

Calcutta High Court
In the Circuit Bench at Jalpaiguri
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Biswaroop Chowdhury

CRA 37 of 2021

Mangru Ratia
Vs.
The State of West Bengal

Amicus Curiae : Mr. Jaydeep Kanta Bhowmik, Advocate
Mr. Sayantan Bhowmik, Advocate
Mr. Shubham Kumar, Advocate
Ms. Jasmin Haque, Advocate
Ms. Priti Das, Advocate

For the State : Mr. Aditi Shankar Chakraborty, Ld. A.P.P
Dr. Arjun Chowdhury, Advocate

Heard and Judgment on: 24.03.2026

DEBANGSU BASAK, J.:-

1. Appeal is directed against the judgment of conviction dated September 26, 2019 and the order of sentence dated September 27, 2019 passed by the Learned Additional Sessions Judge, Alipurduar, in Sessions Case No.145/2014 pertaining to Sessions Trial No. 1(7) of 2014.
2. By the impugned judgment of conviction, the learned Trial Judge found the appellant guilty of murder under Section 302 of the Indian Penal Code, 1860 and sustained the appellant by the order of sentence to suffer

imprisonment for life and further sentenced a fine of Rs.2,000/- and in default to undergo six months rigorous imprisonment.

3. Learned *Amicus Curiae* submits that, the charge as against the appellant was not proved beyond reasonable doubt by the prosecution. He submits that, an axe is alleged to be used in the commission of the offence of murder. Such axe was never produced at the trial. He points out that, it is claimed that there were blood stains on the axe. However, the blood stains on the axe were never matched with the blood at the place of occurrence.
4. Learned *Amicus Curiae* relies upon **2025 Supreme (Cal) 456 (Rasan @ RaisanHansda @ Raison Hansda vs. The State of West Bengal)** and submits that, with regard to circumstantial evidence, the prosecution must prove all links in the chain to establish the guilt. No person saw the commission of the offence. Case of the prosecution is based on circumstantial evidence. The chain of circumstances were not established at the trial by the prosecution, beyond reasonable doubt, to establish a chain leading to an irrefutable inference as to the guilt of the appellant. Since the chain of circumstances was not completed by the prosecution, the appellant should be afforded the benefit of the doubt. Consequently, according to him, the impugned judgment of conviction and the order of sentence should be set aside.
5. Learned advocate appearing for the State submits that, the prosecution was able to prove the charges beyond reasonable doubt. He submits that, the relationship between the victim and the appellant is that of husband

and wife. The place of occurrence is the matrimonial home of the victim. The appellant as the husband is therefore liable to explain the death under Section 106 of the Evidence Act which the appellant failed to discharge.

6. Learned advocate appearing for the State submits that, incident occurred at about 4 a.m. in the morning at the matrimonial residence of the victim. At that material point of time, two children of the victim saw the appellant to flee away from the place of occurrence after commission of murder. Therefore, in addition to Section 106 of the Indian Evidence Act, learned advocate appearing for the State submits that, the prosecution was able to establish that, the appellant was present at the place of occurrence, he was seen to flee from the place of occurrence after commission of the murder, and that, such evidence is sufficient to establish the guilt of the appellant.
7. Learned advocate appearing for the State refers to the Post Mortem Report and submits that, victim was assaulted brutally by sharp cutting weapon. The Post Mortem Doctor classifies the injuries as homicidal in nature. The cause of death was established at the trial. Murder according to him stood established at the trial. Involvement of the appellant at the murder was also established.
8. Police received a written complaint from P.W.4 on January 15, 2014 with regard to the murder of the victim. Written complaint was registered as the formal First Information Report by the police. On completion of investigation, police submitted chargesheet. Charges of murder under

Section 302 of the Indian Evidence Act, 1860 were framed as against the appellant on July 3, 2014. Appellant pleaded not guilty and claimed to be tried.

9. At the trial, prosecution examined 10 witnesses. Prosecution tendered various documentary and material evidences which were marked as exhibits at the trial.
10. P.W.1, is step daughter of the appellant. She stated that, on death of her father, her mother married the appellant. After marriage with the appellant, her mother gave birth of a male child. She stated that, out of first marriage three daughters were born. She also stated that, they all lived with her mother and the appellant in the same mess.
11. P.W.1 stated that, the victim died on January 15, 2014. On that day, at about 5 a.m. in the morning, she heard a hue and cry coming out from the kitchen. Reaching the kitchen room, she noticed that the victim was lying on the floor with bleeding injury on her head and the appellant was running away from the kitchen. Seeing that, she raised a hue and cry whereupon, neighbours arrived. Victim was shifted to the hospital where she expired.
12. P.W.1 stated that, at the time of occurrence she, P.W.4 and the step brother along with the victim and the appellant were present in the house. The elder sister was married at that time and elder sister was living with her in-laws.

13. P.W.1 stated that, in the evening police came with the appellant in the house. At that time, appellant showed the axe with which he assaulted the victim. Police seized the same. She identified the appellant in Court.
14. In cross-examination, P.W.1 stated that the axe seized by the police is not seen today. She stated that, she cannot recollect whether police affixed label on the axe or whether she signed any paper. She also stated that there were injuries over the right side back portion of the head, on the forehead and on the nose of the victim.
15. P.W.2 is the neighbour of the appellant and the victim stated that, on January 15, 2014 he heard a hue and cry coming out from the house of the appellant whereupon he went there. He noticed that the victim was lying on the floor of the kitchen room with bleeding injuries. Appellant was not present when he reached the house. However, he saw the appellant in the house in the night immediately preceeding the date of occurrence. He narrated that, how the victim was taken to the hospital where she was declared brought dead. He is a witness to the inquest held in respect of the dead body of the victim. Inquest report was tendered in evidence and marked as Exhibit-1. He is also a witness to the seizure list which was tendered in evidence and marked as Exhibit-2. In cross-examination, P.W.2 stated that, at the time of seizure of the axe, it was blood stained. He did not find the axe in Court.
16. Another neighbour deposed as P.W.3. She stated that, on hearing the hue and cry, she reached the house of the appellant and saw the victim lying

on the floor in bleeding condition. Appellant was not present when she reached the house. She identified the appellant in Court.

17. P.W.4 is another step-daughter of the appellant. She stated that, there was no harmonious relationship between the appellant and the victim. They used to pick up quarrels with each other almost every day.
18. P.W.4 stated that, appellant assaulted the victim with axe over the head at about 4 a.m. at the dawn in the kitchen of the house. After the incident appellant fled away through the window of the kitchen. She raised her voice and on hearing the same neighbours came rushing. P.W.4 lodged the written complaint which was tendered in evidence and marked as Exhibit-3. In cross-examination, P.W.4 stated that, she and P.W.1 were sleeping in one room on the fateful day. Grand-mother was sleeping in another room and step-brother was sleeping in the different room. She stated that, after hearing the hue and cry, P.W.2, 3 and 5 along with others came to the place of occurrence.
19. P.W.5 is a neighbour. He stated that, there was no harmonious relationship between the appellant and the victim. They used to pick up quarrel each and every day. He stated that, on January 15, 2014 he was sleeping when he heard a hue and cry coming from the house of the appellant. He arrived at the house of the appellant and found the victim lying on the earth in a pool of blood in the kitchen. P.W.1 told him that the appellant fled away though the window of the kitchen. He is the witness to the inquest report. He identified the appellant in Court.

20. P.W.6 is the scribe of the written complaint. He stated that, the written complaint was scribed by him on the instructions of the P.W.1.
21. A local Panchayat member deposed as P.W.7. She stated that the victim visited her house 2/3 days prior to her death and disclosed about the physical torture inflicted upon her by the appellant. Victim also told her that, her husband may kill her one day. Victim requested her to persuade the appellant in this regard. She did not get any opportunity to meet the appellant.
22. A Constable deposed as P.W.8. He stated that, the FSL Report could not be brought as the same was not prepared.
23. Doctor who performed the Post Mortem on the dead body of the victim deposed as P.W.9. He stated that, he found three injuries on the dead body of the victim. In his opinion, the death was due to the injuries mentioned ante-mortem and homicidal in nature. Injuries were inflicted due to sharp cutting heavy weapon like axe. He tendered the Post Mortem Report which was marked as Exhibit-5.
24. At the trial, an axe was produced before P.W.9 whereupon he stated that, the injuries found on the dead body can be inflicted by such axe. However, the axe was not tendered and marked as exhibit at the trial.
25. P.W.9 was cross-examined. However, the opinion with regard to the cause of death reported by him was not dislodged.
26. Investigating Officer deposed as P.W.10. He narrated the manner of conduct of the investigation. He identified the seizure list with regard to

the axe. He tendered the axe at the trial which was marked as Material Exhibit-II.

27. After completion of the evidence of the prosecution, the appellant was examined under Section 313 of the Criminal Procedure Code where, he claimed to be innocent. He stated that, he did not want to adduce any evidence in his defence.
28. Post Mortem Report being Exhibit-5 read with the evidence of the Doctor conducting the Post Mortem on the dead body of the victim, being P.W.9 establishes that, the victim was murdered.
29. Victim suffered multiple injuries. Post Mortem Report and the opinion of the Post Mortem Doctor is that, such multiple injuries are the cause of the homicidal death of the victim. No sudden provocation or any scenario within the fold of Section 304 Part II of the Indian Penal Code, 1860 stands established at the trial. Murder of the victim therefore established at the trial.
30. Relationship between the victim and the appellant is that of the husband and wife. There is a son born out of the wedlock between the victim and the appellant.
31. Victim married the appellant subsequent to the death of the first husband of the victim. Three children were born out of the first wedlock of the victim. The three children are three daughters. The eldest daughter was married and was living separately. Two other daughters being P.W.1 and 4 were residing with the appellant and the victim at the house of the appellant.

32. Place of occurrence is the kitchen of the house of the appellant. Time of occurrence is 4 a.m. to 5 a.m. in the morning on January 15, 2014. P.W. 2 placed the appellant in his house on the preceding night. Since the incident occurred at the kitchen of the house of the appellant and since the relationship between the appellant and the victim is that of husband and wife, it was necessary for the appellant to discharge his onus under Section 106 of the Evidence Act. In his examination under Section 313 of Cr.P.C. he offered no explanation with regard to the cause of death of the victim at his kitchen.
33. Appellant was seen fleeing away from the place of occurrence when the victim was lying on the floor of the kitchen with the injuries by P.W.1 and 4. These evidences of P.W.1 and 4 were not dislodged by cross-examination at the trial. P.W.4 is the de facto complainant. The written complaint being Exhibit-1 also narrates the same version of the involvement of the appellant as, P.W.4 and P.W.1 narrated at their trial.
34. P.W.1 and 4 reached the place of occurrence upon hearing the hue and cry and found the victim lying on the floor and the appellant fleeing away from the place of occurrence. On the hue and cry being raised neighbours intervened and the victim was removed to the hospital whereupon she was pronounced brought dead by the hospital authorities.
35. This version of P.W.1 and 4 stands corroborated by the neighbours of the victim who deposed at the trial being P.W.2, 3 and 5.
36. Chain of circumstances coupled with the inability of the appellant to explain death occurring at his residence between 4 a.m. and 5 a.m. on

January 15, 2014 leads to the irresistible conclusion as to the guilt of the appellant in the murder of the victim.

37. In **Rasan (supra)**, the prosecution, failed to establish the chain of circumstances leading to the involvement of the appellant in the crime that he was charged with. Consequently, the appellant therein was acquitted. Facts scenario in the present case are not the same.
38. In such circumstances, the impugned judgment of conviction and order of sentence is affirmed.
39. Sentence awarded shall run concurrently. Period of detention undergone shall be set off against the sentence undergone.
40. Let a copy of the judgment and order along with Trial Court records be sent down to the learned jurisdictional Court at once.
41. **CRA 37 of 2021** along with all connected applications, if there be any, are **dismissed**.

(Debangsu Basak, J.)

42. I agree.

(Biswaroop Chowdhury, J.)