



IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
&
THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR
WEDNESDAY, THE 23RD DAY OF JULY 2025 / 1ST SRAVANA, 1947

CRL.A NO. 602 OF 2019

AGAINST THE JUDGMENT DATED 04.05.2019 IN SC NO.139 OF 2016 OF
ADDITIONAL SESSIONS JUDGE - III, PATHANAMTHITTA

APPELLANT:

SURESH
AGED 54 YEARS
S/O. BHASKARAN, RESIDING AT NEDIYAKALAYIL VEEDU,
NEAR GURUMANDIRAM, VAZHAMUTTOM EAST VALLIKKODE VILLAGE,
KOZENCHERRY TALUK, PATHANAMTHITTA DISTRICT.

BY ADV SRI.V.SETHUNATH

RESPONDENT:

THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA,
ERNAKULAM.

SMT. NEEMA T.V., SR. PUBLIC PROSECUTOR.

THIS CRIMINAL APPEAL HAVING COME UP FOR FINAL HEARING ON
23.07.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**"CR"****JUDGMENT****Raja Vijayaraghavan, J.**

This appeal is directed against the judgment dated 04.05.2019 in S.C. No. 139 of 2016 on the file of the Additional Sessions Judge-III, Pathanamthitta. In the aforesaid case, the appellant herein was charged for having committed offences punishable under Sections 447, 294(b), 506(ii), 325, and 302 of the Indian Penal Code (IPC). By the impugned judgment, he was found guilty:

- a) for the offence under Section 302 IPC and was sentenced to undergo imprisonment for life and to pay a fine of Rs.50,000/- with a default clause.
- b) for the offence under Section 325 of the IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.10,000/- with a default clause.
- c) for the offence under Section 506 Part II and sentenced to undergo RI for two years,
- d) for the offence under Section 447 of the IPC and sentenced to undergo RI for three months.

The finding of guilt, conviction and sentence passed by the learned Sessions Judge are under challenge in this appeal.

Crux of the prosecution case.

2. The appellant, Suresh, is a close relative of the deceased,



Pankajakshan Pillai, and resides adjacent to the house of the deceased. The prosecution case is that on the morning of 05.01.2015, an altercation occurred between the accused and the wife of the deceased, Radhamani who was examined as PW5. At the time of the altercation, the deceased, a rubber tapper by profession, was not at home. He returned around 12:30 p.m. after completing his tapping work. It is alleged that the appellant, with the intention to cause the death of the deceased, trespassed into the courtyard of house bearing No. VP/VII/281 of Vallikode Village and abused the deceased. A verbal altercation ensued, during which the appellant allegedly pushed the deceased forcefully. The deceased fell into a drain located on the southern side of a short wall separating his property from the adjacent road. The drain measured approximately 60 cms. in width and 1.8 meters in depth and ran in an east-west direction. As a result of the fall, the deceased sustained serious injuries, particularly to his vertebra. He was rushed to Amma Hospital at Kottayam, where he was seen by a doctor at 12:50 p.m. The doctor suspected traumatic quadriplegia, and the injured was referred to the Medical College Hospital, Kottayam.

Registration of the Crime and investigation

2.1. On the next day, i.e., on 6.1.2015, at around 8:00 p.m., on receiving information about the incident, the Sub-Inspector of Pathanamthitta Police Station reached the Medical College Hospital and recorded the statement



of PW5, on the basis of which Crime No. 29 of 2015 was registered at 8:30 p.m. for offences under Sections 447, 294(b), 506(i), 325, and 302 IPC. Crucially, it was noted in the FI statement that the injured was conscious and able to speak.

2.2. The investigation was taken over by PW10, the Circle Inspector of Police, Pathanamthitta Police Station, on 07.05.2015. He visited the scene of crime and prepared Ext.P7 scene mahazar. He noted that the injuries were sustained when the deceased had fallen into the drain on the southern side of a short brick wall that separated the property of the deceased from the public road.

2.3. On 17.01.2015, he received information that the injured had succumbed to his injuries. He went to the Medical College Hospital and conducted Ext.P3 inquest over the dead body. Thereafter, he filed Ext.P8 report before the court incorporating Sections 450, 294(b), 506(i), 325, and 302 of the IPC.

2.4. On 24.01.2015, the accused surrendered before the police and was arrested as per Ext.P11 arrest memo. He was produced before the Court and remanded to judicial custody. Steps were taken to prepare a scene plan. The postmortem and wound certificates were obtained, and after completing the investigation, the final report was filed before the jurisdictional Magistrate.



3. The case was made over to the learned Sessions Judge. When the charge was read over, the accused pleaded not guilty.

Trial Proceedings

4. The prosecution examined 10 witnesses as PWs 1 to 10 to prove its case and through them Exts.P1 to P14 were marked. On the closure of the prosecution evidence, the accused was questioned under Section 313(1)(b) of the Cr.P.C. He emphatically denied all incriminating circumstances and claimed innocence. He stated that on the date of the alleged occurrence, at about 9:00 a.m., PW5 had abused him verbally while he was on his way to the hospital. On his return, he saw the deceased sitting on the verandah of his house. Upon seeing the appellant, the deceased allegedly tried to attack him with a stone taken from the boundary wall but lost his balance and fell into the drain, consequent to which the injuries were sustained. On the side of the defence, DW1 was examined.

Findings of the Sessions Judge

5. The learned Sessions Judge, after evaluating the evidence, found the testimony of PW5 to be reliable. The omissions and contradictions pointed out by the defence were found to be minor. The court held that the evidence of PWs 2, 5, 9, and 10, along with Exts.P1, P3, and P6, established that the deceased had suffered injuries consequent of the push by the



appellant, leading to fractures of the C4 and C5 vertebrae, which ultimately caused his death. Accordingly, the court found that the prosecution had succeeded in proving the offences under Sections 447, 325, 506(ii), and 302 of the IPC beyond reasonable doubt and convicted the appellant as aforesaid.

Submissions advanced.

6. Sri. V. Sethunath, the learned counsel appearing for the appellant, submitted that the learned Sessions Judge had failed to appreciate the evidence in its proper perspective. He pointed out that the deceased was taken to Amma Hospital at 12:50 p.m. by PW5, and he was able to communicate. The Accident Register-cum-Wound Certificate prepared by the Doctor at 12:50 p.m. on 01.05.2015 mentions the alleged cause of injury as "fall from height." The learned counsel argued that the earliest version clearly indicates that the deceased had fallen into the drain accidentally and that the appellant had no role in causing the injuries. He further submitted that PW9 and PW10 had stated that the deceased was able to talk and had given a statement explaining the cause of his injury. However, this statement was suppressed by the prosecution. He also highlighted inconsistencies and contradictions in the testimony of PW5, the wife of the deceased, and submitted that the learned Sessions Judge erred in placing undue reliance on her evidence. He highlighted the various flaws in the investigation and the careless manner in which it was carried out. It was finally submitted that the



appellant is innocent, and the conviction and sentence are liable to be set aside.

7. In response, the learned Public Prosecutor contended that the learned Sessions Judge had carefully evaluated the evidence of PW5, the medical records, the testimony of neighbours, and the statements of the police officers before arriving at the finding of guilt. It was also pointed out that PW5 had reasonably explained why she initially stated before the doctor that the deceased had fallen on his own.

8. We have carefully considered the rival submissions and examined the entire evidence on record. We shall now re-appreciate the evidence to determine whether the finding of guilt recorded by the learned Sessions Judge can be sustained in law.

Evidence let in

9. Insofar as the injuries sustained by the deceased, Pankajakshan Pillai, are concerned, there is no serious dispute between the parties. It is admitted that the deceased fell into a deep drain approximately 1.8 meters in depth and sustained the injuries. The prosecution asserts that the deceased was pushed into the drain forcefully by the appellant, whereas the appellant contends that while he was walking along the southern road, the deceased hurled abuses at him and picked up a heavy stone with the intent to throw it at the appellant. In the process, the deceased lost his balance and fell into the



drain, sustaining the injuries. In other words, the fact that the deceased suffered a vertebral fracture is not in dispute. What remains to be determined is whether such injury was the result of a forceful push by the appellant.

10. We shall now evaluate the medical evidence, specifically the testimonies of PW2 and PW9. PW2 was the Doctor who initially examined the injured at Amma Hospital, while PW9 was the Doctor who conducted the postmortem. PW2 stated that on 01.05.2015, while working as a Medical Officer at Amma Hospital, he examined Mr. Purushothaman, a 60-year-old male, who was brought in by his relatives with a complaint of having "fallen from a height". He noted that the injured was unable to move both upper and lower limbs and suspected traumatic quadriplegia. The patient was referred to the Medical College Hospital. Ext.P1, the wound certificate, was marked through him. In cross-examination, he stated that he examined the patient at 12:50 p.m. and that the alleged cause of injury was conveyed by the relatives. However, he did not remember who the relatives were. He also stated that such injuries could be caused by a fall from a height.

11. PW9, an Assistant Professor and Assistant Police Surgeon at the Government Medical College Hospital, Kottayam, deposed that he conducted the postmortem examination of the deceased on 17.01.2015. Among the injuries noted, he noted a fracture between the C4 and C5 cervical vertebrae, spinal cord contusion with softening, and surrounding soft tissue infiltration. He



opined that the injuries could have been caused by a head-down fall from a height. He clarified that he did not verify the treatment records of the deceased.

12. In light of the evidence of PW2 and PW9, it can be stated with a fair degree of certainty that the deceased fell from a height and sustained the injuries. However, whether such a fall was the result of a deliberate push by the appellant remains to be ascertained after proper evaluation of the other evidence on record.

13. We shall now proceed to consider the evidence adduced by the prosecution to prove the incident.

14. PW1 stated that he returned from work at around 8:00 p.m. on 01.05.2015 and came to know that he came to know that there was an altercation between the deceased and the appellant and that the deceased was taken to the hospital. He did not fully support the prosecution case. In cross-examination, he stated that he was only informed that the deceased had suffered the injuries by falling down. He also admitted that several houses were situated in and around the residence of the deceased. He further stated that the deceased and the appellant were close relatives, being children of a brother and sister, and that he was unaware of any disputes between them.

15. PW2 is the Village Officer of Vallikode, who prepared Ext.P2 site



plan. In cross-examination, he stated that he prepared the plan based on a requisition from the Investigating Officer. During cross-examination, it was brought out that no scale was mentioned in the plan and that it contained no significant details. He denied that the plan was prepared based on guesswork or at the instance of the police.

16. PW3 attested Ext.P3, the inquest report.

17. PW5 is the wife of the deceased. She stated that on 01.05.2015, at around 9:30 a.m., the appellant came to the courtyard of her house in an inebriated state and began abusing her. At that time, her husband had gone for rubber tapping. Though she asked the appellant to leave, he remained there for some time and continued his abusive behavior before eventually returning to his house. Around 12:30 p.m., after her husband returned, the appellant came back. Her husband, who was inside the house, came out and asked the appellant to go home, saying he was tired. While she was taking food for her husband, she heard an altercation and came out to the courtyard. She deposed that the appellant threatened her husband and that she pleaded with folded hands and asked the appellant to leave. He was carrying a knife tucked in his hip. During the scuffle, the knife fell to the ground, and PW5 picked it up. She stated that the appellant then pushed her, causing her to fall and suffer a knee injury. Subsequently, the appellant pushed her husband forcefully, causing him to fall over the 6-foot-high boundary fence into the drain located on the



southern side. Her husband was paralyzed from the neck down. She raised a hue and cry and a boy rushed in to help her. With his help, they managed to pull her husband out and summoned an autorickshaw to take him to the nearby hospital. The doctor informed them that her husband had sustained a fracture and advised that he be shifted to the Medical College Hospital. Accordingly, an ambulance was summoned, and her husband was taken to the Medical College Hospital, Kottayam. She stated that her husband passed away on 16.01.2015 at about 8:00 p.m. and that she gave Ext.P4 statement to the police.

18. In cross-examination, she stated that she gave her statement to the police only on the next day and denied that the police had come to the Medical College Hospital to record her statement. She added that her husband had given a dying declaration to the police prior to his death. When asked when the said declaration was made, she replied that it was on the day before his death and confirmed that her husband was able to speak. She stated that her husband was taken to Amma Hospital by her and one Anil Kumar, and that she did not recall the name of the autorickshaw driver. She also stated that her husband complained of numbness while they were en route to the hospital. She denied that her husband told her and Anil Kumar that he fell into the drain on his own. When questioned whether they told the doctor at Amma Hospital that he had fallen from a height, she responded that as she was in a distressed state, many things were said, and she did not clearly remember what was conveyed. She stated that the information to the doctor was furnished by her



and not by her husband. She admitted that she did not accompany her husband to the Medical College Hospital as she was unwell. Her daughter and son-in-law went with him in the ambulance. When asked whether the deceased had informed the ambulance driver and son-in-law that he had fallen by himself, she said she was unaware. She was further asked if she had mentioned in her FIR that her husband had told the doctor he suffered injuries from falling down on his own. She responded that she might have said so, as she was in a distressed state at the time. When asked why the police were not informed on the same day, she stated that her children were not at home and that she was trying to save her husband. She denied the suggestion that police were not informed because the deceased had fallen on his own. She stated that she went to the Medical College Hospital only on the sixth day and remained there until the eighth. She asserted that the police did not visit the hospital during those days. When asked whether the boundary wall was old and made of granite, she replied that the wall was somewhat elevated. She admitted that nothing untoward occurred in the courtyard but maintained that there was a scuffle between her husband and the appellant. She further stated that her husband was pushed while they were standing at the southeastern corner of the courtyard and that there was an exchange of blows between the two. When asked why she had not previously stated this, she replied that she did not know what all had to be said. She added that she gave another statement to the police seven or eight days after the FIR. She denied that the appellant and the



deceased were on cordial terms, as stated in her FIR.

19. PW6, the Senior Civil Police Officer attached to the Pathanamthitta Police Station, deposed that on 06.01.2015, upon receiving an intimation from the Medical College Hospital, Kottayam, he proceeded to the hospital and recorded the statement of Radhamani (PW5), the wife of the injured person. He stated that the injured was admitted in the Trauma Intensive Care Unit (ICU). During cross-examination, PW6 affirmed that in her First Information Statement (FIS), PW5 had informed him that her husband was capable of speaking. He further stated that PW5 had mentioned there was no prior enmity or rivalry with the appellant. Since the injured was admitted in the Trauma ICU, PW6 clarified that he did not attempt to enter the ICU to record his statement or to prepare the body note. Certain omissions in the testimony of PW5 were specifically pointed out to PW6, which he candidly admitted. He confirmed that those statements had not been made by PW5 in her FIS. In particular, PW6 stated that PW5 had not mentioned in her statement that the injured had told the appellant he was tired and requested to be left alone. Nor had she stated that the appellant had a knife tucked into his waist. He further affirmed that PW5 did not state that the knife had fallen when the appellant pushed her husband, nor did she state that the appellant had pushed her when she picked up the knife from the ground or that she had sustained a knee injury in the process.



20. PW7 is the Grade Sub-Inspector attached to the Pathanamthitta Police Station. He testified that based on the statement recorded by PW6 from PW5, he registered Crime No. 29/15 of the Pathanamthitta Police Station. The First Information Report was marked as Ext.P5.

21. PW8, a close relative of the deceased, deposed that he had stood as an attestor to the inquest.

22. We have already dealt with the steps taken by PW10, the investigating officer, after taking over the investigation. PW10, while being cross-examined, stated that the statement of PW5 was recorded at the Medical College Hospital and not at the Police Station. He stated that the statement of the injured was recorded by the Police on 12.01.2015 while he was undergoing treatment at the MCH. He admitted that the said statement was not produced before the Court due to oversight. He stated that he did not record the statement of the doctor who treated the injured at the MCH. He also added that he did not endeavour to record the dying declaration of the injured. He admitted that in Ext.P1, the cause of injury is shown as a fall from height. He stated that the place of occurrence is not the drain. He admitted that no details have been stated either in the scene mahazar or the plan. When he was asked that the place from where the injured was pushed was not shown in Ext.P2 or Ext.P7 as no such incident had taken place in the courtyard of the house, he denied the same. He stated that in the additional statement given by PW1, it



has been stated that there were no disputes between the families and they were living in a cordial manner. He admitted that there are numerous homes in the vicinity of the house of the deceased. The omissions which were brought out while cross-examining PW5 were put to PW10, which he admitted.

Evaluation of the evidence

23. It has come out from the evidence that immediately after the incident on 05.01.2015, the injured was rushed to Amma Hospital. The doctor who examined the injured was examined as PW2, and the wound certificate issued by him is marked as Ext.P1. What is significant, however, is that in the wound certificate, the doctor has recorded that the injuries were caused due to a fall from a height. This version lends credence to the case set up by the appellant that it was not a case of fall into the drain consequent to a push by the appellant. This assumes relevance particularly when in respect of the incident, information was furnished to the police only at 8:00 p.m., on 06.01.2015, after a day and 7 hours after the incident, and it is in the said statement that the appellant has been implicated as the aggressor.

24. There is yet another circumstance that casts serious doubt on the prosecution case. PW5, in her deposition, stated that the injured was conscious and able to speak until the day prior to his death, which occurred on 17.01.2015. She further stated that the police had recorded his statement while he was undergoing treatment at the hospital. PW10, in his evidence, admitted



that the statement of the victim was indeed recorded. However, by oversight, the said statement was not placed before the Court. If the injured was alive and conscious for nearly twelve days following the incident, there is no plausible explanation as to why his statement was not formally recorded and brought on record, especially considering that the FIR had been registered under Section 307 of the IPC. This omission assumes significance in the context of the prosecution case. It may be that the injured had given a statement exculpating the appellant, and that might have been the reason why the said statement was kept out of the gaze of the Court.

25. We find that the conviction of the appellant has been founded solely on the testimony of PW5. Upon a careful and critical evaluation of her evidence, we find that her version appears to be highly embellished to such an extent that it becomes highly unsafe to rely on it. She admits that a different version of the incident was given to the doctor at the time of admitting the deceased to the hospital. She stated that such a statement was furnished owing to her distressed mental state. However, she also maintains that the injured was conscious and able to speak till the day before his death. Further, in total variance to her earlier statements, she stated in her evidence that the appellant had come armed with a knife, which fell down during the scuffle, and when she picked it up, he pushed her down, leading to her sustaining injuries. She also introduces an incident involving a scuffle between the deceased and the appellant. When confronted about whether a different version had been



given to the ambulance driver and the boy who accompanied her to the hospital, she pleaded ignorance. She admitted that she had stated that her husband had informed the doctor that he had sustained the injuries by falling down on his own, but again sought to justify the same by claiming she was under emotional distress at the time. We are of the view that the prosecution has failed to establish its case against the appellant. There is a serious possibility that the deceased had fallen down on the drain and suffered injuries which resulted in his death after about two weeks. In that view of the matter, the finding of guilt arrived at by the learned sessions Judge cannot be sustained.

Need of the hour

26. Before parting, we would like to state that we are distressed to note the irresponsible and careless manner in which the investigation has been conducted in the instant case. Absolutely nothing is discernible from the scene plan and the mahazar regarding the nature and topography of the property in question. It remains a matter of serious concern as to why law enforcement agencies in the State continue to show little or no regard for the proper documentation of the crime scene before the trial court. The preparation of a clear and accurate scene plan and a mahazar detailing the nature and lie of the scene of crime is crucial for enabling the Court to obtain a precise understanding of how the incident unfolded and to assess whether the version



of events put forth by the witnesses stands corroborated by the physical layout. In almost all cases, the task of preparing the scene plan or site plan is handed over to the Village officer, who is untrained and unfamiliar with the legal requirements of a criminal trial. Furthermore, in the case on hand, no effort was taken to record the statement of the injured as regards the reason for the injuries sustained by him after securing a certification from the doctor, particularly when the wife and the doctor stated that he was in a position to talk. Even the preparation of mahazars is frequently undertaken in a casual and perfunctory manner by the officers concerned, and it serves no purpose.

27. It needs to be borne in mind by all concerned that criminal investigations form the backbone of the criminal justice system. A foolproof investigation is essential to come to the truth and in ensuring that no efforts are spared to bring the perpetrators of crime to justice. Much resources are spent by the State on law enforcement, forensic laboratories, and medical experts to ensure justice is served. A lackadaisical or careless approach by the investigators results in the wastage of public resources. It leaves the courts without the full truth, undermines public trust, and ultimately, the end result is that the offender goes scot free. It is known to all that the certainty that appropriate punishment commensurate with the offence will be imposed swiftly is one of the greatest deterrents to crime.

28. Sitting in this jurisdiction for quite some time, we have



encountered scores of cases where serious lapses in investigation at all stages have come to our notice. Important evidence is overlooked and in most of the cases, the investigating agency fails to collect the same and place it for the scrutiny of the court. We need to bear in mind that advancements in forensic science and technology have revolutionised criminal investigations, offering tools which were not available earlier. Effective investigators today must integrate traditional investigative techniques with modern scientific methods to ensure that all traces of evidence are obtained and produced before court. The tools and knowledge required to conduct effective investigations are well-established, from basic crime scene management to advanced DNA sequencing and cyber forensics. What is needed is the will and diligence to apply them consistently and correctly. Investigators must approach every case, especially serious crimes, with the mindset that anything less than a foolproof investigation is unacceptable. Each piece of evidence must be meticulously analysed, every protocol followed, and all leads are to be exhausted. Senior officers in the hierarchy should ensure that officers are trained in the latest techniques and held accountable for lapses. Forensic labs should be adequately staffed and equipped so that they can process evidence swiftly and reliably. Now that the BNS and BNS have come into force, there is no excuse for investigative incompetence in serious crimes.

29. In **Pooja Pal v. Union of India**¹, the Apex Court highlighted

¹ (2016) 3 SCC 135



the avowed purpose of criminal investigation and its efficacious prospects with the advent of scientific and technical advancements by observing as under in paragraph No. 96 of the judgment:

“96. The avowed purpose of a criminal investigation and its efficacious prospects with the advent of scientific and technical advancements have been candidly synopsised in the prefatory chapter dealing with the history of criminal investigation in the treatise on Criminal Investigation — Basic Perspectives by Paul B. Weston and Renneth M. Wells:

“Criminal investigation is a lawful search for people and things useful in reconstructing the circumstances of an illegal act or omission and the mental state accompanying it. It is probing from the known to the unknown, backward in time, and its goal is to determine truth as far as it can be discovered in any post-factum inquiry.

Successful investigations are based on fidelity, accuracy and sincerity in lawfully searching for the true facts of an event under investigation and on an equal faithfulness, exactness, and probity in reporting the results of an investigation. Modern investigators are persons who stick to the truth and are absolutely clear about the time and place of an event and the measurable aspects of evidence. They work throughout their investigation fully recognising that even a minor contradiction or error may destroy confidence in their investigation.

97. The joining of science with traditional criminal investigation techniques offers new horizons of efficiency in criminal investigation. New perspectives in investigation bypass reliance upon informers and custodial interrogation and



concentrate upon a skilled scanning of the crime scene for physical evidence and a search for as many witnesses as possible. Mute evidence tells its own story in court, either by its own demonstrativeness or through the testimony of an expert witness involved in its scientific testing. Such evidence may serve in lieu of, or as corroboration of, testimonial evidence of witnesses found and interviewed by police in an extension of their responsibility to seek out the truth of all the circumstances of crime happening. An increasing certainty in solving crimes is possible and will contribute to the major deterrent of crime—the certainty that a criminal will be discovered, arrested and convicted.”

30. In **Tomaso Bruno v. State of U.P.**², a three-Judge Bench of the Apex Court observed that advancement of information technology and scientific temper must pervade the method of investigation. Electronic evidence was relevant to establish facts. Scientific and electronic evidence can be a great help to an investigating agency.

31. In **Rollymol v State of Kerala**³, a Division Bench of this Court of which one of us (Raja Vijayaraghavan V., J) was a member had lamented about the antiquated investigative methods used by the State Police and had provided suggestions to remedy the inefficiency that plagues the system:

39. In this jurisdiction, we have frequently encountered cases where the accused are acquitted due to errors and shortcomings in police investigations. There are also cases such as the instant one

² [(2015) 7 SCC 178]

³ [2024 KHC 7324])]



wherein the accused is charged with serious crimes without conducting a fair investigation. Despite numerous judicial pronouncements which the investigating officers are to scrupulously adhere to, the final report was laid charging the appellant under S.302 of the IPC. This action is also unjust and unfair. It is imperative that the State Police Department rises to meet these challenges by establishing a centralized knowledge repository. Such a repository would serve as a vital resource for young and inexperienced officers, enabling them to access comprehensive information and seek guidance from a dedicated team of experts. This repository would also facilitate seamless access to legal updates, including recent judicial interpretations and developments in investigative techniques.

40. The creation of such a central knowledge repository would empower investigating officers by allowing them to access relevant precedents, evidence - gathering techniques, and expert advice, ensuring a more robust and efficient investigation process. Moreover, with crimes increasingly involving advanced technology, officers must be provided with the necessary support to navigate complex cases and prepare foolproof final reports backed by legally admissible evidence. Without timely intervention and proper training, the quality of crime investigations will continue to suffer, resulting in serious injustices. We trust that these suggestions will be given due consideration and that appropriate measures will be taken to make crime investigations in the State more effective, scientific, and result - oriented.

32. The coming into force of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023 replacing the old codes assume importance. In the statements and objects of the BNSS, it is stated that a fast and efficient justice system is an essential component of good governance. It speaks about the delay in the



delivery of justice owing to various reasons, including insufficient use of technology in the legal system and inadequate use of forensics. These are highlighted as the biggest hurdles in speedy delivery of justice. It was also mentioned that the State police forces are required to urgently modernise investigative practices and follow the procedure prescribed therein. The new code weaves modern tools and safeguards into the fabric of criminal investigations.

33. The BNSS ushers in a new era of evidence-focused, technology-enabled policing, replacing outdated colonial procedures with mandates for audio-visual documentation, scientific evidence collection, and digital case management. Sections 105, 176, 180, 254, 265, 308, and 349 of the BNSS require that searches, seizures, witness statements, and other crucial steps be recorded by "audio-video electronic means." They also insist on forensic expert involvement in serious crimes and provide legal authority to obtain scientific samples from suspects. Therefore, the old habits of cursory scene examination, reliance on witness memory, and sparse documentation will no longer suffice. The BNSS provisions expressly require that critical investigative steps be documented with audio-video recordings and that forensic evidence be collected and integrated from the outset. Such requirements aim to improve the quality of investigations and ensure integrity and accountability from investigating officers. For instance, in the past, a typical crime scene examination would involve the village officer sketching a rough



map of the scene and a police officer preparing a scene mahazar by hand. Vital evidence could be missed or remain undocumented, and disputes often arose later about what was recovered or said at the scene. Today, by law, the same scene must be videotaped, photographed, and forensically examined, and the digital records are required to be preserved. This dramatic leap in capability, from the pencil-and-paper era to a digital evidence ecosystem, is certainly a change for the better.

34. For instance, Section 105 of the BNSS reads as under :

105. Recording of search and seizure through audio-video electronic means.—The process of conducting search of a place or taking possession of any property, article or thing under this Chapter or under section 185, including preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably mobile phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class.

The provision creates a mandatory duty for police to audiovisually record the entire process of conducting a search of any place or person and of seizing any property or evidence therein. It specifies that preparing the seizure list and obtaining witness signatures, traditionally done only on paper, "shall be recorded through any audio-video electronic means, preferably mobile phone," and that the officer must, without delay, forward this recording to a Magistrate.



In effect, whenever police conduct a search or seizure, they are now obligated to videograph the same. This is crucial as it brings transparency to searches, deterring any planting or tampering with evidence and protecting officers from false allegations. The immediate submission of the video to a magistrate adds a layer of accountability and preserves the chain of custody.

35. Section 176 of the BNSS is a game-changing provision that outlines how an officer in charge of a police station should initiate and conduct an investigation on receiving information of an offence. Sub-section 3 of Section 176 introduces a mandatory forensic dimension for serious crimes. It states as under:

(3) On receipt of every information relating to the commission of an offence which is made punishable for seven years or more, the officer in charge of a police station shall, from such date, as may be notified within a period of five years by the State Government in this regard, cause the forensic expert to visit the crime scene to collect forensic evidence in the offence and also cause videography of the process on mobile phone or any other electronic device:

Provided that where forensic facility is not available in respect of any such offence, the State Government shall, until the facility in respect of that matter is developed or made in the State, notify the utilisation of such facility of any other State.

36. In simpler words, upon receiving information about an offence punishable with 7 years' imprisonment or more, the SHO "shall, from such date



as may be notified, cause a forensic expert to visit the crime scene to collect forensic evidence and also cause videography of the process on mobile phone or other electronic device. A time frame has been stipulated therein to implement the provision. The proviso states that if the state lacks its own forensic facilities for that type of evidence, it must arrange to use facilities of another state until local capacity is developed. This is a groundbreaking mandate. It means in offences like murder, rape, serious assaults, dacoity, etc., police can no longer treat crime scene forensics as optional; it is a statutory requirement. Unless efforts are made for strict compliance of the provision as expeditiously as possible, if not already made, the State Police may lag behind in the implementation of the provision.

37. Section 180 of the BNSS corresponds to the traditional power of police to question persons acquainted with the facts, which is similar to 161 statements under the old code. It crucially adds that while police may reduce such oral statements to writing, "the statement made under this sub-section may also be recorded by audio-video electronic means.". In simpler terms, when police record the statements of witnesses or even suspects, they are encouraged to make audio or video recordings of these interrogations. This is reinforced by Section 183, related to confessions and statements before magistrates which explicitly provides that any confession or statement to a Magistrate "may also be recorded by audio-video electronic means in the presence of the advocate of the accused.". The combined effect is a legal



endorsement of electronic recording of both witness statements to police and confessional statements to magistrates. Recording witness statements has multiple benefits: it captures nuances of demeanour and detail that written summaries might miss; it deters coercion or tutoring of witnesses; and it creates a precise record that can be used to verify the witness's testimony in court. For police departments, this means investing in simple audio recorders, mobile phones or body-worn cameras for officers and developing protocols for securely storing these recordings. Notably, BNSS 180 also retains a human rights safeguard: the second proviso mandates that if the person being examined is a woman who is alleged to be the victim of certain sexual or gender-related offences, then her statement "shall be recorded by a woman police officer or any woman officer.". In other words, the legislature has ensured that technology is not a substitute for empathy, and it must work in tandem.

38. Section 185 of the BNSS stipulates the manner in which search is to be conducted by a Police Officer. Section 185(2) says that a police officer proceeding under sub-section (1) shall, if practicable, conduct the search in person. The proviso states that the search conducted under this section shall be recorded through audio-video electronic means, preferably by mobile phone.

39. It will be worthwhile to note at this juncture that the Central Government has also come out with the e-Sakshya platform that complements these reforms by enabling real-time capture, secure storage, authentication,



and transmission of digital evidence to courts.

40. The State Police is urgently required to ramp up their skills and prioritise adoption of these reforms, through updated protocols, training, and investment in technology and forensics, to meet legal mandates and public expectations for foolproof investigations, especially in heinous crimes like murder. e-Sakshya is the technological lynchpin of the BNSS reforms. It embodies the principle that evidence once created should be immediately saved and shared in digital form for the justice system to use. State police forces are required to proactively embrace e-Sakshya to ensure that they comply with the provisions of the new law. The State Police are required to take urgent measures to ensure that they use e-Sakshya or any other capable platform for documenting: (a) all searches and seizures under Section 105 BNSS, (b) all crime scenes of offenses punishable greater than 7 years under Section 176(3) BNSS, and (c) all confessional or witness statements that are allowed to be recorded on video under Sections 180 and 183 BNSS. The necessary equipment and training are to be provided to the Officers without delay.

41. We direct the Registry to forward a copy of this judgment to the State Police Chief and the Home Department. The said authorities shall ensure that prompt and effective steps are taken to hereinafter conduct investigations in strict compliance with the provisions of the Bharatiya Nagarik Suraksha Sanhita (BNSS), and in consonance with the binding observations of the Hon'ble



Supreme Court as well as this Court. It is further expected that the authorities shall implement, in letter and spirit, the suggestions contained hereinabove so as to ensure that the objectives underlying the enactment of the BNSS are effectively realised.

Conclusion

In the result, this appeal is allowed. The conviction and sentence of the appellant in S.C.No.139 of 2016 on the file of the Additional Sessions Judge-III, Pathanamthitta, are set aside. We acquit the appellant and direct that he be set at liberty forthwith, if his continued incarceration is not required in any other case.

Sd/-

**RAJA VIJAYARAGHAVAN V.
JUDGE**

Sd/-

**K.V. JAYAKUMAR,
JUDGE**