

State vs Ishtiaque Ali on 30 May, 2026

IN THE COURT OF ADDITIONAL SESSIONS JUDGE (FTC)
SOUTH-WEST DISTRICT, DWARKA COURT, NEW DELHI
Presided by: Ms. Swati Gupta-I

Sessions Case No. 510/2018
CNR No. DLSW01-013290-2018

FIR No. : 97/2018
Police Station : Palam Village
Under Section : 364A/302/201 IPC

In the matter of :
State
versus
Ishtiaque Ali s/o Sheikh Mumtaj Ali,
R/o 135, L Extension, Mohan Garden
Uttam Nagar, New Delhi.

Date of institution : 22.06.2018
Date of conclusion of arguments : 21.05.2026
Date of judgment : 30.05.2026
Decision : Accused Ishtiaque Ali stands convicted for the offences u/s. 364A/302/201 IPC.
Arguments addressed by : Mr. Girish Kumar and Mr. Parvez Alam, Ld. Additional Public Prosecutors for the State.

Mr. Nipun Katyal and Mr. Aishwary Mishra, Ld. Counsels for the accused.

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JUDGMENT

1. Accused Ishtiaque Ali has faced trial in the present case for alleged commission of offence under Section 364A/302/201 IPC in respect of committing abduction for ransom and committing murder of victim Ayush Nautiyal and for causing destruction of evidence.

2. SHORT TIMELINE OF THE TRIAL 2.1 Cognizance of the offence was taken by the concerned Ld. MM on 29.06.2018. Case was committed for trial to the Court of Sessions on 09.07.2018. FSL results were received by way of supplementary chargesheets on 05.03.2019 and 23.02.2023. Charge for the offences punishable u/S. 364A/302/201 IPC was framed against the accused on 08.08.2023, who pleaded not guilty and claimed trial. A total of 42 witnesses were examined by the Prosecution in its evidence. Prosecution evidence was closed on 08.07.2025. Statement of accused U/s 313 CrPC was recorded on 19.07.2025, wherein he opted to lead defence evidence. Accused examined one defence witness in his defence. Thereafter, final arguments were addressed at length by both the sides.

3. CASE OF PROSECUTION 3.1 As per charge-sheet, a complaint was given by one Dinesh Chandra (father of victim) at PS Palam Village. It was alleged in the complaint that the son of the complainant namely Ayush Nautiyal (hereinafter referred to as the victim) aged 21 years, was studying in Delhi University in Ram Lal Anand College in 3 rd year B.Com. The victim left his home in the morning of 22.03.2018 at about 11:00 am. He also took his bag and Dell laptop with him. While leaving the house, State Vs. Ishtiaque Ali victim had informed that there was a fest in his college and he would return late, but the victim did not return and at about 7:54 pm, he received a message from the phone number of his son viz. 9891974676 or 9891538016 to check his Whatsapp. When the complainant checked his Whatsapp, there were messages from the phone number of his son and one of the message included photo of his son. In the photo, his son was blind folded and his hands and legs were also tied up. In another message, there was a threat to arrange Rs. 50 lakhs and not to inform any relative or police. On receiving the said messages, the complainant had approached the police and given this complaint. On the basis of the said complaint, the present FIR being FIR No.97/2018, PS Palam Village was registered U/s 364A IPC.

3.2 During investigation, CDR of victim's phone numbers were obtained and necessary information was uploaded on Zipnet and sent to NCRB, CBI and Doordarshan. On 24.03.2018, in the evening, a Whatsapp message was again received on the phone of the complainant from the phone of victim asking if the money had been arranged. Complainant replied saying that he could arrange only Rs. 10 lakhs. Thereafter, the concerned person asked him to arrange Rs.50 lakhs and gave time till 26.03.2018 for delivery of the amount of ransom.

3.3 During analysis of CDR of the mobile phone of victim, it was found that on 21.03.2018, at about 3:30 pm, location of victim was at Sector-14, Dwarka Metro Station. On 25.03.2018, CCTV footage of 21.03.2018 of McDonald situated at Sector-14, Dwarka, Delhi was checked, wherein victim was seen alongwith one person wearing blue T-

State Vs. Ishtiaque Ali shirt and jeans and having beard somewhere between 3:43 pm till 3:53 pm. It was also found that on 21.03.2018, victim alongwith the same person exited from McDonald and sat in a silver coloured Alto car.

3.4 On 26.03.2018, in the evening, a message was received on the Whatsapp of complainant from the mobile phone of victim, asking the complainant to deliver the ransom amount at Uttam Nagar Najafgarh Nala. Location of the point to deliver the ransom amount was also sent to the

complainant. Complainant informed the concerned SHO and a raiding party was formed. The said raiding party alongwith complainant and ransom amount of Rs.12 lakhs reached at the given location but the location was changed frequently and nobody came forward to take the amount of ransom.

3.5 On 27.03.2018, at about 7:39 pm, a Whatsapp message was received on the phone of complainant from the phone of victim, asking the complainant to keep the ransom amount in garbage can near Anupam restaurant, Munirka, Vasant Vihar, Delhi at 10:00 pm. The staff of PS was deployed near Anupam restaurant and a bag was kept in garbage can near the same, but no one came to take the bag till 1:00 am.

3.6 On 28.03.2018, IO was informed by the SHO that a male dead body was found at Nala near Metro View Apartment, Sector-13, Dwarka, Delhi. IO reached the spot with the complainant and a decomposed dead body was recovered and some items were also lying near the dead body. The complainant identified the dead body as that of his son. He also identified the spectacles lying near the dead body. The State Vs. Ishtiaque Ali dead body was directed to be preserved. IO recorded the statement of SI Satish who was informed by Ct. Sukhdev about foul smell from drainage and had noticed something was lying wrapped in green colour polythene and some articles were lying in a paper bag. Crime Team was called, which had taken photographs, taken out the wrapped polythene from drainage which was found to contain male dead body and the paper bag was found to contain one tie, spectacles, one condom wrapper, one brown colour packing tape, one cipladine tube, two tablets, one orange colour polythene, five pieces of rope, two green colour polythene and one blue colour printed curtain. The dead body matched with the photographs of victim on zip net and accordingly, SHO, PS Palam Village was informed.

3.7 Further investigation was conducted at the spot, which included seizure of all the above articles found at the spot, including green colour polythene in which the dead body was wrapped and blue colour printed curtain. The said articles were deposited in Malkhana. Investigation was handover to IO Inspector Anand Prakash and Sections 302/201 IPC were added to the FIR.

3.8 Further investigation was also conducted in the following manner:

i. Password of email of victim was cracked and photographs and messages were analysed. Facebook ID of suspect was obtained. Suspect is the same person who was seen in the McDonald's CCTV footage with the victim. Enquiry was made from Pearl Academy of Fashion, Naraina Industrial Area, Phase 2, New State Vs. Ishtiaque Ali Delhi, regarding the suspect.

ii. Name of suspect was disclosed as Ishtiyaque Ali and his address was disclosed as L - 68, Extn-2, Mohan Garden, Uttam Nagar, Delhi. From the said address, another address of suspect was disclosed as L - 135, Extn-2, Mohan Garden, Uttam Nagar, Delhi. iii. Accused was found at the said address (L-135). Alto car of silver colour bearing number DL-2C-AL-2553 was also found in front of the house of accused.

iv. Upon interrogation, accused confessed his crime and his disclosure statement was recorded. As per prosecution, accused disclosed that that he met the victim on tinder.com and they started conversing and they even met on 19.03.2018 and 21.03.2018. On 22.03.2018 also, victim reached at C-Block, Rama Park, and the accused procured the key of room in C - 115, Rama Park from one Prateek and they stayed at Ground floor of the said house, talking about business of fashion designing but the conversation turned into a heated argument as the victim wanted 50% profit in the business. Victim pushed the accused and accused fell on the floor, upon which accused became furious and planned to kill him for ransom from his father, after committing murder of the victim Ayush. As per prosecution, accused disclosed that he could spend the amount of ransom in the marriage of his sister which was to be held on 7.4.2018. Accordingly, accused picked the big hammer from the kitchen and hit on the head and chest of Ayush. Ayush became unconscious and thereafter, accused stabbed him in the neck with knife. Thereafter, accused also bought tablet, tube and bandage from chemist shop and returned to the flat, and State Vs. Ishtiaque Ali he did dressing upon the wound of the victim but due to fear of being caught, he again hit the hammer on the head of the Ayush to eliminate him completely. As per the case of prosecution, accused also disclosed that he had called the son of his tenant, namely 'S', at C-115, Rama Park, where he asked 'S' to help him to dispose the dead body. However, 'S' got scared and went away. Thereafter, accused purchased the polythene and cargo tape to pack the body of the deceased and reached at the flat. He tied the hand and legs of Ayush with rope and took a photograph of the dead body of Ayush. Thereafter, he packed the dead body in a polythene and wrapped it with cargo tape. Thereafter, accused reached at Sector 14, Dwarka and sent the photograph of Ayush and the ransom message on the mobile phone of father of deceased. Accused also disclosed that on 23.03.2018, in the early morning, he put the dead body of the victim on the backseat of his Alto car, with the help of 'S' and dumped it in the drain, behind Metro View Apartment, Sector 13 Dwarka Delhi.

v. Accused also disclosed that thereafter, again he reached at the flat and cleaned the blood alone. He burnt the laptop, books, ID of deceased at Najafgarh drain and threw the hammer and knife in the Najafgarh drain. He demanded ransom amount from the father of deceased and frequently changed locations. vi. On the basis of above disclosure, accused was arrested and his disclosure was recorded separately in writing.

3.9 Thereafter, during further investigation, following places/articles were discovered at the instance of the accused:

State Vs. Ishtiaque Ali i. Accused pointed out the place near the wall of Najafgarh drain where laptop of deceased along with other articles were burnt by him. Ashes of the burnt laptop, book and ID were lifted and seized.

ii. Accused pointed out that he threw the knife and hammer in the said Najafgarh drain.

iii. On the pointing out of accused, Alto car bearing number DL-2C-

AL-2553, which was parked in front of his H no. L - 135 and which was stated to be used to dump the dead body of the deceased, was recovered. The said car was seized.

iv. Accused also pointed out backside of H no. C - 115, Rama Park, which was locked but one Prateek was called at the instance of accused, who came with the key and opened the lock. Accused disclosed that he committed murder of the deceased in this room by hammer and packed the dead body of Ayush in the inner portion of the room.

v. At the instance of accused, one blue colour Samsung mobile (android) belonging to deceased and used for sending ransom messages to father of deceased, was also recovered from second floor of his house at L - 135, Extn-2, Mohan Garden, Uttam Nagar. Phone was seized by the police.

vi. Accused also pointed out to the medical shop named Pradeep Medicos and disclosed that on 22.03.2018, he purchased the bandage and tablet from the shop. Shop owner namely Saurabh also identified the accused.

vii. Request was made to FSL, Rohini to inspect the scene of crime as well as Alto car but the FSL team informed that they would State Vs. Ishtiaque Ali inspect the scene of crime on the next day.

viii. Accomplice S was also traced at the instance of accused, who also made a disclosure statement. Accomplice 'S' was found to be a minor and accordingly, he was produced before JJB after necessary formalities.

ix. FSL Team inspected the Alto car bearing number DL-2C-AL-2553 as well as the crime scene being C - 115, Rama Park, Uttam Nagar New Delhi and lifted exhibits from the same, which were duly sealed.

x. One day PC demand accused was obtained. Accused pointed out the place where the dead body was dumped by him and CCL 'S'. Accused further disclosed that the hammer used in the commission of the offence was kept in the corner of the toilet at C

- 115, Rama Park, Uttam Nagar. Supplementary disclosure statement of accused was recorded and weapon of offence/hammer was also recovered from the scene of crime. The said hammer was also seized.

xi. Accused also got recovered washed black T-shirt and light grey jeans from his house at L-135, Extn-2, Mohan Garden, Uttam Nagar and stated that these clothes were worn by him at the time of commission of offence but the same were washed after the incident. The said clothes were also seized.

xii. Accused also pointed out one store named B. R. Charpai store, from where he purchased the rope and polythene, which were used to pack the dead body of the deceased. Shopkeeper Lalit identified the accused.

xiii. Accused also disclosed that he used the petrol of his motorcycle to State Vs. Ishtiaque Ali burn the laptop and other belongings of the deceased and the said motorcycle was parked at H no. L - 68, Extn-2, Mohan Garden. The said motorcycle was recovered at the instance of accused and it was seized.

3.10 During investigation, postmortem of the deceased was got conducted vide PM report number 512/18 and dead body was handed over to the father of the deceased after due identification. Postmortem report was obtained. Mobile phone make Samsung 4G duos golden colour, belonging to the complainant was also seized. Invoice of Dell laptop belonging to deceased was also produced by complainant and seized. Mobile phone make Samsung GT- 2252 belonging to the CCL was also produced by his father and seized. Mobile phones of accused, complainant as well as deceased and that of CCL 'S' were sent to FSL, Rohini for analysis. Sealed burnt laptop material was also sent to FSL for analysis. Bio exhibits lifted by the FSL team were also sent for analysis to FSL Rohini.

3.11 At the instance of IO, scaled site plan was prepared of the spot from which dead body was recovered as well as of the spot where the offence was committed. During investigation, CCTV footage of the house of one D. D. Ranga, R/o C - 106, Rama Park, Uttam Nagar, Delhi was recovered. The said CCTV footage covered the one side entrance of lane in which the scene of crime i.e. backside of C - 115, Rama Park is situated. DVR was seized. CCTV footage as well as DVR of the McDonald restaurant for 21.03 2018 was also obtained and seized.

State Vs. Ishtiaque Ali 3.12 Further, during investigation, certified copies of CDR and CAF of mobile number of complainant, two mobile numbers of deceased, mobile number of accused as well as mobile number of CCL were obtained. From the same, it was revealed that on 22.03.2018, 24.03.2018, 26.03.2018 and 27.03.2018, various messages were exchanged between phone number of deceased to the phone number of the complainant. Call was also made from the phone of the deceased to the phone of the complainant for the purpose of delivery of ransom amount. From the CDR analysis, it was also revealed that accused also made calls from his number on the mobile number of CCL in the afternoon of 22.3.2018. Further, there were messages between accused and CCL at odd hours in the intervening night of 22/23.03.2018.

3.13 Investigation was also conducted from the owner of the scene of crime i.e. rear portion of H no. C - 115, Rama Park, Mohan Garden Uttam Nagar, who disclosed that he had given the same to Prateek on rent.

3.14 On the basis of aforesaid material, accused Ishtiyaque Ali was chargesheeted for abducting of victim Ayush Nautiyal and demanding ransom of 50 lakhs from the father of the deceased,

committing murder of victim and causing disappearance of evidence. Further, by way of two supplementary charge-sheets, FSL results qua mobile phones, burnt laptop, CCTV and DVRs were filed in the court.

4. CHARGE 4.1 During trial, on the basis of arguments, it was held that there State Vs. Ishtiaque Ali was strong suspicion that the accused had committed offences punishable under Section 364A/302/201 IPC and a prima facie case was made out against him for the said offences. Accordingly charge under the said Sections was framed against the accused, to which he pleaded not guilty and claimed trial.

5. PROSECUTION EVIDENCE 5.1 During the course of trial, in order to prove its case, prosecution examined following 42 witnesses, whose role is mentioned below briefly and their testimonies are discussed in detail in later part of the judgment.

Witness	Details
PW-4	He is the complainant/father of victim.
PW-32	He recorded the statement of complainant and prepared

the rukka and share the information regarding missing person on Zipnet etc. PW-14 He is the Duty Officer who has been examined to prove registration of FIR.

PW-16, PW-34, PW- These have been examined to prove the information 36 and PW-37 regarding recovery of the dead body from Ganda Nala, Behind Metro View Apartment, Dwarka. Information in this regard was given by PS Dwarka North to PS Palam Village.

PW-20 He is the doctor who conducted the postmortem on the dead body of the deceased.

PW-29 He is the person who conducted the photography and videography of the postmortem.

PW-1 and PW-3 These are witnesses who had provided CCTV footage as well as DVR of McDonald's, Sector 13, Dwarka and of the entrance of the gali where the scene of crime is situated, respectively.

PW-38	He is the owner of the scene of crime
PW-2	He is the person who had taken the same on rent and had

also given the key of the said premises to the accused on 21.03.2018 and on 22.03.2018.

PW-7 He has been examined to prove ownership of the bike bearing DL 9S V 1945.

PW-8 He has been examined to prove ownership of the Alto car bearing number DL2CAL2553 State Vs. Ishtiaque Ali PW-15 and PW-30 These have been examined to prove investigation made from Pearl Academy with respect to the details of the accused.

PW-5, PW-6 & PW-9 These have been examined to prove call detail records of the phone numbers of deceased, father of deceased, accused and JCL.

PW-41 He is the MHC(M)
PW-10 to PW-13 These have been examined to prove the deposition of various pullandas in FSL on different dates.

PWs- 23, 26, 27 & 28 These are members of crime team who had inspected the spot and clicked photographs.

PW-35 He is the photographer of the FSL team.
PW-42 He is the draftsman who prepared the scaled site plan.

PWs 17, 19, 21, 22, These are witness related to collection of blood samples 24 & 25 and examination of various case properties by the FSL.

All the said witnesses are experts from FSL.

PW-18 He is the shopkeeper who has been examined to prove that accused purchased polythene and rope from him. PWs 31, 33, 39 & 40 These are the IOs of the present case who have conducted investigation.

6. STATEMENT U/S 313 CRPC AND DEFENCE EVIDENCE 6.1 After Prosecution evidence was closed, entire incriminating evidence was put to the accused. In his statement recorded under Section 313 Cr.PC, the accused denied the entire incriminating circumstances appearing in the evidence against him. He claimed innocence and stated that he was falsely implicated in this case. He stated that the witnesses who deposed against him were influenced by the police. Accused opted to lead evidence in his defence.

6.2 Accused examined only one witness in his defence, namely, DW-1/Ms. Neha Jha, DNA & Medico Legal Expert, Brilliant Forensic Investigation Pvt. Ltd, Janak Puri. The said witness has been examined by the accused in order to demolish the forensic evidence of PW19/ Dr. Sarabjit Singh. She proved on record her detailed report as Ex.DW1/A. State Vs. Ishtiaque Ali

7. ARGUMENTS 7.1 The record has been carefully perused. The respective submissions of learned Additional Public Prosecutor for the State assisted by ld. Counsel for complainant and ld. counsel for the accused have been duly heard and considered.

7.2 Ld. Addl. PP for the State has argued that the prosecution has proved its case beyond reasonable doubts by leading cogent evidence, which is sufficient to point towards the guilt of the accused. It is argued that all the prosecution witnesses have supported the case of prosecution. Ld. APP submitted that the present case is based on circumstantial evidence and the prosecution has successfully proved the entire chain of circumstances which points towards the guilt of accused, including discovery of scene of crime; recovery of weapon of offence; recovery of phone of deceased from the accused; ransom calls made from the phone of deceased to the phone of father of deceased/complainant; forensic analysis of the exhibits lifted from the scene of crime and car of accused; and CDR/CAF analysis. Thus, it is argued that accused is liable to convicted for all the charges in the present case. In support of his submissions, Ld. Addl. PP for the State has relied upon

the following judgments :-

- (i) Goverdhan & Anr Vs State Of Chhattisgarh, 2025 INSC 47
- (ii) Charandas Swami Vs State Of Gujrat &Anr., Crl. Appeal no. 1549 of 2007 (SC-10.04.2017)
- (iii) V.K Mishra & Anr Vs State Of Uttrakhand & Anr, 2015 AIR SC
- (iv) Naresh@Koki Vs State Of Delhi, 202 (2013) DLT 740
- (v) Ashok Vishwakarma@Surji Vs State, 203 (2013) DLT 39
- (vi) Ashish Vs State Nct Of Delhi, Crl. A. 677/2025 (DHC-

08.10.2025) State Vs. Ishtiaque Ali

(vii) Munna Lal Vs State Of Uttar Pradesh, Crl. A. no. 490 of 2017 (Hon'ble Apex Court dt. 24.01.2023)

(viii) Anil Kumar Sharma @Pandit Vs State, Crl. A. No. 702/2018 (DHC - 31.01.2020) 7.3 On the other hand, Ld. Defence Counsel has argued that accused is innocent and has been falsely implicated in the present case. It is argued that the case of the prosecution is essentially based on circumstantial evidence and therefore, the prosecution was essentially required to prove beyond reasonable doubts all the circumstances from which an inference of guilt of accused could be drawn. Ld. Counsel for accused argued that as per law, there is also presumption of innocence in favour of the accused. He submitted that in the present case, prosecution has failed to discharge the burden of proof placed upon it to prove its case beyond reasonable doubt and to rebut the presumption of innocence which exists in favour of the accused. It is argued that the entire case of prosecution is based on presumptions. It is argued that there is no eye witness, no direct evidence and no last seen theory in the present case. Rather, there are serious lapses in investigation and various contradictions in the case of the prosecution. It is not clear as to on what basis, prosecution reached the conclusion that accused was the culprit in the present case. None of the prosecution witnesses have made any allegation against the accused. Hence, it is argued that accused is entitled to be acquitted for all the charges. In support of his arguments, Ld. Defence Counsel has relied upon the following judgments/case laws : -

- (i) Jay Prakash Yadav v. State of Jharkhand 2026 INSC 317
- (ii) Gautam Satnami @ Gautam Deshlahre v. State of Chhattisgarh
- (iii) Tulasareddi @ Mudakappa v. State of Karnataka 2026 INSC 67
- (iv) Putai v. State of Uttar Pradesh 2025 INSC 1042 State Vs. Ishtiaque Ali

- (v) Vaibhav v. State of Maharashtra 2025 INSC 800
- (vi) Chandrabhan Sudam Sanap V. State of Maharashtra 2025 INSC
- (vii) Rahil & Anr v. State (Govt. of NCT of Delhi) 2025 INSC 858
- (viii) Rohit Jangde v. State of Chhattisgarh 2026 INSC 162
- (ix) Rajendra Singh v. State of Uttaranchal 2025 INSC 1193
- (x) Kattavellai @ Devakar v. State of Tamil Nadu 2025 INSC 845
- (xi) Neeraj Sharma v. State of Chhattisgarh 2024 INSC 6
- (xii) Nagamma @ Nagarathna & Ors v. State of Karnataka 2025 INSC
- (xiii) Constable 907 Surendra Singh v. State of Uttarakhand 2025 INSC
- (xiv) Nazim & Ors v. State of Uttarakhand 2025 INSC 1184
- (xv) Esakkimuthu v. State (Inspector of Police) 2025 INSC 880 (xvi) Shail Kumari v. State of Chhattisgarh 2025 INSC 936 (xvii) Renuka Prasad v. The State 2025 INSC 657

ANALYSIS AND FINDINGS

8. At the outset, it may be noted that the Prosecution examined various formal witnesses, whose testimonies are summarized herein below.

Witnesses	Details
PW-14	Duty Officer who recorded the FIR of the present case
Retd. SI Krishan Kumar	on the basis of rukka brought by SI Manish on the intervening night of 22/23.03.2018 (Ex.PW14/A)

He made endorsement on rukka (Ex.PW14/B) and also issued certificate U/s 65B of Indian Evidence Act (Ex.PW14/C).

PW-7 Produced the record pertaining to vehicle bearing No. Raj Kumar DL 9S V 1945 make Bajaj Platina (two wheeler), ATI, Zonal Office registered in the name of S.M.Ali/ father of accused (Ex.PW7/A (OSR)).

Seizure memo of the said motorcycle is proved by PW33 as Ex. PW33/G. Photographs of the said PW-12 On 18.04.2018, he collected the 18 sealed exhibits vide ASI Ramkaran RC No.70/21/18 and two sealed exhibits containing DVRs vide RC No.71/21/18 from the Malkhana and deposited the same in FSL for examination and handed over the copy of RC and acknowledgment at the PS. PW-13 On 12.04.2018, he took one sealed pullanda containing HC Naresh mobile phone from Malkhana vide RC No.64/21/18 and two sealed DVRs, for depositing the same with FSL. He State Vs. Ishtiaque

Ali deposited the mobile phone in FSL, however, DVRs could not be deposited for want of separate hard disk and pen drive and DVRs in the sealed pullandas were deposited back with the MHC(M).

PW-30 On 29.03.2018, he visited Pearl Institute Naraina and ASI Shyam Sunder verified the profile of accused Ishtiaque Ali. He collected the documents pertaining to the accused. He telephonically informed the IO about the verification of profile and address of the accused and later, handed over the documents to IO.

PW-15 He produced the relevant record to prove that the Sh. Sanchita Sinha, accused Ishtiaque Ali was enrolled in their institute for Deputy Director, the period from 2013 to 2017 (Ex.PW15/A (colly)). Registrar Office Pearl Academy PW-41/HC Dinesh He is the concerned MHC(M) with whom the case property of the present case was deposited on different dates. He also deposed as to who had taken different case properties of this case from malkhana for deposition in the FSL, Rohini and returned with the RC and acknowledgements. He also proved on record the relevant entries in the malkhana register, various road certificates and acknowledgements in this regard. (Ex. PW41/A to Ex. PW41/R).

PW-42/HC Ravi Kant He prepared the scaled site plans of the spots i.e. ganda nala, behind Metro View Apartment and H.No.C-115, Ground floor, Rama Park, Mohan Garden, Uttam Nagar. The same are Ex. PW40/H and Ex. PW40/I. PW-23 On 29.03.2018, he, alongwith his team reached at the Sh. Rakesh Kumar spot i.e. Dwarka to Vikaspuri, Nala Road, Opposite Chhat Puja Park, Vipin Garden, Delhi, where burnt pieces of a laptop were found. He prepared the report (Ex.PW23/A). During his cross examination, he clarified that though the spot was inspected between 8:30 PM to 9:00 PM, but due to typographical error, it was mentioned in his report as 8:30 AM to 9:00 AM. PW-26 He is the Incharge, Crime Team, who went to Ganda SI Balwant Singh Nala, Sector-13, Dwarka on 28.03.2018, alongwith his team members, where they inspected the spot and prepared the crime scene report (Ex.PW26/A).

PW-27 On 28.03.2018, he reached at the spot (at Ganda Nala, HC Anil Kumar Sector-13, Dwarka) and clicked 44 photographs of the crime scene and handed over the same to the IO. The said photographs are proved by him as (Ex.PW27/A/colly) and also issued certificate under Section 65B Indian Evidence Act (Ex.PW27/B) in this State Vs. Ishtiaque Ali regard.

PW-29 On 29.03.2018, on the asking of police, he conducted Sh. Sanjay Kumar the photography and videography of PM proceedings over the dead body of one male person and handed over the photographs and DVD of the same to the IO alongwith certificate U/s 63(4)(c) BSA in regard to the same (Ex. PW29/A). It is clarified at this stage that during the examination of the said witness, the DVD which was on record, could not be played in court, despite assistance of computer branch.

PW-35 On 30.03.2018, on receipt of information from control Dr. Rajnish Kumar room, he alongwith his staff went to PS Palam Village Singh where they examined one Alto car bearing No. DL2CAL2553 and he clicked the photographs of same. Their team was taken to C-115, Rama Park where they examined the crime scene and lifted the exhibits and he clicked the photographs. He produced the photographs of the said car and crime scene alongwith certificate U/s 65B Indian

Evidence Act in the court which are (Ex.PW35/A and Ex.PW35/B).

PW-5/Surender Kumar He is the Nodal Officer, Bharti Airtel Ltd., who proved the record of mobile no. 9818427630 which was issued in the name of Mohd. Hassan (father of CCL 'S'). He proved on record documents Ex. PW5/A to Ex. PW5/F including CAF, documents of applicant, CDR, certificate u/s. 65B IEA and cell ID chart.

PW-6/Prakash Saxena He is the Nodal officer, Reliance Jio Infocom Ltd., who proved the record pertaining to mobile no.

7011891144 which was issued in the name of accused. He proved on record documents Ex. PW6/A to Ex.

PW6/D including CAF, CDR, certificate u/s. 65B IEA and cell ID chart.

PW-9/Sh. Ajit Singh He is the Alternate Nodal Officer, Vodafone Idea Ltd., who produced the record pertaining to mobile nos. 9891974676 and 9891538016 which were issued in the name of Ayush Nautiyal and record of mobile no.

9899119676 which was issued in the name of Dinesh Chander Sharma. He proved on record documents Ex. PW9/A to Ex. PW9/N including CAFs, CDRs, certificates u/s. 65B IEA and cell ID charts.

PW-31/IO SI Bijender During the evidence of PW31/IO, various case properties were opened and marked as :

Mobile phone of accused/MI company - Ex. PW31/1 Ashes including remnants of laptop - Ex. PW31/2 Articles found near the dead body - Ex. PW31/3 State Vs. Ishtiaque Ali Polythene of green colour and hammer - Ex. PW31/5 Photographs of alto car - Ex. PW31/6

9. It may also be noted for record that Prosecution also relied upon following documents during the course of evidence (in addition to the documents mentioned above and those discussed in later part of the judgment):

Documents	Exhibits
Xioami mobile phone of accused	Ex.PW17/7
SIM cards of Jio and Vodafone found in the phone of accused	Ex.PW17/8 and Ex.PW17/9
FSL report regarding examination of mobile phone of	Ex.PW25/D

MI company with two Sim cards of Jio and Vodafone belonging to accused Certificate U/s 65B of Indian Evidence Act in support Ex.PW25/E of report Ex.PW25/D CD containing the FSL report Ex.PW25/D Ex.PW25/2 Copy of NCRB information, Doordarshan Ex.PW32/B (colly) information and CBI office Seizure memo of exhibits handed over by the doctor Ex.PW33/A after the

postmortem of deceased Pointing out memo of spot i.e. Ganda Nala, Behind Ex.PW33/D Metro View Apartment, Sector-13, Dwarka, Delhi Seizure memo of Platina motorcycle Ex.PW33/G Seizure memo of mobile phone of CCL 'S' make Ex.PW33/H Samsung, black colour with Airtel SIM Alto car bearing No. DL2CAL2553 Ex.PW33/1 Mobile phone alongwith Airtel Sim and battery Ex.PW33/1 Form 25.35(1)(B) regarding PM proceedings Ex.PW40/A Application for videography of PM proceedings and Ex.PW40/C and Ex.PW40/D application for request for conducting postmortem Handing over memo of dead body Ex.PW40/E Rough site plan of ganda nala, behind Metro View Ex.PW40/F Apartment, Sector-13 Site plan of place of occurrence i.e. C-115, Rama Ex.PW40/G park, Uttam Nagar Photographs of accused Ex.PW40/J (colly) Gadda piece alongwith cloth having blood stains Ex.PW40/1 Pieces of mat of dicky of car Ex.PW40/2 Pieces of mat of the boot of car Ex.PW40/3 State Vs. Ishtiaque Ali

10. In the present case, accused has been charged for the offences punishable under Section 364A, 302 and 201 IPC. As is evident from the above, in the present case there is no eye witness of the incident and the entire case of the prosecution is based on the circumstantial evidence. Even the public witnesses examined by the prosecution have not seen the incident but they have only deposed regarding the circumstances that existed prior to or after the occurrence or which occurred or were revealed during the investigation.

11. Law regarding circumstantial evidence is very well settled and there is no judgment which summarizes it better than the case of Sharad Birdhichand Sarda v. State of Maharashtra , (1984) 4 SCC 116, which is the reference point even till date for each and every case of criminal offence based on circumstantial evidence. It has been laid down in the said case as follows:

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 [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 CrLJ 1783] where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047] "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 State Vs. Ishtiaque Ali 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.

12. In light of the above legal position, let us evaluate whether the chain of circumstances have been proved by the prosecution beyond reasonable doubt or not and whether the circumstances, if proved, are sufficient to convict the accused or not.

13. RANSOM MESSAGES Summary: Prosecution has proved that father of deceased had received a photo of his son as blindfolded and hands tied and had received messages for ransom and calls for the same, during the period from 22.03.2018 to 27.03.2018, from the phone number of his son.

13.1 It is the case of the prosecution that the complainant / father of deceased received messages from the phone number of the deceased on 22.03.2018 at about 07:54 p.m. In the said messages, there was a photo of his son in which his son was blind folded and his hands and legs were also tied and in another message, he received the threat to ar-

State Vs. Ishtiaque Ali range Rs.50,00,000/- and not to inform any relative or police. It is also the case of the prosecution that the father of the deceased also received messages on 24.03.2018, 26.03.2018 and 27.03.2018. The father of the deceased has been examined as PW4 and in his testimony, he has de- posed that on 22.03.2018 at about 07:00 p.m, his wife told him that their son has not returned from college. PW4 further deposed as follows:

"Thereafter, at about 7.45 pm, I received an SMS from the mo- bile phone of Ayush Nautiyal on my mobile phone in which the mes- sage was "apna WhatsApp check kar". Upon reading the said message, I was little shocked as how Ayush Nautiyal can write such an language to his father. My mobile number is 9899119676 whereas the mobile number of my son Ayush Nautiyal was 9891974676. I do not remem- ber the full mobile number of the second number of Ayush Nautiyal. However, it starts from 9891 and ends on 8016. (9891xx8016).

Thereafter, I checked my WhatsApp. Upon checking my WhatsApp, I found that from the mobile number of Ayush Nautiyal, a pic was sent which was of my son Ayush and the eyes, hands and feet of his were tied up. A message was also received under the said photo "50 lakh rupay ka intezaam kar" otherwise my son would be killed. Further the message stating that "police aur rishtedaar ko na batana, nahi toh bahut bura anjaam hoga". I was a shocked to see the said message and photo as I was just a normal person. I thought that somebody had played a prank / joke on me. Thereafter, I discussed the matter with my family and also with my father in law and other

relatives. Thereafter we decided to go to police station. Thereafter, at about 9.00-9.30 pm, we went to police station Palam Village and showed the said message to the police. Thereafter, the police did some enquiries probably in the college and with his friends. When nothing fruitful came to the knowledge of police, then the police recorded my complaint which is Ex.PW4/A bearing my signatures at point A. Thereafter, FIR was registered.

I also sent some message to the person who was sending message from Ayush number telling him that I cannot arrange such amount. Thereafter on 24.03.2018, a message was again received from the State Vs. Ishtiaque Ali phone of Ayush stating "paise ka intezaam ho gya kya". On which, I told him that I cannot arrange Rs.50 lakhs and can arrange only Rs.10 lakhs. I also told him that I can arrange only Rs.12 lakhs. The said person gave me the date of delivery as 26.03.2018. On 26.03.2018 in the evening, the message from the phone of Ayush was received telling me to reach at Uttam Nagar, Najafgarh Nala with the money. He also sent a location where I was to reach with money. The police was also with me. Thereafter, I alongwith police official reached at the location given by the accused. I had gone in a private vehicle alongwith police officials and money and reached at the said location i.e. Uttam Nagar, Najafgarh Nala but after waiting for considerable time i.e. about one hour, no one came there to take the money from me. While we returning, a phone call was received by me on my phone which came from the mobile phone of my son Ayush. The person on the other side abused me. He also told me that I was accompanied by police officials. I told him that I was alone and told him to reach at the spot to take the money but the person on the other side of phone after abusing me put off the phone. Thereafter I was relieved by the police officials and they left me at my house.

Thereafter on 27.03.2018, in the evening, I received a message from the mobile phone of my son Ayush directing me to reach at 10.00 pm at Munirka near Anupam Restaurant where there is a garbage cane and he further directed me to drop the money in the said garbage cane".

13.2 In this regard, IO/PW40 had also seized the mobile phone of the father of deceased (Samsung duos golden colour), vide Seizure Memo Ex.PW4/C. Further, mobile phone of deceased (Samsung Mobile phone blue colour) was also recovered from the house of the accused at the instance of accused, vide seizure memo Ex. PW31/H. The said two mobile phones were sent to FSL for examination. As per PW-10/HC Satish Kumar, on 4.4.2018, he had collected the sealed exhibits contain- ing mobile phones from the Malkhana and deposited the same in FSL State Vs. Ishtiaque Ali vide RC No.43/21/18 and handed over the copy of RC and acknowledg- ment at the PS. 13.3 In the FSL, the said mobile phones i.e. the Samsung mobile phone of father of deceased and Samsung mobile phone of the deceased were examined by Mr. Vivek Kumar, who was then posted at FSL, Rohini as Junior Forensic / Asstt. Chemical Examiner (DOC). He is examined as PW17 by prosecution. In his examination he deposed that the exhibits of the present case were received in the office on 04.04.2018 i.e. three sealed parcels and the same were marked to him for examination and extraction of data. In the three sealed parcels received by him, there was one Samsung mobile phone

having two sim cards (which was given Mark MP2) and there was one Samsung mobile phone having one sim card (which was given Mark MP3). The said two mobile phone and their sim cards were analyzed by using universal forensic extraction device. Detailed report prepared by PW17 in this respect is Ex.PW17/A and his certificate u/s 65B of Indian Evidence Act in this regard is Ex.PW17/B. 13.4 As per the report of the said witness PW17, the mobile phone marked MP2 is of the deceased and the mobile phone marked MP3 is of the father of the deceased. The SMS messages and chats which were retrieved from both the said phones were enclosed in one compact disc marked CD1 with folders named REPORT OF MP2 and REPORT OF MP3 respectively. The said CD is Ex.PW17/6. During the examination of PW17, case properties were opened and duly identified by him. The mobile phone of the deceased and two sim cards found in State Vs. Ishtiaque Ali his phone are part of record as Ex.PW17/1, Ex.PW17/2 and Ex.PW17/3 respectively. The mobile phone of father of deceased and sim card in his phone are now Ex.PW17/4 and Ex.PW17/5. The said CD Ex.PW17/6 was also played during the examination of the witness and following observations were made:

a. In the folder 'Report of MP3', there was one folder named 'logical' and in that folder, there was one PDF file named FSL-2018-CFU-2647.pdf. The witness submitted that the pdf file is extraction file of whatsapp chatting as well as SMS in respect of report of MP3. The PDF file was opened and it was of 210 pages. At page 50, the date is mentioned 22.03.2018 time 14:21:18 UTC+O shown as incoming from mobile no.919891974676 @ s.whatsapp.net (919891974676) @s.whatsapp.net. The witness submitted that the relevant chat in this respect is the body file i.e. chat-27.txt. On clicking the blue link showing chat-27.txt, the witness submitted that in this file mobile no.9899119676 @ s.whatsapp.net, Dinesh (owner) is the whatsapp account holder on which the said chatting is happening.

b. Witness also pointed out one photograph of page no.50 of the said pdf file. The said photograph bearing image no.IMG- 20180322-WA0006.jpg was sent by mobile no.9891974676 (i.e. mobile number of the deceased) to the recipient bearing mobile no.9899119676 (i.e. mobile number of father of deceased) on 14:21 UTC+O. Witness explained that for IST, 5:30 hours needs to be added in 14:21 in order to arrive at the actual Indian time and by adding 05:30 hours in 14:21 hours, State Vs. Ishtiaque Ali the time comes to 07.51 pm. This means that the message was sent at 07.51 pm. c. The print out of said chat from page 1 and 2, page 49 to 54 are taken on record and the same is Ex.PW17/C. d. The print out of SMS record of the abovesaid mobile phone i.e. MP3 (mobile phone of father of deceased) from page no.197 to 210 is Ex.PW17/D. e. The retrieved image which was initially sent by mobile no.919891974676 to 919899119676 was accessed at location MP3>logical>chats>whatsapp>attachments 27 >IMG- 20180322-WA0006.jpg, which shows one person blind folded with the help white gauze i.e. patti. His head is also seen covered with white patti and hands are seen covered with polythene and tied with rope. The print out of image is Ex.PW17/E. f. In mobile phone Mark MP2 (mobile phone of deceased), no whatsapp chat could be found and the witness/PW17 stated that it could be for the reason that the whatsapp data i.e. whatsapp application might have been deleted in the said phone.

13.5 In the cross examination of the witness/PW17, he categorically stated that there was no chance of corruption of data during extraction, transfer and analysis as they used write blockers during extraction of data and hash value of data was checked at the subsequent stages after extraction including transfer of data. The witness was also asked that if any data was corrupted due to any reason, the details of sender / recipient of messages would not be retrieved correctly.

State Vs. Ishtiaque Ali However, as the witness has categorically deposed that there was no chance of corruption, then there is no reason to presume that details of sender or receiver in the retrieved data could not be correct. Apart from mere suggestion regarding corruption of data, no concrete infirmity in the data or analysis has been brought out by the accused, to make this court doubt the report given by PW17, alongwith extracted data in the CD. The witness also explained that in the present case, whatsapp encryption was not relevant as data was retrieved from the device on which it was sent and not from any third party. PW17 also denied that there was bug and error in his software and hardware or that the extraction report is misleading or that due to technical glitches, the report placed by him on record was false, fabricated and misleading.

13.6 A perusal of Ex. PW17/D which is the print out of SMS record of the mobile phone /MP3 (mobile phone of father of deceased) also shows that there are continuous interaction between mobile phone of the father of deceased and the phone number of deceased from 22.3.2018 at about 7:54 PM till 28.3.2018 at about 5:34 PM. It can be seen from the said interactions that the father of deceased has continuously messaged to the phone number of his son/deceased requesting the other side to talk to his son; to reduce the amount of ransom or to give some more time to pay the ransom amount. Also, father of deceased has received various messages from the phone number of his son/deceased regarding the time, place and manner of payment of the ransom amount; not involve police and threatening that in case his demands are not met, his son would be harmed.

State Vs. Ishtiaque Ali 13.7 Even though the SMS record is running into several pages, for the sake of reference, some extracts are reproduced hereunder:

State Vs. Ishtiaque Ali 13.8 In this regard prosecution has also relied upon the evidence of PW32/Ex. SI Manish and PW33/Insp Sandeep Kumar. PW 32/Ex. SI Manish, deposed that on 22.3.2018, at about 10:30 PM, complainant/Shri Dinesh Chandra had gone to the PS Palam Village and informed him about the ransom messages received on his phone along with photograph of his son. The statement of complainant was recorded as Ex. PW4/A and rukka was prepared by SI Manish which is proved as Ex. PW32/A and FIR was got registered. Further, PW 33/Inspector Sandeep Kumar also corroborated the case of prosecution with respect to receipt of message by PW-4 on 24.03.2018 for arrangement of ransom amount;

reply given by PW-4; message received by PW-4 on 26.03.2018 regarding delivery of ransom amount at Uttam Nagar nala; constitution of raiding team; nobody arriving at designated place to take the ransom amount; and receiving of message by PW-4 on 27.03.2018 for delivery of ransom amount at garbage can, near Anupam restaurant, Vasant Vihar, Delhi at 10.00 pm; constitution of raiding team; but again no one arriving at the designated place to take delivery of ransom amount.

State Vs. Ishtiaque Ali 13.9 Case of prosecution is also corroborated by CDR record pertaining to the phone number of deceased and his father, proved by PW-9/Ajeet Singh. The said CDR record shows that on 22.03.2018, 24.03.2018, 26.03.2018 and 27.03.2018, various messages were exchanged between the phone number of deceased and phone number of the complainant. Record shows that on 22.03.2018, a message was sent from the phone number of deceased to phone number of complainant at about 19:53 PM and on other dates numerous messages are exchanged. Calls were also made between the phone of the deceased and the phone of the complainant on 26.03.2018 and 27.03.2018.

13.10 From the above, it is clear that the ransom money was demanded from the father of the deceased on 22.03.2018, 24.03.2018, 26.03.2018 and thereafter, on 27.03.2018, by sending him a photo of his son and threatening him to cause death/ hurt to his son and also by showing the photo of the son of the complainant in a blind folded manner with hands tied, a reasonable apprehension was caused to the father of the deceased that his son may be put to death or hurt. It is also clear that the messages were sent to the father of the deceased from the phone of the deceased.

14. DEATH OF DECEASED AS HOMICIDAL Summary: Prosecution has proved that the death of deceased was homicidal.

14.1 PW-36/HC Sukhdev deposed that on 28.03.2018, he was State Vs. Ishtiaque Ali on patrolling duty and at about 4:00 pm, he reached at Nala near Metro View Apartment, Sector-13 where he found one green colour polythene bag at the corner of nala and foul smell was coming from it and some articles were also lying nearby in a bag. The said polythene bag was found to contain the dead body of male person and after checking through Zipnet, information was given to PS Palam Village. His testimony is corroborated by PW-16/HC Naveen, who deposed that on 28.03.2018, at about 5:05 pm, he received telephonic information from beat Ct. Sukhdev regarding one dead body wrapped in polythene which was found in a nala behind Metro View Apartment, Sector-13, Dwarka, which was recorded vide DD No.41A, which is Ex. PW16/A. Same is also corroborated by the testimony of PW34/Insp Satish Yadav, who proved on record DD no. 51 A dated 28.03.2018, as Ex. PW34/A. In addition, PW-37/HC Purushottam also deposed that on 28.03.2018, on receipt of information regarding a dead body, he alongwith SI Sandeep, HC Bijender and father of deceased went to the spot where the dead body was identified by the father of deceased. PW37 also took the dead body to DDU hospital and got it deposited in the mortuary of hospital.

14.2 From the testimony of PW16, PW36, PW34 and PW37, it stands proved that on 28.03.2018, one dead body of a male was found in Ganda Nala, behind Metro View Apartment at about 4:00 PM. PW40/IO Insp Anand Prakash has also deposed that he was called at the spot through SHO on 28.03.2018 at about 6:30 PM and the dead body was identified by the father of the deceased and there is no dispute to this aspect. At the time of PM proceedings also, dead body was identified by the father and uncle of the deceased vide Ex. PW4/B and Ex. PW40/B. State Vs. Ishtiaque Ali Their testimony is also corroborated with the testimonies of PW 26 and PW27, members of crime team. PW31 also proved on record seizure memo of articles recovered from the paper bag lying near the dead body as Ex. PW31/A. 14.3 It is the case of the prosecution that the death of deceased in the present case is homicidal which is the basis for charge U/s 302 IPC. In this regard, most important

witness is PW-20/Dr. Jatin Bodwal, Specialist, Department of Forensic Medicine, DDU Hospital, Delhi. He deposed that on 29.03.2018, he had conducted postmortem on the body of one Ayush Nautiyal and the dead body was identified by father and uncle of deceased. He described that the body was wrapped in a blue polythene and both hands were tied in front of chest with rope and both legs were tied at ankles with rope. Two bandages were present on the eyes and forehead and one piece of cloth of red colour was present all around the neck. Further, one piece of cloth of white colour was present underneath the above mentioned red colour cloth present all around the neck. It may be noted that description of the body also corroborates the blind folded photo of deceased which was sent to father of deceased.

14.4 He further stated that on external examination of the body, seven injuries were found which are further detailed in the PM report as:-

1. Reddish blackish bruise, 10 cm x 3 cm, was present on the left parietal region, 5 cm above mastoid process.
2. Contused lacerated wound, 4cm x 1cm x 1cm, bone deep, was present on the left side of forehead, 1cm from mid line, with underlying fracture of frontal bone, effusion of blood State Vs. Ishtiaque Ali was present at fracture site.
3. Contused lacerated wound, 3cm x 0.5cm x 0.5cm, muscle deep, was present on the right parietal region, 5cm above mastoid process.
4. Contused lacerated wound, 5cm x 1cm x 0.5cm, muscle deep, was present on the right parietal, 4cm behind injury no. 3.
5. Contused lacerated wound, 3cm x 1cm x 0.5cm, muscle deep, was present on the right side of occipital region, 1cm from mid line.
6. Stab wound of size 0.8cm x 0.8cm x 2cm, circular shape, was present on the front of right side of neck, 2 cm from mid line and 5cm below mandible. The edges of the wound were distorted due to invasion of maggots. The track of wound traverse through skin, subcutaneous tissue and muscles where track ends. Slight clotted blood was found at the neck muscles. The direction of the wound was towards right.
7. Reddish blackish bruise, 15cm x 8cm, was present on the front of left side of chest, 3cm from mid line. Ribs 3rd, 4th and 5th were fracture on left side effusion of blood was present at fracture site.

14.5 He further stated that the cause of death in this case was a head injury via injury no.2 which was sufficient to cause death in ordinary course of nature. He explained that injury nos.1, 2, 3, 4, 5 & 7 were caused by blunt force trauma and injury no.6 was caused by stabbing weapon and all injuries were antemortem in nature. He further stated that manner of death was homicidal and time of death was approximately 7-8

days prior to the postmortem examination. He proved the detailed examination report bearing no.512/2018 dated 29.03.2018 as Ex.PW20/A. A suggestion was also made to the witness that the PM report was not conclusive as it was mentioned there in that " possibility State Vs. Ishtiaque Ali of homicide cannot be ruled out". However, the suggestion was denied, as it was also clearly stated in the PM report that "manner of death is homicidal". On specific question being asked by the Court regarding possibility of death being suicidal, natural, or accidental, the witness answered in the negative.

14.6 During the course of arguments, it was vehemently argued by Ld. counsel for the accused that the videography of the postmortem proceedings could not be played during the recording of evidence of PW 29 and hence, the proceedings of postmortem were highly doubtful and could not be said to be proved. In this regard, it must be noted that no question/suggestion in this regard has been put to the doctor/PW20 who conducted the postmortem. No suggestion has been put to him that the injuries as recorded by him, external or internal, were not in fact present on the body of the deceased. The conclusion of the PM report may have been challenged by the accused during cross examination, but the nature of injuries noted and other observations made is not disputed. Hence, in my considered opinion, the fact that videography of the postmortem could not be proved in the court, as the video footage could not be played during the evidence of PW29 is not fatal to the case of the prosecution. Moreover, photographs of post mortem clicked by PW-29 are proved on record as Ex.PW29/1 alongwith Certificate U/s 63(4)(c) BSA as Ex.PW29/A. 14.7 From the manner in which the dead body of the deceased was recovered and the testimony of PW20, it has been proved by the prosecution beyond reasonable doubt that the death of Ayush Nautiyal State Vs. Ishtiaque Ali was homicidal.

15. DISCOVERY OF SCENE OF CRIME Summary: Prosecution has proved that scene of crime was C-115, Ground Floor, Rama Park, Mohan Garden, Uttam Nagar and the same was discovered at the instance of accused. Prosecution has also proved that the accused had access to the scene of crime on 21.03.2018 and from 22.03.2018 to 23.03.2018.

15.1 In the present case, as per the case of prosecution, the scene of crime is 'Rear portion of ground floor of C-115, Rama Park, Uttam Nagar, New Delhi'. As per prosecution, the said place was not within the knowledge of the police/IO and the same was discovered at the instance of the accused. In this regard, PW40/Insp. Anand Prakash has deposed that on 29.03.2018, from the Pearl Academy, Naraina, address of the suspect was obtained which was disclosed as L-68, Extn.-II, Mohan Garden, Uttam Nagar, New Delhi. On visiting the said premises, it was learnt that the family of the accused was residing at L-135, Extn.-II, Mohan Garden, Uttam Nagar, New Delhi. At the said address, the accused was found. On interrogation, he admitted his involvement in the present case, upon which he was arrested vide arrest memo Ex.PW31/C and his disclosure statement was recorded which is Ex PW31/F. Personal search memo and seizure memo of the phone of accused are Ex. PW31/D and Ex. PW31/E respectively. Thereafter, burnt articles (ashes of laptop, bag, books

etc.), belonging to deceased were recovered at the instance of the accused. Alto Car bearing no. DL-2CAL-2553 was also seized after being pointed out by the accused. Further, accused also led police officials to the house where the murder was committed i.e. House No. C -115, Rama Park, Uttam Nagar, where the accused pointed State Vs. Ishtiaque Ali towards the back side of the said premises. PW40 also deposed that there was a lock on the floor of the Ground Floor and the accused informed that the said portion was taken on rent by his friend Prateek, who had the keys of the premises. Accordingly, the said Prateek was called to the spot with the keys and the door was unlocked with the keys produced by Prateek. PW40 / IO also deposed that he prepared the pointing out memo of the spot as Ex. PW2/A. His testimony is corroborated by the testimony of PW33/Insp Sandeep Kumar and PW31/SI Bijender, who also deposed on the same lines.

15.2 The said factum regarding discovery of scene of crime pursuant to the information given by the accused is admissible u/s. 27 of the Indian Evidence Act.

15.3 Now, the fact that the accused had access to the scene of crime is further corroborated by the testimony of PW-2/ Prateek Mudgal, who deposed that in the year 2018, he had taken rear portion of C-115, Rama Park, Uttam Nagar, New Delhi on rent. He identified the accused in court as his neighbour and stated that on 21.03.2018, accused had taken the keys of his aforesaid house on the pretext that a friend would come to meet him, but the accused returned the key on the same day stating that his friend did not turn up. On 22.03.2018, accused again took the key of the said premises and returned the key on 23.03.2018. PW2 stated that he did not visit the premises till 29.03.2018 and on 29.03.2018, he went to the said premises after being called by the police. He found that several police officials alongwith accused were present there and he came to know that accused had killed one person in the said State Vs. Ishtiaque Ali premises on 22.03.2018. He also deposed that the police had prepared the site identification memo Ex. PW2/A in his presence, at the instance of the accused. The said Ex. PW2/A also bears the signature of PW33, who has also supported the case of prosecution in this regard, as already noted above.

15.4 Prosecution has also examined PW-38/Vijay Kumar, who is the owner of H.No.C-115, Rama Park, Uttam Nagar, New Delhi. The said witness stated that in December 2017, he had given one portion i.e. back side of said property on ground floor on rent to one Prateek. He stated that there were two portions of the said premises, one was of the front side and second was of back side and there was permanent partition between these two portions. He stated that in April 2018, he had got vacated the said premises from Prateek and later on he came to know from the police that a murder was committed in the portion which was taken by Prateek on rent.

15.5 It was vehemently argued on behalf of accused that PW2/Prateek Mudgal admitted in his cross-examination that in his previous statement under section 161 CrPC, he had not mentioned that the premises in question being C-115 were taken by him for purpose of study. On the basis of the cross examination of the witness/PW2, Ld. Counsel for accused very strongly argued that PW2 was an interested witness whose testimony suffered from material omissions (in his previous statement under section 161 CrPC).

15.6 In this regard, it is sufficient to note that prosecution has State Vs. Ishtiaque Ali examined PW2 to prove that the accused had access to the scene of crime from 22.03.2018 to 23.03.2018. The purpose for which the premises were taken on rent by PW2 is totally immaterial. Moreover, in the cross examination of the said witness, no suggestion whatsoever has been given to the effect that the witness/PW2 had not taken the premises C-115 on rent. In fact, a suggestion has been given to witness/PW2 that the room at C-115, Rama Park, was taken on rent by him for the purpose of party and not for the purpose of study. The suggestion amounts to implied admission on the part of the accused that PW2 had taken the premises in question on rent. Similarly, it is also relevant to note that PW2 has deposed that he did not visit the said premises till 29.03.2018 and in cross examination also, he deposed that he was not a regular visitor to the said premises and sometimes he used to go after about 3-4 days or sometimes he used to go after 10 days. There is no material contradiction in the testimony of PW2 to presume that he may have visited the premises between 23.03.2018 and 29.03.2018.

15.7 It was also argued by Id. Counsel for accused that PW2, in his cross examination, stated that he had not signed on any document on the proceedings done by police on the room in the presence of accused Ishtiaque Ali. However, in his chief examination, PW2 has stated that the police prepared the site identification memo Ex. PW2/A at the instance of accused which was signed by him. Now, no clarification has been sought from PW2 in this regard during cross examination by confronting him with his previous statement. Hence, without giving an opportunity to PW2 to explain, his statement in cross State Vs. Ishtiaque Ali examination cannot be treated as contradictory to his chief examination.

15.8 Thus, from the disclosure statement of the accused which led to the discovery of the scene of crime, alongwith the testimonies of PW2 and PW38, it is seen that prosecution has proved that the accused has disclosed the scene of crime to the police and he also had access to the scene of crime from 22.03.2018 to 23.03.2018.

16. FORENSIC EVIDENCE Summary: Prosecution has proved that blood exhibits recovered from the scene of crime contained the DNA of the deceased. Prosecution has also proved that DNA of deceased was also found on the clothes of the accused, which were recovered at the instance of the accused.

16.1 PW 21/Ms. Pooja Malhotra, SSO (Bio), FSL, stated that on 30.3.2018, she alongwith her team and police officials had gone to H.No.C-115, Rama Park, Mohan Garden, Uttam Nagar, New Delhi and inspected the said premises and also lifted the exhibits and samples and thereafter, prepared report in this respect as Ex.PW21/A. As per the report (Ex. PW 21/A), on examination of H. no. C-115, Rama Park, Mohan Garden, Uttam Nagar, blood was detected on the following:

- i. Wall left to the entrance door of the rear room; ii. Floor under the sink, left and opposite wall to the entrance door and two Gaddas in the front room;
- iii. Wall dividing the front and rear room; and
- iv. Hammer recovered from the toilet.

16.2 The aforesaid blood stained exhibits were seized vide

seizure memo Ex. PW31/J and were sent to FSL and they have been examined and report is prepared by PW19/ Dr. Sarabjit Singh. As per State Vs. Ishtiaque Ali the FSL report, Ex. PW 19/A, the blood stained exhibits collected from the H. no. C-115, Rama Park, Mohan Garden, Uttam Nagar were sent to the FSL, Rohini, as following exhibits:

Exhibit 6 Blood stained gauze cloth piece taken from left wall of rear room from scene of crime.

Exhibit 7 Blood stained gauze cloth piece taken from below the sink of front room from scene of crime.

Exhibit 8 Blood stained gauze cloth piece taken from facing wall of front room from scene of crime.

Exhibit 9 Blood stained gauze cloth piece from left wall of front room from scene of crime.

Exhibit 10 Blood stained gauze cloth piece taken from wall dividing two rooms from scene of crime.

Exhibit 11 Blood stained gauze cloth piece taken from the hammer from toilet of scene of crime.

Exhibit 12 Blood stained gauze cloth piece from gadda of scene of crime.

Exhibit 17 A blood stained hammer.

16.3 As per the FSL report, Ex. PW 19 /A, the DNA

profile of male origin which was generated from the source of exhibit 1 i.e. blood stained gauze cloth piece of deceased, was found similar in the alleles from the source of the aforesaid exhibits 6, 7, 8, 11, 12 and

17 i.e. DNA profile of deceased matched with the alleles of the blood samples taken from the scene of crime from left wall of rear room, below the sink of front room, facing wall of front room, hammer and mattress. The allelic data in this regard was also produced as Ex. PW19/D1. In this regard, PW19/ Dr. Sarabjit Singh was examined by prosecution. Despite extensive cross examination by Id. Counsel for accused, the testimony of the said witness could not be demolished.

16.4 PW40 also deposed that at the instance of accused, one black t-shirt having label Zara and one light grey colour jeans State Vs. Ishtiaque Ali having Zara men label were recovered from his home

L-135, Extn-2, Mohan Garden. It was also disclosed by accused that these clothes were worn by him at the time of commission of the offence and had been washed by him. The same were seized vide seizure memo Ex. PW31/L. Further as per the aforesaid report PW 19/A, the said t-shirt and jeans were received at FSL as exhibits 18a and 18b. It is concluded in the report that the alleles generated from the source exhibit '1' are accounted 'matching' in the alleles generated from the source of exhibits 18a and 18b. The said jeans and t-shirt of the accused were also produced during the evidence of PW-19 and the same were marked as Ex. PW19/D1 and Ex. PW19/D2 .

16.5 It is important to note at this stage that DW1/Ms Neha Jha was examined by the accused as defence witness who stated that she had scientifically interpreted and analyzed the FSL report and worksheets as prepared by Dr. Sarabjeet Singh/PW19 in this case. She stated that as per her opinion, environmental exposure, washing, storage and fungal activity, caused strand break, making full STR profiling highly unlikely and she stated that the claim for good DNA quality and complete STR profile was inconsistent. She deposed that no separate DNA profiling of each exhibit was performed. She also deposed that there were multiple indications to show that there might be fabrication or manipulation with the sample at the stage of collection or evidence/exhibits from the place of lifting the evidence/exhibits. She filed her detailed report dated 19.09.2015 as Ex. DW1/A. The said witness was extensively cross examined by Ld. APP for the State. From her cross examination, it is noted as follows:

State Vs. Ishtiaque Ali i. BFI Lab with which she was associated and from which Lab she was given the present case was not approved/accredited with NABL. She also stated that she did not receive any written authorization from BFI authorizing her to analyze the present case.

ii. She did not examine any of the case exhibits herself and her report was only based on the existing report of PW19 and supporting papers.

iii. She admitted that the date of forwarding the exhibits to FSL was wrongly mentioned in her report as 29.03.2019 instead of 19.04.2018.

iv. She admitted that with respect to Ex. 18a and 18b, she made a presumption that those were washed before seizure and she could not comment if the same were infact washed or not before seizure.

v. She admitted that there was a typographical error in her report where clothes of accused were also stated to be wet along with the clothes of deceased. While only the clothes of deceased were wet.

vi. She admitted that it was possible that DNA could come out of exhibits despite fungal growth.

vii. She also stated in her cross examination that it had come in the evidence of PW19/Dr. Sarabjit that " during examination of the exhibits, coughing sneezing by laboratory personnel have released respiratory droplets containing saliva, mucus into the work area". However, on being confronted with the evidence of PW19, she admitted that there was no reference to any fact of State Vs.

Ishtiaque Ali coughing or sneezing in the lab, rather only a hypothetical question was asked from the witness.

viii. As regards contamination of DNA also, the said witness admitted that "the DNA would not contaminate by itself " but there was a possibility of creation of mixed DNA in case coughing/sneezing by another person.

16.6 Thus, report of DW1 is nothing more than a self serving report, prepared without any authorization. It has been admitted to contain typographical errors and part of it is also admitted to be based on presumption. Also, DW1 has not been able to fully substantiate her claims in the cross examination. Thus, report of DW1 does not inspire the confidence of the Court and it is not sufficient to raise even an iota of doubt on the report of PW19 or his testimony. PW-19 has ably supported his report during cross-examination and nothing contrary could be elicited during his cross-examination. Hence, it can be seen that blood found on the walls, below the sink, mattress and hammer at C-115 Rama Park, Mohan Garden, Uttam Nagar was the blood of the deceased. Also, DNA of the deceased was also found on the t-shirt and jeans of the accused, which clothes were recovered at the instance of the accused.

17. RECOVERY OF WAEAPON - HAMMER Summary: Prosecution has proved that weapon of offence i.e. hammer was recovered from the scene of crime at the instance of accused and the blood exhibit lifted from the hammer contained the DNA of the deceased.

17.1 As already noted above, the cause of death in the present case is stated to be injury no. 2 viz. "Contused lacerated wound, 4cm x State Vs. Ishtiaque Ali 1cm x 1cm, bone deep, was present on the left side of forehead, 1cm from mid line, with underlying fracture of frontal bone, effusion of blood was present at fracture site" . It is stated by PW20 that the said injury was caused by a blunt force trauma. Further, during the course of investigation, supplementary disclosure statement of the accused was recorded on 30.03.2018 vide Ex. PW 33/E, which led to the recovery of a hammer from the scene of crime, at the instance of the accused. PW40, PW33 and PW31 have consistently deposed in this regard. Seizure memo of the hammer is Ex. PW31/K. Further, as noted above, blood was also found on the said hammer and which contained the DNA of the deceased, as per Ex. PW19/A. Recovery of hammer at the instance of accused is covered by S. 27 Indian Evidence Act.

17.2 In this regard, various defences were raised on behalf of accused. Firstly, it was vehemently argued by ld. Counsel for the accused that in the first disclosure statement, it is recorded that knife and hammer were thrown by the accused in the nala and in the second disclosure statement, it was recorded that hammer was not thrown but kept hidden in the toilet at the scene of crime in C-115, Rama Park, Mohan Garden, Uttam Nagar. As per ld. Counsel for accused, second disclosure statement of the accused could not have been recorded and even otherwise, the same makes the case of prosecution really doubtful and it is highly probable that the hammer could have been planted. In this regard, it must be noted that evidentiary value of disclosure statement is strictly governed by the Indian Evidence Act and only that part of the disclosure statement of accused is admissible in evidence which leads to some discovery. There is no bar in the law to recording State Vs. Ishtiaque Ali of multiple disclosure statements of the accused. If the accused withholds material information

in the first statement or conceals something or gives false information, he can still give further information to the police officials, provided the same shall be subject to the laws of evidence. If the accused, in the present case initially stated that hammer was thrown by him and thereafter, he stated that hammer was hidden by him and the hammer, in fact, is recovered from the place disclosed by the accused, the said recovery cannot be said to be inadmissible merely because second disclosure statement has been recorded by the police.

17.3 Ld. Counsel for the accused also vehemently argued that chain of custody of the scene of crime is compromised and there is every possibility that the hammer was planted at the scene of crime to falsely implicate the accused. Ld. Counsel pointed out that there is nothing on record to show as to who retained the key of the room on 29.03.2018 and no seizure memo of the key is prepared. Ld. counsel also strongly argued that the prosecution has failed to establish that the alleged scene of crime was under the exclusive control of the accused. As per Ld. Counsel for accused, this coupled with the fact that the hammer was not sent to FSL for finger print analysis of the accused, shows that recovery of hammer is highly doubtful.

17.4 In this regard, it must be noted that the scene of crime was first got opened on 29.03.2018, after the said place was pointed out by the accused and PW2/Prateek was called at the spot. It is also deposed by PW40 that on 29.03.2018, the premises was only cursorily inspected State Vs. Ishtiaque Ali where blood stains on the walls were observed. After that the premises was locked to get it inspected from crime team and FSL team and the key was retained by PW40 with himself. PW33 deposed on the same lines. Thus, the scene of crime was duly locked, though admittedly it was not sealed and the key was retained by the IO. On the next day, the FSL team was called and PW31/SI Bijener had taken the FSL team to the scene of crime, to whom keys were given by the IO. In the meanwhile, while the accused was in PC remand, his supplementary disclosure statement was recorded by the IO. It is highly improbable that a hammer with the blood of the deceased could have been planted at the scene of crime at such short interval of time.

17.5 As regards the case of accused, that the hammer was not sent to FSL for fingerprint analysis, it is noted that there is no dispute to the said factual position and its consequence that there is no evidence to show that the hammer (alleged weapon of offence) had the finger prints of the accused. That may be a lapse in the investigation but be that as it may, what the Court is required to see is that whether from the evidence that is brought on record by the prosecution, the chain of circumstances as required by law stands established or not. In that regard, prosecution has proved that a hammer was recovered from the scene of crime, at the instance of the accused and it was found to contain the DNA of the deceased.

18. RECOVERIES FROM THE ACCUSED Summary: Prosecution has proved that phone of deceased and burnt laptop remnants of the deceased were recovered at the instance of the accused.

State Vs. Ishtiaque Ali 18.1 It may be noted that in the initial complaint made by the father of deceased on 22.03.2018, he specifically mentioned that when his son left on 22.03.2018 in the morning, he took his Dell laptop in his bag. Father of the deceased has been examined as PW4 and in his testimony, he has also proved the bill of the Dell laptop as Ex.PW4/E, which is in the name of

Ayush Nautiyal. The said Invoice was seized by PW40 vide seizure memo Ex. PW4/D. During investigation, on the disclosure statement of the accused, exhibits consisting of ashes, containing laptop parts were lifted and were put in a white transparent bag, on 29.03.2018 from Najafgarh nala near Chat Pooja Ghat (from the area between ganda nala and wall). In this regard testimony of witnesses PW40, PW33 and PW31 are relevant, who have all deposed regarding the recovery of ashes, containing laptop parts on 29.03.2018 from Najafgarh nala near Chat Pooja Ghat (from the area between ganda nala and wall) at the instance of the accused. Seizure memo of burnt laptop is proved on record as Ex. 31/G. Pointing out memo of place from where burnt remnants of laptop/ashes were recovered is Ex. PW33/B. 18.2 PW-11/HC Rajbir Singh also deposed that on 18.04.2018, he had collected the sealed exhibits containing burnt laptop material from Malkhana and deposited the same in FSL vide RC No. 69/21/18 and handed over the copy of RC and acknowledgment at the PS. Further, testimony of PW 22/ Dr. Parshuram Singh is also relevant in this regard, who deposed that he examined the exhibit received in FSL, State Vs. Ishtiaque Ali Rohini in present case containing a burnt part of laptop and prepared the report dated 05.10.2018 as Ex.PW22/A. He specifically deposed that as per his examination, the laptop was a Dell Laptop. He also mentioned the serial number of the laptop in his report. PW-28/HC Vikas is the member of Crime team who had clicked 14 photographs Ex.PW28/A (colly) of burnt ashes/remnants of laptop which was found at the spot (Najafgarh Nala, Opposite Chhat ground).

18.3 It may further be noted that the father of the deceased who is examined as PW4, in his testimony, specifically deposed that his son was using mobile number 9891974676 and one other mobile number i.e. 9891xx8016. During investigation, at the instance of the accused, one mobile phone of Samsung Company having Blue Colour stated to be of the deceased, was recovered from Second Floor of house no. L-135, Extn-II, Mohan Garden, Uttam Nagar, Delhi. In this regard testimony of witnesses PW40, PW31 and PW33 are relevant, who have all deposed regarding the recovery of the Samsung Mobile phone from the house of the accused, at the instance of accused. Seizure memo of mobile phone of deceased is proved on record as Ex. PW31/H, as per which one Blue Colour Samsung mobile Android phone having IMEI No. 357169082116437 and 357170082116435 was recovered at the instance of the accused and seized. Both the said recoveries are admissible u/s. 27 IEA.

19. CCTV FOOTAGE (entrance of gali) Summary: Prosecution has proved that accused and deceased were seen together at the entrance of gali of the scene of crime on 21.03.2018 State Vs. Ishtiaque Ali 19.1 PW-3/Deen Dayal Ranga is the owner of H. No. C-106, Rama Park, Uttam Nagar, who had handed over the CCTV footage installed in his house to the police pertaining to 21.03.2018 to 23.03.2018. He deposed that the police seized the DVR of Alba Urmet company vide seizure memo, Ex. PW3/A and he also gave a certificate u/s. 65B Indian Evidence Act as Ex. PW3/B. No cross examination of the witness was conducted as regards Ex. PW3/B. The said DVR was produced in the court as Ex. PW3/1.

19.2 PW33/Insp. Sandeep Kumar, who was one of the IO of the case deposed that from the said CCTV footage, it was seen that on 21.03.2018, two persons i.e. deceased and accused were seen coming in alto car and the car was parked at the corner of entrance of gali from which they came out from the car and then went inside the gali and after sometime they again came back and went inside

the car and thereafter left in the said car. Though the said CCTV footage is of 21.03.2018 and as the deceased was at his home in the morning of 22.03.2018, the same does not amount to the 'last scene theory evidence'. Be that as it may, it establishes that accused and deceased were known to each other and they had come together in the alto car of the accused, near the scene of crime on 21.03.2018. During the examination of PW33, the pen drive containing the said CCTV footage (Annexure PD1) was also played and it is noted in this regard as follows:

In the said video at 16:22 one alto car silver color is seen coming. The same is parked at the corner of the opening of the street which as per witness leads to H.No. C-115. After parking the car, two persons are alighted from the car.

State Vs. Ishtiaque Ali There is some packet in the hand of one person who alighted from the driver side and one back pack is seen being carried by the other person on his shoulder who is also holding something appearing to be carrying away glass of drink in his hand. Thereafter they both went inside the street. The witness submits that the number of the car is not clear. He further submits that accused Ishtiaque Ali and deceased Aayush are seen in it alighting from the car.

19.3 As regards PW3, Ld. Counsel for accused argued that the said witness admitted that CCTV camera covered only the opening of the gali which was opening in front of his house but the CCTV camera did not cover the other end of the gali. He pointed out that the said witness also admitted that the gali in which rear portion of C-115, Rama Park opened, was open from both ends and one would come and go from either side. But the other end of the said gali was not covered in his CCTV camera. On the basis of said cross-examination of PW3, ld.

Counsel for accused argued that the prosecution's story to the extent that CCTV footage provided by PW3 conclusively established as to who entered or exited from C-115 from 21.03.2018 to 23.03.2018, is falsified. Ld. Counsel further vehemently argued in this regard that anyone could have accessed C-115 from the other end of the gali which was not captured in the CCTV footage provided by PW3.

19.4 In this regard, it must be noted that it is correct that only one end of the gali is covered by CCTV footage provided by the witness. But it is also deposed by PW3 in his cross-examination that only person on foot or bike could go from the other end as there was a pole in the midway of the opening of the gali on the other end. Thus, if a person was coming by car to C-115, Rama Park, he would necessarily come from State Vs. Ishtiaque Ali the side of the gali which is covered in the CCTV camera of PW3.

19.5 DVR in the present case was seized vide seizure memo Ex. PW3/A by PW40 in the presence of PW3 and PW33. All the said witnesses have supported the case of prosecution in this regard. Further, the said DVR has been also analyzed by FSL, Rohini. PW-25/Sh. Kailash Kumar has been examined in this regard, who deposed that the exhibits of the present case (parcel no.2 containing one digital video recorder "ALBA URNET") were received in FSL and was marked to him for

examination. He deposed that the exhibit was forensically cloned and examined and CCTV footage for 21.03.2018 from 04:20 p.m to 04:30 p.m was provided in a pen drive (Annexure PD1).

19.6 After examination, he prepared the detailed examination report Ex.PW25/A alongwith certificate under Section 65-B of Indian Evidence Act Ex.PW25/B and gave step by step procedure for playing the files in VLC player vide Ex.PW25/C. As per PW25, the sealed pendrive was further forwarded to Physics division of the laboratory for further examination. In this regard, PW24/Geetesh Patel has also supported the case of prosecution in this regard by deposing that the video files were having continuous footage of CCTV recordings and there was no indication of alteration in the footage, on the basis of Frame by Frame analysis using Video analyst system. Pendrive is proved on record as Ex. PW24/1. His report in this regard is Ex. PW24/A. State Vs. Ishtiaque Ali

20. CCTV FOOTAGE (McDonalds) Summary: Prosecution has proved that accused and deceased were known to each other and were seen together at Mc. Donalds restaurant on 21.03.2018.

20.1 PW-1/ Mahender Pal Singh Rawat is the Restaurant Manager of Mc. Donald Restaurant who provided the DVR installed in the said restaurant containing the CCTV footage, to the police alongwith certificate U/s 65B of Indian Evidence Act. The said DVR was of Zicom company and it was sealed by the police and seized on 08.04.2018 vide seizure memo Ex. PW1/A. The seizure memo bears the signature of PW1 and the said witness also issued the certificate u/s. 65B Indian Evidence Act Ex. PW1/B. No cross examination of the witness was conducted as regards Ex. PW1/B. 20.2 PW33/Insp. Sandeep Kumar, who was one of the IO of the case deposed that from the said CCTV footage, it was seen that deceased was seen with the accused at the said Mc Donald on 21.3.2018 at about 3:40 PM, even though the accused was only a suspect on 25.03.2018, when the CCTV footage was seen for the first time. The said CCTV footage proves that the accused was known to the deceased and was not a stranger. During the examination of PW33, the pen drive containing the said CCTV footage (Annexure PD1) was also played and it is noted in this regard that as follows:

In the video clip at about 15:41:43 hrs, two persons are seen coming at the bill counter of restaurant. The witness identifies the person wearing the green front open shirt who has come alongwith one person in dark round neck T-shirt and blue jeans, as Ayush Nautiyal and other person with him wearing dark color T-shirt and blue color jeans having beard being the accused Ishtiaque Ali. Both the persons are seen placing some order and then waiting on the counter and thereafter both the persons had gone to the sitting place of the restaurant and after sometime, Ishtiaque Ali in round neck dark T-shirt and blue jeans who had come with Ayush Nautiyal is State Vs. Ishtiaque Ali again seen coming to the counter and after sometime, he again went back to his sitting place and after some time, again coming to the counter and after sometime the person i.e. Ayush Nautiyal is seen going from the sitting area and after taking the food, the said person i.e. Ishtiaque Ali in round neck dark T-shirt is seen leaving the restaurant.

20.3 The aforesaid CCTV footage was also played during the evidence of PW4, who identified his son/deceased in the video. During the course of arguments, it was argued by ld. counsel for accused that PW1 who produced the CCTV footage and DVR with respect to CCTV footage of McDonald's restaurant dated 21.03.2018 admitted in his cross-examination that he had not seen the CCTV footage nor had he identified the customer from the footage. He also admitted that the bill of DVR was not given to the police and no document was prepared about information given to Mr. Amit Kumar/operation consultant permitting seizure. Ld. counsel also argued that the witness had not given his appointment letter to the police. In this regard, it may be noted that PW1 was examined by the prosecution only to prove the source of DVR/CCTV footage which was obtained from McDonald's restaurant for 21.03.2018. It was not at all required for the witness/PW1 to identify the deceased or accused. PW1 was merely an employee at McDonald restaurant and he cannot be expected to personally know the customers. Merely because PW1 has not identified any customer in the CCTV footage of McDonald or has not even watched the CCTV footage in question, the evidentiary value of CCTV footage cannot be questioned.

20.4 DVR in the present case was seized vide seizure memo Ex.

PW1/A by PW40 in the presence of PW1 and PW33. All the said State Vs. Ishtiaque Ali witnesses have supported the case of prosecution in this regard. DVR itself was produced in the court as Ex. PW1/1. The purchase bill of the DVR is not required to establish the authenticity of the equipment.

20.5 Further, the said DVR has been also analyzed by FSL, Rohini. PW-25/Sh. Kailash Kumar has been examined in this regard, who deposed that the exhibits of the present case (parcel no.1 containing one Zicom digital video recorder) were received in FSL, Rohini and marked to him for examination. He deposed that the exhibit was forensically cloned and examined and CCTV footage from 3:35 PM to 3:56 PM was provided in a pen drive vide Annexure PD1. After examination, he prepared the detailed examination report Ex.PW25/A alongwith certificate under Section 65-B of Indian Evidence Act Ex.PW25/B and gave step by step procedure for playing the files in VLCC player vide Ex.PW25/C. As noted above, PW24 has also corroborated the case of prosecution. Hence, no doubt can be raised on the authenticity of the CCTV footage dated 21.03.2018, of McDonald restaurant, Sector 14, Dwarka, which proves that accused and deceased were known to each other and were seen together one day prior to the incident.

20.6 At this stage it is also extremely important to note that as per the IO, details of suspect were also taken from one e-mail ID of the deceased and the photo of the suspect matched with the person seen with the deceased, in the CCTV footage of the McDonald restaurant. As such, further investigation was made to trace out the suspect. In this regard, IO/PW40 was cross examined at length and oral arguments State Vs. Ishtiaque Ali were also addressed to contend that the manner in which the e-mail id of the deceased was accessed has not been proved by the prosecution and the same raises serious doubts on the investigation. Ld. Counsel for accused pointed out that PW40, in his cross examination, admitted that he could not disclose the identity of the professional who accessed the e-mail id of the deceased; that the said professional was not cited as a witness; that he

did not know that on which computer the e-mail id of the deceased was accessed; and that he did not see the e-mails in which the particulars and photographs of the accused was found. Ld. Counsel for accused argued that the accused has been falsely implicated. In this regard, it is noted that the contents of e-mail of the deceased are not being relied upon by the prosecution as one of the circumstances in the chain of events to prove the guilt of the accused. Rather, the police officials had already seen the CCTV footage of Mc. Donald restaurant showing accused and the deceased together. The e-mail of the deceased only turned out to be one of the steps in the investigation and a means to trace the accused. Thus, the manner in which the e-mail of the deceased was accessed during the course of investigation is wholly irrelevant. It was not relevant for the Prosecution to examine the professional who was employed to crack the email ID of the deceased or divulge his details.

21. DISAPPEARANCE / DESTRUCTION OF THE EVIDENCE Summary: Prosecution has proved that accused burnt the laptop and other articles of the deceased and had dumped the body of the deceased in the Ganda nala, in order to cause the evidence to disappear.

State Vs. Ishtiaque Ali 21.1 In order to prove the offence punishable U/s 201 IPC, the prosecution was required to establish that the accused had burnt the laptop and other articles of the deceased, and accused had also dumped the dead body of the deceased in the Ganda Nala, Sector 13 Dwarka, with intention to cause disappearance/destruction of the evidence of the offence of commission murder.

21.2 As per the case of prosecution, the accused had used his Alto car bearing number DL-2CAL-2553 in disposal of the body. Prosecution examined PW-8/Savin Sehrawat, Senior Assistant, IP Estate Transport Authority, to prove that the vehicle bearing No. DL 2C AL 2553 make Maruti Alto Car was registered in the name of Sheikh Mumtaz Ali (father of accused). He proved on record Ex. PW8/A being vehicle particulars. Further, as per prosecution, the said alto car was recovered at the instance of the accused and the same was seized vide seizure memo Ex. PW31/M.

21.3 Further, PW/21 Ms. Pooja Malhotra also stated that on 30.3.2018, she alongwith, Mr. Rajnish Kumar Singh, photographer and her team had gone to PS Palam Village where she had inspected one Alto car bearing registration no. DL-2C-AL-2553 and collected the exhibits. The said exhibits were seized vide seizure memo Ex. PW31/I. As per the report, Ex. PW 21/A, on examination of Alto Car bearing number DL 2C AL 2553, blood was detected on the following:

- i. A multi-coloured floor mat lying in the boot (dikki) of the car
- ii. Left hand side of the boot (dikki) of the car
- iii. Left hand side of the door of back passenger seat of the car

State Vs. Ishtiaque Ali iv. A blackish floor mat lying in the boot (dikki) of the car
21.4 As per the FSL report, Ex. PW 19/A, the blood stained exhibits collected from the Alto car bearing number DL 2C AL 2553, were sent to the FSL, Rohini, as following exhibits:

- | | |
|------------|--|
| Exhibit 13 | Mat pieces from dikki of car. |
| Exhibit 14 | Blood stained gauze cloth piece from left hand side of the boot of car. |
| Exhibit 15 | Blood stained gauze cloth piece from left side door of back seat of car. |
| Exhibit 16 | Floor mat pieces from boot of car. |

21.5 As per the FSL report, Ex. PW 19 /A, the DNA

profile of male origin which was generated from the source of exhibit 1 i.e. blood stained gauze cloth piece of deceased, was found similar in the alleles from the source of the aforesaid exhibits 13 and 15, i.e. DNA profile of deceased matched with the alleles of the blood samples taken from the Alto car from mat pieces from the boot of the car and left side door of backseat of Car. As noted above, PW19/ Dr. Sarabjit Singh was examined by prosecution. Despite extensive cross examination by Id. Counsel for accused, the testimony of the said witness could not be demolished.

21.6 From the aforesaid, it can be seen that blood found on the footmat and door of the Alto car was the blood of the deceased.

21.7 Furthermore, as noted above PW3 has provided the CCTV footage of outside his house, which is the entrance of the gali where scene of crime is located. As noted above, PW-3 has deposed regarding seizure of the DVR and PW-25 has deposed regarding examination of the same in FSL Rohini. As per PW-25, he provided the CCTV footage State Vs. Ishtiaque Ali for 22.03.2018 from 4.00 am to 5.00 am in a pen drive (Annexure PD1). During the evidence of PW33, the said CCTV footage was played and it was seen that in the intervening night of 22-23.03.2018 at about 04.00 am, two persons were seen in the aforesaid alto car in the corner of gali. At about 04:09:49 hours one alto car is seen coming from the other end of the street and it stopped near the entrance of street in which H.No. C-115 is situated. After reversing the car, the same is parked near the corner of the said street. From the said car at about 04:11:05 hours, one person is seen alighting from driver side of the car, who was identified by the witness as accused Ishtiaque Ali. The said person went inside the said street leading to H. No. C-115 and at about 04:11:27 hours another person is seen alighting from driver side of the car and seen hurriedly going into the said street leading to H. No. C-115. The other person is identified by the witness as CCL "S".

Further, about 04:44 one person (who as per PW-33 is accused Ishtiaque Ali) came from the street and opened the doors of the car and thereafter came in front of the car and then went inside the car. The car is then started and the car then moves and then stops in the middle of opening of the street. The said person then alighted from the car, goes towards the other side of car and opens up the door which opens towards the side of the gali and then went inside the car appearing to be adjusting something and then went inside the street leaving the door open. Further after a while, the said person (identified by the witness as accused Ishtiaque Ali) is seen coming out from the street and then going into the car and then moves away the car. Thereafter, the said car is seen coming back from the direction in which it went and then the said car is being reversed and was taken into the street where H. No. C-

State Vs. Ishtiaque Ali 115 is situated as per the witness.

21.8 The said CCTV footage shows that accused was present with his alto car near the scene of crime alongwith one person at odd hours in the night of 22/23.03.2018. In this regard, it may also be noted that there is no merit in the argument of ld. Counsel for accused that there is no evidence in the form of independent witness or toll record to establish that the aforesaid Alto car was used by accused in connection with alleged crime on 22.03.2018.

21.9 As regards the CCTV footages which were pertaining to outside the gali of the scene of crime for the intervening night of 22/23.03.2018 at odd hours of 4:00 to 5:00 AM, it was objected during the evidence of PW-40 that the same were not clear. However, in this regard it is noted that the CCTV footages have been seen by this Court and the same are found clear enough to corroborate the case of the prosecution as noted above.

21.10 From the evidence on record, it is clear that blood of deceased was found in the alto car of the accused and the said alto car of the accused was also seen outside the gali of the scene of crime at odd hours in the intervening night of 22/23.03.2018. It has also been noted above in para 18 above that remnants of burnt laptop of deceased were also recovered at the instance of the accused.

22. OTHER DEFENCES OF ACCUSED State Vs. Ishtiaque Ali 22.1 Motive: It is argued by Ld. Counsel for the accused that Prosecution has failed to prove the motive in the present case, which is one of the essential ingredients of criminal jurisprudence. In this regard, Ld. Counsel submitted that accused had nothing to gain from the killing of deceased; that no ransom was taken by him; and that if he was the one who had demanded ransom, there was no reason for him to not take it. He also submitted that even though it is the case of the prosecution that money was required by accused for his sister's marriage but marriage of the sister took place without collecting the amount of ransom. Similarly, it is also argued that Prosecution has put forth two contradictory versions and has failed to explain whether the murder was pre-meditated murder committed by calling the deceased for a business meeting or the murder was committed in the heat of the moment.

22.2 In respect of said arguments, it is sufficient to note that Prosecution has proved that ransom messages were received by the father of the deceased from the phone number of the deceased and the mobile phone of the deceased has been recovered from the house of the accused, at the instance of the accused. As regards motive, the settled legal position is that in a case of circumstantial evidence, if the entire chain is convincing and points towards the guilt of the accused, then absence of motive by itself may not come to the rescue of the accused. But if the chain of circumstance is itself not complete, then absence of motive weighs in favour of the accused. It has been held in the case of Subhash Aggarwal v. State (NCT of Delhi), (2025) 8 SCC 440 at page 449, as follows:

"29. The declaration in the cited decisions and the State Vs. Ishtiaque Ali decisions relied on therein, is to the effect that if the case is built solely upon circumstantial evidence, absence of motive will be a factor that weighs in favour of the accused. Just as a strong motive does not by itself result in a conviction, the absence of motive on that sole ground cannot result in an acquittal. When the eyewitnesses are not convincing, a strong motive cannot by itself result in conviction, likewise when the circumstances are very convincing and provide an unbroken chain leading only to the

conclusion of guilt of the accused and not to any other hypothesis; the total absence of a motive will be of no consequence.

30. We extract para 17 from a three-Judge Bench decision, Jan Mohammad v. State of Bihar [Jan Mohammad v. State of Bihar, (1953) 1 SCC 5] ;

which also is of vintage flavour, succinctly putting forth the proposition: (SCC p. 12) "17. Motive is a relevant fact under the Evidence Act (Section 8). It is an important element in a chain of presumptive proof where the evidence is purely circumstantial, but it may lose importance in a case where there is direct evidence by witnesses implicating the accused. In a case such as the present where the prosecution evidence itself shows that the relations between the deceased and the appellants were cordial, the absence of an apparent motive, though not necessarily fatal to the prosecution case, may reasonably be regarded as a fact in favour of the accused. We think, therefore, that the attempt to prove a motive against any of the appellants has failed. [sic]"

31. Suresh Chandra Bahri v. State of Bihar [Suresh Chandra Bahri v. State of Bihar, 1995 Supp (1) SCC 80 : 1995 SCC (Cri) 60] held that in a case based on circumstantial evidence, proof of motive would "supply a link in the chain of circumstances" but all State Vs. Ishtiaque Ali the same, absence of motive cannot be a ground to altogether reject the prosecution case. Para 21 reads as follows: (SCC p. 95) "21. At the very outset we may mention that sometimes motive plays an important role and becomes a compelling force to commit a crime and therefore motive behind the crime is a relevant factor for which evidence may be adduced. A motive is something which prompts a person to form an opinion or intention to do certain illegal act or even a legal act but with illegal means with a view to achieve that intention. In a case where there is clear proof of motive for the commission of the crime it affords added support to the finding of the court that the accused was guilty of the offence charged with. But it has to be remembered that the absence of proof of motive does not render the evidence bearing on the guilt of the accused nonetheless untrustworthy or unreliable because most often it is only the perpetrator of the crime alone who knows as to what circumstances prompted him to a certain course of action leading to the commission of the crime."

(emphasis supplied) 22.3 It has also been held in the case of Amitava Banerjee v. State of W.B., (2011) 12 SCC 554 : (2012) 1 SCC (Cri) 624 : 2011 SCC OnLine SC 1103 at page 565

41. Motive for the commission of an offence no doubt assumes greater importance in cases resting on circumstantial evidence than those in which direct evidence regarding commission of the offence is available. And yet failure to prove motive in cases resting on circumstantial evidence is not fatal by itself. All that the absence of motive for the commission of the offence results in is that the court shall have to be more careful and circumspect in scrutinising the evidence to ensure that suspicion State Vs. Ishtiaque Ali does not take the place of proof while finding the accused guilty.

42. Absence of motive in a case depending entirely on circumstantial evidence is a factor that shall no doubt weigh in favour of the accused, but what the courts need to remember is that motive is a

matter which is primarily known to the accused and which the prosecution may at times find difficult to explain or establish by substantive evidence.

22.4 Demand of ransom after death: Ld. Counsel also argued that one of the important factor for proving the offence of S. 364A IPC is that at the time of demand of ransom, the person must be alive. However, in the present case, demand for ransom has been made after the death, as per the case of the prosecution itself. Hence, the necessary ingredient of S. 364A is not satisfied. As per ld. counsel for accused, the deceptive demand made after the death of deceased cannot constitute the offence under S. 364A IPC. I do not find any merit in this argument of Ld. Counsel for the accused, as it is sufficient that at the time of demand of ransom from the father of the deceased, the father was made to believe that his son was alive and he may be hurt or killed if demand for ransom is not met. Reliance in this regard may also be placed on the judgement of Hon'ble Supreme Court in the case of *Vikas Chaudhary v. State (NCT of Delhi)*, (2010) 8 SCC 508, where in it is held as follows:

"22. The question which, therefore, calls for an answer is whether the High Court was right in holding that the making of ransom calls, even after the death of the victim was a continuing offence so as to attract the provisions of Section 364-A IPC.

23. There is little doubt that the main object of the offence committed by the accused was to extort money from the parents of the deceased victim by way of ransom even after the death of the victim, as will be evident from the State Vs. Ishtiaque Ali subsequent phone calls made right up to 11-3-2003, asking for ransom. The offence under Section 364-A IPC did not come to an end only on account of the death of the victim since ransom calls had been made even though the victim had been killed.

Xxx

25. Section 472 CrPC supports the submissions made both by Mr Mohan Jain, learned Additional Solicitor General and Mr Sushil Kumar. We are unable to accept Mr Sinha's submission that the offence under Section 364-A IPC stood abrogated upon the death of the victim. On the other hand, the continuation of ransom calls being made, even after the death of the victim, converts the offence into a continuing offence within the meaning of Section 472 CrPC.

Xxx

27. Section 364-A IPC states that apart from keeping a person in detention after kidnapping or abducting him or threatening to cause death or hurt to such person or by his conduct giving rise to a reasonable apprehension that such person may be put to death or hurt, and also that if the person involved in the kidnapping or abduction, actually causes hurt or death to such person for a ransom, he shall be punishable with death or imprisonment for life and shall also be liable to fine. Section 364-A, therefore, contemplates even the death of the abducted person for the purpose of demanding ransom. Xxx

29. If Section 364-A IPC and Section 472 CrPC are to be read together, it has to be held that even after the death of the victim every time a ransom call was made a fresh period of limitation commenced. Accordingly, it would be the date on which the last ransom call was made i.e. 11-3-2003 which has to be taken to be the date of commission of the offence and, accordingly, the Juvenile Justice Act was no longer applicable to the petitioner, who had attained the age of 18 years by then."

22.5 Even though above observations were made in the context of limitation and claim of juvenility, however, the legal position propounded applies with full force to the facts of the present case also.

22.6 Possession of phone of deceased on 22.03.2018 not proved:

It is the case of the accused that prosecution has not established as to who had the physical possession of the phone of the deceased on 22.03.2018, especially after 11:47 am (last Grindr activity of the State Vs. Ishtiaque Ali deceased). However, as established from the testimonies of various witnesses as discussed above, the phone of deceased has been recovered from the house of accused, at the instance of the accused. The said recovery is admissible U/s 27 of the Indian Evidence Act and hence, it was for the accused to explain as to how he received the mobile phone of the deceased. There is no reason to doubt the recovery of the phone of the deceased at the instance of accused. Thus, the prosecution was not separately required to prove as to who had the possession of the mobile phone of deceased on 22.03.2018, after his last online activity.

22.7 Absence of public witnesses: It is argued that there is no independent witness of recovery of T-shirt and jeans of the accused, alleged to have been worn by him at the time of commission of offence and alleged to have been recovered from the house of the accused, at the instance of the accused. It is argued that there is no public witness to any other recovery made in the present case. As regards the said argument, it may be noted that the law in this regard is well settled to the effect that merely because public witnesses were not joined, it would not falsify the prosecution version or imply that the accused has been falsely implicated. Evidence of official witnesses cannot be disbelieved or distrusted merely on account of their official status. Reliance can be placed on the pronouncement in *Surinder Kumar vs The State Of Punjab*, (2020) 2 SCC 563 and *Jarnail Singh vs. State of Punjab* (2011) 3 SCC

521. In the present case, all the recovery witnesses i.e. PW-31/ SI Bijender Singh, PW-33/Insp Sandeep Kumar, and PW-40 / Insp Anand Prakash have been consistent regarding the circumstances of the recovery of burnt remnants of laptop of deceased, phone of deceased, State Vs. Ishtiaque Ali clothes of accused, alto car, and blood stained weapon, at the instance of accused and their veracity could not be shaken in their cross examinations. Hence, absence of public witnesses is not fatal to the case of prosecution.

22.8 Time since death not conclusively established: Ld. Counsel for accused relied upon the judgment of Hon'ble Supreme Court in the case of Tulasareddi Vs. State of Andhara Pradesh reported in 2026 INSC 67 to argue that where the PM report does not conclusively establish the manner and time of death and where de-composition makes such determination difficult, conviction cannot be sustained on such evidence alone. In the cross-examination of PW-20/Dr. Jatin, he stated that it was possible that time since death could be 2-3 days on the basis of absence of rigor mortis and post mortem staining. However, he also added that on the basis of general finding which he observed during the post-mortem examination and there were multiple other findings, suggestive of high decomposition of the body and which further suggested that time since death may range from 4 to 6 days approximately. In this regard, a specific question was also put by the Court as to whether the time since death was 7-8 days or 4-6 days. In response, the witness answered that due to the state of decomposition, he had stated that the time since death might be from 4 to 6 days, it might be 7 days or even 7 to 8 days as initially opined by him. It is noted that witness denied the suggestion that it was not possible to retain reddish colour of wound even after 7 to 8 days from the date of death with high decomposition stage of body. Thus, as regards the time since death, there is no contradiction in the evidence of PW-20. He has not denied that time since death could be 7-8 State Vs. Ishtiaque Ali days. If due to high decomposition, the time since death has been approximately stated by the doctor, then it must be noted that it is only one of the circumstance that corroborates the other circumstances of the case and it can not be used as the sole circumstance to convict the accused.

22.9 Miscellaneous defences dealt briefly:

(i) It was argued that there is nothing on record to show that the deceased was taken forcefully to the alleged scene of crime. So again, the ingredient of S. 364A IPC are not proved. However, S. 364A IPC also contemplates deceptively inducing a person to go from one place. Hence, there is no merit in this argument.

(ii) It was argued that the words 'keeping in detention' as occurring in S. 364A IPC imply that the deceased must have been kept in detention contrary to his consent or wishes. The photograph of the deceased which was sent to his father, itself shows that he was kept in detention contrary to his wishes. It may be that deceased may have gone to the scene of occurrence on his own due to deceptive inducement on the part of the accused, but it is clear that the deceased could not have stayed at the place voluntarily.

(iii) It is totally irrelevant that in the messages relied upon by the prosecution, the words 'Hum' appear, as the words used by a person asking ransom cannot be said to be conclusive proof of the persons involved in the offence.

(iv) It was argued that from 23.03.2018 to 29.03.2018, the alleged scene of crime was in the custody of PW2 but still, the State Vs. Ishtiaque Ali prosecution has presumed that the incident took place only on 22.03.2018 and 23.03.2018 and not later than that, when the scene of crime was in the custody of PW2. In this regard it may be

noted that no suggestions have been put to PW2 to show that he had accessed the tenanted premises at any time from 23.03.2018 till 29.03.2018. It may also be noted that the fact that accused had possession of the scene of crime from 22.03.2018 to 23.03.2018 is not the only circumstance against the accused. Rather, it is one of the circumstance coupled with other circumstances like recovery of phone of deceased at the instance of accused from his home and blood exhibits of deceased found in the Alto car of the accused.

(v) As per Ld. Counsel for accused, 'Last seen theory' cannot be applied in the present case, as the deceased left his home on 22.03.2018, after which he was not seen with the accused at all. Suffice it to note that Prosecution, in the present case, is not even relying upon the 'Last seen theory' on the basis of CCTV footages of 21.03.2018.

(vi) It was argued that even though crime team was immediately called at Ganda Nala, from where the dead body was recovered, but at the alleged scene of crime i.e. C - 115, Rama Park, Mohan Garden, Uttam Nagar, IO waited for 24 hours to call the FSL/crime team. In this regard, no malice can be imputed on the IO as the scope of both the scenes was different. From the Ganda Nala, only dead body was recovered with a bag of articles. But at the scene of crime i.e. C - 115, Rama Park, Mohan Garden, Uttam Nagar, on a cursory look, State Vs. Ishtiaque Ali blood was seen and FSL team was required to be called. If the FSL team was not available at that time, IO's investigation can not be called faulty or motivated or unfair.

(vii) It is argued that as regards the disclosure statement of the accused that the body of the deceased was dumped at Ganda Nala, the same is not admissible inasmuch as the said spot was already in the knowledge of the prosecution. Suffice it to note that it is not even the case of prosecution the spot from where dead body was recovered was discovered at the instance of the accused.

(viii) It is not relevant that no police official is seen in the photographs clicked at the crime scene or at the time of recovery proceedings.

(ix) Non -recovery of knife is not fatal to the case of prosecution. It is so because in the present case, there was only one stabbing wound (out of six injuries) and it was the injury no. 2 which was caused by blunt force trauma which was sufficient to cause death in ordinary course of nature.

(x) It is argued that there is no evidence whatsoever to prove that the motorcycle of the accused was used for making ransom calls or was used for burning the laptop of deceased. In view of the entire circumstances of the case analysed as above, the recovery of motorcycle neither proves anything in favour of the prosecution, nor does it contradicts the case of the prosecution. The same is found to be inconsequential.

(xi) It is also not relevant that PW4/father of the deceased did not identify the accused as the caller, who called him, as the State Vs. Ishtiaque Ali accused was not known to the father of the deceased.

(xii) It is argued that second mobile phone of the deceased was never seized. However, the said argument is misplaced as the prosecution has proved that the deceased was using two sim number in a single mobile instrument. Reference may be made to Ex. PW31/H and Ex. PW17/A.

(xiii) No witness has been examined by Prosecution to prove that accused had purchased any medicines/bandage etc. from a medical shop namely Pradeep Medicos. Hence, no reliance can be placed on Ex. PW33/C, which is the pointing out memo of the said medical shop.

(xiv) Prosecution examined PW-18/Lalit owner of B. R. Charpai store to prove that after the incident, accused had purchased rope and polythene from him, in which the dead body was wrapped. But the said witness could not conclusively identify the accused in the Court. Hence, it is argued that his testimony is not of any support to the case of prosecution. This defence of accused is accepted that evidence of PW-18 does not help the case of prosecution. No reliance can be placed on Ex. PW33/F which is the pointing out memo of the said store. However, as PW-18 did not completely deny the identification of accused, his testimony is not fatal to the case of prosecution either.

22.10 Lapses in investigation: Ld. Counsel for accused also argued that there are various lapses in investigation like:

(i) No attempt was made to match the DNA of the accused with State Vs. Ishtiaque Ali any of the exhibits of the crime or scene of crime.

(ii) There is no explanation for the presence of condom wrapper in the recovery memo and the same was not sent to FSL.

(iii) There was delay in seizure of DVRs.

(iv) CDRs of various phone numbers were obtained but the same were not analysed by the Prosecution. No location chart has been prepared to connect accused with deceased or to show that they were present at the same place at the same time.

(v) No investigation is made if PW2 had another key of the premises/scene of crime, from which he could have accessed after 29.03.2018 and no investigation was made from other tenants on other floors in the building on C-115, Rama Park, Mohan Garden.

(vi) On 29.3.2018, the scene of crime i.e. C - 115, Rama Park, Mohan Garden, Uttam Nagar, was not sealed by the IO but it was merely locked. Moreover, no key handing over memo in respect of the scene of crime was prepared by the IO.

22.11 In this regard, it is noteworthy that despite best efforts of investigating officers, there may sometimes be slight lapses in investigation. However, an accused should not be allowed to go scot free merely on account of some lapses in investigation. It is settled law that every faulty

investigation or padding in evidence cannot by itself lead to total demolition of prosecution case if it can otherwise stand ignoring these fallacies. Mere lapses in investigation, if any, cannot be made basis of acquitting the accused when sufficient evidence is available to nail him. Similarly, it must also be kept in mind that the burden of prosecution to prove the guilt of accused in a criminal trial is 'beyond all State Vs. Ishtiaque Ali reasonable doubt' and not 'beyond all doubts'. Reliance in this regard may be placed upon the judgment of Hon'ble Supreme Court in the case of Goverdhan & Anr Vs State Of Chhattisgarh,(Supra). Further, in the case of Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195, it has been re-iterated as follows:

15. It is a cardinal principle of criminal jurisprudence that the guilt of the accused must be proved beyond all reasonable doubts. However, the burden on the prosecution is only to establish its case beyond all reasonable doubt and not all doubts.

Here, it is worthwhile to reproduce the observations made by Venkatachaliah, J. in State of U.P. v. Krishna Gopal [State of U.P. v. Krishna Gopal, (1988) 4 SCC 302 : 1988 SCC (Cri) 928] :

(SCC pp. 313-14, paras 25-26) "25. ... Doubts would be called reasonable if they are free from a zest for abstract speculation. Law cannot afford any favourite other than truth. To constitute reasonable doubt, it must be free from an overemotional response. Doubts must be actual and substantial doubts as to the guilt of the accused person arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions. A reasonable doubt is not an imaginary, trivial or a merely possible doubt; but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case.

26. The concept of probability, and the degrees of it, cannot obviously be expressed in terms of units to be mathematically enumerated as to how many of such units constitute proof beyond reasonable doubt. There is an unmistakable subjective element in the evaluation of the degrees of probability and the quantum of proof. Forensic probability must, in the last analysis, rest on a robust common sense and, ultimately on the trained intuitions of the Judge. While the protection given by the criminal process to the accused persons is not to be eroded, at the same time, uninformed legitimisation of trivialities would make a mockery of administration of criminal justice."

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17. However, the rule regarding the benefit of doubt does not warrant acquittal of the accused by resorting to surmises, conjectures or fanciful considerations, as has been held by this Court in State of Punjab v. Jagir Singh [State of Punjab v. Jagir Singh, (1974) 3 SCC 277 : 1973 SCC (Cri) 886] : (SCC pp. 285- 86, para 23) "23. A criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life

and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex facie trustworthy, on grounds which are fanciful or in the nature of conjectures."

18. Similarly, in Shivaji Sahabrao Bobade v. State of Maharashtra [Shivaji Sahabrao Bobade v. State of Maharashtra, (1973) 2 SCC 793 : 1973 SCC (Cri) 1033] , V.R. Krishna Iyer, J., stated thus: (SCC p. 799, para 6) "6. ... The cherished principles or golden thread of proof beyond reasonable doubt which runs through the web of our law should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubt. The excessive solicitude reflected in the attitude that a thousand guilty men may go but one innocent martyr shall not suffer is a false dilemma. Only reasonable doubts belong to the accused. Otherwise any practical system of justice will then break down and lose credibility with the community."

FINDINGS AND CONCLUSIONS

23. From the aforesaid facts and circumstances and detailed analysis of the oral and documentary evidence on record, it can safely be State Vs. Ishtiaque Ali concluded that prosecution has successfully proved the following chain of circumstances beyond reasonable doubt in the present case:

i. On 22.03.2018, the deceased did not return home and it has been proved that the father of the deceased received messages asking for ransom from the phone of the deceased with threats that harm could be caused to deceased, alongwith photograph of the deceased. It is proved that messages and calls for ransom were also received by him on 24.03.2018, 26.03.2018 and 27.03.2018. Father of the deceased was made to believe that his son was alive and if the ransom amount was paid, his son would be handed over to him. The said phone of the deceased from which ransom messages were sent was recovered at the instance of accused, from the house of accused. In view of the legal position discussed above, this is sufficient to prove the charge of S.364A IPC against the accused.

ii. Dead body of the deceased was recovered on 28.03.2018 and death of the deceased is proved to be homicidal, caused by injury no.2 as per post mortem report, which was sufficient to cause death in the ordinary course of nature. The said injury is shown to be caused by blunt force trauma. Further, hammer (weapon of offence) was recovered from the scene of crime at the instance of the accused and the said hammer was found to have blood which matched with DNA of deceased.

iii. Accused was apprehended on 29.03.2018 and at his instance, scene of crime was discovered which is the rear portion on ground floor of C-115, Rama Park, Uttam Nagar. It is also proved that the scene of crime was in his occupation on 21.03.2018

and from State Vs. Ishtiaque Ali 22.03.2018 to 23.03.2018.

iv. Blood samples taken from scene of crime contain the DNA of the deceased.

v. Burnt laptop remnants of the laptop of deceased were recovered, at the instance of the accused.

vi. Clothes of the accused recovered at the instance of the accused are also found to contain DNA matching with the DNA of the deceased.

vii. Accused and deceased were known to each other prior to the incident and they are seen in the CCTV footages together on 21.03.2018 at Mc Donald's and also near the scene of crime. viii. Chain of circumstances from sl no (ii) to (vii) is sufficient to prove the charge of S. 302 IPC against the accused. In view of the law discussed above, absence of proof of motive is not fatal to the case of prosecution.

ix. Blood sample collected from the alto car of the deceased bearing no. DL-2CAL-2553 contain the DNA of the deceased. The said alto car which was used to dump the body was also recovered at the instance of the accused. Moreover, accused as well as his alto car are seen near the scene of crime on 23.03.2018 in CCTV footage at odd hours i.e. between 04.00 to 05.00 AM. Also, as noted above laptop and other articles of the deceased were burnt and their remnants were recovered at the instance of the accused. This is sufficient to prove the charge of S. 201 IPC against the accused.

24. In view of the above, it is held that from the circumstances State Vs. Ishtiaque Ali established above, prosecution has proved beyond reasonable doubt that the accused committed the offences for which he is charged with i.e. Sections 364A/302/201 IPC.

25. In view of the foregoing discussion, accused Ishtiaque Ali is convicted for the offence punishable U/s 364A/302/201 IPC.

Let the convict be heard separately on the point of sentence.

Announced in the open Court

SWATI Digitally signed
by SWATI GUPTA

on 30th May, 2026

GUPTA Date: 2026.05.30
17:30:51 +0530

(Swati Gupta-I)
ASJ(FTC)/South-West District
Dwarka Courts/New Delhi/30.05.2026

It is certified that this Judgment contains 76 (seventy six) pages and each page bears my initials /

signatures.

SWATI Digitally signed by SWATI
GUPTA

GUPTA Date: 2026.05.30 17:31:04
+0530

(Swati Gupta-I)
ASJ(FTC)/South-West District
Dwarka Courts/New Delhi/30.05.2026

State Vs. Ishtiaque Ali