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Inevitable Role of Evidence in Scrutinization of Kerala Snakebite Murder: (Sooraj S. Kumar V. State of Kerala)

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ABSTRACT

“Evidence forms the building blocks of the investigative process and for the final product to be built properly, evidence must be recognized, collected, documented, protected, validated, analysed, disclosed, and presented in a manner which is acceptable to the court.” Generally, the purpose of the express rule is to assist the court in establishing the truth between the parties' conflicting versions of the case. However, the law of evidence in criminal cases has a more important purpose, namely, the protection afforded to the accused concerning his right to a fair trial. The defence of the accused against the case, impartial to his right to a distant trade, is one of the main reasons why the Law of Criminal Evidence contains many provisions, excluding the relevant evidence to be presented before the court. In the pursuit of a criminal case, evidence is the foundation upon which both sides build their respective arguments. During the investigation into a crime, great care must be taken to collect, preserve, and record evidence that could be critical in establishing the facts surrounding a criminal case. In the pursuit of a criminal case, evidence is the foundation upon which both sides build their respective arguments. This paper focuses on the importance of the evidence collected and scrutinized in the investigation process that undoubtedly proved the guilt of the accused in the well-known case of Uthra murder (Sooraj S. Kumar v. State of Kerala).

Keywords: Evidence, Murder, Snake bite, Dummy test, Post mortem, DNA test, Heinous crime, Unnatural death, Forensic records, Scientific and circumstantial evidence.

I. INTRODUCTION

“Murder is a cruel and senseless act that sains the soul and scars the conscience.” The case of **Sooraj S. Kumar v. State of Kerala** was famously known as **Kerala snake bite murder**. The preplanned murder of Uthra by her husband Sooraj Kumar was a diabolic, cruel, heinous, and dastardly act committed by using a weapon of live cobra snake. It was not the first time a natural snake bite was weaponized to coverup a planned murder, but it is first time in the state.

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The motive behind the murder is greediness of the husband just for the sake of differently abled Uthra's property and financial assistance that he would receive from ultra's family on her death. This murder is termed as grotesque and abhorrent one which shocked the collective conscience of the society. The case had marked a sensational history in forensic science and criminal investigation. The case was around the statement of serpentine curse myth. This is a case of diabolic and ghastly uxoricide, committed stealthily, by inflicting induced Cobra bites causing fatal envenomation, with extreme wickedness, to disguise it as death due to accidental Cobra bite. ^[2] Undoubtedly the scientific and circumstantial evidence played an inevitable part in unravelling the cold blooded and merciless murder of Uthra.

(A) Object of the study:

The object of the study is to understand the importance of evidence for proving or disproving the fact in the criminal proceedings ensuring that the guilty is convicted and innocent is acquitted furthermore the paramount role of forensic and circumstantial in criminal investigation and how far it helps to identify suspects, establish the facts of the case and links the suspects to the scene of crime and to know how forensic evidence can be used to support or refute witness testimony and to establish the cause of death in cases of homicide.

(B) Research methodology:

This is a descriptive study based on primary and secondary data and facts from the judgement, journals, articles as well as from websites. Analysis has been done with relevant facts and data to reach over some conclusions.

II. BACKGROUND OF THE CASE

Sooraj S Kumar (accused) married **Uthra** (deceased), a differently abled lady on 25/03/2018. At the time of their marriage 96 sovereign gold and three acres of land and a monthly maintenance of Rs.8000 was given as dowry. A child was born out of the wedlock. After couple of year of marriage, the accused was dissatisfied with the mental and physical disability of Uthra. The notion of Sooraj is that if he divorced Uthra will could loss all dowry and rights of the property thereby **conspired to kill Uthra**. He decided to eliminate her in an undoubted manner without causing suspicion to her relatives so that he could enjoy all financial gains of Uthra's family.

² V. Venkatesan, Uthra Murder: How the Trial Court Didn't Succumb to 'Collective Conscience', The Wire, < <https://thewire.in/law/uthra-murder-case-trial-court-collective-conscience-death-penalty> > (Last visited on 17 SEP. 23)

III. FACTS

1. In furtherance to kill Uthra, Sooraj contacted an individual over the internet for purchasing a venomous snake (**Russell Viper** of Rs. 10000) from the snake handler. In the first attempt, he placed the snake on the stairs and waited for the victim to pass through and get bit. However, the deceased saw the snake and raised an alarm. The accused thereafter captured the snake but instead of getting rid of it, he kept it in his possession.
2. A few days later, the accused mixed some sedative tablets in the deceased's food and when she was asleep, he released the snake on her body as a result of which she was bit by the snake. The deceased woke up and cried for help but the accused did not take her to the hospital, thereby deliberately delaying medical aid to her.
3. After sometime she was hospitalized and survived. She was taken to her parental home; the viper bite caused her to be completely bed-ridden for around 52 days.
4. After having failed twice with the Viper, this time, the accused purchased a cobra from the same individual for ₹7000, trained it and kept it in a plastic jar. He deliberately kept the cobra hungry in the plastic jar before he took it to the house of the deceased.
5. He once again mixed sedatives (**Cetirizine**) in the juice of the deceased and once she was asleep, he released the cobra onto her as a result of which she was bitten twice.
6. He then deleted all call records with the individual from whom he purchased the snake and removed traces of the sedative from the juice glass by washing it thoroughly.
7. Next morning, Sooraj usually a late raise, woke up early and went outside. Her mother tried to wake her in morning it was found to be unconscious and large cobra was found in her bedroom. Thereafter, she was taken to the hospital by her parents and the doctors declared it as a medico-legal case. On post-mortem, it was found that the cause of death was **cobra envenomation**, i.e., death by poison of a cobra.
8. At the time of the death, the brother of the deceased had filed an FIR for unnatural death under **S.174 of CrPC** ^[3] and a preliminary examination of the scene of occurrence was conducted by the police. After the deceased's body was cremated, her parents suspecting foul play lodged a complaint regarding the same before the Rural District Police Chief, Kollam and during the investigation, the plastic jar used to keep the cobra was

³ S. 174 of CrPC - Police to enquire and report on suicide etc., < <https://indiankanoon.org/doc/411677/> >

recovered.

9. On verifying the call detail of the accused that revealed that he had made several calls to the snake catcher and handler. Both were interrogated and arrested.
10. Based on the evidence and the investigation report, the Sessions Court charged the accused under Sections 201^[4], 302^[5], 307^[6] and 326^[7] of IPC. However, the accused pleaded not guilty and denied all the incriminating circumstances/evidence that was filed against him.

IV. ISSUES

1. Whether the death of Uthra was a result of Cobra envenomation?
2. Whether the accused intentionally caused Viper bites over Uthra and is, therefore, guilty of an attempt to murder?
3. Whether the accused intentionally caused Cobra bites over Uthra and is therefore guilty of her murder?
4. Whether the accused caused destruction of evidence in a murder case?

V. JUDGEMENT

The judgement concluded that the commission of murder was diabolic, cruel, heinous, and dastardly. Sooraj awarded double life sentence with a fine of Rs 5 lakh. He has also been sentenced to 10 years and 7 years of imprisonment in two other cases.

VI. CASE ANALYSIS

(A) Arguments to be viewed in:

a. Prosecution side:

1. Stating all the facts mentioned above the Special Public Prosecutor (SPP) argued that when the **uxoricide** (killing of heir wife) was committed in a manner of unparalleled cunning and in an extremely dastardly and ghastly manner, normal punishment of life imprisonment is not sufficient.
2. For the first time in the history of Kerala, the modus operandi of using a live cobra as a

⁴ S. 201 of IPC - Causing disappearance of evidence of offence, or giving false information to screen offender, < <https://indiankanoon.org/doc/386021/> >

⁵ S. 302 of IPC - Punishment for murder, < <https://indiankanoon.org/doc/1560742/> >

⁶ S.307 of IPC - Attempt to murder, < <https://indiankanoon.org/doc/455468/> >

⁷ S.328 of IPC - Causing hurt by means of poison, etc., with intent to commit an offence, < <https://indiankanoon.org/doc/1535430/> >

weapon for murder was adopted, for inflicting deadly envenomation on a hapless victim who was bedridden. Even as the victim was convalescing after the first murder attempt failed, the accused was planning to inflict a cobra bite to kill her.

3. On both occasions of the attempt to murder and the murder, the unsuspecting victim and the accused were alone in the room. The accused had purchased and kept the venomous snakes in his possession and was seeking the right opportunity to murder the hapless victim, while she was unsuspectingly thinking that the accused, her husband, was loving her.
4. The accused was even able to take his in-laws into confidence after the first attempt of murder was unsuccessful. He sedated the unsuspecting victim on both occasions by giving drugs mixed in liquids which he gave her to drink. The victim unsuspectingly drank the same, mistaking it for the love of the accused, but in fact the accused gave her a poisoned chalice.
5. The SPP argued that the murder was committed in a diabolic, brutal, grotesque, and abhorrent manner which has shocked “**the collective conscience of the society.**” And further prayed above the court to convict Sooraj under sections **201, 302, 307 and 328 of IPC.**

b. Defence side:

1. The accused stated that the individual from whom the prosecution had claimed snakes were brought from had visited him for the purpose of vehicle sales. He further stated that snakes were seen regularly in the vicinity of his neighbourhood and the individual, who had a certain expertise in this area, was asked to check for snakes in the house but he found no snakes.
2. On the day of the first incident of snakebite, he claimed to have been outside with his friends. When he came back home, the deceased complained regarding pain in her leg and stated that she was bit by something while she was washing clothes outside the house. He gave the deceased some medication for pain and she slept. Later in the night, when she complained of unbearable pain, he informed Mr. Sujith and took her to the hospital. However, the hospital reports did not mention that she was bit by a Viper.
3. On her discharge from the hospital, she requested to stay in her parents’ house. The accused slept in the kitchen while the deceased had slept with her mother along with the infant child. The deceased had asked for the windows to be opened as she was facing some difficulty adjusting to the AC.

4. He further claimed that there were several CCTV cameras installed in the house and the entire incident was captured in the CCTV. However, the CCTV footage available with the police had no incriminating evidence against him. He further claimed that the family members were falsely accusing him because of disputes regarding property and the custody of the child.

(B) Scrutinization:

The biggest challenge faced by prosecution during the trial of Uthra murder case was proving the snakebite was homicidal and not natural. The prosecution produced 87 witnesses, 288 documents and 40 material evidences to prove the guilt of the accused.

(C) Scientific evidences:

1. Autopsy report of uthra:

Dr. Ragesh. R, who conducted post-mortem examination of the dead body of Uthra issued post-mortem certificate noted that there were two ante-mortem injuries on the body:

- i. Two puncture wounds. 0.2x0.1x0.7 cm and 0.1x0.1x0.7 cm., 2.3 cm apart, on back of left forearm, 5.7 cm above wrist with infiltration of blood in the surrounding skin and soft tissue.
- ii. Two puncture wounds 0.1x0.1x0.5 cm each, 2.8 cm apart, on back of left forearm, 5.5 cm above wrist with infiltration of blood in the surrounding skin and soft tissue.

He testified that injury numbers (i & ii) were suggestive of snake bite marks. The internal organs were congested and he had preserved soft tissue and skin from the bite site, sample of blood and viscera for chemical analysis. His opinion as to cause of death is that post mortem findings are consistent with **death due to snake bite**.

2. Unusual Bite Marks:

According to his opinion, the wounds (bite marks) appeared to be **unusual** due to the following reasons:

- i. Two successive bites.
- ii. The two bites in close proximity.
- iii. Wider than usual bite marks.
- iv. Significant difference between the fang width of both bite marks.

The cumulative effect of all these circumstances would make **accidental snake bite improbable**. According to him the opinion that the fang width at bite site of snakes may vary

from 8 mm to 4 cm.

3. Cetirizine Induced:

The items (Item no. 1 was stomach and part of intestine with contents, Item no. 2 was part of liver and one kidney, item no. 3 was blood, Item no. 4 was skin and subcutaneous tissue from bite site and item no. 5 was saturated saline) were subjected to chemical examination using standard techniques. The visceral examination established that **Snake venom (Cobra venom)** was detected in item numbers 3 and 4 and **Cetirizine**, an antihistamine was detected in item numbers 1, 2 & 3.

Chemical Analysis Report reveals a **non-therapeutic level of Cetirizine**. Snakebites are painful, and if bitten the person will not be able to sleep due to the pain. Uthra was unaware that she had been bitten as she was sedated without her knowledge.

4. Necropsy Report:

The testimony of Suresh saw the **snake carcass** inside the Uthra's room. He took a photograph of the snake carcass in his mobile phone. As instructed by the police, himself, the Panchayat Member Mohanan and Baladevan buried the carcass in the premises. A photo of the carcass near the pit was also taken. A stick was pitched on the top of the covered pit as a sign. A team of experts comprised of the Head of Department of Forensic Medicine, a Herpetologist, a Divisional Forest officer, and a Veterinary Surgeon was constituted to study the nature and circumstances of the snake bites sustained by Uthra and exhumed the snake carcass.

Dr. Kishore Kumar. K. J, the Veterinary Surgeon of Animal Husbandry Department, who was on deputation in the Kerala Forest Department as Assistant Forest Veterinary Officer, conducted necropsy of the exhumed snake carcass and issued **Necropsy Report**. On Necropsy, the snake was found to be of the species *Naja Naja*, which is also known as Indian Spectacled Cobra. The spectacle mark was evident on the hood. **The death of the snake was from cardio pulmonary failure because of the injury below the hood.**

Further added that in his experience while discharging official duty and examining snake bitten animals, he had not seen a bite mark of a Cobra with inter fang width of more than 2 cm. The space between two bite marks also raises questions which is nearly impossible due to multiple reasons. Basically, Cobras are very frugal in spending their venom. Naturally after one bite they tend to evade the person. If there are multiple bites, the bites would be at different places. The room was tightly closed, even if the snake tries to enter the room through the window, it is nearly impossible as they can only raise up to one-third of their height.

5. Experts' Opinion:

The Cobra can raise only **one-third of its height** and the dead Cobra in this case had a length of 152 cm. Therefore, the said Cobra could raise only 50 cm from the ground to a vertical wall. The window of the room was at a height of 62 cm from the foundation. Due to the very minimal gap (2-4 mms) between the door and ground and it was impossible for the snakes to pass beneath the door. Due to the minimal gap between the door and floor of Uthra's room and the nature of ventilator and bedroom drains fixed with a cover, the fact that the window of the dressing room was at a height of more than 2 metres, the possibility of the snake coming naturally into the room of Uthra was ruled out. Moreover, Uthra's room had the smell of kerosene and phenol which are snake repellents. Therefore, it was convinced that **the snake** involved in this case could not enter the house through the said window and it was **brought by human force**.

On examination of the bite marks on the hand of Uthra, the **fang width** was found to be varying at **2.3 and 2.8 cm**. Based on his experience and studies a Cobra with such a large fang width did not exist. The **normal fang width of a Cobra is 1 to 1.6 cm**. And the fang width of a Cobra increases in case of induced or forced bite, he stated that when pressure is put on the maxilla the inter cartilage space increases and the width of the fangs increase. When the milking of Cobra venom is conducted also the fang width increases, the Team of Experts believed the Cobra bite noted in the post-mortem report of Uthra was **not an accidental one and it was a homicidal bite**.

Section 45 ^[8] of the Indian Evidence Act, 1872 **opinions of the experts** are **relevant** fact and its illustration makes it clear that when the question is whether death of a person was caused due to poison, the opinion of experts as to symptoms produced by the poison by which death was caused are relevant. Under **Section 46** ^[9] collateral facts which support or are inconsistent with the opinion of experts are also **relevant**. Detection of traces of venom, a type of poison, from the bodily tissues and blood of the victim, is a scientific analytical process, which requires special skill and scientific knowledge. So also, the effects of the venom and symptoms it causes on the living body, the method of delivery of venom on the body of the victim etc., are matters which require in depth knowledge and experience on the point. Therefore, the opinion of experts on these points are necessary to aid the court in forming an opinion.

An expert is not a witness of fact. His evidence is really of an advisory character. The duty of an expert witness is to furnish the Judge with the necessary scientific criteria for testing the

⁸ S. 45 of IEA – Opinion of experts, < <https://indiankanoon.org/doc/1025384/> >

⁹ S. 46 of IEA – Facts bearing upon opinions of expert, < <https://indiankanoon.org/doc/1458526/> >

accuracy of the conclusions to enable the Judge to form his independent judgment by the application of this criteria to the facts proved by the evidence of the case.

The scientific opinion evidence, if intelligible, convincing, and tested becomes a factor and often an important factor for consideration along with the other evidence of the case. The credibility of such a witness depends on the reasons stated in support of his conclusions and the data and material furnished which form the basis of his conclusions.

(D) Documentary Evidence:

Thereafter with the permission of the Chief Wild Life Warden, for obtaining more clarity, a **live demonstration with live snakes and dummy** was conducted at Arippa Forest Training Institute. The first demonstration was conducted by using a live Cobra after recreating the scene of Uthra's room and its **video was recorded** by the police department. ^[10]

A dummy having the size of Uthra was laid down on the cot and a fresh broiler chicken piece was tied on its hand. Thereafter, a Cobra was released from the container on top of the dummy. However, the Cobra did not make any attempt to bite the dummy and crawled down to the ground. Usually, Cobras bite only on moving objects after displaying defensive mechanisms like hooding and hissing. Otherwise, the Cobra is to be inflicted pain. Thereafter, they removed the arm of the dummy tied with the chicken piece and provoked the Cobra. After several attempts and provocation, the Cobra bit on the chicken piece tied to the arm of the dummy. Before inflicting the bite, the Cobra displayed defensive mechanisms on several times. Another natural bite on provocation of the Cobra was obtained in the said chicken piece and the fang width of both bites were uniform at 1.7 cm.

Then one caught the Cobra by its head and induced two bites on the chicken piece and the fang width were found to be varying in larger dimensions at 2 and 2.4 cm. The fang width of the induced bites was more than the natural bite fang width. According to him, the skull of the snakes is made up of movable joints and when pressure is applied the upper jaws where the fangs are found would expand. Therefore, in the case of induced snake bite the fang width would be larger than the natural bite fang width.

As per **Section 3**, "Evidence" includes all documents which also includes electronic records produced for the inspection of the court.

In **Anwar P. V. v. P. K. Basheer** ^[11] held that the electronic record produced for the inspection

¹⁰ Dummy Demonstration Video: < <https://www.youtube.com/watch?v=V9FVMpyZCA8> >

¹¹ Anwar P. V. v. P. K. Basheer, 2014 (10) SCALE 660 (India)

of the court is documentary evidence under S. 3 of Indian Evidence Act, 1872.

Section 65A states that the contents of electronic records may be proved in accordance with the provisions of section 65B.

Section 65B deals with its admissibility - any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

A video recording of an incident which is in issue is admissible held in the case of *Taylor v. Chief Constable of Cheshire* ^[12], and added that there is no difference in terms of admissibility between a direct view of an incident and a view of it on a visual display unit of a camera or on a recording of what the camera has filmed. A witness who sees an incident on a display or a recording may give evidence of what he saw in the same way as a witness who had a direct view.

Section 51 states that whenever the opinion of any living person is relevant, the grounds on which such opinion is based are also relevant. Illustration of this section clearly states that **the experts may give an account of experiments performed by him for the purpose of forming his opinion.**

Citing the sections and precedents, it is clear that video footage of live demonstration is **admissible as evidence** before the court.

On viewing the video footage of the live demonstration using the Cobra, it is evident that Cobra strikes and bites only on extreme provocation, that natural bites would have uniform fang width, and in case of induced bites there will be increase and variation of fang width. Therefore, it is found that the prosecution has proved conclusively that Uthra had sustained induced Cobra bites which resulted in fatal envenomation and caused her death.

(E) Circumstantial Evidences:

1. Uthra died due to unnatural and homicidal Cobra envenomation.
2. In January, 2020, parents of Uthra decided to take her back to paternal home as cruelty towards Uthra meted out to an unbearable extent and they asked Sooraj to return all

¹² Taylor v. Chief Constable of Cheshire, (1987) 1 All ER 225 (India)

assets he had received on account of the marriage. Hearing this demand, accused interfered and redeemed the confidence of Uthra and her parents and managed to keep Uthra to stay in his home.

3. Accused searched about snakes and snake handlers frequently from January, 2020 onwards and contacted a snake handler and met him in person on 18.2.2020 at Chathannoor (Electronic evidence).
4. After the meeting dated 18.2.2020, accused requested snake handler for a demonstration of snakes with venomous snakes. On the very next day and offered an amount of Rs.10,000/- as consideration. (Direct Evidence)
5. On 26.2.2020, the snake handler handed over a Russell's Viper to the accused for money in the presence of Premjith. (Eye witness)
6. On the same day after one hour, searches of snakes in his house premises and a demonstration with snake were conducted at the instance of accused. The accused handled a snake without any fear and with skills in that demonstration.
7. On 27.2.2020 Uthra confronted with a snake on the landing space of the staircase when she went to upstairs bed room for taking mobile phone of Sooraj as instructed by him. Uthra screamed on watching the snake and then Sooraj took away the snake in a sack.
8. Uthra sustained an unnatural and lethal hemotoxic envenomation on 3.3.2020 when she was in upstairs bed room with the accused.
9. There was unexplained and long delay for taking Uthra to hospital even after identifying the bite.
10. The history offered by the accused regarding snake bites to doctors and relatives were false and unbelievable.
11. While Uthra was undergoing treatment at Pushpagiri Medical College, Sooraj searched for Cobra and contacted the same snake handler for venomous Cobra for consideration. On 24.4.2020 Sooraj purchased Cobra paying Rs.7,000/-.
12. On 6.5.2020 Sooraj came to the house of Uthra with shoulder bag after creating evidence that he was coming due to compulsion of Uthra. The bag was not been in prior occasions. (Eye- witness of Uthra's mother)
13. Sooraj asked for a juice to serve Uthra. Uthra's mother having said that Uthra already had juice, on hearing this Sooraj replied why she cannot have another one? Then Sooraj went to Uthra's room to serve her with juice. (Direct evidence).

14. That was the time he added Cetirizine in the juice.
15. On 6.5.2020 Sooraj slept in the room of Uthra and unusually woke up in the early morning and went out of the room without even caring the abnormal lie of Uthra.
16. Sooraj caused disappearance of evidence in a murder case by washing the glass in which he gave sedative mixed juice to Uthra and destroying the stick with which he handled the snake.
17. Though the fact of snake bite was not known to any one when Uthra was brought to the hospital, Sooraj disclosed the site of bites to doctor and gave false information to his in-laws that doctor mentioned about a snake bite on her hand.
18. The conduct of accused in connection with the detection of snake in the room.
19. Uthra was last seen with the accused on both the occasions of snake bites and the accused failed to explain as to the transaction underwent in that room and to discharge his burden under **Section 106** of Evidence Act. ^[13]
20. False plea of alibi by Sooraj.
21. On both the occasions of snake bites, Uthra was stupefied with drugs without her knowledge.
22. Extra judicial confession made by Sooraj to snake handler on 9.5.2020 by using the mobile phone.
23. Accused searched Viper just before Viper bite and Cobra and cobra venom extraction just before Cobra bite.
24. In proximity to Viper bite and Cobra bite he was in possession of respective snakes and the need basis communication between the snake handler and the accused.
25. Unexplained image of a snake kept in the gallery of mobile phone of accused which was retrieved in Cyber Forensic examination.
26. Recovery of plastic jar which was used for keeping Cobra by the snake handler while handing it over to the accused.
27. Conduct of accused at each stage of transactions. (Personal evidence)
28. Extra judicial confession before the Forest officials under the Wild Life (Protection) Act. (Extra Judicial evidence).

¹³ S. 106 of IEA, Burden of proving fact especially within knowledge, < <https://indiankanoon.org/doc/697566/> >

29. Non explanation or false explanation of entire proved circumstances.
30. Uthra was a differently abled girl and the accused married her knowing the same. After the marriage accused catered an ill will towards her on account of her mental condition.
31. Motive of accused to retain assets he received and being received on account of the marriage and to project the murder as natural and serpentine curse.

(F) Provisions Mentioned:

Section 7 - Facts which are the occasion, cause, or effect of facts in issue: Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

Illustration to this section explains in clear that the question is, whether A poisoned B. The state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.

Section 8 - Motive, preparation and previous or subsequent conduct: Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact. The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

Illustration of this section - A is tried for the murder of B by poison. The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant.

Section 14 - Facts showing existence of state of mind, or of body, or bodily feeling: Facts showing the existence of any state of mind such as intention, knowledge, good faith, negligence, rashness, ill-will or good-will towards any particular person, or showing the existence of any state of body or bodily feeling are relevant, when the existence of any such state of mind or body or bodily feeling, is in issue or relevant.

Illustration of this section expounds that the question is whether A's death was caused by poison. Statements made by A during his illness as to his symptoms are relevant facts.

The question regarding the admissibility of circumstantial evidences the Counsel quoted the principle relied on by the Privy Council was followed by the Supreme Court *in Patel Hiralal*

Joitaram v. State of Gujarat ^[14] wherein it was held that the words “statement as to any of the circumstances” are by themselves capable of expanding the width and contours of the scope of admissibility. When the word “circumstances” is linked to “transaction which resulted in his death” the sub-section casts the net in a very wide dimension. Anything which has a nexus with his death, proximate or distant, direct, or indirect, can also fall within the purview of the sub-section. As the possibility of getting the maker of the statements in flesh and blood has been closed once and for all the endeavour should be how to include the statement of a dead person within the sweep of the sub-section and not how to exclude it therefrom. Admissibility is the first step and once it is admitted the court has to consider how far it is reliable. Once that test of reliability is found positive the court must consider the utility of that statement in the particular case.

In this case the death Of Uthra is a logical culmination of a continuous drama, long in process, hence the statement regarding each step directly connected with the end of the drama would be admissible.

(G) Electronic Evidences:

The prosecution relied on electronic evidences like call detail records, mobile phone tower decoding data, internet search history, and other electronic records to prove the case. The call detail records and internet protocol records are accompanied by Customer Application Forms (CAF) by the users of the mobile phone connection. All the electronic records relied by the prosecution are supported by certificates issued under **Section 65 B** evidence act by competent persons. It was proved that the email address (soorajskumar1993@gmail.com) was synced with the said phone.

VII. OBSERVATIONS OF THE COURT

The court on the observation of the arguments and the submitted evidences elaborated that the investigation in this case was conducted in a scientific manner and vital evidence of the trail left by the accused even in cyberspace was collected. Thus, on evaluating the evidence on record, which includes the digital foot prints and traces left by the accused in cyberspace, and the law on the point, it is held that the prosecution has proved the third vital fact necessary to be established in a case of murder by poisoning, that is, the accused had the opportunity to administer the poison.

The prosecution has succeeded in adducing legal evidence on relevant facts and circumstances

¹⁴ Patel Hiralal Joitaram v. State of Gujarat, (2002) 1 Supreme Court Cases 22 (India)

to establish conclusively the complete chain of circumstances against accused and there are no missing links. There is no hypothesis from the proved circumstances, which points out to the innocence of the accused. The proved circumstances point only to the guilt of the accused.

It is established beyond reasonable doubt by adducing relevant facts that on both two occasions in which Uthra sustained envenomation the accused had sedated her; he knew about her condition and he had the opportunities to administer the fatal Cobra bite and Viper bite on her.

The prosecution has also proved the motive of the accused to get rid of Uthra, who was a disabled lady and to continue to obtain the funds he received from her family. It is also to be noted that it is proved by the prosecution that the accused has asked the father of Uthra to continue to give financial aid to him even after her death and he was reluctant to utilise the proceeds of the sale of gold and car for the welfare of his only child.

This motive is established by the fact that he has searched for viper snake immediately before Uthra sustained viper envenomation and even while she was admitted in the hospital he was searching for Cobra, with which he inflicted the homicidal induced bites which caused death of Uthra. Thus, it is held that the prosecution has proved that the accused had a motive to do away with Uthra and he had the opportunity to administer the venomous snake bites on her.

It is conclusively proved by the prosecution that the accused was the person who was last seen with Uthra in her room when she was alive. Thus, the only irresistible conclusion which is possible is that the accused has inflicted the **homicidal induced Cobra bites on Uthra** and caused the fatal envenomation which resulted in her death.

The prosecution has proved that Uthra, who was sedated sustained two homicidal, induced Cobra bites which caused the fatal envenomation and it was sufficient in the ordinary course to cause death. The infliction two induced Cobra bites, is with the intention to cause death. In the said circumstances, it is held that the accused has caused the death of Uthra with the intention of causing her death. The act of the accused does not come within any of the exceptions under S. 300 I.P.C and it amounts to **murder as defined under S. 300 I.P.C.** Thus, the prosecution has proved beyond a reasonable doubt that the accused has committed the murder of Uthra and committed the **offence punishable under S. 302 I.P.C.**

The prosecution has also proved beyond reasonable doubt that the accused has **attempted** to murder Uthra by inflicting Viper bite and has committed offence **punishable under S. 307 I.P.C.**

It is proved that on both occasions when Uthra sustained envenomation, the accused had **administered stupefying drugs** or sedative tablets to Uthra and attempted to murder her and

has caused death by inflicting Cobra envenomation. The death was also caused by administering Cobra venom, a poison. Thus, the prosecution has proved beyond reasonable doubt that the accused has committed **offence under S.328 I.P.C.**

The accused has also **caused disappearance of evidence** in a murder case by washing the glass in which he gave sedative mixed juice to Uthra and destroying the stick with which he handled the snake. Thus, the prosecution has proved beyond reasonable doubt that the accused has committed the **offence under S.201 I.P.C.**

(A) Court analysis on deciding punishment:

The Court cited the case of *Macchi Singh v. State of Punjab*^[15], wherein it was observed by the Supreme Court that for awarding the death penalty and the Court laid down certain guidelines for ascertaining the nature of the crime. These guidelines include the following factors:

- i. Manner of commission of the crime.
- ii. The motive for the commission of the crime.
- iii. Socially abhorrent nature of the crime.
- iv. The magnitude of the crime.
- v. The personality of the victim of the crime.

The Court further referred to the case of *Bacchan Singh v. State of Punjab*^[16] which laid down guidelines as follows:

- i. The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability.
- ii. Before opting for the death penalty, the circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'.
- iii. Life imprisonment is the rule and death sentence is an exception. In other words, death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided only when the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances

¹⁵ *Macchi Singh v. State of Punjab*, AIR 1983 SC 957 (India)

¹⁶ *Bacchan Singh v. State of Punjab*, AIR 1980 SC 898 (India)

- iv. A balance sheet of aggravating and mitigating circumstances must be drawn up and in doing so the mitigating circumstances have to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.

SC held that the death penalty should only be inflicted in the rarest of rare cases and the circumstances of the offender that led him to commit the crime should also be taken into consideration along with the circumstances of the crime. The Court after citing these cases noted that for awarding the death penalty, firstly, the case should fall under the category of rarest of rare cases and secondly, the punishment of life imprisonment is not suitable to the crime. It further noted that **the death penalty** should be awarded only as a **last resort**.

The Court also cited the recent case of *Abdul Mannan v. State of Bihar* ^[17] wherein it was observed that while determining if a particular case falls under the ambit of rarest of rare cases, the circumstances of the crime along with the state of mind, socio-economic background etc of the criminal should be taken into consideration. Herein, the Court had reiterated the principle that life imprisonment is a rule to which the death penalty is an exception. It was further observed by the Court that while awarding a death penalty, the Court must ensure that such an action is required because if the criminal is not subjected to death, he would remain a threat to the society and there is no possibility of reformation and rehabilitation of the criminal.

Considering the aforesaid precedent, the Court thereafter investigated the mitigating circumstances in favour of the accused. The Court noted that the accused (Sooraj) was only 28 years old, he had no criminal antecedents and nor was he part of any offence of grave nature of moral turpitude in the past and the court also noted that because of the young age of the accused and the absence of criminal antecedents, it cannot be deemed that the accused would be a threat to society. This is where the application of reformation theory came into the case. In the light of the same, the Court noted that it was not imperative that the accused should be subjected to the death penalty and held that **imprisonment for life** would be the appropriate punishment in this case.

(B) Verdict:

As the result, the court held that the accused (Sooraj S. Kumar) was found guilty of committing murder of his wife Uthra (deceased) was proven beyond reasonable doubt and the conviction could be as followed:

¹⁷ Abdul Mannan v. State of Bihar, 2019 SC 2934 (India)

- i. The accused is sentenced to undergo imprisonment for life and to pay a fine of Rs.5,00,000/- for the commission of offence punishable under S.302 I.P.C.

In default of payment of fine the accused shall undergo rigorous imprisonment for one year;

- ii. The accused is sentenced to undergo imprisonment for life and to pay a fine of Rs.50,000/- for the commission of offence punishable under S.307 I.P.C.

In default of payment of fine the accused shall undergo rigorous imprisonment for 6 six more months;


- iii. The accused is sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs. 25,000/- for the commission of offence punishable under S.328 I.P.C.

In default of payment of fine the accused shall undergo rigorous imprisonment for three more months;

- iv. The accused is sentenced to undergo rigorous imprisonment for 7 years and to pay a fine of Rs.10,000/- for the commission of offence punishable under S.201 I.P.C.

In default of payment of fine he shall undergo rigorous imprisonment for one more month.

VIII. GLIMPSE OF THE CASE

HOW THE CRIME UNRAVELLED		TOI
Mar 25, 2018 Uthra gets married to Sooraj		file complaint with Kollam rural SP Harisankar
Mar 2, 2020 Uthra is bitten by a viper at Sooraj's house; gets admitted to Pushpagiri Hospital, Thiruvalla		May 20 District crime branch DSP A Ashokan takes over probe
Apr 22 After discharge from hospital, Uthra goes to her parents' house at Eram, Anchal	Sooraj being brought to Kollam court on Monday	May 24 Sooraj and three others taken into custody; Sooraj's arrest recorded
May 6 Sooraj visits Uthra for the last time	in her bedroom	Aug 22 Sooraj's mother and sister arrested
May 7 Uthra sustains a cobra's bite and is found dead	May 7 Uthra's family expresses doubts about Sooraj's possible involvement	Oct 7 Trial begins in Kollam court
	May 7 Anchal police registers case of unnatural death	Oct 11, 2021 Sessions court finds Sooraj guilty
	May 12 Uthra's family calls for strengthening investigation	
	May 19 Her parents	

TIME LINE OF UTHRA MURDER CASE

DEAD COBRA FOUND IN UTHRA'S ROOM



SOORAJ ON PURCHASING VIPER FROM SNAKE HANDLER



LIVE DEMONSTRATION OF DUMMY & LIVE SNAKE AND FANG WIDTH MEASUREMENT



IX. CONCLUSION

This is a case of a shining example as how scientifically and professionally a case was investigated and proven. To the average person the severest punishment on earth is the death penalty and certain crimes like this are so heinous as it deserves nothing but the death penalty but here in this case even though the prosecution argued for death penalty for this barbaric crime still the accused is not punished with death penalty by the concept of reformation theory and if for the cases like this if capital punishment is not set, a bad precedence will happen and more

Utharas will be died in the society. The existing sentencing framework under the Indian penal code falls foul of the due process protections guaranteed by Article 21 of the Indian Constitution besides violating Article 14 of the constitution. Even despite many views and criticism, the timely conviction of the case shows the utmost vigilance of our judicial system.

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