



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 996 OF 2019

Vishwas Murlidhar Gaikwad
Age: Major years, Occu: Nil.,
R/o: Ambhora, Tq. Ashti, Dist. Beed ... Appellant

Versus

The State of Maharashtra
Through Police Station Ambhore
Tq. Ashti, Dist. Beed ... Respondent

...
Mr. Sopan G. Bobade, Advocate for the Appellant
Mr. A. R. Kale, APP for the Respondent - State
...

**CORAM : R. G. AVACHAT &
NEERAJ P. DHOTE, JJ.**

DATED : 18th June, 2024

JUDGMENT : [PER NEERAJ P. DHOTE, J.]

1. This Appeal under Section 374 [2] of the Code of Criminal Procedure, 1973 [hereinafter referred to as 'Cr.PC' for short] is directed against the conviction and sentence recorded by the learned Additional Sessions Judge, Beed against the Appellant for the offence punishable under Section 302 of the Indian Penal Code, 1860 [hereinafter referred to as 'IPC' for short] and sentencing him to suffer life imprisonment and to pay fine of Rs.50,000/-, in default, to undergo rigorous imprisonment for one [1] year, in Session Case No.40/2016.

2. The Prosecution's case as revealed from the Police Report is as under:

2.1 The deceased - Rani Vishwas Gaikwad was the wife of Appellant. They were married three [3] years prior to the date of incident. They were residing at Ambhora, Taluka Ashti, District Beed. Eight [8] months prior to the date of incident, the Appellant started harassing her for getting Rs.1,00,000/- from her parents to purchase the motorcycle. In March-2015, deceased - Rani had come to her parent's house. She gave birth to one baby girl. The Appellant did not go to meet her. Fifteen [15] days prior to the date of incident, the father-in-law and matrimonial relatives had come to the house of deceased - Rani's parents and mediated. The deceased - Rani went to her matrimonial house.

2.2 In the early morning, on 16/11/2015, the father of deceased - Rani received a phone call from her father-in-law that there was quarrel between the deceased - Rani and the Appellant, in which, the deceased - Rani got seriously injured and she was taken to the Government Hospital at Ahmednagar. The father of the deceased - Rani reached the Hospital. They learnt from the Policemen, who were present in the Hospital, that Rani died before admission to the Hospital. The dead body was having injuries. The brother of deceased - Rani lodged the report with the Police Station, Ambhora against the Appellant for Murder. Crime No.128/2015 came to be registered for the offences punishable under Sections 302 and 304-B of IPC against the Appellant.

3. Inquest was carried out. The body of deceased - Rani was referred for postmortem. Spot panchnama was carried. The Appellant came to be arrested and his clothes came to be seized. The clothes of deceased - Rani were taken by the

Police. The statements of witnesses were recorded. While the Appellant was in police custody, the wooden stick used in the crime came to be seized pursuant to the disclosure statement under Section 127 of the Indian Evidence Act, 1872 [hereinafter referred to as 'the Evidence Act' for short]. The seized articles were referred to the Chemical Analyser. The postmortem report and CA reports came to be collected. On completion of investigation, the Appellant came to be Charge-sheeted for the offence punishable under Sections 302 and 304-B of IPC by the Police Station, Ambhora, Taluka Ashti, District Beed.

4. On committal, the learned Trial Court framed the Charge against the Appellant for the offence punishable under Sections 302 and 304-B of IPC vide Exhibit-16/C. To prove the Charge, the Prosecution examined in all twelve [12] witnesses and brought on record the relevant documents. On completion of Prosecution's evidence, the statement of Appellant came to be recorded under Section 313[1][b] of Cr.PC. The Appellant denied the case and evidence of the Prosecution. The Appellant examined himself as defence witness No.1 and one witness as defence witness No.2. After hearing both the sides and appreciating the evidence on record, the learned Trial Court passed the impugned Judgment and Order convicting the Appellant for offence as stated in Paragraph No.1 above and acquitting the Appellant for the offence punishable under Section 304-B of IPC.

5. Heard the learned Advocate for the Appellant and the learned APP for Respondent - State.

6. It is submitted by the learned Advocate for the Appellant that the case is based on circumstantial evidence. The Appellant was not present in his house and after he came home in the night from the agricultural field, he saw his deceased - wife in injured condition and he helped her admitted to the Hospital. The Appellant had gone to the Police Station to inform about the incident. Though the spot panchnama was carried out by the Investigating Officer, the discovery of wooden stick is shown at the instance of the Appellant, which would not become relevant for the reason that the Investigating Officer was knowing the spot. The blood stains on the Appellant's clothes would not be sufficient to maintain the conviction. The evidence on record do not conclusively establish that it was the Appellant who was the author of the Crime. The defence evidence show that the incident had taken place in the absence of the Appellant. The Appellant be acquitted.

7. It is submitted by the learned APP that the place of incident is the residential house of the Appellant, where he was residing with his deceased - wife. The evidence on record show that the Appellant and deceased - wife went to their house before the incident. The defence evidence is not probable. Though some of the witnesses have not supported the Prosecution, the circumstantial evidence on record establishes the Charge of Murder against the Appellant. The conviction and sentence awarded by the learned Trial Court be maintained.

8. The case is based on circumstantial evidence. The law in that regard is well settled. Right from Judgment in **Sharad**

Birdhi Chand Sarda Vs. State of Maharashtra; 1984 AIR 1622, and subsequent pronouncements, the following position on the circumstantial evidence is reiterated as under :

“1. The circumstances from which the conclusion of guilt is to be drawn should be fully established; [163D]

2. The facts so established should be consistent with the hypothesis of guilt and the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty; [163G]

3. The circumstances should be of a conclusive nature and tendency; [163G]

4. They should exclude every possible hypothesis except the one to be proved; and [163H]

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. [164B]. These five golden principles constitute the panchsheel of the proof of a case based on circumstantial evidence and in the absence of a corpus delicti”.

9. There is no dispute on their following aspects:

[a] The Appellant was the husband of deceased – Rani.

[b] The Appellant and deceased – Rani were residing together at the place, where the Appellant’s wife deceased - Rani was found in the injured condition.

10. As regards the homicidal death of Appellant’s wife deceased – Rani, there is no serious dispute, as seen from the tenor of cross-examination and submissions made by the learned Advocate for the Appellant. PW – 1 [Rohidas Sandipan Thorat] is examined as the inquest panch. His evidence show that on 16/11/2015, he was present in the Civil Hospital at Ahmednagar, where the Police had shown the dead body of one lady. The clothes on the dead body were stained with blood. There were injuries on the forehead, right elbow, fracture in hand, black and blue marks on both knees and buttocks and stretches on back and spinal cord. The Inquest

at Exhibit - 28 was prepared in his presence. The clothes which were articles 1 to 5 comprising blouse, saree, nicker, petticoat and clothe, by which, both hands were tied, were seized under the panchnama at Exhibit - 29. The evidence of this witness cannot be discarded on the ground that he was relative of the deceased - Rani. Though he admits, in his cross-examination, that the wearing apparels of deceased were not sealed in his presence, his evidence remained intact in the cross-examination.

11. The evidence of PW - 2 [Sachin Vithal Adhav] show that he was the brother of deceased - Rani. On 16/11/2015 after the father of Appellant gave phone call to his father at about 5 to 6 a.m. that deceased - Rani was in critical condition, he, his brother and parents went to see deceased - Rani in the Civil Hospital, Ahmednagar, where they learnt that Rani died prior to her admission in the Hospital. When he saw her dead body, he noticed grievous injuries on the hands, legs, back and head and there were blue and black weal marks on her hands and legs. There were blood stains on the clothes of Shrutika [daughter of deceased]. Thereafter, the body was sent for postmortem. Except suggestion that the said evidence was false, nothing has come to discard the said evidence of PW - 2 [Sachin Vithal Adhav]. He lodged the report with the Police Station, Ambhora at Exhibit - 34.

12. The evidence of PW - 10 [Abdul Kaleem Ibrahim Raje] show that from 2012 till July, 2017, he was attached to Topkhana Police Station as ASI. He was on duty at Police out post, Civil Hospital, Ahmednagar from 10:00 a.m. of 15/11/2015 to 10:00 a.m. of 16/11/2015. He received the

information from Dr. Sable that deceased - Rani Vishwas Gaikwad was brought dead in the Hospital and he informed the Tophkhana Police Station, upon which, AD No.0/2015 came to be registered. The PSO - Bharaskar handed over the inquiry to him in the said AD, which was at Exhibit - 62. He went to the mortuary room and saw the dead body of deceased - Rani. The clothes on the dead body were having blood stains. He found injury on temporal region on head, right elbow, blue and black marks on both legs and buttocks, abrasion on left side back and near spondylitis. The Inquest at Exhibit - 28 was prepared in the presence of panchas. The clothes on the dead body were seized under the panchnama at Exhibit - 29. The dead body was referred for postmortem vide requisition at Exhibit - 63 and thereafter, the body was handed over to the relatives of deceased. Nothing has come in his cross-examination to discard his evidence.

13. The evidence of PW - 11 [Dr. Mohd. Shahed Mohd. Taher] show that from 2014 to 2016, he was attached to the Civil Hospital, Ahmednagar as Medical Officer. On 16/11/2015, while he was on duty, ASI - Abdul Kaleem Ibrahim Raje [PW - 10] referred the dead body of Rani Vishwas Gaikwad for postmortem. He and Dr. Smt. Narwate conducted the postmortem and found the following injuries, which were mentioned in Column No.17 of the postmortem report :

- "1) CLW over frontal bone side measure about 5 cm. X 2 cm. X 1 cm. "*
- 2) CLW over right arm posteriorly about 2 x 1 cm.*
- 3) Abrasion over right arm multiple 2 x 6 cm.*
- 4) CLW over left arm lower end laterally measure about 6 cm. X 4 cm. X 3 cm.*
- 5) Contusions over left forearm lateral aspect 2 x 2 cm.
right knee multiple contusions over area 6 x 5 cm.*

left knee multiple contusion over area about 6 x 5 cm.

- 6) *Left thigh posteriorly. Abrasion 6 x 2 cm. and contusion over left buttock. Fracture. Humerus left side lower end."*

On internal examination hematoma over frontal region in scalp, no fracture of skull bone, intracranial bleeding over frontal tobe were found. Similarly, cerebral edema was also found on brain. All the injuries were antemortem. The cause of death was due to '*polytrauma with head injury with intracranial bleeding*'. The aforesaid external injuries were sufficient in ordinary course to cause death.

14. The postmortem report at Exhibit - 66 is brought on record in his evidence to corroborate his testimony. He opined that all the injuries mentioned in Column No.17 were possible by wooden log [Article No.13]. During cross, he opined that the said injuries may be possible by hard and blunt object and the age and cause of injuries were not mentioned in the Column No.17 of postmortem report. There is nothing to disbelieve this medical evidence.

15. PW - 4 [Arjun Baburao Kamble] and PW - 5 [Sukhdeo Dagdu Khakal] are examined as witnesses for spot panchnama. In his evidence, PW - 4 [Arjun Baburao Kamble] deposed that he went on the spot after he learnt that the incident took place in the house of the Appellant. The house was in the Vasti of Nawara field and Chhaya Gaikwad [PW - 6] was present on the spot. The spot of incident was the house consisting of two rooms. The police obtained his signature below tamarind tree. Though his evidence show that as he did not support the Prosecution, his said evidence clearly show the spot of incident as the house of Appellant.

16. The evidence of PW - 5 [Sukhdeo Dagdu Khakal] show that on 16/11/2015 at about sixteen [16] hours, the Police called him in the house of the Appellant for spot panchnama, wherein, PW - 4 [Arjun Baburao Kamble] was present. His evidence show that the spot of incident was the house of the Appellant which comprised of two rooms. There were pair of chappal, stained with blood and there were blood stains in the courtyard of the house. There were blood stains, pieces of bangles, clothes with blood stains, mattress with blood stains and household articles were lying. The police seized all the articles under the spot panchnama at Exhibit - 41. The said article at Exhibits - 6 to 8, 9/1, 9/2 and 10 were identified as the same articles.

17. The evidence of PW - 6 [Chhaya Ashruba Gaikwad] show that she was residing adjacent to the Appellant's house at the distance of 100 feet. The Appellant was her paternal uncle. In the night of 15/11/2015, she called deceased - Rani to her house for assisting her in preparing sweet cake. After they finished preparing the sweet dish, the Appellant came to her house and tasted the sweet. Thereafter around 10:00 pm., the Appellant and deceased - Rani went to their house. Her further evidence show that in the wee hours of 16/11/2015, the Appellant came and informed her that deceased - Rani was suffering from illness and she went to his house. Deceased - Rani was shifted in the Ambulance to the Hospital. Her evidence show that as she did not support the case of Prosecution, she was cross-examined by the learned APP. Nothing much had come in her cross-examination done by the defence. She deposed that when the Appellant came to her house for calling deceased - Rani, he was about to go to the

field for watering the crops. There is no suggestion or denial in the cross-examination done by the defence in respect of her evidence in the examination-in-chief. From the evidence of this witness, it is established that the deceased – Rani had come to her house and thereafter, the Appellant came and at around 10:00 pm, the Appellant and deceased – Rani went to their house.

18. In his evidence given in defence, the Appellant who is the defence witness No.1 corroborated the evidence of PW – 6 [Chhaya Ashruba Gaikwad] that in the evening of 16/11/2015, deceased – Rani went to the house of PW – 6 [Chhaya Ashruba Gaikwad] for preparing food and thereafter, he went to the house of PW – 6 [Chhaya Ashruba Gaikwad]. He and deceased – Rani ate sweet and thereafter, he and deceased – Rani returned to their house. He deposed that thereafter, he went to his field to start electric motor with defence witness No.2 [Subodhkant Shamrao Patole]. The defence witness No.2 [Subodhkant Shamrao Patole] corroborate the evidence of PW – 6 [Chhaya Ashruba Gaikwad] and defence witness No.1 that in the evening of 15/11/2015, when he came to his house, deceased – Rani was at his home. He is the son of PW – 6 [Chhaya Ashruba Gaikwad]. The Appellant had also come to their house. They all ate sweets. Thereafter, the Appellant told him to come with him to the field to start electric motor and after reaching the field, they irrigated the land for about four hours. Though he nowhere deposed that the Appellant and deceased – Rani left their house, however, from the evidence of PW – 6 [Chhaya Ashruba Gaikwad] and defence witness No.1 [Appellant], it is clearly established that after having the sweets, the Appellant and deceased – Rani went to

their home in the night.

19. From the above evidence, it is clear that lastly deceased – Rani was in the company of the Appellant and they went to their house. There is no evidence to show that thereafter, deceased – Rani was seen in the company of any other person. Defence witness No.2 [Subodhkant Shamrao Patole], in his evidence, deposed that he and the Appellant irrigated the land for about four hours after reaching the field and thereafter, electricity went off and as the electric motor stopped, they returned to their house and when they returned, door of the house of Appellant was found open and deceased – Rani was asking for water. He went to call one Jagtap anty who was residing near his house and also he went to his house and sent his mother PW – 6 [Chhaya Ashruba Gaikwad] to the house of Appellant. However, defence witness No.1, who is the Appellant himself, nowhere deposed that he and defence witness No.2 irrigated the agricultural land and thereafter, the electricity went off and the electric motor stopped, therefore, they returned home. He nowhere deposed that defence witness No.2 accompanied him to his house. What he deposed is that when he returned to his house, he saw his wife deceased – Rani lying in a pool of blood and so he went to the house of his paternal aunt PW – 6 [Chhaya Ashruba Gaikwad] and informed her about the incident. There is clear variance in the evidence of defence witnesses. They do not corroborate each other on the material aspects. Therefore, it is not possible to accept the defence that they both went together in the agricultural field and after returning, they saw deceased – Rani in the injured condition.

20. The evidence of PW - 7 [Shivaji Yeshwantrao Gode] who was the ASI attached to the Ambhora Police Station. On 16/11/2015, he was on duty as PSO on that day. At wee hours around 5:00 am., the Appellant came to Ambhora Police Station and informed him that there was quarrel between him and his wife and in that quarrel, she received injuries. He directed the Appellant to take his wife to the Hospital for treatment and made station diary entry at Sr. No.8 to that effect. The copy of station diary entry is brought on record at Exhibit - 48. In the cross-examination, it is fortified that the Appellant alone came to the Police Station in the wee hours on 16/11/2015. The suggestion is denied that the Appellant came to lodge the report that unknown persons assaulted his wife and he told him to take his wife to the Hospital and thereafter, he will receive his report. It is needless to state that the said station diary entry was made in regular discharge of the official duty by PW - 7 [Shivaji Yeshwantrao Gode]. His evidence that in the quarrel between the Appellant and deceased - Rani, she received injuries would be inadmissible. However, his evidence that the Appellant approached the Police Station and gave information that his wife was injured, is admissible and proved.

21. The evidence of PW - 7 [Shivaji Yeshwantrao Gode] finds corroboration from the testimony of PW - 12 [Shivaji Dattatraya Gurme], wherein, he deposed that on 16/11/2015 ASI Shivaji Yeshwantrao Gode [PW - 7], who was on duty as In-charge of Station Diary and the Appellant informed the incident to the Police Station at about 05:10 am and accordingly, In-charge of the Police Station diary made the entry at Sr. No.8.

22. The evidence of PW - 3 [Mahadeo Kachru Khatane] show that he was the resident of same village - Ambhora and was running an auto-rickshaw. In the night of 16/11/2015, when he was sleeping in his house, the Appellant and one Sagar Jagtap came on motorcycle to him at about 1:00 am to 1:30 am, informed that one patient was to be shifted to the Hospital and was asked to come to the house of the Appellant. He went to the house of the Appellant with rickshaw. The Appellant went inside the house to bring the patient and he kept waiting outside. Since the patient was not brought though fifteen minutes had passed, the Appellant asked him to wait for sometime as other persons were coming. As no one came out of the house after fifteen minutes, he got down from the rickshaw and went to the courtyard of the Appellant's house. At that time, he heard the sound of lady asking for water. The Appellant gave her water from earthen pot which was kept outside. As the patient did not come, he went inside the house and saw one lady lying on the floor in the pool of blood. The patient was the Appellant's wife. He came out of the house and informed the Appellant that the patient was serious and so he will not carry her and asked him to search for another vehicle. At that time, he saw Chhaya Gaikwad [PW - 6] had come there. Thereafter, he went to his house. His further evidence show that he was cross-examined by the Prosecution as he did not support the further case of Prosecution.

23. In cross-examination done by the defence, PW - 3 [Mahadeo Kachru Khatane] deposed that when he went to the house of the Appellant, the Appellant was trying to save life of his wife i.e. deceased - Rani and the Appellant and defence

witness no.2 [Subodhkant Shamrao Patole] were discussing that when they went to irrigate their land, some incident happened in the house. This evidence of PW - 3 [Mahadeo Kachru Khatane] given in cross-examination do not find corroboration from the evidence of PW - 6 [Chhaya Ashruba Gaikwad], who had reached the house of Appellant. Even the evidence of defence witnesses do not corroborate the evidence of PW - 3 [Mahadeo Kachru Khatane] in the cross-examination that they had discussed or deliberated about the incident.

24. The evidence of PW - 9 [Mahadeo Natha Gaikwad] show that he was Police Patil of Village Salewadgaon. On 19/11/2015, he was called at the Ambhora Police Station. When he went to the Police Station, the Police Patil of village Ambewadi was present. Mr. Gurme, the Police Officer [PW - 12] informed that the Accused wanted to give the statement and asked him to hear the same. The Appellant was brought before him. The Appellant made statement that he was ready to discover the wooden log hidden by him in front of his house. [inadmissible part is to be ignored]. Accordingly, the memorandum at Exhibit - 58 was prepared. Thereafter, the Appellant led him, other panch, and the Police in the government vehicle, which was halted in front of the Appellant's house. They followed the Appellant and the Appellant pointed finger where wooden log was hidden. The wooden log having curve and blood stains kept in yellow colour Nylon bag was discovered at the instance of the Appellant. It was seized and sealed under the panchnama at Exhibit - 59.

25. From the cross-examination of this panch witness, it is fortified that, the Appellant was in the police custody. Nothing has come in the cross-examination so as to discard the evidence. The answer, he do not remember, to the question put in the cross-examination as to whether Shri. Gurme [PW - 12] or police personnel took out the wooden log would not affect the evidence given in the examination-in-chief in any manner.

26. PW - 12 [Shivaji Dattatraya Gurme] in his evidence deposed that on 16/11/2015 when he was attached to Ambhora Police Station as In-charge Station House Officer, he received the information regarding death of Rani in the Civil Hospital and to verify the fact, he went to Civil Hospital, Ahmednagar. He collected the papers of AD No.0/2015 from the out Post of Civil Hospital, Ahmednagar and returned to the Police Station. On the same day, Sachin Vithal Adhav [PW - 2] came to the Police Station and lodged the report at Exhibit - 34. Crime No.128/2015 came to be registered pursuant to the said report.

27. In his further evidence, PW - 12 [Shivaji Dattatraya Gurme] deposed that on the same day, he arrested the Appellant under the arrest panchnama and the information of his arrest was given to his relatives. On 19/11/2015, while the Appellant was in the custody, he gave statement in presence of the panchas that he was ready to produce the wooden log used in the commission of offence hidden in front of his house. [inadmissible part is to be ignored]. The memorandum at Exhibit - 58 was prepared as per say of the Appellant. Thereafter, the Appellant led him, panchas and police staff in

the vehicle, which was stopped at the Appellant's instance on the road. They all got down from the vehicle. The Appellant led them to his house from where the Appellant discovered the place where the wooden log was kept in yellow fertilizer bag. The wooden log was having curve and blood stains. It was seized under the panchnama at Exhibit - 59.

28. Section 27 of the Evidence Act provides that, when any fact is discovered to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

29. In the recent Judgment of the Hon'ble Apex Court of **Babu Sahebagouda Rudragoudar Vs. State of Karnataka in Criminal Appeal No. 985 of 2010**, the said provision is considered and it is observed as follows:

'when the Investigating Officer steps into the witness box for proving such disclosure statement, he would be required to narrate what the Accused stated to him. The Investigating Officer essentially testifies about the conversation held between himself and the Accused which has been taken down into writing leading to the discovery of incriminating fact(s).' It is further observed that, *'Similar view was taken by the Hon'ble Apex Court in the case of Ramanand @ Nandlal Bharti vs. State of Uttar Pradesh, wherein this Court held that mere exhibiting of Memorandum prepared by the Investigating Officer during investigation cannot tantamount to proof of its contents. While testifying on oath, the Investigating Officer would be required to narrate the sequence of events which transpired leading to the recording of the disclosure statement'.*

30. The above evidence of PW - 9 [Mahadeo Natha Gaikwad] and PW - 12 [Shivaji Dattatraya Gurme] clearly establish that while the Appellant was in police custody, discovery of curve wooden log having blood stains was made at the instance of the Appellant. The essential ingredients required to satisfy

the requirement of the said provision are proved. Therefore, the said discovery would become relevant.

31. The evidence of PW - 8 [Shaikh Hakim Shaikh Abdulla] show that since 2013 till May - 2016, he was attached to Ambhora Police Station as ASI. On 15/01/2016, API Gurme [PW - 12] gave him written orders to carry the muddemal of Crime No.128/2015 for chemical analysis to FSL Aurangabad. On the next day, i.e. 16/01/2016 in the morning, he took the custody of sealed muddemal in the aforesaid crime from crime Mohril with letter and carried the same to FSL Aurangabad and took the acknowledgment. On 17/01/2016, he handed over the acknowledgment to API Gurme [PW - 12]. The statement was recorded. The written order at Exhibit - 51 is brought on record in his evidence. Except suggestion that when he took the muddemal in his custody, it was not sealed and he was deposing false, nothing has come so as to discard his evidence. His evidence find corroboration from the evidence of PW - 12 [Shivaji Dattatraya Gurme]. From his evidence given in Paragraph No.9 that on 15/01/2016, he sent seized muddemal articles and blood sample to RFSL Aurangabad for examination through ASI Hakim with letter. The said evidence of PW - 12 that the seized muddemal in the crime was sent to the Chemical Laboratory through PW - 8 [Shaikh Hakim Shaikh Abdulla], is not challenged.

32. In his further evidence, PW - 12 deposed of receiving CA reports, which were Exhibits - 54 and 55. It is needless to state that by virtue of Section 293 of Cr.PC, the said reports are admissible in evidence.

33. The CA report at Exhibit - 55 show that the blood group of deceased - Rani was 'B'. The CA report at Exhibit - 54 show that the wooden log [Exhibit - 16] was detected with human blood of group 'B'. There is no challenge to the CA reports in the cross-examination of PW - 12. Thus, the above discussed evidence on record clearly establish that the wooden log having human blood group of 'B' was discovered at the instance of the Appellant.

34. The evidence of PW - 12 [Shivaji Dattatraya Gurme] show that on 17/11/2015, he seized the clothes which were on the person of the Appellant comprising light pink colour full sleeves shirt and ash colour pant having blood stains under the panchnama at Exhibit - 42, which were sealed. The CA report also show that human blood of group - 'B' was detected on the clothes of the Appellant [Exhibits 14 and 15]. However, the same cannot be taken as incriminating circumstance for the reason that there is every possibility that while helping his deceased - wife Rani to shift to the Hospital, his clothes might have stained with her blood.

35. From the above discussed evidence the Prosecution has proved that the Appellant's deceased wife - Rani was found injured in her house. The Appellant's deceased wife - Rani succumbed to the injuries suffered by her. The Appellant and his deceased wife - Rani lastly went together to their house from the house of PW - 6 [Chhaya Ashruba Gaikwad] and thereafter, she was found injured in the house where they were residing together. The wooden log having blood stains of group 'B' which was similar to the blood group of deceased - Rani, was discovered and seized at the instance of the

Appellant. The defence of the Appellant is neither probable nor acceptable. The above discussed evidence on record forms a complete chain of circumstances which is consistent with the hypothesis of the guilt of the Appellant and rules out the hypothesis of involvement of any other person in the Crime. The proved circumstances brought on record by the above discussed evidence unerringly point the guilt towards the Appellant.

36. No interference is called for in the conviction and sentence recorded by the learned Trial Court against the Appellant. The Appeal is liable to be dismissed. Hence, the following order :

ORDER

(i) The Criminal Appeal is dismissed.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

Sameer