

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Crl. Appeal No.572/2004 & Crl.M.(B) 954/2008**

Reserved on : 1st October, 2008

Date of Decision : 22.10.2008

RAMA NAND

..... Appellant
Through Ms.Charu Verma, Amicus
Curiae.

Versus

STATE

..... Respondent
Through Mr.M.N.Dudeja, APP for the
State.

CORAM :

HON'BLE MR. JUSTICE ANIL KUMAR, J

HON'BLE MR. JUSTICE V.K.SHALI, J

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| 1. Whether reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether the judgment should be reported in the Digest? | Yes |

J U D G M E N T

V.K.SHALI, J:

1. This is an appeal filed by the appellant against the judgment dated 24th March, 2004 and the order of sentence dated 25th March, 2004 by virtue of which learned Additional Sessions Judge, Delhi has convicted

the appellant for an offence under Section 302 IPC and sentenced him to undergo life imprisonment and a fine of Rs.2,000/-. In the event of default of fine, the appellant was further directed to undergo rigorous imprisonment of one year.

2. Briefly stated the prosecution case against the appellant is that PW-4 Smt.Leela Devi, the land lady of the appellant, had on the morning of 16th May, 1998 found blood coming out from the room of the appellant. She opened the door of the room and found that the deceased was lying in a pool of blood, whereupon she woke up PW-2 Ranjit, son of the appellant who also saw, his mother lying dead with her throat having been cut. PW-2 Ranjit immediately went to call his Uncle PW-13 Sh.Ashok who was living in the same area namely House No.I-30, Harkesh Nagar, New Delhi. By the time, PW-2 Ranjit came back, he found that police had already come to the spot and taken steps for registration of the FIR. The Investigating Officer found the appellant missing from the spot. Accordingly, after steps were taken to declare the appellant as a proclaimed offender the charge sheet was filed. Steps were taken under Section 299 Cr.P.C. by getting the statements of seven witnesses recorded. These witnesses were PW-1 Sikandar, who identified the dead body of the deceased, PW-2 Ranjit son of the appellant, PW-3, Pappu Kumar Gupta-a neighbour of the appellant, PW-4 Smt.Leela Devi-landlady of the appellant, PW-5 Mr.Joginder Parsad (also examined as PW-7) who was the colleague of the deceased in Okhla factory, PW-6

Sh.Ajab Singh-who was the resident of the said locality and PW-7 Sh.Joginder Parsad. Thereafter, the file was consigned to the Record Room. It may be pertinent here to mention that statements of these witnesses were actually recorded on 28th January, 2000.

3. On 9th September, 2002, the appellant was arrested from Sadar Bazaar area and thereafter was put on trial.

4. On 7th February, 2003, charge under Section 302 IPC was framed against the appellant to which he pleaded not guilty and claimed trial. The charge against the appellant was that on the night of 15th and 16th May, 1998, at House No.I-30, Harkesh Nagar, New Delhi, the appellant killed his wife Lalita intentionally and thereby committed an offence under Section 302 IPC. The motive for killing the deceased Lalita has been given by the prosecution as the fact that Lalita was employed as a worker in an Export Company at Okhla whereas the appellant suspected the fidelity of the deceased. Therefore, the appellant wanted that the deceased should leave her job to which the latter was not agreeable and this was resulting in frequent quarrels between the appellant and the deceased. The appellant was having one son Ranjit aged about 10-11 wyeears at the time of alleged incident apart from one daughter of six years of age which was also alleged to be living with him.

5. The prosecution in support of its case recalled and examined the following witnesses after framing of the charge. These witnesses are PW-2

Ranjit, PW-4 Smt. Leela Devi, PW-6 Sh.Ajab Singh, PW-8 Const. Mata Prashad, PW-9 Sh.Ajit Singh, PW-10 HC Kamal Singh, PW-11 Ct.Ranbir Singh, PW-12 ASI Bijender Singh, PW-13 Ashok, PW-14 Ct.Vipin Kumar, PW-15 SI Atul Kumar, PW-16 Insp. Davender Singh, PW-17 HC Jasbir, and PW-18 SI Birjender Singh, Investing Officer and PW-19 Dr.T.Millo who proved the signatures on the post mortem report of the deceased which Ex.PW19/A.

6. The incriminating evidence was put to the accused under Section 313 Cr.P.C. The accused in his statement has denied the factum of having committed the offence. He has even denied the factum of his having gone missing for a period of four years. He has stated in his statement that he was unemployed for about 3-4 months prior to May, 1998. He has also denied his arrest on 9th September, 2002 or his medical examination on 10th September, 2002. So far as the answer to the question as to why he got involved in the present case is concerned, he has stated that he has been falsely implicated by his brother-in-law Sh.Ashok, whose name he subsequently, gave as Vinod. He has stated that he had gone mad and, therefore, had left his house. Though in his statement, he wanted to lead defence but no defence witness was examined.

7. The learned Sessions Judge after hearing the arguments pronounced the judgment on 24th March, 2004 and convicted the accused for an offence under Section 302 IPC. On 25th March, 2004, the

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learned Sessions Judge heard the accused and sentenced him to life imprisonment for an offence under Section 302 IPC and a fine of Rs.2,000/- (Rupees Two Thousand Only) and in default thereof rigorous imprisonment of one year. It was also noted by the learned Sessions Judge, Delhi that the appellant has been in custody from 9th September, 2002 till the date of passing of order of sentence and so does he even as on date.

8. The appellant after filing of the appeal was also not represented by any counsel. On 27th March, 2008 Ms.Charu Verma, Advocate who was present in the Court was appointed as Amicus to represent the appellant who had been produced in the custody as he was unrepresented.

9. We have heard the learned counsel for the appellant as well as learned counsel for the State and gone through the records. At the outset, it is stated that both the learned counsel have not disputed that this is a case, which is essentially based on circumstantial evidence. The case of the defence is that the entire chain of sequence is not complete so as to leave any hypothesis which is incompatible with the innocence of the accused and therefore, the prosecution has not been able to prove the guilt of the accused beyond reasonable doubt. Reliance in this regard has been placed in Rahman Vs. State of U.P. AIR 1972 SC 110, wherein it is held that the circumstances forming evidence must conclusively establish and even when so established they must form a

complete chain that it is not only consistent with the guilt, but also inconsistent with any reasonable hypothesis of innocence.

10. In this regard, the learned counsel for the appellant has assailed the finding of the learned Sessions Judge on four grounds.

11. The first submission which has been made by the learned counsel for the appellant is to the effect that the case of the prosecution is to the effect that the deceased Lalita was roaming around with her male co-workers which was allegedly being objected to by her husband/appellant and further that there used to be frequent quarrels between the appellant and his wife deceased Lalita on that score which culminated into the murder of the deceased. It was contended by the learned counsel that there is no evidence adduced by the prosecution to show that on the date of incident i.e. on 15th May, 1998, there was quarrel between the appellant and his deceased wife. It has also not been proved by the prosecution that the deceased used to move around with some of her male co-workers to which the appellant was having objection. Though it was conceded by the learned counsel that PW-2 Ranjit the son of the appellant in the examination-in-chief recorded on 28th January, 2000 had stated that there used to be frequent quarrels between the appellant and the deceased but this fact becomes completely doubtful on account of the fact that when he entered into the witness box on 5th August, 2003 and again on 17th March, 2004 after framing of the charge against the accused, he did not support the prosecution case regarding

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the factum of quarrel having taken place between the appellant and the deceased. He has also not testified that there was any liaison between the wife of the appellant and her co-workers as he has not stated anything in this regard. On the basis of these statements, it was contended by the learned counsel for the appellant that the very first limb of chain has not been established by the prosecution beyond reasonable doubt and therefore, the accused could not have been convicted.

12. The second submission which was made by the learned counsel for the appellant is to the effect that assuming though not admitting that the appellant was missing immediately after the alleged date of incident i.e. 16th May, 1998 or that he was not available for four years, this could not be treated as a circumstance or as an abscondance by the appellant so as to warrant any adverse inference against him. It was urged that mere abscondance by an accused could not be a ground for drawing a presumption against him so as to hold him guilty of an offence purported to have been committed by him. Reliance was placed on the Division Bench judgment of our High Court in Bhagat Bahadur Vs. State 1996 CrI. L.J. 2201.

13. On the contrary, it was stated by the learned counsel for the appellant that the appellant had gone mad on account of the fact that he was not having peace at home and, therefore, went away from his residence and continued to ply his rickshaw at Sadar Bazar. It is also urged by her that PW-2 Ranjit the son of the appellant in his statement CrI.A 572/2004 & CrI.M.B.954/08

on 5th August, 2003 had categorically stated that he was aware that his father namely the appellant used to ply rickshaw in Sadar Bazar which fact was known to the local police also but despite this, they did not make any effort to apprehend the appellant.

14. The third submission which has been made by the learned counsel for the appellant is to the effect that PW-2 Ranjit the only star witness of the prosecution has turned hostile and despite being subjected to extensive cross examination by the learned Public Prosecutor, he has not supported the prosecution case on any count either on the factum of quarrel having taken place between the appellant and his deceased wife. He has even gone to the extent of saying that on the date of incident, he had not met his father and has not seen him for a pretty long time. He has also denied that his father used to consume alcohol and thereafter beat his mother. A subsidiary to this argument of PW-2 Ranjit having turned hostile was that admittedly there was one daughter of the appellant who has also not been examined by the prosecution. She could have thrown some light on the incident. She was the material witness and was within the control of the prosecution and since she has not been produced or examined, therefore, an adverse inference be drawn against the prosecution. The learned counsel has relied upon Golla Yellugu Govindu Vs. State of Andhra Pradesh 2008 (4) SCALE 569 in this regard.

15. The fourth submission which has been made by the learned counsel for the appellant is to the effect that so far as the recovery of Kurta and Payjama being Ex.P-1 and P-2 from the alleged place of incident is concerned that is not of much significance. This is on account of the fact that admittedly the appellant was living along with the deceased in House No.I-30, Harkesh Nagar, New Delhi, and therefore, there was nothing abnormal in finding the wearing apparels or the chappal of the appellant in Jhuggi of the deceased. On the contrary the learned counsel had contended that the weapon of offence with which the throat of the deceased was slit has not been recovered by the prosecution. Consequently, the non-recovery of the weapon of offence is fatal to the prosecution case. It has also been urged by the learned counsel for the appellant that even the blood which was found on the Kurta Ex.P-2 and the other items seized from the spot namely the chappal or the saree of the deceased have not been connected with either the appellant or the deceased inasmuch as the blood stains appearing on such items were not connected with the blood group of either the deceased or the appellant and therefore, a vital link between the appellant with the commission of offence is snapped and it could not be presumed that the appellant himself has killed his wife.

16. Per contra, the learned counsel for the State has contended that so far as the question of motive is concerned, it has been proved beyond reasonable doubt that the appellant was not happy with the deceased

working in a factory in Okhla. The appellant used to suspect the fidelity of his wife on account of the fact that his wife used to move around with her co-workers and this fact has been established from the first statement of PW-2 Ranjit, which was recorded on 28th January, 2000 and corroborated by the statement of PW-4 Smt. Leela Devi, the landlady. This fact of not leaving the job was resulting in frequent quarrels between the appellant and the deceased which gave rise to an occasion to the appellant to kill his wife as she was not listening to his orders.

17. As regards, the abscondence of the appellant is concerned, it is contended by the learned counsel for the State that the appellant has not produced even an iota of evidence of having gone mad. He has simply made a bald statement in this regard under Section 313 Cr.P.C. which is not supported by any medical prescription of the doctor nor has he examined any witness in this regard. On the contrary, it is urged by him that on 10th September, 2002 that is on the very next day of his arrest when the appellant is taken for the purpose of medical examination, he does not disclose to the doctor that he is suffering from any mental disorder and even the medical examination of the appellant which is recorded in the form of MLC Ex.PW15/A does not show that the appellant was suffering from any mental ailment because of which he could have gone missing for a period of four years after the alleged date of incident. On the contrary, it is recorded in the MLC that he is very conscious, attentive and co-operative. Therefore, it is urged by the learned counsel

for the State the very factum that the appellant had absconded immediately after the commission of crime for a period of four years and did not even come to see his son and daughter clearly shows that he had a guilty mind to run away from the processes of law. Further the factum of asking his wife to leave the job to which she was not favorably inclined gave rise to a motive for him to kill her. It was also contended by the learned counsel for the State that PW-2 Ranjit has fully supported the prosecution version when he first testified on 28th January, 2000. However, when he was produced for the purpose of cross examination twice after the arrest of the appellant, he turned hostile and tried to help the appellant by denying the vital information that he had stated about the factum of frequent quarrel taking place between the mother and his father namely the appellant. It is also denied by him that he had seen his father on 15th May, 1998 before the commission of offence at his residence. It was stated by him that despite PW-2 Ranjit having turned hostile his testimony can be relied upon as it is on account of the time gap that he has been won over by the appellant and is therefore, singing his tune. As regards, the recovery of weapon of offence, it has been contended by the learned counsel for the appellant that the weapon of offence could not be recovered despite the police remand having been taken on account of the considerable time gap from the date of incident. There was almost a gap of more than four years from the date of commission of offence till the arrest of the accused by the police for the purpose of putting him in trial.

18. We have considered the submissions made by the respective sides and gone through the record. Both the counsel have not disputed that the entire case is based on circumstantial evidence and therefore, the parameters which have been laid down by the Supreme Court in circumstantial evidence has to be seen as to whether they are fully satisfied in the instant case so as to uphold the conviction of sentence of the appellant in respect of an offence under Section 302 of IPC.

19. It has been laid down by the Supreme Court in Padala Veera Reddy vs. State of A.P. and Ors. AIR 1990 SC 79 that in case of circumstantial evidence the following four points must be established before a person is convicted of the offence of which he is charged :-

“(i) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(ii) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;

(iii) 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; and

(iv) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.”

20. Coming back to the facts of the present case. The first contention which has been raised by the learned counsel for the appellant is to the effect that the entire chain of circumstance has not been conclusively

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established and therefore, the contention of the appellant cannot be sustained. Learned counsel for the appellant had also referred to the factum of PW-2 Ranjit son of the appellant having turned hostile.

21. This is not in dispute that the appellant was living with his wife and two children namely a daughter and a son. PW-2 Ranjit is the son of the appellant. After the incident having taken place on the night of 15th and 16th May, 1998, the appellant was found missing. Steps were taken by the prosecution to trace and arrest the appellant so that he could be brought to book. However, as he was untraceable, steps were initiated for declaring him as a proclaimed offender and a charge sheet was filed in the Court and the processes of law were completed by recording the statement of witnesses, which were available under Section 299 Cr.P.C. It is at this point of time that on 28th January, 2000, the statement of PW-2 is recorded wherein he categorically states that his mother was employed in a factory in Okhla and his father who was in the habit of consuming liquor used to cajole his mother namely the deceased that she must leave her job. The reason for compelling the deceased to leave the job was that he suspected the fidelity of his wife and since the deceased was resisting apparently and for valid reasons to the suggestions of the appellant, resulted in frequent quarrels between the appellant and the deceased. It is in this background that PW-2 had stated that on 15th May, 1998, a quarrel had taken place between the appellant and his wife and the next morning, PW-2 Ranjit found his mother lying in a pool of blood in the room where she used to sleep with her husband namely the

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appellant. The testimony of PW-2 is corroborated by PW-4 Smt. Leela Devi who was also examined both at the stage of the accused having been declared as a proclaimed offender and thereafter. She has stood her ground by corroborating the testimony of PW-2 on material particulars to the effect that there used to be frequent quarrels between the appellant and the deceased and the appellant was pressing the deceased to leave her job. It is only after the accused is arrested and put to trial that PW-2 is examined by the prosecution afresh. It may be pertinent here to mention that the law regarding examination of witnesses under Section 299 Cr.P.C. is very well settled. The aforesaid provision clearly lays down that if the accused absconds then the witness can be examined in his absence and the only requirement of law is that once the accused is apprehended, the witnesses who have been examined at his back have to be made available to him if they are available for the purpose of cross examination otherwise the examination of such witnesses can be read as evidence against the accused persons in case they are not available in terms specified under section 299 Cr.P.C.

In the instant case, it seems that the prosecution in a very casual manner instead of making PW-2 available to the accused person only for the purpose of cross examination wanted to examine the witness afresh and it is at that stage that in the examination in chief, he has turned hostile and not supported the prosecution case. More curious is the fact that after having the witness declared hostile, the prosecutor at a later point of time makes an application for recalling PW-2 yet again on the

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ostensible ground that the statement of PW2 is very sketchy, therefore, he would like to examine him afresh. The prosecutor ought to have known that PW-2 has already turned hostile and therefore, by recalling him afresh or by examining him afresh will not going to support the prosecution case, yet PW-2 is again called but did not support the prosecution case. Both these statements after framing of the charge against the appellant are recorded on 5th August, 2003 and 17th March, 2004. It is well settled by the Supreme Court in catena of cases that the doctrine of *falsus in uno falsus in omnibus* is not applicable to the testimony recorded during the course of criminal trial in India. Meaning that if a part of the testimony of a witness is false that does not mean that his entire testimony cannot be relied upon provided that the evidence is otherwise inspiring confidence. Even if a person has turned hostile, the testimony of such witness can be still relied upon if the same is examined minutely and so much of the statements which are found to be truthful can be safely relied upon by the Courts. In the instant case, the statement which has been recorded in the first instance on 28th January, 2000 at the back of the appellant when he had gone missing was a truthful statement. One could not lose sight of the fact that PW-2 is the son of the appellant and also son of the deceased. There is absolutely no reason for the Court to disbelieve the testimony of PW-2 as no son would testify against the father implicating him of a murder of his wife unless and until he has actually done so or there is a background to the same.

after the appellant was arrested and put to trial, there is a reason and justification for one to understand that there is a gap of more than four years from the date of the alleged offence and the apprehension of the appellant and putting him to trial. Obviously, at that point of time when PW-2, the son of the appellant has to testify, he must have realized that he has already lost his mother and by testifying against his father he is going to lose his father also because he will be convicted. Therefore, this could be the reason for him now to turned around and deny what he has stated earlier against the appellant. In the light of this background, we feel that the first statement which PW-2 made against the assailant was a truthful statement and which can be safely relied to establish one fact that prior to the date of incident, there used to be quarrel between the appellant and the deceased. The reason for the quarrel between the two were the fact that the appellant suspected fidelity of his wife and was therefore, asking her to leave her job which she later was not doing. This version also gets corroborated from the testimony of PW-4 and therefore, this fact is clearly established against the appellant. The witness having been declared hostile is totally inconsequential and does not detract from the evidentiary value of the testimony of PW-2 which was recorded on 28th September, 2000 where he has fully implicated his father. Therefore, we feel that there is no merit in the first submission of the learned counsel for the appellant.

22. The second submission of the learned counsel for the appellant has been that merely on account of the abscondance for four years could not

be held against the appellant and the fact that he had gone mad and therefore, there is no adverse inference against him. No doubt mere abscondance by a person cannot be treated as a circumstance against a person who has brought to book later on. But the facts of each and every case have to be seen in the light of the factum of abscondance and the reasons offered by the accused. In the instant case, the appellant is admittedly seen on the residence living with his wife and two children on 15th May, 1998 and suddenly on the next day, he goes missing and is not traced for as long as four years. It is totally unthinkable that a person would go missing for a period of four years without any rhyme and reason. As a matter of fact, the very abscondance by the appellant for a long period of four years clearly shows that he had a guilty mind inasmuch as having committed the alleged act of killing his wife. He wanted to run away from the processes of law. The reason which has been given by the appellant regarding his abscondance to the effect that he had gone mad and therefore, he did not go to his residence is totally unconvincing and unacceptable. Assuming for a moment that if the appellant had gone mad then he would certainly have found place in some mental asylum or a hospital rather than continuing to ply his rickshaw in Sadar Bazar. This is no argument of the learned counsel for the appellant that PW-2 was aware of the factum that the appellant was plying his rickshaw in Sadar Bazar and so was the police yet he was not arrested. If it would have been known to the local police that he was plying rickshaw in Sadar Bazar they would have certainly arrested him.

Similarly in case PW2 was averring that he was available in Sadar Bazar he would have also gone and at least tried to locate and then persuade him to come back home. Further, these two facts are again inconsistent inasmuch as in case he would have gone mad he would not have continued to ply rickshaw in Sadar Bazar or for that matter in any other area. The plea of having gone mad is nothing but a bald assertion, which is not supported by any medical evidence to show that he was actually suffering from any mental ailment.

23. The judgment which has been relied upon by the learned counsel for the appellant in Bhagat Bahadur's case (supra) will not be applicable to the facts of the present case inasmuch as there is no general proposition laid down by the Division Bench of our own High Court that mere abscondance cannot be taken against the appellant as a circumstance. The facts of each and every case have to be seen in the light of the other circumstance so as to fix the responsibility of the accused facing trial.

24. The third submission which has been made by the learned counsel for the appellant is to the effect that no adverse inference could be drawn on account of the recovery of Kurta and Payjama being Ex.P-1 and P-2 from the alleged place of incident as this is the case of the prosecution itself that the appellant was living along with his family at the place of incident and if that be so, the wearing apparels of a person would invariably be found in the house in which he has been living. No doubt, there is some merit in this submission of the learned counsel for the

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appellant that the wearing apparels of a person would be found at the normal place where he would be residing and much significance could not be attached to the same. But in the instant case, it is not mere recovery of apparels or chappal which is exhibited as Ex.P-1 and P-2 and Ex.P1/1-2 respectively but also the fact that they were found to be laced with blood. Obviously, if the wearing apparels and the chappal of the appellant were found to be laced with blood, a person would not come from outside so as to put stain on the wearing apparels on the appellant. In all probabilities, these were the items which the appellant must have been wearing at the time when he is purported to have attacked the deceased and cut her throat. The significance attached to these pieces of evidence which forms a link in the chain of proving the guilt of the accused is further fortified by the fact of his absence. So far as the question of grouping of blood on Ex.P-1 and P-2 being connected with that of the deceased or the assailant is concerned, no doubt ideally the grouping ought to have been done by the police. A perusal of the record of Trial Court shows that both these items were sealed and sent in Central Forensic Science Laboratory. However, no samples of blood group of either the deceased or the appellant were taken so as to compare the same with the blood group found on the wearing apparels of the appellant and chappal thereof. This is at best is a lapse on the part of the investigating agency which in our opinion does not cause any serious prejudice to the appellant nor does it detract from the probative

value of the circumstances so as to form a complete chain for fixing the responsibility/guilt of the appellant in committing the murder of his wife.

25. The last point which has been taken by the learned counsel for the appellant is the non-recovery of weapon of offence. No doubt the weapon of offence in the instant case has not been recovered but there is a reason for the same. The reason which we feel on account of which the weapon of offence could not be recovered is that the appellant himself had gone missing for a period of four years and after expiry of this long period when he was arrested, the police remand was taken by the local police yet there was no recovery of the weapon of offence found. Therefore, the non-recovery of weapon of offence was on account of lapse of time which was attributed to the conduct of the appellant himself and no adverse inference can be drawn against the prosecution. No other point has been urged by the learned counsel for the appellant. In the light of the aforesaid facts and circumstances, we are of the opinion that the circumstances which have been established conclusively beyond reasonable doubt by the prosecution which is to the effect :-

(i) that the appellant was living along with his wife and two children at the address given hereinabove.

(ii) that the appellant was in the habit of taking liquor and his wife was employed in a factory in Okhla. The appellant suspected the fidelity of his wife as he found his

wife frequently moving around with her male co-workers and therefore, asked her to leave the job.

(iii) the deceased was resisting to leave her job on asking of the appellant and this was the constant source of friction between the two leading to frequent quarrels.

(iv) that on the date of incident i.e. 15th May, 1998 a quarrel on account of this dispute is purported to have taken place as has been testified by PW-2 Ranjit and during the intervening night of 15th and 16th May, 1998, the appellant has cut the throat of his wife on account of which there was a considerable loss of blood and the nature of injury which is recorded in the post mortem report of the deceased Ex.PW19/A was of such a nature that in ordinary course, it would have caused the death of any such person who had suffered such injury.

(v) the appellant had a guilty mind of having committed the offence, absconded for a period of four years and did not care to even see his children especially his daughter.

(vi) the explanation which has been given by the appellant in his statement under Section 313 Cr.P.C. that he had gone missing as he had gone mad is not sustained by any

oral or documentary evidence. On the contrary, it is

totally a false plea which does not inspire any confidence and thus supply the missing link in the entire chain of circumstances so as to complete the chain.

26. In the light of the aforesaid facts and circumstances, the only conclusion which a reasonable prudent person can draw and which we are persuaded to draw is to the effect that it was the appellant and appellant alone who had committed the murder of his wife and therefore, he has been rightly found guilty of having committed an offence under Section 302 IPC. Accordingly, we uphold the conviction under Section 302 IPC and sentence of life imprisonment and a fine of Rs. 2000/- only (in default of which he shall further undergo rigorous imprisonment for one year) imposed by the learned Sessions Judge, Delhi on the appellant. The appeal is, therefore, dismissed.

(V.K.SHALI)
JUDGE

(ANIL KUMAR)
JUDGE

October 22, 2008
RN/RS