

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 812 OF 2012

Hanmant Nagnath Surwase
Age: 28 years, Occ: Labour,
R/o. Dhangarwadi, Taluka Tuljapur,
District Osmanabad.
(At present accused in Solapur Central
Prison Pune.)

... Appellant

V/s

The State of Maharashtra

... Respondent

Mr. Daulat Khamkar, for the Appellant.

Mr. H.J. Dedhia, APP for the State.

**CORAM : PRASANNA B. VARALE &
V.G. BISHT, JJ.**

DATE: 3rd SEPTEMBER, 2020.

JUDGMENT (PER : V. G. BISHT, J.)

This Appeal has been preferred against the judgment of conviction and order of sentence passed by the learned 1st Ad-hoc Additional Sessions Judge, Solapur in Sessions Case No. 188 of 2011 on 25th April, 2012, convicting the appellant/accused for the offence under Section 302 of the Indian Penal Code (for short “IPC”) and sentencing him to undergo rigorous imprisonment for life and to pay fine of Rs.1000/- (Rupees One thousand only), in default, to further suffer rigorous imprisonment for three months.

2 Briefly stated the prosecution case is that PW-3, namely, Shahaji Sajjanrao Patil, Ex-Police Patil, resident of Bibi Darphal, Taluka- Uttar Solapur, District-Solapur, gave his report to PW-13, namely, Dilip Pandu Jadhav, PSO of Taluka Police Station, Solapur on 07/05/2011 at 07.35 a.m. to this effect, that Hanmant Nagnath Surwase i.e. appellant/accused was residing as a tenant in the premises of one Dattatray Bujang Shendge (PW-5) of his village. On 07/05/2011, at about 6-30 a.m., he received a call on his mobile from Taluka Police Station, Solapur informing him that accused has approached the Police Station with an intimation that he had killed his wife ("the deceased" for short) on the ground of her infidelity by means of a sickle and therefore, he should go to the house of accused to ascertain and verify the true facts. The informant accordingly went to the premises of Dattatray Shendge and found that the house of accused was latched from outside. The informant then summoned Dattatray Shendge and after removing the latch of the house peeped inside and found the dead body of accused's wife on a cot. There was a serious injury on her neck. There was pool of blood on the cot and around it. A blood stained sickle used for cutting of sugarcane crop was lying there.

3 The informant then went to the Police Station where he saw the accused present there and on being enquired, he came to know from the accused himself that he (accused) had committed the murder of his wife at about 2-30 a.m. on 07/05/2011 while his wife was asleep.

4 First Information Report ("FIR" for short) was registered vide C.R.No. 88 of 2011 for the offence punishable under Section 302 of the IPC. Investigation was taken up by PW-16 Shivaji Dhondiba Kshirsagar

and later on by PW 14-Dattatraya Chandu Sonawane. While PW 16 prepared spot panchanama and the seizure panchanama of the various articles seized from the spot and recorded statements of witnesses, PW 14, on his part, collected Postmortem Report of the deceased, got the spot map prepared through Tahasildar, North Solapur and sent the seized articles to the Chemical Analyzer. PW 11-Dr. Rahul Chandrakant Khandekar conducted autopsy on the body of the deceased-Janabai Hanumant Survase and noted number of injuries on her person and opined that Janabai Hanumant Survase died due to haemorrhagic shock. The result of CA showed that the human blood was found on the clothes of accused and as also on the clothes of deceased. On completion of the investigation, police filed the charge-sheet against the appellant/accused under Section 302 of IPC and the case was committed to the Court of Sessions, Solapur.

5 To substantiate the charge against the appellant/accused, the prosecution has examined as many as 16 witnesses and exhibited number of documents. The accused was questioned under Section 313 of Cr.PC. about the incriminating evidence and circumstances and the appellant/accused denied all of them and pleaded that false case has been foisted against him. Upon appreciation of oral evidence and the circumstances, the Trial Court convicted the appellant/accused for the offence under Section 302 of IPC and sentenced him in the manner stated here-in-above. Hence, this Appeal.

6 Mr. Khamkar, learned counsel for the appellant/accused, has advanced two fold submissions before us. Firstly, according to learned counsel, though the case is based on circumstantial evidence, the

prosecution has not been able to establish the fact that in the intervening night of 06/05/2011 and 07/05/2011, the deceased/wife was in the company of appellant/accused. The evidence adduced by the prosecution, more particularly, of PW 4 and PW 5 does not in any manner lend support to the theory of prosecution that the deceased/wife was very much in the company of the appellant/accused on the date of incident. Secondly, it has not been conclusively established that it was the appellant/accused(husband) only, who committed the murder of his wife. Inasmuch as, for doing the alleged act the motive which assumes significance in the case of the present nature, is not at all firmly established on record by the prosecution. Since the prosecution has failed to complete the chain of circumstances which are required in the case based on circumstantial evidence, the learned Trial Court committed grave error in convicting the accused. For all these reasons, the Appeal deserves to be allowed, argued learned counsel. Learned counsel also placed reliance in **Ranjit Singh V/s State of Punjab**¹.

7 Mr. Dedhia, learned APP, on the other hand, supported the impugned judgment and order by submitting that all the material circumstances are duly proved by the prosecution. Learned APP submitted that the whole prosecution case is based on circumstantial evidence and the prosecution has been able to establish all circumstances beyond reasonable doubt. The prosecution has also established the motive and necessary ingredients in such kind of cases and since complete chain of the circumstance has been duly established, the appellant/accused was rightly convicted. There being no merit in

¹ (2011) 15 Supreme Court Cases 285

the Appeal the same is liable to be rejected, urged learned APP.

8 First, we shall refer to Postmortem Report conducted by PW-11 Dr.Rahul Chandrakant Khandekar (Exh. 44). The evidence of PW 11 shows that on 07/05/2011 dead body of Janabai Hanumant Surwase i.e. the deceased was brought by Police of Taluka Police Station, Solapur for autopsy. He accordingly conducted autopsy and on external examination found following external injuries:

- i) Incised wound over left supra clavicular region extending from middle of neck anteriorly to posterior border of left sterno cleitomastoid muscles posteriorly of size 12 x 4 Cm., deep up to vertribral column with fracture C-5 vertebra and hemisection of spinal cord at C-5 level with left common carotid artery and left jugular vein cut.
- ii) Incised wound over right arm near shoulders, transverse of size 4 x 2 Cm. in to bone deep.
- iii) Three incised wound, one over left side of size 3 x 1 Cm. and two over right side of size 1 x 3 Cm. and 1.5 x 0.5 Cm., all three wounds in one transverse line supra sternally.
- iv) Incised wound over knuckle of right index finger, of size 1 x 0.5 Cm. and second web space, dorsally of size 1.5 x 0.5 Cm.

All organs were pale.

9 It is his further evidence that in his opinion Janabai died due to

haemorrhagic shock and injuries sustained by her were sufficient to cause death in ordinary course of nature. He further stated that the injuries sustained by Janabai were possible by any sharp cutting edged weapon like Sattur. It may be noted here that Sattur i.e. sickle seized in the present offence by the police is very much on the record.

10 At the very outset, it may be noted from the contents of FIR that a blood stained sickle was also lying on the cot wherein the dead body of the deceased was found. Moreover, the learned counsel for appellant/accused has not disputed the homicidal death of the deceased during the course of his argument. Having regard to the nature of injuries sustained by the deceased on the vital part of the body i.e. neck and the fact that the injuries sustained by her were sufficient to cause death in the ordinary course of nature, we hold that the deceased died a homicidal death.

11 The evidence against the appellant/accused comprises of the following circumstances;

- i) Subjection of the deceased to harassment, ill-treatment and beating by accused on account of suspected infidelity;
- ii) The deceased was in company of the accused in the house in the intervening night of 06/05/2011 to 07/05/2011;
- iii) PW-4 heard noise emanating from the room of accused in the intervening night of 06/05/2011 to 07/05/2011;

- iv) On 07/05/2011 in the morning the deceased was found dead, with injury on her neck alongside a blood stained koyata (sickle); and,
- v) Forensic Science reports.

12 It is seemly to state here that the whole case of the prosecution rest on the circumstantial evidence. Where a case is totally hinges on the circumstantial evidence, it is the duty of the Court to see that the circumstances which lead towards the guilt of the accused have been fully established and they must lead to a singular conclusion that the accused is guilty of the offence and rule out the possibilities which are likely to allow the presumption of innocence of the accused.

13 The Honourable Apex Court in **Hanumant Govind Nargundkar v. State of M.P.**², has laid down the principles as under :

"It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should be in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave

² AIR 1952 SC 343

any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

14 **In Sharad Birdhichand Sarda v. State of Maharashtra,**³ the five golden principles which have been stated to constitute the panchsheel of the proof of the case based on circumstantial evidence are (i) the circumstances from which the conclusion of guilt is to be drawn must or should be and not merely 'may be' fully established, (ii) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty, (iii) the circumstances should be of a conclusive nature and tendency, (iv) they should exclude every possible hypothesis except the one to be proved, and (v) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

15 **In C. Chenga Reddy and others v. State of A.P.**⁴ it has been held as under :

"In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should

3 (1984) 4 SCC 116 : (AIR 1984 SC 1622)

4 (1996) 10 SCC 193 (AIR 1996 SC 3390) ,

be complete and there should be no gap left in the chain of evidence. Further, the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence. "

16 In **Ashok Rambhan Gaikwad -vs- State of Maharashtra Through the Office of the Public Prosecutor** (supra) it has been held as under :-

"11. In cases resting on circumstantial evidence, it is incumbent on the prosecution to establish and prove each and every circumstance on which the prosecution proposes to rely. The circumstances so established should be of a conclusive nature that is they should have a definite tendency of implicating the accused. The circumstances so proved should form a complete chain which should exclude every hypothesis of the innocence of the accused and should unerringly point to the guilt of the accused. In other words, the circumstances should be capable of only one inference and that is, that the accused and the accused alone had committed the offence. "

17 In **Babaji alias Mahesh vs State** (supra) it has been held that, in a case of circumstantial evidence, the prosecution must prove each and every incriminating circumstance available against the accused without there being any missing link. The foremost circumstance would be the motive."

18 Keeping the aforesaid principles in view, the circumstances that have been established in the present case are required to be scrutinized.

19 Before picking up the circumstances as noted by us, we would like to first go through the evidence of PW-3 informant.

20 PW-3 Shahaji Sajjanrao Patil stated in his evidence (Exh.33) that accused was tenant of Dattatray Shendge (PW 5). On 07/05/2011 at about 7-30 a.m., he was asked by Police Naik Shri. Dasurkar telephonically to visit house of Dattatray Shendge and confirm about the incidence. He was further told by police that they (police) were told by accused that he had committed the murder of his wife. It is his further evidence that so he went to the house of Dattatray Shendge. There was latch from outside to the door of accused. He opened the door in the presence of landlady of the accused and saw dead body and one koyata on the cot. The lady had sustained injury on her neck. He then closed the room and informed the police about the same. He rushed to Police Station where he lodged the report. He then proved his report at Exh. 32.

21 From the testimony of informant it is quite apparent that he corroborates the contents of FIR to the fact that the deceased was lying dead on a cot and there was one koyata also. PW-13 on his part proved in his evidence (Exh. 47) that on 07/05/2011 at about 7-00 a.m., informant, who was Ex-Police Patil of village Bibi Darphal had come to police station and told that one dead body was lying in the room of accused in the house of Shendge and accordingly he recorded the report (Exh. 32). Thus PW 13 lends support to the version of informant. Before

ascertaining the authorship of the crime, it is necessary to go through the evidence of PW-09 brother and PW-10 mother of the deceased, who have sufficiently thrown the light on the matrimonial relation shared by accused with the deceased.

22 PW 9- Ranjit Ramrao Kale stated in his evidence (Exh.40) that Sarika @ Janabai i.e. deceased was his sister. After the marriage she resided happily for about two months and thereafter accused started ill-treating, beating and abusing her by suspecting her character. Even after the birth of a child, the accused continued to suspect the character of the deceased. The accused used to suspect upon her character with her neighbour, namely, Vitthal Halde. It is his further evidence that the deceased even told him that accused was in habit of saying that she used to laugh at the sight of person. From the cross-examination of this witness, it appears that his statement was not recorded. However, it is seen from the record that the statement was very much recorded by the investigating officer during the course of investigation. Even otherwise, the cross-examination is full of general denial.

23 PW-10 Lubjabai Ram Kale stated in her evidence (Exh. 41) that Janabai @ Sarika (deceased) was her daughter. She resided with accused happily for about a month or two and thereafter accused started beating, quarreling with her by suspecting upon her character. During the course of argument, learned counsel for appellant/accused invited our attention to the cross-examination of this witness wherein she stated that her deposition was tutored in the court premises. If the Marathi version of the deposition is read carefully then it would be seen that before adducing the evidence of this witness before the Court, her

statement which was recorded by investigating officer came to be read over to her. It appears that while recording the evidence of this witness in the cross-examination the learned Court could not record it properly and rather indicated that she was tutored before recording of her evidence. Even if it is so for the sake of argument, we would like to dwell on this aspect at the latter part of our judgment as to how this discrepancy, if at all, will not dent the prosecution theory.

24 Be that as it may, what emerges from the evidence of PW-9 and PW-10 is that, the deceased was subjected to harassment by the appellant/accused on the ground of infidelity.

25 This takes us to the evidence of material witnesses, viz. PW-4 and PW-5. Before that we would like to mention here that during the course of argument, learned counsel for the appellant/accused seriously disputed that the prosecution has not been able to prove that the accused was tenant of premises belonging to PW-5. Let us make it clear that we are not deciding the tenancy or otherwise of the accused in the present case and therefore, that cannot be of much significance. Still we are of the considered opinion that there is more than sufficient evidence on record to prove that the accused was residing in the premises as a tenant and for that purpose we are here to analyze, assess and scrutinize the evidence of PW-4 and PW-5.

26 PW-04 Mahananda Dattatray Shendge stated in his evidence (Exh. 33) that their house is situated in Sambaji Nagar, Bibi Darphal. There are three rooms. Two rooms are in their possession. Third room was given to the accused on rent of Rs.500/- per month. Accused was

residing with his wife Janabai and a small daughter. It is her further evidence that a day prior to the incident there was a quarrel between accused and his wife. On the date of incident at about 7-00 p.m. she returned back from her field. Her husband had dinner and then went to the field. At that time, accused, his wife and their daughter were present in their room. In the night she heard noise from the room of accused. It is her further evidence that in the morning while she was cleaning courtyard Police Patil came to her house. The door of room of accused was closed. She opened the latch. They entered into the room and saw dead body of Janabai on cot. One Sattur was also there. Bed was stained with blood. They came out and shut the door.

27 Similarly, PW 5-Dattatray Bhujang Shendge, husband of PW 4, stated in his evidence (Exh. 34) all about tenancy of accused and that at the relevant time accused was residing along with his wife and a daughter. On the date of incident accused was present with his wife and daughter. On the next morning when he returned back from the field, he noticed dead body of wife of accused on a cot. Sattur was also lying near on the cot. There was an injury on the neck of wife of accused.

28 From the testimonies of both the above material witnesses, following important facts emerge:

- i) Accused was tenant and was residing with his wife and a daughter (kid).
- ii) A day prior to incident a quarrel between accused and wife had taken place, a fact which is not specifically and categorically denied in an unequivocal terms by defence.

- iii) Even in the night of 06/05/2011, PW 4 heard noise emanating from the room of accused. This piece of evidence is not confronted deeply so as to get discernible answer favouring defence and;
- iv) Both the witnesses saw dead body of the wife of accused and sattur around the dead body.

29 Except general denials there is nothing in the cross-examinations of these material witnesses.

30 It needs no stressing and must be emphasized that the evidence of PW-4 and PW-5 is so clear to establish that on the day of incident the deceased was very much in the company of accused. Even in the night hours PW-4 had occasion to hear a noise emanating from the room of accused. In **Purushotham and Anr. V/s State**⁵ the Hon'ble Apex Court observed that "Last seen" theory comes into play where time gap between both the deceased and accused were seen last alive and when the deceased found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible.

31 In the present case it must be noted conscientiously that from the evidence on record, it is clear that not only the accused was in the company of the deceased in the intervening night of 06/05/2011 and 07/05/2011 but was found present in the police station in the early hours of morning by police and PW-3 informant.

5 2016 CRI. L.J.1453

32 In **Gajanan Dashrath Kharate V/s State of Maharashtra**⁶ it has been held by the Hon'ble Apex Court that when an offence like murder is committed in secrecy inside a house the initial burden to establish the case would undoubtedly be upon the prosecution. In view of Section 106 of the Evidence Act, there will be a corresponding burden on the inmates of the house to give 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 the accused to offer.

33 In **Trimukh Maroti Kirkan V/s State of Maharashtra**⁷ the Hon'ble Apex Court held as under:-

“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 staying 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.”

34 In **Nika Ram V/s State of H.P.**⁸ it was observed by the Hon'ble

6 AIR 2016 SUPREME COURT 1255

7 (2006) 10 SCC 681 : (2006 AIR SCW 5300)

8 (1972) 2 SCC 80 : (AIR 1972 SC 2077)

Apex Court that the fact that the accused alone was with his 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 cogent explanation by him, point to his guilt.

35 in **Ganeshlal V/s State of Maharashtra**⁹ 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 of Cr.PC. 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 inconsistent with the hypotheses that the appellant is a prime accused in the commission of murder of his wife.

36 In the case in hand the prosecution has successfully established that before the commission of the crime, the accused and his wife were seen together in their room and in such obtaining situation it was for the appellant/accused to offer an explanation as to how his wife sustained injuries. No explanation much less any cogent explanation is forthcoming from the side of appellant/accused. The appellant/accused was under an obligation to give a plausible explanation for cause of death of his wife and when there is failure which is quite apparent on account of non offering of any explanation as to the homicidal death of his wife, it is a strong circumstance against the accused that he is responsible for the commission of the crime.

⁹ (1992)3 SCC 106 : (1992 AIR SCW 1175)

37 Here we revert back to the aspect of motive regarding which the discussion was kept in abeyance. The prosecution has relied on motive and circumstance. According to the prosecution, the accused used to suspect the infidelity of deceased-wife leading to the commission of crime. Thus, according to prosecution, there is the motive.

38 As per Section 8 of the Evidence Act, motive is a relevant fact. The provision deals with the following three aspects;

- i) a fact which shows or constitutes a motive for any fact in issue or relevant fact;
- ii) the acts constituting preparation for any fact in issue or relevant fact; and
- iii) the conduct of the person either previous or subsequent to the offence.

39 Needless to say motive is that which impels a person to do a particular act. There can be no action without a motive. Motive may create a very strong suspicion but it cannot take the place of proof. Mere possibility of existence of motive cannot make the accused guilty, as held by the Hon'ble Apex Court in the case of **Sarwan Singh Rattan Singh V/s State of Punjab**¹⁰. Where the prosecution case depends on circumstantial evidence, motive assumes significance and goes a long way to prove the case of the prosecution as held by the Hon'ble Apex Court in the case of **Shivaji V/s State**¹¹.

40 In **Purushottam and Another V/s State** (Supra), the Hon'ble Apex

¹⁰ (AIR 1957 SC 637)

¹¹ (AIR 1973 SC 55)

Court has held that if the evidence against the accused is clear and clinching, failure on the part of the prosecution to establish motive is of no consequence.

41 In the instant case, we have already discussed in the earlier part of our judgment the evidence of brother and mother of the deceased. We have also concluded that the accused used to take suspicion on the character of deceased-wife on the basis of testimonies of the brother and mother. Even for the sake of argument it is said that the motive is not sufficiently established by the prosecution then also it must be held that it has been clinchingly established by the prosecution that it was accused and accused alone, who was in the company of the deceased-wife in the intervening night of 06/05/2011 and 07/05/2011. We are also mindful of the fact and at the cost of repetition point out that no plausible explanation which was expected by the accused as to the homicidal death of his wife is forthcoming and therefore, it must be held that motive is of no consequence if at all it is to be held, though it should not be, that motive in the present case is not at all established by the prosecution.

42 The reliance placed by learned counsel for the appellant/accused in the case of **Ranjit Singh V/s State of Punjab** (Supra) is of no help inasmuch as the said case was based on extra-judicial confession and the same was not found to be reliable. There was no other evidence to connect the appellant/accused to the alleged crime. However, the obtaining factual position of the case in hand is quite different and therefore, the ratio laid down in the said case with due respect is not applicable to the present case.

43 The last circumstance is in the form of Forensic Science report. Apart from the oral evidence, the case of prosecution is also strengthened by recovery of blood stained clothes of the appellant/accused and deceased.

44 In this regard, it is necessary to go through the evidence of PW-1, PW-2 and PW-16.

45 PW-1 Sachin Bharat Sathe stated in his evidence (Exh. 26) that on 07/05/2011 he was called by police in the house of Dattatraya Shendge as a panch. Deceased was lying on the spot. Spot was blood stained. Koyata and glass were found there. Bed, bed-sheet (satranji), pillow were stained with blood. The spot panchanama was prepared and articles were seized. He then signed the same. This witness then proved the spot panchanama at Exh. 27. There is general denial in the cross-examination.

46 PW-2 Arif Babulal Kazi although stated in his examination-in-chief (Exh. 28) about the seizure of clothes of deceased and accused vide Exh. 29 and Exh. 30 but in cross-examination took a somersault and stated that both the panchanamas were already ready and on the say of police he simply put his signature. In fact, this witness ought to have been declared hostile by the prosecution but the prosecution opt to do so for the reasons best known to it.

47 PW-16 Investigating Officer stated in his evidence (Exh. 68) that on 07/05/2011 he received C.R. No. 88 of 2011 under Section 302 of the IPC for investigation. He along with staff went to spot and prepared

panchanama in the presence of two panchas. He also seized from the spot, Koyata, pillow cover, satranji, blood from bed and floor vide Exh. 27. He also seized the blood stained clothes of accused vide Exh. 29 and clothes of deceased vide Exh. 30. Thus, even if it is a fact that the cross-examination of PW 2 washed away his examination-in-chief, the evidence of PW 16- investigating officer is there to take care of and sufficiently proves the seizure of various articles besides the blood stained clothes of deceased and accused.

48 Apart from weapon of offence, namely, Koyata, Forensic Science reports at Exhs. 53 and Exh. 55 show that the blood group of appellant/accused and deceased, respectively, cannot be determined as a results were inconclusive. However, chemical analysis report at Exh. 54 clearly shows that human blood was found not only on the clothes of deceased and accused but on the koyata also. Interestingly, from the report it is clear that human blood of blood group "A" was found on all the above said articles. As noted, the blood groups of deceased and accused could not be determined, nevertheless, the fact remains that the human blood was found on the clothes of accused and as also weapon of offence, namely, koyata. The appellant/accused has not offered any explanation as to how blood came to be found on his clothes, which is yet another incriminating circumstance against the appellant/accused.

49 Upon appreciation of oral evidence and the circumstances of recovery of blood stained clothes of accused and conduct of accused in not offering any explanation of the homicidal death of his wife, we have no hesitation to come to the conclusion that it was the appellant/accused (husband) who was perpetrator of the crime and the

trial court rightly convicted the appellant/accused under Section 302 of the IPC. We do not find any reason to interfere with the impugned judgment.

50 In the result, the conviction of the appellant/accused under Section 302 of the IPC and sentencing of life imprisonment imposed on him is confirmed and following order is passed:

ORDER

Appeal is dismissed.

(V.G. BISHT, J.)

(PRASANNA B. VARALE, J.)