

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.183 OF 2015

Arjun s/o Gajanan Datir
Age: 48 years, Occ.: Nil,
R/o. Pimpri Lauki, Tq. Sangamner,
Dist. Ahmednagar

... Appellant
[Orig. Accused]

Versus

The State of Maharashtra
Through S. D. Bhonsale, Police Inspector,
Sangamner Taluka Police Station,
Dist. Ahmednagar

... Respondent
[Orig. Complainant]

...

Mr. N. C. Garud, Advocate for the appellant.
Mr. S. D. Ghayal, APP for the respondent – State.

...

**CORAM : SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.**

**Reserved on : 4th August, 2022.
Pronounced on : 7th September, 2022.**

JUDGMENT [Per Smt. Vibha Kankanwadi, J.] :-

. Rule. Rule made returnable forthwith. Heard learned Advocates for the parties finally, by consent.

2. Present appeal has been filed by the original accused, who has been convicted for committing offence punishable under Sections 302 and 309 of Indian Penal Code by learned Additional Sessions Judge, Sangamner on 06.03.2014 in Sessions Case No.64 of 2012.

3. The prosecution story in the nutshell is that one Tanaji Keru Kadam, who was the Police Patil of village Pimpri Louki, Ajampur, Tq. Sangamner, Dist. Ahmednagar gave report with Sangamner Police Station on 19.08.2012 stating that around 5.00 a.m. on the same date, two villagers from his village i.e. Karbhari Ganpat Lawre and Jayram Lahanu Datir went to his house. They told that a boy by name Sunil Arjun Datir told them that his mother Latabai is sleeping in the Veranda (*Padvi*) of the house, she is not waking up and blood has oozed out of her head. Tanaji along with other two persons had gone to the house of Sunil and saw that Latabai was dead. She had sustained injury to her head and, therefore, on the basis of the said information A.D. under Section 174 of the Code of Criminal Procedure came to be registered. Inquest panchanama was carried out and the dead body was sent for postmortem. The spot panchanama was also carried out. It is the further prosecution story that Medical Officer, Rural Hospital, Sangamner gave MLC on 22.08.2012 stating that person by name Arjun Gajanan Datir (husband of deceased Latabai) was admitted to the said hospital and he is in a position to give statement and, therefore, his statement be recorded. Thereafter, A.S.I. Madhukar Dadar went to hospital and recorded the statement of Arjun Datir. On the basis of the said statement, offence under Sections 302, 309 of Indian Penal Code was

registered vide Crime No.137 of 2012. In the said statement, it was disclosed that when Arjun was along with his wife Latabai in the house around 10.00 p.m. on 18.08.2012, they had quarrel on account of character of Latabai and then Latabai had abused. Then when Latabai went asleep around 11.30 p.m., Arjun had picked up pickaxe and assaulted on her head. After killing his wife, he had consumed poison which was used for killing ticks. Even after consuming that poison, he went to village Aashvi by foot and then started vomiting. In the said village, he slept on a raised platform, but in the morning, he boarded a bus from Aashvi to Sangamner and from Sangamner Taluka Police Station where he had gone, he was referred to Rural Hospital, Sangamner for medical treatment.

4. After the registration of the offence further investigation was taken up. Statements of witnesses were recorded. The accused discovered his clothes. The clothes of the deceased, accused and other muddemal seized from the spot were sent for the chemical analysis. In the meantime, accused was arrested and after the completion of the investigation, charge-sheet was filed. After the committal of the case to the Court of Sessions, prosecution has examined in all 10 witnesses to bring home the guilt of the accused. After the evidence, statement of the accused under Section 313 of the Code of Criminal Procedure and

hearing of both sides, learned Additional Sessions Judge, Sangamner has held the accused appellant guilty of committing offence punishable under Sections 302 and 309 of Indian Penal Code. He has been sentenced thus :-

1. Accused has been convicted for the offence punishable under Section 302 of Indian Penal Code and thereby sentenced to suffer life imprisonment and to pay fine of Rs.5,000/-, in default, to suffer rigorous imprisonment for one year.

2. Accused has been convicted for the offence punishable under Section 309 of Indian Penal Code and thereby sentenced to suffer simple imprisonment for one year and to pay fine of Rs.1,000/-, in default, to suffer further simple imprisonment for three months.

5. Heard learned Advocate Mr. N. C. Garud for the appellant and learned APP Mr. S. D. Ghayal for the respondent – State.

6. It has been vehemently submitted on behalf of the appellant that the accused has been convicted of committing murder of his wife and attempt to commit suicide. Though prosecution has examined 10 witnesses, the case of the prosecution rests on circumstantial evidence.

P.W.3 – Sunil is the son of the accused and deceased. His testimony would make it clear that he was not present in the house when the alleged incident had taken place. He has specifically stated that there was no dispute earlier between accused and deceased. As per the testimony of P.W.3 Sunil he left the house around 8.00 p.m. and returned at 3.00 a.m. He cannot be said to be a witness on the point of last seen together. Though he has stated that there was some quarrel between the parents, it appears that it was patched up and she was brought to the house. The daughter of the deceased had come for delivery and she had returned to her matrimonial home about 15 days earlier. When there was no quarrel or dispute between the accused and the deceased, there appears to be no motive at all for the deceased to commit any offence. There is no evidence led by the prosecution to see what had happened between 8.00 p.m. to 3.00 a.m. As per the testimony of P.W.3 Sunil, when he saw mother in injured condition, he had gone to the house of his uncle Dinkar Gajanan Datir, however, said uncle has not been examined by the prosecution. P.W.1 – Tanaji, the Police Patil, had only seen the incident after he was informed about the same by two other persons. P.W.6 Navnath is the brother of the deceased and he has also stated in the cross that there was no quarrel between accused and deceased. It has come in the evidence of P.W.7 – P.I. Sampatrao Bhosale,

Investigating Officer that the Veranda (*Padvi*) of the house of the accused is open. The house is surrounded by 7-8 vastis of the brothers and some other persons near the house of the accused, yet no independent witness has been examined. When motive is not proved, circumstantial evidence cannot be considered at all. The weapon that was seized in the matter from the spot is an agricultural implement, which is available in the house of agriculturist. P.W.2 Shankar is the panch to the seizure panchanama, however, he is not reliable. He says that the panchanama was not signed at the spot, but after reaching Sangamner Taluka Police Station, police had told the panchas to sign the panchanama. Accordingly, he had signed it. P.W.4 – Dr. Wankhede is the Medical Officer, who has admitted autopsy as well as he is the Medical Officer attached to Rural Hospital, Sangamner, where the accused was in the hospital. In his cross-examination, he has admitted that as the accused had consumed poison, he was admitted in the hospital. But in the second breath, he has admitted that if a person suffers from food poisoning, then he may feel giddiness. If a person inhales a spray of pesticides, then such person also feel giddiness. Therefore, his testimony cannot be relied upon. The investigating officer has not carried out the investigation properly. The statement/FIR which was recorded by A.S.I. Dadar i.e. Exhibit-35 cannot be taken as admission, as it is barred under

Section 25 of the Indian Evidence Act. Under such circumstance, when there was no proper evidence on record and the circumstances which were gathered might have raised at the most suspicion against the accused, yet the suspicion cannot be taken as proved on commission of a crime. The learned trial Judge had not considered all these aspects and wrongly convicted the accused. The appeal, therefore, deserves to be allowed.

7. Learned APP supported the reasons given by the learned trial Judge and submitted that the prosecution case is based on circumstantial evidence. P.W.3 Sunil is the son of the deceased as well as accused, who had last seen the appellant and the deceased together at 8.00 p.m. If we consider the postmortem report, it has been stated that the rigor mortis was present in both upper limbs as well as neck and trunk. Further, in the postmortem report it is also stated that the death had occurred within four hours of last meal. P.W.3 Sunil has specifically stated that after taking dinner, he went to poultry farm of Yashwant Datir for work around 8.00 p.m. Though he has not specifically stated that the parents had also taken dinner with him, yet it can be taken as the fact in view of the fact that there were only three persons in the house. Further, from the testimony of P.W.3 Sunil and P.W.7 P.I. Bhosale, who has investigated the matter, it has come on record that the accused

was raising suspicion over the character of the deceased. This can also be taken note of from the FIR Exhibit-35, which is in fact confessional FIR. The said FIR is admissible in evidence. Learned APP relied on the decision in *Aghnoo Nagesia Vs. State of Bihar*, [1966 AIR (SC) 119], wherein it has been held :-

“ A statement or confession made in the course of an investigation may be recorded by a Magistrate under Section 164 of the Code of Criminal Procedure subject to the safeguards imposed by the section. Thus, except as provided by Section 27 of the Evidence Act, a confession by an accused to a police officer is absolutely protected under Section 25 of the Evidence Act, and if it is made in the course of an investigation, it is also protected by Section 162 of the Code of Criminal Procedure, and a confession to any other persons made by him while in the custody of a police officer is protected by Section 26, unless it is made in the immediate presence of a Magistrate. These provisions seem to proceed upon the view that confessions made by him while he is in the custody of a police officer are not to be trusted, and should not be used in evidence against him. They are based upon grounds of public policy, and the fullest effect should be given to them.”

He further relied on the decision in *Bheru Singh s/o Kalyan Singh Vs. State of Rajasthan*, [1994 (2) SCC 467], wherein it has been held :-

“ The fact of giving information to the police is admissible against him as evidence of his conduct under Section 8 of Evidence Act, 1872 and to that extent it is non-confessional in nature but the confessional part of the FIR by the accused to the Police Officer cannot be used at all against him in view of the ban of Section 25 of Evidence Act.

A confession or an admission is evidence against the maker of it so long as its admissibility is not excluded by some provisions of law. Provisions of Sections 24 to 30 of Evidence Act of Section 164 Cr.P.C. deal with confession. Inadmissibility of a confessional statement made to a police officer under Section 25 of Evidence Act is based on the ground of public policy. Section 26 deals with partial ban to the admissibility of confession while Section 27 is of the nature of proviso lifting ban imposed by Sections 25 and 26. Where first information report is given by an accused himself to a police officer and amounts to confessional statement, no part of such confession can be proved in evidence except to the extent it is permitted by Section 27 of Evidence Act.”

8. The further evidence against the appellant is in the form of CA reports. Blood was found on the clothes of the deceased. Blood group of the deceased and accused is same. The accused had no injury on his person. He has not explained in his statement under Section 313 of the

Code of Criminal Procedure as to how blood was found on his clothes as well as when the fact was come on record, when he had admitted because of the consumption of the poison and the specific question was put to him, he has not tried to explain what prompted him to consume the poison. This can happen only in guilty minds and, therefore, this evidence will have to be considered against him. The injuries on the person of deceased would indicate that it was homicidal death and then it was followed by consumption of poisonous substance by the appellant. Therefore, the conviction awarded to the accused – appellant is just and correct.

9. At the outset, it is to be noted that from the testimony of P.W.1 Tanaji, P.W.3 Sunil, P.W.4 Dr. Wankhede, it can be seen that death of Latabai was homicidal in nature. The postmortem report shows four external injuries, which are thus :-

- i) Abrasion of size 2 cm x 0.5 cm over dorsum of right hand. Blood clots were present.
- ii) Abrasion of size 1 cm x 1 cm over left leg below knee. Blood clots were present.
- iii) Abrasion of size 1 cm x 1 cm over left groin. Blood clots were present.
- iv) Penetrating injury of size 2 cm x 2 cm x 3 cm over left gluteal region, laterally.

All these injuries were antemortem in nature. Out of them, injury Nos.1 to 3 were simple, but injury No.4 was grievous in nature. The inquest panchanama was admitted by the accused and thus, it came to be exhibited as Exhibit-15. The Medical Officer has opined that the death of Latabai was due to coma due to intracranial and intracerebral hemorrhage due to fractured skull due to head injury. The internal examination have shown multiple fractures to the occipital bone and the thorax region, especially ribs. All this indicate that death of Latabai was homicidal in nature. Now, it is required to be seen as to whether the accused can be said to be the author of those injuries.

10. P.W.1 Tanaji - informant had given the information, which was treated as Accidental Death under Section 174 of the Code of Criminal Procedure. At that time, he was informed by the other two persons that Latabai was lying in Veranda (*Padvi*) in injured condition. Though he went and confirmed about the said fact, it appears that he was not sure that it was the murder that was committed and, therefore, whatever he had given the information to police was not disclosing commission of any offence and, therefore, treated as Accidental Death under Section 174 of the Code of Criminal Procedure.

11. The star witness is the P.W.3 Sunil, who is the son of deceased as well as appellant. From the testimony of this witness also, it can be seen

that he has not specifically stated that the father has committed murder of his mother. There was an opportunity to the appellant – accused to ask few more questions when P.W.3 Sunil was in the witness box. It could have been extracted as to why he had not lodged any report with the police or whether he had suspected that his father would have committed murder of his mother. Under this circumstance, though the opportunity was available, it was not so utilized by the accused. It cannot be raised for the first time at the time of appeal. A.S.I. Dadar, who had recorded the FIR Exhibit-35, has stated that after the MLC was received from Rural Hospital, Sangamner, he had gone to the hospital for recording the statement of the appellant. When doctor had certified about the fitness of the accused, his statement has been recorded by this witness. Now, the thing is that P.W.5 A.S.I. Dadar is the police officer and if we consider the FIR Exhibit-35, it states that the accused made statement to the police that he has committed the murder of his wife by assaulting her with pickaxe and then he himself had consumed the poison. Learned Advocate appearing for the appellant says that the FIR Exhibit-35 is inadmissible in view of bar under Section 25 of the Indian Evidence Act. However, learned APP says that it is admissible under Section 27 of the Indian Evidence Act. The fact which is most important is that when Exhibit-35 was recorded, appellant – accused was not in

police custody though the police person was recording his statement. What has been stated in *Aghnoo Nagesia (Supra)* is that Section 27 of the Indian Evidence Act applies only to information received from a person accused of an offence in the custody of a police officer. Therefore, in the present case, when the appellant – accused was not practically in the custody of A.S.I. Dadar, whether that FIR Exhibit-35 can be read in evidence, is a question and we may find answer to this in *Bheru Singh (Supra)*. In paragraph Nos.16 and 17 of the said decision, it has been observed thus :-

“16. A confession or an admission is evidence against the maker of it so long as its admissibility is not excluded by some provision of law. Provisions of Sections 24 to 30 of the Evidence Act and of Section 164 of the Code of Criminal Procedure deal with confessions. By virtue of the provisions of Section 25 of the Evidence Act, a confession made to a police officer under no circumstance is admissible in evidence against an accused. The section deals with confessions made not only when the accused was free and not in police custody but also with the one made by such a person before any investigation had begun. The expression "accused of any offence" in Section 25 would cover the case of an accused who has since been put on trial, whether or not at the time when he made the confessional statement, he was under arrest or in custody as an accused in that case or not. Inadmissibility of a confessional statement made to a police officer under Section 25 of the Evidence Act is based on the ground of

public policy. Section 25 of the Evidence Act not only bars proof of admission of an offence by an accused to a police officer or made by him while in the custody of a police officer but also the admission contained in the confessional statement of all incriminating facts relating to the commission of an offence. Section 26 of the Evidence Act deals with partial ban to the admissibility of confessions made to a person other than a police officer but we are not concerned with it in this case. Section 27 of the Evidence Act is in the nature of a proviso or an exception, which partially lifts the ban imposed by Sections 25 and 26 of the Evidence Act and makes admissible so much of such information, whether it amounts to a confession or not, as relates to the fact thereby discovered, when made by a person accused of an offence while in police custody. Under Section 164 Code of Criminal Procedure a statement or confession made in the course of an investigation, may be recorded by a Magistrate, subject to the safeguards imposed by the section itself and can be relied upon at the trial.

17. Where the first information report is given by an accused himself to a police officer and amounts to a confessional statement, proof of the confession is prohibited by Section 25 of the Evidence Act. No part of the confessional statement can be proved or received in evidence, except to the extent it is permitted by Section 27 of the Evidence Act. The first information report recorded under Section 154 Code of Criminal Procedure is not a substantive piece of evidence. It may be used to corroborate the informant under Section 157 of the

Evidence Act or to contradict him under Section 145 of the Evidence Act in case the informant appears as a witness at the trial. Where the accused himself lodges the first information report, the fact of his giving the information to the police is admissible against him as evidence of his conduct under Section 8 of the Evidence Act and to the extent it is non-confessional in nature, it would also be relevant under Section 21 of the Evidence Act but the confessional part of the first information report by the accused to the police officer cannot be used at all against him in view of the ban of Section 25 of the Evidence Act.”

Therefore, when in this case the present appellant – accused had disclosed about the circumstances in which he had assaulted his wife and he himself had consumed the poison, then such information by him to the police officer, though the proof of such confessional statement is prohibited by Section 25 of the Indian Evidence Act, is admissible against him as evidence of his conduct under Section 8 of the Indian Evidence Act and to that extent, it is non confessional in nature. It would also be relevant under Section 21 of the Evidence Act. This conduct of the accused can also be seen from the statement of P.W.8 A.S.I. Baliram Ghorpade, who was on duty on 19.08.2012. He has stated that accused Arjun had gone to police station around 9.00 a.m. and disclosed P.W.8 Baliram about the fact of consuming poison and, therefore, he had referred the accused to Rural Hospital, Sangamner for

treatment by giving police memo Exhibit-30. Except denial, there is nothing in his cross. We will have to consider the cross of PW.4 Dr. Wankhede, at this stage. He is the Medical Officer who had given treatment to accused and it has been extracted in his cross-examination that the accused had consumed poison for which he was admitted to the hospital. Thereafter, other two suggestions have been given regarding food poisoning and inhaling of pesticides, but those suggestions are contrary to what was extracted earlier. Further, he has also stated in the cross that when the accused was brought to the hospital, he was conscious. Therefore, Exhibit-30 and Exhibit-35 are admissible to the extent of they are non confessional under Section 8 of the Indian Evidence Act. These pieces of evidence are against the accused and they have been rightly considered by the trial Court.

12. Coming to the next point PW.3 Sunil has stated that his father was addicted to liquor and *ganja* and he used to raise suspicion over the character of the mother. Even his father was beating his mother during night time. A month prior to the incident, his father has assaulted mother and his mother had gone to her parental house in the same village. She resided at the parental house for about 15 days and, thereafter, PW.3 Sunil has brought her, as his sister was supposed to come to their house for delivery. After the delivery, his sister had

returned back. He has another brother, but then he says that on the day of incident, his brother had gone to village Dhangarwadi, Tq. Rahata at the place of sister. P.W.3 Sunil had gone to college around 7.30 a.m. and returned around 12.00 p.m. His mother had also gone for work and returned around 6.30 to 7.00 p.m. Then, he had dinner and he went to work in the poultry farm of one Yashwant Datir at 8.00 p.m. He has specifically stated that thereafter only parents were at the house. He returned around 3.00 a.m. on 19.08.2012. He found the dead body of his mother lying in the house. There was injury to the head of his mother and left hand was fractured. He found one pickaxe lying under the cot. He also found bottle containing poison to kill ticks lying there. He went to the house of his uncle - Dinkar Datir and informed the incident. Uncle also saw the dead body. Further, he has specifically stated that when he had returned at 3.00 a.m., his father was not in the house. In the cross-examination, nothing has been brought, which could destroy the story told by him. In his cross, he has stated that the relations of his maternal uncle with his father are not cordial. Even if those relations are not cordial, it cannot be said that, that is the motive for the maternal uncle P.W.6 - Navnath to depose against the accused. P.W.3 Sunil has specifically denied that there was no quarrel between his mother and father in his presence, but then he admits that neither he

himself nor mother had lodged any complaint against father. But then he also admits that prior to the incident that about a month, there were no quarrels in a family. This might have happened since the daughter had come for delivery, but it cannot be construed that the quarrels those used to take place earlier were resolved completely. Definitely, his evidence would clarify that the accused was still taking suspicion over the character of the deceased. This has been also stated by P.W.6 – Navnath. The fact that about a month prior to the incident Latabai had gone to her parental home and stayed there for 15 days and thereafter, she was fetched by the son, has not been denied in the cross of P.W.3 Sunil. P.W.3 Sunil has further stated that the distance between poultry farm and his *Vasti* (House) is near about one and half kilometers. He has admitted that there are 5 to 7 *Vastis* of his brothers and some other persons near his *Vasti*. In fact, word *Vasti* is used for the house which is built in the farm, that means all those *Vastis* were in the farm and it cannot be confused with the house either in village or in town, which are adjacent to each other. When these are in a way farm houses away from each other in their respective farms, we cannot expect that a person will hear the noise and he was rushed immediately. Therefore, this admission cannot be interpreted in the way the learned Advocate appearing for the appellant intends. In the cross, in fact, a death blow

has been given by asking a question on behalf of the accused and the answer is that when P.W.3 Sunil reached home around 3.00 a.m. no other person had come to his house prior to him. In fact, it could not have been within the knowledge of P.W.3 Sunil as to whether any person had visited his house in his absence. There was no point in asking this question, yet it was asked. The answer is given and he states that no other persons had come prior to his arrival. For the theory of “last seen together” requires proximity in time. When P.W.3 left house, it was 9.00 p.m. and as per the postmortem report the death had occurred nearly four hours after the last meal. If these two things are read together, then it can be seen that there was sufficient proximity of time to import the doctrine of last seen together. It was not necessary for the prosecution to explain whether anybody else would have come between 8.00 p.m to 3.00 a.m. We can consider that around 8.00 p.m. even the accused and deceased had their dinner. The non confessional part of Exhibit-35 can be now thus considered, wherein it has been stated that on whole day on 18.08.2012 accused was at home. The wife had gone for labour work and returned around 7.00 p.m. She prepared food and then he himself, wife and Sunil had dinner and then Sunil left for poultry farm. He and Latabai went to sleep in the Veranda (*Padvi*) around 10.00 p.m. and then the quarrel started between them. Thus, the said statement under

Exhibit-35 that the accused, his wife and son Sunil had dinner together at 8.00 p.m. has been proved by the prosecution and the death has occurred within 4 hours after 8.00 p.m. That is the sufficient proximity taking into consideration the fact that at the time when Sunil left only the deceased and the accused were the persons in the house. That is the strong circumstantial evidence against the appellant.

13. The accused has not explained in his statement under Section 313 of the Code of Criminal Procedure as to under which circumstance he was admitted to hospital and was treated for consuming poison. Except that false case has been filed against him, he has not given any other answer. Definitely, there is room to believe that due to the guilty mind after committing murder of wife, accused would have consumed the poison which was available in his house for killing ticks. That bottle was found at the spot so also the murder weapon. The murder weapon can be co-related to the injuries those were found on the person of the dead body and which have been explained by P.W.4 Dr. Wankhede.

14. The CA reports would indicate that on the clothes of the deceased there was blood. On the *Payjama* of the accused, there were blood stains. It is of blood group AB and the blood group of the deceased is AB. Therefore, this is another circumstance which is going against the

appellant.

15. In *State of Maharashtra Vs. Vilas Pandurang Patil, [1999 Cri.L.J. 1062]*, this Court has held :-

“ We wish to emphasise that this is not what the law of circumstantial evidence requires. It requires:-

(a) the circumstances should be firmly established;

(b) Cumulatively they should unerringly point out to the guilt of the accused;

(c) they should wholly be inconsistent with the inference of the innocence of the accused;

(d) they should be incapable of being explained on any other reasonable hypothesis excepting the guilt of the accused.

We wish to emphasise that in case of circumstantial evidence, it has to be seen whether the circumstances in totality and not in isolation, lead to the inference of the guilt of the accused. If in totality, they lead to such an inference then, it is of no consequence that independently they do not establish his guilt.”

This principle has been later on affirmed in many other cases also. Therefore, taking into consideration the totality of the circumstances, which are brought on record, it can be seen that the accused is the author of the crime. Further as regards the motive is concerned, testimony of P.W.3 Sunil and P.W.6 Navnath is sufficient to infer that the

accused used to raise suspicion over the character of Latabai. He was addicted to liquor and it appears that he was not doing anything to earn. When Latabai had gone for work and it appears that she as well as P.W.3 Sunil were working and earning, it would have had impact on the mentality of the accused and then he had started raising suspicion over the character of wife. In this connection, in ***Sheikh Jahangir Ali Vs. State of Maharashtra, [2001 (2) Mh.L.J. 67]***, this Court had observed that :-

“ Motive is always locked in the heart of the accused and it is well known dictum that even devil may not know the thoughts of man motive, no doubt, assumes importance in a case resting on circumstantial evidence, yet the absence of motive is not fatal if the circumstantial evidence is established with cogent evidence.”

16. We reiterate that in certain matters clear motive may not emerge, but the circumstances would be strong to indicate the guilt of the accused. Under such circumstance, absence of motive will not be fatal to the prosecution case. The journey of evidence thus leads us to conclude that the prosecution had proved the guilt of the accused beyond reasonable doubt. After committing the murder of his wife Latabai, the accused had tried to commit suicide by consuming poison

which is certainly an offence under Section 309 of the Indian Penal Code and, therefore, the conviction awarded to the appellant by the learned Additional Sessions Judge is legal and correct. It does not require any kind of interference. Since the appeal is devoid of merits, it deserves to be dismissed. Accordingly, it is dismissed.

[RAJESH S. PATIL, J.]

[SMT. VIBHA KANKANWADI, J.]

scm