

CASE COMMENT ON THE AARUSHI TALWAR CASE

*Dr. Rajesh Talwar & Anr. v. State of Uttar Pradesh*¹

by

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Introduction

This comment looks at the Allahabad High Court's decision in the Aarushi Talwar case. The case is important because it explains how the presumption of innocence works in Indian criminal law, and what an appellate court should do when a conviction is based on circumstantial evidence.

The presumption of innocence means an accused person cannot be held guilty unless the prosecution proves its case beyond reasonable doubt. The trial must also be fair, without coercion or arbitrary decisions. This comment discusses *Dr. Rajesh Talwar & Anr. v. State of Uttar Pradesh*, commonly called the Aarushi Talwar case or the Noida double murder case. It is worth studying not just for how it treats circumstantial evidence, but also for how it connects that standard to the right to a fair trial under Article 21 of the Constitution.

This concern is not merely theoretical. National Crime Records Bureau figures show that the conviction rate for offences under the Indian Penal Code has hovered around forty-six per cent in recent years, down from roughly sixty-four per cent when such data collection began in the 1950s, a decline that commentators attribute chiefly to inadequate investigation and weak prosecution rather than to any fall in criminal activity. Seen against this backdrop, an appellate court's willingness to scrutinise the completeness of a chain of circumstances, rather than simply defer to the trial court's findings, takes on added significance for the fairness of the criminal process as a whole.²

¹*Dr. Rajesh Talwar v. State of U.P.*, Criminal Appeal No. 294 of 2014, connected with *Dr. (Smt.) Nupur Talwar v. State of U.P.*, Criminal Appeal No. 293 of 2014 (Allahabad H.C. Oct. 12, 2017) (Narayana & Mishra-I, JJ.) [hereinafter *Talwar*].

² Sankar Sen, Shoddy Probe, Prosecution Impeding Conviction, THE TRIBUNE (Jan. 16, 2025), <https://www.tribuneindia.com/news/shoddy-probe-prosecution-impeding-conviction-34176>.

The trial court had convicted Aarushi's parents mainly on the strength of circumstantial evidence. The High Court later found this chain of circumstances incomplete, and said the trial court had not done enough to protect the accused from an arbitrary conviction. On appeal, the High Court went through this chain again and, applying the settled test for such cases, set the conviction aside.

The judgment was delivered on October 12, 2017. It is seen as one of the more important rulings of the Allahabad High Court in recent years, both because it reaffirmed the “chain of circumstances” rule and because it showed that the appellate process can correct a flawed conviction.

Background

The case began with the killing of Aarushi Talwar, a fourteen-year-old student of Delhi Public School, Noida, and the family's domestic help, Hemraj Banjade. Both were found dead at the Talwar family's home in Jalvayu Vihar, Noida. The appellants argued that the investigation itself was flawed, since it did not follow the “procedure established by law” that Article 21³ requires before anyone can be deprived of life or personal liberty.

Aarushi was found dead in her bedroom, her throat slit, on the night of 15–16 May 2008. At first, the police suspected Hemraj, who was missing, but his body turned up the next day on the terrace of the same flat. The case was then handed over to the Central Bureau of Investigation (CBI).

As part of its investigation, the CBI subjected the Talwars, and at various points several domestic staff who had also been treated as suspects, to polygraph examinations, brain-mapping, and narco-analysis at government forensic laboratories, techniques whose scientific reliability and legal standing have long been debated in Indian criminal investigation. None of these examinations produced material that was ultimately relied upon as substantive evidence at trial, and their extensive use has since been cited as an illustration of an investigation that leaned on speculative scientific procedures in place of more conventional evidence gathering.⁴

³.INDIA CONST. art. 21.

⁴ Pragya Jain & Taniya Roy, Critical Analysis of Arushi Talwar Murder Case, INDIAN LEGAL SOLUTION (Oct. 15, 2019), <https://journal.indianlegalsolution.com/2019/10/15/critical-analysis-of-arushi-talwar-murder-case-pragya-jain-taniya-roy/>.

The CBI changed its theory of the case more than once before finally naming the parents, Dr. Rajesh Talwar and Dr. Nupur Talwar, both dentists, as the accused. On 29 December 2010, the CBI filed a closure report; a Special CBI Magistrate rejected it on 9 February 2011 and summoned the parents to stand trial.⁵ A Special CBI Court in Ghaziabad convicted the Talwars and sentenced them to rigorous life imprisonment.⁶ This brought back into focus the test laid down in *Sharad Birdhichand Sarda v. State of Maharashtra*⁷, especially what the phrase “chain of circumstances” actually means, and how it connects to fairness and the presumption of innocence. On appeal, the High Court applied the rule from *Sharad Birdhichand Sarda*: the circumstances relied upon “must be complete” and “consistent only with the hypothesis of the guilt of the accused.”⁸

Facts

Aarushi Talwar, aged fourteen, and Hemraj Banjade, the family's domestic help, were found dead at the Talwar residence in Jalvayu Vihar, Noida, on the night of 15–16 May 2008. The trial court convicted the parents based on circumstantial evidence. The appellants said they were never properly told why they had been convicted.

In their appeal, the Talwars argued that the conviction violated their rights under Article 21 — the right to personal liberty and to a fair trial. They relied on *Sharad Birdhichand Sarda*⁹ to argue that the “chain of circumstances” rule is itself part of Article 21 protection, though it was not entirely clear how far the trial court had actually strayed from that rule.

The prosecution argued that it was not in the public interest to disclose its full reasoning. The Talwars, in response, said the trial court's judgment violated Articles 14, 20, and 21 of the Constitution.

Issues

The main questions before the Court were:

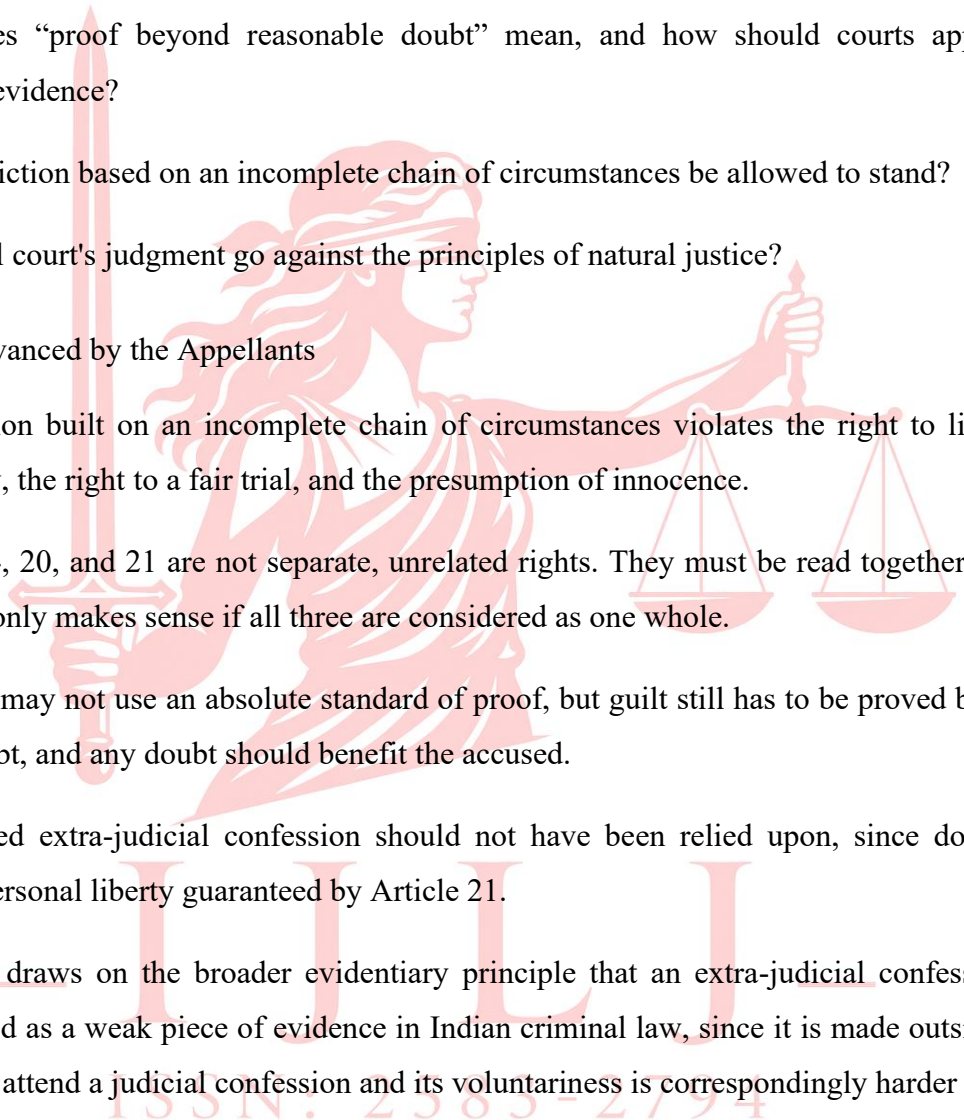
⁵ LiveLaw News Network, Aarushi-Hemraj Murder Trial Verdict Today: The Story So Far, Livelaw (Nov. 25, 2013), <https://www.livelaw.in/aarushi-hemraj-murder-trial-verdict-today-the-story-so-far>.

⁶ *State (through C.B.I.) v. Rajesh Talwar*, Sessions Trial No. 477 of 2012 (Addl. Sessions Judge & Special Judge, P.C. Act, Ghaziabad, judgment dated Nov. 25, 2013, sentencing order dated Nov. 26, 2013).

⁷ *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116.

⁸ *Sharad Birdhichand Sarda*, 4 SCC at 185.

⁹ *Sharad Birdhichand Sarda*, (1984) 4 SCC 116.

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- (a) Is the presumption of innocence absolute, or does it have limits under the Constitution?
 - (b) Does the right to a fair trial fall within Article 21?
 - (c) Do Articles 14, 20, and 21 work together, or separately?
 - (d) What does “proof beyond reasonable doubt” mean, and how should courts approach circumstantial evidence?
 - (e) Can a conviction based on an incomplete chain of circumstances be allowed to stand?
 - (f) Did the trial court's judgment go against the principles of natural justice?

Arguments Advanced by the Appellants

- (a) A conviction built on an incomplete chain of circumstances violates the right to life and personal liberty, the right to a fair trial, and the presumption of innocence.
- (b) Articles 14, 20, and 21 are not separate, unrelated rights. They must be read together, since natural justice only makes sense if all three are considered as one whole.
- (c) Indian law may not use an absolute standard of proof, but guilt still has to be proved beyond reasonable doubt, and any doubt should benefit the accused.
- (d) The alleged extra-judicial confession should not have been relied upon, since doing so infringed the personal liberty guaranteed by Article 21.

This argument draws on the broader evidentiary principle that an extra-judicial confession is generally treated as a weak piece of evidence in Indian criminal law, since it is made outside the safeguards that attend a judicial confession and its voluntariness is correspondingly harder to test. Courts have accordingly been reluctant to sustain a conviction on such a confession alone, insisting instead on independent corroboration before it is allowed to carry significant evidentiary weight.¹⁰

¹⁰ Sparsh Upadhyay, Evidentiary Value Of Extra-Judicial Confession Also Depends On Person To Whom It Is Made: Supreme Court, LIVELAW (Mar. 18, 2023), <https://www.livelaw.in/top-stories/supreme-court-evidentiary-value-of-extra-judicial-confession-weak-piece-of-evidence-section-302-ipc-acquittal-224009>.

(e) *Audi alteram partem*, the right to be heard, is a basic part of natural justice. Even though the Constitution does not spell this out directly, it is built into the fundamental rights.

Arguments Advanced by the Respondents

(a) The appellants were the last people seen with the deceased, and this alone created strong suspicion against them.

The last seen theory operates as a rebuttable presumption: once the prosecution establishes that the accused was last seen with the deceased shortly before death, the evidentiary burden shifts to the accused to explain the intervening circumstances, but the underlying fact of proximity in time and place must itself first be proved beyond reasonable doubt before this shift occurs. Commentary on the doctrine notes that it is treated as a comparatively weak link in the chain unless corroborated by other circumstances, which is why the respondents needed to anchor it to the alleged extra-judicial confession and the absence of any sign of forced entry into the flat.¹¹

(b) “Evidence” under Article 21 should not be read as the same thing as the general principles of natural justice. The respondents relied on *Hanumant Govind Nargundkar v. State of M.P.*¹² for this.

(c) “Proof beyond reasonable doubt” does not mean that every suspicion must pass a strict reasonableness test under Articles 14 and 21.

(d) When the Constitution was being drafted, there were long debates about the standard of proof needed in criminal trials. The framers chose not to write in a specific “presumption of innocence” clause, and that choice was deliberate.

Judgement

The High Court held that the trial court's judgment was void because it violated Article 21. It found that the investigating agency had been given too much unchecked power, and that the appellants were never properly heard or given a real chance to put forward their defence. The procedure

¹¹ LiveLaw News Network, Last Seen Theory Can Be Invoked Only If It Stands Proved Beyond Reasonable Doubt: Supreme Court Acquits Murder Accused, Livelaw (Sept. 9, 2023), <https://www.livelaw.in/supreme-court/supreme-court-last-seen-theory-murder-accused-237242>.

¹² *Hanumant Govind Nargundkar v. State of M.P.*, AIR 1952 SC 343.

followed also failed to meet the standard of a fair and reasonable “procedure” under Article 21. The Court allowed the appeal and acquitted the Talwars of all charges.

This judgment, delivered on October 12, 2017 by a two-judge Bench, gave real, practical meaning to the presumption of innocence in Indian criminal law. At the time, there was no law regulating how the media covered people accused of serious crimes, and the investigating agency had a great deal of discretion over how the case was handled.

Legal commentators have since pointed to the Aarushi Talwar investigation as one of the clearest Indian examples of a media trial, in which television channels and newspapers pre-empted the judicial process by naming suspects, reconstructing the alleged sequence of events, and pronouncing on guilt long before any court had examined the evidence. The Supreme Court itself restricted sensationalist reporting of the case as early as August 2009, which underscores how early and how deeply the pre-trial coverage had already shaped public perception of the Talwars' guilt.¹³

The Court repeated the rule from *Sharad Birdhichand Sarda*: a conviction based on circumstantial evidence needs a complete chain of circumstances. Since the trial court's conviction gave no clear reasons, it could not stand under Article 21, and being arbitrary, it also violated Article 14. Much of the prosecution's case rested on the “last seen” theory and an alleged extra-judicial confession by Dr. Rajesh Talwar. The Court pointed out that the “last seen” theory only works if the prosecution can also show that the time gap between when the accused was last seen with the deceased and the death itself was too short for anyone else to have committed the crime.

The Court also made clear that the fundamental rights in Part III of the Constitution should not be read as separate, watertight boxes. Any conviction that takes away someone's personal liberty must be tested against Article 21, read together with Articles 14 and 20. Article 21 uses the words “procedure established by law” rather than “due process,” but the Court said this procedure still has to be fair, just, and reasonable, not just whatever a statute happens to allow. A process that ignores *audi alteram partem* fails this test, even if the statute itself is silent on the point.

¹³ Constitutionality of Media Trials in India: A Detailed Analysis, LAWCTOPUS ACADEMIKE (Nov. 13, 2015), <https://www.lawctopus.com/academike/media-trials-india/>.

The Bench, made up of Justices B.K. Narayana and A.K. Mishra-I, also criticised the idea of a “media trial” running alongside the actual trial. It held that freedom of the press does not include the freedom to prejudge someone's guilt, and that every accused person is entitled to be presumed innocent until the prosecution proves guilt beyond reasonable doubt.

Critical Analysis and Personal View

This judgment is a good example of how the Article 21 fair trial guarantee should apply to a case built on circumstantial evidence. The Court's point that even strong suspicion is not a substitute for proof beyond reasonable doubt fits well with the rule in *Sharad Birdhichand Sarda*. Its insistence that a conviction must come with clear reasons is also a useful check against decisions that are, in effect, unexplained.

Commentary published after the acquittal has been similarly divided: some observers welcomed the judgment as a long overdue correction of an investigation marked by shifting theories and procedural lapses, while others noted that the acquittal left open the question of who was actually responsible for the deaths, a mystery that has never been judicially resolved. This ambivalence is a useful reminder that an acquittal grounded in an incomplete chain of circumstances establishes only that the prosecution failed to meet its burden, not that an alternative account of the crime has been affirmatively established.¹⁴

That said, some of the broader constitutional statements in the judgment go a bit further than the case actually required. The claim that Articles 14, 20, and 21 must always be treated as one single, undivided right is a strong one, and the Court could have made a narrower point and still reached the same result. It is also worth remembering that the decision was appealed to the Supreme Court by both the CBI and Hemraj's family¹⁵, so at the time these appeals were pending, its final place as a precedent was still not settled.

Even with that caveat, the judgment is a useful example of how an appellate court should scrutinise a conviction built on circumstantial evidence. It also shows that the right to a fair trial under Article

¹⁴ Aarushi Talwar Murder Case: Monumental Bungle, INDIA LEGAL (Oct. 16, 2017), <https://indialegallive.com/special-story/monumental-bungle-nine-years-after-no-one-killed-aarushi-talwar/>.

¹⁵ *Central Bureau of Investigation v. Rajesh Talwar, S.L.P. (Crl.) (Sup. Ct. India) (filed Mar. 8, 2018)*. *Khumkala Banjade v. Rajesh Talwar, S.L.P. (Crl.) (Sup. Ct. India) (notice issued Mar. 19, 2018)*.

21 does not end once the trial court gives its verdict; it continues to shape how an appellate court must approach the case.

Conclusion

The Aarushi Talwar case does not create entirely new law on circumstantial evidence and the presumption of innocence, but it applies the existing law to a case that had drawn huge public attention, and does so clearly. It confirms that a conviction cannot rest on an incomplete chain of circumstances, that a finding of guilt needs to be backed by reasons, and that the right to a fair trial under Article 21 carries through to the appeal stage.

The case is also one of the clearer instances of an Indian court directly addressing how heavy media coverage can affect a fair trial, and holding that such coverage cannot take the place of actual proof. How much this decision matters in the long run depended, at the time of writing, on how the Supreme Court decided the pending appeals. Even so, it remains a useful reference point on what is required to convict someone on the basis of circumstantial evidence.

This uncertainty was compounded by the wider problem of appellate delay in Indian High Courts, where criminal appeals, including some pending for several decades, have periodically drawn adverse comment from the Supreme Court itself. Even a judgment as carefully reasoned as this one, therefore, could not by itself guarantee finality within a reasonable time, since its fate remained tied to the pace at which the appellate system as a whole was able to process the matter.¹⁶

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ISSN: 2583-2794

¹⁶ When Justice Is Kept Pending, INDIA LEGAL (May 14, 2022), <https://indialegallive.com/cover-story-articles/il-feature-news/pendency-of-cases-court-backlog-allahabad-high-court-madhya-pradesh-high-court/>.