

ATU/RMA

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

CRIMINAL APPEAL NO. 234 OF 2017

Raju Kondiram More

Age – 35 Years old, Occ. Nil,

R/o Waki Adivasi Wadi,

Tal. Mangaon,

Dist. Raigad.

(At present lodged in Mumbai Central Prison)

.. **Appellant**

(Org. Accused)

Vs.

State of Maharashtra

(At the instance of Manpada Police Station

vide C.R. No. 32/2014)

.. **Respondent**

(Org. Complainant)

Mr. Swapnil Ovalekar, a/w Mr. Vinod Tayade Advocates for Appellant;

Mr. S.S. Hulke, APP for State

**CORAM : A.S. GADKARI &
MILIND N. JADHAV, JJ.**

Reserved on : 13th SEPTEMBER 2022.

Pronounced on : 17th OCTOBER 2022

JUDGMENT [PER MILIND N. JADHAV, J.] :

. This Appeal challenges the validity and legality of Judgment and Order dated 17.06.2016 passed by learned Additional Sessions Judge, Mangaon, Dist. Raigad in Sessions Case No. 15 of 2014 convicting Appellant for offence punishable under Section 302 of Indian Penal Code, 1860 (for short “**IPC**”) and sentencing him to suffer imprisonment for life and to pay fine of Rs. 2,000/-, in default, to suffer further simple imprisonment for one month.

2. Appellant has been convicted for murder of his wife Jana Raju More (deceased). Both resided in a hut along with their two sons viz. Sameer and Chandrakant. Jana's father (PW-1) resided in another hut 200 feet away. According to prosecution, Appellant used to physically abuse Jana after consuming alcohol.

3. Prosecution case is as follows:

3.1. Date of incident is 21.12.2013. After having dinner, Appellant and PW-1 left the house and Jana with the two children went to sleep. Appellant returned in an inebriated state at about 10:00 p.m. and started abusing Jana without any reason. When she questioned him, he got annoyed and poured kerosene from a bottle on Jana, set her ablaze and left the house. Chandrakant woke up on hearing her screams and immediately rushed to call PW-1 next door. PW-1 with the help of villagers extinguished the fire and took her to Sub-District Hospital, Mangaon for treatment. While in hospital PW-6, PSO S.K. Bhosale visited Jana and recorded her statement. On the basis of her statement, FIR (Exh. 32) was lodged and Crime No. 200/2013 registered with Mangaon Police Station, initially under Section 307 IPC.

3.2. Doctors in the hospital informed PW-1 to shift Jana to Mumbai for treatment. Since PW-1 did not have any money, he brought Jana back home, made arrangement of funds and on the

following day got Jana admitted in Sion Hospital, Mumbai. Investigation of the offence was entrusted to PW-7 PSI S.K. Patil Investigating Officer, (for short “**IO**”) who visited the spot of incident and prepared Spot panchnama (Exh. 34). He collected the injury certificate (Exh. 30) from Medical Officer of Sub-District Hospital, Mangaon. Jana expired on 28.12.2013 i.e. seven days after the incident. He also drew inquest panchanama (Exh. 41) after Jana's death and sent her body for postmortem. PW-4 Dr. Santosh Rathod conducted the autopsy and issued postmotem report (Exh. 20). Charge under Section 302 IPC was thereafter added.

4. After completing investigation, IO filed chargesheet in the Court of Judicial Magistrate First Class (JMFC), Mangaon. Since the offence is triable by the Court of Sessions under Section 302 IPC, JMFC, Mangaon committed the case to the Sessions Court for trial. Charge (Exh. 4) was framed against Appellant. Its contents were read over and explained to him in vernacular language. Appellant abjured the guilt and claimed to be tried. He pleaded total denial.

5. To bring the home guilt of Appellant, prosecution examined seven witnesses. Prosecution case is based on circumstantial evidence which comprises of two oral dying declarations, one written dying declaration (Exh. 32), medical evidence (Exh. 20, 21 and 28), spot panchnama and C.A. Reports (Exh. 52 & 57).

6. We have heard Mr. Swapnil Ovalekar, learned Advocate for Appellant and Mr. S.S Hulke, learned APP for State and with their able assistance perused the record of the case

7. PW-1 Waman Tanu Jadhav, first informant and father of Jana in his evidence has deposed that at about 12:00 midnight, Jana's sons rushed to his house and informed him that Jana was set ablaze. He rushed and doused the fire by pouring 2-3 buckets of water on her. At that time Appellant was not present in the house at the spot of incident. He has deposed that Jana was fully conscious and after the fire was extinguished, she told him that she is burnt. PW-1 took her to the Sub-District Hospital, Mangaon from where she was referred to be taken to Mumbai for further treatment. Since PW-1 did not have enough money, he brought back Jana to his house, arranged for the money on the following day and thereafter got Jana admitted in Sion Hospital, Mumbai for treatment. He has deposed that Jana was treated as indoor patient for six days, however she succumbed to her injuries on the seventh day. Deposition of PW-1 is fully corroborated and supported by spot panchanama (Exh. 34). Spot panchanama reveals recovery of one piece of green colour shirt, burnt mat, one match box with four matchsticks, pieces of bangles, one burnt saree, burnt petticoat, one empty bottle of kerosene and one kerosene lamp from the spot of incident. Deposition of PW-1 clearly proves the oral

dying declaration given by Jana to him and prosecution has proved that it was made immediately after the incident.

8. Medical evidence in the present case is in the form of deposition of PW-4 Dr. Santosh Govind Rathod and PW-5 – Dr. Deepak Nathuram Mane. PW-5 treated Jana immediately on her admission in Sub-District Hospital, Mangaon. He has deposed that on 22.12.2013 at about 01:55 a.m. midnight Jana was brought to the hospital for treatment. She had sustained 96% burn injuries and narrated the history that her husband set her on fire at 10:00 p.m. on 21.12.2013. This second oral dying declaration is brought on record by prosecution through PW-5. He has deposed that at that time, Jana was conscious and oriented and she sustained superficial to deep burn injuries. He has given the bifurcation of Jana's 96% burn injuries as under:-

<i>“Head + neck</i>	<i>9%</i>
<i>Right Upper limb</i>	<i>9%</i>
<i>Left Upper Limb</i>	<i>9%</i>
<i>Chest and abdomen</i>	<i>18%</i>
<i>these are front injuries and back injuries</i>	<i>18%</i>
<i>Left lower limb</i>	<i>16%</i>
<i>right lower limb</i>	<i>16%</i>
<i>Public region</i>	<i>1%</i>
<i>Total percentage of burn injuries</i>	<i>96%”</i>

8.1. Further he has effected the entry in the MLC register of the hospital about Jana's statement. Original MLC register has been produced and proved in evidence vide Exh. 28. He has further deposed that when Police visited the hospital and desired to record Jana's statement in his presence, he informed the police that Jana was in a conscious and fit condition to give her statement. Accordingly police recorded Jana's statement in his presence and he endorsed the same. Dying declaration (Exh. 32) bears the left hand thumb impression of Jana. This written dying declaration (Exh. 32) recorded by police in his presence is duly endorsed by him and has been proved in evidence by prosecution. Perusal of the same clearly reveals the incident and indicts the Appellant as its author.

9. Dr. Rathod, PW-4 is attached to Sub-District Hospital, Mangaon as Medical officer. He performed the autopsy on the dead body of Jana. According to him she sustained 100% burn injury. He noted the following injuries on her dead body:-

"External Injuries :

Leathary skin of whole body and peeing of skin and subcutameoustiss.

The case is of third degree of 100% burn injury. The dead body was in naked condition.

Internal Injuries:

Liver was pale, splinth kidney pale, pancreas and suprapnals. The dead body was in total burned condition."

9.1. He prepared the PM Report (Exh. 20) and recorded cause of

her death due to septicemia with hypovolemic shock due to 100% burn injuries. He issued the advance cause of death certificate (Exh. 21).

10. In addition thereto prosecution has also led the evidence of Chandrakant More, minor son of Jana who is a child witness. PW-2 was 12 years old at the time of incident. He has studied upto 6th standard. He has deposed that he was present in the house (spot of incident) when his mother was set ablaze. He has deposed that on the night of the incident the entire family enjoyed a non-vegetarian dinner and thereafter Appellant left for attending a “halad” function, PW-1 also went to his home and the remaining went to sleep. He has stated that when Jana was burning he had woken up. He has narrated the entire incident as it unfolded before his eyes.

11. Prosecution has thereafter through PW-6 Suryakant K. Bhosale, police head constable (PHC), proved the dying declaration (Exh. 32) given by Jana to him in the Hospital at Mangaon in evidence. In his deposition PW-6 has stated that after confirming about fitness of Jana to give her statement with the Medical officer on duty, he recorded her statement which narrates the family history, details of incident and post incident facts. After recording her statement, he obtained her left thumb impression on the statement. It also bears his signature and endorsement of PW-5, Medical officer / Doctor on duty. Thus, Exh. 32 the written dying declaration given by

Jana stands adequately proved in evidence.

12. Before we advert to re-appreciate the evidence in the present case, it will be appropriate to refer to the settled law relating to re-appreciation of evidence in a case based on circumstantial evidence.

13.1. In case of **Hanumant and Ors. Vs. State of Madhya Pradesh**¹, in paragraph Nos.11 and 12, the Supreme Court while dealing with circumstantial evidence has given certain guidelines and rules applicable for consideration of such evidence and held as under:-

"11. In dealing with circumstantial evidence the rules specially applicable to such evidence must be borne in mind. In such cases there is always the danger that conjecture or suspicion may take the place of legal proof and therefore it is right to recall the warning addressed by Baron Alderson, to the jury in Reg v. Hodge ((1838) 2 Lew. 227), where he said :-

"The mind was apt to take a pleasure in adapting circumstances to one another, and even in straining them a little, if need be, to force them to form parts of one connected whole; and the more ingenious the mind of the individual, the more likely was it, considering such matters to overreach and mislead itself, to supply some little link that is wanting, to take for granted some fact consistent with its previous theories and necessary to render them complete."

*12. It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused.
....."*

1 AIR 1952 SC 343 :: (1952) 1 SCR 1091

13.2. The Supreme Court in the case of **Shankarlal Gyarasilal Dixit vs. State of Maharashtra**² has laid down the fundamental principles to be kept in mind while adjudicating a criminal case founded on circumstantial evidence. Paragraphs 31 and 32 of aforementioned decision are relevant and read thus:

“31. It causes us some surprise that the learned Additional Sessions Judge, Akola, who tried the case, has not shown any awareness of the fundamental principle which governs cases dependent solely on circumstantial evidence. Nowhere in his judgment has the learned Judge alluded, directly or indirectly, to the principle that in a case of circumstantial evidence, the circumstances on which the prosecution relies must be consistent with the sole hypothesis of the guilt of the accused. It is not to be expected that in every case depending on circumstantial evidence, the whole of the law governing cases of circumstantial evidence should be set out in the judgment. Legal principles are not magic incantations and their importance lies more in their application to a given set of facts than in their recital in the judgment. The simple expectation is that the judgment must show that the finding of guilt, if any, has been reached after a proper and careful evaluation of circumstances in order to determine whether they are compatible with any other reasonable hypothesis.”

32. The High Court, it must be said, has referred to the recent decisions of this Court in Mahmood v. State of U.P. [(1976) 1 SCC 542 : 1976 SCC (Cri) 72 : AIR 1976 SC 69] and Chandmal v. State of Rajasthan [(1976) 1 SCC 621 : 1976 SCC (Cri) 120 : AIR 1976 SC 917] in which the rule governing cases of circumstantial evidence is reiterated. But, while formulating its own view the High Court, with respect, fell into an error in stating the true legal position by saying that what the court has to consider is whether the cumulative effect of the circumstances establishes the guilt of the accused beyond the “shadow of doubt”. In the first place, “shadow of doubt”, even in cases which depend on direct evidence is shadow of “reasonable” doubt. Secondly, in its practical application, the test which requires the exclusion of other alternative hypotheses is far more rigorous than the test of proof beyond reasonable doubt.”

[emphasis supplied]

13.3. In the case **Sharad Birdhichand Sarda Vs. State of Maharashtra**³, in paragraph Nos.153 to 158, while enunciating the law relating to appreciation of evidence in a case based on circumstantial evidence, the Supreme Court has held as under:-

² 1981 AIR 765 : 1981 (2) SCC 35

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

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

*the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in **Shivaji Sahabrao Bobade v. State of Maharashtra, (1973) 2 SCC 793 : 1973 Cri LJ 1783** where the following observations were made:*

Certainly, it is a primary principle that the accused must be and not merely may be guilty before a Court can convict, and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions.

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.

*154. It may be interesting to note that as regards the mode of proof in a criminal case depending on circumstantial evidence, in the absence of a corpus delicti, the statement of law as to proof of the same was laid down by Gresson, J. (and concurred by 3 more Judges) in *The King v. Horry* (1952) NZLR 111, thus:*

Before he can be convicted, the fact of death should be proved by such circumstances as render the commission of the crime morally certain and leave no ground for reasonable doubt : the circumstantial evidence should be so cogent and compelling as to convince a jury that upon no rational hypothesis other than murder can the facts be accounted for.

156. Lord Goddard slightly modified the expression 'morally certain' by 'such circumstances as render the commission of the crime certain'.

157. This indicates the cardinal principle of criminal jurisprudence that a case can be said to be proved only when there is certain and explicit evidence and no person can be convicted on pure moral conviction.

.....

158.decision of this Court in *Deonandan Mishra v. State of Bihar* 1955 Cri LJ 1647, to supplement his argument that if the defence case is false it would constitute an additional link so as to fortify the prosecution case. With due respect to the learned Additional Solicitor-General we are unable to agree with the interpretation given by him of the aforesaid case, the relevant portion of which may be extracted thus:

But in a case like this where the various links as stated above have been satisfactorily made out and the circumstances point to the appellant as the probable assailant, with reasonable definiteness and in proximity to the deceased as regards time and situation... such absence of explanation or false explanation would itself be an additional link which completes the chain."

13.4. In the case **G. Parshwanath Vs. State Of Karnataka⁴**, in paragraph No.11, while enunciating the law relating to appreciation of evidence in a case based on circumstantial evidence, the Supreme Court has held as under:-

"11. The evidence tendered in a court of law is either direct or circumstantial. Evidence is said to be direct if it consists of an eye-witness account of the facts in issue in a criminal case. On the other hand, circumstantial evidence is evidence of relevant facts from which, one can, by process of intuitive reasoning, infer about the existence of facts in issue or factum probandum. In dealing with circumstantial evidence there is always a danger that conjecture or suspicion lingering on mind may take place of proof. Suspicion, however, strong cannot be allowed to take place of proof and, therefore, the Court has to be watchful and ensure that conjectures and suspicions do not take place of legal proof. However, it is not derogation of evidence to say that it is circumstantial. Human agency may be faulty in expressing picturisation of actual incident, but the circumstances cannot fail. Therefore, many a times it is aptly said that "men may tell lies, but circumstances do not". In cases where evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should, in the first instance, be fully established. Each fact sought to be relied upon must be proved individually. However, in applying this principle a distinction must be made between facts called primary or basic on the one hand and inference of facts to be drawn from them on the other. In regard to proof of primary facts, the court has to judge the evidence and decide whether that evidence proves a particular fact and if that fact is proved, the question whether that fact leads to an inference of guilt of the accused person should be considered. In dealing with this aspect of the problem, the doctrine of benefit of doubt applies. Although there should not be any missing links in the case, yet it is not essential that each of the links must appear on the surface of the evidence adduced and some of these links

4 (2010) 8 SCC 593

may have to be inferred from the proved facts. In drawing these inferences, the court must have regard to the common course of natural events and to human conduct and their relations to the facts of the particular case. The Court thereafter has to consider the effect of proved facts. In deciding the sufficiency of the circumstantial evidence for the purpose of conviction, the court has to consider the total cumulative effect of all the proved fact, each one of which reinforces the conclusion of guilt and if the combined effect of all these facts taken together is conclusive in establishing the guilt of the accused, the conviction would be justified even though it may be that one or more of these facts by itself or themselves is/are not decisive. The facts established should be consistent only with the hypothesis of the guilt of the accused and should exclude every hypothesis except the one sought to be proved. But this does not mean that before the prosecution can succeed in a case resting upon circumstantial evidence alone, it must exclude each and every hypothesis suggested by the accused, howsoever, extravagant and fanciful it might be. There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused, where various links in chain are in themselves complete, then the false plea or false defence may be called into aid only to lend assurance to the court."

14. In the context of consideration of dying declaration we may usefully refer to following two judgments of the Supreme Court which enunciate the evidentiary value of a dying declaration.

14.1. In the case of **Shudhakar vs. State of M.P.**⁵ the Supreme Court in its para 20 and 21 of its decision has held as under:

"20. The 'dying declaration' is the last statement made by a person at a stage when he is in serious apprehension of his death and expects no chances of his survival. At such time, it is expected that a person will speak the truth and only the truth. Normally in such situations the courts attach the intrinsic value of truthfulness to such statement. Once such statement has been made voluntarily, it is reliable and is not an attempt by the deceased to cover up the truth or falsely implicate a person, then the courts can safely rely on such dying declaration and it can form the basis of conviction. More so, where the version given by the deceased as dying declaration is supported and corroborated by other prosecution evidence, there is no reason for the courts to doubt the truthfulness of such dying declaration.

21. Having referred to the law relating to dying declaration, now we may examine the issue that in cases involving multiple dying declarations made by the deceased, which of the various dying declarations should be believed by the Court and what are the principles governing such determination. This becomes important

5 AIR 2012 SC 3265

where the multiple dying declarations made by the deceased are either contradictory or are at variance with each other to a large extent. The test of common prudence would be to first examine which of the dying declarations is corroborated by other prosecution evidence. Further, the attendant circumstances, the condition of the deceased at the relevant time, the medical evidence, the voluntariness and genuineness of the statement made by the deceased, physical and mental fitness of the deceased and possibility of the deceased being tutored are some of the factors which would guide the exercise of judicial discretion by the Court in such matters. In the case of *Lakhan (supra)*, this Court provided clarity, not only to the law of dying declaration, but also to the question as to which of the dying declarations has to be preferably relied upon by the Court in deciding the question of guilt of the accused under the offence with which he is charged. The facts of that case were quite similar, if not identical to the facts of the present case. In that case also, the deceased was burnt by pouring kerosene oil and was brought to the hospital by the accused therein and his family members. The deceased had made two different dying declarations, which were mutually at variance. The Court held as under:

9. The doctrine of dying declaration is enshrined in the legal maxim nemo moriturus praesumitur mentire, which means "a man will not meet his Maker with a lie in his mouth". The doctrine of dying declaration is enshrined in Section 32 of the Evidence Act, 1872 (hereinafter called as "the Evidence Act") as an exception to the general rule contained in Section 60 of the Evidence Act, which provides that oral evidence in all cases must be direct i.e. it must be the evidence of a witness, who says he saw it. The dying declaration is, in fact, the statement of a person, who cannot be called as witness and, therefore, cannot be cross-examined. Such statements themselves are relevant facts in certain cases.

14.2. In the case of **Uttam vs. State of Maharashtra**⁶, the Supreme Court in its para 11 of its decision has held as under:

"11. Dying declaration is the last statement that is made by a person as to the cause of his imminent death or the circumstances that had resulted in that situation, at a stage when the declarant is conscious of the fact that there are virtually nil chances of his survival. On an assumption that at such a critical stage, a person would be expected to speak the truth, courts have attached great value to the veracity of such a statement. Section 32 of the Indian Evidence Act, 1872 states that when a statement is made by a person as to the cause of death, or as to any of the circumstances which resulted in his death, in cases in which the cause of that person's death comes into question, such a statement, oral or in writing made by the deceased victim to the witness, is a relevant fact and is admissible in evidence. It is noteworthy that the said provision is an exception to the general Rule contained in Section 60 of the Evidence Act that 'hearsay evidence is inadmissible' and only when such an evidence is direct and is validated

through cross-examination, is it considered to be trustworthy.”

15. In the present case, prosecution has also relied upon deposition of PW- 7 Suresh Kashinath Patil, PSI, the IO he has drawn Spot panchanama (Exh.34), Inquest Panchanama (Exh.41), recorded the statements of minor children of Jana and Appellant, collected the relevant documents, obtained and proved photographs of the spot of incident (Exh.48), obtained and proved the CA certificates (Exh. Nos 51 and 52) in respect of the seized muddemal and completed the investigation.

16. Perusal of deposition of PW-1, PW-2, PW-4, PW-5 and PW-6 clearly inspires confidence of this court. It is seen that on the night of incident there were four persons in the house. The incident of burning of Jana is not a case of suicide nor it is a case of accidental death. It is further seen that Appellant has not provided or explained his defence under Section 106 of the Indian Evidence Act, 1873 (for short “Evidence Act”) in his statement recorded under Section 313 of Cr.PC. It is bereft of any attempt made by Appellant to extinguish the fire. Deposition of PW-1 clearly refers to the factual circumstances and the fact that Chandrakant rushed to his house to call him. Spot pancahnama Exh. 34 corroborates and supports the factual evidence proved by prosecution.

17. It is argued on behalf of Appellant that in the present case

dying declaration (Exh. 32) was not recorded by the Naib Tehsildar despite issuing a letter to him, but it was recorded by PW-6 and hence there is infirmity in considering the same. It is further argued that Jana suffered 96% burn injuries and all her fingers were burnt and hence she would not have been in a position to attest her thumb impression on the dying declaration (Exh. 32). Appellant on these submissions sought rejection of Exh. 32. We are afraid to state that these submissions of Appellant cannot be countenanced. Considering the situation in which Jana was admitted to the hospital in a burnt condition, PW-6 recorded her dying declaration after adhering to the requirements in law. Dying declaration can be recorded by any person. We gave our imprimatur to Exh. 32 as having been proved under Section 32 of the Evidence Act. On the second count, once again we are not with the Appellant. We need to look into the substantive evidence of the prosecution witnesses for rejecting this submission. PW-6 in his substantive evidence has stated the entire chain of circumstances of recording the dying declaration (Exh. 32). Deposition of PW-5, the medical officer who endorsed the dying declaration corroborates and supports the deposition of PW-6. Their evidence therefore needs to be accepted as it bears the endorsement of Jana's left thumb impression. In this context we may refer to the substantive evidence of PW-5 wherein stated that "*...I examined Jana Raju More. She was conscious and oriented....*" This deposition shows that Jana

was conscious and oriented at the time of giving her statement. Prosecution has also brought on record and proved Medical certificate / Medical endorsement given by dated 06.01.2014 (Exh. 43). Exh. 43 is the letter addressed to the Medical Officer to furnish details of Appellant's medical examination. The Medical officer has clinically examined Appellant and has opined that he has 12 % burn injuries over his body which are healed. This endorsement of the doctor is marked in evidence as Exh. 43/C. The incident occurred on the night of 21.12.2013. This medical endorsement is given on 06.01.2014 i.e. two-weeks after the incident. This medical endorsement clearly proves that Appellant also sustained minor burn injuries which were healed within two weeks thereafter. This is a very strong circumstantial evidence. That apart the prosecution has fortified its case by relying on the two oral dying declarations given by Jana to PW-1 and PW-5.

18. In view of the above discussion and findings and failure on the part of Appellant to explain the circumstances leading to the death of his wife Jana, clearly point a finger towards the Appellant of having committed the murder of Jana. Prosecution has thus proved beyond all reasonable doubts that on the night of 21.12.2013. Appellant committed the murder of Jana by pouring kerosene on her body and by setting her ablaze.

19. We do not find any infirmity in the Judgment and Order date 17.06.2016 delivered by the trial court. The same calls for no interference and deserves to be upheld.

20. Criminal Appeal 234 of 2017 is dismissed

21. Before we part with the Judgment we would like to place on record appreciation for the efforts put in by Mr. Swapnil Ovalekar, learned Advocate appointed by High Court Legal Services Committee, Mumbai for espousing the cause of Appellant. He was thoroughly prepared in the matter and rendered proper and able assistance to the court.

[MILIND N. JADHAV, J.]

[A.S. GADKARI, J.]