

Form No. J(1)

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

Present :

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

CRA 542 of 2015

Sudarshan Kuila
– Vs. –
The State of West Bengal

For the Appellant : Mr. Moinak Bakshi,
Ms. Niketa Bhattacharjee.

For the State : Ms. S. N. Khan,
Mr. Arup Sarkar

Heard on : August 21, 2025.

Judgment on : August 21, 2025.

Rajasekhar Mantha, J.:

1. The instant appeal is directed against the judgment and order of conviction dated 09.04.2015 passed by the learned Additional District & Sessions Judge, Ghatal, Paschim Medinipur in Sessions Trial No. 26/04/2008. The appellant was convicted and sentenced to suffer life imprisonment under Section 302 of the Indian Penal Code

THE PROSECUTION CASE:

2. The prosecution case in brief is that the appellant was married to the deceased Chaya Kuila. They had two sons from the marriage. For about 2 years prior to October, 2007, the appellant had an illicit and extramarital

affair with one Rekha Mondal, who was the second accused in the FIR and Trial.

3. On 8th October, 2007, Daspur Police Station received a complaint, from one Gour Hari Jana, PW 1, of Panchberia, P.S. brother of the deceased victim. The complaint stated that on the previous night, at about 11 pm, he received information from one Subhas Gharai that his sister, Chaya, had fallen in the Courtyard of her marital house and died. He rushed to the house and found her body lying in the Courtyard.
4. He came to know from local villagers and neighbours that the deceased Chaya was having a conversation with her neighbor, Aradhana Kuila, PW 4 around 7.30 PM. The appellant called his wife back to the house and continued to watch television after closing the door. Sometime around 9 pm, the appellant's sister, Malati Gharai (PW 2) heard the sound of steel utensils dropping and thereafter heard her brother shout, "What is going on?". On hearing the commotion, several neighbours arrived at the PO and found the victim Chaya Kuila lying dead in the courtyard of the house. The appellant informed the others that the victim died from a stroke.
5. In the morning, the next day i.e. on 8th of October, 2007 several villagers, namely, Sudarshan Kuila-PW 5, Badal Kuila-PW 7, Madan Kuila- PW 3 and Sudarsan Maity- PW 9 and many others assembled and confronted the appellant. The appellant is stated to have confessed to killing his wife the previous night, at the instance of his paramour, Rekha Mondal, the original accused no. 2. The appellant admitted that he smothered his wife with a pillow after leading her to bed. The appellant thereafter also

confessed to having dragged the body of the victim out of the bed room and threw it towards the courtyard where she was found lying dead by Malati Ghorai (PW-2) and several other witnesses.

6. Prior to receipt of formal complaint from PW-1, Gour Hari Jana, the Daspur Police had already arrived at the PO and had registered U.D. Case No. 71 of 2007. Subsequently, after receipt of the complaint, formal FIR No. 131 of 2007 under Section 302 of the IPC was registered.
7. The inquest was conducted with the assistance of PW-17, SI, Ashok Singh Mahapatra. The inquest report found injury below and on the side of the eyes and the nose of the victim. The wearing apparel of the victim were seized. The persons who signed on the inquest report, namely, PW-1, Gour Hari Jana and PW-10, Nemai Charan Maity, had told PW 17 that the appellant had smothered the face of the victim with a pillow and killed her. The motive behind killing the victim was to bring home the second accused, Rekha Mondal, with whom the appellant was involved in an illicit relationship.
8. After inquest, the body was sent for postmortem. The P.M. Doctor PW-16 confirmed that the victim was smothered, and died as a result thereof. The smothering was ante mortem and homicidal in nature. The P.M. Doctor found injuries on the trachea, chest and other parts of the pulmonary organs of the victim.
9. Investigation was completed by PW-17, Ashok Singh Mahapatra and charge sheet was filed against the appellant and one Rekha Mondal, under Section 302 read with Section 120B of the IPC.

THE TRIAL AND THE EVIDENCE RECORDED:

10. **PW-1 was Gour Hari Jana**, the brother of the victim. He deposed about the incident as narrated in the complaint. He was a witness to the seizure of the pillow, mat, steel utensils, television set and the earrings, wearing apparel of the victim. He further deposed that he was present when the appellant admitted before the villagers that he had smothered the victim with a pillow. In cross-examination, he confirmed that the accused no. 2, Rekha Mondal was married to one Sujit Mondal, PW-11 and had a son out of the wedlock. He had not reported to the police about the illicit relationship between the appellant and Rekha Mondal. He stated that the appellant and his paramour stayed at various places on rent, inter alia, at Kamaldaha under Lalgurh Police Station. He also did not report any threat or assault on the victim by the appellant.
11. **PW-2 was Malati Ghorai**, who was declared hostile. She had naturally denied the entire incident or the charges against her brother. She narrated that the appellant was also known as Gopal by the locally. She admitted in cross-examination that she saw her brother and Rekha Mondal coming to the Courtyard together.
12. **PW-3 was Madan Kuila**. He was declared hostile by the prosecution. While he denied the entire case of the prosecution, he admitted having recorded his statement before the Magistrate under Section 164 of the Cr. P.C. In his statement, he confirmed that there was an illicit relationship between the appellant and Rekha Mondal. He also confirmed the admission by the appellant before the villagers in his statement under Section 164 of the Cr.

P.C. The mode and manner of murder of the victim, as admitted by the appellant before the villagers, was also stated before the Magistrate. His statement under Section 164 of the Cr. P.C. was exhibited without objection. The entire evidence in chief of PW-3 was contradicted by his statement under Section 164 of the Cr. P.C.. He admitted that he had stated before the Magistrate that the appellant had initially told him that his wife died from a stroke. There was no cross-examination on the said statement under Section 164 of Cr.P.C. by the defence.

13. **PW-4 was Aradhana Kuila**, a neighbour of the appellant. She denied the entire case of the prosecution and was declared hostile.

14. **PW-5 was Sudarshan Kuila** a co-villager and namesake of the appellant. He deposed earlier before the Magistrate that he was first informed by the appellant's family that the victim died by a stroke. The victim's family was shouting that the appellant smothered the victim with a pillow and killed her. He admitted that he had given his statement before the Magistrate under Section 164 of the Cr. P.C. The statement was exhibited in the Trial without objection. There was no cross-examination by the defence on this exhibit.

15. **PW-6 was Sadananda Samanta**, the Upa Pradhan of village- Panchberia. He had also recorded his statement before the Magistrate under Section 164 of the Cr.P.C., which was exhibited in the trial without objection. He deposed in cross-examination that the appellant and Rekha Mondal were residing as husband and wife and as tenants of one Mahesh Sau.

16. On the date of the incident, he heard a hue and cry late in the evening and heard Malati Ghorai (PW-2) stating that the victim had fallen and died of a stroke. He was present in the meeting along with other villagers where the appellant admitted to having smothered his wife by force with a pillow. He also deposed that the appellant had admitted that after killing his wife with a pillow, he had dragged the body and threw it in the courtyard. His presence at the village meeting is corroborated by the evidence of PW-3. There was no cross-examination by the defence of his statement under Section 164 of the Cr.P.C.
17. **PW-7 was Badal Kuila**, who was declared hostile by the prosecution.
18. **PW-8 was Madan Maity**, who had admitted that he was present at the village meeting where the appellant had admitted that he had killed his wife.
19. **PW-9 was Sudarshan Maity**, who stayed at a distance of half a mile from the residence of the deceased. He deposed that he had recorded his statement before the Magistrate under Section 164 of the Code of Criminal Procedure where he told the Magistrate that the appellant had admitted in a meeting of the villagers that he had killed the victim in the presence of Rekha Mondal. He also deposed that he had mentioned in the statement recorded under Section 164 of the Code of Criminal Procedure that the appellant and Rekha Mondal were having an illicit relationship. He reiterated in his evidence-in-chief that the appellant was neither coerced nor pressurized by the villagers. He also deposed that the appellant was not beaten by any of the villagers before his admission of having killed the

victim. His statement under Section 164 of the Cr.P.C. was marked as Exhibit in course of trial without objection.

20. In cross-examination, he reiterated that before and after the death of the victim, the appellant and Rekha Mondal resided together. He stated that they resided as husband and wife in the village called Joshara, four kilometers away from his residence. He confirmed that he came to depose in the trial on his own and was doing so voluntarily and not dictated by any person. He was present at the village meeting, also known as Salish. He reiterated in cross-examination that the appellant had admitted to having killed his wife, Chhaya Kulia. There was no cross-examination of his statement under Section 164 of the CrPC.

21. **PW-10 was Nema Charan Maity**, who went to the house of the appellant on the date and time of occurrence. He was initially told that the victim died from a stroke. He was present in the meeting of the villagers on the next morning when the appellant admitted to having killed his wife and also asked the villagers to save him. He was an inquest and seizure witness. He identified his signature on the seizure list. He had also identified the pillow and the appellant on the dock. He vehemently denied any suggestion of the defence that the appellant did not call him to make the admission before the villagers or that the appellant did not ask to be saved.

22. **PW-11 was Sujit Mondal**, husband of Rekha Mondal, the accused no. 2. He admitted that he was mostly busy with his vocation of selling vegetables and admitted that his wife was having an illicit affair with the

appellant. He further stated that on a given day, his wife was not at home when he returned from work. He further deposed that after coming to know of the affair between the appellant and his wife, he had sent his wife way to her parents' house.

23. **PW-12 was Rekha Patra** in whose house the appellant and the said Rekha Mondal resided as tenants for 20-25 days. She confirmed that the latter told her that they were husband and wife.

24. **PW-13 was a Police Constable**, who was present at the time of inquest and was a seizure witness. He had sent the body of the victim for post mortem.

25. **PW-14 was Subhas Ghorai**, a nephew of the victim.

26. **PW-15 was another Police Constable.**

27. **PW-16 was Dr. Biswasjit Sarkar**, the forensic doctor who performed the post mortem on the victim. He confirmed that in course of examination, he found the victim had a bleeding nose and an abrasion on her lips on the right side face. He found a subcutaneous haemorrhage on the victim. He found that her larynx and vocal cords were congested, and there was frothing with tinge of blood near the mouth of the victim. The victim's trachea and the bronchial tree were found congested, and haemorrhage was found thereat. He confirmed that external injuries to the eyes and nose of the victim could have been sustained as a result of a fall. The post mortem Doctor was not cross-examined by the defence on any of his findings as regards the circumstances under which the victim had died.

The opinion given by PW-16 that the death was caused by smothering, was not challenged by the defence in any way in cross-examination.

28. **PW-17 was Ashok Singh Mahapatro**, who was the Investigating Officer of the case, who confirmed the entire process of investigation.

29. Based on the evidence recorded as above, the Trial Judge found the appellant guilty based on circumstantial evidence.

THIS COURT'S FINDINGS:

30. This Court is in complete agreement with the judgment of conviction passed by the Trial Judge for more than one reason. The victim being last seen with the appellant, is confirmed by several witnesses. None of the statements of the witnesses, particularly, PW-3, PW-4, PW-5, PW-6 and PW-10 recorded under Section 164 of the Code of Criminal Procedure and exhibited in course of trial have either been objected to or seriously questioned in cross-examination by the appellant. There is some feeble cross-examination of some witnesses.

31. The statements made under Section 164 of the Code of Criminal Procedure by the aforesaid prosecution witnesses are duly corroborated by the medical evidence that has come on record.

32. The motive behind the appellant murdering his wife is also clearly established from the evidence of the prosecution witnesses. The appellant admittedly had an illicit relationship with Rekha Mondal and wanted to eliminate his wife to bring Rekha Mondal into the house. The husband of Rekha Mondal (PW-11) and a landlady (PW-12) have confirmed that the appellant and the said Rekha Mondal were living together as husband and

wife. PW-6 has deposed that the appellant and the said Rekha Mondal also lived in the house of one Satish Sahoo as husband and wife. They continued to have relations with each other after the death of the victim and even in course of trial after obtaining bail.

33. The last seen theory is supported by the admission of the appellant before several witnesses were examined by the prosecution, duly corroborated by the medical evidence. None of this is seriously challenged by the defence and the established motive behind the crime completes the chain of circumstances against the appellant. The murder of the victim by the appellant is the only conclusion possible. No other conclusion is possible or probable in the facts of the case.

34. Having regard to the above discussions, this Court is of the view that the impugned judgment of conviction and order of sentence calls for no interference.

35. C.R.A. 542 of 2015 shall stand dismissed.

36. TCR along with a copy of this judgement, be sent down at once to the learned trial court for necessary action.

37. 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.)