CASE COMMENTARY :  *Ratan Gond v. State of Bihar*

Ramasayi Gummadi, Tamilnadu National Law University.

**CITATION:** AIR 1959 SC 18

**COURT:** Supreme Court of India

**CORAM:** Syed Jaffer Imam, Sudanshu Kumar Das, J.L.Kapur

**RELEVANT PROVISIONS UNDER THE CASE UNDER THE INDIAN EVIDENCE ACT, 1872:**

**Section 24 of the Indian Evidence Act:**

“Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.—A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise, having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him”

In very simple terms this sections states that any confession that so is made by an accused will be rendered as useless when it appears such that confession has been induced by any threat, incitement or pledge in relation to the accused person that is coming from an authorized person. Now what are the constituents of an event that should come under the scope of this section?

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1 Section 24, Indian Evidence Act,1872
1. **Inducement, Threat or Promise**

2. Such an inducement or threat or promise pertains to the charge at hand

3. The inducement that is under consideration must be done by a person who comes under the scope of an “Authorised Person” (Was reaffirmed in the case of **Pyare Lal v. State of Rajasthan**)

4. Such an inducement, threat or pledge contributes to some benefit

The main crux or the scope of such a provision is to note that such a confession which comes in as a result of any coercion or threat cannot be taken into account as a voluntary statement and such an involuntary statement that so is received cannot be held as an authentic evidence to prove or disprove a charge against the accused. Not to mention it also aims to prove as to what can be deemed as a voluntary statement while also upholding the sanctity of law. While what comes under the scope of confession or the definition of what a “Confession” is, is not well defined under the Indian Evidence Act, it is imperative to note down the fact that in the case of **Pakala Narayan Swami v. Emperor**, the court more or less tried to lay down conditions as to what could be called as a confession when taken into account, pertaining to any crime that the court is dealing with. The court more or less states that that either the admittance of the crime by the accused or facts constituting the offence must be accepted by a confession which as a matter of fact brings us to a conclusion that a confession is either acceptance of such a crime that so is committed or any deliberation or brief od facts that revolve around the offence.

**Section 32 (1) of the Indian Evidence Act:**

“32 Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant. —Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases:—

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2 1963 AIR 1094
3 Section 32(1) Indian Evidence Act, 1872
I when it relates to cause of death. —When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question. Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question ……..”

This is based on the principle of ‘nemo mariturus presumuntur mentri’ which inadvertently means that a man will not meet his maker with a lie in his mouth. While there are a various factors which determines as to how exactly the Truth of the individual who dies is more or less based on the concept of perception and might not necessarily reflect the actual situation as a whole while also taking into consideration that affects such a statement that is given. This is a sole exception to the Exclusion of the Hearsay Evidence Rule because it is believed that such an exclusion of a dying declaration is seen as an end to the justice. The basic definition of the term “Dying Declaration” was given in the case Ulka Ram v. State of Rajasthan4 wherein it was stated that “When a statement is made by a person as to cause of his death or as to any circumstances that has resulted in his/her death in case of which cause of his death comes in question is admissible in evidence, such a statement is called the dying declaration” which establishes the fact that the dying declaration must necessarily contain information pertaining to the death of such an individual which is pronounced by the individual in belief that such an event is leading to his death. The case P.V. Radhakrishna v. State of Karnataka5 further glorified the significance of the aforementioned maxim in the practical application of the Dying Declaration.

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4 Ulka Ram v. State of Rajasthan AIR 2001
5 P.V. Radhakrishna v. State of Karnataka AIR 2003
In the case of *Khushal Rao v. State of Bombay* the following guidelines were listed pertaining to the Dying Declaration-

1. A real and voluntary declaration needs no further corroboration and it is important to understand that just because of the fact that the dying declaration is of the nature of a hearsay evidence, it cannot be ruled out

2. The court further reiterated that the dying declaration is not a weaker type of evidence after prior observation to the evidentiary value it possesses in determining the outcome of the criminal proceeding

3. While it comes to the admissibility of the dying declaration it is imperative to take into consideration the various circumstances of the case and the facts that surround the individual who is giving out the dying declaration

4. The court also very well noted that the Dying declaration in the form of questions carries a more value when compared to the dying declaration that so is given as an oral testimony

In the case of *Surajdeo Ojha v. State of Bihar* it further took into consideration the validity of the shortness of a statement. It held that just because of the fact that the statement is short in length that cannot be taken as a ground to reject the authenticity of the Dying Declaration.

While in the case of *Munnu Raja v. State of MP* the court opined that the FIR that so is lodged by the person can also be taken as an evidence while determining the convict.

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6 1958 SCR 552
7 AIR 1979 SC 1505
8 1976 AIR 2199
The case *State of UP v. Madan Mohan* further laid down various guidelines pertaining to the dying declaration:

1. The dying declaration that so is under consideration must evoke full confidence such that the individual who made such a statement is no longer available for cross examination
2. There should be no tutoring or prompting when the individual is giving in his dying declaration
3. It should be proved that the individual who is giving the dying declaration must be in a healthy state of mind
4. Dying Declaration might be in any form such as but not limited to Question and Answers, Gestures, Testimony etc.

The Signs and Gestures were further upheld as a form of dying declaration in the case of *Queen Empress v. Abdullah*.

**EXCEPTIONS:**

1. If the reason for demise of the deceased is no longer established
2. If the declarer is not a competent witness (child, except for proof of physical or mental illness, not allowed *Amar Singh v. State of MP*)
3. Incomplete declaration
4. Influence on the statement must not be exerted
5. An untrue declaration under initial reading by the justice
6. Declaration had contradictory statements
7. Any doubtful features. (lack of medical certificate etc) in *Ramilaben v. State of Gujarat*

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9 AIR 1989 SC 1519
10 (1885) ILR 7 All 385
11 1996 Cr LJ (MP) 1582
Section 33 of the Indian Evidence Act:13

“33. Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.—Evidence given by a witness in a judicial proceeding, or before any person authorized by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable”

This Section merely talks about the fact that there are instances wherein a witness might have appeared in the court and given his disposition in judicial proceeding where the opposition has exercised all the opportunities to cross examine the witness, and such a witness might have deceased or not have been available in the upcoming trials, then in such a case, the evidence or the disposition that so is acquired in the previous proceeding can be taken as something that is relevant under Section 33 of the act. While the scope of such an evidence is applicable to both civil and criminal cases the scope of the same is extended until the witness examined is incapable of giving evidence or is absent or cannot be detained further owing to the reasonability as considered by the court. While it is also important to note that the disposition has to be made to a person who is authorised to take evidence as under the law, under a judicial proceeding. A further reading of the provision further gives us the following conditions that ought to be followed in order to make sure that the circumstance comes under the ambit of such a section- The first one being The proceedings which we are talking about must be between the same parties, the second one being the fact that the opposite party members must have had adequate rights and opportunities to examine the individual. The question in the previous and the current proceeding must be pertaining to the same issue.

The applicability of this section is essentially upon the discretion of the court.

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13 Section 33, Indian Evidence Act,1872
UNDER THE INDIAN PENAL CODE, 1860:

Section 302 of the Indian Penal Code:14

“302. Punishment for murder.—Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.”

This section of the Indian Penal Code talks about the punishment for the offence of Murder under the Indian Penal Code and claims that such an individual must be punished with:

1. Death
2. Imprisonment for life
3. Any monetary Fine

While there are a lot of aspects pertaining to this aspect of the Law, we shall take into consideration only the death sentence aspect of the same, which I had interpreted, as that is what is close to the facts of the case that so is under consideration. It was firstly ascertained in the case of Bachan Singh v. State of Punjab15 where it was more or less construed that the death sentence can only be awarded for the rarest of rare cases which was further reiterated In the case of Raju Jagdish Paswan v. State of Maharashtra which is a case wherein death sentence was awarded by the High Court which was reduced life imprisonment under an appeal that so was filed under the Apex Court. The Supreme Court has clarified with regards to the scope of the punishments that so are mentioned under this Provision by stating that the Life imprisonment is more or less a rule under the provision while the death sentence is an exception. While I am of the opinion that such an exception is subject to the opinion or the discretion of the bench as well as the court that encompasses the larger definition of Bench. This also brings down to the ever relying principle of “Human Life is Valuable and no one should be subject to such a termination of the human life” which in my opinion is more or less cliched. The Death Penalty fiasco is often related to the Reformative theory, wherein a criminal is expected to make reforms in his actions and contribute to the betterment of the society.

14 Section 302, Indian Penal Code, 1860
15 AIR 1980 SC 898
While it is also imperative to note down the fact that anyone who is young also might not be subject to such a punishment taking into consideration the value such an age group holds as a developing asset of the country. While these are my opinions I shall further get back to them pertaining to the judgement of the case that is allotted to me. While one might question as to how exactly are the sentences decided for the cases, there is no ground as to determine the same which was held in the case of *State of Punjab v. Prem Sagar & Ors*\(^{16}\) while also taking into consideration the fact that court has to determine the choice of sentences based on the facts and circumstances of the case as held in the case of *State of Madhya Pradesh v. Bablu Natt*\(^{17}\). Which in my humble opinion is more or less abstract in nature and is not substantiated to determine.

As when we talk about the death penalty in terms of Constitutionality:

It is In dire violation of Article 14 of the Indian Constitution taking into consideration the fact that the death penalty is completely under the discretion of Judges and Article 21 which inadvertently talk about the Right to Life. The court in the case of *Rajendra Prasad v. State of Uttar Pradesh* talked about the importance to considering various aspects while awarding the death sentence, such as, the welfare of the convict, Age etc.

**FACTS:**

The case is a Special Leave Petition under Article 136 of the Constitution of India wherein the appellant was tried on a charge as under Section 302 of the Indian Penal Code and was sentenced to death after he was inadvertently convicted. When the Asst. Judicial Commissioner submitted the report with the grant of death sentence to the High Court as under S 374 of the Code of Criminal Procedure, the sentence that so was granted to the Appellant was accepted by the High Court. When an appeal was put forward in front of the High Court, the High Court denied the contention of the appellant and held the decision of the Asst. Judicial Commissioner Valid.

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\(^{17}\) (2009)2 S.C.C. 272
The appellant belonged to the Urte Village of Ranchi district (It is noteworthy to understand that this case was before the Bifurcation of Bihar). There was a widow named MST Jatri who lived in the same village as the appellant along with two of her young daughters, named Baisakhi (Aged 9) and Aghani (Aged 5). The whole crux of this case deals with the murder of Baisakhi by the appellant. On May 7, 1957, both the sisters went to pick wild berries in the hilly area that is adjacent to their place. It is very well established from the hearsay witnesses that the distance between the Village in which the parties involved in the crime were residing was close to 300 yards to a Mile (Which further goes to to prove the inaccuracies with emphasis on the consistency of hearsay evidences). MST Jatri, the mother had gone to pluck berries from an another jungle and while she left the house, based on her statements, Baisakhi as well as Aghani, her daughters, were at home. However when she returned back to her home, it was seen that Aghani was left alone. Aghani seemed to have given a couple of statements which were given with reference to her sister’s demise and unfortunately they could not be recorded judicially owing to the fact that she had died within a few months of the occurrence of the incidence (it is important to note that this was questioned in the case if such a statement that so is uttered by Aghani came under the scope of 32(1) and can be admissible as under Section 33 of the Indian Evidence Act).

Leaving that aside and reverting back to the facts of the case, MST Jatri, when she noticed that Baisakhi was missing went ahead to check out the jungle and despite that she couldn’t find Baisakhi. Rup Ram who was the uncle of Baisakhi and Aghani was informed with regards to the missing of Baisakhi along with a couple of villagers including those who were a part of the Panchayat. Aghani took the aforementioned individuals to a stream which is located towards the foothills of the jungle to which Baisakhi was believed to have gone to pluck wild berries. Over there, a beheaded body of Baisakhi was found which was identified as the one that belonged to Baisakhi by her mother who took into consideration the fact that-
1. The Corpse was adorned with White Saree that had yellow border
2. Five Red *Churis* (Bangles) on the Right hand
3. Two Red *Churies* on the left hand
4. Beads of Mala
5. Brass Ring on the left finger

Were present which were the exclusive belongings of Baisakhi. Dalpat Rai who accompanied the contingent that had gone to search the body and who is also one of the primary witnesses left his companions to guard the body and headed to the appellant’s place. It is imperative note down the fact that the appellant was not found in his home and was caught in his sister’s place in a nearby village. When he was brought to the home village and questioned by the members of the village panchayat including the panch and the sarpanch it was seen that he had made an extra-judicial confession that he had killed Baisakhi owing to the fact that he had a greed for money and was promised Rupees 80 for the head of a human. Further substantiating on the same, he confessed that the contractor who is building a bridge in the Lurki River has offered Rs. 80 for a human head. After the confession was done he was detained by the police and not to mention his home was also raided followed by which it was seen that the house of the accused that had been raided has a weapon, “*Balua*” that had blood stains. However it is difficult as to connect the blood stains to that of the murder of Baisakhi, for it is imperative to note down the fact that the blood stain had dried and it is more or less difficult to ascertain the fact that this was the weapon that was used to kill Baisakhi. Further, in the due course of confession, the accused had also revealed a place where the village members and the police reached only to see that there were some strands of hair which was stained by the blood which was presumed to be that of Baisakhi and when that was analysed by the expert it was seen that the blood that so was on the hair seemed to belong to that of Baisakhi, not to mention, the hair morphologically seemed to belong to the Human Female. With that having been taken into consideration it was seen by the individuals that the accused could’ve killed Baisakhi and thus, he was detained by the Police.
The Assistant Judicial Commissioner took all these evidences into consideration while finally convicting the appellant and awarding him a death penalty. This stance of the Asst. Judicial Commissioner was further reiterated by the High Court.

**ISSUES**

1. Was the extra-judicial confession that so was given in front of the Panchayat officials voluntary?
2. Was the extra-judicial confession made to a person who is considered to be in Authority?
3. Is there a sufficient corroboration to the confession statement that so is under consideration?
4. Does Aghani’s statement come under the scope of Dying Declaration as under Section 32(1) of the Indian Evidence Act?
5. Is the corroboration sufficient to connect the accused with the crime as under Section 302 of the Indian Penal Code?
6. What is the Scope and the Extent of Corroboration that so is required under Section 302?
7. Is the Death Sentence Justified in this case?
8. What exactly is the scope of Article 136 of the Constitution?
9. Is the extra-judicial confession by the Appellant admissible as under Section 33 of the Indian Evidence Act?

**HELD (IN BRIEF)**
1. Was the extra-judicial confession that so was given in front of the Panchayat officials voluntary?
   Yes, it is voluntary because of the fact that no threat, inducement or promises are made to the accused by the Officials. It was seen by the court that he was given food and was questioned in intervals which weren’t prolonged.

2. Was the extra-judicial confession made to a person who is considered to be in Authority?
   Yes, they are to be taken into consideration as persons in authority taking into consideration the fact that they come under the ambit of same when the Bihar Panchayati Raj Act (VIII of 1938) is invoked.

3. Is there a sufficient corroboration to the confession statement that so is under consideration?
   Yes, taking into consideration the fact that there is a blood stained Balua, strands of female hairs that are soaked in blood that were found in the place that was pointed out by the accused. Th accused had absconded the day after the incident happened and finally, he had denied the fact that he had pointed out the place where the recovery of the Hair strands were done, added on to strongly corroborate to the confession that is made by the accused in front of the Panchayat.

4. Does Aghani’s statement come under the scope of Dying Declaration as under Section 32(1) of the Indian Evidence Act?
   It was seen by the court that the statements that so were given by Aghani were neither given by her anticipating death nor was it pertaining to her death as a result of which it doesn’t come under the scope of Dying Declaration as under Section 32(1) of the Indian Evidence Act.

5. Is the corroboration sufficient to connect the accused with the crime as under Section 302 of the Indian Penal Code?
   It is imperative to note down the fact that The evidence such as the Blood on the Balua that was found in his house and the way he absconded from the scene after the incident and him denying the fact that he was the one who had shown the place to the villagers from where the hair strands were recovered further add on to the fact that he could’ve committed the murder and is liable to be punished under Section 302 of the Indian Penal Code.
The Court also reasoned that the circumstances were too closely in support of the contention which supports criminalisation of the Appellant

6. **What is the Scope and the Extent of Corroboration that so is required under Section 302?**
The court answered this question by stating that there must be some corroboration that more or less connects the accused with the crime so as to establish it such that the accused had committed the crime for sure

7. **Is the Death Sentence Justified in this case?**
The court reasoned that the death sentence is justified in this case owing to the circumstances of the case

8. **What exactly is the scope of Article 136 of the Constitution?**
It is not open for the appellant who files an appeal as under this provision to raise the questions of fact or to ask interference by the court with the findings of the facts unless and until it is vitiated or in very simple terms, affected by the errors of Law or the findings of the court are very well in opposition to the principles that so are established in the due course of delivering justice to the public

9. **Is the extra-judicial confession by the Appellant admissible as under Section 33 of the Indian Evidence Act?**
The court held that such an extra-judicial confession that is made by the appellant is not admissible under Section 33 of the Act.
The Court firstly laid merit on the fact that the circumstantial evidence is an important aspect when it comes to determining the role of appellant pertaining to the case and further talked about the extra judicial confession that was made by him in front of the Villagers including the members of the Panchayati Raj. The court believed that the circumstantial evidence that so was seen is a mere corroboration to the conviction that so is put forward such that the Appellant is an accused. I am of an opinion that such a circumstantial evidence cannot be taken as an evidence as such taking into consideration the fact that it is more or less a set of unrelated facts which can be affixed to the case only by a logical scrutiny of the same. In very simple terms, what if the criminal had left to his sister’s place only to spend time with her and coincidentally it had to fall on the day of the incident? This is just my preliminary understanding pertaining to the consideration of the circumstantial evidence as such alone. Although in contrary I can argue that circumstantial evidence can form the heart and soul of conviction when it adds on to the evidentiary weight to the facts of the case at hand which was further held in the case of *Ramawati Devi v. State of Bihar*¹⁸ wherein it stated that:

"What evidentiary value or weight has to be attached to such statement, must necessarily depend on the facts and circumstances of each particular case. In a proper case, it may be permissible to convict a person only on the basis of a dying declaration in the light of the facts and circumstances of the case........"

Which in my humble opinion very well applies to the facts of our case. While we are not looking into the “Dying Declaration” aspect of the aforementioned case, it is imperative to note that the circumstantial evidence and it’s attachment to the case is very well necessary for it is imperative to note that there is no direct evidence that establishes the crux of the case as well. Thus, based on a crude reading of whatever was held in the case of *Ramawati Devi* it is safe to say that the consideration of such a circumstantial evidence is essential in the case that so is under consideration.

Also it is imperative to note down the fact that in the case of *V.C.Shukla v. State*¹⁹

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¹⁸ AIR 1983 SC 164
¹⁹ 1980 AIR 962
‘in most cases it will be difficult to get direct evidence of the agreement, but a conspiracy can be inferred even from circumstances giving rise to a conclusive or irresistible inference of an agreement between two or more persons to commit an offence’

Which when read with the facts of the aforementioned case gives us a conclusion that in such a case where we are not able to find the direct evidence pertaining to the accused, it is imperative that we attach the various circumstantial evidences in determining the scope of the same. The court further reiterated that the statement that so was given was voluntary to which I shall revert back to, later. While speaking of the circumstantial evidence I am of the opinion that the fact that the confession and the statements pertaining to the place of discovery of the hair strands were denied by the Appellant it gives us the judicial liberty to link the same with the circumstantial evidence in order to corroborate the facts that are under question in this case. While I had observed the contention that so is raised by the Lawyer arguing on behalf of the appellant where he states that –

1. The extra-judicial confession that so is made by the Appellant is not admissible as an evidence
2. There is no guarantee of truth in the Extra-judicial confession that is taken into consideration by the court that so is believed to have been made by the appellant
3. The court had accepted the statements of Aghani to establish one of its circumstances, that the appellant was last seen with Baisakhi

Also adding on to this is the fact that the Counsel from the appellant’s side argues that the other evidence that so are considered such as the Blood-stained Balua, Blood Stained Scalp or his absence from the village do not contribute to the evidence against the guilt of the appellant as he further took a stance such that the circumstances that so have been considered by the court had departed from the very well established principle of

"circumstances affirmatively proved against a person must be of a character that so Is in consistent to his guilt and inconsistent to his innocence”. While on a rough reading of such an argument, I am of the opinion that this carries no value towards the flow of the case taking into consideration that the counsel had not provided any substantiation and the statement made by the counsel in such a case is more of less of the nature of an opinion which indeed is a major drawback when it comes to the line of arguments that so are made. I am of the opinion that the court had rightly applied their mind in
determining the principle question in the case if the appellant was responsible for the murder of Baisakhi. This is further strengthened by the argument that is put forward by the court in justifying the same where it stated that the

1. Complete Severance of the head
2. Incised wound on the left shoulder
3. Incised wound on the left arm

Along with the un-disputed identification of the body of Baisakhi with special emphasis on the clothing and ornaments found on the body, brings us to the conclusion that she was brutally killed. Therefore it has to be accepted that the principal question that if the appellant is responsible for the death of Baisakhi is indeed valid as indirectly implied by the submissions of the counsels appearing on behalf of the appellant. While the court accepted the contention of the appellant that the statement of Aghani doesn’t come under Section 32(1) or 33 of the Indian Evidence Act, I am of the same opinion taking into consideration the fact that based on the facts of the case it is imperative to realise that the statements of Aghani don’t fall under the scope of “Anticipation of death” and “Reason for her death”, as required under Section 32(1) of the Indian Evidence Act.

However I am of the opinion that the circumstantial evidences that so are considered by the court are more or less valid and contribute positively towards the merit of the case. The circumstantial evidences that are taken into consideration in this case apart from the statements of Aghani are

1. The Extra-Judicial Confession of the Appellant
2. Recovery of the Blood Stained Balua
3. Recovery of the Blood Stained Strands of Hair from the place pointed by the appellant
4. Disappearance of the Plaintiff immediately after the incident

While the circumstantial evidences are factually valid, thanks to the primary witnesses, the issue further arises when it comes to the first aspect, that is, if the Extra Judicial Confession of the Appellant is voluntary as under the eyes of law and can be admissible under Section 24 of the Indian Evidence Act. Before moving into the provision it is important to note down the fact that the denial of the extra-judicial confession that so is made by the appellant in the village gives rise to a question wherein “If
the confession is retracted by a confessor is it still valid under the eyes of law although extra-judicial in nature?” I am of the opinion that based on the judgement of the case or based on how exactly it is construed by the court, if the Statement is found to be voluntary and true any such denial won’t have an effect when it comes to determining its evidentiary worth. In this case it is imperative to note that there is enough factual corroboration that so is inferred from the available witnesses and the material evidence that so is seen and not to mention the expert opinion in the case of Analysis of the Hair strand and morphological determination of it’s origin. Therefore, considering the fact that there is sufficient corroboration to the statements that were made by the appellant it is imperative to note that, it can be taken as a reasonable ground to hold that the confessional statement that has been made by the appellant is true and voluntary.

The court reiterated that the witnesses who are Panch, Sarpanch and Mukhia come under the scope of persons under authority under the Bihar Panchayati Raj Act 1948 while also supporting the contention of the Counsel appearing on behalf of the appellant. The court however believed that the same is not so crucial in order to determine the question of Law under Section 24 of the Act which is more or less redundant in my opinion for, the presence of the person in Authority is one of the major constituents as under Section 24 that is under consideration. I am of the opinion that no such circumstance can be seen in answering the second question, that is if there was any coercion whatsoever in obtaining the confession, the court was of the opinion that there was no inducement, threat or promise that was made, for, after taking into consideration the fact that he was provided food and was given time to rest and not to mention not interrogated for long hours, he would’ve told it conveniently voluntarily. It is imperative to note down the fact that those sort of a conclusion is more or less flawed, for, number one the psychological coercion or the pressure to accept even the false statement could have arisen taking into consideration the fact that appellant was the only person over there on his side while the rest were individuals who more or less would have already taken sides without even taking into consideration whatever the appellant had to say and wouldn’t have hesitated to maul him if he had uttered otherwise. Not to mention, giving food or interrogating for shorter hours are not convincing enough in order to prove that there was voluntariness. However, I am of the opinion that he was not coerced and it was voluntary for I believe that the onus of proving that he was induced/threatened or promised is under the hands of the appellant who had not
inadvertently done so as a result of which establishing the fact that his statement was voluntary, although towards the end he contended that he had not given any such statement. I am of the opinion that the court should’ve used the former approach rather than the one it had employed in determining the voluntariness of the statement of the appellant with reference to the extra-judicial confession. While at this juncture I would like to support the opinion of the court where it had mentioned that nothing substantial was found in the alleged statements that were said during the extra-judicial confession by the appellant in establishing the fact that the statements were untrue in nature and therefore I am of the same opinion as the court in determining the validity of Section 24 in the facts of the case and I find that, the statements were merely voluntary in nature with no threat/inducement or promises that are made in the scope of the same. While the same was further proved by taking into consideration the fact that the appellant had apparently not even questioned when his art was made in the neighbourhood village based on the evidence given by the Primary Witness who detained the appellant. Although I am not convinced of the “human head-Contractor theory” that so was said by the appellant for it is highly unlikely that such a contractor would collect human heads, for, it is important to note that such a crime doesn’t even contribute to the detail that was mentioned about him by the appellant, that is building bridges near River Lurki. In very simple terms, collection of human heads and paying for them in my humble opinion does no good to the activity that the contractor is performing, that is building bridges. While we can assume that the same is being carried out by the contractor in his personal capacity as a fellow criminal, if that is the case, why will the criminal deny that he had stated anything at all with regards to the extra judicial confession? Because if at all we take into consideration the hypothetical situation wherein the contractor had asked the appellant to kill Baisakhi it is imperative to note that the appellant will not be given a death sentence for, the liability will go over to the “contractor” under *qui facit par alium facit par se.*

While if the appellant had done the crime following the orders of the alleged contractor it is imperative to note that he wouldn’t have denied making such an extra-judicial statement. I am of the same opinion as the court when it comes to determining the fact that the circumstantial evidence need not really prove that the appellant was the murderer. However, the circumstantial evidence when read along with the extra-judicial confession of the appellant it very well corroborates the same and connects the appellant to the crime very well. While I am of the opinion that the advocate appearing on behalf of
the appellant didn’t prove anything otherwise with regards to such an observation of the court and not to mention, it is important to note that neither had the advocate contended anything potential in order to prove otherwise as a result of which the court was right in contending him as a criminal under this suit. I am of the opinion that the absconding of the appellant inadvertently refers to the fact that he was suffering from a guilt mind and not to mention the fact that he had offered Rupees 20 to the person who had arrived to detain him from his sister’s house further proves the guilty state of mind. I very well support the court’s opinion that the Asst Judicial Commissioner had erred in not questioning the Appellant with regards to the place from where the blood stained scalp was procured. It was also seen from the testimony of the Sub Inspector that the appellant was not even cross-examined which is more or less a disaster on the part of Asst.Judicial Commissioner. The court upheld the judgement and dismissed the appeal. I am however of the opinion that the death penalty should not have been imposed for the reformative theory has to be considered and there is no basis as to how the death penalty has to be awarded.

CONCLUSION

This case inadvertently talks about how exactly the circumstantial evidence if connotated properly can help identify the criminal in a case. While majority of the people look down at it as a very mediocre form of evidence this is very important in determining the outcome of a case as well as deliver justice to the individual parties involved in the case in absence of any concrete evidence as under the act. Although I would’ve loved it if the Supreme Court had analysed better with regards to the social aspects of the Death Penalty with the effect it has towards the society as a whole and determined the same.