

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Crl. Appeal -D No. 1118-DB of 2009(O&M)

Date of Decision: October 7 , 2016.

Naveen @ Meenu APPELLANT (s)

Versus

State of Haryana RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE S.S.SARON
HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. R.N.Lohan, Advocate and
Mr. S.S.Nain, Advocate
for the appellant.

Mr. Surender Singh Pannu, DAG, Haryana.

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

LISA GILL, J.

The appellant – Naveen @ Meenu son of Gopi Ram has been convicted for the offence punishable under Section 302 IPC by the learned Sessions Judge, Bhiwani vide judgment dated 07.11.2009. He has been sentenced to undergo imprisonment for life vide order dated 09.11.2009, besides, pay a fine of ₹25,000/- and in default thereof, undergo further rigorous imprisonment for two years. Aggrieved from his aforesaid conviction and sentence, the appellant has approached this Court, by filing

the instant appeal.

As per the prosecution version, PW1 Fateh Singh (complainant) met Inspector Data Ram (PW10) along with other police officials on 12.03.2009 at 12.15 p.m. at the Bus Stand Baliyali. Statement (Ex.P1) of Fateh Singh (complainant) was recorded by PW10 Inspector Data Ram. The complainant Fateh Singh informed that his daughter Bimla @ Kali (deceased) was married to the appellant – Naveen @ Meenu about 10 years prior to the incident that occurred on 12.03.2009. Two sons, namely, Ravi (6 years old) and Golu (5 years old) were born from their marriage. Appellant – Naveen @ Meenu was stated to be a drunkard and a gambler. The appellant used to demand money from Bimla @ Kali (deceased) for gambling and when she did not give money to him, he sold her ornaments and squandered the money. The appellant demanded money from Bimla @ Kali (deceased) on the occasion of 'Makar Sakranti'. When she refused, Bimla @ Kali was subjected to physical abuse by the appellant. Bimla @ Kali was got treated at Bhiwani and Rohtak. However, no criminal action was taken against the appellant because the complainant's daughter, Bimla @ Kali stopped them from taking action as she wanted to live in her matrimonial home to look after her children. The complainant was informed telephonically by Gopi Ram (father of the appellant) on 12.03.2009 at about 7.00 a.m., that the complainant's daughter, Bimla @ Kali was murdered by the appellant on the night intervening 11/12.03.2009.

The complainant, on receipt of this information, proceeded to

village Baliyali along with his wife, nephew Rishi Pal and other persons. They found that the appellant had caused injuries on the eyes and face of deceased – Bimla @ Kali. The complainant expressed a firm belief that the appellant had done his wife Bimla @ Kali to death.

FIR (Ex.P26) was registered on the abovesaid statement of the complainant – Fateh Singh. Photographs (Ex.P2 to P8) of the place of incident as well as of the dead body were taken. Inquest report (Ex.P17) was prepared. The deadbody was sent for post-mortem examination through PW8 ASI Ajit Singh along with an application (Ex.P14). The blood at the spot and the pieces of broken bangles (Ex.P25) were lifted and taken in possession vide memo Ex.P19. Rough site plan (Ex.P20) of the place of occurrence was prepared. Post-mortem examination on the dead-body of Bimla @ Kali was conducted by Dr. S.S.Dhankar (PW9) along with Dr. T.S.Bagri. Post-mortem report (Ex.P16) is on record. The parcel of clothes, sample seal etc. were handed over by the doctor to ASI Ajit Singh (PW8). They were taken in possession by PW10 Inspector Data Ram vide Ex.P15.

The appellant was produced before PW10 Inspector Data Ram on 13.03.2009 by Laxman Singh Ranga (PW3) in the presence of Ajit Singh (PW8) son of Fateh Singh and Ram Chander (PW6). The appellant had made an extra judicial confession before PW3 Laxman Singh Ranga admitting that he murdered his wife on 12.03.2009. The statement of Laxman Singh Ranga (PW3) was recorded.

The appellant made a disclosure statement (Ex.P10) stating that

when his wife Bimla @ Kali refused to give him money for alcohol and gambling, he slapped her and inflicted fist blows on her face. He then strangled her with a multi-coloured bed sheet. The said bed-sheet, the appellant's vest and shirt were stained with blood. The appellant had put the abovesaid articles in a polythene bag and concealed them in an almirah of his house. Pursuant to the appellant's disclosure statement, three articles i.e. the multi-coloured bed-sheet, the appellant's vest and shirt were recovered on the disclosure of the appellant and taken in possession by the police vide memo Ex.P10. Rough site plan (Ex.P21) of the place of recovery was prepared. Ram Chander (PW6) and Ashok Kumar (PW7) were the witnesses to the said recovery. After completion of the investigation, police report under Section 173 Cr.P.C. was submitted by PW10 Inspector Data Ram in the court of the learned Judicial Magistrate Ist Class, Bhiwani on 24.04.2009. The learned Magistrate in view of the offence under Section 302 IPC appearing to have been made out, committed the case to the court of learned Sessions Judge, Bhiwani on 30.04.2009. Charge for the offence under Section 302 IPC was framed against the appellant on 29.05.2009 by the learned Sessions Judge, Bhiwani to which he did not plead guilty and claimed trial.

The prosecution in order to prove its case, examined eleven witnesses and also tendered documents in evidence. PW6 Ram Chander and PW7 Ashok Kumar did not support the prosecution case. PW9 Dr. S.S.Dhankar proved copy of the Post-Mortem Report (Ex.P16). The cause of death was opined to be asphyxia due to strangulation.

The appellant in his statement under Section 313 Cr.P.C. denied all the incriminating evidence and material put to him. The appellant pleaded innocence and false implication on the ground that his in-laws had an evil eye on his land. He denied all the allegations of physical abuse to his wife or her treatment at the hospital of Dr. Chugh at Bhiwani and at Rohtak. The appellant – Naveen @ Meenu denied having approached Laxman Singh Ranga (PW3) for confessing his guilt or for making him to surrender in the case. The appellant stated that the police apprehended him from his residence at village Baliyali on 12.03.2009, but tailored the case as per their suitability. His signatures were taken forcibly on blank papers and were misused. The shirt, vest and bed-sheet were never recovered from him and these did not belong to him. He never murdered his wife.

DW1 Balbir, the appellant's brother was examined in defence. He (DW1) deposed that the appellant was married to Bimla @ Kali approximately 10 or 12 years prior to the incident. They had two children, besides, their relations were cordial. He has further deposed that Ranbir Singh was never a Sarpanch of their village. They did not vote for Darshan Singh, who contested for the post of Sarpanch. As he did not win, he got annoyed with them. The complainant wanted to grab their land. In the cross-examination, DW1 Balbir, *inter alia*, stated that he and the appellant were residing separately in separate houses, which were opposite to each other. Their father had 25 acres of land in his name. The appellant and Balbir were five brothers having equal share in that land. The land was still in the name of their father.

The learned trial court on examining the evidence and material on record concluded that the prosecution had successfully proved its case against the appellant beyond reasonable doubt. It was held that the motive of the offence was clearly proved i.e., refusal of the deceased – Bimla to give money to the appellant for alcohol and gambling. It was observed that the chain of events were complete and conclusion of guilt of the appellant was inescapable. The extra judicial confession of the accused as well as the recoveries made consequent to his disclosure statement coupled with the other evidence on record proved that the appellant was guilty of murdering his wife. Consequently holding the appellant guilty for the commission of the offence punishable under Section 302 IPC, the learned Sessions Judge, Bhiwani sentenced him to undergo imprisonment for life, besides, pay a fine of ₹20,000/- and in default thereof, undergo further rigorous imprisonment for two years. Aggrieved from the abovesaid verdict, the appellant has preferred the present appeal.

Learned counsel for the appellant has contended that the prosecution case rests entirely on circumstantial evidence. There is no direct evidence to connect the appellant with the offence. The evidence on record does not connect the appellant to the commission of the offence for which he has been charged. While referring to the statement of the complainant – Fateh Singh (PW1), it is submitted that the presence of the appellant at the place of occurrence is not proved. PW1 Fateh Singh himself stated that the deceased – Bimla had called the complainant on 11.03.2009 at about 10.00 p.m. Bimla had informed him that the appellant was not at home and he had

gone somewhere for drinks. PW2 Rishi Pal in his testimony stated that they had a conversation on telephone with Bimla (deceased) at about 11.00 p.m. on 11.03.2009 and she had revealed that the appellant was not at home. He had gone somewhere for drinks. It is vehemently argued that once the appellant's presence is not proved, the burden upon the prosecution to prove its case beyond shadow of reasonable doubt has not been discharged. Learned counsel for the appellant relies on the decision of the Bombay High Court in **Mohd. Sadiq Mohd. Rafiq v. The State of Maharashtra, 2014 (2) Bom. C.R.(Crl.) 579 (D.B.) (Bom.)** to submit that when there is no evidence on record to conclude that the appellant was present at home at the time of incident took place, the chain of events to prove the guilt of the accused cannot be said to be proved. The prosecution not having discharged the initial burden of proving the appellant's presence at his residence at the time of occurrence, the burden under Section 106 of the Evidence Act, it is submitted, would not shift on the accused to explain the occurrence. The chain of events pointing to the guilt of the appellant were not proved, therefore, he should be acquitted of the charge against him.

It is further contended that the appellant was arrested on 12.03.2009 itself whereas, he was projected to have been arrested on 13.03.2009 on being produced by PW3 Laxman Singh Ranga. PW3 Laxman Singh Ranga has testified in his cross-examination that the appellant had met him on 12.03.2009 at about 10.00 or 11.00 a.m. and had revealed about the incident wherein he had murdered his wife. The police had reached the spot thereafter. It is submitted that no reliance can be placed on the said extra

judicial confession which, in any case, is a very weak type of evidence. In any case, there was no occasion for the appellant to have confided in PW3 Laxman Singh Ranga. The prosecution version regarding the extra-judicial confession is also impeached on the ground that PW10 Inspector Data Ram had stated that the appellant was produced by one Raghbir Singh Ranga, Ex-Sarpanch. PW10 Inspector Data Ram does not say that Laxman Singh Ranga produced the appellant but names the person producing the appellant to be Raghbir Singh Ranga. Therefore, it is submitted that no such extra judicial confession was ever suffered by the appellant.

Learned counsel for the appellant further submits that PW6 Ram Chander and PW7 Ashok Kumar stated to be the witnesses of recovery of the appellant's clothes and bed-sheet pursuant to his disclosure statement, Ex.P10, have not supported the prosecution case. PW7 Ashok Kumar is the real brother of deceased – Bimla @ Kali and PW6 Ram Chander is an uncle of the deceased. The allegations of physical abuse are also unsubstantiated and not supported by any evidence. There is no medical record of the deceased having received any medical treatment from Dr. Chugh or at Rohtak. There is no evidence to show that she was ever subjected to cruelty or physical abuse by the appellant. The complainant owns only one acre of land and his sons are labourers whereas, the appellant owns seven acres of land and his father has 25 acres of land. Therefore, there was no occasion for the appellant to harass the deceased and demand money from her. It is thus urged that the entire facts and circumstances reveal that the appellant has been falsely implicated in the present case. There is no evidence on

record to connect the appellant with the commission of the offence in question. The appellant should, therefore, be acquitted of the charge against him and the impugned judgment of conviction and order of sentence dated 07.11.2009 and 09.11.2009, respectively, be set aside

Per contra, learned counsel for the State submits that there is ample evidence on record to prove the commission of the offence by the appellant. The prosecution has successfully discharged its burden to prove the charge against the appellant. The chain of events has been successfully established to prove the complicity of the appellant in the commission of the offence. The fact that some of the witnesses had turned hostile, does not in any manner cause a dent on the prosecution version. The deceased, Bimla @ Kali was the appellant's wife. She was admittedly living with him in their matrimonial home along with their children. As per the provisions of Section 106 of the Evidence Act, it was essential for the appellant to have offered some explanation in regard to her death. Maintaining a total silence in such a situation, is by itself a strong circumstance pointing to his guilt. This fact along with the other incriminating circumstances and evidence on record, prove the guilt of the appellant. It is, thus, prayed that the impugned judgment and order being a well reasoned and logical one rendered after proper appreciation of evidence, is liable to be upheld.

We have given our thoughtful consideration to the contentions as raised by the learned counsel appearing for the parties and with their assistance have gone through the records of the case.

Learned counsel for the appellant laid great emphasis on the fact

that PW6 Ram Chander and PW7 Ashok Kumar have not supported the prosecution version though they are the uncle and real brother, respectively, of the deceased. Both these witnesses have denied the recovery of the appellant's clothes and the bed sheet pursuant to the disclosure statement (Ex.P10) of the appellant. Therefore, it is submitted that there is no evidence whatsoever to connect the appellant with the commission of the offence. The appellant, it is submitted, is not proved to be present on the spot at the time of occurrence. Section 106 of the Evidence Act, according to the learned counsel for the appellant, has no applicability in this case as the prosecution has not discharged the initial burden cast upon it. Besides, there is nothing on record to show that the deceased Bimla @ Kali was ever subjected to cruelty or physical abuse by the appellant. The appellant and his father are well-off having landed property. Therefore, there was no question of asking the deceased for any money especially keeping in view the fact that the complainant owned only one acre of land and his sons were labourers.

Though at first flush and impression, the argument raised by the learned counsel for the appellant appears to be attractive, however, it cannot be sustained in the face of the evidence on record and in the totality of the circumstances of this case. The undisputed facts are that the deceased – Bimla @ Kali was married to appellant – Naveen @ Meenu about 10 years earlier to the incident which occurred on 12.03.2009 in which Bimla @ Kali lost her life. Two children were born from this marriage. The death of Bimla @ Kali took place on the intervening night of 11/12.03.2009 within

the four walls of her matrimonial home. It has been testified by Dr. S.S.Dhankar (PW9) that the cause of death was asphyxia as a result of strangulation. The following injuries were found on the deadbody of the deceased – Bimla @ Kali:-

1. Multiple bruises present on the both sides of face around the mouth and mandible. On deep dissection echymosis was present and underlying hyoid bone was fractured.
2. Multiple bruises present on the interior aspect of the neck with the underlying echymosis present.
3. Bruises 2x2 cms also present on the extensor surface of both elbows.
4. Both the eye lids were swollen with excessive sub conjunctival haemorrhage present in both eyes.

The time that elapsed between death and post-mortem was within 24 hours and between injuries and death a few minutes. The blood at the spot and pieces of broken bangles were lifted from the spot and taken in possession vide Ex.P19. It is, thus, proved that the death of Bimla @ Kali was homicidal.

As per the complainant – Fateh Singh, the appellant was habitual in consuming liquor and was a gambler. He used to demand money from Bimla @ Kali for gambling and when she did not give him money, he would physically abuse her. Bimla @ Kali was beaten by the appellant at least twice a month. She was beaten to the extent that she was taken to Dr. Chugh's hospital and even to Medical College, Rohtak. The complainant informed his daughter that they could beat the appellant, but she asked him not to do so. Criminal action was not taken against the appellant because

Bimla @ Kali had stopped him (the complainant) from doing so. The deceased – Bimla @ Kali wanted to live with the appellant and look after her children. The complainant was telephonically informed by Gopi Ram i.e., the appellant's father on 12.03.2009 at about 7.00 a.m. that the complainant's daughter Bimla @ Kali had been murdered by the appellant on the night of 11/12.03.2009. When the complainant along with others reached his daughter's matrimonial home, he found that there were injuries on the eyes and face of the body of his daughter.

To accept the contention that the prosecution has failed to discharge the initial burden placed upon it to establish its case and therefore, the onus does not shift to the accused under Section 106 of the Evidence Act, is incorrect. Section 106 of the Evidence Act reads 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.

The initial burden of proving the guilt of the accused and establishing its case is always on the prosecution. Section 106 of the Evidence Act does not shift the burden of proof in a criminal trial but nonetheless, if an accused fails to offer an explanation on the basis of facts within his special knowledge, he fails to discharge the burden cast upon him by Section 106 of the Evidence Act. The Hon'ble Supreme Court in **State of Rajasthan v. Kashi Ram, (2006) 12 Supreme Court Cases 254** has held that:-

“..... In a case resting on circumstantial evidence if the accused fails to offer a reasonable explanation in discharge of the burden placed on him, that itself provides an additional link in the chain of circumstances proved against him. Section 106 does not shift the burden of proof in a criminal trial, which is always upon the prosecution. It lays down the rule that when the accused does not throw any light upon facts which are specially within his knowledge and which could not support any theory or hypothesis compatible with his innocence, the court can consider his failure to adduce any explanation, as an additional link which completes the chain.”

In the judgment titled Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681, the Hon'ble Supreme Court while dismissing an appeal against a conviction under Sections 302/498A IPC observed as follow:-

“The law does not enjoin a duty on the prosecution to lead evidence of such character which is almost impossible to be led or at any rate extremely difficult to be led. The duty on the prosecution is to lead such evidence which it is capable of leading, having regard to the facts and circumstances of the case. Here it is necessary to keep in mind Section 106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (b) appended to this section throws some light on the content and scope of this provision and it reads:

(b) A is charged with travelling on a railway without ticket. The burden of proving that he had a ticket is on him.”

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.

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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.”

Thus, the judgment of the Hon'ble Bombay High Court in Mohd. Sadiq Mohd. Rafiq (supra) is of no avail to the appellant.

The appellant and his wife Bimla @ Kali (deceased) were admittedly living together in their matrimonial home. The statement of the complainant that the deceased had herself informed about the appellant leaving the house for having a drink, does not in any manner detract from the prosecution story. At this stage, it is relevant to note that the appellant in his

statement under Section 313 Cr.P.C. has taken a stand that he was apprehended from his house at village Baliyali on 12.03.2009. Therefore, the contention of the learned counsel for the appellant that after the appellant had gone for having a drink there is nothing to show as to when he returned would be not of much consequence.

In fact, the appellant being the husband of Bimla @ Kali (deceased) was living in the same house with her and their children. Therefore, after having his drinks it was expected that he returned home. In case he did not, it was for him to explain as to where he was for which he has not given any explanation. Besides, the fact that he has taken the stand that he was apprehended from his home it is established that after having drinks, he returned home. As such, the appellant was bound to tender an explanation as envisaged by Section 106 of the Evidence.

The complainant has consistently stated that his daughter Bimla @ Kali – the deceased was subjected to physical abuse when she refused to give money to the appellant for drinking and gambling. Action was not taken against the appellant on the insistence of his daughter (deceased) who wanted to live in her matrimonial home for the sake of the children. The contention of the learned counsel for the appellant that the question for demand of money did not arise as the complainant had only one acre of land whereas the appellant and his father were landed persons, is fallacious and of no avail to the appellant. This is so, for the reason that it is not the case of the complainant, that demand for money was raised qua him or his daughter was harassed to bring money from the complainant. The complainant has

stated that his daughter – the deceased was ill-treated when she refused to give money for gambling and drinking by the appellant.

PW7 Ashok Kumar, the brother of the deceased, though was declared hostile, has nevertheless testified before the trial court that Bimla was ill-treated at the hands of the appellant. PW7 Ashok Kumar in his statement (Ex.P13) recorded on 13.03.2009 stated that on the night intervening 11th/12th March, 2009 the appellant murdered his sister Bimla @ Kali upon which his father got registered an FIR under Section 302 IPC. He stated that on 13.03.2009, he along with his uncle (father's brother) Ram Chander (PW6) were present with Inspector Data Ram (PW10) at Bus Stand Rampura when Laxman Singh Ranga (PW3) produced the appellant Naveen. The appellant had confessed his guilt before Laxman Singh Ranga (PW3) and had asked Laxman Singh Ranga to produce him before the police. In their presence, the appellant was interrogated and he suffered a disclosure statement (Ex.P10). The appellant Naveen disclosed that on the night intervening 11th/12th March, 2009, he had slapped and inflicted fist blows on the mouth/face of Bimla @ Kali when she refused to give money to him for liquor and gambling. He thereafter strangled her with a bed-sheet, which was orange, black and white in colour with coca-cola colour and black border. He had put the said bed-sheet, his own white vest and his red coloured shirt which was blood stained in an iron almirah. He could get the said articles recovered from the almirah from his house. Pursuant thereto, the abovesaid three articles were got recovered by the appellant in the presence of Ashok Kumar (PW7), Ram Chander (PW6) and the police

officials. The recovery memo (Ex.P11) was was prepared and duly signed by Ashok Kumar (PW7), Ram Chander (PW6) and Inspector Data Ram (PW10). The disclosure statement (Ex.P10) was also signed by the abovesaid persons along with the appellant. Ram Chander (PW6) in his statement (Ex.P12) recorded on 13.03.2009 disclosed the same facts as mentioned by Ashok Kumar (PW7) in his statement, Ex.P13.

Though PW6 Ram Chander and PW7 Ashok Kumar have not supported the prosecution version and were declared hostile, however, both the said witnesses have admitted their signatures on the disclosure statement (Ex.P10) and the recovery memo (Ex.P11). They have also admitted their signatures on their respective statements Ex.P12 and Ex.P13, though stating that signatures were obtained by the police on blank papers. It is stated that in fact, no disclosure was made by the appellant before them neither was any recovery effected pursuant thereto. PW6 Ram Chander has stated that he went to village Baliyali only once on 12.03.2009. But thereafter went on to say that his signatures were taken on blank papers on 12.03.2009 and thereafter again after two or four days when he went to the police station again. In his testimony before the court PW7 Ashok Kumar has stated that when he talked to his sister (the deceased) on the 11th day of the month in the year 2009 (evening of 'Fag' day), he asked about his brother-in-law (the appellant). His sister Bimla informed that the appellant had gone for his drinks. Ashok Kumar, after being declared hostile, stated in his cross-examination that the appellant used to beat his sister previously also and the appellant had stated before Laxman Singh Ranga (PW3) that the appellant

should be saved. PW7 Ashok Kumar has stated that Laxman Singh Ranga had informed about the confession made by the appellant before him.

The witnesses PW6 Ram Chander and PW7 Ashok Kumar as has been noticed, admitted their signatures on the disclosure statement (Ex.P10) and the recovery memo (Ex.P11). Besides, they admitted their signatures on their respective statements (Ex.P12 and P13) although they stated that these are obtained by the police on blank papers. PW7 Ashok Kumar during his cross-examination stated that the appellant used to beat his sister Bimla @ Kali earlier and he (appellant) stated before PW3 Laxman Singh Ranga that he be saved. In respect of deposition of a hostile witness, it is well known that if some portion of his statement inspire confidence it can be relied upon and the deposition is not to be thrown out as wholly unreliable. It is not necessary to discard evidence of a hostile witness in toto and it can be relied upon partly. Therefore, to the extent PW6 Ram Chander and PW7 Ashok Kumar admit their signatures on the disclosure statement (Ex.P10) and recovery memo (Ex.P11), there is no reason to doubt the recovery as these specifically led to the discovery of a fact. Therefore, the recoveries in the case can be taken to have been proved.

PW3 Laxman Singh Ranga has deposed that he was an Ex. Member, Panchayat of village Baliyali and he knew the appellant Naveen @ Meenu. The appellant had met him and disclosed that he had done his wife to death. The appellant requested PW3 Laxman Singh Ranga to produce him before the police. PW3 Laxman Singh Ranga produced Naveen @ Meenu (the appellant) before the police. This witness (PW3) has duly supported the

prosecution case. He has no axe to grind against the accused. He had no enmity with the appellant and neither has any been alleged. A simple suggestion is put to this witness that he had deposed due to political rivalry and enmity. The same is duly denied by PW3 Laxman Singh Ranga and this by itself is not sufficient in any manner to prove the enmity between him and the appellant.

Inspector Data Ram (PW10) has stated that when he was present at Bus Stand of village Baliyali along with Ajit Singh son of Fateh Singh and Ram Chander (PW6) son of Prithvi Singh, the appellant was produced before him by Raghbir Singh Ranga. Statement of Raghbir Singh Ranga regarding the extra-judicial confession made by the appellant was recorded by Inspector Data Ram. The contention of the learned counsel for the appellant is that the mentioning of a wrong name by PW10 Inspector Data Ram i.e. 'Raghbir Singh Ranga' instead of 'Laxman Singh Ranga' clearly shows that no such extra-judicial confession was made by the appellant before Laxman Singh Ranga (PW3). This contention is clearly misplaced and is of no consequence. The same is, therefore, rejected. Mentioning of a wrong name by PW10 Inspector Data Ram cannot wash away the entire evidence on record in regard to the role of Laxman Singh Ranga (PW3). Laxman Singh Ranga has himself duly supported the prosecution case. His name is correctly mentioned in the 'List of Witnesses' submitted at the outset along with the report under Section 173 Cr.P.C. He is described as the witness who had produced the accused.

The absence of medical record of Bimla @ Kali when she was

treated after being physically abused by the appellant does not detract from the prosecution case. Similarly, the absence of any evidence to show that no complaints had been made at any earlier point of time regarding the ill-treatment meted out to Bimla @ Kali (deceased) is not fatal to the prosecution case. This is so for the reason that it has been sufficiently explained that the deceased had asked her father not to report the same to the police. The deceased had wished to cohabit with the appellant in order to bring up her two children. The photographs Ex.P2 to P8 as well as the medical evidence on record reflects the injuries suffered by Bimla @ Kali. Her death is caused by asphyxia due to strangulation. There is no doubt about her death being homicidal in nature.

It is, thus, duly proved that Bimla @ Kali was subjected to harassment and ill-treatment at the hands of the appellant. She was residing in her matrimonial home along with her husband and children. Thus, there can be no escape for the appellant from the rigors of Section 106 of the Evidence Act. Even if it is accepted that the appellant was arrested on 12.03.2009, it would not be of any help to the appellant. We say so for the reason that by way of such a stand it became even more imperative on the part of the appellant to put forth some explanation or at least a semblance of an explanation in respect to the death of his wife Bimla @ Kali in her matrimonial home.

The complete silence maintained by the appellant as to how the deceased was bludgeoned and thereafter strangled to death is a strong circumstance in itself indicating the complicity of the appellant in the

commission of the offence. This fact buttressed with the evidence on record clearly points to the guilt of the appellant. The evidence led in defence by the appellant is of no avail to him. The appellant's brother DW-1 Balbir could not bring out any circumstance which can be of any aid to the appellant for dislodging the prosecution version.

The prosecution has successfully proved its case against the appellant. The chain of events unerringly points to guilt of the appellant. The facts, circumstances and the evidence on record do not permit of any other hypothesis except the guilt of the appellant, Naveen @ Meenu. We, therefore, do not find any ground whatsoever to interfere in the conviction of the appellant and the sentence imposed upon him by the learned Sessions Judge, Bhiwani vide impugned judgment and order dated 07.11.2009 and 09.11.2009, respectively. As regards the compensation payable, it is to be noticed that the appellant has committed murder of his own wife. He has two sons, the elder Ravi was six years old while the younger Golu was five years old at the time of incident that had occurred on 12.03.2009. At present, the elder son must be about 13 years of age while the younger would be 12 years of age. The appellant is to look after and maintain his children. Therefore, in the circumstances, no compensation is being awarded.

Accordingly, this appeal is dismissed.

(S.S.SARON)
JUDGE

(LISA GILL)
JUDGE

October 7, 2016.
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No