

Form No. J(1)

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

Present :

**The Hon'ble Justice Rajasekhar Mantha
And
The Hon'ble Justice Ajay Kumar Gupta**

CRA 471 of 2015

**Bhabesh Pal
- Vs. -
The State of West Bengal**

For the Appellant : Mr. Subir Ganguly,
Mr. Sumanta Ganguly.

For the State : Ms. Joydeep Roy,
Ms. Suchismita Dutta.

Heard on : August 26, 2025 and August 28, 2025.

Judgment on : August 28, 2025.

Rajasekhar Mantha, J.:

1. The instant appeal is directed against the judgment of conviction dated 27th May, 2015 and order of sentence dated 28th May, 2015 passed by the learned Additional Sessions Judge, Katwa, Burdwan in Sessions Trial No. 29 of 2003 arising out of Sessions Case No. 36 of 2003. The appellant was convicted and sentenced to suffer imprisonment for life for commission of the offence under Section 302 of the Indian Penal Code. He was acquitted under Section 177 of the Indian Penal Code for giving false information to the police.

THE PROSECUTION CASE:

2. The prosecution case in brief is that the appellant was married to one Jogomaya Devi on 3rd March, 1997. The records indicate that on 11th June, 1997 he was not interested in the marriage. Three months after the marriage, he had gone to visit his in-laws house in Goalpara village on the occasion of Jamaisasthi. After a hearty lunch and an outing, he came back to the father-in-law's house to pick up his wife and go for a cinema at a local cinema hall. However, he went to the Katwa Police Station in the evening at about 8:45 P.M. only in wearing underwear and without the rest of his clothes. He is stated to the police, which was entered in the General Diary, that when he was returning from the cinema hall, two assailants way laid him and his wife. They asked him to remove his clothes and took away his monogramed gold, finger ring, and his watch. They asked him to remove the shirt and pant, kidnapped his wife and left him there in his underwear. They initially asked the couple to go towards their marital house via shortcut.

3. The police thereafter took him to the house of his father-in-law and left him in the custody of the latter. They went to the place of occurrence first and found the body of the victim/wife Jogmaya lying dead on the edge of a pond called 'Bharni Pukur' with her throat slit and injury marks on her stomach and wrist. The ornaments of the victim were untouched. They seized the wearing apparel and the ornaments of the victim in presence of witnesses namely PW-2, PW-3, PW-4 and PW-5.

4. The police after making the General Diary also recorded lengthy statement of the appellant. In such statement, under Section 27 of the Evidence Act, 1872, he had indicated where the clothes were kept and where the offending long knife was also kept. He further indicated that he will be able to tell the police where the body of the victim was located.

5. The inquest was performed on body of the victim by the investigating Ranjit Kumar Das-II (PW 11). The body was sent for post mortem, which was conducted by PW-8, Dr. Suniti Saha.

6. A formal complaint was lodged by one PW-1, Joydeb Mondal, brother of the victim on the same day. While in the custody of the father-in-law and the other villagers namely PW-2 to PW-5, the appellant confessed to have murdered his wife on the way back from the cinema hall with a long knife.

7. When the police returned to the house of the PW-1 to pick up and detain the appellant, the appellant in front of PW-1 to PW-5 is also stated to have confessed before the police of having committed murder of his wife by first stabbing her with a long knife and then istaking time to slitting her throat. He thereafter took off his clothes which most likely were blood stained and washed them and the knife. He did not put on his wet clothes again and went to another place to throw the weapon away.

8. The police accompanied the appellant and recovered both the appellant's clothes as well as the long knife, which was used in the murder of the victim. The police seized the knife and the clothes of the

victim in a seizure list. The wrist watch, golden monogrammed ring with the name of the appellant thereon and two cinema tickets were also seized. The cloths were sent for FSL. The blood stained ornaments of the victim girl, the appellant's wrist watch and ring, however, were not sent for FSL.

9. Investigation was completed and charge sheet was filed under Section 302 and 177 of the IPC. After framing of charges, the evidence for the prosecution was recorded.

10. The **PW-1, Joydeb Mondal**, was the complainant, who and brother of the victim Jogmaya Pal. He deposed that the marriage was solemnized with the appellant on 3rd March, 1997. Their relations as husband and wife were cordial. On 11th June, 1997, on the day of Jamai Sasthi, the victim and the appellant had come to the house of the PW-1. After a hearty meal, they left for watching a cinema at a local cinema hall. Before that the appellant was presented with new cloth by the family of the victim.

11. The appellant, however, came back to the house of the PW-1 after 09:00 A.M. only wearing an underwear accompanied by two police personnel. There were several others who assembled at the house of the victim, namely, Buddhadeb Mondal (PW-6) brother of the victim, Bhuvan Kumar Mondal (PW-5) neighbour, Tapas Kumar Ghosh (PW-3), Ekkari Mondal (PW-4), Sanat Kumar Mondal (PW-2) and many others were also present.

12. The place of occurrence was 100 cubits from local Panchayat office and 1000 cubits from their village. During day time the place of occurrence is quite busy. The police are stated to have left the appellant at the house of PW-1 and went to search for the victim. Upon interrogation by the persons at the house of his in-laws, the appellant was requested to state actual facts about the whereabouts of the victim. The appellant is stated to have confessed that he killed the victim and left her dead body on the edge of a local pond called Bharni Pukur.

13. The police came back to their house, before whom PW-1 in the presence of PW-2, PW-3, PW-4 and PW-5 heard the appellant once again confess to killing his wife. The aforesaid PW-1 along with others accompanied the police to the said Bharni Pukur and found the dead body of the victim bleeding with injuries on her neck, abdomen and hands. The throat of the victim was having a deep cut and stomach was pierced. All the ornaments of the victims were intact.

14. The PW-1 is stated to have taken a paper from a local teashop owner namely Tapas Kumar Ghosh (PW-3) and asked Bhuban Kumar Mondal (PW-5) to scribe the complaint. He deposed that inquest was conducted on her sister's body and signed as inquest witness. His evidence could not be really shaken in cross-examination. He further deposed in cross-examination that the appellant was working as video photographer. While the wearing apparels, ornaments or the weapon seized by the police, were not produced in Court. The seizure list were duly produced, marked and exhibited in course of trial.

15. **Sanat Kumar Mondal (PW-2)** was a co-villager. He narrated the entire incident just like PW-1. He, however, deposed for the first time as such before in course of trial and was not examined by the police. He identified the signature on the inquest and admitted he was a seizure witness to the blood stained earth. He was also a seizure witness to the ornaments, finger ring and wrist watch of the victim. He was a seizure witness to the wearing apparels of the appellant along with a wrist watch and the monogrammed gold finger ring of the appellant and two cinema tickets.

16. The place of seizure of these articles was North West of the shop of one Ananta Nandi, a cement shop owner. He signed on the seizure list and identified his signature thereon. The police later seized a wedding invitation card of the appellant with the victim, guarantee card of the wrist watch and a receipt of the goldsmith of the finger ring given by the father of the victim to the appellant. He identified his signature on the seizure list that was exhibited in the Court. He was also a witness to the seizure of the weapon namely long knife and identified his signature which was marked as exhibit in the Trial Court. He identified the ornaments on the victims' body and the seizure list thereof on which he signed on in the trial. He also identified the wrist watch, gold finger ring and two cinema tickets seized by the police based on the leading statement given by the appellant.

17. **Tapas Kumar Ghosh (PW-3)**, who ran a tea stall in the vicinity of the place of occurrence. He identified the appellant in the Trial Court similar to PW-1 and PW-2. He narrated the entire facts as deposed by

PW-1 and PW-2. He was also a seizure witness to the cloths, finger ring, wrist watch and cinema tickets seized from the appellant. He identified the articles as well as the seizure list in Court. He was declared hostile.

18. **PW-4, Ekkari Mondal**, who also narrated the entire incident and facts as similar to PW-1, PW-2 and PW-3. He identified his signature on the seizure list of the cloths and articles seized based on the leading statement of the appellant. He was also the seizure of witness of the ornaments and cloths of the victim. The seizure list was exhibited in Court. His evidence could not be shaken in cross-examination.

19. **PW-5, Bhuban Kumar Mondal** was a neighbour of the victim's family. He narrated the entire incident with minor differences similar to that of PW-1 to PW-4. He admitted that he had scribed the complaint as per dictation of PW-1. He accompanied the police to trace out the body of the victim.

20. **PW-6, Buddhadeb Mondal** was the brother of the victim. His evidence is similar to that of PW-1 to PW-5.

21. **PW-7, Sudhir Mondal** was the father of the victim. He indicated wedding of his daughter with the appellant and the happenings on the day of Jamai Sasthi i.e. the day of occurrence. He admitted that his wife told him that the appellant was short-tempered and was not happy with his daughter. He took the appellant to purchase new clothes on the occasion of Jamai Sasthi. At about 9 pm in the evening when he found the appellant having come back to the house without the victim and he cried and begged the appellant to disclose the whereabouts of his

daughter. He confirmed that the appellant had told him and fellow villagers and family members and the police about having killed the victim and reiterates the same before the police. His evidence is similar to that of PW-1 to PW-6.

22. **Dr. Suniti Saha (PW-8)** was the doctor, who conducted the post mortem on the victim. He deposed that rigor mortis was present in four limbs. All the wearing apparels soaked with blood. Mouth eyes are open with trickling of blood from the angle of mouth. He further deposed as following injuries on the victim:-

“Description of the wound :- 1) one incised wound over the right upper extensor surface of forearm. Size : 2” x ½” x Bone deep.

2) One incised wound at the first metacarpal space of the left hand. Size : ½” x ¼” x ½”.

3) One perorating incised wound at the Epigastric region. Size : 1½” x 1” x 4”.

4) Incised wound in the front of neck extending from right mastoid process upto Left Posterior triangle which serves all the vital organs and blood vessels – only the survival vertebra left intact. The level is at the thyroid cartilage.

5) No other external injuries detected on her neck.

6) Neither any marks of violence, nor any ligature mark detected on her person.

Stomach Injury :- Full of blood in the peritoneum corresponds to the injury size and a punch wound at the anterior wall of the stomach with expulsion food materials and it contains blood.

P.M. intervals 16 to 24 hours approximately. Sharp cutting instrument was used. Sample of blood was collected and preserved and handed over to the Constable. Wearing apparels had been handed over to that constable.

The opinion regarding cause of death is due to cut-throat injury which is antimortem and homicidal in nature.”

23. **PW-9, Sadhan Mondal**, a cousin of PW-1. He was an employee of a cold storage nearby the place of occurrence. He signed on the seizure list of the wearing apparels of the victim along with PW-2. He identified his signature on various other seizure lists of the police.

24. **PW-10, Atul Chatterjee**, was the Inspector of Police, who recorded the G.D. entry of the facts disclosed by the appellant. He reached the place of occurrence along with Ranjit Kumar Das – II (PW-11) and entrusted the examination to him.

25. **PW-11, Ranjit Kumar Das – II** was the investigating officer. He confirmed the initial statement given to the police by the appellant at the police station at about 8:45 pm on 11th July, 1997. That was recorded by Atul Chatterjee (PW-10). He claimed that the victim had stated in the G.D. entry that on the way back from the cinema hall two persons followed the appellant and his wife and asked them to take a shortcut to their marital house. On the way they stopped the appellant and had kidnapped and snatched the victim. The story of the appellant to the police was received and recorded by Bhabest Pal, SI of the Katwa Police Station. The appellant was only wearing an underwear and without clothes. He confirmed that he had taken to the house of his father-in-law to Panch Ghora to ascertain whether the wife had returned or not. He further deposed that the father-in-law of the appellant had given him some clothes at his request. He was informed by PW-2, PW-3, PW-4 and PW-5 at the house of the victim's father that the appellant had confessed to have murdered his wife. The appellant was interrogated in the presence of the said persons where he reiterated his confession and

given leading statements. Such statements lead to the recovery of the wearing apparels of the appellant and the victim and her ornaments. He narrated the entire course of investigation thereafter.

26. The appellant was thereafter examined under Section 313 of the Cr.P.C. where he denied all the suggestions of incriminating circumstances against him.

27. Based on the evidence on record, the Trial Judge found the appellant guilty of murdering his wife under Section 302 of the IPC. The Court, however, could not find sufficient evidence to convict the appellant under Section 177 of the IPC.

28. This Court has carefully heard the arguments advanced by the learned counsel for the appellant and the learned counsel for the State. What is true and evident from the facts of the case are that there are no eyewitness to the incident of the murder of the victim. This Court, however, is unable to come to any other conclusion than what is described herein below to establish that the appellant was responsible for murder of his wife. There is some evidence of the appellant being unhappy with his marriage and discord on account of disrupted physical relations with his wife. This was the motive of the crime. The wife of the father of the victim is stated to have told him. The said motive behind the offence which is a vital ingredient in a case based on circumstantial evidence, could have been better proved, had the statement of the appellant being recorded before a magistrate under Section 164 of the Cr.P.C. and had the mother of the victim being examined by the police.

29. This Court, however, notes the following which constitute vital links in the chain of circumstances against the appellant. Firstly, that the appellant and the victim were last seen together by PW-3. His house is opposite that of the victim's father's house. It is not unusual that main door of the house in a rural area is kept open in the afternoon of summer to allow free flow air.

30. Hence the version of PW-3 that he was told by the victim that they were leaving the Panch Ghora village to visit a cinema hall in Katwa cannot be totally disbelieved or brushed aside. The fact that the police did not interrogate PW-3 or record any statement will not ipso facto negate the evidence of PW-3. The other circumstances also indicate that the appellant was last seen with his wife most likely watching a cinema since two cinema tickets were found in the cloths of the appellant which was seized based on his leading statements.

31. The attempt by the appellant to show that he was way laid by unknown persons at about 9 pm in the night as diarised by the police when his wife was snatched away and kidnapped from him and that he was asked to take off his clothes by the assailants has not only been disproved but is also contrary to the evidence that has come on record. Assailants, who wish to kidnap a young woman, would do so either for ravishing her or for stealing the ornaments that she was admittedly wearing. For the aforesaid purpose it is not unusual for them to have asked the appellant to give up his gold ring and wrist watch. But what is unusual is to ask the appellant to undress.

32. The story of the appellant told to the police at 8:45 pm in the evening on the date of occurrence is further belied by the subsequent leading statement made by him under Section 27 of the Evidence Act which led to the discovery of his clothes, watch and ring in his trouser pocket. If indeed unknown assailants were aiming at robbing the appellant and his wife of valuables and had asked him to take off his cloths, the location of the said cloths, watch and gold ring could not have come to the knowledge of the appellant to give a leading statement in that regard. The appellant had, therefore, deliberately and wilfully tried to mislead the police into believing that his wife was killed by persons other than himself. The desire to cover the truth is another vital link in the chain of circumstances.

33. The other leading statement which lead to the discovery of the knife used in the offence seals the deliberate and wilful falsehood that the appellant try to spin in his initial statement before the Katwa police at 8:45 pm on the date of occurrence.

34. There were indeed blood stains found on the wearing apparels of the appellant and the same were found to be human in nature and of the blood group of "B". The appellant has not been able to explain the circumstances under which his clothes became blood stained.

35. The appellant could have floated or suggested an alternative theory or established any alibi against the prosecution case which he did not in course of examination under Section 313 of the Cr.P.C. The appellant has not brought any witnesses from his side, has not examined any

witness to establish any innocence on his part. The aforesaid links complete the chain of circumstances by the evidence of PW-1 to PW-5 before whom the appellant confessed to have murdered his wife and had confessed to the same.

36. There is no serious cross-examination by the defence of the evidence of PW-1 to PW-5. No alternative defence or theory was even put forward as a suggestion to indicate any other persons caused the murder of the victim than by the appellant.

37. In the facts and circumstances of the case, this Court had occasion to examine the case diary where the G.D. entry of the misleading statement by the appellant was recorded. A completely different story and minute to minute detail of the role plaid by the appellant in killing his wife is explicit and revealed. The same cannot form part of the evidence of the Trial Court. However, in the back drop of the above, this Court is of the clear and unequivocal view that the chain of circumstances against the appellant is complete to establish that he is guilty of offences under Section 302 in putting an end to his wife's life. The appellant murdered his wife in cold blood in a carefully pre-planned manner. The appellant reached and chose the place and time to kill his wife. The trip to the second show of the cinema appears to part of premeditated plan to find a time when nobody would be there in an otherwise busy road. This is the only and only conclusion possible from the chain of circumstances as indicated above. There is no other conclusion possible.

38. For the reasons stated hereinabove, CRA 471 of 2015 fails and his hereby dismissed.

39. Consequently, all connected pending applications, if any, are also disposed of.

40. There shall be no order as to costs.

41. Urgent photostat certified copy of this order, if applied for, be supplied to the parties as early as possible.

(Rajasekhar Mantha, J.)

I agree.

(Ajay Kumar Gupta, J.)