

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal-D No.1144-DB of 2012
Date of Decision:- August 18, 2017

Mahavir

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill

Present : Dr. Amanpreet Sandhu, Advocate for the appellant.

Mr. Ankur Mittal, Additional Advocate General, Haryana with
Mr. Manoj Dhankhar, Assistant Advocate General, Haryana.

Gurvinder Singh Gill, J.

1. Mahavir has filed the present appeal challenging his conviction under Section 302 of Indian Penal Code, 1860 (for short 'IPC') as recorded vide judgment dated 12.10.2012 passed by the Sessions Judge, Kaithal. The trial Court vide order dated 15.10.2012 sentenced the accused to undergo life imprisonment for committing offence under Section 302 IPC.
2. FIR No.38 (Ex.PE/1) dated 19.4.2011 under Section 302 of IPC, was lodged at Police Station Sadar, Kaithal, on the basis of statement (Ex.PE) of Ranbir

Singh recorded by Inspector/SHO Ashwani Kumar (PW-16) on 19.4.2011. The gist of the statement when translated to English reads as follows:

“I am resident of above noted address. I have studied upto Class 8th and work as a barber in village Kapro. We are 8 brothers and sisters and myself being the only brother. Two of my elder sisters are married at Village Dundhrehri. My sister Murti Devi is married to Mahavir son of Phoola Ram, Caste Nai resident of Dhundhrehri. She was blessed with 2 sons and a daughter. Today i.e. on 19.04.2011, at about 9 a.m. in the morning my brother-in-law Mahavir called from his phone No.9416761650 on my mobile No.9355648130 and said that my sister Murti Devi was out of her control and despite being repeatedly advised, she did not listen to him and therefore, he had killed her at about 8/8.30 a.m. in the morning. Upon receiving the said information I and other members of the family reached Village Dhundhrehri at the house of my sister Murti Devi where Murti Devi was found dead, smeared in blood, inside the room. Blood was oozing out of her head, cheeks, neck and from both of her hands. My sister has been killed by my brother-in-law Mahavir son of Phoola Caste Nai resident of Dhundhrehri. Legal action be taken against him. I have made my statement which is correct.”

3. The police conducted investigation including inquest proceedings, preparing of rough site-plan of the place of occurrence, recording of statements of witnesses under Section 161 of Cr.P.C. etc. Post mortem examination of dead body of Murti Devi was got conducted. The accused was arrested on the same day in the evening. The accused made a disclosure statement Ex.PO to the effect that he had kept concealed the axe used for the commission of offence and his mobile phone near wheat tank in a room of his house and only he knew about the same. Pursuant to the aforesaid disclosure statement Ex.PO, the accused led the police party to the disclosed place and got the axe and the mobile phone recovered which were taken into possession vide recovery memo Ex.PQ.
4. Upon conclusion of investigation, the police filed report under section 173 of Cr.P.C. in the Court of Additional Chief Judicial Magistrate, Kaithal on 11.07.2011, who on finding that the facts prima-facie disclosed commission of an offence under Section 302 IPC, which is exclusively triable by the Court of Sessions, committed the case to the Court of Sessions vide order dated 12.07.2011.
5. Learned Sessions Judge, Kaithal, upon finding sufficient grounds to presume that the accused had committed an offence punishable under Section 302 IPC, framed charges against the accused on 17.08.2011 to which the accused pleaded not guilty and claimed trial.
6. The prosecution in order to establish its case examined as many as 16

witnesses. PW-1 Anil Sharma, SDE-cum-authorized Nodal Officer, BSNL, Kaithal proved the Call-Details report in respect of phone No.9416761650 for 19.04.2011 as Ex.PC. PW-2 ASI Ishwar Singh is a formal official witness who deposed regarding recording of formal FIR Ex.PE/1 upon receipt of ruqa Ex.PE/2. PW-3 Constable Ram Niwas who had taken photographs of the place of occurrence, proved the same as Ex.P-1 to P-10. PW-4 EHC Kitab Singh is another formal official witness regarding delivery of special reports. PW-5 Laxman Singh, Draftsman proved the scaled site plan of place of occurrence as Ex.PF. PW-6 Ranbir Singh, complainant stated in tune with his statement Ex.PE made to the police regarding the accused having informed him on 19.04.2011 at about 8.58 a.m. that he had murdered his sister Murti Devi. He deposed that upon receipt of said telephone call from the accused, from his mobile phone No.9416761650, he along with his father and other co-villagers and his maternal uncle went to village Dhundhrehri where dead body of his sister was lying inside a room in the house of the accused which was bearing several injuries and blood was oozing out of the same.

7. PW-7 Chanderpati stated that she is sister of deceased Murti Devi and that her husband and Murti Devi's husband are real brothers and they are residing separately. She deposed that on 19.04.2011 when she was present in her house she heard her sister's screaming and she went on the roof and peeped into the house of her sister where she saw the accused, who upon seeing her fled from the house. She deposed that thereafter she went to his house and saw her sister

having injuries with blood oozing out from the same. She raised alarm upon which people from the neighborhood came there and thereafter she became unconscious. She further stated that at that time the children of the accused had already gone to school.

8. PW-8 Dr. Sandeep Saini who had conducted post mortem examination on the dead body of Murti Devi proved the post mortem report as Ex.PH wherein he described the injuries found on the dead body of Murti Devi as follows:

1. An incised wound 4x1 cm present on left cheek which was elliptical in shape and regular margin on exploration. There was fracture underlying cheek bone and palpating finger passes into the mouth. Clotted blood was present around the wound side.
2. An incised wound 4x1 cm present on left parietal region posteriorly about 2cm lateral to midline. The wound was bone deep.
3. Another incised wound of size 5x1 cm was present on occipital region. Haemorrhage was present in scalp layer and clotted blood was present in deeper layer of the scalp. The wound was skull deep. On opening the vault of the skull there was contusion of the brain parenchyma in the brain parietoccipetal region.
4. An incised wound 4x0.5 cm present on the right side of the neck placed transversely. On palpation it was 2.5

cm in depth.

5. Incised wound of size 4x1 cm was present just below three fingers breadth below nape of neck present in the midline extending towards left scapular region. On deep dissection it was found to be 3cm in depth with fracture underlying vertebra bone.
 6. On ulnar border of left hand 4x2 cm crushed injury with the dislocation of M.P. (metaphalanges) joint of little finger.
9. PW-8 Dr. Sandeep Saini further opined that the cause of death was shock and haemorrhage due to head injury and other injuries found on the dead body of Murti Devi which were sufficient to cause death. PW-9 Head Constable Ram Niwas and PW-10 Constable Ishwar Singh are both formal official witnesses who tendered their affidavits Ex.PK and Ex.PL in evidence. PW-11 Naresh Kumar, Human Resources Manager, Reliance Communication Ltd. Karnal proved the application form and copy of ration card of Mahavir as Ex.PM/1 and PM/2. He also proved the Call-Details record pertaining to mobile phone No.9355648130 for 19.04.2011 as Ex.PM/3. PW-12 Manjeet son of accused Mahavir, aged 13 years, stated that they are 2 brothers and one sister and that on 19.04.2011 at 8 a.m. he along with his brother and sister had gone to school after taking meals and when they left the house his father and his mother were present in the house. PW-13 Hari Chand stated that the accused Mahavir is known to him and that he got a mobile connection bearing No.9416761650

issued in his own name and the same was given to accused Mahavir as he did not have identity card and that Mahavir was using the same. PW-14 Mahavir Singh son of Miyan Singh stated that he had got a mobile sim connection bearing No.9355648130 issued in his name and the same was being used by Ranbir Singh as he was not having any identity proof. PW-15 ASI Inder Singh stated that he had remained associated with Inspector Ashwani Kumar for the investigation of this case and had gone to the house of accused Mahavir where the dead body of a female was lying. He stated that Investigating Officer recorded statement of complainant Ranbir Singh in his presence and lifted blood lying on earth with the help of swab and put the same in a plastic container and sealed the same. He further stated that on the same day Isham Singh brother of accused produced Mahavir before them who was formally arrested by the Investigating Officer. He also deposed regarding the disclosure statement Ex.PO made by the accused on 20.04.2011 and regarding recovery of the axe and mobile phone in pursuance to the said disclosure statement. PW-16 Inspector Ashwani Kumar who is Investigating Officer of the present case stated in detail in respect of the entire investigation conducted by him in the present case right from recording the statement of Ranbir Singh upto the filing of challan. He proved the documents prepared during investigation of the case including the inquest report, disclosure statement, recovery memos etc.

10. Upon conclusion of the prosecution evidence, statement of the accused was

recorded in terms of Section 313 Cr.P.C. wherein entire incriminating evidence against him was put to him to enable him to explain the same but the accused pleaded false implication on the ground that he has strained relations with family of his in-laws. No evidence was, however, led by the accused in his defence.

11. Learned counsel for the appellant while assailing the impugned judgment has submitted that the present case is a case of blind murder and there is no eye witness to the occurrence. It has been submitted that the circumstantial evidence in the nature of 'last seen' evidence can hardly be said to be reliable as the same is in the shape of testimony of the sister and son of the deceased who were both interested witnesses. It has further been submitted that the record of telephone call details relied upon by the prosecution can not connect the accused with the occurrence in any manner inasmuch as the same does not disclose the conversation that may have taken place. Learned counsel has further submitted that prosecution story that the accused himself called the complainant and told him that he had murdered the sister of the complainant is highly improbable and does not appeal to a reason. It has further been submitted that the entire investigation is tainted which would be evident from the fact that the police being overzealous has shown recovery of 2 axes instead of one at two different points of time which clearly indicates that prosecution has been padding evidence in a case of blind murder. The learned counsel has thus submitted that the impugned judgment cannot sustain and has prayed for

setting aside the same and for acquittal of the accused.

12. On the other hand, the learned counsel representing the State has submitted that even though, there is no eye witness to the occurrence but the circumstantial evidence on record establishes all the material links in the chain of evidence so as to connect the accused with the occurrence in question. The learned counsel has thus prayed for dismissal of the appeal.
13. We have considered the rival submissions addressed before this Court and with the assistance of learned counsel have also perused the record of the case.
14. As far as the factum of death of Murti Devi as a result of injuries is concerned PW-8 Dr. Sandeep Saini, who conducted the post mortem examination, has described the injuries found on the dead body of Murti Devi in detail which are in the nature of 5 incised wounds on cheek, head, neck and hands. PW-8 has categorically opined that the cause of death was due to the head injury and other injuries which were sufficient to cause death in normal course. The said PW was briefly cross-examined on behalf of the accused but nothing substantial could be elicited during the course of cross-examination so as to doubt the veracity or opinion of the Doctor. As such, we find that the medical evidence led by the prosecution is in tune with the ocular version regarding the manner in which the injuries were inflicted on the deceased.
15. Since, it is a case where act of inflicting injuries has not been witnessed by

anyone, therefore, the prosecution seeks to establish its case on the basis of circumstantial evidence. The most important being the 'last seen' evidence in the shape of testimony of PW-7 Chanderpati wife of Jai Bhagwan sister of the deceased. The relevant extract from her examination-in-chief is reproduced below:

“I was married at village Dhundrehri with Jai Bhagwan about 16-17 years ago. The marriage of my sister Murti Devi with Mahabir accused, present in the Court, was also solemnized simultaneously. My sister Murti Devi, since deceased, was having three children. Eldest of them is Manjeet, aged about 13 years, younger to him is Manish, aged about 10 years and youngest one is Manisha, who is 8 years old. All of them are school going. The accused and my husband are real brothers. We are residing separately. My father-in-law had expired and my mother-in-law Kreshani Devi used to reside with Murti Devi prior to her death. Prior to the death of my sister Murti Devi her relations with her husband were not cordial for the last few days.

On 19.04.2011 I was present at my house. There I heard screams of my sister Murti Devi coming from her room. I presumed that it was their mutual dispute and let them settle. Then I went to the roof and I peeped into the house of my sister. The accused on seeing me standing on the roof had fled from his house. I then went to his house and saw that my sister was having injuries on her person and blood was oozing from the injuries. Then I raised alarm on which people from the neighbourhood collected there. Thereafter I became

unconscious. At that time the children of the accused had already gone to the school. Thereafter the police came to me and I got recorded my statement before the police on 8.7.2011 narrating the above facts.”

16. The aforesaid testimony of PW-7 Chanderpati is sought to be assailed by prosecution on the ground that her statement under Section 161 Cr.P.C. was recorded at a highly belated stage. However, the matter in this regard is well settled. The Hon'ble Apex Court, in a judgement reported as 2005 Criminal Law Journal 1428, State of Uttar Pradesh Vs. Satish, has held that delay in examination of witness by Investigating Officer does not *ipso-facto* makes the prosecution version suspect. The Hon'ble Supreme Court in another judgment reported as (2010) 1 Supreme Court Cases (Crl.) 1476 Vijay Kumar Arora Vs. State Government of NCT of Delhi held that the delay in recording statements of witnesses in terms of Section 161 Cr.P.C. would not impeach the credibility of such witnesses unless Investigating Officer is asked questions about delay in recording statements and explanation is sought from the witnesses as to why their statements were recorded late. In the present case a perusal of the statement of the Investigating Officer shows that no question was ever put to him on behalf of the accused as to why statement of PW-7 Chanderpati in terms of Section 161 Cr.P.C. was recorded belatedly. As such, the delay in recording the statement of Chanderpati by the police *ipso facto* would not impeach the credibility of the witness PW-7 Chanderpati.

17. In the present case, we find that despite lengthy cross-examination of PW-7

nothing could be brought about to shake her credibility or to doubt her presence at the spot. PW-7 is infact a natural witness being a member of the family of the accused who was residing next to the house of the accused. The location of the house of Jai Bhagwan husband of PW-7 Chanderpati is evident from the site plan Ex.PF which shows that house of PW-7 is adjacent to the house of the accused having a common wall. The truthfulness of the said witness is strengthened from the fact that she did not chose to state that she had actually witnessed the accused causing injuries, though, she could have very conveniently stated so. Further still, PW-7 by stepping into witness-box was likely to incur the wrath of her husband who is real brother of accused and she would not have taken the risk of straining her own marital relations in case she had not actually witnessed the occurrence.

18. We further find that the testimony of PW-7 Chanderpati also finds corroboration from the statement of PW-12 Manjeet, who is young son of deceased, aged 13 years. PW-12 Manjeet was briefly quizzed by the Presiding Officer before recording his statement and on the basis of rational answers furnished by him, he was found to be a competent witness and his statement was recorded. PW-12 Manjeet has stated that on 19.04.2011 at about 8 a.m. he along with his brother and sister left for school after taking meals and when they left for school his father and mother were present in the house. The said witness was briefly cross-examined but nothing substantial could be elicited during the cross-examination so as to doubt the veracity of his statement.

From the testimonies of PW-7 Chanderpatti and PW-12 Manjeet it is evident that accused Mahavir was present in his house in the morning at about 8 a.m. on the day of occurrence i.e. on 19.04.2011.

19. PW-8 Dr. Sandeep Saini had conducted the post mortem examination on 19.04.2011 at about 5 p.m. as is specifically recorded in the post mortem report Ex.PH. PW-8 has opined the time that elapsed between the death and the post mortem examination as 12 hours. In other words the death had occurred in the morning on 19.04.2011 itself. Though, the learned counsel for the accused has attempted to assail the case of the prosecution on the basis of the opinion of Doctor regarding the time that elapsed with the death and post mortem by submitting that as per the said opinion the death would have occurred at 5 a.m. whereas the case of the prosecution is that the death occurred after 8 a.m. but the estimation regarding the time of death on the basis of medical science cannot be said to be accurate to every minute and hour and it is only broad estimation which can be made. In Rakesh and another Vs. State of Madhya Pradesh, (2011) 9 SCC 698, the Hon'ble Supreme Court held as follows:

“It is a settled legal proposition that the ocular evidence would have primacy unless it is established that oral evidence is totally irreconcilable with the medical evidence. More so, the ocular testimony of a witness has a greater evidentiary value vis-a-vis medical evidence, when medical evidence makes the ocular testimony improbable, that becomes a relevant factor in the process of the evaluation of evidence. However, where the medical

evidence goes so far that it completely rules out all possibility of the ocular evidence if proved, the ocular evidence may be disbelieved. “

20. In Mangu Khan & Ors. v. State of Rajasthan, 2005(1) Apex Criminal 509, the Hon'ble Supreme Court, while examining a similar issue wherein the post-mortem report mentioned that the death had occurred within 24 hours prior to post-mortem examination which did not match with the prosecution case held that physical condition of the body after death would depend on a large number of circumstances/factors and nothing can be said with certainty and that in determining the issue, various factors such as age and health condition of the deceased, climatic and atmospheric conditions of the place of occurrence and the conditions under which the body is preserved, are required to be considered. In Baso Prasad & Ors. v. State of Bihar, 2007(3) R.C.R. (Criminal) 994, while considering a similar issue, the Hon'ble Apex Court held that exact time of death cannot be established scientifically and precisely. In our view, the opinion of the Doctor in estimating that the death had occurred 12 hours prior to the post mortem examination is quite in tune with the case of the prosecution which is to the effect that the death had occurred before 9 a.m. on 19.04.2011.
21. In view of the discussion made above, we find that accused was seen in his home immediate before the death of his wife in his house.
22. It is the case of the prosecution that the accused made a telephone call to the

complainant at about 9 a.m. on 19.04.2011 and told him that he had murdered Murti Devi. The factum of call from the telephone of the accused to the telephone of the complainant is duly established from the record of call details Ex.PC and Ex.PM/3 which reflect that a call was made from 9416761650 to 9355648130 at about 9 a.m. on 19.04.2011. We do find that there is a slight variation in the two Call Records produced by both the telephone companies. While as per Ex.PC the call was made at 8.58 A.M., Ex.PM/3 shows the time to be 9 A.M. The said variation can very well be explained by the fact that the computer would record time in accordance with the clock-time set in the computer. In case the clock-time in a particular computer is set 2 minutes advance, then all the records would show the time to be advance by two minutes. As such the slight variation in time can not be interpreted to mean that the Call-Details record is incorrect.

23. No doubt, the said phone numbers were not issued in the names of accused Mahavir and the complainant Ranbir Singh but from the testimonies of PW-13 Hari Chand and PW-14 Mahavir Singh son of Miyan Singh it is borne out that they had got the sim cards issued in their names and handed over the same to the accused Mahavir and complainant Ranbir Singh, respectively as the accused and complainant were not having the identity proof for the purpose of issuance of sim card in their own names. As such the prosecution version regarding the factum of accused having made a telephone call to the complainant at about 9 a.m. after the murder of his wife stands substantiated.

24. Another piece of circumstantial evidence upon which the prosecution relies is the disclosure statement Ex.PO in pursuance of which the accused allegedly got an axe and his mobile phone recovered. The recovery of the said axe at the instance of the accused has been disbelieved by the trial Court on the ground that one axe is also stated to have been recovered from the spot on the day of occurrence itself. During the cross-examination of Investigating Officer (PW-16) Inspector Ashwani Kumar, he was confronted with Inspection Report (Ex.D-1) of finger print expert as well as the scene of crime report (Ex.D-2) which the Investigating Officer admitted to be the same which were handed over to him by the crime team. A perusal of Investigation Report (Ex.D-1) shows that the axe shown to the finger print expert by the Investigating Officer was inspected by the finger print expert for tracing finger prints but no finger prints were found on the same. A perusal of the scene of crime report (Ex.D-2) shows that the scientific team comprising of Sh. Beera Ram, Scientific Assistant and Kiran Pal, Finger Prints Expert reached the spot after the Investigating Officer told the team that one lady namely Murti Devi had been found dead and the scientific team made the observations regarding the condition of the dead body and regarding existence of blood and broken bangles and a blood stained '*kulahdi*'.
25. Though, recovery of two axes in the present case remains unexplained but the said fact cannot lead to an inference that the entire prosecution case is false. Axe is a common implement, usually found in households and there can be

more than one axe in rural household. In any case, since a doubt has been created as regards the factum of recovery of the axe which was allegedly used in the occurrence, the said recovery should rather be not relied upon and we do not intend to do so. The factum of recovery of the mobile phone at the instance of the accused, in any case, stands duly established as the factum of sim card No.9416761650 having been issued to Hari Chand who had got the same issued in his name and had given the same to accused duly established from the testimony of PW-3 Hari Chand. A perusal of his statement discloses the reason as to why he had got the sim card issued in his name instead of getting the same issued in the name of Mahavir. He has clarified that since Mahavir did not have a proof of identity for getting the mobile connection, therefore, he got a sim issued in his name on his identity. In the light of the said testimony this Court does not find any reason to discard the evidence regarding recovery of mobile phone at the instance of the accused.

26. It is well settled that in a case based on circumstantial evidence, the Court has to proceed very cautiously to rely upon the same and the quality of the evidence adduced by the prosecution has to be scrutinized thoroughly before accepting the same. In the present case, as already discussed above, the evidence led by the prosecution in the shape of 'last seen' evidence is absolutely credible and also stands corroborated from medical evidence regarding the time of death. The Hon'ble Supreme Court in a judgement reported as Sk. Yusuf v. State of West Bengal, (2011) 11 SCC 754, while relying

upon earlier judgements, i.e. Mohd. Azad v. State of W.B. (2008) 15 SCC 449 and State v. Mahender Singh Dahiya (2011) 3 SCC 109, held that the “last seen” theory comes into play where the time gap between the point of time when the accused and the deceased were last seen alive and when the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. In the present case, there is hardly any gap in the time when the accused was 'last seen' in the house and time when his wife was murdered in the house. As such the 'last seen' evidence becomes an important piece of circumstantial evidence in this case.

27. The accused has not pleaded any kind of *alibi*. His wife died as a result of injuries caused with sharp edged weapon on the morning of 19.04.2011. As such, the accused was expected to come out with some explanation regarding the death of his wife. In this context a reference may be made to provisions of section 106 of Indian Evidence Act 1872. Section 106 is in the nature of an exception to general rule enshrined in section 101 of Indian Evidence Act, which mandates that the burden of proof lies on the person who asserts the existence of such fact. Section 106 in The Indian Evidence Act, 1872 reads as follows :-

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.

28. In a judgement reported as (2012) 1 SCC 10 Prithipal Singh v. State of

Punjab, the Hon'ble Apex Court has held that if a fact is especially in the knowledge of any person, then burden of proving that fact is upon him and that it would be impossible for the prosecution to prove certain facts particularly within the knowledge of the accused. It was further held therein that Section 106 is not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt, but the section would apply to cases where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding existence of certain other facts, unless the accused by virtue of his special knowledge regarding such facts, offers any explanation which might drive the court to draw a different inference. Thus it was held that section 106 of the Evidence Act is designed to meet certain exceptional cases, in which, it would be impossible for the prosecution to establish certain facts which are particularly within the knowledge of the accused.

29. The Hon'ble Apex Court, in another judgement reported as (2009) 6 SCC 61 Narendra v. State of Karnataka, where a woman was done to death in the bedroom of the matrimonial home and the accused raised a plea of alibi that he had gone to another place for purchase of milk and was therefore not involved with the crime, upheld conviction of accused wherein the plea of alibi was rejected, while resorting to provisions of section 106 of Indian Evidence Act.
30. The Hon'ble Apex Court, in a case reported as (2016) 12 SCC 665 Harijan Bhala Teja v. State of Gujarat in somewhat identical circumstances where the

dead-body had been found in the house of the accused affirmed the judgment of the High Court reversing acquittal of accused. The relevant extract from cited judgment is reproduced below for the sake of ready reference:

“ Section 106 of the Evidence Act, 1872 provides that when any fact is special within the knowledge of any person, the burden of proving that fact is upon him. Since it is proved on the 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.”

31. The deceased, being wife of the accused and having died in the house of accused in the morning on 19.04.2011 puts a heavy burden on the accused to explain the circumstances under which the deceased was found dead in his house in the morning on 19.04.2011 as a result of injuries caused with sharp edged weapon especially when the presence of the accused at the place of occurrence at that moment is also duly established. The accused having failed to render any explanation for the same leaves no room to doubt that it is accused who was responsible for causing death of Murti Devi.
32. As an upshot of our discussions made above, we find that the circumstantial evidence led by the prosecution with the aid of section 106 of Evidence Act is sufficient to lead to one and the only one inference that it is the accused Mahavir who had murdered his wife Murti Devi. We do not find any infirmity

in the findings to this fact accorded by the trial Court and the same are hereby affirmed. There is no merit in this appeal and the same is hereby dismissed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

August 18, 2017
mohan

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No