

Narendra Nama Das and Another Vs State of Tripura

Court: Gauhati High Court (Agartala Bench)

Date of Decision: March 14, 2007

Acts Referred: Evidence Act, 1872 â€” Section 25, 27
Penal Code, 1860 (IPC) â€” Section 120B, 302

Citation: (2009) 1 GLR 856 : (2007) 3 GLT 682

Hon'ble Judges: Ranjan Gogoi, J; Hrishikesh Roy, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Hrishikesh Roy, J.

Heard Mr. P.K. Biswas, learned Counsel for the petitioner. Also heard Mr. D. Sarkar, learned Public Prosecutor for the State.

2. This appeal has been preferred against the judgment dated 21.1.2000 passed by the learned Addl. Sessions Judge, West Tripura district in case

No. S.T. 180 (W. T./A) of 1996 whereby the two accused-appellants have been convicted under Sections 120B and 302 IPC. On the basis of

the said conviction, the two accused appellants have been sentenced to suffer rigorous imprisonment (RI) for life. A further sentence of fine of Rs.

5,000/- each has also been ordered in default of which, further RI for three months have been ordered.

3. The case set up by the prosecution against the accused-appellants is that the deceased Chinu Debnath was married to one Brajendra, but she

left her marital home because of torture by her husband and started to live with her father Nityananda Debnath. While residing with her father, she

developed intimacy with the accused Narendra and eventually she eloped with Narendra along with her 3 years old child Balaram after removing

Rs. 800/- from her father's Tea stall. Chinu and Narendra started living at R.K. Nagar as husband and wife.

Then Narendra married Dhali Nama Das (Doli), the appellant No. 2 herein which led to torturing of the deceased Chinu Debnath by Narendra and

Doli and Chinu was forced out of Narendra's house. On a complaint lodged by Chinu, a village Panchayat meeting was held on 12.2.95 and in the

said Panchayat meeting, it was settled that Narendra will pay Rs. 1,000/- to deceased Chinu for construction of a hut and will also pay Rs. 200/-

per month.

On the night of 13.2.95, Narendra visited the deceased Chinu in her rented house and asked Chinu to meet the accused Narendra at Khayerpur

Bus stop. On the morning of 14.2.95 also, Narendra met Chinu and on the same day Narendra and Chinu were seen in the Khayerpur Bus stop

where Chinu was seen nicely dressed wearing a blue coloured sari by P.W. 3. Eventually, the dead body of Chinu was found on 15.2.95 as an

unidentified dead body and was recovered from the jungles of Baramura on 16.2.95.

In respect of discovery of the dead body, an ejahar on 16.2.95 was lodged by one Khokan Munda in the Champaknagar Outpost under Jirania

Police Station to the effect that the informant, on the previous i.e., 15.2.95 at about 5"O clock, got information that one unknown married Bengali

woman had committed suicide by hanging. The Police on the basis of the said information brought down the dead body and prepared the Inquest

report at the place of occurrence. After taking photograph of the dead body and conducting post mortem, the Police cremated the dead body as

an unidentified person.

When the dead body of Chinu was identified through photograph and knowledge of her murder reached R. K. Nagar where the accused-

appellants resided, the accused-appellant Narendra fled away along with the acquitted accused Sati Nama Das while the appellant No. 2 Doli

apprehended by the co-villagers along with her bags and baggages as she was about to flee her home. Doli was handed over to the Police. Later

on, Narendra was arrested along with the third accused Sati Nama Das on 8.3.95. Narendra and Doli made a statement before the Police

accepting their guilt. The Police made recoveries on the basis of the said statement made by the two accused-appellants.

4. On behalf of the appellants, Mr. P.K. Biswas, the learned Counsel has submitted that in the facts of the instant case, Section 27 of the Evidence

Act is not attracted in respect of the statements of the two appellants, which led to recovery of articles from the place of occurrence as well as

from the Tripura State Rifles (TSR) Camp where Narendra was employed. He has cited the following decisions in support of his submissions.

(i) 2001 (1) GLT 479 : (2001) 2 GLR 400 : (State of Assam v. Sahabuddin and Ors.)

(ii) Heramba Brahma and Another Vs. State of Assam,

(iii) Peerappa and Others Vs. State of Karnataka,

The above cases have been cited to indicate the law laid down by this Court as well as by the Apex Court on the applicability of Section 27 of the

Evidence Act.

The learned Counsel has also submitted a decision reported in (2003) 12 SCC 169 (Seth Pal v. State of H.P.) to say that the evidence of P.W. 3

of seeing accused Narendra and the deceased in the afternoon of the date of occurrence as a "last seen together" evidence cannot be made the

basis for holding the appellant Narendra guilty of the death of Chinu. It is also submitted on the basis of the aforesaid decision that the conduct of

the accused namely, absconding after the news of murder of Chinu spreading in the locality, cannot also be made the basis for holding the

appellants guilty.

The counsel has also argued that the circumstantial evidence in the case does not conclusively establish the guilt of the two appellants. The decision

reported in Harchand Singh and Another Vs. State of Haryana, has also been cited to say that two sets of evidence in the instant case being

contradictory, the finding of guilt of the learned trial court is liable to be interfered with.

4.1. Appearing from the prosecution, Mr. D. Sarkar and Mr. R.C. Debnath, the learned Public Prosecutors, on the other hand, have cited the

following decisions:

(a) Golakonda Venkateswara Rao Vs. State of Andhra Pradesh, (Paragraphs 8, 9, 14 and 15);

(b) Suresh Chandra Bahri Vs. State of Bihar with Gurbachan Singh, (Paragraphs 71 and 72)

The above decisions have been cited on behalf of the prosecution to say that in respect of evidence of witnesses pertaining to "last seen together",

the time and date need not be of absolute precision and evidence of P.W. 3, a rustic village woman, cannot be thrown out because she has

mentioned only the day and not the date, when she saw the deceased and appellant Narendra together at Khayerpur Bus Stop on Tuesday. From

other evidence it can be gathered that the Tuesday mentioned by P.W. 3 is 14.2.1995 and accordingly, the evidence of P.W. 3 of seeing the

deceased and accused Narendra should be accepted by the Court.

The learned Public Prosecutors have also referred to the above decisions to indicate the law laid down by the Supreme Court under the provisions

of Section 27 of the Evidence Act and submitted that the statement of the two accused leading to recovery of the Muffler with which Chinu was

strangled as well as the torn piece of petticoat worn by appellant Doli, are vital evidences which conclusively establish the guilt of the accused

appellants.

Next, the learned Public Prosecutors have cited the decision of the Supreme Court reported in Baldev Raj Vs. State of Haryana, to say that the

extra judicial confession made by accused Doli before P.W. 5 was voluntary and is believable and should be accepted by the Court as a reliable

piece of evidence corroborating the guilt of the accused persons.

The learned Public Prosecutor has also cited the decision, reported in State of West Bengal Vs. Mir Mohammad Omar and Others etc., to say

that by the conduct of the accused before and after the incident as well as from the other circumstantial evidences, certain presumption can be

drawn by the Court. It is argued that such evidences conclusively establish the involvement of the accused in the murder of Chinu.

5. In this case since there is no eye witness to the murder and the prosecution case is mainly based on circumstantial evidence, it would be

appropriate to take note of such evidence at this stage.

5.1. Last seen together

P.W. 3 Gita Rani Debnath has deposed that she saw Narendra and Chinu on Tuesday at Khayerpur Bus stop. She stated that Chinu was nicely

dressed wearing a blue coloured synthetic sari. The Tuesday referred to by PW 3 can be gathered on the basis of evidence of other witnesses to

be 14.2.95.

P.W. 23 Pradip Aditya saw Chinu on 14.2.95 at Banikya Chowmuhani Bus stop where the deceased Chinu spoke to him. From the evidence of

P.W. 23, it is seen that Chinu informed the said witness that appellant Narendra has told her that he wants to live with the deceased as husband

and wife, P.W. 23 was one of the witnesses who later on went to Jirani a Police Station and identified the dead body of Chinu on the basis of the

photograph taken.

From the evidence of P.W. 3, it is seen that on the afternoon of 14.2.95, the accused Narendra and deceased were seen together in Khayerpur

Bus stop and the evidence of P.W. 3 disclosed that Chinu was nicely dressed. P.W. 23 also saw Chinu on 14.2.95 at the Bus stop and he was

told by the deceased that Narendra intended to marry the deceased.

So far as the PWs 26 and 16 are concerned, they are witnesses, to appellant Narendra meeting the deceased Chinu on 13th night and on 14th

morning and from the evidence of these two witnesses, it can be gathered that Narendra met the deceased Chinu earlier in the morning, where after

they were seen together in the afternoon at Khayerpur Bus stop and thereafter the whereabouts of Chinu were not known till her dead body was

discovered.

5.2. Absconsion

P.W. 24 Anjana Aditya is a witness to the fact that when the news of murder of Chinu spread in her village R.K. Nagar where the two accused-

appellants resided, accused Narendra as well as Sati fled away. However, accused-appellant No. 2 Doli was apprehended by her co-villagers

while she was attempting to flee her house with bags and baggages and she was eventually handed over to the Police.

Thus, from the above evidence, it can be gathered that the accused Narendra having fled and accused Doli having made an attempt to flee, had not

behaved like innocent and normal persons, when the news of death of Chinu reached the village. No doubt, absconding or to make an attempt to

abscond can not by itself establish the guilt of the accused person. But absconding and attempted absconding by the two accused-appellants can

be a vital piece of circumstantial evidence linking them with the death of Chinu.

5.3 Conduct

P.W. 4 Kanika Shukla Das who was asked to sleep in the house of the accused on the night of 14.2.95 deposed that the two appellants Narendra

and Doli as well as Sati Nama Das (since acquitted) returned to the house at about 12.30 at night. On being asked, accused Doli told P.W. 4 that

they met with an accident at Jirania and was detained by the Police and accordingly they returned back so late.

P.W. 4 in her evidence further stated that all the three persons after reaching their house at 12.30 midnight took bath and dumped their wearing

apparels on the rear side of their house. The accused also lighted five candles and prayed for something. The accused-appellant Doli also asked

P.W. 4 not to disclose about their conduct at night to anybody.

P.W. 21 Rita Shukla Das, the mother of P.W. 4 corroborated the evidence of P.W. 4 Kanika who is her daughter and deposed that at the request

of appellant Doli who stated that they would be proceeding to Teliamura, she had sent P.W. 4 Kanika to the house of Narendra to spend a night

at Narendra's house as Doli's 10 years old brother-in-law Tapas was kept back alone in the house. When P.W. 21 visited Narendra's house

next morning, the accused confirmed that they returned on the night of 14.2.95 at about 12-30 midnight. Then her daughter Kanika (PW 4)

informed P W 21 that after returning to the house at night, Narendra, Doli and Sati dumped their wearing apparels on the rear side of their house.

5.4. Extra-Judicial confession

P.W. 5 Manika Sukla Das who is the next-door neighbour of the accused deposed that appellant Doli visited her house while she was cooking

meals and told her that she and Narendra killed Chinu in the jungle of Baramura and hanged her body on a tree. She requested P.W. 5 Monika

not to disclose the said information to anybody. She also deposed that Doli told her that Narendra took Chinu to Baramura and thereafter by

another Bus Doli reached there. Doli further informed that they entered deep into the forest and Chinu suspecting something wrong prayed to them

to spare her life, but Narendra tied her neck by a muffler where after Chinu fell on the ground and then Doli gagged her mouth. Doli also told PW

5 that after killing Chinu, they returned to their house at 12 midnight.

The confession made by Doli before PW 5 Manika is an extra-judicial confession and same can be accepted only if is found to be voluntary and if

the PW 5 is taken to be a reliable witness by the Court. What we find here that PW 5 is the next door neighbour of Doli and Narendra and

enjoyed close neighborly relation with accused Doli. She remained firm during cross examination and stood firm in her deposition about the

confession made by Doli to her.

PW 5 was a natural person to whom Doli could confide and as Doli voluntarily made the confession, we have no reason not to accept the

evidence of PW 5 on the confessional statement made to her by the appellant No. 2.

From the evidence of PW 13, the Doctor who conducted the post mortem examination, it is also seen that the story narrated by Doli to PW 5

Manika regarding mode and manner of killing Chinu, tallies with the medical evidence given by PW 13. PW13 who conducted the post mortem

examination on the dead body of Chinu has stated that ""such death can be caused if a person is gagged by somebody and tied by a muffler around

her neck"". Thus, medical evidence corroborates the statements made by the accused Doli by way of extra-judicial confession as can be gathered

from the evidence of PW 5 and make the evidence of PW 5 truthful and believable.

5.5. Presence of the accused persons at the place of occurrence.

PW 27 Kajal Ghosh, who was the SI of Police posted at the Champaknagar Outpost under Jirania Police Station has deposed that on 14.2.95 at

about 2230 hours while he was present at the Police Outpost, they heard a loud crashing sound in front of the Police Outpost and they rushed to

the spot and found a Lorry bearing No. TRL-7037 which was about to be "outlined" from the road. In the Lorry loaded with timbers, PW 27

found 3 persons and on being questioned, the 3 persons disclosed their identity as Narendra Nama Das, his wife Doli Nama Das (the two

appellants) and his sister Sati Nama Das. The said information was entered by PW 27 in GD Entry No. 363 dated 14.2.95 of the Police Outpost

and the extract copy of the said GD Entry marked as Exbt. P/17 has been proved by him. On being questioned by PW 27, Narendra disclosed his

identity as a Constable of Tripura State Rifles (TSR) and accordingly, the Police at Champaknagar Police Outpost arranged for their onward

transportation.

It may be kept in mind that the body of Chinu was discovered on 15.2.95 in Baramura forest and the information about discovery of her body

hanging from a tree was given next day on 16.2.95, by Khokan Munda to Champaknagar Police Outpost under Jirania Police Station on the basis

of which the Police started investigation into the death of Chinu. The presence of the accused persons near the place of occurrence within

Champaknagar Police Outpost while coming out of the forest, where dead body of Chinu was found murdered, at about 8-30 in the evening of

14.2.95, is also a circumstance, which has to be borne-in-mind in the present case.

The presence of the accused persons near the Baramura forest where they were found is not natural as Doli stated that they were going to visit her

mother at Teliamura. They were found in a Truck exiting Baramurajungle near Chamapaknagar Police. Outpost and it was not a natural place

where they were expected to be present, particularly at that time of the night.

5.6. Motive

PW 5 Manika in her deposition stated that accused Doli told her that they killed Chinu to avoid payment of money ordered to be paid by

Narendra to Chinu as per the decision taken on 12.2.95 by the village Panchayat. On the basis of complaint made by Chinu against Narendra, the

Panchayat members passed a resolution directing the accused-appellant Narendra to pay Rs. 1,000/- through the Pradhan of the village to Chinu

to enable her to construct a hut and also directed payment of Rs. 200/- per month for three years to Chinu. The said resolution of the Panchayat is

proved through the evidence of PW 7 Ramendra Debbarma, the Pradhan of R.K. Nagar village.

From the evidence of PW 5 as also the evidence of PW 1, PW 5 and PW 24, it can be gathered that Narendra and deceased Chinu lived as

husband and wife in Narendra's house. Narendra thereafter married Doli and when Doli came to his house as wife of Narendra, Narendra and

Doli started torturing Chinu and eventually threw Chinu out of the house of Narendra. Because of this incident, Chinu prayed for justice before the

village Panchayat and Panchayat by resolution dated 12.2.95 ordered Narendra to make some payment to Chinu.

It is seen from the evidence of PW 5 that Narendra decided to do away with Chinu to avoid making the said payment and accordingly, two days

after the village Panchayat resolution, he lured away Chinu on 14.2.95 with promise of marriage as is deposed by PW 23 and after Narendra and

Chinu were seen at Khayerpur Bus stop by PW 3, none had seen Chinu till her dead body was discovered in Baramura jungle on 15.2.95.

5.7. Inquest Report

From the Inquest report prepared by the Police, it can be seen that Chinu had as her wearing apparels, inter alia, a light blue coloured synthetic

sari. From the evidence of P W 3 Gita Rani Debnath who saw Narendra and Chinu at Khayerpur Bus stop on 14.2.95, it can be gathered that

when PW 3 saw the deceased Chinu, Chinu was wearing a blue coloured sari. Thus, at the time when Chinu was last seen alive along with accused

Narendra till her dead body was found the next day, Chinu was seen to be wearing a blue coloured sari.

6. From the above circumstantial evidence, it can be seen that the deceased Chinu after elopement with appellant Narendra, lived as husband and

wife in the house of Narendra. After Narendra married the appellant Doli and brought her home, trouble started in Narendra's house and frequent

quarrel broke out between deceased Chinu on one side and the two accused Narendra and Doli on the other. The deceased Chinu was thrown

out of Narendra's house along with her minor son Balaram which led Chinu to lodge a complaint before the village panchayat to seek justice for

herself and her minor son.

The members of the village panchayat met and passed a resolution on 12.2.1995 directing Narendra to Pay Rs. 1,000/- to enable Chinu to

construct a hut and also to pay Rs. 200/- per month to the deceased.

Narendra was not happy with the Panchayat resolution passed against him and wanted to kill Chinu so that he does not have to pay anything to her

as was directed in the Panchayat resolution dated 12.2.1995. So on the very next day i.e., 13.2.1995 at night time, he visited the deceased Chinu

in her rented house and persuaded the deceased to meet him at the Khayerpur bus stop next day.

On 14.2.1995 morning also, appellant Narendra met the deceased. In the afternoon of 14.2.1995, which was a Tuesday, Narendra and deceased

Chinu were seen together at Khayerpur bus stand and Chinu, who was making a living by doing chores in others house, was seen dressed up

nicely in a blue coloured saree. During the same afternoon, the deceased told P.W. 23 whom she met at the bus stop that accused Narendra

wishes to marry her.

After 14.2.1995 afternoon, when both accused Narendra and Chinu were seen together, nobody saw Chinu alive and next day i.e., 15.2.1995,

her dead body with marks of injuries on the person, was discovered hanging from a tree in Baramura forest within the jurisdiction of

Champaknagar Police outpost of Jirania Police Station. Information about an unidentified body being discovered was given to Champaknagar

Police on 16.2.1995 and then the police recovered the body, which was later identified from photograph as that of Chinu Rani Debnath.

On the other hand, on 14.2.1995 the two accused Narendra and Doli along with acquitted accused Sati (sister of Narendra) left their house

leaving the minor boy Tapas in their house with a request to their neighbour Kanika (P.W.4) to sleep in the house of the accused as Tapas had

been left alone in the house. The accused Doli informed her neighbour P W 21 that she was going to visit along with Sati her mother at Teliamura

when they left their residence at R.K. Nagar.

But both appellant Narendra and Doli along with Sati were found in a truck loaded with timber coming out of Baramura forest, which skidded off

the road in front of Champaknagar police out post. They were found coming out of Baramura forest in a truck at 20.30 hrs. on 14.2.1995 whereas

the appellant Narendra was seen together with Chinu a few hours before in the afternoon at Khayerpur Bus stop. The dead body of Chinu was

discovered in the Baramura forest and presence of both appellants Narendra and Doli is established near the place of occurrence on 14.2.1995 at

20.30 hours. Next day i.e., 15.2.1995 Chinu's dead body was discovered and said information was given to Champaknagar Police outpost.

Death of Chinu occurred anytime after she was last seen on the 14.2.1995 afternoon with Narendra.

The appellants Narendra, Doli along with Sati (acquitted) returned to their house after midnight on 14.2.1995 and after returning, all three dumped

the clothes they were wearing on the rear of the house, took bath also lighted five candles and prayed together.

It is also seen that appellant Doli confided with P.W. 5 Monika on the Friday after the incident on Tuesday (14.2.1995) about their involvement in

the murder of Chinu on the night of 14.2.1995.

When news of discovery of dead body of Chinu after identification spread in the locality, appellant Narendra along with Sati fled away from the

house. Doli was apprehended with bags and baggages by the villagers just when she was about to flee from her home.

We have meticulously scrutinized the above facts that emerge from the circumstantial evidences proved before the Court. In our opinion, the

evidences can lead us to no other conclusion but the guilt of the two appellants in the murder of Chinu. The Inquest report corroborates the

circumstantial evidence on material particular regarding the blue colour saree Chinu had worn when she was alive, as the same colour saree she

was found with, when her dead body was found.

7. Apart from the above evidence, we also find evidence against the two appellants on the basis of recovery made following post arrest statements

given by the two accused and it would be appropriate to take note of such evidence admissible under the provision of Section 27 of the Evidence

Act.

7.1 Doli's Statement

PW 30 Sanat Kumar Pal was the SI of Police in East Agartala Police Station who started investigation after Balaram Debnath, the son of the

deceased gave information about missing of his mother Chinu since 14.2.95. PW 30 in course of his investigation found complicity of the accused

Doli in the death of Chinu and arrested Doli. After her arrest Doli made a statement to PW 30 that she along with her husband Narendra and

sister-in-law Sati murdered Chinu in the jungle of Baramura. The said statement of Doli was recorded by the PW 30 in the GD Book of East

Agartala Police Station vide Entry No. 1624 dated 28.2.95 where Doli offered to show the place in Baramura forest where she reported to have

killed Chinu. She also stated that the torn piece from her petticoat with which she tied her injured finger is also lying at the same site.

On the basis of the said statement of Doli, PW 30 proceeded to the place of occurrence within Jirania Police Station. At Jirania Police Station,

PW 30 learnt of the written report of Khokan Munda to the Champaknagar Police Outpost within Jirania Police Station, regarding finding of an

unidentified female dead body hanging from tree in Baramura forest and the accused Doli identified the said dead body from the photograph to be

the dead body of Chinu.

PW 30 on the basis of the statement given by Doli reached the place of occurrence and recovered a torn piece of cloth from the place of

occurrence, which Doli claimed to be the same from her petticoat. Doli had made the statement that she had wrapped her left ring finger with the

said torn piece, which was injured by biting of the deceased Chinu while Doli was gagging the mouth of Chinu. Thereafter, PW 30 visited the R.K.

Nagar residence of Narendra and Doli and from their house, Doli produced the torn petty coat, the torn part of which was found in the place of

occurrence.

The torn piece of cloth recovered at the place of occurrence has been marked as Exbt. A which is a piece of maroon coloured cloth measuring 22

cm. x 10 cm. approximately whereas one maroon coloured pettycoat in which some portion of the lower level on the front side was torn has been

marked as Exbt. B. The seized clothing apparel and the torn piece were sent for forensic examination and according to the report dated 16.6.95 of

the Junior Scientific Officer, Central Forensic Science Laboratory, Kolkata, Exbt. A has been concluded to be a part of Exbt. B. The said opinion

of the Forensic expert has been given on the basis of physical comparison of Exbt. A with Exbt. B. Besides physical fit, the two Exbts were found

to be the parts of one another on the basis of thread count, signs of twist, common fault stitching pattern of the border.

Thus, the recovery of piece of cloth at the place of occurrence torn out from the wearing apparels of the accused Doli on the basis of her statement

recorded by PW 30 would make a part of Doli's statement admissible u/s 27 of the Evidence Act. The statement can be taken as evidence to

indicate the presence of Doli at the place of occurrence, her knowledge about the place of occurrence and also that she suffered injury by biting of

the deceased when she was gagging the deceased and that cloth piece she used to wrap her injured finger is lying at the place of occurrence.

7.2. Narendra's Statement

PW 30 in his deposition stated that he raided the TSR Camp at R.K. Nagar for apprehending Narendra but failed to arrest him. Finally, Narendra

was arrested from Materbari, Udaipur along with his sister Sati. During interrogation both the arrest persons confessed their involvement in the

death of Chinu and PW 30 recorded the statement of Narendra (Exbt. 21) in a separate piece of paper. In the Exbt. 21 statement given by

Narendra and recorded by PW 30, Narendra indicated that he had hidden the cloth by which he strangled Chinu in his Camp, under the bed of

his room-mate Pradip Debnath (PW 28).

On the basis of the said statement of Narendra, PW 30 along with Narendra reached the TSR Camp on 14.3.95. In the TSR Camp, accused

Narendra brought out a plastic bag which he had kept concealed under the cot of his room-mate Pradip Debnath, a Rifleman of TSR (PW 28)

and from the said plastic bag he brought out a red, white and black striped muffler. The accused had made the statement that this muffler was used

by him and that he had fastened the neck of Chinu with the said muffler to murder her. The said muffler was seized by Police and PW 28, the

room-mate of Narendra in his evidence has corroborated the evidence of PW 30 to the extent of seizure of the muffler.

Thus, u/s 27 of the Evidence Act, Narendra's statement to the extent of the muffler being used for killing Chinu and his knowledge about where the

muffler was hidden, are admissible as evidence in this case.

8. Section 27 of the Evidence Act curves out an exception to the general law embodied in Section 25 of the Evidence Act. By virtue of Section 27

of the Evidence Act, so much of the statement of the accused which led to the discovery of the fact deposed by him and connected with the crime

is admissible in the evidence against the accused. Naturally, to attract Section 27 of the Evidence Act, information must be given by the accused

which led to discovery of a fact and such discovery must be a direct outcome of the information parted with. Only that portion of the information

given which is distinctly connected with the said recovery is admissible in evidence. The discovery of the fact must relate to the commission of

some offence.

In the case in hand, the Exbt. 21 statement of Narendra led to recovery of the muffler from a plastic bag kept underneath the cot of Narendra"s

room-mate (PW 28). The statement of Narendra is that the said muffler was used to strangle Chinu which caused her death.

The statement before police made by Narendra after his arrest led to recovery of the muffler kept hidden by Narendra in plastic bag, under the cot

of P.W. 28 Pradip in the TSR Camp. This muffler was used in strangulating Chinu and medical evidence of P.W. 13 corroborates that death could

be caused if a person is gagged and tied by a muffler round the neck. Thus u/s 27 of the Evidence Act, we can say that Narendra had knowledge

about the fact of muffler being used in killing and he also knew where it was hidden.

After the arrest of Doli, she made statements on 28.2.05 before the police which led to recovery of a torn cloth piece from her petticoat from the

place of occurrence, with which Doli tied her injured finger which was bitten by the deceased Chinu, when Doli was gagging her mouth. The torn

piece of clothing recovered from the place of occurrence, matched with the torn petticoat recovered from the house of Narendra as per the

forensic evidence. Admissible part of Doli"s statement u/s 27 of the Evidence Act would be to the fact of the torn piece cloth lying at the place of

occurrence, the knowledge she had of the place of occurrence and also the fact that she suffered injury while gagging the deceased when Chinu bit

her finger.

The recoveries in the instant case has been made from places where there is little possibility of the recovered articles being available as a matter of

chance as they are not public places. Accordingly, that part of the statement of the two accused leading to recovery of articles from Baramura

jungle (P.O.) and the room in the TSR Camp can be accepted as evidence in the case u/s 27 of the Evidence Act.

9. The evidence of the doctor P.W. 13 corroborates that the murder of Chinu could be committed by strangulating her with the muffler, which was

discovered from its hiding place on the basis of statement of Narendra.

The Forensic evidence corroborates the statement of the accused Doli made to the police after her arrest that led the police to recover a piece of

cloth torn from her petticoat used by Doli to tie her injured finger at the place of occurrence and also the recovery of the torn petticoat itself on the

basis of Doli"s statement, from the house of Narendra and that the two cloth pieces match each other.

The evidence of extra judicial confession made by accused Doli introduced through P.W. 5 Monika also corroborates the conclusion of guilt of the

appellants. It is seen that the confession made by the accused was of her own violation and is trustworthy and has been substantiated in all material

particulars by other evidences in the case. Doli was close to P.W. 5 and it was natural for her to confess her guilt before P.W. 5 who was her

immediate neighbour.

10. In view of the above discussion of evidence in the case, we find that two appellants Narendra and Doli are directly responsible for the murder

of Chinu at Baramura jungle on the night of 14.2.1995.

11. Accordingly, we do not find that any case is made out before this Court to interfere with the conviction and sentence awarded against the

appellants by the learned Trial Court. The appeal is accordingly dismissed.