

MOOT PROPOSITION

1. Rajasvi Singhal (deceased); a lawyer was married to Mr. Anshuman Singhal, a leading businessman for the last twelve years and out of the wedlock was born a son, Niten Singhal, ten years old. She was living with her husband and son at their marital home since marriage. They recently shifted to a new house and have been living there a little over a year. She was one of the youngest to be promoted to partner in one of India's emerging law firms "H&G - Attorneys". Everyone loved Rajasvi and she was known for her gentle and soft-spoken nature.
2. Riya Verma (Accused No. 1), cousin of Rajasvi was her paternal uncle's daughter. She was married to Sanjeev Verma, an engineer. Riya and Rajasvi shared amicable relations between them as they had both grown up together. Over the years, this sisterly relationship also manifested itself into a fiduciary one wherein Rajasvi lent money to her sister to help in her catering business. On 17/11/2009 as a part of one such transaction, Riya, while promising to return the sum within four months, borrowed a sum of Rs. 20,00,000/- (Rupees Twenty Lakhs) from Rajasvi to invest in her business.
3. Months passed, but there was no mention of the borrowed sum. In spite of several reminders and follow-ups, the sum yet remained unpaid. Every time there would be a reason as to why it was not possible for Riya to return the borrowed sum to Rajasvi. Business was a little low due to the sudden mushrooming of competition around and Riya was finding it very difficult to sustain her catering business without the influx of additional funds. On 05/06/2010 Riya convinced Rajasvi, against the wishes of Anshuman, into investing another Rs. 30, 00,000/- (Rupees Thirty Lakhs) into the business and promised to repay it at the earliest.
4. History repeated itself and yet again, Rajasvi was left disappointed at the fact that she had not received the money that was owed to her. There were frequent disagreements and arguments between Anshuman and Rajasvi and finally it was mutually decided that this would be the last time they would lend money to Riya. Over a family dinner one night on 02/08/2010, a final ultimatum was given to Riya to pay the money due to them by November as they required it for the purposes of remodeling their house.
5. Feeling hurt at the insults and the way she was treated, Riya was to have her revenge. Thus, on 11/11/2010, Riya called up Rajasvi and requested her to visit her at her residence at Grand Towers, Pune at 9 pm that day. Riya mentioned that she was

happy that business had been peaking in recent times. A meeting was fixed and Rajasvi immediately called up Anshuman and informed him about this meeting. The conversation went at length and they concluded by saying that they had been too hard on Riya during the dinner and that she was a nice person.

6. One month later, on 10/12/2010 Rajasvi's highly decomposed body was found in the Damboj Ghats which forms a part of the Western Ghats located on the Pune Nashik highway (NH 50).
7. Going back to meeting day, Rajasvi wrapped up her office work and left from her office by 7:25 pm. Grand towers was approximately twenty minutes away but with traffic this journey could stretch up to thirty minutes on an average. She called up Anshuman and told him that she was on her way and had just crossed Waffle Hut, a famous eatery. She expressed her concern regarding the money and said that she was hoping to receive at least a part of the lent amount considering that Riya's business had picked up. She further added that she would call him up once she was leaving from there. This was the last phone call recorded by the phone company that was made from Rajasvi's number.
8. It had been half past midnight and Anshuman had begun to grow worried as Rajasvi had not yet returned home. It was not like her to not inform him in case of a delay. He knew at that instant that something was not right. He called up Riya to ask about the whereabouts of Rajasvi to which Riya replied that Rajasvi had never reached her residence at the decided time so she thought that their meeting had been cancelled. He then called up her parents, Mira and Shiv Singh and inquired if Rajasvi had come to their residence which was at Bimal Nagar, Pune. Knowing that no one had heard from Rajasvi, her parents were visibly disturbed so the entire family decided to meet at their residence.
9. It was concluded that this was unusual behavior and that a missing person's complaint needed to be filed. It was at this time that the much silent Riya begun convincing everyone against filing a complaint as Rajasvi could have been stuck up in some important work. Not having heard from Rajasvi even after thirty-six hours since her disappearance, Anshuman along with Mira and Shiv filed a missing person's complaint on 13/11/2010. They also informed the police that Rajasvi's car, a 2002 model of the Hyundai i10, silver colour, bearing number MH 12 HX 1705 which was driven by her was also missing.
10. The investigation started on 14/11/2010 with the police questioning the family members regarding the last known whereabouts of Rajasvi. Anshuman was considered a

suspect but he was soon ruled out once he established his alibi. He also told them that the last person to have possibly seen Rajasvi was Riya as they had been scheduled to meet that evening. When the police questioned Riya and Sanjeev regarding their scheduled meeting with Rajasvi, they were very evasive and told the police that Rajasvi never visited them that evening.

11. On 27/11/2010, the police located Rajasvi's missing car, which had been left abandoned on the Pune-Nashik highway. After a thorough search of the car the police forensic team recovered hair like fibers stuck to the carpet in the boot of the car. These fibers were then sent for examination to the laboratory.
12. The investigation then led to the office of the deceased wherein the Secretary, Aditi, was questioned. She revealed that Rajasvi had once told her that if in case there would be a day when she does not return for a long period of time and no contact could be established with her, then in such a situation Aditi was to take the keys of her office almirah given to her, open it and hand over the contents therein to Rajasvi's parents. The investigation then led to Rajasvi's parents who revealed the contents of the file to be a list of all of Rajasvi's important documents such as her will, bank deposit receipts etc. one of such documents consisted of the financial transactions of Rajasvi with other people.
13. On the basis of this document the police established that Riya was the only person with the strongest motive to eliminate Rajasvi. When the police reached Riya's apartment in order to take Riya into custody for questioning they discovered that the flat was locked and Riya and Sanjeev were both absconding. The police then took their domestic help, Raman Shinde into custody for questioning. It was during this interrogation that they found out that Riya and Sanjeev had gone to Mysore. Effort was made to reach them but they constantly remained unavailable.
14. After several hours of questioning Raman and pressurizing him, Raman confessed to the police that he had helped Riya and Sanjeev strangulate Rajasvi on day of meeting. He added that while Riya strangulated Rajasvi, Sanjeev and he had pinned her down and they let go only once she had stopped moving. He then helped Sanjeev wrap up the body in a carpet and load it in Rajasvi's car. They then drove towards Damboj Ghats and at particular spot in the forest they dumped the body. He further added that he was willing to cooperate completely with the police in return for a lesser sentence. Raman then told the police that he would take them to the exact spot where the body had been buried.

15. As per the information provided by Raman Shinde, the police arrived at the Ghats where the body was alleged to have been dumped by the accused. The police were guided to the exact spot by Raman. The forensic team dug up the area and retrieved the highly decomposed body of a female in her mid-thirties. There was jewellery worn by her which was sent for identification. The body was sent to Vithal Hospital, Pune for a post mortem which concluded that the death was an unnatural death due to asphyxiation caused by the fracturing of the hyoid bone. The hair on the decomposed body was extracted and was then sent for a DNA analysis. Upon comparison with a sample taken from Rajasvi's hairbrush, it was concluded beyond doubt that the body was that of Rajasvi. The level of decomposition suggested that she had been dead for around one month.
16. Taking into consideration the statement of Raman, the forensic evidence and the circumstances surrounding the disappearance of Rajasvi on the night of 11/11/2010 and her subsequent murder, a First Investigation Report was filed against Riya, Sanjeev and Raman for murder of Rajasvi Singhal. A team of policemen went to Mysore and arrested Riya and Sanjeev and escorted them back to Pune. A charge sheet was then prepared in which each of the accused was charged under the relevant provisions.
17. The charge sheet was filed by the police and the trial was conducted by the Hon'ble Sessions Court. On the basis of the witness testimonies and the evidence in the case, the Sessions Court acquitted Accused No. 1 Riya Verma, Accused No. 2 Sanjeev Verma and Accused No. 3 Raman Shinde. The Judgment was passed on 30/12/2020. All the three accused named have been set free. Aggrieved by this order, the State has preferred an appeal before the Hon'ble Bombay High Court where decision of the Sessions Court was upheld. Now, the case is pending in the Supreme Court of India as a Criminal Appeal.

Argue the case on the basis of the given facts either on behalf of the Prosecution or the Defense.

DECISION OF THE HON'BLE SESSIONS COURT

A. Issues raised:

1. Does the Prosecution conclusively prove that the accused committed murder of the deceased?
2. Does the Prosecution conclusively prove that there existed common intent and criminal conspiracy between the three accused to commit murder?

B. Reasons:

In order to prove their case, the Prosecution has examined three witnesses, namely:

- I. PW 1 – Raman Shinde
- II. PW 2 – Shriram Sharma, Security Guard of Grand Towers
- III. PW 3 – Karan Sihag, Investigating Officer

The Defense, in order to disprove the case of the Prosecution and to prove their case has examined three witnesses, namely:

- I. DW 1 – Riya Verma
- II. DW 2 – Sanjeev Verma
- III. DW 3 – Sanju Chaiwala, tea delivery boy

1. It is the case of the Prosecution that on 11/11/2010, Rajasvi Singhal met Riya Verma at her residence at “Grand Towers”, Pune. Taking this into consideration, the Prosecution has argued that it was Riya Verma (Accused no. 1) who was the last person to see the deceased alive and as a part of the circumstantial evidence, this proves that Accused no. 1 is most likely the one to have killed her. The Prosecution has adduced evidence from the mobile service provider of the deceased which shows that the deceased’s cellphone was last active in the area of Grand Towers. This makes it very likely that the deceased was last seen alive by the accused. The Defense has suggested in their cross examination that the deceased never made it to the home of the Accused no. 1 and 2. Thus, they have totally denied this incident.
2. The Prosecution on this count has examined PW 2 who is the watchman at the main gate of Grand Towers. He gave the police access to the CCTV footage of 11/11/2010. The police then retrieved the relevant portion and sent it for

processing. The CCTV footage along with the certification under Section 65B of the Evidence Act was also appended. It clearly depicts the entry of deceased into Grand Towers. The deceased was also identified by PW 2 in his oral testimony recorded by the Investigating Officer (PW 3) and thus Prosecution has proved the fact of the Last Seen Theory.

3. Per contra, though last seen theory was proved but no clinching or cogent evidence has been brought on record regarding the exit of the deceased from Grand Towers along with the accused. In furtherance, no explanation has been given by the Prosecution as to how the deceased and accused exited from the said complex. Thus, considering this fact, the chain of events is not complete except for the last seen theory. On this basis, we cannot conclude accomplishment of the act as contemplated by the Prosecution.
4. There is a lot of room for doubt with regard to the events and circumstances surrounding the murder of the deceased. The Prosecution has failed to establish a clear chain of events in order to demonstrate through the last seen theory that no one else except the accused could have committed the murder. In such a situation, the benefit of doubt has to be in favour of the accused.
5. The Prosecution has placed reliance on the witness statement of PW 1. In this regard, the Prosecution has examined the Investigating Officer (PW 3). The investigating officer in-charge of this case has deposed that during the course of this investigation, he had taken PW1 into custody and taken down his statement in accordance with the law. He has stated that during the course of interrogation PW1 willingly agreed to disclose the modus operandi of the commission of the offence. He stated that a deal was then made wherein PW1 was to disclose all the details for a lesser sentence.
6. PW3 has stated that he then recorded all the details regarding the events of 11/11/2010. During this course PW1 disclosed how he was induced into committing the crime by Accused 1 and 2. He also claimed to have known the exact spot where the dead body of the deceased had been buried and offered to direct the police to that exact spot. PW1 also confirmed that the image captured by the CCTV camera at the toll naka on the Pune-Nashik highway was of PW1 and Accused no. 2 driving the car of the deceased with her body in the boot.
7. PW 1 has also admitted that after they had buried the body of the deceased, they drove back to somewhere near the highway. They then stepped out of the car with

an intention to abandon it. Before they left, they made sure to clean the car thoroughly so that no evidence is left behind linking them to the crime. This was the same car which had been recovered by the police, abandoned on Pune Nashik Highway. PW 1 confirmed it to be the same car.

8. Acting on this information, the forensic team of the police exhumed the body and was sent for post mortem. The Post Mortem report confirmed death by asphyxia due to strangulation which suggests murder. It was found that the information given by PW1 is true and accurate.
9. The Defense counsel while arguing made a reference about the tea stall opposite to police station and his son (DW 3) who frequently visits the police station to serve tea. On the date of 08/12/2010, the fact that tea was served to the police station by DW 3 has been admitted during the cross examination of PW 3. The Defense has proved the presence of DW1 in the police station for serving tea at the same time when the statement of PW1 was being recorded. DW 3 has also identified the PW 3 as the officer who was interrogating PW1.
10. It is further established by the Defense that while DW1 was in the police station, he saw PW3 shouting at someone inside the lock up. It was at this time that he took out his cellphone and shot a video of what was happening there before he was spotted by one of the constables on duty and asked to leave. This video clip is alleged to show the violent and illegal manner in which the PW1 was threatened and coerced to give his statement.
11. The Defense has argued that the statement of PW1 being relied on by the Prosecution was one that has been obtained by coercion and force and due to this it cannot be admitted as evidence. The Defense counsel has produced mobile phone video clip supported by a certificate u/s 65B of the Indian Evidence Act, 1972 that was taken by the DW1. However, the Prosecution has not disputed the authenticity of this clipping or challenged this technicality in cross examination.
12. After perusing the video and looking into the circumstances, I have no doubt that the said confession was not one that was willingly given by the PW1 but rather it has been coerced out of him to give such a statement. In such a situation, this witness testimony is tainted and cannot be relied on. The Defense has succeeded in establishing that the witness testimony cannot be this considered in view of its contradiction with law. Thus, no reliance is to be placed on the statements made by PW1.

13. Hence, in the light of the arguments advanced with regard to point no. 1, having heard both the counsels and appreciating the evidence on record, I conclude that the Prosecution has failed to discharge its burden of proving the circumstances beyond doubt and the chain of events connecting the guilt is incomplete. The Defense has succeeded in establishing its case positively which has subsequently raised several doubts surrounding the events. In such a case, the accused have to be given the benefit of doubt. In view of this, I answer issue no. 1 in the negative.
14. With regard to point no. 2, it is the case of the Prosecution that there was a common intent and a criminal conspiracy between Accused no. 1,2 & 3 to commit the aforesaid murder. Accused no. 1 & 2 are husband and wife and Accused no. 3 is their domestic help. The Prosecution has argued that all the three accused hatched a plan to murder the deceased. In support of this argument, they have once again placed reliance on the testimony of PW1.
15. PW1 has given out details regarding the events leading up to the murder of the deceased on 11/11/2010. Upon being questioned by PW3, he has stated that he was offered a large sum of money in return for his help with the commission of the offence. This was a pre-planned event. Accused no. 1 and 2 had planned to kill the deceased and had also concluded the manner in which they would execute the plan. PW1 has stated that the deceased was first drugged and was then strangled so that there would be minimum resistance and that it would be quick and more efficient. The disposal of the body had also been planned beforehand. Right from getting the deceased to the apartment of the accused till the disposal of her body had all been planned well beforehand.
16. The Defense has put forward that there was no evidence to support this theory of the Prosecution and based merely on a suspicion, no accused should be convicted of such a serious offence. The Defense has put forward the forensic analysis report of the deceased body which indicated that there were no traces of any drugs in her body. He also put forth that the family relations between the two were good. Considering the fact that they were sisters and that they had grown up together, there was a special bond between the two. The Defense has also added that there was absolutely no motive for the commission of such an offense. In the absence of motive, the probability of the Accused committing the crime is low. Merely based on suspicion, however strong, a conviction should not be made.

17. Having heard the learned Advocates of the Prosecution and Defense, it can be concluded that in order to prove conspiracy or common intent there is hardly any direct evidence available. It has to be proved taking into consideration the circumstances and the behavior of the accused in those circumstances. But, the circumstantial evidence in the present case is so weak against the accused that it would result in a gross miscarriage of justice if they were to be convicted on the basis of such flimsy evidence.
18. The accused and the deceased were cousins. Defense has shown that the relations between both the sisters as well as the families were extremely good. In such a case, it is difficult to believe that in such a situation the accused would want to murder the deceased. Circumstantial evidence by itself is a very weak piece of evidence and in the present case; the circumstantial evidence is not conclusive enough.
19. Therefore, it is can be concluded that the Prosecution has failed to adduce any evidence to support its argument regarding the common intent and criminal conspiracy. The Prosecution has failed to conclusively prove that Accused no. 1 was the last person to see the deceased alive.
20. Due to these reasons, I am of the opinion that a conviction on the basis of such weak evidence cannot sustain. Thus, as for point no. 2, I answer in the negative.
21. Loss of human life is tragic and it's more so when he has been deprived of it by someone else illegally. But the criminal jurisprudence has laid down that "a hundred criminals might go free but an innocent should not be punished wrongly". Keeping in mind this timeless principle, in the present case there is a presumption of innocence in favour of Accused No.1, 2 and 3. Suspicion, however great it may be, cannot take the place of legal proof. A moral conviction however strong or genuine cannot amount to a legal conviction supportable in law.
22. There is no evidence against accused to bring home their guilt. Therefore, I find Point. No. 1 and 2 in the negative.
23. Considering the discussion as above. I pass following order:
ORDER:
 - a) Accused No. 1 is hereby acquitted of offences punishable u/s 34, 120A, 120B, 201, 300, 302 of the Indian Penal Code, 1860 and u/s 235(1) of Code of Criminal Procedure, 1973.

- b) Accused No. 2, is hereby acquitted of offences punishable u/s 34, 120A, 120B, 201, 300, 302 of the Indian Penal Code, 1860 and u/s 235(1) of Code of Criminal Procedure, 1973.
- c) Accused No. 3, is hereby acquitted of offence punishable u/s 34, 120A, 120B, 201, 300, 302, of the Indian Penal Code, 1860 and u/s 235(1) of the Code of Criminal Procedure, 1973.
- d) Bail bonds of the accused stands cancelled. All the accused are set free at liberty.
- e) Sessions Case No. 375 of 2010 is disposed off accordingly. The property recovered may kindly be disposed off after appeal period is over or if nobody claims after statutory period is over, it may be disposed off.