

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

**[1] CRIMINAL APPEAL NO.260 OF 2014**

Ramakant Meghnath Patil .....Appellant  
Versus  
The State of Maharashtra .....Respondent

.....  
**WITH**  
**INTERIM APPLICATION NO.1727 OF 2024**  
**IN**  
**CRIMINAL APPEAL NO.260 OF 2014**

.....  
**WITH**  
**[2] CRIMINAL APPEAL NO.151 OF 2014**

1. Nitin Meghnath Patil,  
2. Bhaskar Ramchandra Patil,  
3. Sarasbai Bhaskar Patil,  
4. Meghnath Ramchandra Patil,  
5. Smt. Gulabbai Meghnath Patil .....Appellants  
Versus  
The State of Maharashtra .....Respondent

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Mr. Raju D. Suryawanshi, Advocate a/w. Suraj Naik for the  
Appellants in both the Appeals.  
Smt. Mankuwar M. Deshmukh, APP for the Respondent-State.  
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**CORAM : SARANG V. KOTWAL &  
S.M. MODAK, JJ.**

**DATE : 06<sup>th</sup> JANUARY, 2025**

**ORAL JUDGMENT : [PER SARANG V. KOTWAL, J.]**

1. Both these Appeals are decided by this common judgment as they arise out of the same impugned judgment and order dated 13.2.2014 passed by the Additional Sessions Judge, Kalyan in Sessions Case No.171/2011. For the sake of convenience, the Appellants are referred to by their names or by their status before the trial Court.

2. Heard Mr. Raju Suryawanshi, learned counsel for the Appellants in both the Appeals and Smt. Mankuwar Deshmukh, learned APP for the Respondent-State.

3. Criminal Appeal No.260/2014 is filed by the accused No.1 Ramakant Patil. Criminal Appeal No.151/2014 is filed by the other accused Nos.2 to 6. The Appeals are concerning murder of one Sheetal. Accused No.1 Ramakant was her husband. Accused No.2 Nitin is Ramakant's brother. Accused No.3 Bhaskar is Ramakant's uncle. Accused No.4 Sarasbai is aunt of Ramakant and wife of accused No.3 Bhaskar. Accused No.5 Meghnath was the father of Ramakant. Accused No.6 Gulabbai is mother of Ramakant and wife of

accused No.5 Meghnath. During pendency of this Appeal, accused No.5 Meghnath has passed away. A copy of the death certificate produced on record by learned counsel for the Appellants is taken on record. Therefore, the Appeal preferred by Meghnath abates.

4. At the conclusion of the trial, the accused No.1 Ramakant was convicted as under :

- [i] He was convicted for commission of the offence punishable under Section 302 of IPC and was sentenced to suffer RI for life and to pay a fine of Rs.1,000/- and in default to suffer SI for three months.
- [ii] He was convicted for commission of the offence punishable under Section 201 read with 34 of IPC and was sentenced to suffer RI for two years and to pay a fine of Rs.1,000/- and in default to suffer SI for three months.
- [iii] Accused No.2 Nitin was convicted for commission of the offence punishable under Section 201 read with 34 of IPC and was sentenced to suffer RI for two years and to pay a fine of Rs.1,000/- and in default to suffer SI for three months.

. Apart from the above conviction and sentence, all the accused i.e. accused Nos.1 to 6 were convicted for

commission of the offence punishable under Section 498-A read with 34 of IPC and all of them were sentenced to suffer RI for two years. All of them were acquitted from the charges of commission of the offence punishable under Section 304-B of IPC. Accused Nos.2 to 6 were acquitted from the charges of commission of the offence punishable under Section 302 read with 34 of IPC. The accused Nos.3 to 6 were acquitted from the charges of offence punishable under Section 201 read with 34 of IPC. All the sentences were directed to run concurrently. The Appellants were given set off under Section 428 of Cr.PC..

5. The prosecution case is that Sheetal got married with Accused No.1 Ramakant on 21.5.2010. Initially for a few months everything was alright, but, subsequently the accused started ill-treating her and started demanding Rs.3 Lakhs. The allegations are that, on 24.4.2011, Sheetal's parents were informed that she was serious. When they reached her matrimonial house i.e. the house of the accused at Manda, they found that Sheetal's body was kept on the floor and she was dead. Sheetal's brother went to the police station and gave

information about her death. An Accidental Death Report [ADR] was lodged. The grievance of Sheetal's parents was that it was a case of murder and the police had wrongly taken down ADR. Therefore, they made various complaints and finally the FIR was lodged on 26.4.2011 where there were allegations that Sheetal had committed suicide because of harassment caused to her. The offence was registered mainly under Section 306 of IPC. The investigation was carried out. The family of Sheetal was still not happy with the investigation. Various representations were made and, therefore, the investigation was taken over by another police officer. The supplementary statements were recorded and the charge-sheet was filed under section 304-B of IPC. The postmortem was conducted by a doctor attached to J.J. Hospital. Additional charge-sheet was filed under Section 302 of IPC. After filing of the charge-sheet, the case was committed to the Court of Session. Initially the charges were framed only under Sections 498-A read with 34 & 304-B read with 34 of IPC. But subsequently the charges under Sections 302 read with 34 & 201 read with 34 of IPC

were framed.

6. During the course of trial, the prosecution examined fourteen witnesses including, the father, the brother, and aunt of the deceased, three doctors, the panchas and the investigating officers. The accused No.1 took a specific defence in answer to Question No.25 asked during examination under Section 313 of Cr.P.C.. He gave the following answer :

“Her M.C. was not coming regularly and her brother’s wife was pregnant. Her M.C. came late before 10 days of the day, so we both were happy. My brother-in-law many times called us, but we have not met him. Then we were going to meet him, but meanwhile her M.C. came. Therefore, she depressed and she has committed suicide. I could not understand why there were reddish mark on her body. I don’t know.”

[Reproduced exactly as is mentioned by the learned trial Judge]

7. The accused examined four witnesses to prove their *alibi*. The defence witness No.3 Madhuri Patil was an important witness. She was wife of the accused No.2 Nitin and she was present in the house when the incident had occurred. Her evidence is important.

8. The learned trial Judge considered the evidence on

record and held that there was a presumption under section 113-A of Indian Evidence Act running against the accused. He held that the prosecution has proved that her death was caused by strangulation. He further held that the prosecution has proved that the offence of cruelty under Section 498-A of IPC was proved. However, he further observed that the offence under Section 304-B of IPC was not proved as the demand was not for dowry. He also held that it was a case of murder. He observed that the conduct of the accused No.1, in particular, was not natural. He did not accept the *alibi* evidence given by the defence. At the same time, he gave benefit of doubt to the accused No.2 regarding the allegations of commission of offence punishable under Section 302 of IPC. He held that the allegations and charges under Section 302 of IPC could be proved only against the accused No.1 alone.

9. PW-1 Balaram Sutar was father of the deceased. He has stated that the marriage between Sheetal and the accused No.1 Ramakant took place on 21.5.2010. For a initial period of four months, the accused treated her properly. After that,

they started abusing and ill-treating her for their demand of Rs.3 Lakhs. Sheetal used to inform him about the same whenever she used to come to her parental house. The accused No.1 demanded a gold chain. PW-1 gave a gold chain to him. He produced a receipt for purchasing that gold chain. On one occasion, the accused No.4 Sarasbai and accused No.6 Gulabbai had come to their village Sangola, Taluka – Kalyan to attend a religious ceremony. At that time they had said to Sheetal that they would crush her under their feet. It is his case that the accused No.3 Bhaskar and the accused No.5 Meghnath used to ask whether he had made arrangement for the money. PW-1 used to assure them that he would make the payment whenever it was possible. He has further deposed that 4 to 5 days before Sheetal's death, the accused No.1 had come to his house with Sheetal and had left her there. Sheetal had informed PW-1 that the accused were harassing her and were asking whether he had arranged for money. Within 2-3 days, the accused No.1 Ramakant came back and took her with him. At that time, he had asked whether PW-1 had arranged for

money. Even at that time PW-1 had told him that he would pay the amount by installments.

On 24.4.2011 at about 4.30 p.m., one Prabhakar Patil came to his house and told him that Sheetal was not well. Therefore PW-1 and his family went to Sheetal's matrimonial house. They saw that her dead body was lying on the floor. There was a bangle in one hand. There were black marks on the chest and some injury on the neck. The accused informed him that Sheetal had hanged herself. PW-1's son went to the police station and lodged the complaint against the accused but the police did not take any action against the accused. PW-1 had lodged the complaint against the accused after two days. He has explained that since he was not well, he had lodged the complaint only after two days. He has further deposed that two months from this, he again gave his complaint. The police did not make the investigation properly. He identified the *saree* which was shown by the accused to him. It was produced in the Court.

In the cross-examination, PW-1 deposed that the

accused and his family belonged to the same community. The marriages of the accused No.1 Ramakant and the accused No.2 Nitin were performed on the same day but they were performed at two different villages viz., at Sangola where Ramakant got married and thereafter at Birla village where Nitin got married. Importantly some important omissions from his FIR are brought on record by the defence. The noting of the learned Judge shows that according to learned APP those omissions were not from the supplementary statement but they were only from the FIR lodged by PW-1. PW-1 accepted that he had not told the police that the accused No.1 had demanded a gold chain and that he had given it to him. He stated that he had told the police that during the religious ceremony Sarasbai and Gulabbai threatened Sheetal; but this fact was not found in his complaint, and, he could not assign any reason why it was not mentioned. Similar is the omission in respect of Meghnath and Bhaskar demanding money and that he had assured them about the future payment. He could not assign any reason as to why this was not mentioned in his FIR. The important

omission was about the accused No.1 dropping his daughter to his place and then taking her back within 2-3 days. He could not explain that omission either. He has proved his FIR which is produced on record at Exhibit-32. He accepted that his daughter was having a mobile phone and that she used to talk with PW-1's son using that mobile phone. He further accepted that Nitin's wife Madhuri was pregnant at that time. He has also admitted that the accused Bhaskar and Sarasbai were living separately from the other accused. He denied the suggestion that since Sheetal could not get pregnant, she committed suicide.

**10.** The FIR at Exhibit-32 shows that it was registered vide C.R. no.I-46/2011 at Kalyan Taluka police station under Sections 498-A, 306 read with 34 of IPC. There is a general and common allegation against all the accused that they were demanding Rs.3 Lakhs from Sheetal; and on that count they used to abuse and threaten her and sometimes used to beat her. Besides that, there are no specific allegations in the FIR. Exhibits-33 and 34 are the subsequent complaints made by PW-

1 to the other authorities mentioning that it was not a case of suicide but it was a case of murder.

11. PW-2 Moreshwar Sutar was the elder brother of the deceased Sheetal. His evidence is exactly on the similar lines as that of PW-1. He had stated that the accused were demanding amount for the purpose of construction business. He has further added that, in 2011 during Holi festival the accused demanded golden chain which was given to him. They had given the gold ornaments during the wedding. In spite of that, the accused were taunting his sister. The accused Bhaskar and Meghnath came to their house and demanded Rs.3 Lakhs for construction business. 5 to 6 days before the incident, Sheetal had come to their house with accused No.1. At that time, the accused No.1 had asked for money. PW-1 and PW-2 had assured that they would arrange money by selling the agricultural land within one month. After that, the accused No.1 took Sheetal with him. At that time, he was angry. This witness had gone to the police station and had given his A.D.R. Importantly, he has accepted that the contents written in the

ADR are true and correct. It was marked as Exhibit-39.

In the cross-examination, all the omissions from his police statement were brought out. He could not explain as to why the police had not recorded in his statement dated 12.7.2011 that Gulabbai and Sarasbai had threatened his sister during a religious ceremony. He could not explain as to why it was not mentioned in his police statement that the accused accused No.1 had brought her to their house 5 to 6 days prior to the incident. He could not assign any reason as to why it was not mentioned in his police statement that they had given gold chain to him or as to why the police statement did not mention that Sarasbai used to beat her on the provocation given by Gulabbai. He had not told the police in his statement recorded on 12.7.2011 that the police had not recorded his statement as per his say on 26.4.2011. All these omissions from the police statement of PWs-1 and 2 were put to the investigating officer and they were duly proved by the defence.

12. Similar is the evidence of PW-11 Kantabai Sutar, who was aunt of the deceased. Her evidence is exactly on the

similar lines and omissions from her police statement are also on the similar lines. She could not explain as to why her statement did not mention that the accused started subjecting Sheetal to cruelty after 2-3 months from her marriage. Her police statement did not contain the allegations that Sarasbai and Gulabbai had threatened Sheetal or that during the Holi festival they had given golden chain.

These are the main witnesses as far as the allegations under Section 498-A of IPC and harassment caused by the accused to the deceased Sheetal are concerned.

13. PW-3 Sharda Patil was a pancha for inquest panchnama which is produced on record at Exhibit-41.

14. PW-4 Padmakar Mogre was a pancha for spot panchnama produced at Exhibit-44. A *Saree* was seized at that time. The spot panchnama shows that height of the iron angle was of 10½ ft from the floor in the room where the incident had taken place. There was a plastic chair at that spot. Sheetal was lying near that chair. It was seized by the police.

**15.** PW-6 Satish Gupta was a photographer who had taken photographs of the dead body.

**16.** PW-8 Punja Shinde was the police constable who had recorded ADR on 24.4.2011. It is produced on record at Exhibit-39. There are absolutely no allegations against any of the accused in the ADR. There are no allegations of harassment or murder. PW-2 has accepted that the contents of the ADR were correct. The ADR mentions that the ladies gathered in the house of the deceased had told him that the deceased had committed suicide by hanging herself.

**17.** PW-9 Prabhakar Patil was from the village of PW-1. He had informed PW-1 about Sheetal not feeling well.

**18.** PW-10 Savita Dongare was a tenant of the accused. She was declared hostile. Her evidence is not of much assistance either to the prosecution or to the defence.

**19.** PW-12 API Sayaji Gujole was the first investigating officer who had carried out the investigation from 24.4.2011 onwards. He had carried out the spot panchnama. He had

sent the dead body for postmortem examination. The dead body was further sent to J.J. Hospital. He recorded statements of witnesses including PW-1. He recorded the statement of PW-1 on 26.4.2011 and then registered the FIR.

In the cross-examination, he accepted that he made inquiries with the neighbours of the accused but they had not stated anything about the quarrel between the deceased and the accused. He had not recorded their statements. He had recorded statement of the accused No.2 Nitin's wife Madhuri. He proved all the omissions as referred to hereinabove.

**20.** PW-13 PSI Ashok Kumbhar had carried out the investigation from 12.7.2011 onwards. According to him, on that day, ten witnesses approached him for giving their statements. He recorded their supplementary statements. On 25.7.2011 he had filed the charge-sheet under Sections 304-B, 498-A and 34 of IPC. Subsequently, he submitted a report on 31.12.2011 mentioning that the accused had murdered the deceased.

21. The other witnesses have given evidence regarding the cause of death. These are all important witnesses. PW-5 Dr. Gokhale was attached to Rukminibai Hospital, Kalyan. On 25.4.2011, he examined the dead body and found ligature mark over anterior aspect. It was a half circle only, with one side upwards on the right side and downwards obliquely on left side of the neck. He conceded that he was not a forensic expert and was unable to decide whether the death was homicidal or suicidal. He found one bruise over sternum (front portion of the chest). Therefore, he shifted the dead body to the Forensic Department of J.J. Hospital along with the requisition letter. According to him, the bruise on the sternum could be due to assault or struggle injury. He further deposed that in case of hanging the ligature mark should be above or over thyroid region and passing upwards and backwards obliquely on both sides of neck. In this case he did not find such ligature mark or injury. According to him, the ligature mark was suspicious and, therefore, he sent the dead body to the J.J. Hospital.

In the cross-examination, he deposed that he did not agree that Parekh and Modi are the authorities on the medical jurisprudence. According to him, in suicidal hanging, there could be full circle marks. He did not agree with the proposition mentioned in Modi's Medical Jurisprudence that in suicidal hanging case full circle mark never appears on the neck.

22. PW-7 Dr. Bhalchandra Chikhalkar is the most important witness in this case. He has deposed that he conducted the postmortem on 25.4.2011 between 1.00 p.m. to 2.35 p.m.. The tongue was inside the mouth. There was no oozing from the ear, nostrils and from mouth. There was no evidence of petechiae within sub conjunctival region. He noticed two external injuries, one was a ligature mark over the neck and other was vertical abrasion on chest anteriorly over sternal region centrally of size 12 cm x 2.5 cm, dermal layer deep and it was reddish. He described the ligature mark. It was anteriorly situated just above thyroid cartilage. The total length was 19 cm. The circumference of neck was 30 cm. The

situation of ligature mark upper border at center was 5 cm below chin. The ligature mark was incomplete going upwards and backwards towards the right side. It was transverse anteriorly and slightly backwards and upwards on the left lateral side of the neck. The skin over ligature mark was dry, hard and reddish in colour. The area on lateral side of the neck above ligature mark below left ear was congested with petecheal haemorrhages. Intima of carotid artery was intact. Hyoid bone was intact. Thyroid cartilage and hyoid cartilage were intact. Apart from that, there were other postmortem injuries which were multiple irregular abrasions. The final cause of death was given after receipt of histo-pathological report and C.A. report of viscera. The opinion was "Asphyxia due to ligature compression of neck (unnatural)". He deposed that the injury No.2 could be caused due to contact with hard and rough object. It was also possible by assault or it could be a mark of struggle. According to him, in the case of hanging, ligature marks would be oblique in nature and in case of strangulation the ligature marks would be transverse. In this

case the ligature mark were not oblique in nature and were found to be transverse. He opined that the cumulative effect of all the injuries was that a possibility of homicidal death could not be ruled out. But he added that it could be a case of strangulation also. He further added that the death might be possible by strangulation also. He further added that in case of strangulation there is no hyoid bone fracture.

In the cross-examination, he deposed that the deceased was not pregnant. He had given the opinion that it could be a homicidal death or it could be a suicidal death. He has categorically stated that few symptoms were absent and, therefore, he was not sure that it was a homicidal or suicidal death. He had explained that he could not be so sure because there was no injury to carotid artery, hyoid bone was intact, skin over ligature mark was dry, there was single ligature mark, it was incomplete, there was no bleeding, and that there were no abrasions around the ligature mark. He gave other reasons also. He did not agree with the jurisprudence of Dr. Parikh. The postmortem notes are produced on Exhibit-59.

23. PW-14 Dr. Sanklecha has deposed that she was Associate Professor of Pathology Department of J.J. Hospital. She received tissue bits of viscera of the deceased Sheetal. The hospital report was produced on record at Exhibit-115. She stated that her examination indicated neck compression and it was possible by strangulation.

In the cross-examination, she accepted that it was possible by all type of neck compression.

. This, in short, is the evidence led by the prosecution.

24. On the other hand, the defence examined DW-1 Keshav Patil, who has stated that Bhaskar and Meghnath were his relatives. On 24.4.2011, Bhaskar was present at Jambha, Taluka – Shahapur for engagement ceremony of DW-1's son Paresh. They were together since 10.30 a.m. in the morning and they returned at about 4.00 p.m. On the way, accused No.3 Bhaskar received a phone call that Sheetal had committed suicide.

In the cross-examination conducted by the APP he admitted that besides his bare words there was no other evidence in support of his case.

25. DW-2 Vikas Daki has stated that the accused Nos.1 & 2 had come to his house for lunch at about 12.30 p.m. and they left after some time at 2.30 p.m.. At about 5.00 p.m., this witness received a phone that Sheetal had committed suicide. On 16.6.2011 the police had recorded his statement. He was not examined as a prosecution witness.

26. DW-3 Madhuri Patil was an important witness. She was wife of the accused No.2 Nitin. She has deposed that she got married with the accused No.2 on the same day when Sheetal had got married with the accused No.1. Her matrimonial life was going on happily but DW-3 Madhuri became pregnant and Sheetal could not become pregnant. Therefore, Sheetal was depressed. On the date of the incident, she herself and Sheetal only were present in the house. Sheetal was to accompany accused No.1 for lunch at the house of DW-2, but, she cancelled her programme and stayed at

home. Ramakant and Nitin, instead, went to the house of DW-2 for lunch. Sarasbai, Gulabbai and Meghnath went to attend the engagement of one Sarnobat. Bhaskar had gone to attend another engagement ceremony. The accused Nos.1 & 2 returned at around 3.30 p.m.. At that time, the accused No.1 after going to his room found that Sheetal had hanged herself. DW-3 and her husband rushed there. The accused No.2 informed others. Then they brought down the dead body. The neighbours gathered.

In the cross-examination, she admitted that her father's financial position is good and that Sheetal's father was poor. She denied the suggestion that the accused started ill-treating her as Sheetal's father could not pay dowry. She stated that she and her family members did not attend the funeral. Her statement was recorded on 26.6.2011. She deposed before the Court that Sheetal was depressed. Some cross-examination was conducted by the learned APP in respect of her police statement.

27. DW-4 Manohar Sarnobat had his engagement

ceremony on 24.4.2011. It was attended by the accused Meghnath, Gulabbai and Sarasbai since 10.00 a.m. in the morning on 24.4.2011. He had produced a C.D. of his engagement ceremony. He denied the suggestion that the CD and the photographs were manipulated and that he was deposing to save the accused.

. This is the entire evidence led in the trial.

28. Learned counsel for the Appellants submitted that the prosecution has failed to prove the basic allegations of commission of murder. The medical evidence does not prove the prosecution case of murder beyond reasonable doubt. There is nothing to show that the accused No.1 was alone in the house and hence was having the exclusive knowledge about the incident and, therefore, the burden of proving innocence under Section 106 of the Evidence Act does not arise. The allegations made by the prosecution witnesses in respect of the alleged cruelty is quite vague and obviously the allegations are made to rope in all the family members including the cousin of the father-in-law and his wife, who

were residing separately. The allegations of cruelty are made belatedly and they do not find place in the first statements given by the prosecution witnesses to the police. All these allegations are in the form of omissions from the police statements which are duly proved through the evidence of the investigating officers.

29. Learned APP opposed these submissions. She relied on the medical evidence to contend that the prosecution has proved its case that it was a murder and not a suicide. She submitted that the injury on the sternum is not explained by the accused. She submitted that one ear-ring was found under the cot. This indicates that there was struggle in which the ear-ring had fallen down and was found from under the cot. She submitted that the three prosecution witnesses i.e. the father, the brother and the aunt have deposed about the demand of Rs.3 Lakhs and the ill-treatment meted out to the deceased Sheetal. She submitted that the evidence of *alibi* given through the defence witnesses is not trustworthy. The accused have not explained the circumstances which were in

their exclusive knowledge. The accused Nos.1 & 2 had brought down the dead body in the circumstances which are not explained.

**30.** We have considered these submissions. We have perused the impugned judgment as well as the evidence on the record. The first point which needs to be answered is whether the prosecution has successfully proved that Sheetal died homicidal death or it was a suicidal death. In this context, the evidence of the three doctors, as mentioned above, is very important. PW-5 Dr. Gokhale has categorically accepted that he was not an expert of forensic science and therefore he had sent the dead body to J.J. Hospital for postmortem examination. Therefore, no definite conclusion can be based on his evidence.

**31.** PW-14 Dr. Sanklecha has produced the histopathology report but her evidence shows that compressing of neck was possible in all the cases, that would include, compression by hanging or even by strangulation. Therefore, the evidence of these two doctors do not indicate

whether the death was because of strangulation or hanging and whether it was murder or suicide. The prosecution's attempt was to show that it was murder by strangulation and, therefore, the dead body was found on the floor. Nobody from the neighbourhood had seen the dead body hanging from the ceiling.

32. The evidence of PW-7 Dr. Chikhalkar assumes more importance. We have reproduced the important points from his evidence in the earlier part of our judgment. The significant observation made by him was that the ligature mark was incomplete and was going upwards and backwards towards the right side. Another important feature was that hyoid bone was intact, thyroid cartilage and hyoid cartilage were intact. He had given his opinion that the cause of death was due to asphyxia due to ligature compression of neck(unnatural). He has stated that considering the injuries and its cumulative effect the possibility of homicidal death could not be ruled out and that the death could be by strangulation also. But in the cross-examination he has

specifically admitted that some symptoms were absent and, therefore, he was not sure that it was a homicidal or a suicidal death; and he had given reasons as mentioned earlier. Since he has categorically admitted that he was not sure whether it was homicidal or suicidal death even after the detailed postmortem examination and histopathology examination it is quite clear that the prosecution has failed to prove beyond reasonable doubt that it was a case of homicidal death. The possibility of suicidal death is not ruled out. Therefore, in this case, benefit of doubt in that behalf must go to the accused.

**33.** The next question would be, if it was not a case of murder or if the prosecution has failed to prove that it was a case of murder, then whether the accused can be said to have abetted commission of suicide. In this context, the evidence of PW-1, PW-2 and PW-11 would be important. As mentioned earlier, their only version is that the deceased was ill-treated for demand of Rs.3 Lakhs but that allegation is vague and general. It is not directed towards a specific accused. No specific instances of ill-treatment are mentioned. More importantly,

though in the examination-in-chief, those three witnesses have deposed about some instances, in the cross-examination it is brought out that all these descriptions of harassment in the examination-in-chief were in the form of omissions and they had not stated so in their police statements. Therefore their evidence falls short of the necessity to prove the case beyond reasonable doubt as far as the allegations of cruelty is concerned. The evidence shows that the golden chain was demanded by the accused No.1 and it was given to him. It is also an omission from the police statement; but even otherwise since his demand was fulfilled there was no occasion to cause any ill-treatment and there was no further evidence to show that the deceased had complained that inspite of having received the gold chain, she was being harassed for the demand of any other gold chain. According to PW-1 and PW-2 they had assured the accused No.1 that they would pay the amount by installments after selling their agricultural land. But as mentioned earlier, the accused No.1's visit to their house is appearing only in examination-in-chief; and in the cross-

examination they have accepted that they have not stated so in their police statements.

34. The injury on the sternum is not very clear and even the prosecution has not produced on record any cogent evidence or weapons by which this injury could have been caused. The doctor has opined that it was possible that the deceased had come in contact with a hard and blunt surface.

35. Most significantly PW-2 had immediately gone to the police station on 24.4.2011 itself and had reported the death of his sister Sheetal. He has specifically admitted that the contents of that report were true and correct. That report was treated as Accidental Death Report. In that report, there is absolutely no allegation of any ill-treatment or harassment against any of the accused. PW-2 has not even expressed any suspicion against anybody. This is a very significant document in the context of the case.

36. After about two days, the FIR was lodged by PW-1 on 26.4.2011 and in that FIR also there are only general

allegations against all the accused together. No further specific instances were mentioned. These witnesses have accepted that when their supplementary statements were recorded in July, 2011, at that time, they have not made the grievance that their statements were not recorded as per their say.

**37.** In this view of the matter, it is quite clear that the prosecution has failed to prove beyond reasonable doubt that the deceased was treated with cruelty.

**38.** In this situation, even presumption under section 113-A of the Evidence Act will not operate against the accused. The learned Judge has already held that the prosecution has failed to prove the allegations under Section 304-B of IPC. There is no challenge to that finding by the prosecution. Therefore, that finding stays and we do not see any infirmity in that part of reasoning given by learned trial Judge whereby he has acquitted all the accused from the charges of commission of offence punishable under Section 304-B of IPC.

**39.** We are not impressed with the submission that the

conduct of the accused was suspicious. The moment the accused No.1 had seen the deceased hanging from the ceiling the natural reaction was to bring her down and make efforts to save her. But by that time she was already dead.

40. In this background, though the defence had led evidence of *alibi*; since the prosecution has failed to prove the basic facts, infirmity if at all in the defence witnesses will not make any difference. Even otherwise, we find no reason to discard the defence evidence. In this case, the prosecution evidence and the defence evidence will have to be treated equally. The cross-examination of the defence witnesses has not really destroyed their evidence.

41. In this context, as mentioned earlier, the defence witness DW-3 Madhuri Patil is very important who was admittedly in the house when the incident had taken place. Her evidence assumes more importance. She has given the probable reason as to why the deceased had committed suicide. The same reason is mentioned by the accused No.1 in his answer given in the examination under Section 313 of Cr.P.C..

Therefore, to that extent the defence has probabalized its case.

42. As a result of the above discussion, we are satisfied that the prosecution has failed to prove its case in respect of all the charges framed against the accused beyond reasonable doubt and, therefore, the benefit of doubt must go to the accused.

43. Hence, the following order:

:: O R D E R ::

- i. The Appeals are allowed. The judgment and order dated 13.2.2014 passed by the Additional Sessions Judge, Kalyan in Sessions Case No.171/2011 is set aside. The Appellants are acquitted of all the charges faced by them in said trial.
- ii. The Appellants i.e. Nitin Patil, Bhaskar Patil, Sarasbai Patil and Gulabbai Patil are on bail. Their bail bonds shall stand cancelled. The Accused No.1 Ramakant Patil is in custody. He shall be released if not required in any other case.
- iii. The fine amount, if paid, shall be refunded to the Appellants.

- iv. Before his release, the accused No.1 Ramakant Patil shall execute a PR bond under Section 437A of Cr.P.C., in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) ensuring his availability in case if Appeal against the acquittal is preferred. The other accused shall also execute similar bonds before the trial Court. The bonds shall be executed within a period of one month from today.
- v. Criminal Appeals are disposed of in the aforesaid terms. With disposal of the Appeals, Interim Applications, if any, are also disposed of.

( S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)

Deshmane (PS)

PRADIPKUMAR  
PRAKASHRAO  
DESHMANE

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