

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 650 OF 2014

Parvatibai w/o Kantrao Warle,
Age : 47 years, Occupation : Nil,
R/o Mokli, Residing at Ganeshnagar,
Dharmabad, Taluka Dharmabad,
District Nanded, At present she is in jail

...Appellant
(original accused No.2)

Versus

State of Maharashtra,
Through Police Station Officer
Police Station Kundalwadi,
Taluka Biloli, District Nanded

...Respondent
(original complainant)

Mr N.K. Kakade, Advocate for Appellant
Mr Shashibhushan P. Deshmukh, A.P.P. for Respondent-State

**CORAM : V.K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 24th SEPTEMBER, 2021

ORAL JUDGMENT : (PER SHRIKANT D. KULKARNI, J.)

1. The appellant/original accused No. 2, who is convicted for the offence punishable under section 302 of the Indian Penal Code and sentenced to suffer imprisonment for life by the Additional Sessions Judge, Biloli in Sessions Case No. 53 of 2011 vide Judgment and order dated 16.10.2014, has preferred this appeal under section 374(2) of the Code of Criminal Procedure on various grounds.

2. The facts of the prosecution case in narrow compass are as under :-

a) On 02.04.2011, Sarojana w/o Kiran Warle, resident of Mokli

was admitted in I.C.U. Burns Ward at Apollo Hospital, Nanded. She had sustained 92% burn injuries. Doctor from Apollo Hospital informed to Vazirabad Police Station, Nanded about such MLC case. One Police Head Constable, namely, Gautam Belaji Kamble, attached to Vazirabad Police Station was deputed. He rushed to Apollo Burns Hospital at Nanded and met with the Doctor and informed that he wanted to record statement of Sarojana (since deceased).

b) Police Head Constable, Kamble recorded the statement of Sarojana w/o Kiran Warle after taking medical opinion from the doctor. Sarojana disclosed to Police Head Constable Kamble that on 30.03.2011, there was wedding of her niece Ms Archana and after wedding, she came to her matrimonial house at Mokli along with her family members. She further disclosed that there was quarrel between her and her sister-in-law/accused No. 2 – Parvatibai and her husband/accused No. 1 – Kantarao on account of return of her gold ornaments which they had taken. She was even subjected to beating in the said quarrel when she insisted for the said gold ornaments. She further disclosed that on 02.04.2011 at about 10.00 a.m. she was present in her matrimonial house. Her brother-in-law and sister-in-law accused Nos. 1 and 2 (Kantarao Ramrao Warle and Parvatibai Kantarao Warle) were also present. Sarojana asked them to effect partition of landed property and so also, put forth her demand of her gold ornaments. She disclosed that appellant/accused No.2 poured kerosene on her person and after igniting the match stick, thrown towards her, but the match stick blow out. The appellant/accused No. 2 again ignited another match stick and thrown towards Sarojana and set

her ablaze. Sarojana raised hue and cry. In response, neighbouring persons Suresh Warle, Govind Warle, Ushabai Warle rushed to the spot of incident and extinguished the fire by putting quilt on her person as well as pouring water. The neighbouring persons put injured Sarojana in Auto Rickshaw and brought her to Government Medical Hospital at Biloli, and thereafter, Ramchandra Warle, his wife and Shriram Madhav Lakde brought her to Apollo Hospital at Nanded and admitted there for treatment.

c) On the basis of statement given by Sarojana w/o Kiran Warle, Crime No. 14/2011 came to be registered at Vazirabad Police Station, Nanded for the offence punishable under section 307 read with section 34 of I.P.C. The investigation was entrusted to P.S.I. Devde.

d) On the very day i.e. on 02.04.2011, Mr Datta Navghare, Special Judicial Magistrate for Nanded District, upon receiving request letter from Police, rushed to Apollo Hospital, Nanded. He met with doctor Kalambkar and informed that he wanted to record statement of Sarojana Warle. Doctor Kalambkar examined the patient in his presence and certified that patient is conscious and he may record her statement. Accordingly, Mr Datta Navghare recorded the statement of Sarojana in the form of dying declaration. Sarojana narrated the same incident before the Special Judicial Magistrate and the same was reduced into writing.

e) The Investigating Officer PSI Devde paid visit to the scene of offence and prepared the panchanama in presence of two panch witnesses and seized kerosene Can and match stick from the scene itself. After transfer of PSI Devde, the remaining part of the investigation was

handed over to another Police Officer. Sarojana succumbed to burn injuries on 25.04.2011. After inquest panchanama, the dead body of Sarojana was sent to Government Medical College and Hospital at Nanded. After postmortem examination, doctor opined that Sarojana died due to "Septicemia" due to burns.

f) After completion of investigation, the charge sheet came to be filed against the appellant and her husband/original accused No.1 for the offence punishable under section 302 read with section 34 of I.P.C.

g) The appellant and her husband/original accused No.1 were committed to the Court of Sessions Division at Biloli on 10.11.2011 by the Judicial Magistrate First Class, Dharmabad for standing their trial under section 302 of the I.P.C. The learned Additional Sessions Judge at Biloli framed the charge against the appellant and her husband for the offence punishable under section 302 read with section 34 of the I.P.C. vide exh. No. 4. After the prosecution produced 7 witnesses, the trial court vide its judgment and order dated 16.10.2014 held the appellant/original accused No.2 guilty and convicted her under section 302 of the I.P.C. On the facts and circumstances of the case, the appellant was awarded life imprisonment. However, husband of the appellant/original accused No.1 Kantarao Ramrao Warle came to be acquitted from the charge under section 302 read with section 34 of the I.P.C. and he was set at free.

3. We have heard Mr N.K. Kakade, learned counsel for the appellant/original accused No. 2 and Mr Shashibhushan Deshmukh, learned A.P.P. for the State/Respondent at length. We have also gone

through the evidence of prosecution witnesses and two dying declarations as well and stock of documentary evidence with the able assistance of the learned counsel for the appellant and learned A.P.P. for the State.

4. Mr N.K. Kakade, learned counsel for the appellant/original accused No.2 vehemently submitted that the case is entirely based upon the dying declaration. There are two dying declarations in the case in hand. One dying declaration is at exh. 13 which was treated as F.I.R. and put criminal law in motion. The another dying declaration is at exh. 19 recorded by the Special Judicial Magistrate. He submitted that both the statements in the form of dying declarations were recorded on the same day itself. He invited our attention to the evidence of PW No. 3, Police Head Constable Kamble, who has recorded the first dying declaration and submitted that said dying declaration is not reliable. He invited our attention to the cross-examination of PW No. 3, Police Head Constable Kamble and pointed out that there is over writing in respect of time and date mentioned in the statement. He further submitted that thumb mark of the deceased is not attested. He submitted that the deceased had sustained 92% burn injuries and she was not in a position to talk. He further pointed out that first dying declaration at exh. 13 indicates that contents of the same were not read over to the deceased and she admitted the same. In view of the above deficiencies, the dying declaration vide exh. 13 is very much doubtful and not safe to rely upon.

5. Mr Kakade, learned counsel further invited our attention to another dying declaration vide exh. 19 which was recorded subsequently

by the Special Judicial Magistrate. He submitted that dying declaration vide exh. 19 nowhere indicates as to what was the condition of the patient before recording her statement by the Special Judicial Magistrate. Mr Kakade, learned counsel strenuously argued that both the dying declarations do not inspire confidence of the Court. The trial court has committed an error in accepting dying declarations. It is unsafe to rely upon both dying declarations in view of the material brought on record during cross-examination of respective witnesses, who recorded those statements in the form of dying declarations.

6. Mr Kakade, learned counsel further submitted that PW No.1 Chandar Nagnath Kawde, and PW No.2 Deorao Madhavrao Warle vide exh. 9 and 10 respectively, who were the panch witnesses to the spot and seizure panchanama have turned hostile and not supported to the prosecution case. PW No. 5 Madhavrao Lakde vide exh. 22 happens to be the father of the deceased, who has not even supported the prosecution case. PW No. 6 Shriram Lakde, who happens to be brother of the deceased has also not supported to the prosecution case. It is brought on record through the testimony of PW No. 6 Shriram Lakde that condition of Sarojana was not good when he had been to the hospital to see her and she was not in position to talk. He further pointed out that the neighbouring persons, who had extinguished the fire are not examined by the prosecution and no explanation is coming forth. He further pointed out that concerned doctor, who has examined the patient even not examined and as such, dying declaration relied upon by prosecution cannot be acted upon. The trial court has committed an error in convicting the

appellant/original accused No.2. The present appellant needs to be set at free from the charge of murder on the same set of facts and the evidence when original accused No.1 was set at free from the charge of murder. He submitted that the findings recorded by the learned trial Judge are incorrect in the eye of law. The conviction needs to be quashed and set aside when the evidence in the form of dying declaration is found to be unworthy of credence.

7. Per contra, Mr Shashibhushan Deshmukh, learned A.P.P. for the State/respondent forcefully submitted that even though, both the panch witnesses, father and brother of the deceased have turned hostile, not any way fatal to the prosecution case. The case is entirely rest upon the dying declaration. There are two dying declarations on record vide exh. 13 and 19. The prosecution has examined both the witnesses who have recorded the statements of deceased. Both the dying declarations speak itself that before recording the statement, the concerned doctor has examined the patient and certified that patient was fit and conscious to record the statement. Accordingly, both statements were recorded. The concerned witnesses who have scribed the dying declarations have also stated that they have satisfied themselves about the fitness of the patient before recording of the statement and after satisfying themselves about fitness of the patient, they have recorded statements of the deceased. He submitted that both the dying declarations are consistent, and there is no defect at all. Both the statements inspire confidence of the Court. The trial court has rightly relied upon the dying declarations and accordingly, after appreciating the same arrived at conclusion that appellant/accused No.2

is the person responsible for the death of Sarojana. Sarojana was alive for more than 22 days after the incident which speaks that she was conscious and oriented when her statements were recorded on the date of incident i.e. 02.04.2011. There is no scope to take doubt about the dying declarations. He submitted that the trial court has rightly appreciated the evidence by going through the evidence of respective witnesses and accordingly, convicted the appellant accused No.2 who is author of homicidal death of Sarojana. He submitted that the conviction needs to be upheld.

8. We have considered the submissions advanced by the learned A.P.P. for the State and Mr Kakade, learned counsel for the appellant/original accused No.2.

9. Mr Kakade, learned counsel for the appellant/accused No.2 has relied upon the following stock of citations :-

- (i) ***Amarsingh Vs. State of M.P. reported in 1996 CRI.L.J 1582***
- (ii) ***Vilas @ Bandu Punjabrao Misal Vs. State of Maharashtra reported in 2016 ALL MR (Cri) 3828***
- (iii) ***Sitaram Nana Sarvade & Anr. Vs. The State of Maharashtra reported in 2016 ALL MR (Cri) 1049***
- (iv) ***Paparambaka Rosamma and others Vs. State of A.P. reported in AIR 1999 SC 3455***
- (v) ***Paparambaka Rosamma Vs. State of A.P. 1999 AIR SC 3455***
- (vi) ***Purshottam Chopra and Ors. Vs. State (Govt. of NCT Delhi) Criminal Appeal Nos. 194-195 of 2012 dated 07.01.2020.***

10. At the outset, it is necessary to mention here that appellant and her husband/original accused No.1 Kantrao Ramrao Warle, both were put on trial for the offence punishable under section 302 read with section 34 of I.P.C. The learned trial Judge has convicted the appellant/original accused No.2 – Parvatibai alone for the offence punishable under section 302 of I.P.C. Whereas original accused No.1 – Kantrao Ramrao Warle came to be acquitted from the charge of murder. The State seems to have not preferred any appeal against the acquittal of original accused No.1- Kantrao Ramrao Warle.

11. The inquest panchanama vide Exh No.11, post mortem report vide exh. No. 15 are not much disputed. It is also not in dispute that Sarojana had sustained 92% burn injuries in the incident occurred on 02.04.2011 in the morning at about 10.00 a.m. She succumbed to burn injuries on 25.04.2011. As per doctor's opinion, the probable cause of death in this case is "Septicemia due to burns".

12. PW No. 1 Chandar and PW No. 2 Deorao vide exh. 9 and 10 respectively are the panch witnesses on the spot panchanama and seizure of articles from the scene of offence have turned hostile and not supported the prosecution case. PW No. 5 Madhav Lakde and PW No. 6 Shriram Lakde, who are father and brother of deceased have turned hostile and not supported the prosecution case. The prosecution machinery has examined in all seven witnesses and out of them, four have turned hostile.

13. The case is entirely rest upon dying declaration. The law on dying declaration is now well settled. The principles relating to admission and acceptability of the statement made by the victim representing the cause of death shall refer to as dying declaration are well settled and few doubts as regards pre-requisites for acceptability of dying declaration were also put at rests by the Constitution Bench of the Hon'ble Supreme Court in the case of ***Laxman Vs. State of Maharashtra reported in (2002) 6 SCC 710***. The conviction can be based on dying declaration of the deceased. If it is found to be truthful, voluntary and trustworthy, no corroboration is necessary. Mr Kakade, learned counsel for the appellant has referred recent citation of the Hon'ble Supreme Court on the subject of dying declaration in case of ***Purshottam Chopra and Ors. Vs. State (Govt. of NCT Delhi) (supra)***. Even though Mr Kakade, learned counsel for the appellant has placed reliance on other citations referred above, the decision of the Constitution Bench of the Hon'ble Supreme Court in case of ***Laxman Vs. State of Maharashtra*** still holds the field and the same is followed by the Hon'ble Supreme Court, in a recent case of ***Purshottam Chopra and Ors. Vs. State (Govt. of NCT Delhi)*** referred by Mr Kakade, learned counsel for the appellant. As such, there is no necessity to refer other citations referred by Mr Kakade.

14. In case of ***Purshottam Chopra and Ors. Vs. State (Govt. of NCT Delhi)***, the Hon'ble Supreme Court after considering the Constitution Bench decision in case of ***Laxman Vs. State of Maharashtra*** and other various decisions given earlier with some addition laid down principles relating to recording of dying declaration and its admissibility and

reliability, could be usefully summed up as under :-

2.1. For what has been noticed hereinabove, some of the principles relating to recording of dying declaration and its admissibility and reliability could be usefully summed up as under :-

(i) A dying declaration could be the sole basis of conviction even without corroboration, if it inspires confidence of the Court.

(ii) The Court should be satisfied that the declarant was in a fit state of mind at the time of making the statement; and that it was a voluntary statement, which was not the result of tutoring, prompting or imagination.

(iii) Where a dying declaration is suspicious or is suffering from any infirmity such as want of fit state of mind of the declarant or of like nature, it should not be acted upon without corroborative evidence.

(iv) When the eye-witnesses affirm that the deceased was not in a fit and conscious state to make the statement, the medical opinion cannot prevail.

(v) The law does not provide as to who could record dying declaration nor there is any prescribed format or procedure for the same but the person recording dying declaration must be satisfied that the maker is in a fit state of mind and is capable of making the statement.

vi) Although presence of a Magistrate is not absolutely necessary for recording of a dying declaration but to ensure authenticity and credibility, it is expected that a Magistrate be requested to record such dying declaration and/or attestation be obtained from other persons present at the time of recording the dying

declaration.

vii) As regards a burns case, the percentage and degree of burns would not, by itself, be decisive of the credibility of dying declaration; and the decisive factor would be the quality of evidence about the fit and conscious state of the declarant to make the statement.

viii) If after careful scrutiny, the Court finds the statement placed as dying declaration to be voluntary and also finds it coherent and consistent, there is no legal impediment in recording conviction of its basis even without corroboration.

15. In the background of citations in the case of ***Laxman Vs. State of Maharashtra*** and recent citation in case of ***Purshottam Chopra and Ors. Vs. State (Govt. of NCT Delhi)*** (*supra*) of the Hon'ble Supreme Court, we have to examine the dying declarations relied upon by the prosecution in this case vide exh. 13 and 19 respectively.

16. First we will examine the dying declaration recorded by PW No. 3, Police Head Constable Kamble, which is vide exh. 13. It was the first in time recorded on 02.04.2011, which is treated as First Information Report. On careful scrutiny of the statement/dying declaration of Sarojana vide exh. 13, it is evident that doctor has put endorsement in the margin of the statement which reads thus -

"Patient is fully conscious oriented with time, space person for statement which was started at 2.00 p.m. and completed at 2.30 p.m. today on 02.04.2011."

17. It indicates that concerned doctor was present there while recording the statement/dying declaration throughout and certified about consciousness of the patient to give the statement. Certification of doctor about patient's condition and fitness to record the statement is a rule of caution and it is not mandatory requirement of law. Mr Kakade, learned counsel for the appellant attempted to show that the said statement was not read over to the deceased after completion. Be that as it may, there is no animus between PW No. 3, Police Head Constable Kamble and the appellant/accused No. 2. No such material is brought on record through the cross-examination of Police Head Constable Kamble to take doubt about his exercise of recording of statement of deceased and improvising the case of the prosecution. We therefore, do not find any force in that line of submission made by Mr Kakade, learned counsel for the appellant/accused No. 2.

18. Now, coming to overwriting in the statement vide exh. 13 pertaining to date and time. PW No. 3, Police Head Constable Kamble, while facing the cross-examination, admitted that there is overwriting in the statement in respect of time and date and thumb of the deceased is not attested. We have perused the dying declaration/statement of the deceased vide exh. 13. There is overwriting in respect of the first figure of the date and first word of time. However, in the last para of the statement/dying declaration, the date of incident as 02.04.2011 and time about 10.00 a.m. in the morning are mentioned which has cleared the position. It is not the case of the defence that alleged incident had not occurred on 02.04.2011 in the morning and occurred on some other date and time. It

was attempted to show by the defence that it was a suicidal case and practically not disputed the date and time of the incident. We therefore, do not find any merit in that line of submissions made by the Mr Kakade, learned counsel for the appellant/accused No.2.

19. So far as obtaining right leg thumb impression of the deceased on dying declaration is concerned, it is evident that same is not attested either by the Police Head Constable Kamble or anybody else. Section 32 of the Evidence Act nowhere provides that if thumb impression of a hand or leg is obtained, it must be attested by the scribe or any other person. In absence of any mandatory requirement in view of the provisions of section 32 of the Evidence Act, no more importance can be given to that aspect regarding absence of attestation of right leg thumb impression of the deceased.

20. On careful scrutiny of the statement/dying declaration of the deceased and the testimony of PW No. 3, Police Head Constable Kamble vide exh. 12, we noticed that the Police Head Constable Kamble has reproduced the narration given by the deceased while recording the statement. There is no discrepancy at all. The Police Head Constable Kamble, who was on duty at Railway Station Chowki, Vajirabad Police Station, Nanded, on instructions rushed to the Apollo Burns Hospital at Nanded and after taking medical opinion of the concerned doctor, seems to have recorded the statement of the deceased according to her narration. The statement of dying declaration vide exh. 13 recorded first in time is found without any deficiency. It inspires confidence of the Court.

The trial Court has rightly accepted the same by assigning the reasons in view of the landmark decision of the Hon'ble Supreme Court in the case of **Laxman Vs. State of Maharashtra**. We do not find any error on the part of the learned trial Judge while accepting the said dying declaration vide exh. 13.

21. Now, coming to another dying declaration vide exh. 19 recorded by PW No.4, Datta Navghare, Special Judicial Magistrate. On perusing the same, it is noticed that Special Judicial Magistrate for Nanded District, has recorded the dying declaration of the deceased in question-answer form after taking medical opinion from the concerned doctor. Before recording the dying declaration, Special Judicial Magistrate seems to have obtained the endorsement from the concerned doctor which reads thus -

Patient is fully conscious oriented with time, space and person to give statement to Magistrate which has started at 3.00 p.m. on 02.04.2011.

22. Dr. Kalambkar has also put his signature below the endorsement. The Special Judicial Magistrate Mr Datta Navghare has also put his endorsement that recording was commenced at 3.00 p.m. On perusing the dying declaration vide exh.19, more particularly, question regarding the incident, it is found that the deceased has narrated the same incident. The dying declaration seems to have concluded at 3.30 p.m. on 02.04.2011. Doctor has also put his endorsement after concluding the work of recording of statement with following endorsement.

Patient was fully conscious throughout entire statement which completed at 3.30 p.m.

23. It is further evident that the contents of the dying declaration were read over to the deceased and thereafter, Special Judicial Magistrate Mr Datta Navghare seems to have obtained right leg thumb impression of the deceased since her hand fingers were burnt. Further, it is evident from the testimony of PW No.4, Special Judicial Magistrate, Mr Datta Navghare that before recording the statement, he has introduced himself to the deceased. He got satisfied himself that patient Sarojana was in a fit state of mind for recording her statement. After getting satisfied himself and after obtaining the certification from the doctor about the fitness, PW No.4, Special Judicial Magistrate, Mr Datta Navghare has recorded the dying declaration which is at exh.19.

24. Mr Kakade, learned counsel for the appellant/accused No.2 has attempted to point out that first endorsement given by Dr. Kalambkar nowhere speaks when statement was commenced. On going through the endorsement of the doctor which is at exh.19, it is very much clear that Dr. Kalambkar has mentioned that statement was commenced at 3.00 p.m. on 02.04.2011. We therefore, do not find any merit in that line of argument advanced by Mr Kakade, learned counsel for the appellant/accused No.2. Mr Kakade, learned counsel attempted to point out that there is no evidence regarding condition of the patient before recording of the statement/dying declaration vide exh.19. The statement/dying declaration vide exh.19 itself speaks that patient was fully conscious and oriented at the time of recording of the statement at 3.00

p.m. She was throughout conscious and fit while recording the statement which was completed at 3.30 p.m. on 02.04.2011. We therefore, again do not find any merit in the submissions advanced by Mr Kakade, learned counsel for the appellant/accused No.2.

25. Mr Kakade, learned counsel for the appellant vehemently submitted that the concerned doctors are not examined by the prosecution, who had certified the patient about the fitness to record the statement. The legal position as discussed above in case of ***Laxman Vs. State of Maharashtra*** (supra) made it clear that certification of doctor about fitness of the patient to record the statement is a rule of caution and it is not mandatory requirement of law. Furthermore, it is important to note that in this case, both the dying declarations were recorded by the concerned witnesses on 02.04.2011. Sarojana did not succumb to burn injuries immediately after recording the statement. Sarojana succumbed to burn injuries on 25.04.2011 at about 20.00 p.m. Therefore, it is clear that Sarojana died after more than 22 days of recording of her statement. It is brought on record that Sarojana was conscious and oriented while recording both the statements. Even though the concerned doctors are not examined by the prosecution, who had certified about fitness of the patient not any way fatal to the prosecution when there is no mandatory requirement of law in view of the provisions of section 32 of the Evidence Act. Certification of doctor is merely a rule of caution and not mandatory requirement of law as discussed above.

26. On careful scrutiny of dying declarations/statements vide exh. 13 and 19, it is revealed that both dying declarations are found voluntary. The statements/dying declarations were not the result of tutoring, prompting or imagination. It is evident from the statements/dying declarations itself that the deceased was in a fit state of mind at the time of making the statements. The testimony of PW No. 3 and PW No. 4, clearly speaks that deceased was in a fit and conscious state of mind while giving the statement and she was capable of making the statement. Even though Sarojana had sustained 92% burn injuries, she survived for more than 22 days which itself speaks about credibility of the dying declarations. On careful examination of both dying declarations vide exh. 13 and 19, it is found that both are coherent and consistent and inspire confidence of the Court. We do not find any material deficiency in both the dying declarations. The narration given in both the statements or dying declarations are regarding incident in the same tone pointing out the involvement of the appellant/original accused No. 2 while setting ablaze Sarojana after pouring kerosene in the matrimonial house.

27. We do not find any merit in the argument advanced by Mr Kakade, learned counsel for the appellant/accused No.2 questioning reliability of the statements of dying declarations. Both the dying declarations are found worthy of credence and need to be believed when both the dying declarations inspire confidence in the Court and both are found consistent.

28. Mr Kakade, learned counsel for the appellant/accused No.2 submitted that father and brother of the deceased (PW No. 5, Madhavrao and PW No. 6, Shriram) have turned hostile and not supported the prosecution case. PW No. 6, Shriram has admitted that he met with his sister in the hospital and she was not in a position to speak. However, that piece of evidence of PW No. 6, Shriram, is found unworthy of credence. When the evidence of scribe of both the statements in the form of dying declarations coupled with medical certification speak that the deceased was conscious and oriented and fit to give statement as pointed out earlier, Sarojana died after about 22 days of recording of her statement. It is one more important factor to disbelieve above referred piece of evidence of PW No. 6, Shriram.

29. In view of the principles laid down by the Hon'ble Supreme Court in case of **Purshottam Chopra and Ors. Vs. State (Govt. of NCT Delhi)**, (supra) held that if dying declaration inspires confidence of the Court, conviction can be based solely on the basis of dying declaration even without corroboration. As such, even though PW No. 5 Madhavrao and PW No. 6, Shriram, who are father and brother of the deceased though turned hostile, not anyway fatal to the prosecution case when the dying declarations on record inspire confidence of the Court, and secondly, when there is no cloud nearby. The learned trial Court has considered the legal position about recording of conviction on the sole basis of dying declaration by placing reliance in the case of **Laxman Vs. State of Maharashtra** (supra). The learned trial court has considered all the points raised by the defence side and rightly held that both dying

declarations inspire confidence of the Court and free from any doubt and as such, awarded the sentence against the appellant/accused for committing murder of her sister-in-law Sarojana in view of section 302 of I.P.C. and sentenced to suffer life imprisonment in view of the facts of the case in hand.

30. We are in agreement with the findings recorded by the learned trial Court while convicting the appellant/accused No. 2 alone under section 302 of I.P.C. in view of her complicity in the commission of murder of her sister-in-law by setting her ablaze after pouring kerosene in the matrimonial house. We do not find merit in the appeal. The conviction awarded by the trial court needs to be upheld at our hands in the appeal.

31. Needless to say that the appeal needs to be dismissed.

ORDER

The Criminal Appeal stands dismissed.

[SHRIKANT D. KULKARNI, J.]

[V.K. JADHAV, J.]

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