

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

Present :

The Hon'ble JUSTICE JOYMALYA BAGCHI
And
The Hon'ble JUSTICE BIVAS PATTANAYAK

C.R.A. 104 of 2009

Jagannath Kundu
-Vs-
The State of West Bengal.

For the Appellant: Mr.Partha Sarathi Bhattacharyya, Adv.
Ms.Swarnali Saha, Adv.

For the State: Mr. Abhra Mukherjee, Adv.
Mr. Dipankar Mahato, Adv.

Heard on: 04.04.2022.

Judgment on: 22.04.2022

BIVAS PATTANAYAK, J. : -

1.The instant appeal is directed against the judgement and order dated 23.05.2008 and 26.05.2008 respectively passed by Additional Sessions Judge, Special Court, Dakshin Dinajpur at Balurghat in Sessions Case No.309 of 2004 (Sessions Trial No. 39 of 2004) convicting the appellant for commission of the offence punishable under Section 302 of the Indian Penal Code and sentencing him to suffer imprisonment for life and to pay a fine of Rs.3,000/-, in default, to suffer imprisonment for one year more.

By the self-same judgment the other accused persons namely Pratima Kundu and Mahadev Kundu were found not guilty for offence punishable under Sections 498A/302/34 of the Indian Penal Code and were acquitted from the charges levelled against them.

2.The prosecution case as alleged against the appellant is to the effect that he was married to the deceased Rupa Kundu daughter of PW1 as per Hindu rites and customs about 3/4 years ago (from the date of occurrence). After one year of marriage she was subjected to mental and physical torture by the appellant-husband and other in-laws in relation to demand of money. On 03.03.1998, in the evening the appellant along with other in-laws inflicted torture upon her and the appellant poured kerosene oil on the victim and set her on fire. PW1 was informed of the incident by his grandson Chanchal and thereafter he along with his wife and other family members went to Balurghat Hospital where the victim was admitted with burn injuries and on query she stated that the appellant poured kerosene oil and set her on fire. Upon such fact FIR was registered being Hili PS case no.32 of 1998 dated 05.03.1998 under Section 498A/326/307/34 of the Indian Penal Code and was put into investigation. On expiry of the victim on 13.03.1998, Section 302 of the Indian Penal Code was added.

3.Upon conclusion of investigation police submitted charge sheet against the appellant and two others under Section 498A/326/307/302/34 of the Indian Penal Code.

4.After completion of legal formalities the case was committed to court of learned District & Sessions Judge, Dakshin Dinajpur at Balurghat, which

was transferred to the court of Additional Sessions Judge, Special Court, Dakshin Dinajpur at Balurghat for trial and disposal.

5.Charge was framed under Section 498A/302/34 of the Indian Penal Code against the appellant and two other accused persons namely Mahadev Kundu and Pratima Kundu. The appellant pleaded not guilty and claimed to be tried.

6.The prosecution in order to bring home the charge has examined as many as 14 witnesses and exhibited number of documents. The defence did not adduce any evidence in its support. The defence case appearing from the tenor of cross-examination and answers given during examination under Section 313 of the Criminal Procedure Code is one of innocence and false implication.

7.On conclusion of trial and upon consideration of the materials and evidence on record the learned trial judge by its impugned judgment and order dated 23.05.2008 and 26.05.2008 convicted and sentenced the appellant as aforesaid. Hence the present appeal.

8.Mr. Partha Sarathi Bhattacharyya, learned advocate appearing for the appellant submitted at the outset that the formal FIR does not specify the date and time of receipt of information at the PS which altogether makes the prosecution case doubtful. Though as per the prosecution the victim, who survived for 10/11 days of the incident, made a dying declaration but the manner and the circumstances relating to recording of such dying declaration are riddled with suspicion and improbability. PW11, Dr. Gautam Mukherjee, the attending doctor has categorically deposed that the general condition of the patient was too low to make the dying

declaration and in cross-examination he has stated that the victim sustained 100% burn injuries and the balance of a victim/patient is lost in such a case. From such deposition it is quite evident that the victim was not in a fit and conscious mental condition to make dying declaration. Moreover there is no certificate by the attending doctor that the victim at the time of making the purported dying declaration was mentally conscious to make such declaration. He further submitted that the incident occurred due to accidental bursting of stove resulting in burn injuries to the victim who was shifted to hospital for treatment by the relatives of the appellant. Furthermore, there are no such evidence that the appellant used to torture his wife(victim) prior to her death and considering the available materials the appellant has been acquitted of the charges under Section 498A of Indian Penal Code which clearly establishes that the relationship between the appellant and the victim was good and therefore no motive is forthcoming from the prosecution side for the appellant to cause murder of his wife. In the light of his above submission he prayed that the appeal be allowed and the appellant be acquitted from the present case.

9.Mr. Abhra Mukherjee with Mr. Dipankar Mahato appearing for the State submitted that the dying declaration made by the victim is very much truthful and reliable as that was recorded promptly. The attending doctor and staff nurse in whose presence the Deputy Magistrate recorded such dying declaration has endorsed their respective signatures in the said document which gives a reasonable impression that they were aware that the victim was mentally conscious at the time of making such dying

declaration. Further PW1, Baidyanath Bhowmick, father of the victim has stated that his daughter was in a position to speak and was improving. He further submitted that at the time of occurrence PW7, Rakhi Basak cousin sister of the victim was present in the matrimonial home of the victim and has witnessed the entire incident. PW7, has categorically stated that the appellant on the said date returned to the house in inebriated condition and demanded money from the victim due to which hot altercation took place between the appellant and the victim who incidentally put kerosene oil and set the latter on fire. The evidence of PW7 and the dying declaration of the victim together with the medical evidences of attending doctor (PW11) as well as post mortem doctor (PW9) adduced on behalf of the prosecution clearly establishes the fact that the appellant set the housewife on fire resulting in her death due to burn injuries.

10.The prosecution case in the instant appeal hinges on *firstly*, the evidence of PW7, Rakhi Basak, who as per prosecution is an eye-witness to the occurrence and *secondly*, the dying declaration of the victim made before Deputy Magistrate PW10, Pratim Ghosh Dastidar. Therefore both the aforesaid piece of evidence is required to be judged in the light of other materials on record in order to assess their truthfulness and reliability.

10.1.The first aspect which falls for consideration is whether the evidence of eye-witness namely PW7, Rakhi Basak is trustworthy and reliable. The evidence of this witness is to be assessed broadly on two score (i) whether the presence of the witness at the place of occurrence on the relevant date

and time is natural and probable; (ii) whether the version of the witness is truthful and reliable to act upon.

10.1.1. Let me assess the aspect regarding the evidence of presence of the said witness on the relevant date and time at the place of occurrence. PW7, Rakhi Basak, (cousin sister of the victim) in the present case is the most vital and star witness of the prosecution, who deposed that on 01.03.1998 she visited the house of the appellant and stayed there. Her presence in the matrimonial home of the victim during the occurrence is substantially corroborated by PW1, Baidyanath Bhowmick (father of the victim) and PW2, Laxmi Rani Bhowmik (mother of the victim) who categorically stated that PW7 was staying in the house of the appellant about 6-7 days prior to the incident. The presence of PW7 in the matrimonial home of the victim during the occurrence has been disclosed by PW1 (de facto complainant) in the written complaint (**Exhibit 1**) as well. On analysis of the evidence it appears that presence of this witness in the matrimonial home of the victim (i.e the house of the appellant) on the relevant date and time has not been improbabilised by the defence rather it has come out in cross-examination also that she had been to the house of the appellant for the purpose of visit. There are no circumstances militating against the presence of this witness at the place of occurrence during the incident. Thus the presence of PW7 at the place of occurrence on the relevant date and time is established beyond doubt.

10.1.2. Now the other facet which needs consideration is with regard to the reliability of the version of the said eye-witness namely PW7, Rakhi Basak. In her deposition PW7 has stated that on 03.03.1998, she along

with her cousin sister Rupa (victim) went to Hili market in the afternoon and returned in the evening. While Rupa was preparing rice the appellant returned to the house in intoxicated condition and demanded money from Rupa. Rupa failed to arrange the money over which hot altercation took place and the appellant all of a sudden poured kerosene oil and set the victim on fire by a lamp. She tried to resist and put out the fire but was prevented by the appellant. She raised alarm and the elder brother-in-law of the victim and local people removed her sister to Hili BPHC, where from she was shifted to Balurghat Hospital. She accompanied her sister to Hili and then to Balurghat Hospital. On the following morning intimation was given to PW1(father of the victim) and she was sent back. The witness has been cross-examined extensively. However, her aforesaid evidence regarding the act of the appellant pouring kerosene oil and setting the housewife on fire has remained unchallenged. There is also no contradiction to the aforesaid evidence of PW7.

10.1.3. The evidence of PW7 further gets corroboration from the evidence of the attending doctor namely PW11, Dr. Goutam Mukherjee, who deposed that on 03.03.1998, he was attached to Balurghat District Hospital as medical officer and on the said date at about 10:30 p.m he examined the victim with burn injuries who was referred from Hili Rural Hospital. It is further found from the injury report (**Exhibit 5**) that PW11 immediately intimated I.C Balurghat PS of the incident of burn injury sustained by the victim which was received at the PS on 04.03.1998 at 19:20 Hours and diarized under GD entry No.162 dated 04.03.1998. The Post-mortem doctor PW9, Dr. Tarun Kumar Biswas deposed that on

examination he found varying degrees of burn injuries. Further some portion looked red and some portion rubbed with ointment. On dissection there was soot in trachea and pleurae and both lungs were congested. He opined that the cause of death was due to shock and sepsis resulting from burn injuries which is ante-mortem in nature. He proved the post-mortem report marked **Exhibit 3**. The aforesaid evidence of post-mortem doctor also lends support to the version of eye-witness PW7.

10.1.4. It has been strenuously argued on behalf of the appellant that the victim sustained such burn injuries by accidental bursting of stove. I am unable to accede to such proposition. There is no cross-examination made either to the eye-witness PW7 or the doctors on this score. To be precise not a bare suggestion has been put to the aforesaid witnesses to that effect. Further no such burst stove or damaged articles have been seized by the investigating officer from the place of occurrence which would suggest of accidental bursting of stove. PW6, Sabita Kundu (a neighbour of the appellant) and PW8 Balaram Kundu (brother of the appellant), both of whom has been declared hostile by the prosecution, deposed of bursting of stove but their evidence appears to be implausible due to absence of other corroborating evidence as indicated above. The defence did not lead any evidence to probabalise the accidental bursting of stove. Hence the argument so advanced on behalf of the appellant does not stand to reason. The evidence of PW7 that during the occurrence she was prevented by the appellant from putting off the fire has also remained unrebutted. No other circumstances are forthcoming to improbabilise the version of this witness. Though PW7 in cross-examination stated that the

door of the house was locked from inside and the brother-in-law (Bhasur) of the victim broke open the door to make entry on hearing alarm yet such evidence is inconceivable as there are no seizure of any broken door or door latch. In the light of above discussion and as the ocular version of eye-witness PW7, Rakhi Basak is corroborated by medical evidences on record, therefore her version is trustworthy and inspires confidence to rely upon.

10.2. Now the next question which has fallen for consideration is whether in the circumstances of the case, the dying declaration of the victim is worthy of acceptance.

10.2.1. Learned Advocate for the appellant has thrown challenge to the veracity of dying declaration precisely on two folds namely (i) that as per the attending doctor (PW11) the condition of the victim was low and she sustained 100% burn injuries and gasping making it impossible for her to make dying statement; (ii) that the attending doctor did not certify that the victim was in conscious mental state to make such dying statement.

10.2.2. I have considered the aforesaid submissions in the light of evidence on record. PW11 Dr. Goutam Mukherjee, deposed that on 03.03.1998 at 10.30 p.m he examined the victim and the general condition of the victim was too low to deliver dying declaration at that time and she remained under his care for further surgical management. In all probability the low condition of the victim referred by the attending doctor (PW11) relates to the time when she was admitted under him on 03.03.1998 at 10.30 p.m and not of any subsequent days of treatment. It is pertinent to note that as per the evidence of PW1 (father of the victim)

she survived for almost 11 days after the incident, which has not been disputed by the defence. Although PW11, the attending doctor at Balurghat Hospital in cross-examination deposed that the victim sustained 100% burn injury and injury report **(Exhibit 5)** also records the same yet from the post mortem report **(Exhibit 3)** and evidence of PW9, post mortem doctor it is revealed that the victim sustained varying degree of burn injuries. Further the injury report **(Exhibit 5)** though shows that the victim was gasping yet such recording relates to the time when the victim was admitted to the hospital under PW11 and not of the condition of the victim on subsequent days of her survival. In cross-examination PW11 stated in general terms that balance will be lost in case of 100% burn injuries. However, he did not specify whether the victim of the present case lost mental balance to make dying statement or not. Accordingly the portion of evidence of attending doctor (PW11), indicated on behalf of the appellant to unsettle the probative value of the dying statement of the victim, by no stretch goes to show that the victim was not fit and conscious to make dying declaration. If for the sake of argument it is accepted that the victim sustained 100% burn injuries, there is no hard and fast rule of universal application that percentage of burns is determinative factor to affect the credibility of dying declaration and the improbability of its recording. Much would depend on the nature of burn, part of the body affected by the burn, impact of the burn on the faculties to think and convey the idea coming to the mind and other relevant factors. Percentage of burns alone would not determine the probability or otherwise of making the dying declaration. Physical state or

injuries on the declarant do not by themselves become determinative of mental fitness of the declarant to make the statement
[See P.V. Radhakrishna versus State of Karnataka reported in (2003) 6 SCC 443, paragraph 16].

10.2.3. Similarly the Hon'ble Apex in **Purshottam Chopra and Another versus State (NCT of Delhi) reported in (2020) 11 SCC 489, paragraph 25.3**, while observing that merely for 100% burn injuries, it cannot be said that the victim was incapable to make a statement which could be acted upon as dying declaration, made the following discussion at paragraph 19.1 which is reproduced hereunder:-

“19.1. In *Bhagwan versus State of Maharashtra* [(2019) 8 SCC 95], this court accepted the dying declaration made by a person having suffered 92% burn injury and whose continued consciousness was certified by the doctor. This court referred to the decision in *Vijay Pal versus State (NCT of Delhi)* [(2015) 4 SCC 749], where the statement made by the victim having suffered 100% burn injury was also accepted. This Court said: (*Bhagwan case*, SCC pp. 106-107, paras 24-25)

Can a person who has suffered 92% burn injuries be in a condition to give a dying declaration?

24. This question is also no longer *res integra*. In *Vijay Pal v. State (NCT of Delhi)* [*Vijay Pal v. State (NCT of Delhi)*, (2015) 4 SCC 749 : (2015) 2 SCC (Cri) 733] , we notice the following discussion: (SCC p. 759, paras 23-24)

‘23. It is contended by the learned counsel for the appellant that when the deceased sustained 100% burn injuries, she could not have made any statement to her brother. In this regard, we may profitably refer to the decision in *Mafabhai Nagarbhai Raval v. State of Gujarat* [*Mafabhai Nagarbhai Raval v. State of Gujarat*, (1992) 4 SCC 69 : 1992 SCC (Cri) 810] wherein it has been held that a person suffering 99% burn injuries could be deemed capable enough for the purpose of making a dying declaration. The Court in the said case opined that unless there existed some inherent and apparent defect, the trial court should not have substituted its opinion for that of the doctor. In the light

of the facts of the case, the dying declaration was found to be worthy of reliance.

24. In State of M.P. v. Dal Singh [State of M.P. v. Dal Singh, (2013) 14 SCC 159 : (2014) 4 SCC (Cri) 141] , a two-Judge Bench placed reliance on the dying declaration of the deceased who had suffered 100% burn injuries on the ground that the dying declaration was found to be credible.'

25. Therefore, the mere fact that the patient suffered 92% burn injuries as in this case would not stand in the way of patient giving a dying declaration which otherwise inspires the confidence of the Court and is free from tutoring, and can be found reliable."

10.2.4.The Hon'ble Apex Court in **Puroshottam Chopra (supra)** usefully summed up following principles relating to recording of dying declaration and its admissibility and reliability at paragraph 21 which is enumerated below:-

***"21.** 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:*

***21.1.** A dying declaration could be the sole basis of conviction even without corroboration, if it inspires confidence of the court.*

***21.2.** 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.*

***21.3.** 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.*

***21.4.** When the eyewitnesses affirm that the deceased was not in a fit and conscious state to make the statement, the medical opinion cannot prevail.*

21.5. 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.

21.6. *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.*

21.7. *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.*

21.8. *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 on its basis even without corroboration.”*

10.2.5. Onerous duty is cast upon the court to satisfy itself of the conscious mental condition of the declarant and voluntariness of the statement which is not the result of tutoring, prompting, imagination or otherwise. Therefore the circumstances emanating from the evidence on record is required to be analysed in the aforesaid perspective in order to come to a concrete and definite finding with regard to the question of mental consciousness of the victim and the voluntariness of the statement.

10.2.6. The dying declaration of the victim has been recorded by PW 10 Pratim Ghosh Dastidar who at the material point of time was posted as Deputy Magistrate & Deputy Collector, Balurghat. He deposed that on 04.03.1998, as per requisition of SDO Balurghat, he had been to Balurghat District Hospital and recorded the dying declaration of the victim in the Burn Ward in presence of Dr. Goutam Mukherjee (PW11) and a staff nurse namely Sumitra Samajpati who put their respective signatures on the dying declaration. He proved the dying declaration marked **Exhibit 4**, which shows that the same was recorded on 04.03.1998 at 9.30PM. It has been

argued on behalf of the appellant that the condition of the victim regarding her mental state has not been certified by doctor in the dying declaration. PW10 has admitted in cross-examination that he did not obtain certificate as to the condition of the patient. Be that as it may, from the evidence of PW1(father of the victim) who went to Balurghat Hospital in the evening of 04.03.1998 soon after getting information of burn injuries of the victim deposed that his daughter was in a position to speak and she was improving. Although PW1 in cross-examination retracted from his statement that his daughter was improving but he consistently stated that she was conscious. Further PW11 the attending doctor and one staff nurse has put their respective signatures on the dying declaration prepared by PW10 Deputy Magistrate. PW11 has identified his signature on the dying declaration marked **Exhibit 4/1**. There is no evidence that the signature of the attending doctor PW11 was obtained by force, coercion or undue influence. Thus the signature of the attending doctor PW11 on the dying declaration presupposes that the victim was in fit and conscious state of mind to make the dying declaration, otherwise the attending doctor would not have endorsed on the dying statement.

As per the Deputy Magistrate (PW10) upon requisition of SDO, Balurghat he went to Balurghat Hospital to record the dying declaration. There are no circumstances shown by the appellant as to why PW10 being a Deputy Magistrate holding a high position would record a dying declaration which is not proper. **[See Harjit Kaur versus State of Punjab reported in (1999) 6 SCC 545, paragraph 6].**

This clearly establishes that both PW10 (Deputy Magistrate), who recorded the dying declaration as well as PW11 (The attending doctor) were aware of the fact as of the condition of the declarant to make such dying declaration and upon being satisfied that the declarant was in a fit mental condition to make such declaration PW10 recorded the dying declaration in presence of attending doctor (PW11). The position of law with regard to admissibility of the dying declaration which is not certified by the doctor, is now settled by the decision of the Constitution Bench of the Hon'ble Apex Court wherein it is held that a dying declaration which does not contain a certificate of the doctor cannot be rejected on that sole ground so long as the person recording the dying declaration was aware of the fact as of the condition of the declarant. If the person recording such dying declaration is satisfied that the declarant was in a fit mental condition to make the dying declaration, then such dying declaration will not be invalid solely on the ground that the same is not certified by the doctor as to the condition of the declarant to make the dying declaration ***[See Laxman versus State of Maharashtra reported in (2002) 6 SCC 710, paragraph 5].***

10.2.7. Thus the circumstances enumerated above clearly indicate that the victim was in fit and conscious mental state to make dying declaration. The general principle on which this species of evidence (dying declaration) are admitted is that they are declarations made in extremity, when the party is at his/her death bed and chance of surviving in this world is gone, when every motive of falsehood is silenced and the mind is induced by the most powerful considerations to speak only the truth. Section 32 of the Evidence Act is admittedly an exception to the general rule of exclusion to the hearsay

evidence in such circumstances. Thus a dying declaration carries with it an element of truthfulness and voluntariness unless certain inherent falsity is shown to hold otherwise. It is placed on record that no such inherent falsity or involuntariness has been indicated in the said dying statement of the victim. Accordingly I am inclined to rely on such dying declaration which is found to be truthful and voluntary.

The dying declaration recorded by PW10 (**Exhibit 4**) reads as follows:-

“At about 7p.m on 03.03.1998, in the evening when she was working her household works, her husband Shri Jagannath Kundu entered into her room and out of rage sprayed kerosene oil on her body and put fire from burning lamp. She caught fire immediately and with her loud shouting for help, Balaram Kundu, younger brother of her husband Shri Jagannath Kundu entered into the room and took her to hospital for treatment. She further declared that her marriage was taken place just five years back and she had no issue till now. Then she declined to state anything more”.

On perusal of the aforesaid dying declaration (**Exhibit 4**) it is quite evident that the appellant poured kerosene oil on the victim and set her on fire.

11. In the present case the prosecution has tried to establish an oral dying declaration of the victim through the father and mother of the victim namely PW1 and PW2. Both the aforesaid witnesses deposed that on reaching Balurghat Hospital in the evening they enquired from their daughter (victim), who stated before them that the appellant had poured kerosene oil on her and set her on fire. Be that as it may, such evidence of PW1 and PW2 has not been corroborated either by their son or cousin brother who also accompanied them to the hospital. Further PW1 in

cross-examination stated that he had talk with the attending doctor. However neither doctor or any staff nurse or any independent witness has been examined in support of the version of PW1 and PW2 as to the oral dying declaration made to them by the victim. Hence such oral dying statement does not inspire confidence.

12. It has been assiduously argued on behalf of the defence that the formal FIR does not specify the date and time of receiving information at the PS which raises a serious doubt in the prosecution case. Although in the Formal FIR (**Exhibit 6**) the date and time of receiving information at the PS has not been specified yet it appears to be a laches on the part of the investigating agency in view of the fact that the date and time has been endorsed in the written complaint and therefore does not cause any wedge in the intrinsic truth in the prosecution case. Hence the argument advanced in this regard fall short of merit.

13. In the light of above evidence of PW7 the eye witness to the occurrence corroborated by other medical evidence and the dying declaration of the victim **Exhibit 4** recorded by PW10 I am of the opinion that the prosecution has been able to establish the charge under section 302 of the Indian Penal Code against the appellant beyond doubt. Accordingly the appeal is liable to be dismissed.

14. It has further been argued on behalf of the appellant that the prosecution has failed to prove any motive behind such offence and hence the same is not at all reliable. In this regard I am of the opinion absence of motive does not cause any dent in the prosecution case as the

prosecution through the ocular evidence of PW7 corroborated by medical evidence and the dying declaration of the victim has proved the charge against the appellant beyond the shadow of reasonable doubt.

15. Accordingly, the conviction and sentence passed by the learned trial court against the appellant is upheld.

The period of detention undergone by the appellant during investigation, inquiry or trial of the case shall be set-off from the substantive sentence in terms of Section 428 of the Criminal Procedure Code.

16. The instant appeal being no. 104 of 2009 is accordingly dismissed.

17. Copy of the judgement along with the lower court records be sent down to the learned trial court at once.

18. Urgent Photostat Certified copy of this judgement, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

I agree.

(Joymalya Bagchi,J)

(Bivas Pattanayak,J)