Chapter 5

JUDICIAL DECISION MAKING IN INDIA IN CRIMINAL CASES USING FORENSIC FINGERPRINT

OVERVIEW

An initiative has been made to study the role of fingerprints in the decision making process of Superior Courts In India from year 1987 to 2015 i.e cases of 29 years to calculate the rate of conviction and acquittal where fingerprint evidence was referred. The cases are broadly categorized as “CRIMINAL CASES IN WHICH FINGERPRINT EVIDENCE WAS USED FOR RECORDING CONVICTION OR ACQUITTAL”. The legal provisions has been studied under which the Fingerprint evidence has been referred. The cases has been studied in a tabular form to record the number of acquittal and conviction. Findings have been forwarded after the case study for, which are followed by reasons for acquittal and revelations. Under revelation of the rate of conviction and acquittal has been calculated.

This chapter has been categorized under the following broad topics:

5.1 Introduction

5.2 Legal Provisions Under Which Fingerprint Evidence was Used/Referred

5.3 Criminal Cases in which Fingerprint Evidence Was Used/Referred For Recording Conviction and Acquittal

5.4 Table of Criminal Cases in which Fingerprint Evidence Was Used/Referred For Recording Conviction and Acquittal

5.5 Critical Analysis of the Cases in which Fingerprint Evidence was Used to Record Conviction or Acquittal
5.1 INTRODUCTION

Fingerprint as a method of identification is recognized throughout the world and is accepted by the judiciary. The fingerprints as evidence are important because of the following features of the fingerprints. They are unique, they are permanent, they are universal, they are inimitable, they are classifiable, and they are frequently available in crime situations as evidence.

While studying the cases two words had been confronted many times. Thus for the sake of convenience the two words, ‘Chance Print’ and ‘Latent Print’ are clarified hereunder:

Classification of Fingerprints On Its Availability On The Crime Scene

Fingerprints left by the culprit at the scene of crime are known as ‘Chance Prints’. These prints are left by the criminal unconsciously, and are rightly called as ‘burglars visiting cards’. There are three main classes of chance prints which are described hereunder. They are Visible Prints, Plastic Prints and Latent Prints.

1. **Visible Prints:** When he fingers are covered with some coloured substance such as paint, ink, dirt, blood or other visible material then the prints which are left are visible to the eye. Prints of this nature do not need any development. They can be easily recorded by taking photographs with or without use of filters.

2. **Plastic Prints:** These prints are generally found on pliable surface and so called plastic prints. They are generally found on objects such as soap, mud, pitch, candles, thick dried blood, melted wax or paraffin, adhesives and so on. Prints of this nature can be photographed by angular illumination.

3. **Latent Prints:** The most important of the chance prints are the latent or invisible prints. These prints have very poor visibility and can be made clearly visible after suitable development. Latent prints are formed by the deposition of colourless greasy substance from the palmar surface of the fingers. This greasy substance is formed out of perspiration, dirt and oily matter from the face, hair,

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1 B.R. Sharma, Forensic Science in Criminal Investigation & Trial 305(Universal Law Publishing Co. Delhi, 4th edn., 2003)
skin, tools etc. which is carried by the fingers. In most of the crimes chance
prints are likely to be found.²

The other type of fingerprint which is collected from the subject is known as Exemplar
Print:

**Exemplar Prints:** Sometimes known as exemplars are generally of higher
quality and are collected under controlled conditions from a known subject
using ink or paper or digitally with a live scan device.

### Classification of Fingerprints On the Basis Of Its Formation On The Crime Scene

According to this classification there are three types of fingerprint.

1. **Indented or Moulded Fingermark:** This fingermark, is a three-dimensional
   fingertip impression, found in a malleable object such as putty or candle wax.
   Such impressions can be enhanced using oblique lighting.
2. **Visible Fingermark:** It can be positive or negative depending on whether the
   fingers were contaminated with a coloured material, such as blood, or whether
   coloured material such as dust or soot has been removed from the surface, by
   the fingerprint ridges. This type of marks can be enhanced optically, depending
   on the properties of the contaminant in question.
3. **Latent Fingerprint:** This is the most common type of fingerprint evidence, and
   causes most problems for their detection and generally require some physical or
   chemical treatment, to differentiate them from substrate materials. A typical
   latent fingerprint deposit is a complex mixture of natural secretions and
   contaminants from the environment. Knowledge of the major constituents of the
   deposits are essential for effective fingerprint detection³.

A Latent Print examiner compare latent prints to exemplar using their expertise. Latent
Print examination is a complex process, they are often small, distorted, overlapped and

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can be manipulated on the crime scene. For such complexities, experts must be trained, in working with the various difficult attributes of latent fingerprints. During examination a latent is compared with one or more exemplars. In a particular case, exemplars are generally collected from persons of interest, who had legitimate access to crime scene or it might be obtained from a database known as Automated Fingerprint Identification System (AFIS). AFIS, provides a list of candidate exemplars, for comparison with the latents. Exemplars selected by the AFIS are far more likely to be similar to the latent than exemplars selected by other means and gives much accurate result. The method of comparing latent fingerprints with exemplars selected from AFIS is a method by which FBI conducts investigation.

Method prevalent for fingerprint examination is known as ACE System. In this system of fingerprint examination, analysis, comparison, evaluation and verification is conducted for determination of the latent fingerprint. Such examination can reveal three types of result: i) unsuitable for comparison ii) suitable for comparison iii) exclusion or inconclusive which means, it is from different source which is not in question and makes the result neither unsuitable for comparison nor suitable for comparison.

Latent-exemplar image pairs collected under controlled conditions are known to be mated when they are match of the same source, or nonmated when they do not match as the sources are different. An individualization decision based on mated print is a true positive but if based on nonmated prints, it is false positive or error. An exclusion decision based on mated prints is a false negative, but it is true negative, if based on nonmated prints. False positive and false negative, both are termed as ‘errors’.

5.2 LEGAL PROVISIONS UNDER WHICH FINGERPRINT EVIDENCE WAS USED/REFERRED

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4 When the comparison does not match with the accused, although the comparison is matches with somebody else’s , but it is of no use as it reveals a third persons identity which is not in question.

1. Section 4 of the Act permits a police officer of the rank of sub-inspector or an investigating officer (in offences covered by Chapter XIV of Cr.P.C.) above this rank to take fingerprint of an accused, arrested for an offence punishable with at least one year’s rigorous imprisonment.

2. Under Section 6, a first class magistrate can direct any person to give his fingerprints, if in the opinion of the magistrate it expedites the investigation of the case. It shall be lawful to use all means necessary to secure the taking thereof.

3. Section 73 of the Indian Evidence Act, 1872 also covers fingerprinting. The court may direct any person present in the court to give his fingerprints, if the same is required for comparison with questioned fingerprint by the court.

4. By virtue of section 45 of the Indian Evidence Act, 1872, the evidence of a fingerprint expert, a person specially skilled in fingerprints is relevant.

5. Under section 293 of the Code of Criminal Procedure, 1973, the report of the director of the fingerprint bureau is accepted as evidence. The court may call the expert for evidence.

The types of cases and legislations in which fingerprints evidence played a significant role in solving the crime:

**The Indian Penal Code, 1860**: Murder, rape, unnatural offences, theft, dishonest misappropriation of property, kidnapping or abducting in order to murder, robbery, dacoity, making preparation to commit dacoity, criminal conspiracy, kidnapping, attempt to murder, rioting, unlawful assembly, causing hurt, grievous hurt, assault or criminal force to woman with intent to outrage her modesty, cheating, forgery, falsification of accounts, dishonestly receiving stolen property, house trespass, lurking house trespass and house breaking by night, criminal intimidation, acts done by several persons in furtherance of common intention.

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6 *Id.*, at 291

The Identification of Prisoners Act, 1920: Section 5 – Power of Magistrate to order a person to be measured or photographed.

The Arms Act, 1959: Section 25-Punishment for certain offences, Section 27-Punishment for using arms, etc.

The Indian Evidence Act, 1872: Section 73- Comparison of signature, writing or seal with others admitted or proved.

The Code of Criminal Procedure, 1973: Section 311- Power to summon material witness, or examine person present.

The Terrorist and Disruptive Activities (Prevention) Act, 1987: Section 5 – Possession of Certain Unauthorized Arms, etc. in specified areas

An attentive study of the cases reveal that fingerprint evidence is a corroborative evidence but the courts accepted the fact ‘Fingerprint evidence is a very valuable piece of evidence in any criminal investigation and its importance can never be underestimated’. It is also a settled principle of law that when the material objects recovered from the place of occurrence were sent for the purpose of comparison with the fingerprints taken from the accused, the fingerprints of the accused must be taken procedurally. Nonetheless, the Supreme Court opined that presence of a fingerprint at the scene of occurrence is a positive evidence but the absence of fingerprint is not enough to foreclose the presence of the persons concerned at the scene.

5.3 CRIMINAL CASES IN WHICH FINGERPRINT EVIDENCE WAS USED/REFERRED FOR RECORDING CONVICTION OR ACQUITTAL

8 Palanichamy and v. The State represented by The Inspector of Police (26.07.2010 – MADHC) MANU/TN/2116/2010

The appellant was convicted under section 449, 302 IPC for committing house trespass and murder. Hence, this appeal. **Fingerprints** were lifted from the scene of occurrence and were also taken from the accused. Held, fingerprint evidence is accepted by the courts on the assumption that no two individuals have identical fingerprints. Scientific research and analysis leads to the conclusion that the probability for the existence of two identical fingerprint patterns in the world’s population is extremely small. The fundamental principles of fingerprints are: i) A fingerprint is an individual characteristic, no two fingers have yet been found to possess identical ridge characteristics ii) A fingerprint will remain unchanged during an individual’s life time iii) Fingerprints have general ridge patterns that permit them to be systematically classified. Fingerprint evidence is a very valuable piece of evidence in any criminal investigation and its importance can never be underestimated. Other evidences also pointed towards the guilt of the accused. The appeal was dismissed and the **conviction** was upheld.¹⁰


Additional Sessions Judge convicted appellant for offence of murder of his wife under section **302 IPC**. Hence this appeal. Held, there was no eye witness. Medical evidence of PW9 established that death of deceased was caused due to effects of manual strangulation, associated with strangulation of ligature, ante-mortem and homicidal in nature which also showed intention of accused to kill the victim. PW-9 detected smell of alcohol in stomach of victim showing that she was under influence of alcohol which could have rendered her powerless to resist. However, accused did not remove wrapping around neck of victim before contacting PW2 and 4. No reliance could be placed on evidence of PW2, who had deposed in order to try and save accused who was his colleague in office. The **Fingerprint** Expert was called, but no comparable fingerprint was available. On material on record accused had failed to prove his plea of alibi.

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Therefore, circumstances established beyond all reasonable doubt guilt of accused. The conviction of accused under section 302 was upheld and appeal was dismissed.  


The appellants were convicted under sections 302 read with sections 149 and 307 of IPC. Hence this appeal. Prosecution alleged that knives were available with accused persons, therefore it proves intention on the accused persons to cause death. The circumstances pointed that the victims were thrashed throughout night with wire whips mercilessly and it was proved that injuries were sufficient in the ordinary course of nature to cause death and the case fell in clause third of section 300 of IPC. The appellants denied the prosecution story. Appellant A, denied the recovery of the knife and its seizure at his instance and stated that he was implicated only because he used to frequent accused M’s house. He also stated that the IO, had taken his fingerprints on a bottle. But, the court held that convicted accused persons were guilty of murder as there was no doubt that convicted accused persons formed an unlawful assembly and had abducted RJ and D and fatally wounded them. Held, they were rightly convicted under section 302 read with section 149 IPC. Since victim RJ did not succumb to his injuries, so accused persons were not held guilty under section 307 IPC. Therefore, the appeals filed by the accused persons were dismissed and the conviction was upheld.  


The appellant was convicted under section 302 read with section 34 and section 392 read with section 34. This is essentially a case of circumstantial evidence in so far as admittedly there is no eye-witness to incident. The evidence adduced by the prosecution falls under certain broad heads, the first of them being the evidence of

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certain witnesses on the basis of which the prosecution wanted to establish the presence of the present accused at the scene of offence. Thereafter, there was evidence relating to discovery, recovery and seizure of the property by the police and the simultaneous arrest of A2 to A5 from the respective native places, all of which has taken place in quick succession in the immediate days following the incident. After that, the prosecution has sought to rely also on the fingerprint evidence particularly the one attributed to A-2 and which according to the prosecution, was found on a bottle in the flat of the deceased. On perusal of the evidence which were suggestive of commission of offence, the court altered the conviction and convicted and sentenced appellant under section 394 read with section 34 IPC for voluntarily causing hurt in committing robbery.13


The appellant accused was convicted under section 302 and his cousin under section 201/34 IPC. While the appellant was convicted and sentenced to undergo imprisonment for life, second accused was acquitted. PW1, the maid servant found the deceased lying dead in a pool of blood. Relying on the circumstantial evidence furnished by the prosecution like motive to commit crime, presence of accused near the place of incident at an untimely hour, TIP, fingerprint on the door handle and the blood stained clothes of the accused, the Sessions Court convicted him. The judgment is challenged in this appeal. Held, when the prosecution relies upon an important piece of evidence against the accused, it is incumbent upon the court to question him about it, and seek his explanation. Prosecution cannot rely on such piece of evidence against the accused, it is incumbent upon the Court to question him about it and seek question his explanation. Prosecution cannot rely on such piece of evidence which was not put to the accused. That piece of evidence must be put to the accused while he is questioned under section 313 CrPC. Though the accused is not bound to explain any incriminating circumstance against him or he can refuse to offer any explanation, it is necessary to invite his

attention to the incriminating substance against him. In this case it was not done. Hence the appeal was allowed and **acquittal** was recorded.\(^{14}\)


MANU/SC/0416/1992

The question in this appeal was whether A-1 and A-5 were rightly convicted under sections 302 and 307 IPC. Held, court may at any stage of enquiry or trial and after witnesses for prosecution examined and before accused called upon his defence put questions to accused for purpose of enabling him to explain circumstances appearing in evidence against him. If accused in his examination confesses to commission of offence charged against him, court may rely upon that confession and proceed to convict him. PW150, Vijay Tote lifted the **fingerprint** from a bottle which was later compared by PW122, Fingerprint Expert, with the fingerprints of A-1 and it tallied with each other. Both A-1 and A-5 decided to plead guilty. Hence **conviction** under section 302 and 307 was confirmed.\(^{15}\)

7. **Jaivir Singh v. State (Delhi Administration) (06.01.1995 – DELHC)**

MANU/DE/0572/1995

The accused/appellant was convicted under section **302 IPC**. Hence the appeal. The case debated on effect of non-compliance of section 100(4) of CrPC, 1973 in relevance to search and seizure. It was observed that two respectable persons from the locality were not joined before effecting the search. It was ruled that the joining of one witness was not sufficient. Hence the recovery was doubtful and could not be believed to be made at the instance of the accused. The case debated on the credibility of the murder weapon that was recovered from an open place as per section 27 of the Evidence Act, 1872. The place was accessible to a number of persons. It was found that there was no proof for the weapon was lying concealed and was not visible to open eyes. Thus it was ruled that said recovery could not be given importance. **Fingerprint impressions** of the

\(^{14}\) *Boban @ Jacob Cherian v. State of Kerala* (11.03.1992 – KERHC) MANU/KE/0278/1992

accused were also taken. Thus the conviction was set aside and acquittal was recorded but not on the ground of fingerprint evidence.16


Appellant was convicted under sections 302 as well as 460. PW4 in FIR stated that he had seen appellant leaving house of deceased with knife in his hand. Evidence of PW1 implicating appellant who was her husband cannot be doubted as no reasons have been given as to why would wife falsely depose against her husband. In pursuance of statement made by appellant knife was recovered. Fingerprints of appellant was found on mirror and lock of PW4’s house. Plea of alibi taken by appellant falsified by evidence of his wife PW1. Prosecution proved case against appellant beyond reasonable doubt. On basis of evidence available conviction of appellant affirmed.17


By the impugned judgment the High Court upheld the convictions and sentences recorded against A and M under sections 302 and 460 of IPC. Fingerprints of the accused were found on brass jug seized from the house of the deceased. Prosecution failed to prove that the seized articles could not be tampered with before they reached the Fingerprint Bureau. Seized articles were kept in police station for five days without any justifiable reason. Letter forwarding the seized articles to the Bureau containing an overwriting as regards the date of its writing/dispatch. Specimen fingerprints of accused were not taken before or under the order of a Magistrate. Brass jug in question not produced and exhibited during trial. Held, in the circumstances, conviction of the accused on the basis of evidence of his fingerprints was not sustainable. The fingerprints of accused were also found on a glass tumbler. Although glass tumbler was seized but it was not produced during trial. So, link between the identity of articles seized and articles examined by the Fingerprint Bureau was missing. Held, in the circumstances, evidence relating to fingerprints and footprints of the appellant could

16 Jaivir Singh v. State (Delhi Administration) (06.01.1995 – DELHC) MANU/DE/0572/1995
not be safely relied on. Therefore, the appellants were acquitted and the appeals were allowed.\textsuperscript{18}


The appellants were accused for the offence of kidnapping and murder and charged under sections 302/34, 364/34 and 201/34 IPC along with section 25 of Arms Act read with section 5 of TADA for illegal possession of country-made pistol and a cartridge. Held on facts that prosecution only established that the victim was kidnapped in a Maruti car. It failed to establish that the appellants were the kidnappers or that they were responsible for the death of the kidnapped persons. Although the prosecution led evidence to prove that fingerprints found on the car were taken by an expert, no attempt was made by the prosecution to prove that those fingerprints were of the appellants. The court opined that “needless to say, evidence of the fingerprint expert in proof thereof would have gone a long way to sustain the prosecution case”. Therefore, judgment of the trial court convicting the appellants was a perverse one for it was not only based on conclusions drawn from inadmissible evidence but suffered from the vice of non-consideration of evidence which materially impaired the prosecution case. Accordingly, conviction of the appellants was set aside and they were acquitted.\textsuperscript{19}


The appellants were convicted by the High Court under sections 120B, 302/34 IPC. A-2 was also convicted under section 411 IPC. Held, in the circumstances of the case, the High Court was justified in placing reliance upon the confession made by the accused. There was no infirmity in the finding of the High Court that there was reasonable ground to believe that the appellant and the other accused had conspired together. Confession made by the appellant could be used against other accused also. Earlier photographs of fingerprint impressions were not clear enough to enable the expert to

\textsuperscript{18} Mohd. Aman And Another v. State of Rajasthan (1997) 10 SCC 44

\textsuperscript{19} Vijender v. State of Delhi (1997) 6 SCC 171
come to any definite conclusion and therefore second impressions were taken by the photographer. The Supreme Court opined that in absence of any effective cross-examination of the photographer his evidence that he was able to take better photographs on the second occasion could not have been disbelieved by court. The evidence regarding the movement of A-1, A-3 and A-4 near T’s house, the finding of fingerprints of A-3 on one of the glasses seized from the house of T and the confession of A-4 together with other circumstances established the guilt of the accused beyond reasonable doubt. Therefore the conviction of the accused appellants was confirmed and the appeal was dismissed.20

12. **Abdul Razak @ Razak v. State represented by Inspector of Police, Cheranpadi Police Station (07.08.2000 – MADHC) ANU/TN/0944/2000**

The accused persons were convicted under section 302/34 IPC for committing murder of two people. A-1 to A-3 were also charged under sections 392/397 IPC for committing robbery read with robbery or dacoity with attempt to cause death or grievous hurt. All the three accused were convicted and sentenced to suffer rigorous imprisonment for a period of ten years each. All the three accused were also sentenced to death. Hence this appeal was filed and a death reference was also made by the State. PW6 woke up and found the body of her mother (D2) in the kitchen and the body of her father D1 in front of the hall. She went and informed PW2. PW2 and 6 also found that the steel bureau was open. The court rejected the evidence of the fingerprint expert, PW23 for the following reasons: PW23 has in his evidence stated that on reaching the scene of occurrence, he lifted 5 fingerprints R1 to R5 from the iron bureau and compared them with the fingerprints of A-1, though the police officer PW27 stated that he took the fingerprints of A1. The same was not marked in the court nor the fingerprint expert stated that the fingerprint of A1 taken by the officer was received by him and that he compared it with the fingerprints lifted by him from the scene place. In the absence of any link between the evidence of PW27 and that of PW23, the court did not find it safe to place reliance upon the evidence of the fingerprint expert. Considering all the evidences the apex court was of the view that death sentence cannot

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be awarded in this case as it cannot be termed as ‘rarest of rare cases’. As a result, the conviction of all the accused is confirmed by modifying the death sentence into imprisonment for life.\textsuperscript{21}


Appellant was convicted under sections 302 and 394 by the trial court which was challenged by the appellant before the High Court. Facts suggested that deceased killed appellant by strangulation. Pillow was used in strangulating the deceased. Witnesses testified consistent to the facts. Fingerprints matched with the fingerprints of appellant. Post mortem report confirmed death by smothering and strangulation. Facts were found sufficient to prove offence beyond reasonable doubt. Therefore there was no need to interfere with the decision of the trial court. Appeal was dismissed and the conviction was confirmed.\textsuperscript{22}


The trial court convicted the accused A1 and A-2 under sections 302, 364 read with sections 120B, 34 and 411 IPC for committing abduction, robbery and murder. High court also maintained the conviction and sentence of A-2 but convicted and sentenced A1 only under section 411. Hence, this appeal was made to the Supreme Court. The police received a phone call than an attaché was lying abandoned. The police traced out the spot and found the attaché and a bag which contained nearly 42 kgs of ornaments and some documents. Police lifted the fingerprints noticed on the attaché and the bag. Arrest of A-1 lead to the arrest of A-2. Revolver with some live cartridges were recovered from A-2. On his information 3 kgs of silver ornaments were also recovered. The ballistic expert reported that the bullet recovered from body of the deceased was

\textsuperscript{21} Abdul Razak @ Razak v. State represented by Inspector of Police, Cheranpadi Police Station (07.08.2000 – MADHC) MANU/TN/0944/2000
\textsuperscript{22} Krishnamurthy v. State of Ashok Nagar Police, Bangalore (29.05.2000 – KARHC)
fired from revolver recovered from A-2. All the evidence pointed towards the guilt of the accused. Therefore, the Supreme Court was not persuaded to interfere with the conviction passed on the appellants for the offence found against them. Thus conviction was upheld and the appeal was dismissed.\(^{23}\)

15. **State of Rajasthan v. Rakesh** (03.05.2000 – RAJHC) MANU/RH/0629/2000

The accused was acquitted from the offence of committing murder under section **302 IPC**. Fingerprints and photographs were not exhibited. No question was put to accused in statement under section 313 CrPC in this regard. SDM before whom the specimen fingerprints were allegedly taken were not produced in evidence. **Fingerprint** evidence was therefore, not reliable. No evidence was there to show that the blood group of the deceased was the same as the blood group found on the clothes of the accused. Trial Court misread the evidence in this regard. Prosecution failed to prove the offence beyond reasonable doubt. Therefore, the death sentence was set aside and the accused was **acquitted** by allowing the appeal.\(^{24}\)


The accused were convicted A-1 under sections **120B, 201, 302, 342, 343, 363, 364 and 365** of IPC. Hence this appeal was filed by the accused. Held, evidence clearly disclosed that A-1 was the person who kidnapped the children and they remained in his custody in the house in which he committed their murder by strangulating them and disposed of the body and destroyed the evidence till it was detected at his instance by panch. The fingerprints on the two soft drink bottles which were recovered from the said house were ultimately found to be those of M, the boy who used to accompany A-1 as per the evidence on record. The report of the Finger Print Bureau at Exh.66 establishes that the **fingerprints** found on the sprint bottle and the soda water bottle,\(^{23}\) **Manish Dixit and Ors. v. State of Rajasthan** (18.10.2000 – SC) MANU/SC/0655/2000

\(^{24}\) **State of Rajasthan v. Rakesh** (03.05.2000 – RAJHC) MANU/RH/0629/2000
were those of M. The prosecution evidence, therefore, clearly established that the A-1 was having the keys to the said house, and that he was seen by the neighbouring witnesses coming to that house with M in a stolen scooter, and that, after foul smell started coming from that house, A-1 had given a false explanation to mislead the neighbours by stating that it was a foul smell of a dead cat lying in the house. Reasoning and finding of learned trial judge holding A-1 guilty of offence was proper. Thus conviction was upheld and appeal dismissed.25

MANU/SC/0757/2002

The accused person was convicted for committing double murder and house trespass under sections 302 and 449 and was awarded life imprisonment by the High Court. Hence this appeal was preferred to the Supreme Court. The prosecution alleged that PW2 has two daughters and the appellant was said to be in love with the elder daughter but PW2 refused to settle the marriage of the appellant with his daughter as the appellant was a non-Brahman. Held, appellant was transferred prior to the incident as he had a transferable job. Relevant and important material was not exhibited and proved. Some witnesses were cited but not examined. Although fingerprints from the appellant was collected but they were not sent for examination or the result of the fingerprint identification was not placed on record. There was serious doubt as the circumstances relied upon did not prove the guilt of the accused appellant. Thus, he was acquitted and the appeal was allowed.26

18. Easan @ Eswaran v. State by Inspector of Police (23.04.2002)  
MANU/TN/1298/2002

The appellant was convicted under sections 3, 7 and 25(1B) of Indian Arks Act. Hence, the present appeal. Prosecution established that the shoes were worn by accused which he had thrown on platform while escaping from scene of occurrence. Fingerprints of

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the accused were obtained. Delay in conducting test identification parade would not vitiate prosecution case. There was no merit in the appeal and it was liable to be dismissed by upholding the conviction.27

The appellant was convicted under sections 302/34 IPC, section 5 of Identification of Prisoner’s Act. Hence, this appeal. Held, specimen fingerprints were neither taken under order nor in presence of Magistrate. Therefore, evidence of fingerprint expert was inadmissible in evidence.28 The slippers of the deceased were identified inside an auto which was occupied by the accused. According to the court, special attention should not be given to identification of slippers. Chain of circumstantial evidence was not complete. Therefore the conviction and sentence of the High Court was set aside and quashed and acquittal was recorded.29

The appellant was convicted under section 302 for murdering and sentenced to death. The case depended on circumstantial evidence. The prosecution relied upon the presence of fingerprints of the accused at the spot, the movement of the accused on the next day morning at Mangalore Town and in his village and absconence thereafter till he was arrested after a week after the date of incident. Chance fingerprints were lifted from the spot and compared with the admitted fingerprints and it was found that the chance fingerprint marked as Q1 was identical with that of the left thumb fingerprint

29 Paramasivam @ Paraman @ Kottiyan and Anr. v. State of Tamil Nadu (17.09.2002 – SC) MANU/SC/0935/2002
of the accused. Held, all the circumstances conclusively proved the guilt of the accused. Appeal was dismissed and conviction and sentence was upheld.30


The appellant was convicted for murder and robbery under sections 302 and 394 IPC. The accused/appellant murder of A, L (wife of A) and P (three-year-old daughter of A). The accused/appellant D was a relative of A and was on visiting terms with A. D was seen with A and was present in A’s house on the night of the occurrence. Further, D was seen in the morning of the next day, leaving the house of A. D as in need of money at the relevant time. He was in possession of ornaments belonging to L and P immediately after their death and had sold the same to PW19 at Rs. 7200. The wrist watch of L and cash of Rs. 7200 were recovered from the house of D. Further, crime weapon containing blood of same group as that of P, also recovered at the instance of D. The prosecution had also relied upon certain fingerprints taken from the place of incident which on examination by the Fingerprint Bureau was found to tally with the fingerprints of the appellant. Motive was also established. Held, prosecution succeeded in establishing the involvement of D in the said offence on the basis of the circumstantial evidence. Therefore conviction of the appellant was proper and the appeal was dismissed.31


a) Background of the case: The appellants were convicted by the Additional Sessions Judge, for offences punishable under section 302 read with section 34 of IPC and were sentenced to undergo life imprisonment with a fine of Rs. 500. They were further convicted for offence punishable under section 460 read with section 34 and sentenced to undergo life imprisonment with a fine of Rs. 500 and also convicted for an offence under section 380 read with section 34 and

were sentenced to undergo rigorous imprisonment for 7 years. The sentences were directed to run concurrently. The appeals filed by the appellant were dismissed by the High Court. Hence the appellants filed the appeal before the Supreme Court.

b) **Facts of the case:** The deceased who had an export business used to stay alone in her flat as she was a divorcee. On 24.12.1997 in the evening the deceased left her place of work for her residence. On 26.12.1997 not getting the deceased when he wanted to contact her over the telephone, PW 6 visited her house and found her house door open. On entering the house he found the deceased lying dead in the bedroom on the first floor of her house. He also noticed that the said room had been ransacked. He immediately rang up the deceased lawyer and also informed the brother of the deceased. On autopsy of the body, it was revealed that the death occurred about three and a half days prior to the autopsy due to asphyxia as a result of strangulation. On preliminary examination by the investigator, some bloodstains were found on the pillow, shirt and mattresses. They also found one tin box of toffees, a pair of spectacles and some leftover tea in a glass tumbler. While conducting the investigation, the investigating agency came to know that the first appellant in the case was working with the deceased but his services were terminated because the deceased had suspected him of having stolen certain articles from the house. The agency also came to know that the appellant re-employed by the deceased, hence the investigators procured the said appellant for interrogation.

c) **Typology of Forensic Evidence Used in the Case:** Fingerprints of accused were found on household articles of the deceased. The fingerprints were found on the toffee box found in the house of the deceased.
d) Report Of The Experts Regarding The Case: The investigating agency during their visit to the house of the deceased had picked up certain chance fingerprints which on analysis were found to be that of the appellant accused.

e) Ground For Rejecting The Forensic Evidence: The court after hearing the learned counsel for the parties and after perusing the records, supported the view of the learned counsel for the appellant as there could be no doubt that if really the appellant was employed by the deceased as a domestic help, then the presence of some fingerprints on the household articles would only be common and natural and therefore that cannot be a circumstance to establish the guilt of the appellant. Therefore, according to the Supreme Court, the courts below were not justified in relying on the fingerprint matching as a link in the chain of circumstances.

f) Impact of Forensic Evidence (Acquittal): The appellants in the appeals were entitled to succeed. Their appeals were allowed, the impugned judgment and conviction imposed by the court below were set aside. The appellants were set at liberty and ordered to be released forthwith.


Accused was convicted under section 302 for committing cruel and gruesome murder of an old lady for gain. Entire case rested on circumstantial evidence. The fingerprints of the accused were taken by PW21 at the Police Station and the same were handed over to the Finger Print Expert (PW20). The fingerprint contained in M.O.18 tallied with that of the accused as per Ex.P.45 certificate of PW.20, the Finger Print Expert. In the meantime, the jewels recovered were shown to PW4, the family friend of the deceased and they were identified as that of the deceased. PW12 goldsmith also identified some of the jewels stating that he only made those jewels and handed over the same to the deceased. Circumstances put forth by the prosecution cogently and

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firmly established such circumstances cumulatively which formed complete chain without any missing link. Such circumstances point towards the guilt of the accused. Appeal was thus dismissed and **conviction** maintained.  


The accused/appellant was convicted under section **302 and section 392/377 IPC** for committing robbery and murder. Accused-appellant a close relative of victims, few years prior to the incident, was residing in their house. He incurred debts due to his addiction to alcohol and gambling and was in dire need of money. Gold ornaments and cash belonging to victims, blood-stained shirt of appellant and weapon used in crime, were recovered at the instance of appellant. A loan earlier obtained by appellant by pledging his wife’s jewellery discharged the next day of the incident. No explanation was provided as to how and in what circumstances he got the money to release the jewellery pledged far back in the year 1993 immediately after the incident. Factum of the accused pledging a part of the stolen jewellery, established. Identity of jewellery recovered, established as belonging to the victim. **Fingerprints of the accused/appellant** were present at the spot. The prosecution had also further established from the evidence of the handwriting expert, PW30 that he had picked up fingerprints of the thumb which were tallied with the corresponding fingerprints of the appellant which also indicated the fact that the appellant was in the house of the deceased at about the time of the incident in question because those fingerprints were picked up immediately after the investigation of the case started. There was non-explanation of incriminating evidence by the accused. Held, each and every link in the chain of circumstances was proved by the prosecution beyond reasonable doubt. Guilt was established and **conviction of the courts below upheld.**


The appellant was convicted under section **302, 379, 380, 404 and 449 of IPC.** Accused allegedly trespassed into deceased’s house and committed murder in order to take jewels. Evidences by witnesses proved that accused was last person to see

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33 Natarajan v. Union Territory of Pondicherry, (03.02.2003 – MADHC) MANU/TN/0107/2003
deceased alive. The fingerprints of accused were found in deceased’s house. Accused failed to explain possession of gold ornaments of deceased with him. Stolen articles were recovered at instance of accused. Circumstances proved that accused committed offence. Held, accused was convicted and the appeal was dismissed.  


Appellants D and E were convicted under sections 376(1)(g) of IPC and appellants A, B and C were convicted under sections 376(1)(g) IPC and appellants A, B and C were convicted for commission of offence under sections 34, 302 and 376(1)(g) IPC. Hence, present appeals were filed by appellants for challenging their respective convictions. Held, report of FSL showed that blood was found on pajama, which was taken into possession from A. However, he failed to explain, how blood was found on pajama, which was taken into possession from A. As per FSL, human semen were found on under-wears of A, C and D which was also not explained. E had absconded since the time of commission of offence. Circumstance of last seen of victim with those appellants also proved. PW8 also stated that the constable K, produced before him parcels containing fingerprints, bones, burnt pieces of clothes, swabs and smear, which were handed over to him by the doctor after the post mortem examination. Same were taken into possession vide recovery memo. Thus, it established that all appellants except B indulged in sexual intercourse with victim. Thus conviction of A, C, D and E were convicted for commission of offence under section 376(1)(g) was upheld. Further, death of victim immediately after rape clearly proved the motive of the accused. In facts and circumstances of the case, only circumstance of motive insofar as murder of victim is concerned is enough to convict A, C and D for offence under sections 34 and 302 IPC. So far as B is concerned no other evidence except circumstance of last seen established and proved against B. So, by giving benefit of doubt the conviction of B has been set aside and he was acquitted.  


A-1 was charged for offences under sections 120B, 420, 465, 471 and 477A of IPC and 13(1) (d) (ii) read with 13(2) of Prevention of Corruption Act, 1988 and A-2 was charged for offences under sections 120B, 420 and 468 IPC. Hence this appeal. Held evidence of witnesses indicated that persons mentioned in loan applications were not residents of respective villages. Witness affirmed that loan application and connected forms contained handwriting of A-1. Hence A-1 sanctioned loan in favor of fictitious persons by forging loan documents with help of A-2 and misappropriated amounts covered by loans sanctioned by him. However, none of prosecution witnesses stated as to what was role of A-2 in commission of offence except opinions of the Forensic Experts that some of documents contained **thumb impressions** and signatures of A-2. There was no material placed by prosecution under what circumstances, he subscribed his thumb impressions and signatures on disputed documents. Therefore the appeal of A-1 was dismissed and his **conviction** was upheld and the appeal of A-2 was allowed.37


The accused was convicted for the offence of murder under section 302 IPC by the Sessions Judge. Held, post mortem certificate would reveal that deceased died out of shock and hemorrhage. PW22 saw both accused and deceased sitting and chatting outside house. As per **fingerprint** expert’s report fingerprints were taken from place of occurrence and same were also compared with fingerprints taken from accused and were found tallying with fingerprints of accused. Thus, circumstantial evidence proved that it was accused who had committed the offence. Hence, lower court was perfectly correct in awarding life imprisonment. Appeal was dismissed and the **conviction** was upheld.38


The appellant was convicted for murder and armed robbery under sections 302 and 394 of IPC. The case mainly based on circumstantial evidence. Fingerprint from the scene of occurrence was lifted but not compared with specimen fingerprints of accused person. Important witness was not even questioned by IO. Manner of entry of accused into the house of deceased remained unexplained by the prosecution. Conviction was thus set aside and acquittal recorded. Fingerprint evidence could not be accepted by the court as it was not compared. 39


a) Background of the case: The appellants herein were prosecuted for commission of an offence under sections 364/34, 302/34 and 201/34 of IPC. They were sentenced to death. Against this sentence appeals were preferred by the appellants before the High Court. The High Court while upholding the judgment and conviction opined that the case does not fall within the category of rarest of rare one meriting award of death penalty. Hence the sentence was reduced to rigorous imprisonment for life and the reason for the present appeal.

b) Facts of the case: The appellants were convicted for the murder of two children aged about 6 and 8 years respectively. The children went to private tuition to the house of one P. They were supposed to come back by 6.30 pm. As they did not return, K went to the house of P and was informed that the children left the house at 6.15 pm. The children were continued to be searched and he came to know one scooterist had taken his children on his scooter. An FIR was lodged. During investigation, school bags and dead bodies of the children were recovered. A-1 was related to the complainant and belonged to the same

community. They were neighbours. However, they were said to be belonging to different union of their community being that of washermen.

c) **Typology of Forensic Evidence Used in the Case: Fingerprints** were found from bottle and glasses recovered from the place of incidence. Fingerprints of the appellants were also taken.

d) **Report Of The Experts Regarding The Case:** PW16, the sub-inspector found the traces of fingerprints from the recovered bottle and glasses. He developed the fingerprints on the glasses, which were comparable. They were sent to the fingerprints bureau and the report was marked as Ext. PHHHH. The report revealed that the thumb impression lifted from the glasses by PW16 and thumb impression obtained from the appellants herein tallied with each other.

e) **Ground For Accepting The Forensic Evidence:** In view of the circumstantial evidences, which had been brought on record, the court was satisfied that all links in the chain were complete and the evidences led by the prosecution pointed only to one conclusion, which was the guilt of the appellants. The court held they had rightly been convicted of the offences charged against them by the learned trial judge. Although an appeal was also preferred by the State for enhancing the sentence of the appellants, the court did not find any error in findings of the High Court in opining that the case was not one of the rarest of rare cases. It was also not a case where the court should have exercised its extraordinary jurisdiction in converting the penalty of rigorous imprisonment for life to one of imposition of death. Therefore the court declined to do so.

f) **Impact of Forensic Evidence (Conviction):** Both the appeal were thus dismissed and the conviction of the High Court was upheld\(^40\).

Present appeal was filed against conviction under sections 302 and 380 of IPC. Held, from sequence of events and testimony of witnesses, facts which were the outcome were that appellant was expected to come to deceased’s flat on relevant date and appellant was seen on relevant date in deceased’s flat by deceased’s grand daughter. Gold jewellery and cash belonging to deceased was missing from her person and from cupboard in flat respectively. Other than appellant no one else was seen in deceased’s flat on the date of occurrence, little before murder of deceased or around time of her death as determined in post mortem report. Fingerprints were lifted from the flat and cupboard of the deceased and glass pane of the main door. **Fingerprint Q-3** was a sequence of two fingers that is the right middle finger and the right ring finger and was found to be identical with the specimen fingerprints of the Appellants. All the facts showed that after having committed murder of deceased and taking her jewellery and money appellant had put jewellery in his wife’s bag and sent her to out of Station. Under these circumstances, prosecution had been able to conclusively demonstrate that it was only appellant who caused murder of deceased. Therefore, there was no error in the impugned judgment and order and therefore the appeal was dismissed and conviction affirmed.  


Trial court sentenced appellant for imprisonment for life under sections 302 and 34 IPC. There were contradictions in the testimonies of prosecution witnesses. There was no recovery. The crime team were called to the scene of crime and fingerprints were lifted from the glass tumblers and liquor bottles which were present at the scene of crime. The glass tumblers, the liquor bottles and blood stained articles were seized and specimen fingerprints of the appellant was taken and according to the fingerprint expert the fingerprints lifted did not match with the appellant herein. Prosecution story was not corroborated with circumstantial evidence. Hence, court set aside the impugned

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order and directed to release the appellant. Appeal was allowed and acquittal recorded.42


The appellant was convicted under sections 302, 394 and 451 IPC for committing murder and robbery. Accused person was working in the house of the deceased as domestic help. Death was caused to deceased due to smothering on account of gagging etc. Hairs of accused were recovered from the right fist of deceased. Though fingerprints were taken from the scene of crime, no fingerprint of the appellant was found, suggesting that the appellant had not entered the house at all. The court opined that it would not be the correct inference to draw as it would imply that if the fingerprints of the Appellant were found then he is guilty of the crime committed by him. We have already concluded from the evidence that the Appellant had worked in the household. While, in the normal course, his fingerprints should have been present that they were not lifted would not suggest that the Appellant had not visited the household at all. Held, conviction solely on the basis of such recovery was not safe. Recovery of stolen goods was also doubtful in regard to circumstances and non-joining of independent witnesses. Conviction under section 394 was thus set aside while maintaining the conviction under section 302 and 451 of IPC. Appeal was thus dismissed.43


a) Background of the case: The accused was charged under section 302 and sentenced to death by the trial court. The High Court maintained the conviction of the appellant but had set aside the death sentence and remitted the matter to the Sessions Judge to reconsider the matter of quantum of sentence as the Sessions Judge forwarded the reference to the High Court. Against the said

judgment of the High Court, the appellant had come before the Hon’ble Supreme Court by way of special leave.

b) **Facts of the case:** PW6, on the date of the event was going to his haveli when he heard shrieks of his grandmother. He rushed to the that side and saw the accused inflicting gandasi-blows on the neck of his grandmother. On seeing him, the accused ran away from the spot with the gandasi. On going closer PW6 also found his sister lying injured in the room writhing in pain. On enquiry both the ladies told PW6 that the accused had entered the room for committing rape upon the sister of the deceased and on resistance he had put her chuni around her neck and strangulated her. Soon after making the statement both the ladies who had received very serious injuries died. Thereafter the accused was arrested.

c) **Typology of Forensic Evidence Used in the Case:** **Fingerprints** were lifted from the mirror lying in the room where the murders had been committed. The fingerprints were recovered at the instance of the appellant.

d) **Report Of The Experts Regarding The Case:** The lifted fingerprints matched with those of the accused.

e) **Ground For Rejecting The Forensic Evidence:** The court found further corroboration from the fact that the fingerprints lifted from the mirror lying in the room where the murders had been committed, had been found to be those of the accused. The learned counsel of the appellant on being repeatedly asked whether there was any good reason for PW6 to falsely implicate the appellant, could not point out any good reason. Hence the court found no reason to disbelieve the evidence of PW6 where he stated that he saw the accused appellant attacking the grandmother inside the cattle shed and his sister was lying there with injuries. Moreover, the fingerprints, locket, the weapon and clothes were recovered at the instance of the appellant also point to his guilt.
f) **Impact of Forensic Evidence (Conviction):** However, while upholding the conviction of the appellant under section 302, the court reduced the sentence to life imprisonment since it appeared to the court that the crime was committed in a fit of passion and does not come within the category of “rarest of rare cases”. The appeal was thus disposed of accordingly with the observations made above\(^4^4\).


The appellant was convicted for robbery and murder under sections 302, 392 and 397. Disclosure found to be not reliable. Conviction of one accused was set aside. **Fingerprints** of co-accused taken in violation of **Identification of Prisoners Act, 1920** without permission of the court. Therefore it could not be the sole basis of his conviction. The stolen property was recovered from the accused. Held that conviction of accused cannot be set aside only on basis of acquittal of other co-accused specially when there are circumstances clearly indicating the involvement of the appellant in the commission of the crime having taken place at the same time as proved on the record which clearly brought home the guilt of the accused. Therefore **conviction** of accused was affirmed. Co-accused was acquitted.\(^4^5\)


The appellants were convicted 302/307/397/412 IPC. The prosecution version was that a dacoity had taken place near the house of one K. Police reached the spot and from inquiries learnt that Smt. S, mother of K and one L, servant of K were removed to hospital in injured condition. Later it was learnt that the dead body of S had been sent to the mortuary. Investigation led to filing of charge sheet which claimed that there was no order to take fingerprints and fingerprints taken of V, an accused were occasion of his previous visit to the house of K. Also contended that there was no common

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\(^4^5\) Mahadev Prasad Pant v. State of Delhi (17.05.2007 – DELHC) MANU/DE/7986/2007
intention of the appellant to commit the murder. Though it was desirable that an order from the Magistrate is taken for examination of fingerprints in order to dispel any suspicion as to its bona fide or to eliminate the possibility of fabrication of evidence but it could not be contended that no report of the Fingerprint expert could be relied upon in the absence of any such order from the Magistrate. Presence of fingerprints no doubt was positive evidence, but absence thereof was not enough to conclude that the appellants were not present at the place of occurrence if other overwhelming material evidence to the contrary was found. Hence the appeal was dismissed and the conviction was upheld.46


a) **Background of the case:** The appellant was found guilty of the offences punishable under sections **302, 392 and 449 of IPC** by the trial court and death sentence was imposed on him. The High Court confirmed the death sentence, however the conviction and sentence of the appellant under section 392 of IPC was set aside, and in its place the appellant was found guilty of offence punishable under section **380** by the High Court and his sentence was reduced to three years, henceforth, the present appeal was preferred before the Supreme Court.

b) **Facts of the case:** The accused used to work in the poultry farm of the deceased’s husband and continued in the work of the farm even after the death of the deceased’s husband. Since the deceased was a widow she stayed in the house with her three children. Since the accused started misbehaving with the eldest daughter of the deceased, the deceased terminated the service of the accused on which the accused was enraged. The next day morning after the termination of the service of the accused when the father-in-law of the deceased came to her house to read the daily news paper, he found the house closed.

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also went to the terrace and searched the room occupied by the appellant and found it open. When ultimately he pushed the door of the house and went inside he found the deceased and her children with multiple injuries. The deceased and her eldest daughter had died by that time and the other two children were in a serious condition. The injured were taken to hospital and the dead bodies were sent for post-mortem. The police was informed. Pursuant to the information given by the appellant, series of articles were seized. Later the injured children died.

c) **Typology of Forensic Evidence Used in the Case:** During the course of investigation, the chance fingerprints found on the almirah kept in the bedroom were taken.

d) **Report Of The Experts Regarding The Case:** The chance fingerprints found on the handle of the almirah in the bedroom of the deceased were taken immediately after the occurrence and they were compared with the fingerprints of the deceased and her children but it did not tally with their fingerprints. Eight months thereafter when the appellant accused was arrested and his fingerprints were taken and it was compared with the chance fingerprints taken from the handle of the almirah, it tallied.

e) **Ground For Accepting The Forensic Evidence:** The fingerprint evidence was very crucial and convincing to show that the appellant had been in the room of the deceased. The court held that Sessions Judge rightly found him guilty for the offence and the High Court was fully justified in confirming the same. But, taking the overall facts into consideration, the court did not find that the case falls into the category of rarest of rare cases, where death sentence could be the only punishment.

f) **Impact of Forensic Evidence (Conviction):** The death sentence imposed on the appellant was commuted to life imprisonment. The appeal was allowed to
that extent. However, his **conviction** and sentence as regards on all other counts were maintained\(^47\).


a) **Background of the case:** All 17 accused persons including one DSP were charged under section 302 and 201 **read with section 34 IPC.** The trial court concluded that the prosecution failed to substantiate the allegations against the accused police personnel and gave them the benefit of doubt and acquitted all of them. Aggrieved by the order of acquittal, the State preferred an appeal before the High Court against all the accused persons. The High Court reversed the order of acquittal of all the accused persons and convicted them. Hence the present appeal was preferred.

b) **Facts of the case:** The deceased was arrested in a dacoity case along with other persons and he was in the police custody. The prosecution case was that he was taken for interrogation in the interrogation room on the relevant date and he expired and in order to substantiate the allegation, the prosecution produced some of the witnesses who were already in the custody along with accused/deceased D. These witnesses alleged that the deceased was detained along with them and was taken with his hands tied for interrogation and he was beaten up and he shouted for some time but after some time no shouting was heard and thereafter the deceased died. The police prepared a defence that the accused escaped from the police station and therefore, registered a case under section 224 of IPC. The prosecution alleged that a dead body was found lying on which a post-mortem was conducted. The dead body was in decomposed condition and it was cremated.

c) **Typology of Forensic Evidence Used in the Case:** Fingerprints of the dead body were taken and it was sought to be matched with the fingerprints on one receipt of purchase of a cow bearing fingerprints of the deceased D and it was sought to be connected with that of the dead body so as to establish that the dead body is that of deceased D who was taken away by the police jeep and the same were disposed off by the accused persons who were all police personnel.

d) **Report Of The Experts Regarding The Case:** The prosecution led evidence of PW22 who took the fingerprints of the dead body though afterwards he admitted that the prints were not visible and these were sought to be corroborated with the receipt which was produced by PW5 which also bore the fingerprints of the deceased. For this, the prosecution had also led the evidence of PW10, the scribe of the receipt and PW11. PW22 obtained the same with spoon method of right hand thumb impression and left hand thumb impression of the deceased which was in highly decomposed condition, dermis and epidermis of fingers were not found. Both the witnesses i.e. PW5 and PW11 turned hostile. PW23 the handwriting expert deposed that he had sent his report and as per his finding the thumb impression on the receipt and that of the dead body taken by PW22 by PW22 are of the same person.

e) **Ground For Rejecting The Forensic Evidence:** According to the court, it was doubtful how could the receipt given to the purchaser was with the seller i.e. the deceased which was scribed by PW10 and it was said to be in possession of PW5, the brother of the deceased and the explanation was that his mother gave it to him. But, the question that was before the court was that whether the fingerprints obtained on the receipt on sale of a cow bore the thumb impression of the deceased or not. Since, PW10 became hostile and denied that the thumb impression of the deceased was taken in his presence and since the receipt produced by the prosecution bore the thumb impression of the deceased was not proved, therefore the comparison of the fingerprints of the deceased with that of the thumb impression was of no consequence. More so, the brother of the deceased and his wife had also declined to identify the dead body. Therefore, the court concluded that the prosecution had failed to establish that the dead
body was that of the deceased. As such, the circumstantial evidence was not of worth that it could connect the accused persons with the commission of the crime.

f) Impact of Forensic Evidence (Acquittal): The court opined that the view taken by the Division Bench of the High Court in reversing the judgment of the trial court was not well founded and cogent and did not justify the conviction of the appellants. Hence the appeals were allowed by setting aside the impugned judgment of the High Court and affirming the judgment of the trial court by acquitting all the appellant-accused from the charges. The appellants were ordered to release forthwith


The appellant was convicted under sections 449, 302, 404 and 392 IPC. Hence his petition. Held, prosecution proved guilt of accused by circumstantial evidence. Recovery of material objects from P.Ws. 9 & 10 as identified by P.W.4 would undoubtedly establish involvement of Accused Admittedly, accused had free access to house of first deceased and he used to assist her in day to-day domestic work. However, date from which first deceased was not moving around in house, Accused had not either made any attempt even to verify as to whereabouts of first deceased. The learned Additional Public Prosecutor finally submitted that though the fingerprint had been taken, which has tallied with that of the accused, as the accused had close association with the first deceased and moving in the house frequently, in the normal course, much importance could not be given to such fingerprint and even if the evidence as to the fingerprint was not taken into consideration, there were other materials to sustain the involvement of the accused in this case. Therefore accused was found guilty only on circumstantial evidence and consequently, there was no evidence as to manner in

which three were killed. Hence appellant was liable for conviction. Appeal was dismissed.49


a) **Background of the case:** The trial court convicted the accused A-1 but the High Court acquitted the other accused. Questioning the correctness of the acquittal by the High Court, this appeal had been preferred by the State.

b) **Facts of the case:** The respondents herein were Manager and Field Officer of Chaitanya Grameena Bank. Allegations against them were that they conspired with each other in the matter of sanctioning and disbursing loans of Rs. 5000 each under different Crop Loan Accounts contained in Exhibits P-1 to P-6 in the names of fictitious persons by forging signatures and thumb impressions of the proposed borrowers in the documents resulting in misappropriation of the proceeds of Rs. 30000. The offences in question allegedly took place during the period of 07.12.1984 to 14.08.1986. R-2 herein joined his services on 07.12.1984 as a Field Officer on probation. He was allegedly transferred to another branch on 15.08.1986. The FIR was lodged on 31.12.1991 under sections 409, 420, 467, 477-A read with section 120B of IPC and section 5 read with section 5(2) of the Prevention of Corruption Act, 1947.

c) **Typology of Forensic Evidence Used in the Case: Fingerprints** of the respondents were taken and compared with the fingerprints found on the documents.

d) **Report Of The Experts Regarding The Case:** PW17 the fingerprint expert proved that thumb impression appearing on the loan account were that of accused 1. In his evidence he proved that specimen fingerprints marked as S-1 to S-4 in Exibit P-38 tallied with the disputed fingerprints marked as Q-166, Q-

169, Q-170, Q-171, Q-172 with the specimen right middle finger impressions marked as S-4-11 on F.P. slip marked as S-4.

e) **Ground For Accepting The Forensic Evidence:** The court did not find any reason to discredit the testimony of the said expert. He was a qualified fingerprint examiner.

f) **Impact of Forensic Evidence (Conviction):** The court upheld the conviction awarded by the learned trial Judge as against respondent 1 (A-1) and imposed a sentence of rigorous imprisonment of three months and a fine of Rs. 20000 on respondent 2. Accordingly the appeals were allowed with the aforementioned directions. It was directed to take the respondents in custody for serving out the respective remaining sentences.


a) **Background of the case:** A-2 had been acquitted by the trail court of the charges under section 302 and 394 of IPC by giving the benefit of doubt against which the State filed appeal to the High Court questioning the correctness of the order of acquittal. The High Court by the impugned judgment allowed the appeal. Questioning the correctness of the judgment of the High Court setting aside the order of acquittal the present appeal had been preferred.

b) **Facts of the case:** Deceased (D1) aged about 73 years and her mother D2, aged about 90 years were staying alone in the flat. They often engaged A-1 as a part-time driver to take them in and around Bangalore. On a certain day as PW6 the daughter of D1 did not get any phone call from the deceased and was also unable to contact her, asked PW22 to make enquiries about the well-being of the two deceased. Accordingly when PW22 also could not contact the duos, he contacted PW1 another relative to contact them. As both PW22 and PW1 failed

50 State v. M. Krishna Mohan (2007) 14 SCC 667
to get the information regarding them and could not contact them, they visited
the house of the deceased and found the door was locked from inside. When
they ultimately opened the door with duplicate key and entered in the bedroom,
they noticed, two bodied covered with rugs and on verification they found it to
be the dead bodies of D1 and D2. Police was informed and the investigation
was set in motion. A-1 was arrested and A-2 was also arrested at the instance of
A-1.

c) **Typology of Forensic Evidence Used in the Case: Chance Fingerprints** were
lifted as well as photographs of the same were taken. **Fingerprints** of the
deceased and the nearby occupants namely PW2, a watchman and PW3 a
maidservant were also taken. **Fingerprints** of the accused were also taken.

d) **Report Of The Experts Regarding The Case:** PW28 the fingerprint expert
found three chance fingerprints on the TV stand and two chance fingerprints on
the stainless steel cup kept near the dead bodies. PW29 also obtained the
fingerprints of the accused and all the fingerprints were sent for examination.
Learned counsel for the respondent state supported the judgment of the High
Court and highlighted the circumstances on which the High Court relied. One of
the circumstances was, the finding of the chance fingerprint of A-2 from the
scene of offence.

e) **Ground For Accepting The Forensic Evidence:** The court to conclude the
decision relied on various cases and stated that the High Court had referred to
several factors including the motive aspect. It had referred to the evidence of
PW2 and PW4, who saw A-1 and A-2 after they came out of the deceased’s
house. PW4 remembered that A-2 was sitting in the car with A-1. The
circumstances that were highlighted by the High Court to hold the present
appellant guilty cannot be said to be without relevance. The High Court had
rightly observed that the trial court did not consider the relevant aspects while directing acquittal of the present appellant. The court did not find any infirmity in the conclusions arrived at by the High Court to warrant interference.

f) **Impact of Forensic Evidence (Conviction):** The appeal of A-2 was thus dismissed\(^51\).


Appellants were convicted under sections 395, 396, 376, 411, 402 and 120B IPC and sections 25 of Arms Act, 1959. Hence appeals were filed. Held, there is no independent witness apart from police witnesses. Absence of any other evidence against appellants except that given only by police witnesses makes it extremely unsafe to sustain conviction of appellants. This finding is further strengthened by non-comparing of fingerprints lifted from spot with fingerprints of appellants and vaginal swab taken from deceased with semen of appellants which not only provides with unsatisfactory explanation but it actually makes judgment of trial court wholly unsustainable - Entire judgment is largely unreasoned, based on impermissible presumptions and totally unworthy of being upheld and same is accordingly set aside - Appeal is allowed, appellants are acquitted of the charges framed against them. Hence the appeals were allowed and the acquittal were recorded.\(^52\)


The present appeal was filed against order of conviction under sections 201, 302 and 498A IPC. The counsel for the appellant contended that the trial court had wrongly


relied upon Fingerprint Bureau’s Report according to which fingerprint of the left index finger of accused A was found on ‘Bhagona’ (vessel) which was lying at the place of incidence. He further contended that in the inquest report there was no such reference of the vessel. Moreover, according to him the said vessel was not produced in the court. So, the evidence relating to fingerprint was also not proved beyond reasonable doubt against accused A. Held court had examined concerned witnesses who stated that on the relevant day deceased was crying on telephone about demand of cash and there from it was apparently clear that there was demand of cash by appellant from the deceased. In this behalf relevant document was produced by the prosecution which clearly indicated that the appellant entered into an agreement with a third person according to whose terms and conditions the appellant was required to make payment to the third person which was demanded by the appellant from the deceased, failing which appellant was required to pay penalty. Although evidence on record was not sufficient to arrive at immediate motive to commit crime and case depended on circumstantial evidence but when facts were clear it was immaterial that no motive had been proved. Therefore, evidence regarding need and demand of cash was fully proved against appellant. On scrutiny of evidence, court was satisfied that conclusion drawn by trial court in this regard was perfectly justified in circumstances of present case. Court did not find any merit in appeal of the appellant and thus it was dismissed. Conviction upheld.53


The appellants were convicted under section 120B, 302 and 364A IPC. Held, as against appellants 1, 2 and 6 there was no admissible incriminating evidence found. Against appellants 3, 4 and 5 incriminating evidence was their disclosure statements, joint pointing out memos and recovery of dead body from place identified by them. Against appellant 4 there was further incriminating evidence of recovered school dress, school bag etc. of children from his house. Fingerprints of appellant 3 were lifted from the car in which children were abducted. Hence appeal of appellants 1, 2 and 6 were

allowed and appeal of appellants 3, 4 and 5 were dismissed. Conviction of appellants 3, 4 and 5 were upheld and the court accepted the fingerprint evidence.\textsuperscript{54}


The appellant was convicted under sections 394 and 302 IPC for committing robbery and murder. Held, appellant was found present at spot near body of deceased when police officials had reached there. Appellant confessed to his crime and got recovered one knife and clutch wire in presence of concerned witness. A jewellery pouch containing jewellery articles of deceased was also recovered by police from pocket of pant of appellant. Doctor who conducted post-mortem of deceased opined that that it was possible that the recovered knife and clutch wire were used to murder. Knife and clutch wire were found to be stained with human blood. Chance print lifted from box lying at spot matched with fingerprints of appellant. Nothing was brought to discredit testimonies of witnesses. The appeal was thus dismissed and conviction upheld.\textsuperscript{55}


The appeal was filed against the order of conviction whereby the appellant was convicted under sections 354, 363 and 302 IPC. Held, witnesses had supported each other in material particulars. No motive had been imputed by appellant on witnesses for falsely implicating him. Appellant had not explained as to how blood of human origin came on his pant. Smegma was absent on sex organ of appellant. As per post-mortem report possibility of an attempt to commit rape could not be ruled out. Fingerprint expert was called and he lifted the chance fingerprints from the dead body and blood stained stone seized from the spot but could not develop any print. Prosecution had established that appellant was absconding from his house till late night and in fact was apprehended at relevant time on relevant date. He had not explained as to under what circumstances he was not in his house at night. Concerned witness had established that

\textsuperscript{54} Ashok Kumar @ Govind v. State (09.04.2009 – DELHC) MANU/DE/1162/2009


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appellant was last seen by her with deceased. Hence, appeal was dismissed and conviction was sustained.56


a) **Background of the case:** The challenge in this appeal is to the judgment of the Division Bench of the Kerala High Court upholding the conviction of the appellant for the offences punishable under sections 449, 379, 302 and 201 of IPC whereby death sentence was awarded.

b) **Facts of the case:**  J gave information to the police station that his sister, brother-in-law, their two children, the mother and sister of his brother-in-law were murdered by someone within their house.

c) **Typology of Forensic Evidence Used in the Case:** Fingerprint of the accused were found in the doorsteps of the house.

d) **Report Of The Experts Regarding The Case:** PW6, the photographer had lifted the fingerprints and PW7, the fingerprint expert had matched them and it tallied with the fingerprints of the accused.

e) **Ground For Accepting The Forensic Evidence:** All the circumstantial evidence lead to the guilt of the accused. Moreover the confessional statement recorded by the Magistrate was relied upon by the court since it was made voluntarily and freely by accused when released on bail and was a free-man. Extra-judicial confession was also recorded by doctor while recording history of injuries. The statement made by the doctor, was accepted by both the courts below as he was an independent witness.

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f) **Impact of Forensic Evidence (Conviction):** The appeal was dismissed and the death sentence awarded to the appellant was also upheld\(^57\).


The Metropolitan Magistrate held the appellant guilty of offences of murder, robbery, kidnapping and attempt to murder under sections 302, 397, 364A, 307, 506-Part II of IPC and section 25(1B)(a) of Arms Act. Hence this appeal was filed. Held PW1 & PW2 had sustained injuries at time and place of occurrence and their presence during course of occurrence was inferred by statement of witnesses. However, IO who examined PW25 in cross-examination admitted that Ballistic Expert had not given any opinion regarding working conditions of fire arm seized during investigation. Moreover, there was no evidence that showed MO 22 was in serviceable condition. Hence, in absence of evidence, conviction under section 25(1B)(a) of Arms Act could not be sustained and the appellant was acquitted for the same. Indisputably, the specimen handwritings and **fingerprints** of A-1 were taken neither in the presence of the Magistrate nor under the orders of the court. The same were sent to the scientific officers by PW25. But PW25 did not claim to have properly packed the same. The scientific officer, even did not speak of receiving the material from the IO in a properly sealed manner. There is a gap of nearly a month between collecting the material and forwarding the same to the Scientific Officer. What proper care the Investigating Officer has taken to keep the incriminating material intact is not evident from the record. In these circumstances, the court found it difficult to give any authenticity to the report submitted by the Scientific Officers. Even if this piece of evidence is discarded, the other circumstances which have been referred to supra gave ample corroboration to the testimony of P.W.2. Therefore, the conviction of A1 for the offences under Section 302, 397, 364-A, 307 and 506-Part II of IPC does not warrant any interference in this Criminal Appeal.\(^58\)

\(^{57}\) *M.A. Antony v. State of Kerala* (2009) 6 SCC 220

\(^{58}\) *Mayank Bohra v. State of A.P. (03. 08.2009 – APHC) MANU/AP/0210/2009*
49. Rajesh Kumar v. State (Govt. of NCT of Delhi) (06.08.2009 – DELHC) 
MANU/DE/1652/2009

Present petition has been filed for confirmation of death sentence inflicted upon accused/appellant. Accused/appellant has also filed appeal challenging judgment and order convicting appellant for offence of having murdering two minor children i.e. appellant has been convicted for murdering nephew’s of his wife. Held, appellant was son-in-law of complainant’s family which was a pious relationship. Depravity, brutality and cruelty with which two children were killed and the attendant circumstances led anyone to suspect that only an insane person would do such act. Doctor’s report did not establish insanity of appellant. No doctor has been examined in defence. The chance fingerprints Q-1, Q-2 and Q-3 and also the specimen fingerprints of the appellant was taken by the IO and were sent to the fingerprint expert, PW-23, who opined that the chance fingerprints Q-1 matched the specimen fingerprint S-1 pertaining to the right hand middle finger of the accused. Evidence on record established beyond the shadow of doubt, that appellant murdered two children and that he was not an insane person when he committed the offence. Instant case fell in category of rarest of rare cases. The appeal of the appellant was dismissed by confirming the conviction and sentence of death imposed on the appellant.59

50. Santosh @ Bhure v. State (05.03.2009 – DELHC) 
MANU/DE/1141/2009

Present appeals were filed against order whereby appellants were convicted under section 302 IPC. Held, excluding opinion of handwriting expert pertaining to letter recovered by police from left pocket of deceased, left with only one piece of evidence against appellant/N. Same was recovery of a knife at his instance. Said evidence could not form a complete chain of evidence where from inference of guilt can be drawn against N for reason knife was not found to be stained with human blood. As opined by doctor that injury on deceased could possibly be caused by knife. In case of a knife, unlike a firearm only evidence can be that injury could be possibly caused by knife and not that injury could be caused by that very knife and

59 Rajesh Kumar v. State (Govt. of NCT of Delhi) (06.08.2009 – DELHC) MANU/DE/1652/2009
none else - There is no evidence that N was residing on second floor. Therefore nothing turns on N not being found by police - Pertaining to appellant/ S, He was a tenant on second floor - Dead body of deceased was recovered from said second floor by police. S was found absconding and could not be apprehended by police till he surrendered in Court. Clothes were recovered by police pursuant to disclosure statement of S - Blood of human origin and of group B was found which was same as group of deceased and was detected on the clothes. Fingerprints of the accused were taken. It was held that giving handwriting samples or fingerprints or palm impressions did not tantamount to giving evidence and that when a handwriting sample or a fingerprint or a palm impression was obtained by the police it did not amount to compelling an accused to be a witness against himself. Therefore appeal S was dismissed and appeal of N was allowed. S was convicted and N was acquitted. 60


Present appeal has been filed against order whereby appellant has been convicted for offence punishable under Sections 302, 307, 376 and 379 of IPC whereas death reference has been filed for confirmation thereof. ASI Manish Kumar Bhardwaj PW-26, deposed that he inspected the place of occurrence, found a chance print from there and developed the same. . SI Ajay Kumar PW-27, Incharge, Crime Team, deposed that he inspected the place of occurrence and prepared the report Ex.PW-27/A on the basis of the said inspection. Neither any question was put to the said witnesses in their cross-examination regarding the lifting of fingerprints from knives in question nor was any suggestion given to them that they did not make any attempt to lift the fingerprints from the knives in question. Having given no opportunity to the witnesses to explain the circumstance pertaining to lifting of fingerprints from the knives in question no adverse inference can be taken against the prosecution. Appeal and death reference stand disposed of confirming conviction of accused for offence of murder pertaining to death of child as also for offence of having attempted to murder X as also for offence of having raped X. Pertaining to offence punishable under Section

60 Santosh @ Bhure v. State (05.03.2009 – DELHC) MANU/DE/1141/2009
302 of IPC sentence appellant to undergo imprisonment for life with a direction that he would not be considered for premature release till he undergoes an actual sentence of imprisonment for 25 years - Thus, confirmation of sentence of death is declined. Hence, **conviction commuted.**


a) **Background of the case:** Three persons faced trial for alleged commission of death of deceased. The trial court directed acquittal of A3. The Division Bench of Andhra Pradesh High Court dismissed the appeal filed by the present appellant A2, by upholding the conviction of the appellant, under Section 302 of IPC, while directing acquittal of A1. Challenging the order of the High Court, the appellant A2, filed the present appeal.

b) **Facts of the case:** A1 is the maternal uncle's son of the deceased. A2 and A3 are the friends of A1. On 20.03.2003 at about 5.00P.M. the mother of the deceased (PW1) and her daughter went to her younger sister’s house to attend a betrothal ceremony. The sister-in-law of the deceased (PW-2) and the deceased were alone in the house. At about 7.00P.M., A2 and A3 came to the house of the deceased. A3 was standing outside the house. A2 came inside the house. A2 and A3 took the deceased on a motorcycle. At about 10.30 P.M. A2 and A3 again came to the house of the deceased, alongwith the deceased. On hearing the sound of the motorcycle of the deceased PW2 came out of the house and asked the deceased to come inside the house as PW1 was calling him. Thereupon A2 stated to PW2 that he will send back the deceased within 10 minutes. At about 11P.M. one M, came to the house of the deceased and informed PW1 that one motorcycle was lying near the road and that one dead body was also lying near the spot. Thereupon PW1 and others went to the scene of offence. PW1 found her son lying dead in a pool of blood with bleeding

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injuries. A complaint was lodged by PW1. PW11 registered the crime under section 302 of IPC. PW15 rushed to the scene of offence, got the scene of offence photographed. He found MO4 knife in the stomach of the deceased and MO5 lying beside the deceased. He also found MO1 to 3 and 6 to 11 at the scene of offence.

c) **Typology of Forensic Evidence Used in the Case: Fingerprints** were taken from the seized objects.

d) **Report Of The Experts Regarding The Case:** On requisition given by PW11 under Ext. P-9, the fingerprints expert PW13 visited the police station and examined and examined the material objects seized by PW15 in this case for developing the chance prints. He found one fingerprint on MO 6 and he lifted the chance print and got photographed the same. He compared the fingerprint sent by the police with the chance print marked as “A”, and found it as identical with the left fingerprints marked as “S-1”, which belonged to A-1. The fingerprints expert gave his opinion under Ext. P-11.

e) **Ground For Accepting The Forensic Evidence:** Although the Fingerprint evidence was accepted by the court but according to the learned counsel for the appellant A-2, the fingerprint of the appellant accused was not found on the article seized. Only the fingerprints of A-1 were collected. The fingerprints of A-1 were found on the seized articles and it tallied with the fingerprints taken from A-1. But A-1 had already been acquitted by the High Court. Moreover the learned counsel for the respondent state supported the judgment of the High Court. There were also discrepancies in the evidence of A-1 and A-2. Therefore the court was of the opinion that the evidence of PW1 and PW2 did not establish the accusations so far as the appellant is concerned. Merely because his identity card was found near the dead body of the deceased, there cannot be a determinative factor to find the accused guilty.

f) **Impact of Forensic Evidence (Acquittal):** The conviction of A-2 was set aside and it was directed to forthwith set the appellant at liberty. The appeal was
allowed and indirectly it can be reasoned that the appellant was set at liberty basing on the fingerprint evidence as it was that of A-1 who was already acquitted.


Present appeal had been filed against order by which appellant was convicted for offence punishable under section 302 IPC and section 27 of Arms Act. Held, there was no direct evidence available to establish that appellant caused fatal gunshot injury to deceased, but all circumstances lead to one and only interference about guilt of appellant. Revolver of deceased was recovered from near the spot and mutilated bullet was extracted from dead body was of same caliber .32” as that of revolver of deceased. The perusal of the report of the fingerprint expert revealed that fingerprints lifted from the weapon of offence were not complete, and therefore could not be compared with the fingerprint of the accused; as such that factor was of no avail to the appellant. Further, factum of dead body having being found in bath tub and the revolver was lying near toilet also ruled out possibility of suicide because if deceased had shot herself while sitting on the toilet seat or standing near toilet seat, then there was no possibility of her dead body being found within bath tub as stated by prosecution witness, nor her shoes could have been in bath tub. Appeal was thus dismisses and conviction affirmed.


Appellant was convicted for the murder of his wife and son under section 302 IPC. Hence this appeal was filed. Held it was deposed by family members of deceased that appellant had illicit relations with another women. Motive was present to commit crime. Appellant was seen with deceased persons soon before murder. Prosecution had successfully established that appellant had written suicide notes for deceased persons.


63 Vinod Kumar Soin @ Kapil Kumar v. State (27.11. 2009 – DELHC) MANU/DE/3060/2009
Appellant refused to undergo gastric lavage test which shows consumption of poisonous materials. **Fingerprints** of the appellants were taken against which a contention was raised that it violated Article 20(3) of the Constitution of India. In this regard a Judgement of the Constitution Bench of the Supreme Court was referred, where it was held that giving handwriting samples or fingerprints or palm impressions did not tantamount to giving evidence and that when a handwriting sample or a fingerprint or a palm impression was obtained by police it did not amount to compelling an accused to be a witness against himself. The Appellant confessed his guilt to witness on phone. Appellant was the perpetrator of the crime in question. Therefore appeal was dismissed and the **conviction** was upheld.\(^64\)


The appellant was convicted under section 395 IPC. Held, in present case, circumstantial evidence was not in favour of prosecution. Prosecution had miserably failed to prove recovery and also that the **fingerprints** taken from the place of occurrence was related to that of appellants/accused nos. 3, 5 to 8 and so it was fatal to the case of prosecution. In such circumstances it was concluded that prosecution had failed to prove the appellants/accused Nos. 3, 5 to 8 had committed the offence under section 395 of IPC. Hence, benefit of doubt had to be given in favour of appellants and therefore they were entitled for **acquittal** by allowing the appeal.\(^65\)


Trial Court convicted appellant for offence of kidnapping and demanding payment under sections **364A of IPC**. Hence this appeal was filed. Held, CDR Dump/call data record Ex. PW 18/A showed calls from Dubai had been constantly made to the telephone No. 6875697. Said number had been used to provide conference facility which was in the name of appellant. **Fingerprints** of the appellant were obtained and 19 chance fingerprints were lifted from the flat and the sample fingerprints were sent for comparison and a report was sent that chance **fingerprint Q-9** matched that of the

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\(^{64}\) **Harpal Singh v. State (25.05.2010 – DELHC) MANU/DE/1091/2010**

appellant, K.K. Saini. Appellant had failed to displace presumption which could be
drawn against him as per the mandate of section 106 of Evidence Act. Appeal was
dismissed and conviction was sustained.66


The appellant was convicted under sections 302, 420, 468 and 471 IPC for cheating,
forgery and murder. Held, certain documents which bear the signatures of the deceased
was no proof of the fact. Although fingerprints of the appellant were obtained but it
was of no use as there was no other evidence to show the complicity of the appellant in
the commission of the crime. Even there was no evidence to show appellant purchased
from the amount withdrawn under cheque or from account of deceased. Thus, there was
no evidence that the signatures on the cheque were forged by appellant. Thus appeal
was allowed and the appellant was acquitted.67

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The appellants were convicted by the High Court under sections 302/120-B IPC and
under sections 25(1)(a) & (b) and section 27 of Arms Act. A-1, A-2, A-3 and A-6
alleged to have paid money to A-4 and A-5 for killing deceased, pursuant whereto they
shot deceased from a close range resulting in his death. Prosecution case rested on
circumstantial evidence and testimonies of PW3 and 4, who were alleged eyewitnesses
to occurrence. However, presence of PW4 at place of occurrence found doubtful. A-1,
A-2, A-3 and A-6 were acquitted by courts below, hence substratum of prosecution
case viz. conspiracy theory knocked off. The learned counsel for the State relied very
much on the evidence of PW23, fingerprint expert. Regarding this, the Supreme Court
opined that evidence of fingerprint expert is not substantive evidence. Such evidence
can only be used to corroborate some items of substantive evidence which are
otherwise on record. In the instant case it was never alleged that there was any

altercation between deceased and accused at place of occurrence, or that accused had any physical contact with deceased. Deceased was fired at from point-blank range and he immediately fell down, half inside a car. Thus, no prosecution evidence to the effect that A-4 and A-5 had any occasion to touch car and that too with ring-finger. Hence, evidence of fingerprint expert on car was irrelevant. Even if evidence of fingerprint expert on scooter accepted, that by itself was insufficient to prove connection with crime. Besides, he failed to give any evidence of fingerprint on alleged weapon of offence which was discovered pursuant to disclosure made by accused. For the aforesaid reasons the appeal filed by the appellants were allowed and the accused A-4 and A-5 were acquitted.  

59. Padia @ Pradeep Kumar Sahu And Anr. v. Republic of India (24.06.2010 – ORIHC) MANU/OR/0487/2010

The appeal was filed assailing order of conviction and sentence passed by Sessions Judge convicting two appellants for commission of offence under sections 341, 366, 376(2)(g) and 506. The evidence of PW9, who was accompanying the prosecutrix in the car was very vital. The said witness had given a vivid description as to how the occurrence took place. He had clearly stated that while he was sitting in the car the miscreants raped the prosecutrix in his presence. The said witness had been cross-examined at length, but nothing could be elicited from him to disbelieve his version. Similarly, PW17, the driver of the vehicle had also been examined and his evidence was found trustworthy. Pw22 was the prosecutrix, who had also given a vivid picture of the unfortunate episode. Her statement got fully corroborated by the statement of PW’s 9 and 17, the other two inmates of the car. The same was further corroborated by the doctor and the statement given by the two accused persons before the doctor vis-a-vis other evidence like Fingerprint report, evidence of the employee of the petrol pump and other evidences recorded in the course of trial. The ornaments and other materials robbed from the prosecutrix and PW9 were also identified in the T.I. parade. PW5, a jeweler had deposed that the accused had sold the stolen gold articles to him. All these

68 Musheer Khan And Another v. State of Madhya Pradesh (2010) 2 SCC 748
evidences proved that the appellants committed the crime. Appeal was dismissed and conviction maintained.69


The appellant was convicted under section 302 and 34 IPC for offence of murder and common intention. Hence this appeal. Fingerprints were taken from the material objects. PW14 Scientific Assistant had given an opinion under ExP14 that the fingerprints lifted from the beer bottles tallied with that of the fingerprints taken from the accused. Held, it is settled principle of law that when the material objects recovered from the place of occurrence were sent for the purpose of comparison with the fingerprints taken from the accused, the fingerprints of the accused must be taken procedurally. It was found that no order was obtained from the magistrate neither any procedure was followed as to how the fingerprints of the accused were actually taken. In the absence of compliance of any procedural formalities, the fingerprints taken from the accused, even if they were compared and expert’s opinion was obtained, cannot be relied upon. Hence, it prosecution could not prove guilt of accused beyond any reasonable doubt. Therefore, in such event, it would be highly unsafe to sustain a conviction based upon such evidence. Thus appeal was allowed and the appellant was acquitted.70


Appellants were convicted under sections 302/394 of IPC and sentenced to death. Hence this appeal. The case was based on circumstantial evidence. The police officers prepared the scene of occurrence panchnama, fingerprint experts were called and seizure list from the place of occurrence was prepared. The IO took the appellant/accused in the custody and specimen fingerprint of the appellant/accused

69 Padia @ Pradeep Kumar Sahu And Anr. v. Republic of India (24.06.2010 – ORIHC) MANU/OR/0487/2010
70 Palanichamy and v. The State represented by The Inspector of Police (26.07.2010 – MADHC) MANU/TN/2116/2010
was collected. The learned P.P. contemplated that the link in the chain of circumstances from which inference of guilt could be drawn was cogently and firmly established. It was further submitted that the evidence like the fingerprints of the accused at the scene of occurrence clearly showed his complicity and therefore the conviction of the accused was proper and maintained.\textsuperscript{71}


The appellant was convicted under section \textbf{302 IPC}. Held, prosecution relied on extra-judicial confession given by A-1 to Village Administrative Officer who was totally stranger to her. Subsequently prosecution relied on last seen by two concerned witnesses. Both concerned witnesses were total strangers to A-1. Both of them identified A-1 only for the first time before court and prosecution had not conducted any identification parade. Therefore, it was unsafe to place reliance on their evidence as identification of A-1 before court itself was highly doubtful. Last piece of circumstance put forward by prosecution was fingerprint expert’s opinion to effect that fingerprint of A-1 tallied with the fingerprints found on the beer bottle. Opinion of fingerprint expert could not be construed to be conclusive one and same was to be tested only as a corroborative piece of material along with other material available on record. Therefore, no reliance could be placed on opinion of fingerprint expert. Prosecution failed to point guilt of accused. Thus conviction was unsustainable in law. Accordingly appeal was allowed and acquittal was recorded.\textsuperscript{72}


Appeal was filed against acquittal for the offence of attempting to murder and murder along with robbery. Accused persons trespassed into house with an intention to commit robbery. In that course they deliberately smothered and throttled deceased resulting in death by asphyxia. They attacked and assaulted deceased with knife on neck and other

parts of the body. Said conduct clearly established guilt under section 302 for causing
death of deceased and section 307 IPC for attempt to cause death of complainant-cum-
injured witness. **Fingerprints** of A-3 were found on the Almirah. Accused were also
guilty under sections 394 and 448 read with section 34 IPC. A-1 to A-4 were convicted
under section **302, 307, 394 and 448 read with section 34 IPC**. Therefore the acquittal
was set aside and **conviction** awarded.\(^{73}\)

### 64. The State of Punjab v. Manjit Singh and Ors. (12.05.2010 – PHHC)
**MANU/PH/0535/2010**

This is a murder reference arising out of judgment of conviction vide which accused
were convicted under section 302 and sentenced to death subject to the confirmation of
this court. The samples of **fingerprints** and footprints of the assailants were taken by
the police. The fingerprints of right and left hands of the accused persons were
obtained. The said samples were compared by the Finger Print Bureau and a report was
given. Held, though the offence was heinous as it was the father, who had killed his
son by meticulously planning and executing a conspiracy, but it was not the rarest of
rare cases, which may justify imposition of death penalty. Thus punishment of death
sentence imposed was substituted to life imprisonment. Therefore conviction was
modified.\(^{74}\)


Trial court convicted appellant for offence of murder under section 302 IPC. Hence this
appeal. Held, testimony of witness established that appellant was found with knife in
his hand, standing in bathroom which was locked from inside and where deceased was
found dead. **Fingerprint** of the appellant was detected inside the bathroom where the
dead body of the deceased was recovered. Thus appellant was liable to render
explanation as to how deceased was killed. Entry into bathroom could not be effected
without door being opened and it was possible that due to push. Bol-hole came off,

\(^{73}\) **State of Karnataka** v. **Murali and Ors.** (23.04.2010 – KARHC) **MANU/KA/1491/2010**
\(^{74}\) **The State of Punjab** v. **Manjit Singh and Ors.** (12.05.2010 – PHHC) **MANU/PH/0535/2010**
when pressure was applied on door. However, IO had not seized bolt hole and screws. Such errors of Io had to be overlooked as aberrations, as it was duty of court to balance public interest in administration of justice. Written submissions filed by appellant in his own handwriting and letters written by him to parents of deceased showed crafty and fertile mind. Appeal was dismissed and the conviction was upheld.75


The appellants were accused for the offences under section 302, 364-A, 120B and 201 of IPC. Deceased was a young boy aged about 16 years, who was son of a goldsmith and alleged to have been kidnapped from school and later murdered. Testimonies of PW’s were found credible and corroborating each other. PW3 stated that his grey-coloured Alto car had been taken by accused V (his son’s friend) at about 7.30 a.m. and returned at about 10.30 a.m. on day of occurrence. Said circumstances fitted with the prosecution story that PW13 had seen V in the driver’s seat of Alto car and accused J getting in the car with deceased at about 8.30 am. Medical evidence indicated that cause of death of victim was chloroform and pentazocine poisoning. Pursuant to the disclosures made by accused dead body of victim, Alto car, Chevrolet car and other incriminating articles were recovered. The car was subjected to examination by fingerprint experts who lifted several fingerprints which were duly dispatched to the laboratory. Fingerprints of J and V were found on cars, while thumb impression of J found on chloroform bottle. Plea of alibi set up by J and his wife S was not proved. Mobile number from which ransom calls were made were traced to J. Hence conviction of the appellants under sections 302, 364-A, 120B and 201 of IPC called for no interference. The appeal was dismissed.76


The appellant was convicted by the Sessions Court under section 302/34 IPC and sentenced to imprisonment for life and was directed to pay a fine of Rs. 10,000. By the same judgment and order, the other accused persons were acquitted from the charges of offence punishable under section 302/34 IPC. It was alleged by the prosecution that the accused along with others duly armed with weapons started firing at the deceased, who fell down on the ground. Injuries on the person of the deceased (before his death) were recorded by the doctor, PW3. On the same day a dying declaration of the injured was recorded by PW6, the S.D.M. in presence of PW3 where before his death, the injured stated about his enmity with the accused and that he had been fired twice with a 12 bore gun by the accused and the persons who accompanied him, who also robbed 20000 cash from him. The next day the deceased succumbed to his injuries. The prosecution examined many witnesses. On behalf of the defence D.W.1 Dr. R.K. Shroff, D.W.2 Dr. R.K. Singh and D.W.3 A.K. Gupta (Fingerprint Expert) were examined. A court witness C.W.1 R.A. Misra (Govt. Fingerprint Expert) was also examined. The oral and documentary evidence was put to the accused under Section 313 of Cr.P.C., in reply to which they alleged that false evidence has been adduced against them and they have been falsely implicated in the crime. However, the trial court acquitted the other co-accused. The appeal of appellant A was dismissed and his conviction was upheld. The acquittal of other co-accused were also set aside.77

68. B.A. Umesh v State of Karnataka (2011) 3 SCC 85

a) Background of the case: The appeal had been preferred by the appellant questioning the judgment and order passed by the Karnataka High Court rejecting the appellant’s appeal and confirming the death sentence awarded to him by the Session’s Judge. The appellant was convicted under sections 376, 302 and 392 of IPC.

b) **Facts of the case:** The deceased lady was the mother of PW2 and after the death of her husband she used to stay alone with her son PW2 in the house. PW2 was studying in UKG in Blossom English School. His mother used to drop him at school every day and would bring him back after the classes were over. On the date of occurrence the deceased took PW2 to school and brought him back at the usual hours and had the lunch together. After lunch, PW2 went out to play with his friends and apart from the deceased no one else were there in the house. When PW2 returned to the house he found the accused sitting in the hall of the house and told him that his mother was possessed by devil and that he had therefore tied her hands and was going to bring a doctor. The accused then left the house with a bag filled with articles. PW2 then went to the room and saw his mother was lying on the ground with blood on the floor and her hands were tied together with a saree at one end and the other end of the sari was tied to a window. As she did not respond to his voice, Suresh went to K, neighbour and told her what he had seen. K called G and L who had seen through the window that the deceased was lying on the ground. In the meantime, on being informed PW14, a police constable, PW16 a police photographer and PW13, a police inspector and fingerprint expert arrived at the place of occurrence. PW29, the investigating officer found that the door of an almirah in the house was open and the articles in the house were lying scattered. An FIR was thereafter was sent to the court.

c) **Typology of Forensic Evidence Used in the Case:** PW13 the fingerprint expert found fingerprints on a wall clock and also on the handle of the almirah. The sample fingerprints of the accused were taken by CW 25 in the presence of PW29

d) **Report Of The Experts Regarding The Case:** The fingerprint expert PW13 opined that the fingerprints which had been lifted by him from the handle of the steel almirah in the room, matched with the fingerprint of the appellant.
e) **Ground For Accepting The Forensic Evidence:** The court held that the report of the fingerprint expert strengthened the prosecution case and clearly established his presence inside the house of the deceased. The explanation which was attempted to be given for the presence of the fingerprints on the handle of the almirah situated inside the room of the deceased did not inspire any confidence to the court. The court opined that it was the said evidence which scientifically established beyond doubt that the appellant was present in the room in which the deceased was found after her death and had been identified by PW2, PW10 and PW11. The fingerprint of the appellant found on the handle of the almirah in the room of the deceased proved his presence in the house of the deceased and that he and no other caused the death of the deceased.

f) **Impact of Forensic Evidence (Conviction):** The appeal was dismissed and the death sentence awarded to the appellant was also confirmed.


The accused persons were convicted under sections 302, 396/34 read with section 411 of IPC and sections 25/27 of Arms Act. Held prosecution relied on testimonies of eye witnesses PW1, 3 and 5. PW-27 clearly deposed that he had taken specimen fingerprints from accused A. The identification of accused A by the eye witnesses and the chance prints lifted from the spot implicated him in the case. Eye witnesses were categorical as regards role played by A i.e he pulled out knife and stabbed deceased repeatedly. Further he had inflicted two fatal injuries, which according to medical evidence were cause of death. Therefore the court upheld accused A’s **conviction** under section 302 IPC. As far as accused N and H were concerned ocular evidence showed they did not participate in the attack. They were armed with dangerous weapons and although they accompanied accused, they did not have any criminal motive. Therefore evidence on record and overall circumstances of case said two

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78 *B.A. Umesh v State of Karnataka* (2011) 3 SCC 85
accused could not be convicted for offence punishable under section 302 IPC. Thus their conviction was substituted to offence punishable under section 304 Part II IPC.\textsuperscript{79}


The appellant was convicted under sections 395, 396, 460 of IPC. Hence this appeal was filed. Held, appellants were put on test identification within 24 hours of their arrest in connection with the case. Thus, identification made by witnesses could not be rejected merely on ground that it was not possible for them to identify after a lapse of a period of three months. Thus having regard to the entire conspectus of circumstances, Court was of opinion that deposition by witness was credible. The fingerprint evidence was not brought on record by the prosecution. Although, the prosecution had lifted the chance finger prints, from the almirah and two different places and sent them to the expert but the report was not on record. However that itself could not vitiate the entire prosecution case, particularly since there was credible ocular testimony. Therefore the appeal was dismissed and the conviction upheld.\textsuperscript{80}


Trial Court passed order of conviction for offences punishable under sections 452, 307, 392, 397 and section 302 read with section 34 of IPC. Hence this appeal. Held, it was clear that appellants were involved in robbery, commission of murder of deceased and causing dangerous injuries on vital parts of body of PW6 , PW28 and PW5. However, no challenge was made to the testimonies of PW20 and PW29 and fingerprint impression of appellant were found on articles in house. Therefore from ocular evidence of PW 5, 6 and 28 it was established that appellants had committed lurking house trespass by night in house and they had committed robbery of various articles in furtherance of their common intention and had voluntarily caused dangerous hurt to PW6, PW28 and PW5 with intention and knowledge and also causing death. Thus

order of conviction passed by Trial Court was justified and there was no error or infirmity in order. Appeal was dismissed and conviction was upheld.\textsuperscript{81}


Trial court convicted appellants for offence of kidnapping, criminal conspiracy and murder under sections 120B, 364A, 302 of IPC. Held, there was no evidence to prove that family members of deceased had any enmity towards appellants so as to falsely implicate them. Motive of abduction of deceased to extort money from his family members was clearly proved as against appellant and other circumstantial evidence established culpability of appellant without any reasonable doubt. There had been prior meeting of minds and common intention of abducting and thereafter killing deceased which had been established by cogent evidence produced on behalf of prosecution. No cogent grounds have been made out which indicate innocence of appellants so as to give benefit of doubts to appellant. Prosecution witnesses had supported core of prosecution case and at instance of accused persons, recovery of headless dead body and weapon of offence was effected. Further, recovery of personal articles of deceased was also effected from accused persons. There was no reason to doubt recoveries made by various police witnesses as they have corroborated each other on every aspect. Although chance fingerprints were recovered from the place of occurrence but it did not match with specimen fingerprints obtained from the appellant. Therefore, considering testimonies of witnesses and documents on record, offence against appellants was proved beyond reasonable doubt. Thus conviction was upheld and the appeal was dismissed.\textsuperscript{82}


The appellant was convicted under sections 449, 392, 394, 397 and 302 IPC. Hence this appeal. Held, no examination of jeweller was conducted who was allegedly called for

\textsuperscript{81} Maya Chanchal v. State (18.08.2011 – DELHC) MANU/DE/3193/2011
\textsuperscript{82} Mohd. Javed v. The State (Govt. of NCT of Delhi) (06.04.2011 – DELHC) MANU/DE/1084/2011
valuation and no examination of two persons were conducted from whom cash amount of Rs. 14000 and Rs. 10000 were recovered. Story developed by prosecution, created a doubt as to authenticity of theory of extra-judicial confession and further recovery of ornaments and cash amounts. Sessions Court erred in accepting recovery as proved, thereby holding accused guilty for offence of robbery and murder. Accused could not be compelled to give evidence against himself. Procedure adopted by police of taking fingerprint specimen of accused raised a doubt. No panchnama was drawn by IO while taking the specimen fingerprints of accused. Impugned order was set aside. Appeal was allowed and acquittal was recorded.83


Present appeals filed against order of conviction under sections 120B and 302 IPC for hatching criminal conspiracy to kill deceased. Held, considering investigation in respect of register, conjoint reading of testimonies of concerned witnesses and seizure memo, tend to suggest that register was seized and at that point of time entry marked Q1 in said register was in existence. Consequently it would indicate that A-P had made said entry in said register. Therefore presence of appellant P at Apartment would stand established. It appeared that time of death was more or less with visit of appellant P to deceased’s flat. Thus it was clear that evidence on record points in direction of appellant P as being killer of deceased. Fingerprints of P were found on the polythene cover of the box of sweets and also on one of the teacups. Hence conviction was upheld, and appeals dismissed.84

75. State v. Mahender Singh Dahiya (2011) 3 SCC 109

a) **Background of the case:** This appeal was directed against the final order of the High Court of Delhi whereby the accused had been acquitted of the charges

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under sections **302 and 201 of IPC** setting aside the judgment of the trial court whereby he had been convicted and sentenced to imprisonment for life and fine of Rs. 5000 for the offence under section 302 and also imprisonment for seven years and fine of Rs 5000 for the offence under section 201 IPC.

b) **Facts of the case:** The deceased, who was a British National of Indian origin was married to the respondent accused. The prosecution contended that the murder was allegedly committed on the very first night of the honeymoon in the hotel room of Belgium. It was further the case of the prosecution that after committing the murder the respondent dismembered and extensively mutilated the body of the victim. He subsequently disposed off the body parts at different places in the city of Brussels. This was done with the intention of destroying the evidence of the murder.

c) **Typology of Forensic Evidence Used in the Case: Fingerprint and palmprint** was used to identify the deceased. The learned counsel for the prosecution submitted that the comparison of palm prints found in the house of the parents of the deceased and the palm prints of the body parts found in the rubbish container established the identity of the deceased.

d) **Report Of The Experts Regarding The Case:** The fingerprint expert PW UK-18 was not able to conclude that the evidence produced would connect the palm prints with the palm prints of Namita. Therefore the report of the fingerprint expert on this aspect was not found definite.

e) **Ground For Rejecting The Forensic Evidence:** The identity of the dead body could not be ascertained on the basis of palm print. Therefore the High Court concluded that no implicit reliance could be placed upon them for the purpose of establishing the identity of the body parts as that of the deceased. The Supreme Court were also of a considered opinion that the conclusions reached by the High Court clearly pointed out that the prosecution had miserably failed
to connect the respondent with the alleged murder of his wife and the conclusions were fully justified by the evidence on record.

f) **Impact of Forensic Evidence (Acquittal):** As the appeal by the State was without any merit, it was accordingly dismissed.\(^{85}\)

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Sessions Judge passed order of death sentence against accused/appellant for commission of offence punishable under section 302 IPC and submitted murder reference for confirmation under CrPC. Hence this appeal. Held, appellant/accused had committed cruel murder of three persons by smashing heads of deceased. Manner in which offence was committed inside house could not be brought to light by prosecution as there was unfortunately no independent witness to occurrence. **Fingerprints** were obtained from suspected people and also compared and a report was also submitted. Moreover, appellant/accused was clamped with charge of triple murder on basis of circumstantial pieces of evidence and not on basis of any direct evidence. There was every possibility for appellant/accused to repent if subjected to rehabilitation process that would be undertaken in jail precinct during course of his life imprisonment. Hence, **conviction** of death sentence was remitted to life imprisonment. Appeal was dismissed.\(^{86}\)

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**77. Jamal Mirza and Ors. v. State (27.01.2012 – DELHC)**

The appellants were convicted for the offences under sections 396 and 397 IPC. Hence this petition. Held dacoity had not been disputed by appellants. Appellants who were armed with dead weapon sneaked inside the residential house and threatened to kill inmates including minor children. During incident one of the inmates was shot dead. Prosecution witnesses narrated details how assailants accomplished their mission.

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85 *State v. Mahender Singh Dahtiya* (2011) 3 SCC 109

**Fingerprints expert** lifted six chance fingerprints and it matched with the fingerprints of the appellants. Furthermore no plausible reasons had been given by appellants for their alleged false implication. Thus there was no reason to discard the witness’s testimonies. Therefore appeal dismissed and **conviction** given by trial court was upheld.\(^{87}\)


The appellants were convicted under sections 449,302,392 read with section 397 and 201. Held, considering facts of the case, court held that two accused had committed murder of deceased and robbed belongings of deceased. PW 351 and 352 were the police officers who took the fingerprints but they were not cross-examined. Although it appeared from the judgment of the trial court that the accused persons admitted their fingerprints, but since the taking of fingerprints by the two PW’s was never questioned before the trial court itself, it was not clear how the duo were authorized to take the fingerprints and so reliance by the High Court on section 2(b) of the Identification of Prisoners Act, 1920 was erroneous. Therefore conviction under sections **449 and 302 IPC** was liable to be confirmed. Appeal was allowed. Even though, in this case fingerprints were collected but court **could not accept** it and could not convict the accused depending on the fingerprints evidence. **Conviction** remitted.\(^{88}\)


The appellants were convicted under sections **302 and 404 IPC**. Held prosecution had categorically proved that chance print collected from spot had matched with specimen print of one appellant as was evident from the report. Appellant had not given any explanation in his statement as to how his fingerprints were there at spot. **Fingerprints** established presence of appellant at spot and also strong circumstance showing his

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\(^{87}\) Jamal Mirza and Ors. v. State (27.01.2012 – DELHC)

involvement in crime. Evidence on record showed that motive was to rob deceased and that circumstances were of sufficient conclusive nature and established guilt of two appellants. Therefore, conclusion could be drawn that two appellants were responsible for occurrence. Thus conviction and sentence of two appellants under section 302 IPC was upheld and conviction of another appellant under section 404 IPC was upheld.  


a) Background of the case: The present appeal was directed against the judgment of the High Court confirming the judgment of conviction and order of sentence passed by the Learned Additional Sessions Judge. A-1 was charged under section 302 and was sentenced to death. A-1 was also sentenced to suffer rigorous imprisonment for 3 years for each of the offences under sections 201, 435, 411 and sections 25(1-A) and 27(1) of the Arms Act. All the sentences were directed to run concurrently.

b) Facts of the case: The deceased was the Chief Track Engineer, South Central Railway. He was living in the Bungalow of Railway Officers along with his wife, son and daughter. A-1 was working as office peon in South Central Railways and was attached to the bungalow of the deceased for the last seven years. A-1 was residing in the servant quarters of the said bungalow. A-1 was arrogant, evasive and was in a habit of revolting against the wife of the deceased as she was a strict person and demanded better performance of duties from A-1. Nearly, a week before the occurrence, the wife of the deceased scolded A-1, which aggravated the grudge of A-1 on her. After that, A-1 met A-2 and A-3 and they all planned to kill the entire family of the deceased and to decamp with the gold ornaments etc. The plan was executed and the accused persons killed all of the persons of the said bungalow.

89 Mukesh Kumar v. State (04.05.2012 – DELHC) MANU/DE/1968/2012
c) **Typology of Forensic Evidence Used in the Case:** The fingerprint expert had visited the site and lifted some chance fingerprints on the steel almirah from the inner lock door and another set of fingerprints from the rear side of the bathroom. The investigating officer PW48 with the leave of the court had taken the sample fingerprints of all the accused i.e. A-1 to A-5. The fingerprints were sent to the FSL to be compared with the chance fingerprints that had been lifted with the expert.

d) **Report Of The Experts Regarding The Case:** The fingerprint expert examined the fingerprints and submitted a report vide Ext. P-73 to the court and in particular vide Ext. P-38, he had clearly stated that the chance fingerprints matched with the fingerprints of A-1 and A-2. The expert was also examined as PW38 in the court who reiterated that he had not found the fingerprints of the accused either on the plastic tin or on the burnt car, but with regard to the chance fingerprints collected from the bungalow i.e. inner lock door of the steel almirah and the back door of the house, he clearly stated that those matched the fingerprint slip containing the fingerprints of A-2 which was marked as “P”.

e) **Ground For Accepting The Forensic Evidence:** PW38 was cross-examined at length. No suggestions was put to PW38 in his cross-examination that he never went to the site, never collected the fingerprints or that the fingerprints of the accused were never sent by the police to him. The court also noticed that these suggestions were even never put to the investigating officer by the counsel of the appellant. The attempt on behalf of the accused to object to the evidence of the fingerprints on the ground that the investigating officer had not told in his examination-in-chief that he had taken the fingerprints of the accused and sent them to the expert did not carry much weight in view of the documentary, ocular and expert evidence. It was expected of the investigating officer to make a statement in that
behalf, but absence of such statement would not weigh so much against the prosecution that the court should be persuaded to reject the evidence of PW38 along with the clinching evidence of Exts. P-52, P-72 and P-73 respectively. The court also held that the submission on behalf of the appellant that the fingerprint of A-1 could be there upon the almirah in the normal course of business as A-1 was the domestic servant working in the bungalow was equally without merit. The presence of fingerprints of A-2 found in the house and particularly on the almirah in the bedroom of the deceased remained unexplained and no attempt was made by any of the accused persons to take a stand to explain their conduct.

f) **Impact of Forensic Evidence (Conviction):** The appeal was dismissed as the Supreme Court Judges found no infirmity in the judgment under appeal and found no merit in the submissions raised on behalf of the accused.

81. **Ranjithkumar and Radha v. State (08.03.2012 – MADHC)**
MANU/TN/0275/2012

A-1 and A-2 were convicted by trial court under sections **302/34 IPC**. A-2 was in illegal intimacy with A-1. Inspite of warning of Panchayat and of her husband she continued her illegal affair with him. She and her paramour found deceased an obstacle. Hence they had strong motive and reason to eliminate him. **Chance fingerprints lifted from bike tallied with specimen fingerprints of A-1.** A-2 made false explanation during her examination under section 313 of CrPC. It was an incriminating substance against her. There was incriminating medical evidence. Deceased did not suffer natural death. He was poisoned, strangulated, beaten with blunt weapon and he died of cumulative effect of head injury, compression neck and poisoning. Information recorded from A-1 and A-2 and recovery of weapon had been established. Bloodstains found in deceased house and his dresses and bloodstains found on dresses of A-1 and

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A-2 were all one and same. All incriminating circumstances, unerringly proceeded towards the guilt of the accused. **Conviction** was confirmed and appeal dismissed.  

82. **Rohit Dhingra & Anr. v. State (03.02.2012 – DELHC) MANU/DE/0357/2012**

The appellant was convicted under sections **302/34 IPC**. Inference was drawn on basis of mobile tower details which could not have been held against them. As far as the recovery of the four beer cans and the finger prints found on them are concerned, though the fingerprint expert's report appeared to be clinching, a detailed analysis would reveal that PW-8 and PW-22, who were the first policemen to reach the spot, on the morning of 11-01-2008, did not mention about such articles, seized later. The prosecution case is that they were seized two days later, on 13-01-2008. Now, two crime scene reports were prepared on 13-01-2008; Ex. PW-18/A and Ex. PW-21/A - both mentioned the beer bottles and the wrapper. One of these reports stated that the scene was investigated on 11-01-2008 itself, when these articles were observed. Yet, they were not seized, and the evidence of the prosecution witnesses was that they were left at the scene, in the open. This completely rendered the prosecution version improbable, both as to seizure, as well as the fingerprints on the bottles. Besides, the appellants' argument about credibility of the fingerprint expert's report, had substance because none of the prosecution witness deposed about when and how, the specimen fingerprints and palm prints were secured from the accused. Therefore, it was unsafe to rely on Ex. PW-17/A, the fingerprint expert's report. Moreover, in absence of positive material proving beyond reasonable doubt that accused was at scene of occurrence, trial court could not have concluded that appellants were so present in present case and then shifted burden of proving that they were not at that place at time when offence was committed. Therefore conviction was set aside and the appeal was allowed by recording **acquittal**. 

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91 *Ranjithkumar and Radha v. State* (08.03.2012 – MADHC) MANU/TN/0275/2012  


The appellants were convicted under sections 302, 34, 392, and 397 IPC. Hence these appeals. Held, it was well settled that evidence of witness without getting assistance of Expert, is inadmissible and conviction cannot be sustained on testimony of such witness. However in this case, P.W. 1 complainant was not able to speak and through his sign with help of Government Deaf School teacher was able to identify complaint Ex. P.1. given by him. Though assistance of teacher working in Deaf School was not fruitful and in order to get assistance of Expert, to speak about evidence of this witness, case was adjourned even after marking complaint as Ex.P1. Further IO had not deposed that on date of arrest of Accused Nos. 1 and 2, he obtained fingerprints in presence of witnesses or he had taken written order from Judicial Magistrate. Moreover to establish case of prosecution, cited witness was examined to prove that A-2 pledged stud but, this witness did not whisper anything about pledge made by A-2 as well as identification of A-2 and recovery of such golden studs from shop. There was nothing to support case of prosecution. Also doctor who conducted postmortem on body of deceased deposed that deceased would appear to have died due to asphyxia. Thus there was no valid evidence to connect accused to valuable material objects seized and marked as M.Os. 1 and 2. Therefore prosecutions had miserably failed to establish case on hand. Hence order of conviction passed by trial Court were set aside and appellants were acquitted of charges.93


Accused Nos. 1 and 4 were convicted for offence punishable under section 120B/364 and also under section 302/34 of IPC. A-1 and A-4 to A-8 were also convicted for offence punishable under section 201 read with section 34 IPC. A-2 and A-3 were acquitted of all charges. Trial Judge had analyzed circumstantial evidence, medical evidence and evidence of forensic expert in present case which were found sufficiently corroborative to ocular version of incident of fraudulent abduction, double murder and attempts to destroy evidence. Prosecution proved offences of abduction and double

murder of deceased couple and attempt to destroy evidence of heinous criminal act, committed pursuant to criminal conspiracy secretly hatched between A-1 and A-4 beyond reasonable doubt. **Fingerprint** experts were invited. They had taken chance fingerprints by examining Motor Vehicle Tempo Trax. Ex. 303 is expert opinion regarding the chance prints obtained under the panchnama from the driver side rear view mirror of Motor Vehicle which matched with the right thumb finger impression in the finger impression slip of A-4. PW52 also corroborated this evidence, stating that expert were called upon by letter sent by P, the Police Inspector, to compare those chance prints with the specimen fingerprints of all the accused in the case. There was no evidence adduced by the prosecution to show that that A-2 and A-3 were parties to conspiracy. Therefore, both of them had been rightly acquitted by the trial court. It was unsafe to convict A-5 to A-8 only on the basis of identification of said accused by eye witness in court. Appeal of A-1 and A-4 was dismissed and they were convicted. Appeal of A-7 was allowed. He was acquitted of all the offences with which he was charged and given benefit of doubt. Appeal by the State was dismissed. Appeal of appellants 6, 8 and 5 were allowed.\(^\text{94}\)


MANU/UP/0905/2013

This is a case of triple murder by firing shots. The appellants were convicted under section **302/34 IPC**. Killing of deceased persons by appellants was proved. Evidence of prosecution witness was found to be trustworthy. **Fingerprints** of the appellants were taken. Police record was manipulated so as to benefit accused persons. Defence evidence found to be forged and fabricated to support pleas of alibi of appellants. There was no conflict in oral and medical testimony. Prosecution succeeded in proving charges against the accused persons. Appeal was dismissed. **Conviction** upheld.\(^\text{95}\)

\(^{94}\) Babubhai @ Zaverchand Harjivan Sheth v. The State of Maharashtra (12.04.2013 – BOMHC) MANU/MH/0331/2013

\(^{95}\) Kamlesh Singh And Etc.v. State of U.P. (06.03.2013 – ALLHC) MANU/UP/0905/2013

Additional Sessions Judge convicted appellant/accused for offences punishable under sections 457, 459, 460, 380, 302 read with section 114 IPC. Hence this appeal. Held. A-1 was working as a household servant in house of deceased. Movement was A-2 was spotted round the house of deceased shortly before incident. D-1 was assaulted with a hammer on head which caused his death. Hammer was found from house itself. D-2 was assaulted with a sharp weapon. Injuries spotted by doctor confirmed same could have been caused by a dhariya. FSL report confirmed presence of human blood. Serological report suggested that blood belonged to deceased. Dhariya was discovered at instance of accused No. 1 from house of deceased. Fingerprints of A-2 were found from certain articles inside house of deceased. Though case based on purely circumstantial evidence, chain of circumstances was complete. Thus judgment of trial court was confirmed and the appeal was dismissed.96


a) Background of the case: This appeal by special leave was directed against the judgment and order passes by the High Court whereby the judgment and order by the learned Sessions Judge convicting the appellant-accused under section 302 and sentencing him to imprisonment for life and a fine of Rs. 100 was maintained by the High Court.

b) Facts of the case: The appellant and the deceased were crew members on a ship, sailing from South Africa to Japan. The appellant allegedly confessed before PW6, Second Officer of the ship that he had killed the deceased. A bloodstained knife was recovered from him. A day before the incident an altercation alleged to have taken place between the accused and the deceased, which was said to be the motive for the murder of the deceased by the appellant.

c) **Typology of Forensic Evidence Used in the Case: Fingerprints** were taken from knife recovered from appellant. The specimen fingerprints and signature of the accused were obtained.

d) **Report Of The Experts Regarding The Case:** The knife and the specimen fingerprints were then sent to the (CFSL) for comparison. The fingerprints of the accused had tallied with the fingerprints which appeared on the knife (Ext. P-3). Another knife was also recovered but that was not examined to find out the presence of fingerprints on it.

e) **Ground For Rejecting The Forensic Evidence:** There were 14 stab wounds on the neck of the deceased but no blood was found on the clothes of the appellant or at the scene of occurrence. The clothes of the appellant was not seized. The Master of ship got the scene of offence cleaned and nothing was kept intact in and around the cabin where the offence was allegedly committed. No site plan was prepared by the IO. One other human bloodstained knife with matching blood group of the deceased was also recovered from the blue coloured boiler suit worn by the deceased at the time of the incident. The said knife was not subjected to examination to find out the presence of fingerprints. Even the opinion of an expert witness was not sought as to whether the cuts on the said recovered boiler suit could have been caused by that knife. The appellant was tied up and kept on the bridge of the ship for at least 2 to 3 days. It was possible that the appellant was forced to hold the knife so as to get his fingerprints on the knife which was never kept inside the fish room along with the dead body. The knives were not shown to the doctor who conducted the post mortem on the deceased to seek his opinion if the same could have been the possible or only weapon(s) of offence. The prosecution failed to give sufficient explanation as to who had assaulted the deceased by using the other knife.
f) **Impact of Forensic Evidence (Acquittal):** In view of the aforesaid reasons the appeal was allowed and the impugned judgments of the High Court and the trial court were set aside. The appellant was directed to be released forthwith.  

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The accused was convicted for murdering his parents and wife and convicted under section 302 IPC and awarded death sentence. Motive to commit the murder was that accused had an affair with a girl even after marriage and he wiped out his whole family in order to ensure that he continued his liaison with a girl in the neighbourhood and marry her. Crime team was called at the spot and the spot was photographed from various angles, **chance fingerprints** were lifted from the spot, blood samples and earth control were lifted from near the dead body and seized by police. Chance fingerprints tallied with the fingerprints of the accused. Testimony of two witnesses regarding accused having relation with a girl went unrebutted. Although accused committed murder in most brutal, diabolic and grotesque manner but since he had no bad antecedents nor was a hard core criminal or an anti-social element, possibility of rehabilitation was not foreclosed. Therefore death penalty was commuted to rigorous imprisonment for end of his life. Appeal was thus disposed of by commuting the **conviction.**

**89. Raj Kumar Bharmoria v. State of Himachal Pradesh (22.05.2013 – HPHC) MANU/HP/0470/2013**

Appellant was convicted for offence of voluntary causing hurt in committing robbery under section 394 IPC. Hence, present appeal. Held, material contradiction found in testimony of complainant and prosecution witness. Witness to seizure was declared hostile and denied that memo was prepared by police at spot. Evidence of identification of both prosecution witnesses being at variance, the evidence was not reliable. Lifting
of fingerprints from stolen taxi had not been proved. The witnesses in whose presence the fingerprints were lifted from the taxi have not been examined. There were unexplained inordinate delay in sending the prints for analysis. The fingerprints were not even taken in presence of the Magistrate and there were no evidence as in whose presence the fingerprints of the accused were taken. Prosecution had not been able to prove case beyond reasonable doubt. Appellant’s conviction was unsustainable and liable to be set aside. Thus, appeal was allowed and acquittal was recorded.99


The appeal had been preferred by the State against the judgment and order of acquittal passed by the trial court. The appellants were previously accused for causing homicidal death under section 302 IPC. The circumstance of motive was proved through the evidence of PW12. There was evidence to show that A-1 had got acquaintance with the deceased. Fingerprints of A-1 were found on the iron safe of the deceased which tallied with the admitted fingerprints of A-1. Incriminating articles were recovered at the instance of A-1. The chopper was recovered from A-2. Entire chain of circumstances proved the guilt of the accused. Held, the judgment of the trial court was unsustainable at law. Hence, the order of acquittal was set aside and the conviction awarded.100


Additional Sessions Judge convicted appellant for offences under sections 347, 380, 452, 460, 302/34 and 120B IPC. For the offence of section 302/34 read with section 120B of IPC appellant had been awarded death sentence. Hence, this death reference and appeal. Held it was proved by evidence that it was appellant and his other accomplice who committed the murder of two deceased and also other offences in same

100 State by Rural Police v. B.C. Manjunatha and V. Prashanth (17. 04. 2013 – KARHC) MANU/KA/1108/2013
transaction. Submission that chance fingerprint did not come into existence at time of alleged incident was wholly misconceived as it was quite evident from evidence of IO that soon after occurrence, place of occurrence was preserved and chance prints were taken by IO. Thus having maintained conviction of appellant court considered efficacy of death sentence imposed on appellant. Therefore as case of appellant not being rarest of rare case, sentence of death awarded to appellant was converted into life imprisonment. Therefore the death reference and the appeal were dismissed and conviction commuted.\textsuperscript{101}


Present appeal was filed challenging order whereby, appellants were convicted for offence punishable under sections 302/201 read with section 34 IPC. Held, recovery of all articles from spot was duly proved. Sufficient evidence established illicit relationship between wife of deceased and other appellant and appellants had motive to eliminate deceased. Established that appellants were together in same house where from dead body was recovered. The chance fingerprints found on the vodka bottle matched with the admitted fingerprints of the appellants. Appellants failed to give any explanation in this regard. The guilt of the appellants was proved beyond any doubt. Held, conviction of the appellants was justified and the appeal dismissed.\textsuperscript{102}


a) Background of the case: The accused was chargesheeted under section 302/380 of IPC for having murdered the deceased lady and for having stolen her cash and ornaments valued at about Rs. 25000/-. The trial court by its judgment and order acquitted the accused but the acquittal was set aside by the High Court. Under such circumstances the appeal was before us.

\textsuperscript{102} Parminder Kaur v. State (01.08.2014 – DELHC) MANU/DE/1783/2014
b) **Facts of the case:** The appellant went to the deceased house and informed the deceased that he had come from the village of the deceased and enquired whether his brother’s son had come to the house of the deceased. In the evening of the same day, since the deceased normally visited the house of PW1 and that day she did not visit the house, PW1 sent her grandson to the deceased house and the grandson returned along with the deceased to the house of PW1 when the deceased stated that she could not stay at the house to watch television on the relevant day since some relatives from the village had come to her house and she had to cook food for them. Soon thereafter, the deceased returned to her house. On the next day when PW1 visited the medical shop she learnt that the deceased had been murdered in her house. Thereupon, she went to the house of the deceased and when she entered the house she saw the dead body of the deceased with her clothes and other articles lying scattered.

c) **Typology of Forensic Evidence Used in the Case: Fingerprint** evidence were recovered from the place of incident The photographer also produced a negative of a photograph taken by him consisting the **fingerprints** of the accused on the bank pass book.

d) **Report Of The Experts Regarding The Case:** The witnesses relevant for the purposes of the fingerprint evidence as relevant circumstance were Ramachandra (R), the photographer and Nanaiah (N), the fingerprint expert. R stated that he had taken a photograph of the bank pass book belonging to the deceased. He also produced in court the negative of the photograph taken by him, which was marked as MO-13(a), of the accused fingerprints on the pass book. No positive print or photograph was developed from the negative. In the cross-examination, R could not say if the fingerprint in the negative was that appearing on the pass book. In other words, there was nothing in MO-13(a) to relate it to the pass book. N stated that he had obtained from the scene of occurrence a chance print on a plastic cover bearing the inscription ‘Canara Bank’. The plastic cover was marked as Exh.P-18 and an enlarged photograph of this was marked as Exh.P-19. The fingerprints were taken by N for comparison and according to N, he compared the fingerprints on Exh. P-19 with the fingerprints of the accused on Exh. P-20. On comparison being
made, the fingerprints thereon matched the fingerprints of the accused and a certificate was issued in that respect by N which was marked as Ex. P-13.

e) **Ground For Rejecting The Forensic Evidence:** As there was a doubt in the statement of R whether the fingerprint on the negative was that appearing on the passbook, the testimony of R with regard to the fingerprints of accused on bank pass book was regarded as inconsequential by the court. A doubt also raised in the mind of the court regarding how Exh.P-20 came into existence. The court neither got the answer to the question nor there was anything to show that Exh.P-20 contained the fingerprint of the accused. Even the testimony of the IO was silent on this respect. The court contended that it was not clear whether the fingerprint was given by the accused voluntarily or whether it was obtained by the IO in a deceitful manner. To avoid any suspicion regarding the genuineness of the fingerprint, the appropriate course of action for the IO was to approach the Magistrate for necessary orders in accordance with section 5 of the Identification of Prisoner’s Act, 1920. In this case the court was suspicious as to the date on which the fingerprint of the accused was taken as one date was alleged by the accused and another date was contended by the IO. It was to obviate any such suspicion that the court held it to be eminently desirable that fingerprints are taken before or under the order of a Magistrate. According to the court, in the present case the entire exercise of identification of fingerprint of the accused was shrouded in mystery and therefore no credence was given to it. The court stated that the murder committed in the present case was way back in 1990, when also scientific methods for investigations were available but were not made use of. While departing the court expressed its unhappiness on the present state of affairs and stated that from then onwards the prosecution should lay stress on scientific collection and analysis of evidence, particularly since there were enough methods of arriving at clear conclusions based on evidence gathered.
f) **Impact of Forensic Evidence (Acquittal):** The court opined that none of the circumstances relied upon by the prosecution and accepted by the High Court pointed to the probability of the guilt or involvement of the accused in the murder. Consequently, the appeal was allowed setting aside the judgement and order of the High Court and **acquittal** of the accused was recorded\(^\text{103}\).


Present appeal was filed for challenging death penalty awarded by Trial Court for offences of sexual assault and murder under sections **376 and 302 IPC**. While investigating the case the investigating agency adopted scientific methods for conclusively proving the identity of the accused persons, such as DNA analysis, **fingerprint** and bite mark analysis. It is proposed to discuss elaborately each of the scientific methods adopted by the investigation to nail the culprits in view of the fact that one of the main issues involved in the present case raised by the defence was the identification of the accused. It emerged from the record, that a team of experts from the CFSL had lifted chance prints from the bus in question (Ex. P-1). The CFSL took the finger/palm prints and foot prints of the accused persons at Tihar Jail. As per the report Ex. PW-46 /D the result of the aforesaid examination of the Finger Print Division of the CFSL:CBI: New Delhi was that the chance prints of the accused Vinay Sharma were found on the bus in question. Held, victim and her friend had reposed complete confidence in occupants of contract bus while boarding same to reach their destination. Convicts misused confidence and faith of victim and her friend, made them to board bus so as to overpower them on way and satisfy their lust. Crime was pre-planned and executed by resorting to diabolical method, exhibiting inhuman conduct in ghastly manner. Convicts behaved in barbaric and inhuman manner by inserting rods and hand in victim's private parts and taking out her internal organs. Convicts also pulled victim with hair, dragged her from rear portion of bus to front gate and threw her out of bus along with her friend in nude condition on road side. Not only to deter others from committing such atrocious crimes, but also to give emphatic expression to society's abhorrence of such crimes, death penalty needed to be confirmed. Order of

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\(^{103}\) *Prakash v. State of Karnataka* 2014 Cri L.J. 2503 (SC) : (2014) 12 SCC 133
Trial Court was justified in respect of granting death penalty to Convicts. No infirmity found in impugned order. Appeal dismissed conviction confirmed.  


Appellants were convicted for offences of voluntarily causing hurt in committing robbery and murder under sections 302 and 394 IPC. Hence, present appeals. Four fingerprints were lifted from the locker however they were not developed to rule out the presence of the appellants. Held, merely because the four chance prints did not tallied with the appellants, does not rule out the presence of the appellants at the spot or their not having touched the locker. The presence of chance prints of the appellants though would have connected them with the offence; however the absence of their chance prints is not consistent with the hypothesis that they are not guilty. Thus, order convicting Appellants for offence punishable under provisions of Code upheld, thereby modifying order on sentence. Appeals disposed of by modifying conviction.


Present appeal was filed against order of conviction for offence of murder under section 302 IPC. Held, court identification by prosecution witness had to be disbelieved in light of evidence of injured witness recorded in evening of occurrence. Fingerprints were collected from the place of occurrence and photograph of the fingerprints were also taken from the same place. The fingerprints were developed. Failure of prosecution to indicate date on which arms, ammunitions and also metallic bullet were seized. Materials on record created doubt about authenticity of seizure of arms, ammunitions and extracted metallic bullet from body of deceased. Finding of FSL that metallic bullet recovered from dead body of deceased was fired from pistol recovered at the instance

of appellant was not free from doubt. Therefore the impugned order was set aside and appeal was allowed by recording acquittal.\textsuperscript{106}


Present appeal was filed against order convicting appellants for offences of outraging the modesty of woman, house trespass and criminal intimidation under sections 35, 452 and 506-II IPC and acquitting other accused from such offences. Held, malicious big assault had taken place as established by evidence. Past incidents of two FIR’s was registered against accused, one at instance of deceased and other at instance of her brother from which the motive was established. Fingerprint expert lifted chance prints from house, one of which was lifted from the dressing table of the room. As per the report of the expert it matched with that of M. Object of common assembly was therefore to overcome any resistance to give effect to main object i.e. to humiliate and kill deceased. Thus acquittal of accused for offence of forming unlawful assembly was liable to be set aside. Hence all accused including appellant were convicted for offences of rioting, unlawful assembly, murder, voluntarily causing hurt, outraging modesty of woman, house-trespass and criminal intimidation. Thus impugned order was set aside.\textsuperscript{107}


Appellant-accused was convicted for house trespass and commission of rape and robbery, involving murder and attempt to murder under sections 302, 449, 342, 376(1), 307, 394 and 397 of IPC. Held from the evidence, it was clear that the appellant came to the house driven by lust with the intention of satisfying his desires at the cost of chastity of prosecutrix (PW1). He was armed with aruval, which in all probability he intended to use to intimidate anyone who opposed him. Undoubtedly, appellant

\textsuperscript{107} Vicky v. Sate (17.11.2014 – DELHC) MANU/DE/2860/2014

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committed murder of deceased on the spur of the moment, since he was enraged and infuriated when the boy had untied himself and who had seen him committing rape. It was also clear that it was in the same state of mind he attacked S (PW2) who had seen him attacking deceased. Appellant’s main motive was not to commit murder but to satisfy his lust. A thorough investigation was conducted. Fingerprints and photographs were also collected during the course of investigation. The court was of the view that an element of recklessness was there in appellant’s action but that was not sufficient in circumstances of instant case to attract extreme penalty of death. Consequently, appellant’s death sentence was commuted to imprisonment for remainder of his life. The appellant was thus convicted for the remainder of his life for the offence of murder.\textsuperscript{108}

\begin{itemize}
\item \textbf{99. State (Govt. of NCT of Delhi) v. Raj Kumar and Ors. (04.03.2015 – DELHC) MANU/DE/0929/2015}
\end{itemize}

The accused persons were acquitted of the charges under sections 378, 302, 120B, 392, 411 and 34 of IPC. Hence, this appeal was filed by the State. Blood stained clothes which were recovered at the instance of respondent was not helpful to the prosecution in connecting the respondents with the alleged crime as according to the FSL report the blood group did not match. Also the fingerprints lifted from the scene of crime did not match with those of deceased. As to the recovery of mobile phone of the deceased from respondent No. 2, mere identification of the mobile phone by the nephew of the deceased is insufficient, especially given that no judicial TIP was conducted, nor were the particulars of the recovered mobile phone matched with those of the deceased.

Held, in the present case the trial court has given detailed reasons for disbelieving the prosecution version of the case and the Delhi High Court was not inclined to take a different view. The Court found no infirmity in the judgment of the trial court. The acquittal recorded by the trial court was based on reasons and thus, there were no round to grant leave to petition. Thus the leave petition of the State was dismissed.\textsuperscript{109}

\begin{itemize}
\item \textsuperscript{108} 
\textit{B. Kumar v. Inspector of Police} (2015) 2 SCC 346
\item \textsuperscript{109} \textit{State (Govt. of NCT of Delhi) v. Raj Kumar and Ors. (04.03.2015 – DELHC) MANU/DE/0929/2015}
\end{itemize}

The accused respondents were acquitted by the High Court of Punjab and Haryana although were convicted for the commission of offences under sections 302/120B IPC by the Additional Sessions Judge. Aggrieved by the acquittal of the accused persons the State of Punjab preferred the present appeal. The accused/respondent were charged for shooting victim dead outside his house. Eyewitnesses (mother and wife of deceased) identified both accused in court. Their testimonies were found cogent, natural and trustworthy. There was no material discrepancy in their testimonies. Further fingerprints raised from place of incident found similar to finger impressions of both accused persons taken in presence of Judicial Magistrate, hence there was no suspicion as to their bona fides. PW25 was the fingerprint expert who conducted the experiment and prepared the report as above. In the aforesaid facts and circumstances, held conviction of both appellants under section 302 IPC and 25 Arms Act, were confirmed.110

5.4 TABLE OF CRIMINAL CASES IN WHICH FINGERPRINT EVIDENCE WAS USED/REFERRED FOR RECORDING CONVICTION OR ACQUITTAL

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<td>A-1 was convicted but A-2 was acquitted</td>
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<td>Ram Nath v. The State (31.12.2009 – DELHC) MANU/DE/4079/2007</td>
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<td>46.</td>
<td>Kamal Kumar v. State (11.02.2009 – DELHC) MANU/DE/0843/2009</td>
<td>354, 363 302 IPC</td>
<td>Fingerprint expert was called and he lifted the chance fingerprints from the dead body and blood stained stone seized from the spot but could not develop any print</td>
<td>Conviction</td>
</tr>
<tr>
<td>47.</td>
<td>M.A. Antony v. State of Kerala (2009) 6 SCC 220</td>
<td>449, 379, 302, 201 IPC</td>
<td>The fingerprint expert had matched them and it tallied with the fingerprints of the accused</td>
<td>Conviction</td>
</tr>
<tr>
<td>49.</td>
<td>Rajesh Kumar v. State (Govt. of NCT of Delhi) (06.08.2009 – DELHC) MANU/DE/1652/2009</td>
<td>302 IPC</td>
<td>The chance fingerprints and the specimen fingerprints of the appellant was taken by the IO and were sent to the fingerprint expert, who opined that the chance fingerprints Q-1 matched the specimen fingerprint S-1 pertaining to the right hand middle finger of the accused</td>
<td>Conviction</td>
</tr>
<tr>
<td>50.</td>
<td>Santosh @ Bhure v. State (05.03.2009 – DELHC) MANU/DE/1141/2009</td>
<td>302 IPC</td>
<td>Fingerprints of the accused were taken. It was held that giving handwriting samples or fingerprints or palm impressions did not tantamount to giving evidence against himself which violates</td>
<td>Conviction</td>
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<td>Case</td>
<td>Law</td>
<td>Reason</td>
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<td>51.</td>
<td>State v. Sanjay Dass (27.10.2009 – DELHC) MANU/DE/2776/2009</td>
<td>Article 20(3)</td>
<td>Having given no opportunity to the prosecution witnesses to explain the circumstance pertaining to lifting of fingerprints from the knives in question no adverse inference could be made against the prosecution</td>
<td>Conviction</td>
</tr>
<tr>
<td>52.</td>
<td>Tipparam Prabhakar v. State of A.P. (2009) 13 SCC 534</td>
<td>302 IPC</td>
<td>The fingerprints of A-1 were found on the seized articles and it tallied with the fingerprints taken from A-1. But A-1 had already been acquitted by the High Court. Therefore conviction of A-2 as set aside</td>
<td>Acquittal</td>
</tr>
<tr>
<td>53.</td>
<td>Vinod Kumar Soin @ Kapil Kumar v. State (27.11. 2009 – DELHC) MANU/DE/3060/2009</td>
<td>302 IPC 27 of Arms Act</td>
<td>The perusal of the report of the fingerprint expert revealed that fingerprints lifted from the weapon of offence were not complete, and therefore could not be compared with the fingerprint of the accused; as such that factor was of no avail to the appellant</td>
<td>Conviction</td>
</tr>
<tr>
<td>54.</td>
<td>Harpal Singh v. State (25.05.2010 – DELHC) MANU/DE/1091/2010</td>
<td>302 IPC</td>
<td>Fingerprints of the appellants were taken against which a contention was raised that it violated Article 20(3) of the Constitution of India. The SC held if fingerprints are obtained by police it did not amount to compelling an accused</td>
<td>Conviction</td>
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<td>Case Details</td>
<td>Section(s)</td>
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<td>55</td>
<td>Kali v. State, Inspector of Police (08.04.2010 – MADHC)</td>
<td>395 IPC</td>
<td>Prosecution had miserably failed to prove recovery and also that the fingerprints taken from the place of occurrence was related to that of appellants</td>
<td>Acquittal</td>
</tr>
<tr>
<td>56</td>
<td>K.K. Saini v. State (17.05.2010 – DELHC)</td>
<td>364A IPC</td>
<td>Fingerprints were sent for comparison and a report was sent that chance fingerprint Q-9 matched with that of the appellant</td>
<td>Conviction</td>
</tr>
<tr>
<td>57</td>
<td>Mohd. Yunus v. State (05.04.2010 – DELHC)</td>
<td>302, 420, 468 471 IPC</td>
<td>Although fingerprints of the appellant were obtained but it was of no use as there was no other evidence to show the complicity of the appellant in the commission of the crime</td>
<td>Acquittal</td>
</tr>
<tr>
<td>58</td>
<td>Musheer Khan And Another v. State of Madhya Pradesh (2010) 2 SCC 748</td>
<td>302/120-B IPC, 25(1)(a) &amp; (b) and section 27 of Arms Act</td>
<td>Although there were evidence of fingerprint expert but that was not regarded as a substantive evidence, and it was not taken into account</td>
<td>Acquittal</td>
</tr>
<tr>
<td>59</td>
<td>Padia @ Pradeep Kumar Sahu And Anr. v. Republic of India (24.06.2010 – ORIHC)</td>
<td>341, 366, 376(2)(g) and 506</td>
<td>Fingerprint report, evidence of the employee of the petrol pump and other evidences recorded in the course of trial</td>
<td>Conviction</td>
</tr>
<tr>
<td>60</td>
<td>Palanichamy and v. The State represented by The Inspector of Police (26.07.2010 – MADHC)</td>
<td>302, 34 IPC</td>
<td>It is settled principle of law the fingerprints taken from the accused, must be taken procedurally which was not done in this case</td>
<td>Acquittal</td>
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<td>62.</td>
<td>Sagunthala v. State (13.09.2010 – MADHC) MANU/TN/3227/2010</td>
<td>302 IPC</td>
<td>Fingerprint expert opined that fingerprint of A-1 tallied with the fingerprints found on the beer bottle which could not be construed to be conclusive and same was to be tested only as a corroborative piece of material along with other material available on record</td>
<td>Acquittal</td>
</tr>
<tr>
<td>63.</td>
<td>State of Karnataka v. Murali and Ors. (23.04.2010 – KARHC) MANU/KA/1491/2010</td>
<td>302, 307, 394, 448 read with section 34 IPC</td>
<td>Fingerprint of A-3 were found on the Almirah</td>
<td>Conviction</td>
</tr>
<tr>
<td>64.</td>
<td>The State of Punjab v. Manjit Singh and Ors. (12.05.2010 – PHHC) MANU/PH/0535/2010</td>
<td>302 IPC</td>
<td>The fingerprints of right and left hands of the accused persons were obtained. The said samples were compared by the Finger Print Bureau and a report was given</td>
<td>Conviction</td>
</tr>
<tr>
<td>65.</td>
<td>Uttam Kumar v. State (26.04.2010 – DELHC) MANU/DE/0869/2010</td>
<td>302 IPC</td>
<td>Fingerprint of the appellant was detected inside the bathroom where the dead body of the deceased was recovered</td>
<td>Conviction</td>
</tr>
<tr>
<td>66.</td>
<td>Vikram Singh And Others v. State of Punjab (2010) 3 SCC 56</td>
<td>302, 364-A, 120B, 201 IPC</td>
<td>Fingerprint of J and V were found on cars, while thumb impression of J found on chloroform bottle</td>
<td>Conviction</td>
</tr>
<tr>
<td>67.</td>
<td>Arvind Kumar Vishnoi v. State of Uttarakhand</td>
<td>302/34 IPC</td>
<td>Fingerprint evidence was put on record and the fingerprint experts</td>
<td>Conviction</td>
</tr>
<tr>
<td>68.</td>
<td>B.A. Umesh v State of Karnataka (2011) 3 SCC 85</td>
<td>376, 302, 392 IPC</td>
<td>The fingerprint expert PW13 opined that the fingerprints which had been lifted by him from the handle of the steel almirah in the room, matched with the fingerprint of the appellant</td>
<td>Conviction</td>
</tr>
<tr>
<td>70.</td>
<td>Jagdish v. State (29.07.2011 – DELHC) MANU/DE/2982/2011</td>
<td>395, 396, 460 IPC</td>
<td>Although, the prosecution had lifted the chance fingerprints, from the almirah and two different places and sent them to the expert but the report was not on record</td>
<td>Conviction</td>
</tr>
<tr>
<td>71.</td>
<td>Maya Chanchal v. State (18.08.2011 – DELHC) MANU/DE/3193/2011</td>
<td>452, 307, 392, 397 and 302 read with section 34 of IPC</td>
<td>Fingerprint impression of appellant were found on articles in house which remained unchallenged</td>
<td>Conviction</td>
</tr>
<tr>
<td>72.</td>
<td>Mohd. Javed v. The State (Govt. of NCT of Delhi) (06.04.2011 – DELHC) MANU/DE/1084/2011</td>
<td>120B, 364A, 302 of IPC</td>
<td>Although chance fingerprints were recovered from the place of occurrence but it did not match with specimen fingerprints obtained from the appellant. Considering testimonies of witnesses and documents on record, offence against appellants was proved</td>
<td>Conviction</td>
</tr>
<tr>
<td>73.</td>
<td>Raju Balaram</td>
<td>449, 392, 394,</td>
<td>Procedure adopted by</td>
<td>Acquittal</td>
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<td>No.</td>
<td>Case Name</td>
<td>Reference</td>
<td>IPC</td>
<td>Facts</td>
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<td>74.</td>
<td>Ravi Kant Sharma v. State (12.10.2011 – DELHC)</td>
<td>MANU/DE/3994/2011</td>
<td>120B, 302 IPC</td>
<td>Fingerprints of P were found on the polythene cover of the box of sweets and also on one of the teacups</td>
</tr>
<tr>
<td>75.</td>
<td>State v. Mahender Singh Dahiya (2011)</td>
<td>3 SCC 109</td>
<td>302, 201 IPC</td>
<td>The fingerprint expert PW UK-18 was not able to conclude that the evidence produced would connect the palm prints with the palm prints of the deceased. Therefore the report of the fingerprint expert on this aspect was not found definite</td>
</tr>
<tr>
<td>76.</td>
<td>State of Punjab v. Joginder Singh alias Neela (06.01.2011 – PHHC)</td>
<td>MANU/PH/1268/2011</td>
<td>302 IPC</td>
<td>Fingerprints were obtained from suspected people and also compared and a report was also submitted</td>
</tr>
<tr>
<td>77.</td>
<td>Jamal Mirza and Ors. v. State (27.01.2012 – DELHC)</td>
<td>396, 397 IPC</td>
<td>396, 397 IPC</td>
<td>Fingerprints expert lifted six chance fingerprints and it matched with the fingerprints of the appellants</td>
</tr>
<tr>
<td>78.</td>
<td>K. Chinnathambi @ Aruva Chinnathambi and Another v. State (13.12.2012 – MADHC)</td>
<td>MANU/TN/2538/2012</td>
<td>449, 302 IPC</td>
<td>Even though, fingerprints were collected but court could not accept it and could not convict the accused depending on the fingerprints evidence so had to remit the conviction</td>
</tr>
<tr>
<td>79.</td>
<td>Mukesh Kumar v. State (04.05.2012 – DELHC)</td>
<td>MANU/DE/1968/201</td>
<td>302 and 404 IPC</td>
<td>Fingerprints established presence of appellant at spot and also strong</td>
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<td>No.</td>
<td>Case Details</td>
<td>Citation</td>
<td>Description</td>
<td>Outcome</td>
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<td>80.</td>
<td>Munna Kr. Upadhyay v. State of A.P. (2012) 6 SCC 174</td>
<td>302, 201, 435, 411 and sections 25(1-A) and 27(1) of the Arms Act</td>
<td>The fingerprint expert clearly stated that the chance fingerprints matched with the fingerprints of A-1 and A-2</td>
<td>Conviction</td>
</tr>
<tr>
<td>81.</td>
<td>Ranjithkumar and Radha v. State (08.03.2012 – MADHC) MANU/TN/0275/2012</td>
<td>302/34 IPC</td>
<td>Chance fingerprints lifted from bike tallied with specimen fingerprints of A-1</td>
<td>Conviction</td>
</tr>
<tr>
<td>82.</td>
<td>Rohit Dhingra &amp; Anr. v. State (03.02.2012 – DELHC) MANU/DE/0357/2012</td>
<td>302/34 IPC</td>
<td>The appellants' argument about credibility of the fingerprint expert’s report, had substance because none of the prosecution witness deposed about when and how, the specimen fingerprints and palm prints were secured from the accused</td>
<td>Acquittal</td>
</tr>
<tr>
<td>83.</td>
<td>Sathish Kumar v. State (12.06.2012 – MADHC) MANU/TN/1583/2012</td>
<td>302, 34, 392, 397 IPC</td>
<td>IO had not deposed that on date of arrest of Accused Nos. 1 and 2, he obtained fingerprints in presence of witnesses or he had taken written order from Judicial Magistrate</td>
<td>Acquittal</td>
</tr>
<tr>
<td>84.</td>
<td>Babubhai @ Zaverchand Harjivan Sheth v. The State of Maharashtra (12.04.2013 – BOMHC) MANU/MH/0331/2013</td>
<td>120B/364, 302/34 IPC</td>
<td>Fingerprint expert had taken chance fingerprints and opined that chance prints obtained under the panchnana from the driver side rear view mirror of Motor Vehicle matched with the right thumb finger impression of A-4</td>
<td>Conviction</td>
</tr>
<tr>
<td>85.</td>
<td>Kamlesh Singh And Etc.v. State of U.P. (06.03.2013 – ALLHC) MANU/UP/0905/2013</td>
<td>302/34 IPC</td>
<td>Fingerprints of the appellants were taken</td>
<td>Conviction</td>
</tr>
<tr>
<td>86.</td>
<td>Laliben &amp; Anr. v. State of Gujraj (12.11.2013 – GUJHC)</td>
<td>457, 459, 460, 380, 302 read with section 114 IPC</td>
<td>Fingerprints of A-2 were found from certain articles inside house of deceased</td>
<td>Conviction</td>
</tr>
<tr>
<td>87.</td>
<td>Majenderan Langeswaran v. State (2013) 7 SCC 192</td>
<td>302 IPC</td>
<td>The court opined that although fingerprints the appellant was found on the knife but he might be forced to hold the knife so as to get his fingerprints on the knife</td>
<td>Acquittal</td>
</tr>
<tr>
<td>89.</td>
<td>Raj Kumar Bharmoria v. State of Himachal Pradesh (22.05.2013 – HPHC) MANU/HP/0470/2013</td>
<td>394 IPC</td>
<td>Lifting of fingerprints from stolen taxi had not been proved</td>
<td>Acquittal</td>
</tr>
<tr>
<td>90.</td>
<td>State by Rural Police v. B.C. Manjunatha and V. Prashanth (17. 04. 2013 – KARHC) MANU/KA/1108/2013</td>
<td>302 IPC</td>
<td>Fingerprints of A-1 were found on the iron safe of the deceased which tallied with the admitted fingerprints of A-1</td>
<td>Conviction</td>
</tr>
<tr>
<td>91.</td>
<td>The State of Bihar v. Sanjay Tiwary (13.09.2013 – PATNAHC) MANU/BH/0573/2013</td>
<td>347, 380, 452, 460, 302/34 and 120B IPC</td>
<td>Submission that chance fingerprint did not come into existence at time of alleged incident was wholly misconceived as it was quite evident from evidence of IO that soon after occurrence, place of occurrence was</td>
<td>Conviction</td>
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<td>Case</td>
<td>Description</td>
<td>Relevant Sections</td>
<td>Outcome</td>
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<td>92.</td>
<td>Parminder Kaur v. State (01.08.2014 – DELHC)</td>
<td>302/201 read with section 34 IPC</td>
<td>Conviction</td>
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<td>preserved and chance prints were taken by IO</td>
<td>The chance fingerprints found on the vodka bottle matched with the admitted fingerprints of the appellants</td>
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<td>As there was a doubt in the statement of R, the expert, whether the fingerprint on the negative of the photograph taken was that appearing on the passbook, the testimony of R with regard to the fingerprints of accused on bank pass book was regarded as inconsequential by the court</td>
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<td>94.</td>
<td>State Through Reference v. Ram Singh &amp; Ors. (13.03.2014 – DELHC)</td>
<td>376, 302 IPC</td>
<td>Conviction</td>
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<td>As per the report Ex. PW-46/D the result of examination of the Finger Print Division of the CFSL:CBI: New Delhi was that the chance prints of the accused Vinay Sharma were found on the bus in question</td>
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<td>95.</td>
<td>State v. Surender (23.07.2014 – DELHC)</td>
<td>302, 394 IPC</td>
<td>Conviction</td>
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<td>Four fingerprints were lifted from the locker however they were not developed to rule out the presence of the appellants</td>
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<td>Fingerprints were collected from the place of occurrence and photograph of the fingerprints were also taken from the same place. The fingerprints were developed, but it</td>
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<td>No.</td>
<td>Case Title</td>
<td>Section of IPC</td>
<td>Description</td>
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<td>97.</td>
<td>Vicky v. State (17.11.2014 – DELHC) MANU/DE/2860/2014</td>
<td>35, 452, 506-II IPC</td>
<td>Fingerprint expert lifted chance prints from house, one of which was lifted from the dressing table of the room. As per the report of the expert it matched with that of M.</td>
<td>Conviction</td>
</tr>
<tr>
<td>98.</td>
<td>B. Kumar v. Inspector of Police (2015) 2 SCC 346</td>
<td>302, 449, 342, 376(1), 307, 394, 397</td>
<td>Fingerprints and photographs were collected</td>
<td>Conviction</td>
</tr>
<tr>
<td>99.</td>
<td>State (Govt. of NCT of Delhi) v. Raj Kumar and Ors. (04.03.2015 – DELHC) MANU/DE/0929/2015</td>
<td>378, 302, 120B, 392, 411, 34 IPC</td>
<td>Fingerprints lifted from the scene of crime did not match with those of accused.</td>
<td>Acquittal</td>
</tr>
<tr>
<td>100.</td>
<td>State of Punjab v. Jagga Singh and Others (2015) 2 SCC 471</td>
<td>302 IPC 25 Arms Act</td>
<td>Fingerprints raised from place of incident found similar to finger impressions of both accused persons taken in presence of Judicial Magistrate, hence there was no suspicion as to their bona fides</td>
<td>Conviction</td>
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5.5 CRITICAL ANALYSIS OF THE CASES IN WHICH FINGERPRINT EVIDENCE WAS USED TO RECORD CONVICTION AND ACQUITTAL

Under this chapter, where Fingerprint evidence was used to record conviction and acquittal out of 100 cases studied and referred from 1987 to 2015 (28 years), 71 convictions were recorded and in 29 cases acquittal were recorded.

5.5.1 Reasons For Acquittal

When there are incriminating substances recovered including fingerprints, and it points towards the guilt of the accused, the evidence should be brought to the notice of the accused where the court may question him under section 313 CrPC. In such case the
accused is not bound to explain any incriminating substance against him or he can even refuse to offer any explanation. But, it is necessary to invite his attention to the incriminating substance against him, which was not done in this case. Hence acquittal was recorded\textsuperscript{111}

Fingerprint evidence is corroborative evidence as such in a case where the search was conducted without non-compliance of section 100(4) of the Code of Criminal Procedure, 1973\textsuperscript{112}, the recovery was not considered and as corroborative to the fingerprints collected. The case was also debated on the credibility of the murder weapon recovered. Therefore, the fingerprint impression of the accused could not be corroborated as the search and recovery was doubtful\textsuperscript{113}.

Specimen fingerprints of the accused must be collected in accordance with section 5 of The Identification of Prisoners Act, 1920, but it was not done in this case. Fingerprints of the accused were found on the brass jug seized from the house of the deceased but it was not produced during trial. Seized articles were kept in the police station for five days without any justifiable reason. Letter forwarding the seized articles to the Bureau, contained an overwriting regarding the date of its dispatch. Since the link between the identity of the articles seized and articles examined, by the Fingerprint Bureau was missing. Therefore fingerprints of the appellant could not be relied upon and therefore acquittal was recorded\textsuperscript{114}.

When fingerprints of the accused were taken by an expert and no attempt was made by the prosecution to prove that those fingerprints were of the appellants, acquittal was recorded. The court regretted that the evidence of the fingerprint expert would have gone a long way to prove the prosecution case, which they failed to do\textsuperscript{115}.

The Supreme Court mentioned the necessity of admitted specimen fingerprints and compared the opinion of the ballistic expert with the opinion of the fingerprint

\textsuperscript{111} Boban @ Jacob Cherian v. State of Kerala (11.03.1992 – KERHC) MANU/KE/0278/1992
\textsuperscript{112} Before making a search, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate.
\textsuperscript{113} Jaivir Singh v. State (Delhi Administration) (06.01.1995 – DELHC) MANU/DE/0572/1995
\textsuperscript{114} Mohd. Aman & Another v. State of Rajasthan (1997) 10 SCC 44
\textsuperscript{115} Vijender v. State of Delhi (1997) 6 SCC 171
expert.\textsuperscript{116} In \textit{Kashinath Mondal v. State of West Bengal}, according to the Supreme Court, although fingerprints were not obtained from the place of incidence, it is well settled that remissness and inefficiency of the investigating agency should be no ground to acquit a person if there is enough evidence on record to establish his guilt beyond reasonable doubt.\textsuperscript{117}

As the prosecution failed to exhibit the fingerprints and no questions were put the accused under section 313 CrPC, acquittal was recorded. Moreover, the Sub-Divisional Magistrate, before whom the specimen fingerprint were allegedly taken, were not produced in evidence.\textsuperscript{118}

If fingerprints were lifted but not sent for examination, witnesses cited but not examined, relevant materials were cited but not examined, acquittal was recorded\textsuperscript{119}

When specimen fingerprints were netheir taken under order of Magistrate, nor collected in presence of the Magistrate, following Section 5 of Identification of Prisoner’s Act, acquittal was recorded.\textsuperscript{120}

It was opined by the court that to establish guilt of the accused motive has to be proved. In case where the appellant, accused worked as a domestic help in the house of the deceased, it is natural and common to get the fingerprints of the domestic help on the household articles and hence, on that ground the court acquitted the appellant\textsuperscript{121}. Although fingerprints were lifted by it was not compared with the specimen fingerprints of the accused person.\textsuperscript{122} In cases where the specimen fingerprints of the appellant were taken but it did not match with the appellant’s fingerprint, the court had set aside the conviction and recorded acquittal.\textsuperscript{123} If it is contended by the prosecution that a document contains thumb impression of the deceased, it has to be proved that the thumb impression on the document belong to the deceased. Unless, such thing is proved the comparison of the fingerprints of the deceased with that of the thumb

\textsuperscript{116} Jessica Lal Case, Manu Sharma v. State (NCT of Delhi) (2010) 6 SCC 1
\textsuperscript{117} (2012) 7 SCC 699
\textsuperscript{118} State of Rajasthan v. Rakesh (03.05.2000- RAJHC) MANU/RH/0629/2000
\textsuperscript{119} Ashish Batham v. State of Madhya Pradesh (09.09.2002) MANU/SC/07572002
\textsuperscript{120} Paramasivam @Paraman @Kottiyan and Anr. v. State of Tamil Nadu (17.09.2002 – SC) MANU/SC/0935/2002
\textsuperscript{121} Kuldip Singh And Others v. State of Delhi (2003) 12 SCC 528
\textsuperscript{122} Ashok Kumar s/o Shri Sohan Lal v. The State (Govt. of NCT of Delhi) (24.11.2006 – DELHC) MANU/DE/9834/2006
impression was of no consequence. Therefore, the court concluded that the prosecution had failed to establish that the dead body was of the deceased. Hence acquittal was recorded.\textsuperscript{124} In cases where fingerprints were lifted and not compared, acquittal was recorded\textsuperscript{125}. It is very evident, that fingerprints are corroborative evidence, as such, fingerprints of the appellant though obtained, was of no use as there was no other evidence, to show the complicity of the appellant in the commission of the crime\textsuperscript{126}. This view was confirmed by the Supreme Court, where it opined that evidence of fingerprint expert is not substantive evidence. Such evidence can only be used to corroborate some items of substantive evidence which are otherwise on record. In the instant case it was never alleged that there was any altercation between deceased and accused at place of occurrence, or that accused had any physical contact with deceased. Deceased was fired at from point-blank range and he immediately fell down, half inside a car. Thus, no prosecution evidence to the effect that A-4 and A-5 had any occasion to touch car and that too with ring-finger. Hence, evidence of fingerprint expert on car was irrelevant. Even if evidence of fingerprint expert on scooter accepted, that by itself was insufficient to prove connection with crime. Besides, he failed to give any evidence of fingerprint on alleged weapon of offence which was discovered pursuant to disclosure made by accused. For the aforesaid reasons the appeal filed by the appellants were allowed and the accused A-4 and A-5 were acquitted.\textsuperscript{127} Although fingerprints might be collected and the fingerprint expert’s report appeared to be clinching, but it could not be relied upon as the prosecution witnesses failed to depose when and how the specimen fingerprints and palm prints were secured from the accused\textsuperscript{128}. Moreover, only lifting of fingerprints and submitting the report will not be effective, unless such lifting and report is proved\textsuperscript{129}. Fingerprint should be given voluntarily by the accused or obtained by the IO in a fair manner, and the appropriate

\textsuperscript{124} Sadashio Mundaji Bhalerao v. St. of Maharashtra (2007) 15 SCC 421


\textsuperscript{126} Mohd. Yunus v. State (05.04.2010 – DELHC) MANU/DE/0753/2010

\textsuperscript{127} Musheer Khan And Another v. State of Madhya Pradesh (2010) 2 SCC 748

\textsuperscript{128} Rohit Dhingra & Anr. v. State (03.02.2012 – DELHC) MANU/DE/0357/2012

\textsuperscript{129} Raj Kumar Bharmoria v. State of Himachal Pradesh (22.05.2013 – HPHC) MANU/HP/0470/2013
course of action for the IO is to approach the Magistrate for necessary orders in accordance with section 5 of the Identification of Prisoner’s Act, 1920130.

Failure and negligence of the investigating agencies, to obtain evidence and resort to the proper technique.131 Ignorance of the investigating agency and lack of knowledge to deal with the evidences.132 Improper conduction of prosecution cases.133 Lackadaisical manner of conduction of prosecution cases. Failure to preserve the fingerprints of on the seized articles.134 Failure to place the report of the experts on record. Lack of training to handle the evidence. Doubtful recovery which was unexplained to the court.135 Sometimes it was natural for the presence of the fingerprints at the place of occurrence. Infirmity of the prosecution case for not having resorted to scientific methods like matching of fingerprints.136 Fingerprint obtained in violation of other laws.137 Doubt in the minds of the court in obtaining fingerprints.138 Missing links between the identity of the articles seized and articles examined by the Fingerprint Bureau.139 Doubtful testimony of the expert. Acquittal of the accused by the trial court whose fingerprints were found.140

5.5.2 Reasons For Conviction

Fingerprint evidence is accepted by the courts on the assumption that no two individuals have identical fingerprints. Scientific research and analysis leads to the conclusion that the probability for the existence of two identical fingerprint patterns in the world’s population is extremely small. The fundamental principles of fingerprints are: i) A fingerprint is an individual characteristic, no two fingers have yet been found to possess identical ridge characteristics ii) A fingerprint will remain unchanged during an individual’s life time iii) Fingerprints have general ridge patterns that permit them to be systematically classified. Fingerprint evidence is a very valuable piece of evidence

130 Prakash v. State of Karnataka (2014) 12 SCC 133
131 Amal Biswas v. State of West Bengal (09.01.2015 – CALHC) MANU/WB/0007/2015
135 Jaivir Singh v. State (Delhi Administration) (06.01.1995 – DELHC) MANU/DE/05721995
139 Mohd. Aman And Another v. Rajasthan (1997) 10 SCC 44
140 Prakash v. Karnataka (2014) 12 SCC 133
in any criminal investigation and its importance can never be underestimated. Other evidences also pointed towards the guilt of the accused. The appeal was dismissed and the conviction was upheld.\textsuperscript{141} When fingerprints matched with the fingerprints of the appellant accused, conviction was recorded\textsuperscript{142} When Chance fingerprints were lifted from the spot and compared with the admitted fingerprint and it was found that the chance fingerprint marked as Q1 was identical with that of the left thumb fingerprint of the accused, conviction was recorded. There is no doubt that fingerprint evidence is a corroborative evidence, but where motive is proved and the appellant on being repeatedly questioned, whether there was any good reason for the prosecution witness to falsely implicate the appellant, could not point out any reason, corroboration by the fingerprint evidence adds an extra merit to the conviction of the appellant\textsuperscript{143}. Presence of fingerprints no doubt was positive evidence, but absence thereof was not enough to conclude that the appellants were not present at the place of occurrence if other overwhelming material evidence to the contrary was found. In such cases, it is prudent on behalf of the court to allow conviction\textsuperscript{144}. Fingerprints, has a feature, which makes it preserveable. The chance fingerprint found on the handle of the almirah in the bedroom of the deceased, was compared with the fingerprints of the appellant accused, after eight months when he was arrested, and it tallied. Therefore the appellant accused was convicted\textsuperscript{145}. Where fingerprint taken tallied with the fingerprints taken from the accused, the fingerprint was not taken into consideration as, the accused had close association with the first deceased and frequently he use to visit the house of the deceased. In such case, there were other materials to sustain the involvement of the accused and he was convicted\textsuperscript{146} When, fingerprint expert, lifted the chance fingerprints from the dead body and blood stained stone seized from the spot but could not develop any print, conviction was accorded on the ground of the ‘last seen principle’, where the deceased was last seen by the appellant\textsuperscript{147} Giving handwriting samples or a fingerprint or a palm impression did not tantamount to giving evidence and that when a handwriting sample or a fingerprint or a palm impression was obtained by the police, it

\textsuperscript{141} Ouseph alias Johny v. State of Kerala (12.08.1987 – KERHC) MANU/KE/0515/1987
\textsuperscript{142} Krishnamurthy v. State of Ashok Nagar Police, Bangalore (29.05.2000-KARHC)
\textsuperscript{143} Kulwinder Singh v. State of Punjab (2007) 10 SCC 455
\textsuperscript{145} Ramasubhramanian v. State of Kerala (2007) 12 SCC 801
\textsuperscript{147} Kamal Kumar v. State (11.02.2009 – DELHC) MANU/DE/0843/2009
did not amount to compelling an accused to be a witness against himself. In such cases conviction was accorded\textsuperscript{148}. If in certain case, opportunity was not given to the prosecution in their cross-examination, regarding lifting of fingerprints, no adverse inference can be taken against the prosecution, and on such ground acquittal cannot be recorded.\textsuperscript{149} Chance fingerprint must come into existence at the time of alleged incident, on the basis of which conviction was recorded.\textsuperscript{150}

5.5.3 The Table On The Question Of Recording Conviction Or Acquittal Relating To Cases Where Fingerprint Evidences Were Used Reveals The Following:

Out of 100 criminal cases in 71 cases conviction was recorded, which amounts to 71%. In other words in 71% criminal cases in which fingerprint evidence was referred to, conviction was recorded.

i. Out of 100 criminal cases in 29 cases acquittal was recorded, which amounts to 29%. Therefore in 29% criminal cases in which fingerprint evidence was referred to, acquittal was recorded.

\textsuperscript{148} Santosh @ Bhure v. State (05.03.2009 – DELHC) MANU/DE/1141/2009
\textsuperscript{149} State v. Sanjay Dass (27.10.2009 – DELHC) MANU/DE/2776/2009
\textsuperscript{150} The State of Bihar v. Sanjay Tiwary (13.09.2013- PATNAHC) MANU/BH/0573/2013