



CGHC010365432023



2026:CGHC:29247-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 2066 of 2023

Akash Rangari S/o. Late Shri Kishore Rangari, Aged About 29 Years R/o. Bhukhatola, Atal Awas, Dongargarh, District - Rajnandgaon, Chhattisgarh.

... Petitioner(s)

versus

State Of Chhattisgarh Through District - Magistrate, Dongargarh, District - Rajnandgaon, Chhattisgarh.

...Respondent(s)

(Cause-title taken from Case Information System)

For Appellant : Shri Keshav Dewangan, Advocate
For Respondent/State : Shri Sumit Singh, Dy GA

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Justice Ravindra Kumar Agrawal
Judgment on Board

Per Ramesh Sinha, Chief Justice
13.07.2026

Heard Shri Keshav Dewangan, learned counsel for the appellant.
Also heard Shri Sumit Singh, learned Dy GA, appearing for the respondent/State.

1. The appellant has preferred this Criminal Appeal filed under Section 374 (2) of the Criminal Procedure Code against the judgment of conviction and order of sentence dated 26.08.2023 passed by the learned Additional Sessions Judge, Dongargarh, District-Ranandgaon in Sessions Trial No.19 of 2021, whereby the appellant has been convicted

under Section 302 of the IPC, and sentenced for Life Imprisonment with fine of Rs. 1,000/-, in default of payment of fine, additional imprisonment for six months.

2. Case of the prosecution is that the complainant Nirmala, PW2 gave merg intimation to the Police that the appellant informed her through phone that his wife-Lokeshwari has died due to chest pain and when she had gone there, she saw her dead-body, covered with a bed-sheet. When she tried to see her dead-body, appellant stopped her. She noticed injury mark on her neck and when she asked from the appellant, he disclosed that his wife- Lokeshwari has committed suicide by hanging and when he got her dead-body down, he received injury on his body. Merg intimation Ex.P2 was recorded by the Police, and then inquest Ex.P4 of the dead-body of the deceased was also prepared in presence of the witnesses. The dead-body was sent for its postmortem to the Community Health Centre, Dongargarh, where Dr Shashank Bais, PW3 conducted postmortem and gave his report, Ex.P5. While conducting the postmortem, the doctor noticed multiple scratch marks over her chin and neck; skin around fingers of hand was pealed; and Hyoid bone fractured along with atlanto occipital joint fracture. The doctor further opined that injuries were antemortem in nature, Hyoid bone and atlanto occipital joint fracture, and the cause of death was throttling (homicidal death). Spot map Ex.P6 was prepared by the Police and Ex.P1 was prepared by the Patwari. Short postmortem report Ex.P7 was also obtained by the Police from the doctor. FIR Ex.P10 was registered against the appellant

for the offence under Section 302 of the IPC. Appellant was arrested on 01.07.2021 and he too was sent for his medical examination to the Community Health Centre, Dongargarh, where he was also examined by Dr Shankar Majumdar, PW11, who found right wrist swelling, left wrist scratch mark (minor), minor scratches below left pinna (ear), which are simple in nature and gave his report Ex.P12.

3. Statement of the witnesses under Section 161 of CRPC has been recorded and after completion of usual investigation, charge-sheet was filed against the appellant for the offence under Section 302 of IPC before the learned Additional Chief Judicial Magistrate, Dongargarh. The case was committed to the learned Sessions Judge, Rajnandgaon, from where, it has been transferred to the learned trial Court for its trial.

4. The learned trial Court has framed charge for the offence under Section 302 of the IPC, and in alternative, Section 306 of the IPC. The appellant denied the charge and claimed trial.

5. In order to prove the charge against the appellant, the prosecution has examined as many as 11 witnesses. Statement of the appellant under Section 313 of CRPC has also been recorded, in which he denied the circumstances appearing against him, and has submitted that he is innocent and has been falsely implicated in the offence.

6. After appreciation of oral as well as documentary evidence led by the parties, the learned trial Court acquitted the appellant from the

offence of Section 306 of the IPC. However, appellant has been convicted and sentenced for the offence under Section 302 of the IPC as has been mentioned in the earlier part of the judgment, hence this appeal.

7. Learned counsel for the appellant would submit that the prosecution has failed to prove its case beyond reasonable doubt. There are material omissions and contradictions in the evidence of prosecution witnesses, which cannot be made basis to convict the appellant for the offence in question. There is no eyewitness to the incident, and the deceased herself committed suicide. Merely on the fact that the appellant was found present in his house at the relevant time, appellant has been implicated in the crime in question. The doctor has also admitted that the injuries found on the neck of the deceased may be caused by hanging and there is probability that the defence of the accused that she committed suicide and she has not died due to any physical assault made by the appellant. The appellant has also explained his injuries that while he getting down the dead-body of deceased from hanging condition, he also received injuries on his hands. Even there is no motive to commit murder of the deceased, proved by the prosecution. Appellant himself informed the death of the deceased to her sister, which also shows his *bona fide* intention. There is lack of cogent and clinching evidence against the appellant to convict him for commission of murder of the deceased. Prosecution has not seized any ligature by which the alleged throttling is stated to have been committed by the appellant. Therefore, in absence

of any cogent and clinching evidence, appellant's conviction and sentence cannot be sustained, and he is entitled for acquittal.

8. Per contra, learned counsel for the State opposes the submissions made by learned counsel for the appellant and has submitted that the prosecution has proved its case beyond reasonable doubt. But for minor omissions or contradictions, the evidence of prosecution witnesses is fully reliable and sufficient to hold the appellant guilty. Presence of the appellant in the house is proved by PW2-Nirmala, who is sister of the deceased, to whom the deceased informed about the death of the deceased. Dead-body of the deceased is found inside the room, where the appellant and the deceased resided together. The death was homicidal in nature, and the injuries have been noticed on her neck and her death was due to throttling. The circumstances under which the dead-body of the deceased was found inside the room that too having injury on her neck and the cause of death was throttling, have not been explained by the appellant, rather he gave false explanation that the deceased committed suicide. He would further submit that the appellant has not imputed intervention of any third person and therefore, learned trial Court has rightly convicted the appellant and sentenced him which does not require interference by this court.

9. We have heard learned counsel for the parties and perused the record with utmost circumspection.

10. The first and foremost question arises for consideration would be the nature of death of the deceased as to whether she died due to homicidal death, or she died due to hanging, as the defence taken by the appellant.

11. From the evidence of PW2-Nirmala, it is evident that she came to know about the incident when the appellant informed her through telephone. She also stated in her evidence that the appellant informed her that due to chest pain and heart attack, deceased died. When she had gone there and saw the dead-body, she saw injury on her neck and abrasion on her face. She also stated in her evidence that the appellant disclosed before the Police that the deceased committed suicide by hanging herself to the ceiling fan. Same averment has been reflected from the merged intimation Ex.P2. The witnesses Nirmala-PW2, Smt Dhaneshwari-PW7, Yugal Kishor-PW6 are the witnesses to the inquest, Ex.P4. They also stated about the stand of the appellant that one time he stated that the deceased died due to heart attack and another time, he stated that the deceased committed suicide by hanging. They saw the injuries on the dead-body of the deceased. PW5-Raju Patel is the Executive Magistrate, who conducted the inquest, Ex.P4, has also stated about the injuries on the dead-body of the deceased.

12. PW3-Dr Shashank Bais, who conducted postmortem of the dead of the deceased, stated in his evidence that on 30.06.2021, dead-body of the deceased-Lokeshwari was brought before him for its postmortem, on

whom, he found multiple scratch marks over her chin and neck; skin around fingers of hand was pealed; and Hyoid bone fractured along with atlanto occipital joint fracture. The doctor further opined that injuries were antemortem in nature, Hyoid bone and atlanto occipital joint fracture, and the cause of death was throttling (homicidal death).

In cross-examination, he admitted that the scratch marks could be self inflicted. He further admitted that if any person committed suicide, there is very less possibility of fracture of neck bone but it may happen.

13. In the present case, appellant could not produce any circumstance which suggests that the deceased committed suicide inside the room. The neck injury including the fracture of neck bone and other scratch marks on her face duly suggest that she was being assaulted by the appellant and her death is not by hanging or suicide but her death was homicidal on account of throttling by physical violence.

14. The witness, who saw the dead-body noticed injuries on neck of the deceased, for which the appellant gave false explanation, either she died due to chest pain, or she committed suicide.

15. Learned trial Court after appreciation of the evidence of the doctor, as well as other witnesses, rightly held that death of the deceased was homicidal in nature and not by hanging. This court is also concur with the finding of the learned trial Court about the nature of death of the deceased that her death was homicidal.

16. So far as the involvement of the appellant in the offence in question is concerned, appellant could not dispute that on the alleged date and time of incident, he was with the deceased in their house. He also could not dispute that on the next morning, he made a telephonic call to the sister of the deceased, who came there and saw the dead-body. Other witnesses of the inquest including PW5- Raju Patel, the Executive Magistrate, who conducted the inquest, saw the injuries on her body. One more important evidence available in the case is that appellant has also injured and there is no sufficient explanation about his injury.

17. From the evidence of PW11- Dr Shankar Majumdar, who medically examined the appellant, has proved the injury report Ex.P12 of the appellant by which, he found right wrist swelling, left wrist scratch mark (minor), minor scratches below left pinna (ear), which are simple in nature and there is no explanation from the appellant as to how he received the above injuries.

18. When the appellant and the deceased were found inside the house in night and in the morning deceased-Lokeshwari was found dead due to homicidal death, appellant was also found injured and there is no plausible explanation from him either about the death of the deceased, or the injuries found on his body, further a false explanation was given from him that the deceased died due to chest pain and heart attack and subsequently, he changed his version that she committed suicide, clearly

pointing towards guilty of the appellant that he committed murder of the deceased by throttling.

19. The documentary evidence prepared at the spot corroborates the prosecution case that the place of occurrence was the house of the appellant itself, where the deceased was residing with him. From the evidence of these witnesses and the spot map, it transpires that the deceased was residing with the appellant in his house and that her dead body was found inside the said house in homicidal circumstances. Though the appellant, in his statement under Section 313 CrPC, denied the prosecution allegations and claimed false implication, he did not furnish any explanation as to how the deceased suffered homicidal death inside his house, nor did he lead any defence evidence to probabalise any alternative version.

20. In the case of ***Nagendra Sah Vs. The State of Bihar (2021) 10 SCC 725*** the Hon'ble Supreme Court in Para 23 has held as under:

“23. When a case is resting on circumstantial evidence, if the accused fails to offer a reasonable explanation in discharge of burden placed on him by virtue of Section 106 of the Evidence Act, such a failure may provide an additional link to the chain of circumstances.”

21. In the case of ***Balvir Singh v. State of Uttarakhand, (2023) Live Law (SC) 861*** the Hon'ble Supreme Court in Para 33 and 34 has held as under:

“33. Section 106 of the Evidence Act, states as under: "106. Burden of proving fact especially within knowledge. When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.(b) A is charged with travelling on a railway without a ticket, The burden of proving that he had a ticket is on him.

34. Section 106 of the Evidence Act referred to above provides that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. The word "especially" means facts that are pre-eminently or exceptionally within the knowledge of the accused. The ordinary rule that applies to the criminal trials that the onus lies on the prosecution to prove the guilt of the accused is not in any way modified by the rule of facts embodied in Section 106 of the Evidence Act. Section 106 of the Evidence Act is an exception to Section 101 of the Evidence Act. Section 101 with its illustration (a) lays down the general rule that in a criminal case the burden of proof is on the prosecution and Section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible or at any rate disproportionately difficult for the prosecution to establish the facts which are, "especially within the knowledge of the accused and which, he can prove without difficulty or inconvenience.”

22. A false unsubstantiated defence of alibi is an additional incriminating factor against the appellant. In ***Trimukh Maroti Kirkan v. State of Maharashtra***, 2006 (10) SCC 681, it was observed as follows :-

“22. Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime they were seen together or the offence takes place in the dwelling home where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime. In *Nika Ram v. State of H.P.* it was observed that the fact that the accused alone was with his wife in the house when she was murdered there with “khukhri” and the fact that the relations of the accused with her were strained would, in the absence of any cogent explanation by him, point to his guilt. In *Ganeshlal v. State of Maharashtra* the appellant was prosecuted for the murder of his wife which took place inside his house. It was observed that when the death had occurred in his custody, the appellant is under an obligation to give a plausible explanation for the cause of her death in his statement under Section 313 CrPC. The mere denial of the prosecution case coupled with absence of any explanation was held to be inconsistent with the innocence of the accused, but consistent with the hypothesis that the appellant is a prime accused in the commission of murder of his wife. In *State of U.P. v. Dr. Ravindra Prakash Mittal* the medical evidence disclosed that the wife died of strangulation during late night hours or early morning and her body was set on fire after sprinkling kerosene. The defence of the husband was that the wife had committed suicide by burning herself

and that he was not at home at that time. The letters written by the wife to her relatives showed that the husband ill-treated her and their relations were strained and further the evidence showed that both of them were in one room in the night. It was held that the chain of circumstances was complete and it was the husband who committed the murder of his wife by strangulation and accordingly this Court reversed the judgment of the High Court acquitting the accused and convicted him under Section 302 IPC. In *State of T.N. v. Rajendran* the wife was found dead in a hut which had caught fire. The evidence showed that the accused and his wife were seen together in the hut at about 9.00 p.m. and the accused came out in the morning through the roof when the hut had caught fire. His explanation was that it was a case of accidental fire which resulted in the death of his wife and a daughter. The medical evidence showed that the wife died due to asphyxia as a result of strangulation and not on account of burn injuries. It was held that there cannot be any hesitation to come to the conclusion that it was the accused (husband) who was the perpetrator of the crime.”

23. Accordingly, after having meticulously examining the evidence on record, we are of the considered opinion that the learned trial court has rightly convicted the appellant and sentenced him for the offence under Section 302 of the IPC for commission of murder of his wife-Lokeshwari and we do not find any illegality or perversity in the said finding recorded by the trial Court.

24. In the result, the appeal fails and is hereby **dismissed**. The appellant is reported to be in jail since 01.07.2021. He shall undergo the entire sentence as awarded by the trial Court.

25. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

26. The records of the case along with a copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice