

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

CRA 207 of 2019

Jharna Gope

-vs.-

The State of West Bengal & Anr.

For the Appellant : Mr. Sourav Chatterjee.

For the State : Mr. Arijit Ganguly,
Mr. Bibaswan Bhattacharya.

Heard on : 18.07.2022, 02.08.2022 & 26.08.2022.

Judgment on : 11.11.2022

Tirthankar Ghosh, J:-

The present appeal has been preferred against the judgment and order of conviction and sentence dated 31.01.2019 and 06.02.2019 passed by the Learned Additional Sessions Judge, 2nd Court, Asansol, in Sessions Trial No. 28 of 2016 arising out of Sessions Serial Case No. 42 of 2016 (corresponding to CIS Regd. No. SC. 128/2016) thereby convicting the appellant for commission of offence under Section 498A of the Indian Penal Code and sentencing her to suffer Simple Imprisonment for two years and fine of Rs.10,000/- in default to suffer additional Simple Imprisonment for three months.

Raniganj Police Station case no. 451/2014 dated 27.12.2014 was registered under Sections 342/302/34 of the Indian Penal Code on the basis of a letter of complaint addressed to the Officer-in-charge Raniganj Police Station by Sanjoy Pal, brother of the deceased Bandana Gope (hereinafter referred to as the 'complainant'). The allegations made in the letter of complaint were to the effect that the complainant's sister was married to Sadhan Gope nine years ago and since her marriage she was abused by her brother-in-laws and sister-in-laws with respect to their family property. On 24.12.2014 at about 1.30 pm in the absence of Sadhan Gope (husband of the deceased) his brothers namely, Kanai Gope and Jiten Gope and their wives namely, Tumpa Gope and Jharna Gope severely tortured the deceased over previous issues, as a result of which the complainant's sister started screaming, when they locked her in a room and set her on fire. At about 3.00 pm Sadhan Gope, husband of the complainant's sister returned and found that she was lying senseless being burnt. Immediately she was shifted to by her husband to Asansol Government Hospital and the complainant was informed. After the complainant reached there he found that she was shifted Durgapur Vivekananda Hospital and on 26.12.2014 at about 08.45 pm she expired. The complainant requested the police authorities for taking steps against the accused persons.

The police authorities on conclusion of investigation submitted charge-sheet under Section 342/302/34 of the Indian Penal Code against four accused persons namely, Kanai Gope, Jiten Gope, Tumpa Gope and Jharna Gope. After compliance of the provisions of Section 207 of the Code of Criminal

Procedure the case was committed to the Court of Sessions and finally the records of the case were made over to the learned Additional Sessions Judge, 2nd Court, Asansol for trial and disposal. The learned Trial Court on 7th of December, 2016 framed charges against the four accused persons above named under Section 302/34 of the Indian Penal Code and Section 342 of the Indian Penal Code.

The prosecution in order to prove its case relied upon 20 witnesses which included PW1, Sanjoy Pal, complainant, brother of the deceased; PW2, Kalipada Pal, father of the deceased; PW3, Amin Pal, uncle of the deceased; PW4, Dr. Supriya Maity, doctor who initially treated the deceased at Asansol Sub-divisional Hospital; PW5, Lakhi Bauri, neighbour of the matrimonial home of deceased; PW6, Sabitri Rui Das, neighbour of the matrimonial home of deceased; PW7, Manick Bouri, driver of the vehicle by which the deceased was taken to Asanaol Sub-divisional Hospital; PW8, Ashis Bouri, an acquaintance who organised the vehicle for shifting the victim to hospital; PW9, Uttam Mondal, neighbour of the matrimonial home of the deceased; PW10, Kalpana Mondal, neighbour and wife of PW9; PW11, Habal Kumar Tan, Constable of Raniganj Police Station who took Sadhan Gope in Court before the Learned Judicial Magistrate for recording his statement under Section 164 of the Code of Criminal Procedure; PW12, Mamoni Mondal, Constable who accompanied Peau Gope to Court for recording her statement by the learned Judicial Magistrate under Section 164 of the Code of Criminal Procedure; PW13, Lata Mondal, sister of the deceased; PW14, Srimanta Mondal @ Shyamal, brother-

in-law and husband of PW13; PW15, Peau Gope, daughter of the deceased; PW16, Sadhan Gope, husband of the deceased; PW17, Oliva Roy, Judicial Magistrate who recorded the statement of Peau Gope (PW15) under Section 164 of the Code of Criminal Procedure; PW18, Supriya Khan, Judicial Magistrate who recorded the statement under Section 164 Cr.P.C. of Sadhan Gope (PW16); PW19, Parimal Goswami, first Investigating Officer of the case; PW20, Prosenjit Roy, second Investigating Officer of the case.

The prosecution in order to prove its case relied upon number of documents which included amongst other are as follows:

Ext.1, written complaint; Ext.2, signature of PW1 on carbon copy of inquest; Ext.2/1, signature of PW16 of the carbon copy of inquest; Ext.3, signature of PW1 on the seizure list dated 27.12.2014; Ext.3/1, signature of PW16 on the seizure list dated 27.12.2014; Ext.3/2, seizure list dated 27.12.2014; Ext.4, Ext.4/1, Ext.4/2 and Ext.4/3 signature of PW15 in her statement under Section 164 Cr.P.C.; Ext.4/4, 164 Cr.P.C. statement of Peau Gope proved by PW17, Learned Magistrate; Ext.5, signature of PW16 on the seizure list dated 30.12.2014; Ext. 5/1, Seizure list dated 30.12.2014; Ext.6, Ext.6/1 and Ext.6/2, signature of PW16 in his statement under Section 164 Cr.P.C.; Ext.6/3, 164 Cr.P.C. statement of Sadhan Gope proved by PW18, learned Magistrate; Ext.7, rough sketch map with index; Ext.8, post-mortem report and Ext.9, Inquest Report and Mat Ext.I, the seized articles (lantern and cork collectively).

PW1, Sanjoy Pal, is the brother of the deceased and the complainant of the instant case who deposed that he had two sisters, Bandana who died and another Lata Mondal. Bandana was married to Sahdan Gope on 03.06.2005 at Kankardanga, at the time of her marriage cash of Rs.1,70,000/-, furniture etc were given and after marriage Bandana (deceased) went to her matrimonial home. She resided with her husband, mother-in-law (Charulabala Gope), elder brother-in-law (Kanai Gepe), younger brother-in-law (Jiten Gope) along with their wives (Jharna Gope and Tumpa Gope). Few days after marriage the accused persons which included the elder brother-in-law and younger brother-in-law and their wives started inflicting torture upon his sister by abusing her with filthy languages and also inflicting physical assault. The accused persons did not allow her to use the bathroom and water. The accused persons had dispute over their ancestral property and whenever the witness visited her sister's house he heard incident of torture from his sister. The witness tried to settle the dispute but in vain. On 24.12.2014 Sadhan Gope (husband of the deceased) at about 03.00 pm informed him over telephone that Bandana sustained burn injury and was admitted at the Sub-divisional Hospital at Asansol. On hearing such incident he along with uncle Amin Pal rushed to the hospital and found that his sister was in the hospital bed with burn injury and the doctor said that condition of the patient was very serious and as such she was immediately shifted to Vivekananda Hospital, Durgapur for better treatment on the same day around 9.30 pm. On 26.12.14 at about 08.45 pm. his sister died.

PW2, Kalipada Pal is the father of the deceased, Bandana Gope. He deposed that his daughter Bandana Gope died in the year 2014 due to fire but he is not aware as to whether she herself set fire on her body or whether any other persons set her on fire. Marriage of Bandana was solemnized with Sadhan Gope in the year 2005 and after marriage she went to her matrimonial home. The witness stated that Kanai Gope and Jiten Gope along with their wives resided in the joint family with his son-in-law. The witness identified the accused Kanai and Jiten Gope in Court and stated that he could have identified their wives, if they were present. He alleged that after few days of marriage the accused persons started inflicting torture upon his daughter and did not allow her to use the bathroom or the water from the tubewell. He also stated before the Court that two daughters were born out of the wedlock of Bandana and Sadhan Gope.

PW3, Amin Pal, is uncle of the deceased. He deposed that Bandana Gope was his niece and the marriage was solemnized with Sadhan Gope in the month of July, 2005 and after marriage she went to her matrimonial home and resided in the same house with Kanai Gope, Jiten Gope and Sadhan Gope. Few days after marriage dispute arose with respect to the house property and in the month of December, 2014 Bandana sustained burn injury in her matrimonial home. Sadhan Gope informed Sanjoy Pal over telephone at about 02.00 pm regarding the incident of Bandana Gope. Sadhan Gope brought Bandana to Asansol Sub-divisional Hospital where along with Sanjoy Pal he went and found Bandana at hospital bed and she was conscious. On that day Bandana

was transferred to Durgapur Hospital for better treatment, but she died. The witness identified Kanai Gope and Jiten Gope and stated that he could have recognized their wives if they were present in Court.

PW4 is Dr. Supriya Maity who was attached to Asansol Sub-divisional Hospital as Medical Officer. He stated that on 24.12.14 at about 3.23. pm a patient namely Bandana Gope wife of Sadhan Gope, aged about 28 years, female was admitted under Prosun Roy. He examined her as on call surgeon and attended the patient at about 03.50 pm. According to him the patient was suffering from 90% burn injury and was advised medicine. As the condition of the patient was critical she was referred to Burdwan Medical College and Hospital. He further stated that when he examined the patient he found that she was unable to speak.

PW5, is Lakhi Bouri, who is a neighbour of the matrimonial home of the deceased. She stated that the accused persons are her next door neighbours and she knew Sadhan Gope, husband of the deceased as well as the daughter namely, Buni. The witness denied of having knowledge as to how Bandana died. The witness was declared hostile.

PW6, Sabitri Ruidas who is a neighbour of the matrimonial home of the deceased, stated that the accused persons are her next door neighbour and she also knew Sadhan Gope, husband of Bandana Gope and their daughter namely, Pue Gope. The witness also stated that Bandana Gope died two years

ago but she is not aware as to how she died. The witness was declared hostile by the prosecution.

PW7, Manick Bauri is the driver of Maruti Van bearing no. WB 38AB/5824. The witness stated that he knew Sadhan Gope and about 2/3 years ago he brought his wife to Sub-divisional Hospital, Asansol. At that time Sadhan Gope and others accompanied her to hospital. The wife of Sadhan Gope according to him sustained burn injuries. The witness was declared hostile by the prosecution.

PW8, Ashis Bouri who is an acquaintance of Sadhan Gope and organised the vehicle for shifting Bandana Gope to Asansol Sub-divisional Hospital. He stated that he knew Bandana Gope. He failed to identify the accused persons and stated that Bandana Gope died by burn injuries about two years ago. According to him Sadhan informed that his wife sustained burn injury and thereafter he arranged the vehicle for bringing the victim to Asansol Sub-divisional Hospital. He also stated that he did not know the reason for the cause of death of Bandana Gope. The witness was declared hostile by the prosecution.

PW9, Uttam Mondal is the neighbour of the matrimonial home of the deceased. He deposed that he knew Sadhan Gope, his mother and wife. He also identified all the accused persons in Court and stated that the wife of Sadhan Gope died by burn injuries about two years ago. After the incident he had been to the hospital with Sadhan Gope and found that she was lying unconscious/

senseless. The witness categorically stated that he did not know the reason relating to the cause of death of Bandana Gope, wife of Sadhan Gope. The witness was declared hostile by the prosecution.

PW10, Kalpana Mondal is neighbour and wife of PW9. She stated that she knew Bandana Gope who died two years ago due to burn injuries. She further stated that she is not aware regarding the cause of death of Bandana Gope. The witness identified Jiten Gope and his wife but was unable to identify the other accused persons. The witness stated that after the incident she went to the house of Sadhan Gope and found that the deceased was sitting on the cot with burn injury. She also accompanied the victim to hospital. However, the witness was declared hostile by the prosecution.

PW11, Habal Kumar Tan, is a Constable attached to Raniganj Police Station who deposed that on 05.01.2015 he brought Sadhan Gope before the learned Magistrate at Asansol for recording his statement under Section 164 of the Code of Criminal Procedure.

PW12, Mamoni Mondal is the lady constable attached to Raniganj Police Station who deposed that on 20.01.2015 she brought Peau Gope before the learned Magistrate at Asansol who recorded her statement under Section 164 of the Code of Criminal Procedure.

PW13, Lata Mondal is the sister of the deceased Bandana Gope. She deposed that Bandana was married to Sadhan Gope in the year 2005 and after marriage she went to her matrimonial home at Kankardanga More, Raniganj.

At her matrimonial home she was tortured by Jiten Gope, Kanai Gope, Tumpa and Jharna Gope. She identified all the accused persons in Court. The witness alleged that the four accused did not allow the deceased to use the bathroom and sometimes the kitchen also. On 23.12.2014 Kanai Gope kept a carry bag containing old shoes in the drawing room and asked his wife Jharna Gope as to whether the above bag was removed by Bandana Gope. At night on 23.12.2014 over phone Bandana informed her that Kanai Gope told Jharna that Bandana would be allowed to use only one room and on that day Jiten assaulted her sister. Sadhan Gope informed her husband on 24.12.14 at about 02.00 pm that Bandana Gope was admitted at Asansol Sub-divisional Hospital as such she along with her husband went to hospital and found her sister having sustained severe burn injury. Sadhan Gope brought her sister to hospital. Bandana Gope was subsequently shifted to Vivekananda Hospital, Durgapur for better treatment as she was suffering from pain injury. She was kept in ICU and after three days she died at hospital. Bandana Gope had a good relationship with her husband and her daughter who is presently 10 years old.

PW14, Srimanta Mondal @ Shyamal is the brother-in-law of Bandana Gope and husband of her sister (PW13). The witness deposed that in the month of Jaishthya in the English calendar year 2005 Bandana was married to Sadhan Gope and after marriage she went to her matrimonial home at Kankardanga under PS Raniganj. Mother of Kanai Gope was his aunt (Pisi) and the accused Kanai Gope, Jiten Gope, Nemai Gope and Sadhan are his cousin

brothers. The witness identified four accused persons in Court. He also narrated that after one month of her marriage Bandana informed him over telephone that the four accused persons used to torture her both physically and mentally, as such he went to the matrimonial house of Bandana to settle the matter but in vain. On 24.12.14 at about 1.45 pm Sadhan Gope over telephone informed him that Bandana has set herself on fire and asked him to come to hospital at Asansol where he had brought Bandana Gope. The witness along with his wife Lata Mondal, brother-in-law, Sanjoy Pal had been to Asansol SD Hospital and found that Bandana sustained severe burn injury on her body and the doctor after examination informed that the patient sustained 90% burn injury. Doctor also advised for shifting the patient to another hospital for better treatment, as such Bandana was shifted to Vivekananda Hospital Durgapur and the witness narrated the incident to the doctor of the Vivekananda Hospital which was recorded by way of video recording. On 26.12.14 at about 08.00 pm Bandana expired. The witness further stated that due to torture by the accused persons Bandana was compelled to set herself on fire.

PW15, Peau Gope, is daughter of the deceased. She deposed that her mother was residing at Kankardanga. Her uncle Jiten Gope and aunt Jharna Gope used to reside with them at Kankardanga along with her parents. She stated that her mother died long ago by burn injury and her statement was recorded by the learned Magistrate where she signed. She identified her signature which was marked as Ext.4, Ext.4/1, Ext.4/2 and Ext.4/3. She was

never examined by the police and she did not have any knowledge whether her mother sustained burn injury. The witness was declared hostile by the prosecution.

PW16, Sadhan Gope, is husband of the deceased Bandana. He deposed that he had a daughter namely, Peau Gope who is at present residing with him. His brother Jiten and his wife Jharna Gope along with his mother and daughter are residing at the same premises but having a separate mess. He stated that his wife committed suicide by setting herself on fire on 24.12.14. The witness stated that at about 10.00 am he dropped his daughter at school and went to open his tea stall. At 02.00 pm he went to his daughter's school to bring her back and thereafter returned home. After returning home he asked his sister-in-law Jharna Gope as to where his wife was when she answered that his wife is at the room. The witness found that the room of the deceased was closed and smoke was coming out from the window. He pushed the door and entered the room and found she was burning. Then and there he covered her with bed-sheet and screamed. On hearing his scream, neighbours came and thereafter she was brought to Asansol SD Hospital in a car. He further informed over phone at his matrimonial home and at about 03.30 pm Sanjoy Pal, Amin Pal and Srimanta Mondal and his wife came there. His wife was admitted and doctors examined her and stated that her condition was not good and advised them to shift her for better treatment. She was shifted to Vivekanda Hospital, Durgapur for better treatment where she died on 26.12.14 at about 09.00 pm. Police made inquest over the dead body of his wife at

Durgapur. He put his signature on the inquest report, the carbon copy of the inquest report was shown to him where he identified his signature which was marked as Ext.2/1. The dead body was thereafter cremated and the complaint was lodged by the brother of his deceased wife. Police seized one Lantern and prepared the seizure list where he also signed. He identified his signature which was marked as Ext. 3/1. The seized lantern was identified and marked as Mat Ext.I. Police also seized the xerox copy of voter card and Ration Card and he signed the seizure list. He identified his signature which was marked as Ext.5. He also identified his signatures in the statement under Section 164 of the Code of Criminal Procedure which was marked as Ext.6, Ext. 6/1 and Ext.6/2 respectively. Witness was thereafter declared hostile by the prosecution.

PW17, Olivia Roy, Learned Magistrate who recorded the statement of Peau Gope under Section 164 of the Code of Criminal Procedure as she was posted as Judicial Magistrate, 5th Court, Asansol. She stated that before recording the statement of the witness she tested her competency as she was about 8 years old. She identified her hand writing and signature and the statement under Section 164 of the Code of Criminal Procedure as such the same was marked as Ext.4/4.

PW18, is Supriya Khan who was posted as Judicial Magistrate, 3rd Court, Asansol on 05.01.2015, who recorded the statement of Sadhan Gope under Section 164 of the Code of Criminal Procedure. He stated that the witness

Sadhan Gope was produced and identified by Constable 1623 Habol Kumar Tan. He identified the said statement which was written and signed by him. The statement under Section 164 Cr.P.C. was marked as Ext.6/3.

PW19 is Parimal Goswami who is the first Investigating Officer of the case. He stated that the Officer-in-charge, Raniganj police station endorsed the case to him and as such he started investigation of Raniganj police station case no. 451 dated 27.12.14 under Section 342/302/34 of the Indian Penal Code. He narrated that he perused the FIR, visited the place of occurrence, effected seizures of necessary materials, examined the available witnesses and recorded the statements of the witnesses, collected the post mortem report, collected the statements of Peau Gope and Sadhan Gope under Section 164 of Cr.P.C. from Court. The witness stated that he handed over the case to the OC Raniganj Police on 04.05.15 as he was under order of transfer. The witness was confronted by the prosecution regarding the statement made before the Court in respect of the hostile witnesses by comparing the same with their earlier statement under Section 161 of Cr.P.C. which was answered by him.

PW20, Prosenjit Roy is the 2nd Investigating Officer of the case. He deposed that on 28.05.2015 he was entrusted with Raniganj police station case no. 451/2014 dated 27.12.2014. According to the witness immediately after being entrusted with the investigation, he scrutinised the records and prayed for warrant of arrest against two accused persons who could not be arrested in spite of several attempts. Finally proclamation was prayed for and was allowed

and the two female accused surrendered before the Court. He thereafter submitted charge-sheet no. 208/15 dated 30.08.2015 under Section 342/302/34 of the Indian Penal Code against the accused persons namely, Kanai Gope, Jiten Gope, Tumpa Gope and Jharna Gope.

Mr. Sourav Chatterjee, learned Advocate appearing for the appellant contended that the prosecution has failed to prove the case for which charge was framed against the accused persons and the present appellant has been unnecessarily implicated in the instant without any iota of material appearing against her. Learned Advocate also draws the attention of the Court to the inquest report wherein it has been categorically observed that the deceased poured kerosene oil over her body, setting herself on fire on 24.12.2014 and thereby sustained about 90% burn injury resulting in her death on 26.12.2014. It has been further contended that the brother of the deceased was well aware regarding the factum of the deceased committing suicide but has unnecessarily made wild allegations of murder for the purpose of harassing the relations of matrimonial home purposely segregating the husband of the deceased from the rest. The prosecution evidence do not distinguish the present appellant namely, Jharna Gope from rest of the accused persons who have been acquitted from all the charges and the learned trial Court only relying upon the statement under Section 164 of the Code of Criminal Procedure observed that most of the witnesses have narrated the incident of physical torture and cruelty inflicted against the deceased by Jharna Gope. Attention of the Court has been drawn by the learned Advocate to the

statement of PW5, 6, 7, 8, 9, 10, 15 and 16 and it has been pointed out that not only the neighbours who were staying in and around the matrimonial home did not support the prosecution case but even the husband and the daughter of the deceased did not support the prosecution case. Learned trial Court relied upon the uncorroborated testimony under Section 164 of the Code of Criminal Procedure of PW15 and PW16 and held the present appellant to be guilty of offence under Section 498A of the Code of Criminal Procedure, although in the material evidence there is nothing to show that there was any demand of dowry at the instance of the present appellant and the dispute related to usage of bathroom and kitchen. Learned Advocate emphasized that the finding of guilt of the learned Trial Court against the accused is beyond established principles of law and the materials appearing in the record as such the warrants acquittal of the appellant from the charges framed against her. So the trial Court judgment and order should be set aside.

Mr. Arijit Ganguly, learned Advocate appearing for the State supported the prosecution case and submitted before the Court that the materials appearing in evidence, the chronology of facts in respect of marriage of the deceased was subjected to physical and mental torture which has been consistently stated by PW1, PW2, PW3, PW13 and PW14 who are relations of the paternal home of the deceased and has consistently stated that the deceased informed them about his physical and mental torture being inflicted by Jiten Gope, Kanai Gope, Jharna Gope and Tumpa Gope. Additionally it has been pointed out that although the accused persons were members of the

matrimonial home but they had never been to the hospital after the deceased sustained burn injury. Further it has been contended on behalf of the State that none of the accused persons including the present appellant has answered any of the issues except denying the incident, mere denial cannot be the foundation in a case of this nature where a person has expired. Lastly it has been submitted that the prosecution having proved its case there is no scope for interference in respect of the judgment and order of sentence so imposed by the learned trial Court.

I have considered the evidence appearing in the records and I find that the present appellant was similarly situated as the other appellants who have been acquitted of the charges. There are no overt acts which can be said to be of exclusive participation which can distinguish the present appellant from the rest of the accused persons who have been acquitted from the charges. So far as the oral evidence is concerned the husband Sadhan Gope has categorically stated that his wife committed suicide by setting herself on fire and the room of the deceased was closed and smoke was coming out from the window. Daughter of the deceased Peau Gope, PW15 deposed that her uncle Jiten Gope and aunt Jharna Gope used to reside with them and her mother died long ago by burn injury, pursuant to which her statement was recorded by the learned Magistrate. Her statement under Section 164 of the Code of Criminal Procedure reflects that she stated before the Magistrate that her father returned home and asked where was the deceased to which Jharna Gope answered that she was burning. Her father Sadhan Gope (PW16) in his statement under Section

164 Cr.P.C. stated that there was regular quarrel between Jharna and the deceased as they were related as sister-in-law and both of them quarrelled and thereafter the deceased went to her room and set herself on fire. Although, in the instant case initially charges were framed under Section 342/302/34 of the Indian Penal Code but subsequently all the accused persons were acquitted from the charges under Section 302/34 and 342 of the Indian Penal Code. The observations of the learned Additional Sessions Judge, 2nd Court, Asansol holding that the witnesses narrated the incident of physical torture and cruelty being inflicted upon the deceased by Jharna Gope is against the materials on records and there is nothing in evidence to support such contention.

Consequently, the judgment and order of conviction and sentence dated 31.01.2019 and 06.02.2019 passed by the learned Additional Sessions Judge, 2nd Court, Asansol, Burdwan in Sessions Trial No. 28 of 2016 (arising out of Sessions Case No. 42 of 2016) calls for interference and is hereby set aside. The appellant is acquitted of the charges.

Thus, CRA 207 of 2019 is allowed.

The appellant is on bail as she has been acquitted of the charges she is discharged from the bail bonds.

Pending applications, if any, are consequently disposed of.

Department is directed to send back the Lower Court Records to the respective Courts and communicate this judgment, so that effective steps are taken by the learned trial Court.

All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

Urgent Xerox certified photocopy of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Tirthankar Ghosh, J.)