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2026:AHC:45447-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 6808 of 2022

Latafat...

..Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : Girijesh Kumar Gupta, Sandip Kumar Shukla, Amit Daga, Arun Kumar Tiwari, Ashwini Kumar Ojha, Shiv Shankar Pd Gupta

Counsel for Respondent(s) : G.A.

Court No.- 43

HON'BLE SALIL KUMAR RAI, J.

HON'BLE DIVESH CHANDRA SAMANT, J.

(Delivered By Hon'ble Divesh Chandra Samant, J.)

Introduction

1. The present Criminal Appeal has been filed under Section 374 (2) of the Code of Criminal Procedure, 1973 challenging the judgment and order of conviction and sentence dated 24.08.2022 and 27.08.2022, passed by the learned Additional District & Sessions Judge, Hapur, in Sessions Trial No. 239 of 2019 (State of U.P. Vs. Latafat and Another)

arising out of case crime No. 244 of 2019 under Section 302 I.P.C., Police Station- Garhmukteshwar, District- Hapur.

2. By the impugned judgment and order, the Appellant- Latafat has been sentenced to undergo imprisonment for life under Section 302 I.P.C. along with fine of Rs. 50,000/- and in default of payment of fine appellant was directed to undergo six months additional imprisonment.

Prosecution Case

3. Briefly, the prosecution's case as per the F.I.R. is that the marriage of the sister of the complainant was solemnized with the appellant six and half years before the alleged incident. The appellant and his family members were not happy with the gifts and dowry and they were demanding a Car and Rs. 5,00,000/- from the complainant and they also gave threats that if the demands are not met, his sister would be done to death. On 09.06.2019, the complainant received a call from the matrimonial home of his sister that sister has been killed by the family members of the appellant.

Proceedings Before Trial

Investigation and Medical Findings:

4. Investigation:

- On receiving information about the death of the deceased S.I. Vinod Kumar (PW-11) reached the spot and conducted the Inquest Proceedings on 09.06.2019 and prepared the Inquest Report Ex. Ka-3, Photo-nash Ex. Ka-4, Letter to C.M.O. Ex. Ka-5, Police Form 33 Ex. Ka-6 and Sample Seal Ex. Ka-7.
- On a written report of the complainant Ex. Ka-1 FIR was registered against Latafat, Nasir and 5 others under Sections 498A, 506, 304B IPC 3/4 Dowry Prohibition Act, the initial investigation was done by Ashok Kumar Shukla (PW-12) who, on

the basis of more than 7 years of marriage converted the offence from U/S 304B to Section 302 IPC.

- Later the investigation was conducted by SHO Raj Pal Singh Tomar (PW-13).

- During the investigation the statements of scribe of the F.I.R., complainant, Doctor and other witnesses were recorded.

- PW-12-Ashok Kumar Shukla inspected the place of incident and Prepared the site plan (Ex. Ka-8).

- Recovery: Clothes of the deceased (Material Ex. 1 to 5), three currency notes, a key and a nose pin (Material Ex. 6 to 9) collected by I.O. PW-12, which were taken into custody by the Doctor PW-10 while conducting post-mortem examination.

- After completing the investigation a charge sheet No. 244 of 2019 (Ex. Ka-9) was submitted by I.O. Raj Pal Singh (PW-13) against the accused Latafat and Nasir under Sections 302, 498A, 506 Indian Penal Code (IPC) and investigation was continued against the other accused.

- Subsequently second final report (Ex. Ka-10) dated 18.12.2019 was submitted by I.O. PW-13 with a finding that other remaining accused are not found involved in the occurrence

5. Post-mortem Examination of Shama Parveen (Autopsy Findings and Cause of Death):

- Dr. Sanjay Singh (PW-10) conducted autopsy on the dead body of the deceased on 09.06.2019, at 02:48 P.M. (Ex. Ka-2).

- Following ante-mortem injuries have been reported on the body:

External examination

- I. Abrasion over left side of face in area of 3 cm into 1 cm below left ear lobe.*
- II. Bruise of size 1 cm into 1 cm over right lateral side in mid neck and 6 CM below right ear.*
- III. Bruise of size 9 cm into 4 cm from tip of right shoulder to deltoid region of the shoulder.*
- IV. Bruise of size 4 cm into 7 cm and 55 CM below injury number 3 and 12 CM above right elbow.*
- V. Bruise of size 2 CM into 1.5 CM over right hand index finger (upper base).*
- VI. Bruise over lower lateral border of right scapula of size 8 cm into 1 cm.*
- VII. Abrasion of size 2 CM into 0.5 CM over left forearm (medial border) and 5 cm above left wrist.*

Internal Examination

6. During the internal examination of Shama Parveen's body, the Doctor found significant internal injuries/symptoms:

- Throat, liver, spleen, kidney and lungs were congested. Heart was right side full with dark red blood. Stomach was empty with 100 ml of liquid.*
- Other Findings: Blood was oozing out from mouth and foaming was present in nose and mouth. Mouth and eyes were closed. Face and eyes were congested. Petechial haemorrhage was present over the face.*

- Cause of Death: In the Doctor's opinion, death was appearing to be caused by Asphyxia about 12 to 24 hours before the post-mortem examination. Viscera was preserved to rule out the manner of death

Charges and Trial Commencement:

7. Following the completion of the investigation, the Investigating Officer submitted the charge-sheet (Ex. Ka-9) against the accused Latafat and Nasir.

- Charges Framed (30.09.2019):

- A *prima facie* case was found under Sections 302/149, 498-A, 506, IPC and $\frac{3}{4}$ Dowry Prohibition Act, (Committing Culpable Homicide Amounting to Murder in furtherance of Common Object, Demand and Receiving of Dowry and Criminal Intimidation).
- Plea: The accused pleaded not guilty to the charges and elected to stand trial.

Evidence Adduced by the Prosecution:

Documentary Evidence:

The prosecution presented the following key documents (Exs):

- **Ex. Ka-1:** Written Report (Tehrir).
- **Ex. Ka-2 :** Autopsy Report.
- **Ex. Ka-3:** Inquest Report.
- **Ex. Ka-4:** Photo-nash.
- **Ex. Ka-5:** Letter to C.M.O.
- **Ex. Ka-6:** Police Form 33.

- **Ex. Ka-7:** Sample Seal.
- **Ex. Ka-8:** Site Plan.
- **Ex. Ka-9-10:** Final Reports.
- **Ex. Ka-11:** First Information Report.
- **Ex. Ka-12:** GD entry

Material Evidence:

The following materials have been recovered by the doctor from the body of the deceased during conducting autopsy which have been proved by PW-12:

Bundle cloth, Suit, Salwar, Dupatta, Bra, Three currency note each of Rs 10/-, one key, and one nose pin (**Exhibits 1 to 09** respectively).

Witness Testimony:

The prosecution produced the following key witnesses:

Witness Type	Name/Designation	PW-No.
Complainant/ Informant	Mohd. Shanu	PW-1
Witness	Kamil Chaudhary	PW-2
Witness	Parwej	PW-3
Witness	Gulfam	PW-4
Witness	Mohd. Yunus	PW5
Witness	Sayara Bano	PW-6
Witness	Farukh	PW-7
Witness	Faqrudin	PW-8

Witness Type	Name/Designation	PW-No.
Witness	Salman	PW-9
Examining Doctor	Dr. Sanjay Singh	PW-10
Investigating Officer	S.I. Vinod Kumar	PW-11
First Investigating Officer	SI Ashok Kumar Shukla	PW-12
Second Investigating Officer	SHO Rajpal Singh Tomar	PW-13

The Appellant, in their statements under Section 313 Cr.P.C., denied the allegations and pleaded false implication. No evidence was led in defence.

Submissions of the Counsel for the Appellant

8. Learned counsel for the appellant submits that the impugned judgment and orders of conviction and sentence dated 24.08.2022 and 27.08.2022 are legally unsustainable, erroneous, and contrary to the evidence on record, having been passed in a routine and mechanical manner without proper appreciation of the material facts. It is further contended that the trial court committed a grave error in law by substituting its own findings to bridge gaps in the prosecution's case, thereby violating the settled principle that any benefit of doubt must accrue to the accused; consequently, despite significant infirmities and shortcomings in the prosecution's evidence, the court wrongly recorded a finding of guilt against the appellant.

9. Learned counsel submits that there is no direct eyewitness account in the present case. All the prosecution witnesses, who were witnesses of fact, have not supported the prosecution version in their testimonies

before the trial court. However, the learned trial court failed to consider this vital aspect and proceeded to convict and sentence the appellant without any reliable evidence.

10. Learned counsel submits that the appellant has been falsely implicated merely on suspicion and apprehension. Except such suspicion, there is no evidence whatsoever connecting the appellant with the alleged crime. The learned trial court has erred in shifting the burden of proof upon the appellant contrary to the settled principles of criminal jurisprudence.

11. Learned counsel also submits that the investigating officer himself found the implication of five other accused persons to be false and exonerated them from the case. This clearly shows that the prosecution case was doubtful and unreliable from its inception.

12. It is further submitted that the doctor, Dr. Sanjay Singh, who conducted the post-mortem examination and was examined as PW-10, categorically stated that there was only a suspicion that the deceased died due to asphyxia. There was no definite medical opinion regarding homicidal death, which further weakens the prosecution case.

13. Learned counsel contends that although the learned trial court acquitted the co-accused Nasir on the same set of evidence, the appellant has been convicted merely because he is the husband of the deceased. Such differential treatment on identical evidence is wholly arbitrary and unsustainable in law.

14. It is further submitted that the evidence on record clearly shows that the appellant and his family members themselves informed the informant and other persons about the unfortunate incident. This conduct is inconsistent with the theory of guilt, but the learned trial court failed to consider this relevant circumstance.

15. Learned counsel submits that despite absence of motive and proof of cruelty, the learned trial court wrongly convicted the appellant under

Section 302 IPC by placing undue reliance on Section 106 of the Indian Evidence Act, which cannot substitute the prosecution's burden of proof.

16. It is further argued that there is absolutely no motive attributed to the appellant for commission of the alleged offence, nor has the prosecution proved any motive during trial. In a case based on circumstantial evidence, motive is an important link in the chain of circumstances, absence of which is fatal to the prosecution case.

17. Learned counsel submits that the learned trial court itself recorded a finding that the present case rests on circumstantial evidence. However, the prosecution has failed to establish a complete and unbroken chain of circumstances pointing unerringly towards the guilt of the appellant and excluding every hypothesis of innocence.

18. It is further submitted that except a mere suspicion arising from the fact that the appellant is the husband of the deceased and that the incident took place in the matrimonial home, there is no evidence to connect the appellant with the alleged offence. On the contrary, the evidence suggests that the death may have occurred due to an accident.

19. Learned counsel further submits that the statements of the appellant and co-accused Nasir recorded under Section 313 Cr.P.C. clearly deny the allegations and assert that the deceased died due to accidental injuries. This defence has not been properly considered by the learned trial court. The learned counsel for the appellant has relied on the case laws- **(1) Ravi Vs. State of Punjab- 2025 INSC 170, (2) Rakesh and Others- 2022:HC:206581-DB, (3) Kalloo @ Kalyan Singh- 2022:HC:115465-DB and (4) Shivaji Chintappa Patil- AIR 2021 SC 1249**

Submissions of the Counsel for the State/Respondent

20. Per contra, the learned Additional Government Advocate (AGA), appearing for the State, has vehemently countered the appellants' contentions, and submitted that case is based on circumstantial evidence

which relates with the commission of offence of culpable homicide amounting to murder. The prosecution has adduced nine witnesses of fact (P.W.1 to P.W.9), but all the witnesses of fact have not supported the case of prosecution and turned hostile. It is further submitted that none of the witnesses are supposed to be witness of the manner of the death of the deceased. Their statements are relevant only for the charges levelled against the accused persons under Section 498A I.P.C. and 3/4 of Dowry Prohibition Act.

21. It is further submitted that despite the witnesses of facts turned hostile, the written report i.e. Tehreer has been proved by P.W.1 (Ex-Ka-1) wherein the informant has stated that he was informed by the accused that they have killed the sister of the informant. This fact insinuates that the death of the deceased had occurred in some suspicious condition. It is also argued by the learned A.G.A that for establishing the charges levelled against the accused under Section 302 I.P.C., all the link and the facts forming the chain of circumstances have completely been established and proved by the prosecution which suggests that the murder of the deceased has been committed by the accused.

22. It is also argued that the presence of accused at the place of occurrence is proved. Applicant is the husband of the deceased, hence, he was under obligation to inform others about the incident which is not done, therefore, it lead to adverse inference against the accused Latafat that he has committed the murder of the deceased. It is further submitted that where all the link of the chain are established, which suggests only and only one fact that the accused Latafat is a culprit for committing the alleged offence, the motive loses its importance.

23. It is further contended by the learned A.G.A. for the State that, even though there may not be any direct evidence regarding the commission of the offence, the post-mortem report clearly reveals that the death of the deceased was caused due to asphyxia as a result of ante-mortem strangulation/throttling. The symptoms noted by the doctor during the autopsy collectively indicate that the death was homicidal in

nature and that some person had committed the offence by causing the death of the deceased. It is further submitted that the applicant, being the husband of the deceased and admittedly present in the house at the time of the occurrence, he was under a legal obligation to explain the circumstances under which the death occurred. However, he has failed to furnish any plausible or satisfactory explanation in this regard.

24. In support of his contentions learned AGA for the State has relied upon Judgment of Hon'ble Supreme Court in case of **Prem Singh Vs. State of NCT of Delhi** reported in (2023) 3 SCC 372.

Findings of Trial Court

25. The Trial Court, upon appreciation of the oral and documentary evidence on record, including the testimonies of the prosecution witnesses and the post-mortem report proved by the concerned doctor, recorded a categorical finding that there was no direct eyewitness account of the alleged occurrence and that the case of the prosecution rested entirely on circumstantial evidence. While adjudicating the matter, the Trial Court observed that in cases founded on circumstantial evidence, the chain of circumstances must be so complete, cogent and coherent as to lead only to the irresistible conclusion that the accused and none else committed the offence, and that the possibility of false implication is completely ruled out.

26. In this regard, the Trial Court placed reliance upon the judgment of the Hon'ble Supreme Court in **Sharad Birdhichand Sarda v. State of Maharashtra, AIR 1984 SC 1661** and reiterated the settled principles governing conviction on circumstantial evidence. The Trial Court reproduced and applied the five golden principles laid down therein, namely:

1. That the circumstances from which the conclusion of guilt is to be drawn must be fully established and not merely "may be" established;

2. That the facts so established must be consistent only with the hypothesis of the guilt of the accused;
 3. That the circumstances must be of a conclusive nature and tendency;
 4. That they must exclude every possible hypothesis except the one sought to be proved; and
 5. That there must be a chain of evidence so complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and to show that, in all human probability, the act must have been committed by the accused.
27. On the basis of the aforesaid legal principles and the material available on record, the Trial Court proceeded to record its findings in respect of the culpability of the accused.
28. The Trial Court further recorded that, as the case is based entirely on circumstantial evidence, the question of burden of proof becomes very important. The Court observed that Section 106 of the Indian Evidence Act is applicable in the present case, since certain facts were especially within the knowledge of the accused. Therefore, it was for the accused to give a reasonable explanation regarding those facts. The Trial Court held that if the accused fails to offer a satisfactory explanation, such failure can be taken as an additional circumstance in completing the chain of evidence against him.
29. The Trial Court further recorded that all the prosecution witnesses have deposed only with regard to the alleged demand of dowry. However, none of the witnesses stated that any demand of dowry was ever made by the accused persons either in their presence or from them or from the family members of the deceased. P.W.-5 and P.W.-6, who are the parents of the deceased, also clearly denied that any dowry demand was made by the accused. Thus, the Trial Court found that there is no evidence on record to support the allegations under Sections 3/4 of the Dowry Prohibition Act and Section 498-A IPC.

30. The Trial Court further observed that none of the witnesses has stated how the death of the deceased, Shama Parveen, took place, as no one was present at the time of the incident. The evidence shows that information regarding her death was received over phone from her matrimonial home, after which her family members reached there and found her dead body lying on a cot. From these facts, the Trial Court concluded that the death occurred in her matrimonial home and that it was not a natural death and had not occurred under normal circumstances.

31. On appreciation of the medical evidence, particularly the post-mortem report, the Trial Court recorded a clear finding that the death of Shama Parveen was caused by asphyxia due to strangulation and not due to illness or accidental fall from the roof. The Court further held that although there was no evidence on record to establish demand of dowry by the accused persons, and therefore the allegation of dowry-related death was not proved, it stood conclusively established that the deceased had been homicidally killed by strangulation.

32. The Trial Court gave a clear finding that when all the circumstances proved by the prosecution are considered together, they form a complete chain which points only towards the guilt of accused Latafat. The Court held that the evidence leads to only one conclusion, namely, that the deceased, Shama Parveen, was murdered by her husband, Latafat, by strangulation, and that no other reasonable view is possible.

33. The Trial Court further held that the prosecution has proved beyond reasonable doubt that accused Latafat committed the murder of his wife. However, the prosecution failed to prove that accused Nasir had any role in the murder or that he was involved in any manner. The Court also found that no evidence was available to prove demand of dowry by either of the accused.

34. Accordingly, the Trial Court held that the charges under Sections 498-A, 302 and 506 IPC and Sections 3/4 of the Dowry Prohibition Act

were not proved against accused Nasir. In respect of accused Latafat, the charges under Sections 498-A and 506 IPC and Sections 3/4 of the Dowry Prohibition Act were also not proved. However, the charge under Section 302 IPC was held to be fully proved against accused Latafat, and he was therefore convicted under Section 302 IPC.

Analysis and Findings

35. Having heard the rival submissions advanced by the learned counsel for the appellants and the learned Additional Government Advocate (AGA) for the State, and having meticulously scrutinized the evidentiary record, we now proceed to the adjudication of this appeal.

36. To adjudicate this criminal appeal, it is imperative to meticulously scrutinize the evidentiary record to determine if the prosecution has discharged its burden of proof. This evaluation hinges on four critical pillars: the promptness and authenticity of the FIR registration, the medical determination of the cause of death, the physical manner in which the demise occurred, and, ultimately, the establishment of a clear, unbroken link between the accused appellants and the alleged commission of the offence.

37. After taking cognizance on the charge sheet, the matter was committed to the Court of Sessions Judge for trial, which got registered as Sessions Trial No. 239 of 2019. Accused appellant Latafat and other accused Nasir were charged by the then Sessions Judge, Hapur on 30.09.2019, under Section 3/4 of Dowry Prohibition Act, 498A, 506, and 302/149 I.P.C.

38. The genesis of a criminal prosecution, aimed at establishing the guilt of the accused, lies in the foundational importance of the First Information Report (FIR). This pivotal document serves as the cornerstone of the investigative process, setting the machinery of justice in motion and providing the initial, untainted account upon which the entire integrity of the case is subsequently constructed. In the present

case, a written report was submitted by the informant on the same day, i.e., 09.06.2019, after he reached the matrimonial home of his sister and found her dead body lying there, before the Station In-Charge, Police Station Garhmukteshwar, District Hapur, which has been exhibited as Ex. Ka-1, wherein it was stated that the informant had solemnized the marriage of his sister Shama with Latafat about six and a half years prior; that the husband, his family members and relatives were dissatisfied with the dowry given at the time of marriage and repeatedly demanded a car and Rs. 5,00,000; that despite several panchayats, threats were continuously extended to kill the deceased; that on the night of the incident the informant received a telephone call from the matrimonial home stating that his sister had been murdered and her dead body was lying in the house; and that upon reaching the spot, the informant found the dead body of his sister lying there, the murder having been committed jointly by the accused persons. Then, on the basis of written report, an F.I.R. (Ex. Ka-4) was registered under Section 498-A, 506, 304B I.P.C. and 3/4 of Dowry Prohibition Act on 09.06.2019, therefore, this establishes that the authorities were provided with prompt, immediate information by the deceased's own brother, which was duly recorded to initiate the preliminary administrative process.

39. As regarding prosecution witnesses not supporting the case of prosecution in their testimonies, the testimony of the first PW-1, complainant, namely, Mohd. Shanu is examined, it is found that in his examination-in-chief he has stated his sister Shama was married to Latafat about six and a half years prior to the alleged incident. On 08.09.2019, he received a call from her matrimonial home informing that Shama had died and her body was lying in the house. On reaching her matrimonial home, informant found Shama's dead body lying there. Several persons, including Shahid and Rajendra, were present at the spot. A written report was got prepared through Salman, which was signed by the informant. In his testimony, the informant did not allege

that Nasir, Rifaqat, Javed or Sajid demanded a car or Rs. 5,00,000/- from him.

40. PW-2, witness Kamil Chaudhary, who is the maternal uncle of the deceased Shama Parveen, also stated that Shama Parveen's father had given gifts and articles in the marriage according to his financial capacity. He further deposed that on 09.06.2019 at about 3:30 p.m., Latafat telephoned Shanu and informed him that his sister had expired. When he reached at the matrimonial home of the deceased she was lying dead on the cot. PW-3, Parvez, in his statement-in-chief has stated that the accused persons had not made any demand of dowry from Shama's family members. Similarly, PW-4, Gulfam, also stated in her examination-in-chief that the accused never demanded any dowry from deceased's family. PW-5, Mohammad Yunus and PW-6, Shayara Bano who are the parents of the deceased also stated that their daughter was married to the appellant about 10 years ago and her daughter had two children who lived happily and three years ago, someone had called their son-Shanu to inform that Shama had died. It was also stated by them that no demand was ever made on her daughter, not did he see anyone beating her. The testimonies of PW-7 Farooq, PW-8 Fakhruddin and PW-9 Salman do not disclose any allegation whatsoever regarding demand of dowry by the accused persons. PW-7 and PW-8 merely stated that upon receiving information about the death of Shama Parveen, they reached her matrimonial home and saw her dead body wrapped in clothes, and they identified their signatures on the inquest proceedings. Similarly, PW-9 Salman only proved the fact that he had written the written report at the dictation of the informant Shanu and identified the same on record.

41. All the aforesaid prosecution witnesses have testified only with regard to the allegation of demand of dowry, and they have consistently stated that no demand of dowry was ever made by the accused from the family of the deceased. None of the said witnesses has made any statement regarding the manner in which the death occurred or as to how the death of the deceased was caused. In these circumstances, the

prosecution witnesses cannot be treated as hostile in relation to the charge under Section 302 I.P.C., as their testimonies pertain exclusively to the issue of dowry demand.

42. As per the Inquest Report (Ex. Ka-3), Farooq, Kamil Chaudhary, Faqrudin, Parwej Gulfam and Sartaj Ahmad were nominated as Panch. As per Inquest Report, the dead body of the deceased was found lying on the floor and there were bluish bruises on both sides of the neck and both wrists of the deceased. In the opinion of the Panch and S.I. Vinod Kumar the death was appearing to be caused by throttling. The said Inquest report was proved by S.I. Vinod Kumar (PW-11).

43. In the post-mortem report, the condition of the body (ante-mortem injuries) were noted by the surgeon as mentioned here-in-above.

44. As the prosecution's case lacks direct ocular testimony, the determination of guilt rests entirely upon the strength of the circumstantial evidence, requiring the court to meticulously weave together the proven facts to see if they form an unbroken chain pointing exclusively toward the appellants.

45. Regarding appreciation of the evidences while adjudicating the case based on circumstantial evidences, the Hon'ble Supreme Court has laid down golden principles in the case of **Sharad Birdhi Chand Sarda vs State Of Maharashtra** reported in **AIR 1984 SC 1622** which are reproduced hereunder:-

“(1) The circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned 'must or should' and not 'may be' established.

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.

(3) The circumstances should be of a conclusive nature and tendency.

(4) They should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

46. In the cases based on circumstantial evidence the prosecution is required to establish each and every link to complete the chain of evidence. For making a decision about the guilt of the accused, first and foremost, the manner and cause of death of the deceased Shama Praveen is required to be examined. Since the prosecution failed in adducing any witness of fact to prove the manner of death, only the medico-legal evidences are available for ascertaining the manner and cause of death.

47. As per the prosecution story, this is a case of culpable homicide amounting to murder. There is no direct evidence available on the record which can indicate the incident to be homicide or suicide. In these circumstances, the other facts in regard to the circumstances of the incident become more important and should be dealt with extra care and cautions. Since there is no direct evidence available, the medical evidences, i.e. post-mortem report, becomes vital to ascertain the cause of death. According to the autopsy findings, the cause of death is unequivocally established as asphyxia, providing the clinical foundation necessary to ascertain the true nature of the demise.

48. Doctor Sanjay Singh PW-10 who has conducted the autopsy, has been examined, who has proved the post-mortem report, Ex. Ka-2. The dead body was stiff all over, foam was coming from nose and mouth and red blood was oozing from the mouth. The eyes were closed. The face was red and congested, eyes were also congested, blood was visible in the veins of the face, Neck and lungs were congested. In his cross examination it is stated by PW-10 that the death was caused 12-24 hours before the post-mortem examination. This witness stated before the

Court that, according to the inquest (panchayatnama) report, the deceased had died due to strangulation. He further deposed that the cause of death was asphyxia. The witness clarified that there were no injuries on the neck or body of the deceased which could be attributed to a fall on sharp stones; however, bluish contusions were found on the neck of the deceased. He also stated that the possibility of death due to asphyxia as a result of strangulation cannot be ruled out.

49. There is no material in the inquest report, the First Information Report, or the post-mortem report to suggest that the deceased died from injuries sustained after falling from the terrace. There is statement of the accused asserting that the deceased had fallen from the terrace which is not consistent with the medical evidence. The presence of multiple injuries indicates application of a force by a third party. The injuries found on the body of the deceased are neither self-inflicted in nature nor consistent with a fall, as alleged by the accused in claiming that the deceased fell from the terrace.

50. The specific injuries around the neck and the presence of struggle marks elsewhere on the body often lead to homicide. The "dark red blood" and "right heart fullness" further support a rapid death where oxygen was cut off, causing the heart to fail under pressure. The autopsy report notes facial congestion and mouth/eyes being closed. In a traumatic fall, injuries are usually asymmetrical (one side of the head or body is damaged more). The uniform congestion and petechiae on the face suggest a backup of blood caused by neck compression, not a sudden impact.

51. When a post-mortem report shows signs of asphyxia (like petechial hemorrhages and frothing) alongside localized neck injuries, the Hon'ble Supreme Court has consistently leaned toward a finding of homicidal strangulation rather than accidental death like a fall or suicide. In the case in hand it is noted that even if there are no major external marks, the presence of internal congestion of the larynx and neck muscle bruising is sufficient to prove strangulation. Post-mortem report

mentions a 1 cm x 1 cm bruise on the neck (injury No. 2) and a congested larynx. This case supports the view that such "minor" external marks are significant indicators of manual pressure on the neck.

52. Hence, on the basis of the above it can reasonably be presumed that the ante-mortem injuries found on the body of the deceased must have been sustained during the struggle put up by her while she was being strangled. The medical evidence, therefore, rules out an accidental fall and clearly indicates that the death of the deceased was homicidal. With the *corpus delicti* thus established, the inquiry shifts to the culpability of the accused-appellant.

53. A critical examination reveals that the place of occurrence is beyond the realm of dispute. The prosecution's case establishes that the death transpired within the matrimonial home (*Sasural*). This is further substantiated by the material recoveries documented during the inquest, which were formally proved through the testimonies of all the prosecution witnesses that they found the deceased lying dead in her matrimonial home, it clearly establishes that the incident occurred at the stated location.

54. Since the incident admittedly occurred in the marital home of the accused appellant and in his presence, it was incumbent upon him to explain the circumstances under which the death of the deceased occurred. However, the accused appellant failed to discharge this obligation. In such circumstances, Section 106 of the Indian Evidence Act comes into operation, which casts a burden upon the accused to explain facts especially within his knowledge when a death occurs in suspicious circumstances inside his house.

55. Recently in the case of **Sabitri Samantaray vs. State of Odisha, 2022 Live Law (SC) 503**, concerning the establishment of guilt through the circumstantial evidence and the application of Section 106 of the Indian Evidence Act, the Hon'ble Supreme Court has held:

“18. Section 106 of the Evidence Act postulates that the burden of proving things which are within the special knowledge of an individual is on that individual. Although the Section in no way exonerates the prosecution from discharging its burden of proof beyond reasonable doubt, it merely prescribes that when an individual has done an act, with an intention other than that which the circumstances indicate, the onus of proving that specific intention falls onto the individual and not on the prosecution. If the accused had a different intention than the facts are specially within his knowledge which he must prove.

*19. Thus, although Section 106 is in no way aimed at relieving the prosecution from its burden to establish the guilt of an accused, it applies to cases where chain of events has been successfully established by the prosecution, from which a reasonable inference is made out against the accused. Moreover, in a case based on circumstantial evidence, whenever an incriminating question is posed to the accused and he or she either evades response, or offers a response which is not true, then such a response in itself becomes an additional link in the chain of events. [See **Trimukh Maroti Kirkan Vs. State of Maharashtra, (2006) 10 SCC 681**]*”

56. In this case of **Sabitri Samantaray (supra)** the Hon'ble Supreme Court has relied on its another judgement **Trimukh Maroti Kirkan Vs. State of Maharashtra, (2006) 10 SCC 681** wherein the Hon'ble Court has held as under:

“15. Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a comparatively lighter character. In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to

establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.”

57. In the case of **Ganesh Lal Vs. State of Maharashtra** reported in **(1992) 3 SCC 106**, Hon’ble Supreme Court has held as under:-

“11. When the death had occurred in their custody the appellant is under an obligation in S.313 Cr.P.C. statement at least to give a plausible explanation denying the prosecution case. These facts completely are inconsistent with the innocence, but consistent with the hypothesis that the appellant is a prime accused in the commission of gruesome murder of his wife. The circumstantial evidence thus discussed is complete and consistent with the only conclusion that the inmates alone committed the crime and the appellant was one among them. ”

58. In this case of **Harijan Bhala Teja v. State of Gujarat (2016) 12 SCC 665** the Hon’ble Apex Court emphasized the burden of proof and observed:

"19. Section 106 of the Evidence Act, 1872 provides that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Since it is proved on tire record that it was only the appellant who was staying with his wife at the time of her death, it is for him to show as to in what manner she died, particularly, when the prosecution has successfully proved that she died homicidal death."

59. In a very recent case of **State of Madhya Pradesh vs Balveer Singh (2025) 8 SCC 545** the Hon'ble Apex Court has re-emphasized that while primary burden of proof never shifts from the prosecution to establish a *prima facie* case, Section 106 acts as an evidentiary bridge and held:

"87. Section 106 obviously refers to cases where the guilt of the accused is established on the evidence produced by the prosecution unless the accused is able to prove some other facts especially within his knowledge which would render the evidence of the prosecution

*nugatory. If in such a situation, the accused offers an explanation which may be reasonably true in the proved circumstances, the accused gets the benefit of reasonable doubt though he may not be able to prove beyond reasonable doubt the truth of the explanation. But if the accused in such a case does not give any explanation at all or gives a false or unacceptable explanation, this by itself is a circumstance which may well turn the scale against him. In the language of **Prof. Glanville Williams**:*

"All that the shifting of the evidential burden does at the final stage of the case is to allow the jury (court) to take into account the silence of the accused or the absence of satisfactory explanation appearing from his evidence." (emphasis supplied)"

60. Accused-appellant, when questioned as to how the deceased died under Section 313 Cr.P.C., he failed to furnish any plausible or satisfactory explanation and merely stated that she died due to fall. Accused-appellant did not seek any immediate medical assistance and only gave Paracetamol tablets to the deceased which shows complete inaction and failure to consult a doctor is wholly inconsistent with normal human conduct and instead indicates conscious indifference. PW-10 Dr. Sanjay opined that the injuries sustained by the deceased are not in such a way that may be caused by a fall, hence, the medical evidence conclusively disproves the explanation offered by the accused. His failure to obtain medical assistance is not an innocence lapse but a deliberate omission.

61. In State of **Tamil Nadu Vs. Rajendran** reported in (1999) 8 SCC 679 the Hon'ble Court has held that :-

“6. In a case of circumstantial evidence when an incriminating circumstance is put to the accused and the said accused either offers no explanation or offers an explanation which is found to be untrue, then the same becomes an additional link in the chain of circumstances to make it complete.”

62. The accused remained absent at the time of post-mortem and even at the cremation and even when the parental family of the deceased arrived. Such conduct is wholly unnatural and contrary to the human conduct and creates a doubt the role of the accused which assumes evidentiary significance under Section 8 of the Indian Evidence Act. When considered along with the false explanation and medical evidences contradicting his version, this absence becomes an additional incriminating circumstances pointing towards his guilt.

63. The facts of the case law **Ravi Vs. State of Punjab(Supra)**, whereupon the reliance has been placed by the learned counsel for the appellant, are entirely different. In the facts of this case law, the doctors opined the nature of death to be asphyxia due to hanging with ligature mark on the neck, but in the cross-examination admitted that the ligature marks may be on account of a long journey of the dead body and that the cause of death of the deceased can also be due to chronic tuberculosis.

64. In case law **Rakesh and Others(Supra)**, there was a doubt regarding the manner of death whether it was caused by suicide or homicide. The motive was not proved as well as the time of death was not established by the medical evidences. The facts of this case law are entirely different from the facts of case in hand, therefore, this case law does not apply in the present case.

65. In another case law **Kaloo @ Kalyan Singh(Supra)** relied upon by the learned counsel for the appellant, the presence of the accused was found doubtful which shattered the very foundation of the prosecution case, whereas, in the facts of the present case, the presence of the accused-appellant is established, therefore, this case law is also of no avail to the accused-appellant.

66. In the case law **Shivaji Chintappa Patil(Supra)** the facts of the case are different that there was a delay of almost three months in signing the post-mortem report by the concerned doctors. The Hon'ble Apex Court has also observed that in establishing chain of evidence,

which are so interwoven to each other, leading to no other conclusion than the guilt of the accused, the prosecution has failed even to prove a single incriminating circumstance beyond reasonable doubt.

67. It is also raised by the learned counsel for the Appellant that the prosecution has failed in establishing the 'motive' for committing the offence.

68. In its various judgements the Hon'ble Supreme Court has consistently held that when the case is otherwise proved the existence of motive is not required to be established. In the case law **Prem Singh (Supra)** relied by the learned AGA, the Hon'ble Apex Court has observed:

“17.3. We are clearly of the view that when the evidence on record unambiguously proves the guilt of the accused-appellant, the factor relating to motive cannot displace or weaken the conclusions naturally flowing from the evidence. Moreover, the present case cannot be said to be of want of motive altogether. Differently put, in our view, when all the facts and circumstances are taken together, the present one is not a case where there had been any missing link in chain of circumstances, leading only to the conclusion of the guilt of the appellant.”

69. **Mulakh Raj v. Satish Kumar (1992) 3 SCC 43** is a landmark case regarding asphyxial death. The court dealt with a situation where the defence claimed the deceased died of suicide, but the post-mortem showed Asphyxia, blood-stained froth from nostrils, and congestion of organs, the Hon'ble Court held that these findings, especially the blood-stained froth and petechial hemorrhages, are classic indicators of homicidal strangulation. In this case law the Hon'ble Court has also discussed the significance of 'motive' in the cases of circumstantial evidence and observed:

"17-Undoubtedly in cases of circumstantial evidences motive bears important significance. Motive always locks up in the mind of the accused and some time it is difficult to unlock. People do not act wholly

without motive. The failure to discover the motive of an offence does not signify its non-existence. The failure to prove motive is not fatal as a matter of law. Proof of motive is never an indispensable for conviction. When facts are clear it is immaterial that no motive has been proved. Therefore, absence of proof of motive does not break the link in the chain of circumstances connecting the accused with the crime, nor militates against the prosecution case.

70. Therefore, from the above discussions and the evaluation of evidence available on the record i.e. medical opinion, failure to offer plausible explanation and conduct of accused, it is very much clear that these circumstances, taken cumulatively lead to only irresistible conclusion that the accused is responsible for death of the deceased.

71. The findings of the Trial Court are not only amply supported by credible evidence but also represent a legally plausible view of the testimony. The appellant has failed to discharge the burden of demonstrating any perversity or manifest error that would warrant appellate intervention. Given the gravity of the offence and the strength of the evidence, the sentences imposed remain well-reasoned and proportionate. Since a rational trier of fact could easily conclude that the prosecution has proven its case, we find this appeal to be devoid of merit. Consequently, the appeal is **dismissed**.

(Divesh Chandra Samant,J.) (Salil Kumar Rai,J.)

Febraury 27, 2026

Karan