



2025:KER:90973

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 27<sup>TH</sup> DAY OF NOVEMBER 2025/6TH AGRAHAYANA, 1947

CRL.A.NO.721 OF 2019

CRIME NO.569/2018 OF KILIKALLOOR POLICE STATION, KOLLAM  
AGAINST THE JUDGMENT DATED 14.05.2019 IN S.C.NO.1524 OF 2018 OF  
ADDITIONAL SESSIONS COURT - IV, KOLLAM ARISING OUT OF C.P.NO.93 OF 2018  
OF JUDICIAL MAGISTRATE OF FIRST CLASS - I, KOLLAM

APPELLANT/1ST ACCUSED:

MANOJ @ PAMBU MANOJ  
AGED 40 YEARS  
S/O.BENANCE, PUTHIYA VEEDU, NEAR VALIMUKKU,  
KANNANALLOOR CHERRY, THAZHUTHALA VILLAGE, KOLLAM.

BY ADV.SRI.P.VIJAYA BHANU (SR.)  
BY ADV.SRI.AJEESH S.BRITE  
BY ADV.SMT.TINTU MOL P.R.

RESPONDENT/COMPLAINANT:

STATE OF KERALA  
REPRESENTED BY THE SUB INSPECTOR OF POLICE,  
KILIKALLOR POLICE STATION, KOLLAM, THROUGH PUBLIC  
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031.

BY SRI.S.U.NAZAR, SPECIAL PUBLIC PROSECUTOR  
BY SRI.T.R.RENJITH, PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON  
20.11.2025 ALONG WITH CRL.A.NO.722 OF 2019 AND CONNECTED  
CASES, THE COURT ON 27.11.2025 DELIVERED THE FOLLOWING:



2025:KER:90973

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 27<sup>TH</sup> DAY OF NOVEMBER 2025/6TH AGRAHAYANA, 1947

CRL.A NO.722 OF 2019

CRIME NO.569/2018 OF KILIKALLOOR POLICE STATION, KOLLAM  
AGAINST THE JUDGMENT DATED 14.05.2019 IN S.C.NO.1524 OF 2018 OF  
ADDITIONAL SESSIONS COURT - IV, KOLLAM ARISING OUT OF C.P.NO.93 OF 2018  
OF JUDICIAL MAGISTRATE OF FIRST CLASS - I, KOLLAM

APPELLANT/6TH ACCUSED:

VINESH  
AGED 38 YEARS  
S/O.DARMAJAN, VINEETHA MANDIRAM, PAVITHRA NAGER 150,  
KILIKALLOR CHEERI, KILIKALLOR VILLAGE.

BY ADV.SRI.C.RAJENDRAN  
BY ADV.SRI.B.N.HASKAR

RESPONDENT/COMPLAINANT:

STATE OF KERALA  
REPRESENTED BY THE SUB INSPECTOR OF POLICE,  
KILIKALLOR POLICE STATION, KOLLAM, THROUGH PUBLIC  
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682031.

BY SRI.S.U.NAZAR, SPECIAL PUBLIC PROSECUTOR  
BY SRI.T.R.RENJITH, PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON  
20.11.2025 ALONG WITH CRL.A.NO.721 OF 2019 AND CONNECTED  
CASES, THE COURT ON 27.11.2025 DELIVERED THE FOLLOWING:



2025:KER:90973

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 27<sup>TH</sup> DAY OF NOVEMBER 2025/6TH AGRAHAYANA, 1947

CRL.A.NO.827 OF 2019

CRIME NO.569/2018 OF KILIKALLOOR POLICE STATION, KOLLAM  
AGAINST THE JUDGMENT DATED 14.05.2019 IN S.C.NO.1524 OF 2018 OF  
ADDITIONAL SESSIONS COURT - IV, KOLLAM ARISING OUT OF C.P.NO.93 OF 2018  
OF JUDICIAL MAGISTRATE OF FIRST CLASS - I, KOLLAM

APPELLANT/5TH ACCUSED:

VISHNU,  
AGED 21 YEARS  
S/O.SUDEVAN, KONATHUKAVU, DECENT JUNCTION P.O.,  
THRIKKOVILVATTOM VILLAGE, MUKHATHALA.

BY ADV.SRI.RENJITH B.MARAR  
BY ADV.SMT.LAKSHMI.N.KAIMAL  
BY ADV.SRI.ARUN POOMULLI  
BY ADV.SRI.BIJU VIGNESWAR  
BY ADV.SMT.MEERA M.  
BY ADV.SMT.SURABHI SANTHOSH

RESPONDENT/COMPLAINANT:

STATE OF KERALA,  
REPRESENTED BY THE SUB INSPECTOR OF POLICE,  
KILIKOLLOOR POLICE STATION, KOLLAM THROUGH PUBLIC  
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031

BY SRI.S.U.NAZAR, SPECIAL PUBLIC PROSECUTOR  
BY SRI.T.R.RENJITH, PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON  
20.11.2025 ALONG WITH CRL.A.NO.721 OF 2019 AND CONNECTED  
CASES, THE COURT ON 27.11.2025 DELIVERED THE FOLLOWING:



2025:KER:90973

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 27<sup>TH</sup> DAY OF NOVEMBER 2025/6TH AGRAHAYANA, 1947

CRL.A.NO.886 OF 2019

CRIME NO.569/2018 OF KILIKALLOOR POLICE STATION, KOLLAM  
AGAINST THE JUDGMENT DATED 14.05.2019 IN S.C.NO.1524 OF 2018 OF  
ADDITIONAL SESSIONS COURT - IV, KOLLAM ARISING OUT OF C.P.NO.93 OF 2018  
OF JUDICIAL MAGISTRATE OF FIRST CLASS - I, KOLLAM

APPELLANTS/ACCUSED NOS.2, 3 & 4:

- 1 RENJITH @ KATTUNNI  
AGED 30 YEARS  
S/O.RAMACHANDRAN, KACHERIVILA VEEDU,  
NEAR POST OFFICE JUNCTION, NEDUNGOLAM CHERRY,  
PARAVOOR VILLAGE, NEDUNGOLAM P.O., KOLLAM.
- 2 BAIJU @ KAITHAPPUZHA UNNI,  
AGED 39 YEARS  
S/O.PARAMESWARAN, PANATTUCHIRAYIL VEEDU, NEAR  
BOOTHAKKULAM LPS, BOOTHAKKULAM VILLAGE, KOLLAM.
- 3 PRANAV @ KUKKU,  
AGED 25 YEARS  
S/O.SUDEVAN, THOTTINKARA VEEDU, NEW NAGAR-9, MANAKKADU  
CHEERY, VADAKKEVILA VILLAGE, NOW RESIDING AT RAM NIVAS,  
NEAR DIVYA PACKING CENTRE, VETTELATHAZHAN CHERRY,  
THRIKKOVILVATTAM VILLAGE, KOLLAM.

BY ADV.SRI.B.N.HASKAR  
BY ADV.SRI.S.RAJEEV  
BY ADV.SRI.B.K.GOPALAKRISHNAN  
BY ADV.SRI.V.VINAY  
BY ADV.SRI.M.S.ANEER  
BY ADV.SRI.SARATH K.P.  
BY ADV.SRI.PRERITH PHILIP JOSEPH  
BY ADV.SRI.ANILKUMAR C.R.  
BY ADV.SRI.K.S.KIRAN KRISHNAN



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RESPONDENT/COMPLAINANT:

STATE OF KERALA  
REPRESENTED BY THE SUB INSPECTOR OF POLICE,  
KILIKALLOR POLICE STATION, KOLLAM THROUGH PUBLIC  
PROSECUTOR, HIGH COURT OF KERALA, ERNKAULAM - 682 031.

BY SRI.S.U.NAZAR, SPECIAL PUBLIC PROSECUTOR  
BY SRI.T.R.RENJITH, PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON  
20.11.2025 ALONG WITH CRL.A.721 OF 2019 AND CONNECTED  
CASES, THE COURT ON 27.11.2025 DELIVERED THE FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 27<sup>TH</sup> DAY OF NOVEMBER 2025/6TH AGRAHAYANA, 1947

CRL.A NO.1447 OF 2019

CRIME NO.569/2018 OF KILIKALLOOR POLICE STATION, KOLLAM  
AGAINST THE JUDGMENT DATED 14.05.2019 IN S.C.NO.1524 OF 2018 OF  
ADDITIONAL SESSIONS COURT - IV, KOLLAM ARISING OUT OF C.P.NO.93 OF 2018  
OF JUDICIAL MAGISTRATE OF FIRST CLASS - I, KOLLAM

APPELLANT/7TH ACCUSED:

RIYAS  
AGED 30 YEARS  
S/O.ABDUL RASHEED, KOCHUMUNDAYIL VEEDU, VADAKKEVILA  
CHERRY, VADAKKEVILA VILLAGE, KOLLAM DISTRICT.

BY ADV.SMT.PRIYA SHANAVAS  
BY ADV.SRI.R.N.SANDEEP

RESPONDENT/COMPLAINANT:

STATE OF KERALA,  
REPRESENTED BY THE SUB INSPECTOR OF POLICE,  
KILIKALLOR POLICE STATION, KOLLAM,  
THROUGH PUBLIC PROSECUTOR HIGH COURT OF KERALA,  
ERNAKULAM - 682 031.

BY SRI.S.U.NAZAR, SPECIAL PUBLIC PROSECUTOR  
BY SRI.T.R.RENJITH, PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON  
20.11.2025 ALONG WITH CRL.A.NO.721 OF 2019 AND CONNECTED  
CASES, THE COURT ON 27.11.2025 DELIVERED THE FOLLOWING:



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"C.R."

## **J U D G M E N T**

**Dr. A.K. Jayasankaran Nambiar, J.**

These Crl. Appeals arise from the judgment dated 14.05.2019 of the Additional Special Judge-IV, Kollam in S.C.No.1524 of 2018, whereby, the trial judge found the appellants, who were arrayed as accused nos.1 to 7 in the proceedings before it, guilty for offences punishable under Sections 120B, 364, 342, 201 and 302 read with Section 34 of the Indian Penal Code [hereinafter referred to as the "IPC"]. The appellants were therefore sentenced to undergo rigorous imprisonment for 10 years each under Section 120B of the IPC; rigorous imprisonment for 5 years each under Section 364 of the IPC; rigorous imprisonment for 5 years each under Section 201 of the IPC; rigorous imprisonment for 1 year each under under Section 342 of the IPC and imprisonment for life and to pay a fine of Rs.1,00,000/- each, in default, simple imprisonment for one more year under Section 302 of the IPC. It was further stipulated that if the fine amount was realised, a sum of Rs.2,00,000/- each would be paid to the parents of the deceased victim and Rs.2,00,000/- paid to PW1, the wife of the deceased, as compensation under Section 357(1) of the Code of Criminal Procedure. The sentences are to run concurrently, and it is further clarified that the appellants/accused, cannot be released on remission without undergoing a minimum imprisonment of 25 years.



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**The prosecution case:**

2. The prosecution case in brief is that the deceased Renjith Johnson was a friend of the 1<sup>st</sup> accused. PW1 Jessy was the former wife of the 1<sup>st</sup> accused. She eloped with Renjith Johnson and they were residing together. The 1<sup>st</sup> accused asked PW1 to return and join with him and the children. But she refused to return and there was frequent quarrel between Renjith Johnson and the 1<sup>st</sup> accused. The 1<sup>st</sup> accused had enmity towards Renjith Johnson due to the illicit relationship with his wife and he decided to murder Renjith Johnson. From 02.08.2018 to 16.08.2018, he conspired with accused nos.2 to 8 at the house of CW27 at Mayyanadu and the house of accused nos.4 and 6. They assembled near the pond situated at Paramkimamvila Madathil and they had frequent telephone calls in consequence of their conspiracy and their decision to murder Renjith Johnson. The 1<sup>st</sup> accused sent accused no.5 to the house of Renjith Johnson and he developed a friendship with him. He telephoned Renjith Johnson from his telephone No.9544530363 to the telephone No.9633442891 on 14.08.2018 and 15.08.2018 and ensured the presence of Renjith Johnson. On 14.08.2018, accused no.7 hired a Chevrolet Beat Car bearing Regn. No.KL-07-BW-1517 from CW16 and on 15.08.2018, accused no.6 telephoned CW7 to ensure the presence of Renjith Johnson. Accused no.5 also telephoned Renjith Johnson to ensure his presence. Accused nos.2 to 5 came to the house of Renjith Johnson at Ayyarumukku near Decent Junction in the hired Beat Car bearing Regn. No.KL-07-BW-1517. Accused no.4 waited inside the car in the driver's seat. Accused nos.2, 3 and 5 went to the terrace of the house of Renjith Johnson under the pretext of purchasing pet birds. Thereafter, accused no.3



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returned to the car. Accused nos.2 and 5 offered liquor to Renjith Johnson and assured that the liquor is inside the car. On 15.08.2018 at 3.30 p.m, they managed to bring Renjith Johnson to the car. He was sitting in between accused nos.2 and 5 on the back seat. Accused no.4 was driving the car. When Renjith Johnson came to understand about the danger, accused nos.2, 3 and 5 wrongfully confined him and when he tried to escape, they raised the sound of the stereo inside the car. They took Renjith Johnson to Polachira near Meenadu and accused nos.2 to 5 manhandled him by hitting on his body. Accused no.2 took a knife and hit on the back of head of Renjith Johnson. They undressed Renjith Johnson and torn the lungi. Accused nos.2 to 5 tied his legs with the torn lungi and put him on the platform of the car. Accused no.4 telephoned 1<sup>st</sup> accused and he came with accused nos.7 and 8 and consumed toddy from the Toddy Shop of CW11 and the 8<sup>th</sup> accused had driven his motorcycle bearing Regn. No.KL-2-J-7647 to Polachira. Accused no.7 also brought accused no.6 to Polachira in his motorcycle. Thereafter, on 15.08.2018 at 5.30 p.m, the 1<sup>st</sup> accused with the help of accused nos.2 to 8 dragged Renjith Johnson from the car and stamped on his ribs, head and neck. Accused nos.2 to 8 stamped him and accused no.5 beat him with a stick. Accused nos.1 to 4 beat Renjith Johnson on different parts of his body. Due to the assault Renjith Johnson sustained fracture of neck and ribs and he succumbed to the injuries at Polachira. Thereafter, they found that the small Chevrolet Beat car bearing Regn. No.KL-07-BW-1517 is not sufficient to take the dead body and accused no.1 directed accused nos.6 to 8 to bring another car. They took the dead body in the Beat Car bearing Regn. No.KL-07-BW-1517 and reached at Poothakkulam and purchased a nylon rope from the



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shop of CW15 and accused nos.1 to 5 reached the Hardware Shop of CW12 at Parippally and purchased two spades and a pickaxe. Thereafter, they reached at Nedungolam. In the meanwhile, accused no.7 hired an Etios Car bearing Regn. No.KL-02-AP-3829 from CW24 and on the same night at about 10 p.m, he brought the car to Nedungolam. Thereafter, accused nos.1 to 5 and accused no.7 removed the dead body from the Beat Car to the Etios Car and put the dead body along with the T-shirt in the dicky of the car. Thereafter, accused nos.1 to 5 had taken the Etios Car bearing Regn. No.KL-02-AP-3829 to Tamil Nadu with an intention to bury the dead body of Renjith Johnson. On 16.08.2018 at about 6 p.m, they reached Samathuvapuram situated at Palayamkottai Taluk, Tharuvai Village. They took a pit and put the dead body of Renjith Johnson using the spade and pickaxe. They covered the dead body with the soil and returned and took another pit and put the pickaxe, nylon rope and spades in that pit. Thereafter, accused no.2 had thrown the T-shirt and the damaged portion of the car to an abandoned place at 4 km north of Salaipudhur Toll Plaza. The entire incident was narrated to accused nos.6 and 7 by the 2<sup>nd</sup> accused by telephoning them. It is alleged that it was in pursuance of a conspiracy hatched between them the accused murdered Renjith Johnson and destroyed the evidence.

**The investigation:**

3. The F.I. Statement was given by PW3 Treesa Johnson, the mother of Renjith Johnson who gave the statement on 20.08.2018 at the Kilikolloor Police Station. Based on the said information, an FIR was registered and the investigation commenced. In the course of the investigation, all the accused



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were arrested and based on the evidence collected by the Investigating Agency, the final report was laid before the Judicial First Class Magistrate -I, Kollam.

**The trial proceedings:**

4. The Judicial First Class Magistrate-I, Kollam took cognizance of the case as C.P.No.93 of 2018 and after complying with all the legal formalities under Section 207 Cr.P.C, the case was committed to the Sessions Court, Kollam, under Section 209 Cr.P.C and made over to the Court of Additional Sessions Judge-IV for trial. At the trial, the procedure under Section 227 Cr.P.C was complied with and a charge under Sections 120B, 342, 364, 302 and 201 read with Section 34 of the IPC was framed against the accused. On reading and explaining the charge to the accused, they pleaded not guilty to the charges alleged against them. The prosecution examined PWs.1 to 63 and marked Exts.P1 to P225 and Exts.X1 to X15. MOs.1 to 26 were also identified. On the close of the prosecution evidence, the incriminating circumstances that arose against the accused were put to them under Section 313 Cr.P.C. The accused denied the entire allegations levelled against them. Accused no.1 contented that he had no enmity towards Renjith Johnson and that he had never required his erstwhile wife PW1 to return to his life. Accused nos.2 to 8 took the stand that they have no connection whatsoever with the offence. On finding that it was not a fit case to invoke Section 232 Cr.P.C, the trial court required the defence to adduce evidence. Accordingly, from the side of the defence, DWs.1 to 7 were examined and Exts.D1 to D6 marked.



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5. On closure of the evidence, the trial court heard the Public Prosecutor and the learned counsel appearing for the accused, it then proceeded to pass the judgment impugned in these appeals, convicting the appellants/accused and sentencing them in respect of the offences against which they stood charged.

**The appeals before us:**

6. We have heard Sri.P.Vijayabhanu, the learned senior counsel, Sri.B.N.Haskar, Sri.S.Rajeev, Sri.Renjith B. Marar, Sri.C.Rajendran and Smt.Priya Shanavas, the learned counsel appearing on behalf of the appellants/accused in all these appeals and Sri.S.U.Nazar, the learned Special Public Prosecutor and Sri.T.R.Renjith, the learned Public Prosecutor for the respondent State. We have also carefully perused the evidence on record and the precedents cited before us by the learned counsel.

**Discussion and Findings:**

**Nature of proof in cases involving circumstantial evidence:**

7. At the very outset, we might notice the legal principles that must inform us while re-appreciating the evidence adduced in this case. As this is a case that involves only circumstantial evidence, the standard of proof required to sustain a conviction is that the circumstances relied upon in support of the conviction must be fully established and the chain of evidence furnished by those circumstances must be so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the



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accused, and further it must be such as to show that within all human probability the act must have been done by the accused **[Bakshish Singh v. State of Punjab - [AIR 1971 SC 2016]; Hanumant Govind, Nargundkar and Another v. State of M.P. - [AIR 1952 SC 343]]**. When deciding the question of sufficiency, what the court has to consider is the total cumulative effect of all proved facts each one of which reinforces the conclusion of guilt **[State of U.P. v. Ashok Kumar Srivastava - [AIR 1992 SC 840]]**. If two views are possible on the evidence adduced in a case of circumstantial evidence, one pointing to the guilt of the accused and the other to his innocence, the court should adopt the view favourable to the accused **[Charan Singh and Others v. State of U.P. - [AIR 1967 SC 520]; Harendra Narain Singh etc. v. State of Bihar - [AIR 1991 SC 1842]]**. The evidence must also satisfy the following tests viz. (a) the circumstance from which an inference of guilt is sought to be drawn must be cogently and firmly established; (b) those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused; (c) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else **[Chandran @ Manichan @ Maniyan v. State of Kerala - [(2011) 2 SCC 12]]**; and (d) the circumstantial evidence in order to sustain a conviction must be complete and incapable of explanation on any other hypothesis other than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should also be inconsistent with his innocence **[Hanumant Govind, Nargundkar and Another v. State of M.P. - [AIR 1952 SC 343]]**;



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**Shivaji Sahabrao Bobade v. State of Maharashtra - [(1973) 2 SCC 793];**  
**Ashok Kumar Chatterjee v. State of M.P. - [AIR 1989 SC 1890]; Sharad**  
**Birdhi Chand Sarda v. State of Maharashtra - [AIR 1984 SC 1622];**  
**State of U.P. v. Dr. Ravindra Prakash Mittal - [AIR 1992 SC 2045];**  
**Vithal Eknath Adlinga v. State of Maharashtra - [(2009) 11 SCC 637];**  
**Raja Naykar v. State of Chhattisgarh - [(2024) 3 SCC 481]].**

*The circumstances in the instant case:*

8. The material circumstances projected by the prosecution in this case are (i) that the 1<sup>st</sup> accused was on inimical terms with the deceased on account of the latter having eloped with his estranged wife; (ii) that PW3, the mother of the deceased had last seen her son go out with accused nos.2, 3 and 5 in MO3 car; (iii) medical evidence to show that the death of the deceased was homicidal; (iv) that PW4 had seen accused nos.1 to 5 at a place and time when they were shifting the body of the deceased from a smaller car [MO3] to a bigger car [MO4]; (iv) the discovery of the body of the deceased based on the statement of the 3<sup>rd</sup> accused; (v) CDR data of SIM cards traceable to the accused to prove that they were conspiring with each other and evidence to prove that they were acting in furtherance of a common intention; (vi) CCTV footage and oral evidence taken from shops and toll collection booths to implicate some of the accused and (vii) recovery of the tools used by the accused for inflicting injuries on the deceased and later to dispose his body and destroy the incriminating evidence.



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Motive as a link in chain of circumstances:

9. The fact that 1<sup>st</sup> accused was on inimical terms with the deceased is proved by the testimonies of PW1, who was once married to 1<sup>st</sup> accused and then left him to live with the deceased, and PW3, the mother of the deceased. PW1's deposition, that has withstood cross examination and was rightly found reliable by the trial court speaks to the cruelty endured by her at the hands of the 1<sup>st</sup> accused which eventually led to her leaving 1<sup>st</sup> accused, and her two children from that marriage, to join the deceased. She also deposed to the animosity harboured by the 1<sup>st</sup> accused against the deceased consequent to altercations between the said two persons over the cruelty and misbehavior of 1<sup>st</sup> accused towards her. Her version stands corroborated through the deposition of PW3, the mother of the deceased who was aware of the said incidents because PW1 had stayed along with her deceased son at her house in Eravipuram. The testimony of PW3 on the said aspects has not been demolished in cross examination. That 1<sup>st</sup> accused had the motive to abduct and murder the deceased Renjith Johnson therefore stands proved through the oral testimonies of PWs.1 and 3. It is trite that in a case based on circumstantial evidence, the proof of motive would supply a link in the chain of circumstances required to be proved against the accused **[Suresh Chandra Bahri v. State of Bihar - [1995 Supp (1) SCC 80]; Sukhpal Singh v. State of Punjab - [(2019) 15 SCC 622]; Subhash Aggarwal v. State of NCT of Delhi - [(2025) 8 SCC 440]]**.

Last seen theory - for proving abduction and murder:

10. The testimony of PW3 is also relevant for implicating accused



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nos.2, 3 and 5 who she deposes to have seen going out of her house along with her deceased son on the afternoon of 15.08.2018. She also identified the said accused in court at the time of trial. Although an attempt was made by the learned counsel for the appellants/accused to cast doubts on her ability to identify the accused in court by pointing out that there was no prior Test Identification Parade [TI parade] conducted, we are of the view that the holding of a TI parade is not obligatory in all cases and a failure to hold a TI parade would not make inadmissible the evidence of identification in court **[State (NCT of Delhi) v. Navjot Sandhu @ Afsan Guru - [(2005) 11 SCC 600]; Heera and another v. State of Rajasthan - [(2007) 10 SCC 175]; Dharmendra Kumar v. State of M.P. - [(2024) 8 SCC 60]; Vinod @ Nasmulla v. State of Chattisgarh - [(2025) 4 SCC 312]].**

11. The evidence of PW3 clearly shows that the accused nos.2, 3 and 5 came to her house at 2:30 pm on 15.08.2018. According to her, they came under the pretext of purchasing pigeons, as her son was engaged in the business of selling pet birds and dogs. After arriving at her house, accused nos.2, 3 and 5 proceeded to the upstairs of her house. After a short while, one among them came downstairs and walked out of the courtyard. At that time, she noticed a white car parked in front of their gate. The remaining two accused spent approximately ten minutes with her deceased son in the upstairs and thereafter they also came down. Subsequently, her son, after changing his dress, along with the said accused, entered the car and they drove away.



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12. Of course, the above evidence of PW3 clearly shows that accused nos.2, 3 and 5 came to her house in broad daylight. A conjoint reading of her evidence suggests that she got sufficient opportunity to see the accused from her house. Further more, this is not a case where a person has seen some individuals for a fleeting moment. Here, all of them visited her house, she saw them from her house, and thereafter identified those persons as the individuals who came to her house, before the court. Therefore, a prior TI parade is not at all required in the facts of the present case to believe PW3's testimony identifying accused nos.2, 3 and 5 made for the first time before the court. Moreover, it is to be borne in mind that there is no inflexible rule that there must invariably be a TI parade to believe an identification made by a witness before the court. When the witness had sufficient opportunity to see the accused and the court is satisfied about the credibility of such identification, the absence of a TI parade would not, by itself, render the evidence unreliable. Resultantly, we have no hesitation to hold that the identification of accused nos.2, 3 and 5 made by PW3 before the court can be safely acted upon though the same is not corroborated by an earlier identification parade.

13. The significance of the evidence of PW3 is that, her evidence will certainly help the prosecution in establishing that it was in the company of accused nos.2, 3 and 5 that her deceased son was last seen alive. Under the said circumstances, obviously, there is a burden cast upon the said accused to explain what happened to the deceased after he was found in their company or when they parted ways with the deceased.



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14. As per the “Last Seen Theory” traceable to the Evidence Act, the absence of any satisfactory explanation by the named accused, when the circumstance of last seen is proved through valid evidence, would be a clear pointer to the culpability of the accused **[Dharminder Singh @ Vijay Singh v. State - [2013 KHC 4620]; Anjan Kumar Sarma & Ors. v. State of Assam - [2017 KHC 3759]]**. That apart, when the case of the prosecution is one of abduction and murder of the deceased by the accused, the absence of any satisfactory explanation by the accused concerned as regards what happened to the victim can be used to infer that the abductors were responsible for the death of the victim. As noticed by the Supreme Court in **Somasundaram @ Somu v. State - [(2020) 7 SCC 722]**, in such a situation, Section 106 of the Evidence Act would come to the aid of the prosecution, to implicate accused nos.2, 3 and 5 in the crime of murder of the deceased.

*Death of the deceased - whether homicidal and murder?*

15. As for the nature of the death of the deceased Renjith Johnson, the medical evidence of PW32 Dr.Prem T.N., the doctor who performed the post-mortem, and through whom Ext.P42 post-mortem report was marked, clearly establishes that the death was homicidal. Since the inquest and post-mortem were done at the site from where the body was disinterred, in a partially decomposed state, scientific evidence was let in through PW53 Dr.Unnikrishnan K., Assistant Director, Forensic Science Lab read with Ext.P107 DNA report to prove that the body disinterred was indeed that of PW3's son. Besides, the tattoo marks on the disinterred body were identified



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and confirmed to be that of the deceased by PW1 Jessy, who also identified MO1 Lungi and MO2 T-shirt found on the deceased as those which she had presented to the deceased. The ante-mortem injuries noticed by PW32 Dr.Prem T.N, who went on to opine that the injuries to the head, neck and chest caused the death of the deceased, also suggest that the injuries were inflicted with the intention of causing the death of the deceased. In particular, it was noticed that the fracture of the ribs had caused rupture to the lungs and that there was also a fracture of the cricoid cartilage. The said injuries, whether or not caused with the aid of weapons points to the force used by the perpetrators while assaulting the deceased. In view of the judgment of the Supreme Court in **State of West Bengal v. Mir Mohammed Omar & Ors. - [(2000) 8 SCC 382]**, we are of the view that the nature of the injuries noticed by the doctor who conducted the post-mortem is sufficient to draw an inference with regard to the intention of the perpetrator(s) who assaulted the deceased. We thus find ourselves in agreement with the trial judge that the offence of murder under Section 300 stood proved in the instant case.

Complicity of Accused Nos.1 to 5:

16. Apart from accused nos.2, 3 and 5, whose complicity in the crime of murder of the deceased has already been dealt with above, the complicity of accused nos.1 and 4 is sought to be proved by the prosecution through the evidence of PW4 Sunu, a friend of 2<sup>nd</sup> accused. He deposed to have seen accused nos.1 to 5 at Nedungolam while they were in the process of transferring the dead body of the deceased Renjith Johnson from MO3 car to



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the dicky of MO4 car. Although his deposition that he saw 5<sup>th</sup> accused Vishnu is an omission from his previous statement under Section 162, the statement that he saw accused nos.1 and 4 along with accused nos.2 and 3 have not been demolished in cross-examination. His evidence is reliable in view of the fact that he deposed to the fact that the 2<sup>nd</sup> accused was his classmate and friend, and further, the statements made by him as regards the transfer of the body of the deceased between the two cars stands corroborated by the scientific evidence that showed the presence of human blood identified as that of the deceased Renjith Johnson inside MO3 car and the dicky of MO4 car. The presence of accused nos.1 and 4 along with accused nos.2 and 3 who were instrumental in abducting the deceased from his house, as already discussed, points to the complicity of accused nos.1 and 4 along with accused nos.2, 3 and 5 in the abduction and murder of the deceased Renjith Johnson.

17. Moreover, the evidence of PW2 an independent witness, also lends support to the prosecution in proving its case as well as in proving the complicity of accused nos.2 and 4 in the commission of the offence to some extent. Her evidence shows that, she was an employee under the Employment Assurance Scheme and as part of the said Scheme, some coconut saplings were planted near a bund at Polachira. It was her responsibility to tend to those saplings by visiting the area at least once a week. Hence, on the last Independence day, after 5 p.m, she went to Polachira to nurture the coconut saplings. Then she saw a white colour car parked at the bund road near a pig farm. When she looked further, she saw Kattunni [2<sup>nd</sup> accused] along with two or three other individuals kicking and



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stamping another person brutally. On seeing the same, she got scared and ran to the shop of one Subash and informed him of the said incident. Shortly thereafter, she saw the same white car she had observed earlier proceeding towards the eastern side, driven by a man of medium complexion. During her testimony before the court, PW2 identified 2<sup>nd</sup> accused as one of the individuals who had brutally assaulted the victim near the pig farm. She also identified 4<sup>th</sup> accused as the person who was driving the car at the relevant time. Although PW2 was subjected to piercing cross-examination, she withstood the same successfully and her evidence is free from contradictions and omissions of serious nature. More pertinently even the defence does not have a case that PW2 had any sort of animosity towards accused nos.2 and 4 that would motivate her to falsely implicate them. Therefore, the evidence of PW2 will provide substantial support to the prosecution in establishing the involvement of accused nos.2 and 4 in the commission of the offence.

18. There are other incriminating circumstances proved against accused nos.1 to 5 so as to implicate them in the murder of the deceased Renjith Johnson and in the crime of destroying the evidence. It was the disclosure statement of the 3<sup>rd</sup> accused that led to the discovery of the dead body. Although there was a feeble attempt by the learned counsel for the 3<sup>rd</sup> accused to contend that insofar as the investigating officer already knew that the body of the deceased was buried at a place in Tirunelveli District in Tamil Nadu, Section 27 of the Evidence Act could not be invoked to render any portion of the disclosure statement of the 3<sup>rd</sup> accused admissible in evidence, we do not find any merit in the said contention. In our view, the said



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contention was rightly rejected by the trial court which found that the portion of the disclosure statement that was marked as Ext.P136, did not mention the exact place where the body was buried. That place was discovered only when the 3<sup>rd</sup> accused pointed to the spot after being taken to Tirunelveli. The fact that it was upon the 3<sup>rd</sup> accused pointing to the spot that the body was thereafter disinterred therefrom is deposed to by the other witnesses who were present there and is also referred to in the post-mortem certificate issued by PW32 Dr. Prem.

19. The 3<sup>rd</sup> and 4<sup>th</sup> accused are also identified by PWs.9 and 10, who are the owner and salesman respectively of the hardware shops from where MO7 plastic rope, MO8 pickaxe and MO9 and MO10 spades were purchased. While PW9 identified the 3<sup>rd</sup> accused as the person who had come to his shop and purchased MO7 plastic rope, PW10 identified the 3<sup>rd</sup> and 4<sup>th</sup> accused as the persons who purchased MO8 pickaxe and MO9 and MO10 spades from his shop. Their evidence has withstood cross-examination and has been accepted by the trial court. That apart, the CCTV footage that was extracted from the DVR seized from the latter shop and analysed by PW55, the Asst. Director (Documents) at the Forensic Sciences Laboratory shows the presence of accused nos.3 and 4, as is evident from Ext.P110 report marked through her. The fact that MO7 plastic rope, MO8 pickaxe and MO9 and MO10 spades were purchased by accused nos.3 and 4 on the night of 15.08.2018 therefore stands proved by the evidence discussed above.

20. Similarly, MO2 T-shirt and parts of both the cars [MO18, MO19 and



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MO25] were recovered based on the portion of the disclosure statement of the 2<sup>nd</sup> accused that was admissible under Section 27 of the Evidence Act. Similarly, MO7 to MO10 plastic rope, pickaxe and spades that were concealed, were discovered based on that portion of the disclosure statement of the 1<sup>st</sup> accused that was admissible under the same provision. The said objects were recovered from an abandoned place at Tamil Nadu and the recovery was effected under Ext.P45 mahazar that was proved through PW62, the investigating officer and PW33 Manoj Kumar, the independent witness to the said mahazar.

21. Thus while the deceased Renjith Johnson was last seen alive by his mother PW3, when he went out with accused nos.2, 3 and 5 on the afternoon of 15.08.2018, accused nos.1, 2 and 4 were seen later that evening by PW4 while they were in the process of shifting a dead body from MO3 car to MO4 car. It is also proved that accused nos.3 and 4 thereafter bought the plastic rope, pickaxe and two spades from the hardware shops where PWs.9 and 10 worked. The said rope, pickaxe and spades were then recovered from a place in Tirunelveli based on the disclosure statement of the 1<sup>st</sup> accused, after disinterring the body of the deceased Renjith Johnson based on the disclosure statement of the 3<sup>rd</sup> accused. The recovery of MO2 T-shirt and MO18, MO19 and MO25 parts of MO3 and MO4 cars based on the disclosure statement of the 2<sup>nd</sup> accused, the recovery of MO5 wooden stick based on the disclosure statement of the 5<sup>th</sup> accused, read with the scientific evidence that proved the presence of the deceased's blood in both the cars clearly completes the chain of proved circumstances against accused nos.1 to 5 in the abduction and



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murder of the deceased Renjith Johnson and in the subsequent destruction of the evidence thereof. The lack of any valid explanation by any of the said accused in their statements under Section 313 of the Cr.P.C fortifies the conclusion of guilt found against them based on the chain of circumstances proved against them **[Raja Naykar v. State of Chhattisgarh - [(2024) 3 SCC 481]].**

Conspiracy, whether established?

22. We now deal with the findings of the trial court on conspiracy. In a recent judgment of this Court in **Ramachandran v. State of Kerala - [2024 KLT Online 1125]**, the law regarding the offence of conspiracy was summarized as under:

**10.1.** The gist of the offence of conspiracy lies not in doing the act or effecting the purpose for which the conspiracy is formed, attempting to do them, or inciting others to do them, but in forming the scheme or agreement between the parties. The existence of an agreement is essential to a finding of conspiracy. In fact the word "conspiracy" derives from the Latin words "con" and "spirare" meaning "to breathe together". Thus, for an arrangement to constitute an agreement, the parties to it must share the same design or purpose so it can be said that they truly breathe together (Paul Jarvis & Michael Bisgrove, "*The Use and Abuse of Conspiracy*", (2014) Crim.L.R., Issue 4, 259). Mere knowledge, or even discussion, of the plan is not *per se* enough (Russel on Crime (12<sup>th</sup> Edn, Vol.1, p.202)).

**10.2.** Generally, a conspiracy is hatched in secrecy, and it may be difficult to adduce direct evidence of the same. As was observed by the Supreme Court on several occasions, in the case of offences that are committed in secrecy, it will be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence is insisted upon by the courts. A Judge does not preside over a criminal trial merely to see that no innocent man is punished. He also presides to see that a guilty man does not escape the clutches of the law. The law does not, therefore, enjoin a duty on the prosecution to lead evidence of such character, which is almost impossible to be led, or at any rate, extremely difficult to be led. The duty on the prosecution is to lead such evidence which it is capable of leading, having regard to the facts and circumstances of the case. (*Wazir Khan v. State of Uttarakhand - [(2023) 8 SCC 597]*; *Trimukh Maroti Kirkan v. State of Maharashtra - [(2006) 10 SCC 681]*).

**10.3.** The prosecution will often rely on evidence of acts of various parties to infer that they were done in reference to their common intention. The prosecution will also more often rely upon



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circumstantial evidence. The conspiracy can be undoubtedly proved by such evidence direct or circumstantial, but the court must enquire whether the two persons are independently pursuing the same end or they have come together in the pursuit of the unlawful object. The former does not render them conspirators, but the latter does. It is, however, essential that the offence of conspiracy requires some kind of physical manifestation of agreement. The express agreement, however, need not be proved. Nor is the actual meeting of two persons necessary. Nor is it necessary to prove the actual words of communication. The evidence as to transmission of thoughts sharing the unlawful design may be sufficient. (*Mohd. Naushad v. Staate (NCT of Delhi)* - [(2023) SCC Online SC 784]). In other words, it will suffice if there is a tacit understanding between conspirators as to what should be done so long as the relative acts or conduct of the parties are conscientious and clear to mark their concurrence as to what should be done.

**10.4.** It cannot also be forgotten that a criminal conspiracy is a partnership in agreement, and there is in each conspiracy a joint or mutual agency for the execution of a common object, which is an offence or an actionable wrong. When two or more persons enter a conspiracy, any act done by any one of them pursuant to the agreement is, in the contemplation of the law, the act of each of them, and they are jointly responsible therefor. This means that everything said, written or done by any of the conspirators in the execution of or reference to their common intention is deemed to have been said, done or written by each of them. This is so whether the conspirators are enrolled in a chain where 'A' enrolls 'B', 'B' enrolls 'C' and so on, or if the enrolment is of a wheel-and-hub nature where a single person at the centre does the enrolling and all other members are unknown to each other, though they know that there are other members. Persons may be members of a single conspiracy even though each is ignorant of the identity of many others who may have diverse roles to play. It is not part of the crime of conspiracy that all the conspirators need to agree to play the same or an active role. (*State through Superintendent of Police CBI/SIT v. Nalini* - [(1999) 5 SCC 253]) This doctrine of agency, that is often referred to as "the prosecutors darling" (The expression was first coined by S.A.Klein in "*Conspiracy - The Prosecutor's Darling*", (1957) 24 Brooklyn L.Rev.1) because it recognises an exception to the hearsay rule and allows the prosecution to adduce as evidence against every conspirator's acts or declarations made by one or more of their number in furtherance of their common design, finds statutory recognition in India under Section 10 of the Indian Evidence Act that reads:

"Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring as well for the purposes of proving the existence of the conspiracy as for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it."

**10.5.** As per the above statutory provision (i) there has to be *prima facie* evidence affording a reasonable ground for the court to believe that two or more persons are members of a conspiracy (ii) if the said condition is fulfilled, anything said, done or written by any one of them in reference to their common intention will be evidence against the other (iii) anything said, done or written by him should have been said, done or written by him after the intention was formed by any one of them (iv) it



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would also be relevant for the said purpose against another who entered the conspiracy whether it was said, done or written before he entered the conspiracy or after he left it, and (v) it can only be used against a co-conspirator and not in his favour. (*Sardar Sardul Singh Caveeshar v. State of Maharashtra* - [AIR 1965 SC 682]).

**10.6.** Broadly stated, the circumstances in a case, when taken together at face value, should indicate the meeting of minds between the conspirators for the intended object of committing an illegal act or an act which is not illegal, by illegal means. A few bits here and there on which the prosecution relies cannot be held to be adequate for connecting the accused with the commission of the crime of criminal conspiracy. It has to be shown that all means adopted, and illegal acts done were in furtherance of the object of the conspiracy hatched. Further, the circumstances relied on for the purposes of drawing an inference should be prior in point of time than the actual commission of the offence in furtherance of the alleged conspiracy. (*Esher Singh v. State of A.P.* - [p(2004) 1 SCC 585]).

**10.7.** The principles governing the law of conspiracy in India have been succinctly summarised in *Nalini (State through Superintendent of Police CBI/SIT v. Nalini* - [1999 (3) KLT SN 20 (C.No.23) SC = (1999) 5 SCC 253]) and *Navjot Sandhu (State (NCT of Delhi) v. Navjot Sandhu Alias Afsan Guru* - [2005 (4) KLT OnLine 1108 (SC) = (2005) 11 SCC 600] as follows:

1. Under Section 120-A IPC offence of criminal conspiracy is committed when two or more persons agree to do or cause to be done an illegal act or legal act by illegal means. When it is a legal act by illegal means overt act is necessary. Offence of criminal conspiracy is an exception to the general law where intent alone does not constitute crime. It is intention to commit crime and joining hands with persons having the same intention. Not only the intention but there has to be agreement to carry out the object of the intention, which is an offence. The question for consideration in a case is did all the accused have the intention and did they agree that the crime be committed. It would not be enough for the offence of conspiracy when some of the accused merely entertained a wish, howsoever horrendous it may be, that offence be committed.
2. Acts subsequent to the achieving of the object of conspiracy may tend to prove that a particular accused was party to the conspiracy. Once the object of conspiracy has been achieved, any subsequent act, which may be unlawful, would not make the accused a part of the conspiracy like giving shelter to an absconder.
3. Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused.
4. Conspirators may for example, be enrolled in a chain - A enrolling B, B enrolling C, and so on; and all will be members of a single conspiracy if they so intend and agree, even though each



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member knows only the person who enrolled him and the person whom he enrolls. There may be a kind of umbrella-spoke enrolment, where a single person at the centre does the enrolling and all the other members are unknown to each other, though they know that there are to be other members. These are theories and in practice it may be difficult to tell which conspiracy in a particular case falls into which category. It may however, even overlap. But then there has to be present mutual interest. Persons may be members of single conspiracy even though each is ignorant of the identity of many others who may have diverse roles to play. It is not a part of the crime of conspiracy that all the conspirators need to agree to play the same or an active role.

5. When two or more persons agree to commit a crime of conspiracy, then regardless of making or considering any plans for its commission, and despite the fact that no step is taken by any such person to carry out their common purpose, a crime is committed by each and every one who joins in the agreement. There has thus to be two conspirators and there may be more than that. To prove the charge of conspiracy it is not necessary that intended crime was committed or not. If committed it may further help prosecution to prove the charge of conspiracy.
6. It is not necessary that all conspirators should agree to the common purpose at the same time. They may join with other conspirators at any time before the consummation of the intended objective, and all are equally responsible. What part each conspirator is to play may not be known to everyone or the fact as to when a conspirator joined the conspiracy and when he left.
7. A charge of conspiracy may prejudice the accused because it forces them into a joint trial and the court may consider the entire mass of evidence against every accused. Prosecution has to produce evidence not only to show that each of the accused has knowledge of the object of conspiracy but also of the agreement. In the charge of conspiracy, the court has to guard itself against the danger of unfairness to the accused. Introduction of evidence against some may result in the conviction of all, which is to be avoided. By means of evidence in conspiracy, which is otherwise inadmissible in the trial of any other substantive offence prosecution tries to implicate the accused not only in the conspiracy itself but also in the substantive crime of the alleged conspirators. There is always difficulty in tracing the precise contribution of each member of the conspiracy but then there has to be cogent and convincing evidence against each one of the accused charged with the offence of conspiracy. As observed by Judge Learned Hand "this distinction is important today when many prosecutors seek to sweep within the dragnet of conspiracy all those who have been associated in any degree whatever with the main offenders".
8. As stated above it is the unlawful agreement and not its accomplishment, which is the gist or essence of the crime of conspiracy. Offence of criminal conspiracy is complete even though there is no agreement as to the means by which the purpose is to be accomplished. It is the unlawful agreement which is the gravamen of the crime of conspiracy. The unlawful agreement which amounts to a conspiracy need not be formal or express, but may be inherent in and inferred from the



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circumstances, especially declarations, acts and conduct of the conspirators. The agreement need not be entered into by all the parties to it at the same time, but may be reached by successive actions evidencing their joining of the conspiracy.

9. It has been said that a criminal conspiracy is a partnership in crime, and that there is in each conspiracy a joint or mutual agency for the prosecution of a common plan. Thus, if two or more persons enter into a conspiracy, any act done by any of them pursuant to the agreement is, in contemplation of law, the act of each of them and they are jointly responsible therefor. This means that everything said, written or done by any of the conspirators in execution or furtherance of the common purpose is deemed to have been said, done or written by each of them. And this joint responsibility extends not only to what is done by any of the conspirators pursuant to the original agreement but also to collateral acts incidental to and growing out of the original purpose. A conspirator is not responsible, however, for acts done by a co-conspirator after termination of the conspiracy. The joinder of a conspiracy by a new member does not create a new conspiracy nor does it change the status of the other conspirators, and the mere fact that conspirators individually or in groups perform different tasks to a common end does not split up a conspiracy into several different conspiracies.
10. A man may join a conspiracy by word or by deed. However, criminal responsibility for a conspiracy requires more than a merely passive attitude towards an existing conspiracy. One who commits an overt act with knowledge of the conspiracy is guilty. And one who tacitly consents to the object of a conspiracy and goes along with other conspirators, actually standing by while the others put the conspiracy into effect, is guilty though he intends to take no active part in the crime.
11. The cumulative effect of the proved circumstances should be taken into account in determining the guilt of the accused rather than adopting an isolated approach to each of the circumstances. Of course, each one of the circumstances should be proved beyond reasonable doubt.
12. In regard to the appreciation of evidence relating to the conspiracy, the Court must take care to see that the acts or conduct of the parties must be conscious and clear enough to infer their concurrence as to the common design and its execution.

23. In the instant case, the conspiracy is sought to be proved through the evidence suggesting the presence of accused nos.4, 6 and 7 at the rented house of the 4<sup>th</sup> accused near Decent junction, and thereafter near a pond situated at Parankimamvilla. That is sought to be supplemented by the evidence gathered from the call data records of the phones allegedly used by the various accused. Although the deposition of PW18 Ratheesh Kumar, a



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neighbour of accused nos.4 and 7 at Decent junction suggests that accused nos.4, 6 and 7 had assembled at the house of accused no.4 in Decent junction @ 5.30 p.m on 14.08.2018 and that MO3 car was also seen with the said accused, the trial court relied merely upon the lack of explanation by the said accused in their statements under Section 313 Cr.P.C, as to what they were doing with MO3 car that was allegedly used for abducting Renjith Johnson the next day [15.08.2018], to presume that the said accused had assembled there to do an illegal act.

24. In our view, the mere presence of the various accused at the places mentioned above, without anything more, cannot lead to a finding of conspiracy among all of them. This is more so because it has come out in evidence that the roles of accused nos.6 and 7 in the entire episode were very limited in that the 6<sup>th</sup> accused was allegedly posted near the house of the deceased Renjith Johnson only to track his movements on 15.08.2018, and that of the 7<sup>th</sup> accused was admittedly limited to procuring MO3 and MO4 vehicles for the other accused. Since no other overt acts have been proved against the said two accused to implicate them in the crime, we are of the view that unless there is clear evidence in the form of CDR data that would point to calls made between the 6<sup>th</sup> and 7<sup>th</sup> accused to the other accused, they cannot be implicated in the crime of conspiracy to abduct and murder the deceased Renjith Johnson.

25. An analysis of the evidence adduced in relation to the CDR data reveals that the phone no.9633442891 belongs to the deceased Renjith



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Johnson, which fact has been proved through PW46 Nodal Officer of Bharti Airtel, through whom Ext.P70 Customer Application Form and Ext.P71 CDR details were marked. Similarly, phone no.9745254557 belongs to Delix Benance, the mother of the 1<sup>st</sup> accused as proved through the deposition of PW47, the Nodal Officer of Vodafone - Idea, read with Ext.P77 Customer Application Form and Ext.P78 CDR. The phone no.7558959188 belongs to the 2<sup>nd</sup> accused as was proved through the deposition of PW48 Nodal Officer of Vodafone - Idea read with Ext.P80 Customer Application Form and Ext.P81 CDR. Phone no.7510832648 belongs to the 1<sup>st</sup> accused as proved through the deposition of PW48 Nodal Officer of Vodafone - Idea and read with Ext.P83 Customer Application Form and Ext.P85 CDR. No calls are seen made or received from this number during the period in question. Through the same Nodal Officer PW48, the phones belonging to the 5<sup>th</sup> accused [9544530363; Ext.P94 Customer Application Form; Ext.P95 address proof; Ext.P96 CDR] and the 6<sup>th</sup> accused [9544432815; Ext.P97 Customer Application Form; Ext.P98 address proof; Ext.P99 CDR] were also proved. The telephone calls between the aforesaid numbers can therefore be safely attributed to the respective owners.

26. Apart from the telephone numbers aforementioned, the phone no.9746377858 was proved as belonging to Girija, the wife of 3<sup>rd</sup> accused through the deposition of PW46 Nodal Officer Bharti Airtel read with Ext.P67 Customer Application Form; Ext.P68 CDR and Ext.P69 Section 65B certification. In the said forms, her husband's name is shown as Baiju [3<sup>rd</sup> accused]. This phone was also switched off @ 13.58.24 on 15.08.2018.



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Thereafter the SIM was used in the phone of the 5<sup>th</sup> accused @ 17.32.44 on 15.08.2018. This can be gathered from a comparison of Ext.P68 CDR data of the phone in the name of the 3<sup>rd</sup> accused's wife and Ext.P96 CDR data of the phone of the 5<sup>th</sup> accused wherein the IMEI number of his phone is shown Two other phone numbers, namely, 7902759490 [Ext.P85 Customer Application Form; Ext.P86 address proof; Ext.P87 CDR] and 9847737809 [Ext.P88 Customer Application Form; Ext.P89 address proof; Ext.P90 CDR] have been proved as belonging to Mini through PW48 Nodal Officer of Vodafone - Idea. The prosecution relies on the similarity in address of the said Mini in Exts.P86 and P89, with that of the 2<sup>nd</sup> accused, to suggest that the said Mini was actually the concubine of the 2<sup>nd</sup> accused. The suggestion of the prosecution is that phone calls made and received through the said numbers have to be attributed to the 2<sup>nd</sup> accused. Towards establishing the relationship between Mini and the 2<sup>nd</sup> accused, the testimony of PW63 is also relied upon.

27. The prosecution has proved that the phone having no.7558959188 and belonging to the 2<sup>nd</sup> accused, was used by the 1<sup>st</sup> accused by relying on the CDR data pertaining to the said phone [Ext.P81] and the CDR data pertaining to the phone in the name of the mother of the 1<sup>st</sup> accused [Ext.P78] that proves that there were many calls made between the 1<sup>st</sup> accused and his mother from the said phone in the name of the 2<sup>nd</sup> accused between 11.08.2018 and 15.08.2018. It is also proved through Ext.P81 CDR data that the phone was switched off on 15.08.2018 @ 17.35 and later switched on only on 19.08.2018. The phone no.7592058056 which belongs to PW22 Ashif Ali has also been proved through PW47 Nodal Officer Vodafone - Idea read with



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Ext.P74 Consumer Application Form; Ext.P75 Id proof and Ext.P76 CDR. The deposition of PW22 has been relied upon to show that the said number was also used by accused nos.5 and 7 at various stages. Similarly, the phone no.7994217616 has been proved through PW46 Nodal Officer, Bharti Airtel to belong to one Vishnu [Ext.P72 Consumer Application Form; Ext.P73 CDR] and the deposition of PW4 is relied upon to prove that he had obtained the said sim card from Vishnu and had handed it over to the 2<sup>nd</sup> accused at the time of their meeting on the evening of 15.08.2018. Similarly, the phone no.9188220638 that belongs to PW21 as proved through PW48 Nodal Officer Vodafone - Idea read with Ext.P64 Consumer Application Form and Ext.P65 CDR. PW21's testimony is relied upon to prove that the said phone was given to the 4<sup>th</sup> accused for his use.

28. It is significant in this connection that there was no recovery of the phones used by various accused but yet the trial court observed that it was very likely that the accused would have concealed the said phones and at any rate would have been wise enough not to use their own numbers for calling each other. The trial court proceeded on the assumption that the accused had used phones which were in the name of other persons for making the calls between them as part of the conspiracy that was hatched to abduct and murder Renjith Johnson. On a perusal of the CDR data proved in this case, a snapshot of the calls made between the various accused between 10.08.2018 to 15.08.2018 would read as follows:



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**CDR ABSTRACT OF A2, A5 & A6 FROM 10.08.2018 TO 15.08.2018**

		A2's SIM - 7558959188 (P 81)				A5 - 9544530363 (P 96)				A6 - 9544432815 (P 99)	
		MOC		MTC		MOC		MTC		MTC	
		No. of Calls	Durati on in Sec.	No. of Calls	Durati on in Sec.	No. of Calls	Durati on in Sec.	No. of Calls	Durati on in Sec.	No. of Calls	Duration in Sec.
<b>10.08.2018</b>											
A2 - 7902759490	P 87					1	17	2	80		
A2 - 9847737809	P 90					6	244	2	31		
Deceased - 9633442891	P 71					2	164				
<b>11.08.2018</b>											
A1's Mother 9745254557	P 78	1	66								
A2 - 7902759490	P 87					8	368				
A2 - 9847737809	P 90	3	117			8	358				
A4 - 9188220638	P 65					1	14	1	16		
<b>12.08.2018</b>											
A1's Mother 9745254557	P 78	2	197	2	25						
A2 - 7902759490	P 87					10	219				
A2 - 9847737809	P 90	6	222	1	309	13	640	6	266		
A2's SIM - 7558959188	P 81					1	27	6	223		
A3 - 9746377858	P 68	1	50							1	56
A4 - 9188220638	P 65					1	9	2	20		
A5 - 9544530363	P 96	6	222	1	28						
A7 - 7592058056	P 76	4	182								
<b>13.08.2018</b>											
A1's Mother 9745254557	P 78	2	135	11	369						
A2 - 7902759490	P 87					1	93				
A2 - 9847737809	P 90					4	72	3	260		
A3 - 9746377858	P 68			2	362					2	78
A4 - 9188220638	P 65	2	116								
A7 - 7592058056	P 76	5	247	4	221						
<b>14.08.2018</b>											
A1's Mother 9745254557	P 78	7	426	3	79						
A2 - 7902759490	P 87					3	136				
A2 - 9847737809	P 90	5	194			12	350	8	271		
A2's SIM - 7558959188	P 81					1	57	4	54		
A3 - 9746377858	P 68			2	130					2	43
A4 - 9188220638	P 65	2	159	1	25						
A5 - 9544530363	P 96	4	54	1	57						



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A7 - 7592058056	P 76	3	241								
Deceased - 9633442891	P 71					1	43				
<b>15.08.2018</b>											
A1's Mother 9745254557	P 78	1	37	3	42						
A2 - 9847737809	P 90					1	16	7	490		
A2's SIM - 7558959188	P 81									2	75
A3 - 9746377858	P 68	2	259								
A4 - 9188220638	P 65	1	169	1	28			5	92	21	197
A6 - 9544432815	P 99	2	74								
A7 - 7592058056	P 76	1	51								
Deceased - 9633442891	P 71					2	126				
<b>TOTAL</b>		<b>60</b>	<b>3218</b>	<b>32</b>	<b>1675</b>	<b>76</b>	<b>2953</b>	<b>46</b>	<b>1803</b>	<b>9</b>	<b>449</b>

29. When we analyse the aforesaid data in the light of the proved circumstances connecting accused nos.1 to 5, as discussed in earlier paragraphs of this judgment, their involvement in the conspiracy to abduct and murder the deceased Renjith Johnson can be seen as proved. This is because the frequency of calls between them, and the time of those calls, coincide with the date and time of the circumstances proved against them in connection with the offences with which they were charged. Also, the fact that there were many calls from the phone of the 2<sup>nd</sup> accused to the phone of the mother of the 1<sup>st</sup> accused in the days from 11.08.2018 to 15.08.2018 clearly suggests that the 1<sup>st</sup> accused was using the phone belonging to the 2<sup>nd</sup> accused to make and receive calls. Read together with the other proved circumstances that show the complicity of accused nos.1 to 5 in the abduction and murder of the deceased Renjith Johnson, their involvement in the conspiracy with the required common intention can also be seen as proved. As regards the 6<sup>th</sup> and 7<sup>th</sup> accused, their presence at any of the significant locations where the presence of the other accused was proved, was not



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established by the evidence on record.

30. Resultantly, as regards accused nos.6 and 7, we do not find sufficient evidence against them to implicate them in the charge of abduction and murder of the deceased Renjith Johnson and the subsequent destruction of evidence or in the conspiracy hatched by the other accused in that regard. We therefore allow the appeals preferred by accused nos.6 and 7 [Crl.A.No.722 of 2019 and Crl.A.No.1447 of 2019] by setting aside the conviction and sentence imposed on them by the trial court. However, we confirm the conviction and sentence entered by the trial court on accused nos.1 to 5 as charged, save to the limited extent of modifying the sentence imposed on them under Section 302 IPC to imprisonment for life. The trial court had, while imposing the life sentence on the said accused, added a rider that they should undergo a minimum sentence of 25 years without remission. This, in our opinion, was uncalled for and at any rate beyond the powers of the trial court to impose. It is therefore that we have modified the sentence imposed on accused nos.1 to 5 under Section 302 IPC to one of life imprisonment with fine.

The Crl. Appeals are disposed as above.

Sd/-  
**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-  
**JOBIN SEBASTIAN**  
**JUDGE**

prp/



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APPENDIX OF CRL.A.NO.827/2019

PETITIONER'S ANNEXURES:

ANNEXURE A1

TRUE COPY OF THE WEDDING CARD OF THE  
APPLICANT'S SISTER'S WEDDING WHICH IS  
SCHEDULED TO BE SOLEMNIZED ON 16TH NOVEMBER,  
2025.



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APPENDIX OF CRL.A.NO.886/2019

PETITIONER'S ANNEXURES:

- ANNEXURE A1                   THE TRUE COPY OF MEDICAL CERTIFICATE ISSUED  
BY MEDICAL OFFICER DISTRICT HOSPITAL, KOLLAM  
DATED 19/03/2024 OF THE PETITIONER'S FATHER.
- ANNEXURE A2                   TRUE COPY OF TREATMENT CERTIFICATE OF  
PETITIONER'S FATHER ISSUED BY MEDICAL  
OFFICER MEDICAL COLLEGE KOLLAM DATED  
01/04/2024.
- ANNEXURE A3                   TRUE COPY OF THE REPRESENTATION BY  
PETITIONER'S MOTHER TO THE JAIL  
SUPERINTENDENT.
- ANNEXURE I                    THE TRUE COPY OF THE MEDICAL CERTIFICATE  
ISSUED TO THE MOTHER OF THE APPLICANT.

RESPONDENTS ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE