

Ramdev vs State Of U.P. on 9 October, 2026

Bench: [Abdul Moin](#), [Pramod Kumar Srivastava](#)

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

Neutral Citation No. – 2026:AHC-LK0:72591-DB

A.F.R.

Reserved on 17.09.2026

Delivered on 09.10.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW

CRIMINAL APPEAL No. – 1486 of 2013

Ramdev

..Appellant(s)

Versus

State of U.P.

..Respondent(s)

Along with :

1. Criminal Appeal No. 1581 of 2013:

Amrit Lal

Versus

State of U.P.

Counsel for Appellant(s)

:

D.s. Pandey, Kunwar Mirdul Rakesh, Rajendra Kumar Misra, Ram Naresh Yadav, Santosh Srivastava, Sunil Kumar S

Counsel for Respondent(s)

:

Govt. Advocate

Court No. 11

HON'BLE ABDUL MOIN, J.

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

(Per Pramod Kumar Srivastava,J.)

1. Heard Sri D.S.Pandey and Sri Ram Naresh Yadav, learned counsel for the appellants, Sri Arunendra, learned A.G.A.-1 for the State.

2. Both the Criminal Appeals under [section 374\(2\)](#) CrPC bearing Criminal Appeal No. 1486 and Criminal Appeal No. 1581 arise out of the judgment and order dated 27.09.2013 passed by the Additional Sessions Judge, Court No. 15, Lucknow in Session Trial No. 1020 of 2003 ([State v. Ram Dev and others](#)), arising out of Crime No. 34 of 2003, registered under [Sections 363, 366, 368, 302](#), and [120-B](#) of the Indian Penal Code (IPC) at Police Station Chowk, District Lucknow whereby the accused-appellant Ramdev has been convicted under [section 363](#) IPC sentencing him to 3 years Rigorous imprisonment with a fine of Rs. 2,000/-, under [section 366](#) IPC sentencing him to 7 years of rigorous imprisonment with a fine of Rs. 4000/- and under [section 302](#) IPC sentencing him to life imprisonment with a fine of Rs. 10,000/- and sentenced accused-appellant Amrit Lal under [section 368](#) and [366](#) IPC for 7 years imprisonment and fine of Rs. 4,000/-

3. The prosecution story, in brief, is that the complainant, Smt. Jahida, submitted a written application to the Senior Superintendent of Police (SSP), Lucknow, stating that her daughter, Km. Rubina, aged about 16-17 years, went missing on 14.12.2002 at around 4:00 PM. The complainant extensively searched for her daughter and subsequently reported her disappearance to the Inspector-in-charge on 17.12.2002. The complainant later learned from her daughters that Rubina was last seen walking in the lane with accused-appellant Ramdev Yadav (a resident of Mahesh Kheda, P.S. Gosainganj, Lucknow), who worked as a driver for Dr. Maulana Kalbe Sadiq. The daughters had not informed the complainant previously about this information out of fear. When she visited the residence of Dr. Kalbe Sadiq to inquire about this, he consoled her but later on when she repeatedly began visiting his house for inquiring, pressure was allegedly mounted on her to drop the matter. When the complainant was at home with her two minor daughters, Kalbe Hussain and Kalbe Sibtain (sons of Dr. Maulana Kalbe Sadiq) along with two unidentified persons forcibly entered her home, locked the door from inside, assaulted her with kicks and fists causing oral bleeding, and threatened to kill her and abduct her minor daughters if she pursued the search for the missing girl. She submitted an application before the police on 13.01.2003, but no satisfactory action was taken initially. On 19.01.2003 she again submitted an application before the Senior Superintendent of Police, Lucknow requesting an investigation in the matter.

4. On the basis of the complainants application, a First Information Report (FIR) was registered on 19.01.2003 at 4:15 PM as Crime No. 34 of 2003 under [Sections 363](#) and [366](#) IPC against accused-appellant Ramdev at Police Station Chowk, Lucknow (Chik FIR No. 17/03). The investigation was initially entrusted to Sub-Inspector Brijesh Kumar Yadav and subsequently taken over by Investigating Officer Digvijay Singh. On 18.01.2003 the body of the deceased victim was found on the railway track at Utrathiya station, Mohanlalganj. The inquest proceedings were carried out and the body was sent for post mortem. The Investigating Officer visited the place where the body of deceased was found and prepared site map and recorded statements of the witnesses. During the investigation it was found that appellant Ramdev, in active conspiracy with co-accused persons, enticed the victim away without the consent of her lawful guardian and that she was abducted on a motorcycle, held in confinement, subjected to a forced marriage registration at Barabanki, and subsequently pushed in front of a running train to commit her murder and project it as suicide. In the F.I.R., offence was registered only against Ramdev but upon further investigation the Investigating Officer found sufficient evidence against accused persons Ram Dev, Smt. Vimla, Santram, Asaram, Chhanga, Amrit Lal, Nanhku, Kalbe Hussain, Kalbe Sibtain, and Siyaram. A charge-sheet before the court was submitted under [Sections 363, 366, 376, 303, 342, 368, 120-B](#), and [302](#) IPC.

5. The learned trial court took cognizance of the offences. In compliance with [section 207](#) CrPC, copies of the chargesheet and all relied documents were duly provided to the accused-appellants. The case being exclusively triable by the sessions court was transferred to the sessions court vide Committal Order dated 18.10.2003. On 12.01.2006, the trial court framed charges against accused Ramdev, Smt. Vimla, Santram, Asaram, Chhanganlal, Amrit Lal, Nanhku, and Siyaram under [Sections 363, 366, 342, 368, 120-B](#), and [302](#) IPC. All the accused pleaded not guilty and claimed trial. The case against co-accused Kalbe Hussain and Kalbe Sibtain remained separated as per the order dated 07.05.2005 due to stay proceedings before the Honble High Court.

6. To substantiate its case, the prosecution examined sixteen witnesses P.W.-1 Constable Surajbhan Singh, P.W.-2 Smt. Jahida (Complainant), P.W.-3 Kumari Sana, P.W.-4 Kumari Shahana, P.W.-5 S.I. Ram Prakash, P.W.-6 Sajid Ali, P.W.-7 Dr. S.N.S. Yadav,

P.W.-8 Mohd. Hamidullah (Scientific Officer), P.W.-9 J.P. Srivastava, P.W.-10 S.I. Brijesh Kumar Yadav (Investigating Officer), P.W.-11 Rasheed, P.W.-12 Pappu, P.W.-13 Digvijay Singh (Investigating Officer), P.W.-14 R.K. Malhotra, P.W.-15 Daya Ram, P.W.-16 Sub-Inspector Vinay Kumar Mishra.

7. P.W.-1 Constable Suraj Bhan Singh deposed that on 17.12.2002, he recorded the missing report (GD No. 75, time 19:30) regarding 1617-year-old Rubina submitted by her mother Jahida. He proved GD entry Ex. Ka-1 and identified subsequent GD entries (Ex. Ka-2 to Ex. Ka-6) regarding the return of police officers, arrival of seized items, recovery of the motorcycle/clothes and additions of statutory sections.

8. P.W.-2 Smt. Jahida, Complainant and mother of deceased stated that her daughter Rubina (aged about 14 years) went missing on 14.12.2002. She filed a missing report through her uncle Huzur Jani (Ex. Ka-7). Later, her younger daughters (Sana and Shahana) disclosed that they saw Rubina talking to accused-appellant Ramdev before leaving. When she inquired at Ramdevs employer's residence (Maulana Kalbe Sadiq), she was threatened by Kalbe Hussain and Kalbe Sibtain. She lodged an application to the SP/SSP mentioning kidnapping by Ramdev (Ex. Ka-8 & Ex. Ka-9). She subsequently identified Rubinas body at the mortuary and recognized Rubinas clothing and personal items (Ex. Ka-10 / Material Objects 1 to 6).

9. P.W.-3 Kumari Sana, sister of deceased stated that on 14.12.2002 around 4:00 PM, she and her sister Shahana saw Rubina talking to Ramdev in the alley near their house. Rubina left with Ramdev, taking an extra pair of clothes, saying she would return shortly. She knew Ramdev as he drove buses/cars for Maulana Kalbe Sadiq. She disclosed this to her mother 2025 days later out of fear. She identified Rubina's photograph on the marriage form and denied that the handwriting on the recovery paper (Ex. A-13/1) belonged to Rubina.

10. P.W.-4 Kumari Shahana, Sister of Deceased stated that on 14.12.2002 at 4:00 PM, she saw Rubina talking to and leaving with Ramdev. She testified that Ramdev was a driver for Maulana Kalbe Sadiq. She also testified regarding threats made to her mother by Kalbe Hussain, Kalbe Sibtain and their associates when her mother inquired about Rubina. She identified Rubina's photo on the marriage document and confirmed that Rubina could not write the recovered note.

11. P.W.-5 SI Ram Prakash stated that on 19.01.2003, while deployed as Head Moharrir at P.S. Chowk, he registered Crime No. 34/03 under [Sections 363/366](#) IPC against Ramdev based on Jahida's written complaint. He proved the GD entry (Ex. Ka-12) and Chik FIR (Ex. Ka-13) prepared by Constable Shiv Prasad.

12. P.W.-6 Sajid Naqvi @ Huzoor Jani deposed that on 21.01.2003, he received information regarding a mutilated body near Uttaratia Railway Line, Mohanlalganj. He went to P.S. Mohanlalganj and identified the body as Rubinas. He noted that a written note carrying her name and address was found near the body, and later re-identified her body at the mortuary.

13. P.W.-7 Dr. S.N.S. Yadav, Medical Officer stated that on 19.01.2003 at 3:30 PM (Balrampur Hospital, Lucknow) he conducted the autopsy of deceased Rubina, aged about 18 years whose death had occurred about a day prior. He further stated that the body was of average build, rigor mortis present, post-mortem staining on back, half-open mouth, and pale internal organs (brain, liver, kidneys, spleen). Body and clothes were coated in a black, oily layer/material with blood clots on the face, nose, and ears.

Ante-Mortem Injuries:

- i. Multiple facial and cheek abrasions/scratches.
- ii. Lacerated wound 5 cm x 2 cm x bone deep on the forehead above the nose.
- iii. Severe lacerated/crush injury across the neck; neck almost fully severed, attached to the chest only by skin, with all internal neck organs cut.
- iv. Extensive lacerations across the entire chest, back, and upper abdomen; internal organs (including heart) were torn/ruptured.
- v. Contusions 15 cm x 10 cm on both shoulders and forearms.
- vi. Contusions 15 cm around both thighs; both thigh bones broken, torn, and crushed.
- vii. Lacerated crush wound on the lower right leg above the ankle; lower severed portion missing.
- viii. Lacerated crush wound 5 cm on the left leg below the knee; lower portion missing.

Internal Examination: Fractured temporal and frontal skull bones; torn brain membranes with blood clotting across the brain; cut/lacerated lungs, spleen, kidneys, liver, intestines, trachea, and esophagus; 200 ml clotted blood in the abdominal cavity.

Opinion & Cause of Death: Death was caused by shock and hemorrhage resulting from ante-mortem injuries. Confirmed Post-Mortem Report (Ex. Ka-14). Noted that injuries and black oily deposits could result from a roadside or train accident.

14. P.W.-8 Mohd. Hamidullah, Scientific Officer, FSL Varanasi conducted the handwriting examination comparing the questioned note found near the body (Q1) with sample handwriting (S1 to S5) of accused-appellant Ramdev. He proved FSL Report No. 36 DOC-03 (Ex. Ka-15), concluding that the person who wrote the sample writings (S1S5) also wrote the questioned note Q1.

15. P.W.-9 J.P. Srivastava, Retd. Special Executive Magistrate deposed that on 15.02.2003, he conducted the identification proceedings of the seized articles (shawl, salwar, kurta, clip, lipstick, dupatta). Smt. Jahida correctly identified all articles except the lipstick. He proved the identification memo (Ex. Ka-10).

16. P.W.-10 SI Brijesh Kumar Yadav, initial Investigating Officer who took over investigation on 19.01.2003 deposited that he inspected the place of occurrence, prepared the site map (Ex. Ka-16), recorded statements of witnesses and added [Section 302](#) IPC after receiving post-mortem details.
17. P.W.-11 Rasheed deposited that police took him to Unity College, where accused-appellant Ramdev led them to a ruined room and pointed out a motorcycle (UP 32 AH 7882). Articles (salwar, jumper, dupatta, shawl, etc.) belonging to Rubina were recovered from the motorcycle's trunk upon Ramdev's indication. He identified the recovered items in court.
18. P.W.-12 Pappu was declared hostile. He stated that he did not know Ramdev or his brother Ram Gopal and denied that Ramdev made any extra-judicial confession in his presence.
19. P.W.-13 Digvijay Singh, Investigating Officer deposited that he took over the investigation on 20.01.2003, recorded statements, effected recovery of the motorcycle and Rubina's clothes upon Ramdev's disclosure (Ex. Ka-17), prepared site map (Ex. Ka-18), obtained sample handwritings of Ramdev (Ex. Ka-20 to Ka-24), seized marriage certificate documents involving accused-appellant Amrit Lal (Ex. Ka-19), collected blood-stained cloth pieces from the railway line (Ex. Ka-26), sent handwriting samples to FSL, and submitted the charge sheet (Ex. Ka-27).
20. P.W.-14 R.K. Malhotra, Marriage Officer, Barabanki produced official records concerning the marriage registration application dated 10.01.2003 between Amrit Lal and "Ruby" (proved Ex. Ka-28 to Ex. Ka-33). He further stated that Amrit Lal, Ruby, and witnesses (including Siyaram and Nanhku) appeared before him.
21. P.W.-15 Daya Ram, Gangman, Railways deposited that a severed body on the Barowna railway line was found. He further deposited that an I.O. conducted the inquest under petromax light and found a paper note bound in a dupatta near the body. He proved the inquest report (Ex. Ka-34).
22. P.W.-16 SI Vinay Kumar Mishra stated that he conducted the inquest proceedings on 18.01.2003 upon receiving a memo regarding an unidentified body on the railway line. He further stated that he prepared the inquest report (Ex. Ka-34) and dispatched the body for post-mortem.
23. The prosecution also proved documentary evidence including the missing report (Ex. Ka-1), Carbon copies of GD entries (Ex. Ka-2 to Ex. Ka-6, Ex. Ka-12), Complainants applications (Ex. Ka-7 to Ex. Ka-9), Identification Memo (Ex. Ka-10), Check FIR (Ex. Ka-13), Post-Mortem Report (Ex. Ka-14), Forensic Science Laboratory Report (Ex. Ka-15), Site Plans (Ex. Ka-17, Ex. Ka-18, Ex. Ka-25), Recovery Memos (Ex. Ka-19, Ex. Ka-26), Specimen Signatures (Ex. Ka-20 to Ex. Ka-24), Charge-sheet (Ex. Ka-27), Marriage registration documents/notices (Ex. Ka-28 to Ex. Ka-30), Station/Office reports and Affidavit (Ex. Ka-31 to Ex. Ka-33), and the Inquest Report / Panchayatnama of the deceased (Ex. Ka-34).
24. After the completion of the prosecution evidence in his statement under [section 313](#) CrPC the accused-appellant Ramdev stated that all allegations and prosecution evidence are completely false, fabricated, and malicious. He explained that he used to work as a driver for Maulana Kalbe Sadiq. A dispute had occurred between the complainant (Jahida) and Maulana's family/associates. Because he was a Hindu working for Maulana and tried to intervene or take Maulana's side, Jahida and others held enmity against him and framed him as an easy target. He also denied making any recovery, signing marriage documents, or having hand in the victim's death, alleging police forged evidence. Accused-appellant Amrit Lal Stated that the case and charge sheet against him are false and that he is innocent. Regarding the marriage registration documents, he explained that co-accused Ram Gopal took his photo to arrange a marriage with his sister-in-law and sent a notice through Baradari Court. When they demanded ₹5,000 which he couldn't pay, they left with the sister-in-law. He denied committing any crime. The accused persons Siyaram, Vimla W/o Ramlakhan Yadav, Santram, Chhanganal, Nanhku and Asaram denied all charges and stated that they were innocent.
25. Two defence witnesses were examined by the defence namely D.W.- 1 Vimla and D.W.- 2 Neeraj Kumar. D.W.-1 Smt. Vimla, wife of accused-appellant Ramdev deposited that she did not know Rubina and was falsely implicated solely because she was Ramdev's wife. She stated that she had marital discord with Ramdev, who frequently abused her. She was arrested from her parental home, where she was staying during her pregnancy. She subsequently filed for maintenance/divorce and remarried Ramlakhan. She denied any involvement in the incident.
26. D.W.-2 Neeraj Kumar deposited that in the year 2003, he used to run a paan shop. He stated that he was called by the police officers to act as a witness. According to his testimony, he witnessed a man writing on both blank and ruled papers at the direction of the police officer, while the officer was dictating to him.
27. Having heard the learned counsels for both the parties and on perusal of the evidence on record the trial court acquitted the accused persons Smt. Vimla, Santram, Asaram, Chhanga, Nanhku, Siyaram of the charges leveled against them and convicted accused-appellant Ramdev under [sections 363, 366](#) and [302](#) IPC whereas accused-appellant Amrit Lal was convicted under [section 368](#) and [366](#) of IPC.
28. Being aggrieved by the impugned judgment of the trial court the accused-appellants Ramdev and Amrit Lal have preferred the present appeals before this court.

SUBMISSIONS ON BEHALF OF THE APPELLANTS

29. Learned counsels for the appellants have assailed the impugned judgment primarily on the ground that the prosecution case rests entirely upon circumstantial evidence and there is no eyewitness to the alleged kidnapping, abduction, conspiracy or murder. It has

been submitted that the prosecution failed to establish the minority of the victim, there being no birth certificate or school record to establish her age. It has further been submitted that the post-mortem report indicates the deceased to be an 18 years old female.

29.1. Learned counsel have further submitted that the depositions of P.W.-3 Kumari Sana and P.W.-4 Kumari Shahana indicate that the victim left on her own and there is no reliable evidence of force, coercion or inducement. It has also been argued that no complaint or protest was made by the victim before the Marriage Officer during the alleged marriage registration proceedings. According to learned counsel, these circumstances create substantial doubt regarding the prosecution version of forcible kidnapping or abduction.

29.2. It has also been submitted that the prosecution failed to establish a complete and unbroken chain of circumstances pointing exclusively towards the guilt of the appellants. The alleged recovery of clothes and cosmetic articles from the motorcycle parked at Unity College has been questioned on the ground that the place was accessible to others and that the independent witness to the recovery did not support the manner in which the recovery memo was prepared.

29.3. Learned counsels have also questioned the evidentiary value of the handwriting evidence and have relied upon the testimony of DW-2 Neeraj Kumar to contend that the specimen writings and signatures of appellant Ramdev were obtained at the police station. It has also been submitted that the alleged suicide note was produced in an unsealed condition and, therefore, the circumstances surrounding its handling and comparison require careful scrutiny.

SUBMISSIONS ON BEHALF OF THE RESPONDENT-STATE

30. Learned A.G.A., on the other hand, has supported the impugned judgment and submitted that the prosecution evidence establishes the involvement of the appellants. It has been contended that P.W.-3 Kumari Sana and P.W.-4 Kumari Shahana, being sisters of the deceased, had seen Rubina in the company of appellant Ramdev immediately before her disappearance.

30.1. Learned A.G.A. has further relied upon the application dated 13.01.2003, the testimony of P.W.-14 R.K. Malhotra, the marriage registration documents and the recovery of the belongings of the deceased from motorcycle. According to the learned A.G.A., these circumstances, when considered cumulatively, establish the requisite chain of circumstances against the appellants.

ANALYSIS AND DISCUSSION

31. Having heard the learned counsel for the parties and perused the paper book, trial court record and the impugned judgment, the question that arises for our consideration is whether the findings recorded by the learned trial court are correct and sustainable in the light of the evidence on record.

32. Since the prosecution case rests substantially upon circumstantial evidence, the evidence has to be considered by applying the settled principles governing such cases. In [Sharad Birdhichand Sarda v. State of Maharashtra](#), (1984) 4 SCC 116, the Honble Supreme Court, after considering the earlier decision in *Hanumant Govind Nargundkar v. State of M.P.*, (1952) 2 SCC 71, observed that:

153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned must or should and not may be established. There is not only a grammatical but a legal distinction between may be proved and must be or should be proved as was held by this Court in *Shivaji Sahabrao Bobade v. State of Maharashtra* [*Shivaji Sahabrao Bobade v. State of Maharashtra*, wherein the following observations were made :

19. Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between may be and must be is long and divides vague conjectures from sure conclusions.

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty, (3) the circumstances should be of a conclusive nature and tendency, (4) they should exclude every possible hypothesis except the one to be proved, and (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.

33. The aforesaid principles require that each circumstance relied upon by the prosecution first be examined independently and thereafter the circumstances, if proved, be considered cumulatively. The question is not merely whether a particular circumstance raises a suspicion against an accused, but whether the proved circumstances, taken together, lead to a conclusion of guilt which is consistent with no reasonable hypothesis other than that of the accused's guilt.

Evaluation of the Last Seen Circumstance

34. One of the principal circumstances relied upon by the prosecution is that Rubina was last seen with appellant Ramdev on 14.12.2002. The body of deceased Rubina was recovered on 18.01.2003. Thus, there is a period of approximately more than a month between the alleged last-seen circumstance and the recovery of the body. The doctrine of last seen together is a circumstance which derives its evidentiary significance from the proximity between the time when the accused-appellant and deceased were last seen together and the occurrence of death

35. The Supreme Court in the case of [State of Goa v. Sanjay Thakran](#), (2007) 3 SCC 755 observed that:

34. From the principle [laid down by](#) this Court, the circumstance of last seen together would normally be taken into consideration for finding the accused guilty of the offence charged with when it is established by the prosecution that the time gap between the point of time when the accused and the deceased were found together alive and when the deceased was found dead is so small that possibility of any other person being with the deceased could completely be ruled out. The time gap between the accused persons seen in the company of the deceased and the detection of the crime would be a material consideration for appreciation of the evidence and placing reliance on it as a circumstance against the accused. But, in all cases, it cannot be said that the evidence of last seen together is to be rejected merely because the time gap between the accused persons and the deceased last seen together and the crime coming to light is after (sic of) a considerable long duration. There can be no fixed or straitjacket formula for the duration of time gap in this regard and it would depend upon the evidence led by the prosecution to remove the possibility of any other person meeting the deceased in the intervening period, that is to say, if the prosecution is able to lead such an evidence that likelihood of any person other than the accused, being the author of the crime, becomes impossible, then the evidence of circumstance of last seen together, although there is long duration of time, can be considered as one of the circumstances in the chain of circumstances to prove the guilt against such accused persons. Hence, if the prosecution proves that in the light of the facts and circumstances of the case, there was no possibility of any other person meeting or approaching the deceased at the place of incident or before the commission of the crime, in the intervening period, the proof of last seen together would be relevant evidence. For instance, if it can be demonstrated by showing that the accused persons were in exclusive possession of the place where the incident occurred or where they were last seen together with the deceased, and there was no possibility of any intrusion to that place by any third party, then a relatively wider time gap would not affect the prosecution case.

36. Even otherwise, the evidence on last seen together has been held to be a weak piece of evidence and conviction only on the basis of it without there being any other corroborative evidence, is not sufficient to convict the accused. In this regard, reliance can be placed on the decision of [State of U.P. v. Satish](#) (2005) 3 SCC 114 wherein the Honble Supreme Court had held as follows:

22. The last-seen theory comes into play where the time-gap between the point of time when the accused and the deceased were last seen alive and when the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. It would be difficult in some cases to positively establish that the deceased was last seen with the accused when there is a long gap and possibility of other persons coming in between exists. In the absence of any other positive evidence to conclude that the accused and the deceased were last seen together, it would be hazardous to come to a conclusion of guilt in those cases. In this case there is positive evidence that the deceased and the accused were seen together by witnesses PWs 3 and 5, in addition to the evidence of PW 2.

[See also [Niranjan Panja v. State of W.B.](#), (2010) 6 SCC 525; [Ramreddy Rajesh Khanna Reddy v. State of A.P.](#), (2006) 10 SCC 172]

37. Similarly in the case of [Rambraksh @ Jalim v. State of Chhattisgarh](#), (2016) 12 SCC 251, the Honble apex court observed:

12. It is trite law that a conviction cannot be recorded against the accused merely on the ground that the accused was last seen with the deceased. In other words, a conviction cannot be based on the only circumstance of last seen together. Normally, last seen theory comes into play where the time gap, between the point of time when the accused and the deceased were seen last alive and when the deceased is found dead, is so small that possibility of any person other than the accused being the perpetrator of the crime becomes impossible. To record a conviction, the last seen together itself would not be sufficient and the prosecution has to complete the chain of circumstances to bring home the guilt of the accused.

13. In a similar fact situation this Court in [Krishnan v. State of T.N.](#) [[Krishnan v. State of T.N.](#), (2014) 12 SCC 279 : (2014) 5 SCC (Cri) 66], held as follows : (SCC pp. 284-85, paras 21-24)

21. The conviction cannot be based only on circumstance of last seen together with the deceased. In [Arjun Marik v. State of Bihar](#) [[Arjun Marik v. State of Bihar](#), 1994 Supp (2) SCC 372 : 1994 SCC (Cri) 1551] this Court held as follows : (SCC p. 385, para 31)

31. Thus the evidence that the appellant had gone to Sitaram in the evening of 19-7-1985 and had stayed in the night at the house of deceased Sitaram is very shaky and inconclusive. Even if it is accepted that they were there it would at best amount to be the evidence of the appellants having been seen last together with the deceased. But it is settled law that the only circumstance of last seen will not complete the chain of circumstances to record the finding that it is consistent only with the hypothesis of the guilt of the accused and, therefore, no conviction on that basis alone can be founded.

22. This Court in [Bodhraj v. State of J&K](#) [[Bodhraj v. State of J&K](#), (2002) 8 SCC 45 : 2003 SCC (Cri) 201] held that : (SCC p. 63, para 31)

31. The last seen theory comes into play where the time gap between the point of time when the accused and the deceased were last seen alive and when the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible.

It will be hazardous to come to a conclusion of guilt in cases where there is no other positive evidence to conclude that the accused and the deceased were last seen together.

23. There is unexplained delay of six days in lodging the FIR. As per prosecution story the deceased Manikandan was last seen on 4-4-2004 at Vadakkumelur Village during Panguni Uthiram Festival at Mariyamman Temple. The body of the deceased was taken from the borewell by the fire service personnel after more than seven days. There is no other positive material on record to show that the deceased was last seen together with the accused and in the intervening period of seven days there was nobody in contact with the deceased.

24. In *Jaswant Gir v. State of Punjab* [*Jaswant Gir v. State of Punjab*, (2005) 12 SCC 438 : (2006) 1 SCC (Cri) 579], this Court held that in the absence of any other links in the chain of circumstantial evidence, the appellant cannot be convicted solely on the basis of last seen together even if version of the prosecution witness in this regard is believed.

38. From a cumulative reading of the aforesaid decisions it is evident that the circumstance of last seen by itself is not invariably sufficient to establish the guilt of any accused. Its probative value necessarily depends upon the facts of each case, including the length of the interval and the possibility of intervention by another person during that interval.

39. In the present case, the interval is not merely a matter of a few hours or days. The alleged last-seen circumstance is dated 14.12.2002, whereas the body was recovered on 18.01.2003. During this period, there is no direct evidence placing the deceased continuously in the company or custody of appellant Ramdev. The prosecution has sought to connect this intervening period through other circumstances particularly the handwriting evidence, the marriage registration documents and the alleged recovery of articles.

40. Those circumstances, therefore, require independent consideration. The mere fact that a person was last seen with the deceased cannot, by itself, account for the entire intervening period of about more than a month. The question consequently arises whether the other evidence on record provides reliable links connecting the deceased with the appellants during this period.

41. The testimony of P.W.-2 Jahida, P.W.-3 Sana and P.W.-4 Shahana also requires consideration in this regard. P.W.-2 Jahida stated that her daughters disclosed to her for the first time on 13.01.2003 that they had seen Rubina with Ramdev. P.W.-3 Sana, however, stated in cross-examination that on 14.12.2002 Huzur Jani had visited their house and that she had disclosed to him that Rubina had gone with Ramdev. She further stated that she did not disclose the fact to her family members for about 20 to 25 days out of fear of her mother. P.W.-4 Shahana, on the other hand, stated in her examination-in-chief that she disclosed the fact of having seen Rubina talking to Ramdev to her family members within 3 to 4 days of the incident.

42. These statements present different timelines regarding the first disclosure of the alleged last-seen circumstance. The evidence of P.W.-3 suggests a disclosure to Huzur Jani (maternal uncle of P.W.-2 Jahida) on the date of disappearance, followed by silence before the family members for 20 to 25 days. The testimony of P.W.-4 Shahana suggests disclosure within 3 to 4 days, whereas P.W.-2 Jahida states that she came to know about the involvement of Ramdev only on 13.01.2003.

43. The circumstances surrounding these differing versions assume significance because Huzur Jani is stated to have accompanied P.W.-2 Jahida when the missing report was submitted on 17.12.2002. If Ramdev's name had already been disclosed on 14.12.2002, the omission of his name from the initial missing report assumes significance and requires explanation. Likewise, if P.W.-4 Shahana had disclosed the fact within 3 to 4 days, the statement of P.W.-2 Jahida that she learnt about the same for the first time on 13.01.2003 requires reconciliation.

44. The prosecution has not placed before the Court a satisfactory explanation reconciling these different versions. The contradictions, therefore, affect the reliability of the last-seen circumstance, particularly when the same circumstance is required to connect the appellant with the deceased over an intervening period of about more than a month. Thus, while the last-seen circumstance may constitute a relevant link in an appropriate case, the evidence in the present case does not, by itself, establish continuous association between the deceased and appellant Ramdev from 14.12.2002 until the recovery of the body on 18.01.2003.

Proof of Minority in the Context of [Section 363](#) IPC

45. The prosecution case under [Section 363](#) IPC requires consideration in the light of [Sections 361](#) and [363](#) IPC. [Section 363](#) IPC prescribes punishment for kidnapping, while [Section 361](#) IPC defines kidnapping from lawful guardianship. In the case of a female, the relevant statutory requirement is that she should be below eighteen years of age, and that she should have been taken or enticed out of the keeping of her lawful guardian without the consent of such guardian.

46. [Section 361](#) IPC reads as under:

361. Kidnapping from lawful guardianship. Whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

47. Thus, proof of the age of the victim is an important component of the offence alleged under [Section 363](#) IPC. The prosecution case describes Rubina as being about 16-17 years of age. In all her written applications submitted before the police P.W.-2 Jahida has mentioned the age of her daughter to be 16-17 years whereas, in her examination-in-chief she has stated that her daughter would have been around 14 years old at the time of the incident. However, the record, as placed before this Court, does not disclose a birth certificate, school admission record, school leaving certificate or matriculation certificate establishing her age. The prosecution also did not place any or other medical assessment specifically determining her age. However, solely because the prosecution has not produced any certificate of minority before the court, the claim of minority cannot be discarded especially when not challenged by the defence.

48. However, in the case in hand, the post-mortem report, proved through P.W.-7 Dr. S.N.S. Yadav, describes the deceased as an 18 year old female. The post-mortem report may not, by itself, determine the exact age of the deceased; nevertheless, when the prosecution seeks to establish a statutory ingredient such as minority, the evidence relating to age must be assessed as a whole.

49. In the absence of reliable evidence establishing that Rubina was below eighteen years of age on the date of the alleged occurrence, the foundational requirement for kidnapping from lawful guardianship is not satisfactorily established. The oral assertions regarding age, particularly when unsupported by contemporaneous documentary or medical material, require cautious evaluation especially when the post-mortem report describes the deceased as an 18 years old female.

50. Consequently, the evidence on record does not furnish a sufficiently reliable basis for recording a finding that Rubina was a minor within the meaning of [Section 361](#) IPC on 14.12.2002. This circumstance assumes further significance while examining the charge under [Section 366](#) IPC.

Whether the Ingredients of [Section 366](#) IPC Stand Established

51. [Section 366](#) IPC, as it stood at the relevant time, reads as under:

366. Kidnapping, abducting or inducing woman to compel her marriage, etc. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable as aforesaid.

52. A plain reading of the aforesaid provision shows that mere proof that a woman has left one place and gone to another is not sufficient to attract [Section 366](#) IPC. The prosecution must establish the foundational act of kidnapping or abduction, coupled with the specific intention or knowledge contemplated by the provision. Where the prosecution relies upon abduction, it must establish that the woman was made to go from one place to another by force, compulsion or deceitful means, and that such abduction was accompanied by the requisite intention or knowledge, namely, that she would be compelled to marry against her will or would be forced or seduced to illicit intercourse.

53. The Honble Supreme Court in the case of [Mohd. Yousuff v. State of Karnataka](#), (2021) 16 SCC 461, has reiterated that mere abduction is not sufficient to constitute an offence under [Section 366](#) IPC and that the prosecution must further establish the specific purpose or intention contemplated by the provision. The relevant extract of the same is reproduced below:

9. [Section 366](#) clearly states that whoever kidnaps/abducts any woman with the intent that she may be compelled or knowing that she will be compelled, to either get her married or forced/seduced to have illicit intercourse they shall be punished with imprisonment of up to ten years and fine. The aforesaid section requires the prosecution not only to lead evidence to prove kidnapping simpliciter, but also requires them to lead evidence to portray the abovementioned specific intention of the kidnapper. Therefore, in order to constitute an offence under [Section 366](#), besides proving the factum of the abduction, the prosecution has to prove that the said abduction was for one of the purposes mentioned in the section. In this case at hand the prosecution was also required to prove that there was compulsion on the part of the accused persons to get the victim married. [See [Kavita Chandrakant Lakhani v. State of Maharashtra](#) [[Kavita Chandrakant Lakhani v. State of Maharashtra](#), (2018) 6 SCC 664 : (2018) 3 SCC (Cri) 391].]

54. The same principle has recently been reiterated by this court in the case of [Ramesh v. State of U.P. \(Criminal Appeal No. 817 of 2012\)](#) dated 15.04.2026 where it has been observed that the prosecution must establish not only the abduction but also the requisite intention or knowledge relating to compelled marriage or illicit intercourse.

55. Thus, the ingredients which require consideration in the present case are: firstly, whether the deceased was kidnapped or abducted; secondly, whether the prosecution has established the manner in which she was allegedly made to go from one place to another, namely, by force, compulsion or deceitful means; and thirdly, whether the prosecution has established that such kidnapping or abduction was accompanied by the intention or knowledge of the accused contemplated under [Section 366](#) IPC.

56. So far as the first ingredient is concerned, this Court has already considered the question of minority while examining the charge under [Section 363](#) IPC. As noticed hereinabove, the prosecution has failed to place reliable evidence establishing that Rubina was below eighteen years of age on the date of the alleged occurrence. Consequently, the prosecution cannot derive the necessary element of kidnapping from lawful guardianship merely on the basis of the oral assertions regarding her age. The charge under [Section 366](#) IPC must, therefore, be examined on the footing of the alleged abduction and the other ingredients independently.

57. In this regard, the evidence of P.W.-3 Sana and P.W.-4 Shahana assumes significance. Both these witnesses state that on 14.12.2002 they saw Rubina talking to appellant Ramdev in the lane near their house and thereafter leaving with him. Significantly, their testimony does not disclose that Ramdev used physical force, issued any threat or exercised any overt act of compulsion upon Rubina at the time when she left. The evidence, as it stands, establishes her departure in the company of Ramdev, but does not establish the manner in which she was allegedly compelled or induced to accompany him.

58. The prosecution has thereafter sought to bridge this gap by relying upon the subsequent marriage registration proceedings at Barabanki. P.W.-14. R.K. Malhotra, the Marriage Officer, has proved that on 10.01.2003 appellant Amrit Lal and a woman recorded as

Smt. Rubi appeared before him in connection with the marriage registration proceedings. The prosecution witnesses identified the woman appearing in the photographs accompanying the documents as Rubina. The existence of such proceedings is, therefore, a circumstance which requires consideration.

59. However, the mere fact that Rubina subsequently appeared before the Marriage Officer with appellant Amrit Lal does not, by itself, establish that she had been abducted or that her movement to Barabanki was the result of force, compulsion or deceitful means. There is no evidence from P.W.-14 R.K. Malhotra, the marriage officer that the woman appearing before him complained of being forcibly brought there, expressed apprehension, sought assistance or disclosed that she was being compelled to participate in the proceedings. The absence of such a complaint cannot, by itself, be treated as conclusive proof of voluntary conduct; nevertheless, it is a relevant circumstance when considered alongside the absence of evidence of force, threat or deceit at the stage when she was allegedly taken away and the substantial intervening period. Thus, the second ingredient has also not been fulfilled.

60. There is, moreover, no evidence on record explaining the circumstances in which Rubina came from the company of Ramdev, with whom she was allegedly last seen on 14.12.2002, into the company of Amrit Lal on 10.01.2003. The prosecution has thus failed to establish an uninterrupted or otherwise reliable link between the alleged initial departure and the subsequent appearance before the Marriage Officer.

61. The third and equally important requirement of [Section 366](#) IPC is the existence of the requisite intention or knowledge. The prosecution case appears to suggest that Rubina was taken away for the purpose of compelling her into marriage. However, no cogent evidence has been brought on record to establish that Ramdev, at the time when Rubina allegedly left with him, intended that she should be compelled to marry any person against her will, or that he knew such consequence to be likely. Likewise, merely because Amrit Lal subsequently appeared with Rubina before the Marriage Officer, the requisite intention on his part to compel her to marry against her will cannot automatically be inferred.

62. The marriage registration documents may establish that proceedings for registration of marriage were undertaken between Amrit Lal and the woman identified as Rubina. They do not, however, establish the circumstances preceding such proceedings or that the woman was brought there against her will. A subsequent act cannot, without supporting evidence, be treated as conclusive proof of the particular intention which is an essential ingredient of [Section 366](#) IPC. Allegations of deceitful means cannot be sustained merely on conjecture or by speculations. The prosecution must establish the particular force, deception or inducement relied upon.

63. In the present case, the prosecution has not established by reliable evidence either the use of force or compulsion or the particular deceitful means by which Rubina was allegedly induced to leave or subsequently brought before the Marriage Officer. The evidence regarding her last being seen with Ramdev, followed by her subsequent appearance with Amrit Lal before the Marriage Officer, leaves a material gap as to the circumstances in which she moved from one place to another. Consequently, the prosecution has failed to establish beyond reasonable doubt the foundational ingredients of abduction as well as the specific intention or knowledge contemplated under [Section 366](#) IPC. Mere association of the deceased with the appellants at different points of time, or the existence of marriage registration proceedings, cannot substitute proof of the statutory ingredients of the offence.

64. Accordingly, the charge under [Section 366](#) IPC is not established against appellant Ramdev. For the same reasons, the evidence does not establish the necessary ingredients of [Section 366](#) IPC against appellant Amrit Lal merely on the basis of his presence with Rubina before the Marriage Officer and the marriage registration documents.

65. We may now advert to assessing whether the essential ingredients of [section 368](#) IPC are met in the present case. [Section 368](#) IPC reads as under:

368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

66. The provision, therefore, contains distinct and cumulative requirements. The prosecution must establish: (i) that the person in question had been kidnapped or abducted; (ii) that the accused had knowledge of such kidnapping or abduction; and (iii) that, having such knowledge, the accused wrongfully concealed or confined that person. The Honble Supreme Court in the case of [Saroj Kumari v. State of U.P.](#), (1973) 3 SCC 669, has specifically laid down these three ingredients.

67. The first requirement, therefore, is not a mere formality. Unless the prosecution establishes that the person concerned was in fact kidnapped or abducted, the subsequent question of the accused's knowledge of such kidnapping or abduction does not arise. In the present case, as already discussed, the prosecution has failed to establish beyond reasonable doubt the manner in which Rubina was allegedly kidnapped or abducted. The evidence of P.W.-3 Sana and P.W.-4 Shahana only establishes that she was seen leaving in the company of Ramdev; it does not establish that she was taken by force, compulsion or deceitful means.

68. The second requirement is that the accused must have knowledge that the person had been kidnapped or abducted. Such knowledge cannot be presumed merely from the fact that the accused was subsequently found in the company of the person concerned. The prosecution is required to establish circumstances from which the requisite knowledge can safely be inferred. In the present case, there is no evidence establishing that appellant Amrit Lal knew that Rubina had allegedly been kidnapped or abducted by Ramdev, nor is there any evidence showing that such fact was communicated to him or was otherwise within his knowledge.

69. The third requirement, namely, wrongful concealment or confinement, is also not established by the evidence on record. The prosecution has not produced any evidence identifying a particular place where Amrit Lal allegedly concealed or confined Rubina, the period for which such concealment or confinement continued, or the circumstances demonstrating that he exercised such wrongful control over her. The fact that Amrit Lal appeared with Rubina before the Marriage Officer on 10.01.2003 establishes an association between them at that particular point of time; it does not, without more, establish that he had wrongfully concealed or confined her.

70. The significance of this aspect becomes greater in the present case because the prosecution itself relies upon the evidence of P.W.-14 R.K. Malhotra. The evidence of P.W.-14 R.K. Malhotra, Marriage Officer and the relevant documentary material establish that marriage registration proceedings had been undertaken in respect of a woman recorded as Smt. Rubi. P.W.-14 in his examination-in-chief has stated that on 10.01.2003 the accused appellant Amrit Lal along with Rubina came before him and submitted their marriage registration form. They were also accompanied by Siyaram, Ramgopal and Nanhku who acted as the witness of the marriage and put their thumb impression on the registration form. In his cross examination he also stated that they had merely submitted a form for registration of marriage stating that they had married each other on 4.01.2003 and intended to get it registered. He also stated that a notice of one month was given to them and if no objections were raised then their marriage registration would take place. He produced the photographs along with other documents regarding the marriage registration of Amrit Lal and Smt. Rubi. The prosecution witnesses P.W.-2 Jahida, P.W.-3 Sana and P.W.-4 Shahana identified the woman in the photographs accompanying the documents as Rubina. This circumstance establishes the existence of the marriage registration record and requires consideration while examining the allegations against Amrit Lal. However, the mere existence of a marriage registration record does not, by itself, establish the circumstances which prove that the woman was abducted or kidnapped or whether the registration was preceded by kidnapping, abduction or wrongful concealment.

71. The prosecution has not produced any direct evidence showing that Amrit Lal used force or deceit upon Rubina nor has the evidence of the Marriage Officer disclosed any complaint or protest by the woman at the time of the registration proceedings. The marriage registration circumstance, therefore, may establish an association between Amrit Lal and the woman identified as Rubina, but the further inference that Amrit Lal knowingly participated in her abduction or wrongfully concealed her requires additional evidence. Such inference cannot rest solely upon the fact of registration of marriage.

72. As per the testimony of P.W.-14 R.K. Malhotra Marriage Officer, the deceased was last seen with the accused-appellant Amrit. The last seen theory could, therefore be considered against Amrit Lal, however the prosecution has not alleged so or relied upon such circumstance. Even considering it to be a material contention we cannot disregard the interval of about a week that occurred between the P.W.-14 R.K. Malhotra Marriage Officer seeing the accused-appellant and victim together with the time when the body of the deceased was found. Accused-appellant Amrit Lal in his statement made under [section 313 CrPC](#) has also stated that co-accused Ram Gopal took his photo to arrange a marriage with his sister-in-law and sent a notice through Baradari Court. When they demanded ₹5,000 which he couldn't pay, they left with the sister-in-law. Without any link establishing the deceased continuous association with accused-appellant Amrit Lal, the intervening period of about one week materially weakens the reliance sought to be placed upon the last-seen circumstance against him.

73. In the absence of evidence establishing the factum of kidnapping or abduction, the requisite knowledge on the part of Amrit Lal and the subsequent wrongful concealment or confinement, the ingredients of [Section 368 IPC](#) cannot be said to have been proved beyond reasonable doubt. Consequently, the prosecution has failed to establish the essential ingredients of [Section 368 IPC](#) against appellant Amrit Lal. The mere fact that he was found accompanying Rubina before the Marriage Officer, coupled with the existence of marriage registration documents, cannot substitute proof of the statutory requirements of the offence.

Reliability of the Handwriting Evidence of Alleged Suicide Note

74. Another circumstance relied upon by the prosecution is the suicide note of the deceased for which it is contended that in his defence accused-appellant Ramdev wrote the suicide note and tied it in her dupatta so that no suspicion arose on him.

75. To scrutinize this circumstance, it is apt to reproduce the suicide note, which is hereinbelow:

अम्मी हमें मारती थी इसलिए मैं चाची के यहां जा रही रिश्तावाला अपने घर ले आया एक महीने अपने पास रखा फिर कहा अपने घर जा इसलिए मैंने जान दे दिया है मेरा नाम रुबीना बानो है जौहरी मोहल्ला चौक लखनऊ मकान नंबर २० है

76. During the course of investigation, the handwriting specimen of the accused-appellant Ramdev was taken for the purpose of comparison of his handwriting to the one on the suicide note in an attempt to connect appellant Ramdev with the alleged suicide note. The record indicates that specimen writings/signatures taken of appellant Ramdev were marked as S-1 to S-5 which were sent to the FSL for obtaining an expert opinion. The defence has specifically questioned the manner in which these specimens were obtained and has relied upon the testimony of DW-2 Neeraj Kumar, who stated that the signatures and writings of Ramdev were obtained on blank and ruled papers at the police station. The defence has alleged that the specimen of writing not taken before a magistrate or without obtaining an order from magistrate would be illegal and inadmissible.

77. The specimen writings were obtained in the year 2003. [Section 311-A CrPC](#), which specifically empowers a Magistrate to direct a person to give specimen signatures or handwriting, was subsequently inserted with effect from 23.06.2006. Therefore, the legality of the collection of the specimen writings in the present case cannot be tested simply by applying [Section 311-A Cr.P.C.](#) retrospectively.

78. In this regard the Apex Court in the case of [Santosh v. State \(NCT of Delhi\)](#), (2023) 19 SCC 321 held that prior to insertion of section 311A, there was no specific provision in the [CrPC](#) prescribing the procedure, but it also found no statutory provision which expressly

prohibited the investigation agency from collecting specimen of handwriting or signatures for obtaining an expert opinion. The court after quoting the case of [Sukhvinder Singh v. State of Punjab](#), (1994) 5 SCC 152 observed :

53. After dealing with the scope and object of [Section 73](#) in terms extracted above and upon noticing that there was no inquiry or trial pending before the court when the specimens were taken while bearing in mind that the prosecution did not disclose as to at what stage of investigation, inquiry or trial the accused was produced before the Executive Magistrate to take his specimen writings, and as to why the specimen writings were obtained under direction of the Executive Magistrate and not of the Designated Court, it was held that the manner in which the specimen writing of the accused was taken was totally objectionable and against the provisions of [Section 73](#) of Evidence Act, 1872. Therefore, the specimen writing was found unacceptable for comparison and the resultant report was discarded.

54. In our view, [Sukhvinder Singh \[Sukhvinder Singh v. State of Punjab\]](#), (1994) 5 SCC 152] does not lay down as law that during investigation the investigating agency cannot obtain specimen writing or signature of a suspect or an accused for the purposes of obtaining an expert report in respect of the disputed writing or signature. Rather, Sukhvinder Singh is to be understood as a decision dealing with the scope and exercise of power vested in a court under [Section 73](#) of Evidence Act, 1872 while conducting an inquiry or trial.

55. As to what procedure an investigating agency has to follow during investigation for obtaining specimen handwriting or signature of an accused, there existed no specific provision in the Code, at least none shown to us, prior to insertion of Section 311-A in the Code by Act 25 of 2005 w.e.f. 23-6-2006.

56. In [Ram Babu Misra \[State of U.P. v. Ram Babu Misra\]](#), (1980) 2 SCC 343], a decision rendered prior to insertion of Section 311-A in the Code, it was held that during the course of investigation a Magistrate is not empowered to direct the accused to give his specimen writing inasmuch as the provisions of the [Identification of Prisoners Act, 1920](#) (for short the 1920 Act) were silent with regard to issuance of directions by the Magistrate for taking specimen writing of prisoners. However, what is important is that [the said decision](#) is silent on the issue as to whether the specimen writing and signature of an accused obtained by the investigating agency during investigation could be used for obtaining an expert report on the disputed handwriting or signature.

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66. A conspectus of the decisions above would indicate that since specimen signatures and handwriting samples are not incriminating by themselves as they are to be used for the purpose of identification of the handwriting on a material with which the investigators are already acquainted with, compulsorily obtaining such specimens would not infringe the rule against self-incrimination enshrined in [Article 20\(3\)](#) of the Constitution of India.

79. While the court held such evidence to be admissible, it observed that admissibility of evidence does not itself make the evidence reliable or creditworthy. The relevant para is extracted below:

70. However, the mere fact that the expert report was admissible in evidence does not mean that it should on its own form the basis of conclusion that the suicide letter was written by Neeraj. Admissibility and reliability/creditworthiness of a piece of evidence are entirely different aspects. An inadmissible piece of evidence is to be eschewed. But when a piece of evidence is admissible, as to what weight it would carry for determining a fact in issue would depend on the proven facts and circumstances of the case.

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75. The underlying principle deducible from the observations extracted above is that though it is not impermissible to base a finding with regard to authorship of a document solely on the opinion of a handwriting expert but, as a rule of prudence, because of imperfect nature of the science of identification of handwriting and its accepted fallibility, such opinion has to be relied on with caution and may be accepted if, on its own assessment, the court is satisfied that the internal and external evidence relating to the document in question supports the opinion of the expert and it is safe to accept his opinion.

76. In the instant case, with regard to authorship of the suicide letter, the trial court though returned a finding in favour of the prosecution by relying solely on the expert report but did not record its satisfaction having regard to its own observations with respect to the admitted and disputed writings. It also did not examine whether in the proven facts and circumstances of the case it would be safe to rely on the expert report. It be noted that [Section 73](#) of Evidence Act, 1872 enables a court to compare the words or figures written by a person present in court with any words or figures alleged to have been written by such person. The trial court therefore could have undertaken such an exercise. But, in the instant case, there appears no such exercise undertaken by the trial court.

80. Thus, the evidentiary value of the handwriting opinion must consequently be considered not merely from the fact that an expert expressed an opinion, but whether the FSL report containing the expert opinion in itself is sufficient to establish the culpability of the accused-appellant when it has not been assessed by the trial court itself and there is dearth of evidence supporting their authenticity.

81. In the present case, the defence version regarding the manner of obtaining the specimens also assumes significance in view of the testimony of DW-2 Neeraj Kumar wherein he stated that in the year 2003, he used to run a paan shop and was called by the police officers to act as a witness. He witnessed a man writing on both blank and ruled papers at the direction of the police officer, while the officer was dictating to him. Herein, testimony of D.W.-2 Neeraj Kumar proves that the specimen handwriting of accused-appellant Neeraj Kumar was taken by the Investigating officer during the investigation and not before any magistrate. Though it does not by itself

make the evidence inadmissible at the relevant time, it is relevant to the extent it lends support to the narrative of false implication the defence which cannot be outrightly rejected.

82. There is a further circumstance concerning the alleged suicide note. P.W.-4 Shahana admitted in cross-examination that when the alleged suicide note was produced before them by the police, it was in an open and unsealed condition. The condition in which the document was produced, coupled with the questions raised regarding the manner in which the specimen writings were obtained, affects the confidence that can safely be placed upon this circumstance.

83. The aforesaid evidence was relied upon by the prosecution to establish the culpability of the accused-appellant Ramdev in causing the death of the deceased. However, the prosecution has failed to establish the said circumstance. The deceased was last seen in the company of Amrit Lal on 10.01.2003, when she appeared before the Marriage Officer. There is, thereafter, no connecting evidence on record to establish as to when the deceased came into the company of the accused-appellant Ramdev. In the absence of such link evidence, the prosecution has failed to establish the necessary chain of circumstances. Consequently, there was no occasion for the accused-appellant Ramdev to have prepared the alleged suicide note as a defence. The alleged suicide note, therefore, does not establish any culpability on the part of the accused-appellant Ramdev.

84. The handwriting opinion may constitute a relevant circumstance where the foundational material is satisfactorily proved. However, in the present case, the circumstances surrounding the collection of the specimen writings and the handling of the alleged suicide note and reliance on an unassessed expert opinion require that the opinion be approached with caution. It would not, by itself, be sufficient to bridge the substantial gap between the alleged last-seen circumstance and the death of the deceased.

Recovery under [Section 27](#) of the Evidence Act

85. The prosecution has also relied upon the alleged recovery of clothes and cosmetic articles of the deceased from the boot/dicky of motorcycle No. UP 32 H 7882 parked within the premises of Unity College, Lucknow.

86. The principles governing [Section 27](#) of the Indian Evidence Act, 1872 are well settled. In [Pulukuri Kottaya v. Emperor](#), AIR 1947 PC 67, it was held that only that portion of the information supplied by an accused-appellant in police custody which distinctly relates to the fact thereby discovered is admissible. The relevant consideration is not merely the recovery of an article but the fact discovered pursuant to information furnished by the accused-appellant and the connection between such information and the discovery.

87. Therefore, the mere fact that the recovery was effected from an open or accessible place does not, by itself, render the recovery inadmissible. What requires examination is whether the evidence establishes that the articles were concealed or kept in such circumstances that their discovery was genuinely attributable to information supplied by the accused-appellant and whether the accused-appellant's knowledge of the place or articles is satisfactorily established.

88. In the present case, the motorcycle was stated to have been parked within the premises of Unity College. The place was, therefore, not shown to be under the exclusive possession of appellant Ramdev. This circumstance by itself does not conclude the issue, but it assumes significance while assessing whether the articles recovered from the motorcycle were in fact within the knowledge or control of the appellant. The prosecution must consequently establish the precise disclosure made by Ramdev, the circumstances in which the motorcycle was located, the manner in which the articles were concealed or recovered and the evidence connecting the appellant with those articles.

89. The evidence of P.W.-11 Rasheed, who was examined as a witness to the recovery, also requires consideration. He stated during his chief-examination that the police called him to sign papers which had already been prepared and that the contents of the recovery memo were neither read over nor explained to him. He further stated that he signed the document without witnessing the recovery in the manner suggested by the prosecution. The testimony of the recovery witness, therefore, does not provide independent corroboration to the prosecution version regarding the actual recovery. The absence of reliable independent corroboration does not, as a matter of law, automatically nullify a recovery; however, where the independent witness does not support the manner of recovery, the Court must scrutinise the testimony of the police witnesses and the circumstances of the alleged discovery with greater care.

90. In the present case, the location of the motorcycle, the nature of the place from which the articles were recovered and the testimony of P.W.-11 Rasheed collectively create doubt regarding the extent to which the alleged recovery can safely be treated as a strong link in the chain of circumstances.

91. The alleged recovery may, therefore, be considered as a relevant circumstance only to the extent that the statutory requirements of [Section 27](#) are satisfactorily established. On the evidence available, it does not provide a sufficiently secure link capable of independently connecting appellant Ramdev with the death of Rubina.

92. Prosecution has adduced the evidence of P.W.-12 Pappu to establish that the accused-appellant Ramdev had made extra judicial confession before the village Pradhan namely Lakhana. P.W.-12 in his testimony has deposed that he had no knowledge of the fact that on 19.01.2003 accused-appellant Ramdev had made extra judicial confession before the village Pradhan. Upon being declared hostile, P.W-12 Pappu in his cross examination denied that his statement was recorded under [section 161](#) CrPC. He has categorically stated that the police inspector met him once four years ago prior to his deposition and asked his fathers name but did not record his statement. Thus, from this evidence it clearly transpires that prosecution theory with regard to extra-judicial confession also fails. The village Pradhan has also not been examined. Therefore, this circumstance also failed to materialize as an evidence against the accused-appellants.

Whether the Evidence Establishes the Nexus of Appellants with the Death and Connection with the Offence

93. The prosecution has led evidence regarding the recovery and identification of the deceased and her belongings. These circumstances establish the occurrence of death and assist in identifying the deceased. The fact that the deceased's clothes or other personal articles were identified also has evidentiary relevance regarding identity. However, proof of the identity of the deceased and proof of the fact of death are distinct from proof of the identity of the person responsible for causing such death. The latter requires a separate evidentiary link connecting the accused-appellant with the act resulting in death.

94. In the present case, there is no eyewitness account of the deceased being pushed before a running train. The prosecution case regarding the involvement of Ramdev in the death consequently depends upon the chain of circumstantial evidence discussed above. The offence of murder has been leveled against the accused-appellant Ramdev but the last seen theory alleging his culpability becomes stale as she was subsequently seen with the accused-appellant Amrit Lal on 10.01.2003 as per the testimony of P.W.-14 R.K. Malhotra, the marriage officer. Amrit Lal has not been convicted by the trial court for murder of Rubina rather he has been convicted under [section 366](#) and [368](#) IPC, essentials of which the prosecution has not been able to prove.

95. The question, therefore, is whether the last-seen circumstance, the alleged marriage registration, the handwriting evidence, the recovery of articles and the other circumstances, when considered cumulatively, form a complete chain which excludes every reasonable hypothesis consistent with the innocence of the appellants.

96. The answer must necessarily depend upon the cumulative strength of the individual circumstances. As noticed above, the last-seen evidence suffers from material inconsistencies regarding the time and manner of disclosure. The interval between the alleged last-seen circumstance and recovery of the body is approximately more than a month. The evidence relating to the age of the deceased does not satisfactorily establish minority. The circumstances surrounding the collection of the handwriting specimens and the handling of the alleged suicide note require caution. The marriage registration establishes a circumstance requiring explanation but does not, by itself, establish abduction or wrongful concealment. The alleged recovery also does not furnish an unambiguous link connecting Ramdev with the deceased throughout the intervening period.

97. Each circumstance, therefore, falls short of providing an independent and conclusive link. When the circumstances are considered cumulatively, the chain does not attain the degree of completeness required for a conviction based exclusively on circumstantial evidence.

CONCLUSION

98. Having considered the evidence on record in its entirety, this Court finds that the prosecution has not been able to establish a complete chain of circumstances leading exclusively to the guilt of the appellants.

99. The last-seen circumstance does not satisfactorily account for the substantial interval between 14.12.2002 and 18.01.2003 and is further affected by the differing versions of P.W.-2 Jahida, P.W.-3 Sana and P.W.-4 Shahana regarding the disclosure of the alleged fact. The evidence regarding the age of the deceased does not establish her minority with the degree of certainty required for sustaining the charge under [Section 363](#) IPC.

100. Circumstance with regard to extra-judicial confession has also not been proved by P.W.-12 Pappu. In his testimony he has stated that he had no knowledge about the confessional statement made by accused-appellant Ramdev before village Pradhan. Village Pradhan has also not been examined by the prosecution. Thus, this alleged circumstance also fails to establish the culpability of the accused.

101. The evidence relating to [Section 366](#) IPC also does not satisfactorily establish the necessary circumstances of abduction or compulsion. The marriage registration documents, while constituting a relevant circumstance, do not by themselves establish that the woman was taken to the Marriage Officer through force, deceit or coercion, nor do they independently establish the requisite ingredients of the offence against Amrit Lal.

102. The handwriting evidence requires cautious consideration in view of the circumstances in which the specimen writings were obtained and the condition in which the alleged suicide note was produced. The prosecution has also not been able to prove the alleged extra judicial confession. Similarly, the alleged recovery under [Section 27](#) of the Evidence Act does not, on the evidence available, constitute a sufficiently reliable link to complete the chain of circumstances against Ramdev.

103. As per the statement of P.W.-7 Dr. S.N.S Yadav cut and crash wounds were present on the body of the deceased and some black material was also found on her body. The medical evidence, however, does not conclusively establish that the injuries sustained by the deceased were the result of her being forcibly pushed by the accused persons on the railway track. The possibility of the injuries having been caused in a train accident could not be ruled out. Thus, the medical evidence does not lend conclusive support to the prosecution case that the deceased was pushed on the railway track by the accused persons. Further, no culpability of the accused-appellants can be inferred from the alleged suicide note.

104. The circumstances relied upon by the prosecution may give rise to suspicion, but suspicion, however strong, cannot substitute proof beyond reasonable doubt. In a case resting wholly upon circumstantial evidence, the prosecution must establish every material link and the cumulative chain must exclude reasonable hypotheses consistent with innocence.

105. Upon such cumulative consideration, we are unable to sustain the conclusion of the learned trial court that the circumstances relied upon by the prosecution constitute a complete chain pointing unerringly towards the guilt of the appellants. The reasoning adopted by the learned trial court, insofar as it treats the aforesaid circumstances as sufficient to bridge the material gaps in the prosecution case, does not withstand scrutiny in the light of the evidence discussed hereinabove. Thus, the findings given by the trial court are perverse

and not in consonance with evidence on record and the law laid down. The reasons given by the trial court are not convincing and clinching and require the interference of this court.

106. The appellants are, therefore, entitled to the benefit of reasonable doubt. Accordingly, the present criminal appeals are allowed.

107. The impugned judgment and order of conviction and sentence dated 27.09.2013 passed by the learned Additional District and Sessions Judge, Court No. 15, Lucknow in Sessions Trial No. 1020 of 2003, insofar as it relates to appellants Ramdev and Amrit Lal, is hereby set aside.

108. Appellant Ramdev is acquitted of the charges leveled against him under [Sections 363, 366 and 302](#) IPC and appellant Amrit Lal is acquitted of the charges leveled against him under [Sections 366 and 368](#) IPC.

109. Appellant Ramdev is in jail in the present case he shall be released from jail forthwith, unless his detention is required in some other case. So far as appellant Amrit Lal is concerned, he is on bail, he need not surrender. His bail bonds are cancelled and sureties stand discharged, subject to compliance with [Section 437-A](#) Cr.P.C.

110. Pending applications, if any, stand disposed off.

111. Let a certified copy of this judgment along with the Lower Court Record be transmitted to the trial court concerned forthwith for necessary compliance.

112. Before parting with this judgment, this court records the assistance rendered by Ms. Roshni Thakur, Research Associate, attached to this court.

(Pramod Kumar Srivastava,J.) (Abdul Moin,J.) October 09, 2026/Arvind