifies that earlier too his signatures were taken, but on what paper and for" ,,,,,,,,,

what purpose, he did not disclose." ,,,,,,,,,

34. We may now proceed to the testimony of PW 13, who is the star witness of the prosecution, i.e., the Investigating Officer. According to his version, on 16.6.2010, the appellant," ,,,,,,,,,

while in police custody, made a disclosure statement (Ext.47) in the presence of independent witnesses PW 7 and P.K Mehta (not examined). The statement revealed the appellant to" ,,,,,,,,,

have concealed the nicker of the prosecutrix as also his clothes, worn by him at the time of incident, in his house, which he was ready to identify and get recovered." ,,,,,,,,,

35. Accordingly, on 16.6.2010 PW 13 along with the Panchas, staff and the appellant searched the room No.39 of Ganesh Deval Nagar. The room was opened, and the appellant" ,,,,,,,,,

produced "œamul gold 45 size nicker" and one "œwhite colour nicker of amul gold 80 cm"™s size banian" having blood stains and one "œgrey coloured barmuda" and one ,,,,,,,,,

â€œbrown colour nicker having contents written as Sophia 65 cmâ€ and some blood stains. The said articles were seized vide Memo Ext.48 in the presence of the Panchas. On,,,,,,,,,

17.6.2010 the appellant got recorded a second disclosure statement while in custody, whereby, he stated that some additional clothes which he had worn on the day of the incident" ,,,,,,,,,

could be got recovered. Accordingly, on the basis of such statement Ext.50 dated 17.6.2010, the police party along with the appellant proceeded and searched room No.206 in" ,,,,,,,,,

Deepshree Building at, approximately two kilometers from Valiv Naka. One Ganesh Bheema (Ganesh Kapildev Mishra) opened the door of the room and, as per the disclosure by the" ,,,,,,,,,

appellant, the police recovered certain incriminating articles vide Memo (Ext.51) dated 17.6.2010." ,,,,,,,,,

36. All the articles recovered prior to 17.6.2010 were sent for scientific analysis vide letters Ext.68 and Ext.69 both dated 16.6.2010, the blood sample of the appellant was sent for" ,,,,,,,,,

DNA profiling. He also sent a letter to the Civil Hospital for collection of the blood, nails, and hair samples of the appellant. During investigation, he procured the report of the chemical" ,,,,,,,,,

analysis as also the DNA report and the FSL report. The said DNA report prepared by an expert revealed samples of â€œvisceraâ€ (semen) of the appellant on swab drawn from the,,,,,,,,,

private parts of the prosecutrix. He also recorded the statement of Munna Saroj, who was residing with the appellant. So is the essence of the examination-in-chief of this witness." ,,,,,,,,,

37. It may be noted that neither this witness nor anyone else has deposed the fact of medical examination of the appellant, as is stipulated under Section 53A of the Code of Criminal" ,,,,,,,,,

Procedure (hereafter, â€~Cr.P.C.â€™)." ,,,,,,,,,

38. Further, whether his communication for medical examination of the appellant was ever followed up at all is not known. So also, its resultant consequences. Who took the samples" ,,,,,,,,,

of the body parts of the appellant, if at all, is a mystery. The record does not disclose such fact. Non-examination of Ganesh Bheema and Munna Saroj in Court, despite being cited" ,,,,,,,,,

witnesses renders his version to be uncorroborated, thereby creating a gap in chain of circumstances, preventing it from being complete." ,,,,,,,,,

39. The house from where the articles were recovered on 17.6.2010 was neither owned nor in the exclusive possession of the appellant. Instead, as is admitted by the Investigating" ,,,,,,,,,

Officer, it belonged to a third party. The Investigating Officer admits that the said house was occupied by one Ganesh Bheema, who was never examined in the case, so also why and" ,,,,,,,,,

what is that Munna Saroj disclosed on 19.6.2010, has not seen the light of the day. Their complicity in the crime has also not been ruled out. On this issue examination of Ext.35 reveals" ,,,,,,,,,

that the house where appellant was residing was owned by Munna Lalchand and that it was jointly possessed by the appellant and Prakash who have not been examined.,,,,,,,,,

40. What further renders the veracity of the testimony of this witness to be questionable has surfaced in the cross-examination part, wherein he admits not to have mentioned in the" ,,,,,,,,,

statement Ext.47 "that the accused had hidden the clothes". In this view of the matter, the articles so discovered cannot be said to form a discovery in terms Section 27 of the" ,,,,,,,,,

Evidence Act.,,,,,,,,,

S.No.,Memo,,Date,Recovery,,Description of Item,,FSL Report,,DNA Analysis,,

,Particulars,Ex.,-,By,Witness,Article,Ex., "Blood /

Semen of

accused", "Blood of

deceased", Ex., Result,

,,,,,,,,

1., "Panchnama @ pg.

239 " 243

First search", 35, 13.06.2010, PW - 12, "PW " 5

& Shri. Piyush

Ramesh Kumar Jain

[NOT EXAMINED]", "1 " Cardboard Box

2 - Brown Blanket

3 " Two Tiles 4

" Nylon Mat

5 " Yellow Towel

6 " Iron spanner

7 " One hair on

pillow

8 " Piece cut from

mat

9 " Piece cut from

pillow.

Blood stains on all

articles except No. 7, "8

9

10

11

12

13

14

15

16", "No

No

No

No

No

No

No

-

No

No

Ex. 84

@ pg. 335", "Yes

Yes

Yes

Yes

Yes

Yes

-

-

Yes

Yes

Ex. 84 @

pg. 335", "16

17

18

- 20

-

- 22

24", "Blood / Semen

of accused

Ex. 86 @

pg. 339", "Blood

deceased

Ex. 86 @

pg. 339

....."Blood on the

same is not of

the accused.", "Blood on Ex.

16,

17, 18,

20, 24 is

of the

deceased.

Hair: source

unknown.

////////

Muddemal sealed by Medical Officer of the prosecutrix procured on 12.06.2010,////////

S.No.,Bottle,Description of Articles,Exhibit,////////

1.,A,Blood sample.,Ex. 1,////////

2.,B,Nail clippings from left hand.,Ex. 2,////////

3.,C,Sample of hair on head.,Ex. 3,////////

4.,D,Vaginal fluid swab.,Ex. 4,////////

5.,E,Vaginal fluid swab.,Ex. 5,////////

6.,F,Fluid in mouth.,Ex. 6,////////

7.,G,Nail clipping from right hand.,Ex. 7,////////

Articles of the Appellant procured on 13.06.2010,////////

8.,-,"Square-shaped card box, having the words

â€œSunora Floor Tilesâ€.",Ex. 8,////////

9.,-,"One chocolate coloured dirty blanket.,Ex. 9,////////

10.,-,"Two pieces of green coloured tiles.,Ex. 10,////////

11.,-,"One piece of green, yellow, and blue

coloured nylon mat.",Ex. 11,////////

12.,-,"One yellow towel.,Ex. 12,////////

13.,-,"One iron spanner.,Ex. 13,////////

14.,-,One hair found on the pillow.,Ex. 14,,,,,,,,

15.,-,One piece of mat.,Ex. 15,,,,,,,,

16.,-,One piece of cloth from a pillow.,Ex. 16,,,,,,,,

Muddemal sealed by Medical Officer, in medical examination of appellant
conducted on 14.06.2010" ,,,,,,,,,

17.,Bottle 1,Viscera sample.,Ex. 17,,,,,,,,

18.,Bottle 2,Blood sample.,Ex. 18,,,,,,,,

19.,Bottle 3,Blood sample (citrate),Ex. 19,,,,,,,,

20.,Bottle 4,Pubic hair sample.,Ex. 20,,,,,,,,

21.,Bottle 5,Sample of hair on head.,Ex. 21,,,,,,,,

22.,Bottle 6,"Swab taken by cotton of the
scratched injury on the neck.",Ex. 22,,,,,,,,

23.,Bottle 7,Nail clippings of right hand.,Ex. 23,,,,,,,,

24.,Bottle 8,Nail clipping of left hand.,Ex. 24,,,,,,,,

Sr.

No.,"Nature of
article","Ext. No.

as per

FSL

report","Report

dated","Article

No. &

date of

seizure","Belongs to

Accused/

Prosecu-

trix","Result and

analysis

Blood & Semen of

whom",,"DNA

Report",,,,,

1.,Nicker,1,16.8. 2010,"10 on

13.6.2010",Prosecutrix,"Yes

Prosecu-

trix",No,-,,,,

2.,"Jangia

referred to

as

underwear",2,16.8. 2010,"11 on

16.6.2010",Accused,No,No,-,,,,

3.,Banian,3,16.8. 2010,"12 on

16.6.2010",Accused,"Yes

Prosecu-

trix",No,"Identical to

blood found

on Ext.1",,,,,

4.,Bermuda,4,16.8. 2010,"13 on

16.6.2010",Accused,Yes,No,,,,,

5.,"Square

card- board",16,12.8. 2010,"1 on

13.6.2010",Accused,"Yes

Prosecu-

trix",No,"Identical to

blood found

on Ext.1",,,,,

6.,Blanket,17,12.8. 2010,"2 on

13.6.2010",Accused,"Yes

Prosecu-

trix",No,"Identical to

blood found

on

Ext.1" ,,,,

7.,"Floor tiles

pieces",18,12.8. 2010,"3 on

13.6.2010",Accused,"Yes

Prosecu-

trix",No,"Identical to

blood found

on Ext.1" ,,,,

8.,Mat,19,12.8. 2010,"4 on

13.6.2010",Accused,Yes,No,-, ,,,,

9.,Towel,20,12.8. 2010,"5 on

13.6.2010",Accused,"Yes

Prosecu-

trix",No,"Identical to

blood found

on Ext.1" ,,,,

10.,Spanner,21,12.8. 2010,"6 on

13.6.2010",Accused,-,No,-, ,,,,

11.,"Hair found

on pillow",22,12.8. 2010,"7 on

13.6.2010",Accused,-,No,"Unknown

person" ,,,,

12.,Mat,23,12.8. 2010,"8 on

13.6.2010",Accused,Yes,No,-,,,,

13.,Pillow,24,12.8. 2010,"9 on

13.6.2010",Accused,"Yes

Prosecu-

trix",No,"Identical to

blood found

on Ext.1" ,,,,

14.,"Vaginal

smear slide",5,12.8. 2010,-,Prosecutrix,No,Yes,"Match with

the male

haplo- types

of accused.

Are from

same

paternal

progeny" ,,,,

accorded to other evidence on record, whether contrary or corroborative. This is all the more important to remember, given that even though the accuracy of DNA evidence may be" ,,,,,,,,,,

increasing with the advancement of science and technology with every passing day, thereby making it more and more reliable, we have not yet reached a juncture where it may be" ,,,,,,,,,,

said to be infallible. Thus, it cannot be said that the absence of DNA evidence would lead to an adverse inference against a party, especially in the presence of other cogent and" ,,,,,,,,,,

reliable evidence on record in favour of such party.â€œ,,,,,,,,,

(Emphasis supplied),,,,,,,,,,

65. Referring to the above case, a three-Judge bench in Manoj v. State of M.P. (2023) 2 SCC 353, through S. Ravindra Bhat J., observed;" ,,,,,,,,,,

â€œ158. This Court, therefore, has relied on DNA reports, in the past, where the guilt of an accused was sought to be established. Notably, the reliance was to

corroborate. This Court" ,,,,,,,,,

highlighted the need to ensure quality in the testing and eliminate the possibility of contamination of evidence; it also held that being an opinion, the probative value of such evidence has" ,,,,,,,,,

to vary from case to case.â€" ,,,,,,,,,

66. In the present case, even though, the DNA evidence by way of a report was present, its reliability is not infallible, especially not so in light of the fact that the uncompromised" ,,,,,,,,,

nature of such evidence cannot be established; and other that cogent evidence as can be seen from our discussion above, is absent almost in its entirety." ,,,,,,,,,

67. Unfortunately, the courts below did not go into all the aforesaid aspects and presumptuously assumed the guilt of the appellant and held him to have committed the crime." ,,,,,,,,,

68. What prevailed upon the courts below, it appears, was the testimony of the doctor PW 4 - Dr. Anjali Pimple, who conducted the post-mortem and, â€œthe clinching medical" ,,,,,,,,,

evidenceâ€" and â€œclinching DNA reportâ€". It is on the basis of the said medical evidence that the courts, without recording any findings with regard to the circumstances being" ,,,,,,,,,

unrefuted, convicted the appellant despite there being contradictions, material in nature, belying the prosecution case and the veracity of the statement of witnesses, so also impeaching" ,,,,,,,,,

their credibility. ,,,,,,,,,

69. Further, what weighed with the courts below is more so evident from the findings returned by the High Court, i.e., nature of the alleged crime being indeed one of the heart-" ,,,,,,,,,

breaking, horrific and most depraved kind, prompting the confirmation of the death sentence awarded by the Trial Court, considering the case to be the rarest of rare." ,,,,,,,,,

70. It is true that the unfortunate incident did take place, and the prosecutrix sustained multiple injuries on her body and surely must have suffered great pain, agony, and trauma. At the" ,,,,,,,,,

tender age of 6, a life for which much was in store in the future was terrifyingly destroyed and extinguished. The parents of the prosecutrix suffered an unfathomable loss; a wound for" ,,,,,,,,,

which there is no remedy. ,,,,,,,,,

71. Despite such painful realities being part of this case, we cannot hold within law, the prosecution to have undergone all necessary lengths and efforts to take the steps necessary for" ,,,,,,,,,

driving home the guilt of the appellant and that of none else in the crime.,,,,,,,,,

72. There are, in fact, yawning gaps in the chain of circumstances rendering it far from being established- pointing to the guilt of the appellant." ,,,,,,,,,

73. As already pointed out, there are several irregularities and illegalities on the part of the agencies examining the case." ,,,,,,,,,

74. The questions raised in the instant appeals are answered accordingly.,,,,,,,,,

75. Before parting with the matter, we must take note of the manner in which the investigation into this dastardly crime was undertaken. Numerous lapses blot the entire map. We" ,,,,,,,,,

have already pointed out multiple instances which have led to the chain of circumstances remaining broken, the larger picture emerging therefrom being that the person, whomsoever" ,,,,,,,,,

they may have been, remains unpunished to this day." ,,,,,,,,,

76. Both the crimes committed against the innocent six-year-old child, are unquestionably, malum in se i.e., evil and wrong on their own, without the prohibition of law making it so." ,,,,,,,,,

This fact, coupled with the duty upon the investigating authorities not only to protect the citizens of the country, but also ensure fair and proper investigations into crimes affecting the" ,,,,,,,,,

society, as in the present case, casts upon such authorities, in the considered view of this Court, not only legal, but also a moral duty to take all possible steps within the letter of the law" ,,,,,,,,,

to bring the doers of such acts to the book.,,,,,,,,,

77. In the instant case, the reasons why the investigation officers were changed time and again from PW 6 to PW 12 and then to PW 13, is surprising and unexplained. As we have" ,,,,,,,,,

already pointed out, no reason stands given for having decided that there was no need to comply with the provisions of Section 53A, Cr.P.C.; there is unexplained delay in sending the" ,,,,,,,,,

samples collected for analysis; a premises already searched was searched again, the reason for which is not borne from record; lock panchnama is not prepared; no samples of blood" ,,,,,,,,,

and semen of the appellant can be said to have been drawn by any medical or para medical staff; allegedly an additional sample is taken from the appellant more than a month after,,,,,,,,,,,,,

the arrest; alleged disclosure statement of the appellant was never read over and explained to the appellant in his vernacular language; the appellant was not residing alone at the place,,,,,,,,,,,,,

alleged to be his residence; and what was the basis of appellant being a suspect at the first instance, remains a mystery; persons who may have shed light on essential aspects- Ganesh",,,,,,,,,,,,,

Bheema and Munna Saroj went unexamined etc., such multitudinous lapses have compromised the quest to punish the doer of such a barbaric act in absolute peril.",,,,,,,,,,,,,

78. The charges mentioned above, although serious and grievous in nature, cannot be said to have been met against the present appellant. The factum of the commission of the crime",,,,,,,,,,,,,

against the six-year-old innocent child is not in dispute and cannot be deprecated enough even in the most severe terms. However, as the above discussion has laid out clearly, the",,,,,,,,,,,,,

circumstances forming the chain of commission of this crime cannot and do not point conclusively to the appellant in a manner that he may be punished for the same much less, with",,,,,,,,,,,,,

the sentence of being put to death,,,,,,,,,,,,,

79. In view of the above the charges levied on the appellant stand not proved,,,,,,,,,,,,,

80. This court, recently, in Maghavendra Pratap Singh @Pankaj Singh v. State of Chattisgarh 2023 SCC OnLine SC 486 had emphasised the role and responsibilities of the",,,,,,,,,,,,,

investigating authorities by referring to various judgments of this Court. Such principles, which are essential to successful investigations, were not adhered to. Needless to state, such",,,,,,,,,,,,,

responsibilities would be all the more heightened in cases of crimes involving severe punishments such as imprisonment for life or the sentence of death. Considering the nature of the,,,,,,,,,,,,,

case, the police ought to have, even more than usual, taken steps, precautions, and decisions to safeguard the fact-finding and investigation exercise.",,,,,,,,,,,,,

81. In view of the above, the appeals are allowed. Ex-consequenti, the judgment dated 27.11.2014 in Sessions Case No.407/2010, passed by District Judge-2 and

Additional Sessions" ,,,,,,,,,,

Judge, Thane as affirmed by the High Court vide judgment dated 13th & 14th October, 2015 in Confirmation Case No.4/2014 titled as State of Maharashtra v. Prakash Nishad @" ,,,,,,,,,,

Kewat Zinak Nishad and Criminal Appeal No.88/2015 titled as Prakash Nishad @ Kewat Zinak Nishad Vs. State of Maharashtra, respectively, convicting the appellant under" ,,,,,,,,,,

Sections 302, 376, 377 and 201 IPC and sentencing him to death and life imprisonment and other punishments described above, are quashed and set aside." ,,,,,,,,,,

82. The appellant be set at liberty forthwith, if not required in any other case. Pending applications, if any, are also disposed of." ,,,,,,,,,,