IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (D.B.) No. 251 of 2017

[Against the judgment and order of conviction and sentence dated 19.11.2016 & 23.11.2016, respectively passed by learned District & Additional Sessions Judge, Ghatshila in Sessions Trial No.71 of 2016]

Chamtu Giri, son of Late Ramesh Giri, resident of Village-Pathra Tola, Dhatkidih, P.O. & P.S.-Barsole, District-East Singhbhum, Jharkhand

... ... **Appellant**

Versus

The State of Jharkhand … … **Respondent**

P R E S E N T

SRI ANANDA SEN, J.
SRI PRADEEP KUMAR SRIVASTAVA, J.

For the Appellant : Mr. Sankalp Goswami, Advocate

For the State : Md. Azeemuddin, A.P.P.

JUDGMENT

C.A.V. on 28.09.2026 **Pronounced on 05/11/2026**

Per- Pradeep Kumar Srivastava, J:

1. Heard the arguments of Mr. Sankalp Goswami, learned counsel for the appellant and Md. Azeemuddin, learned A.P.P. for the State.

2. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 19.11.2016 & 23.11.2016 respectively, passed by learned District & Additional Sessions Judge, Ghatshila, in Sessions Trial No.71 of 2016, whereby and whereunder the appellant has been held guilty for the offence under Sections 302 of the I.P.C. and sentenced to undergo rigorous imprisonment for life along with fine of Rs.10,000/- with default stipulation.

Factual Matrix:-

3. Factual matrix giving rise to this appeal as per *fardbeyan* of the informant, Rabindra Nayak (PW-5), is that his daughter, Shivani Giri (deceased), had been married to Chamtu Giri, resident of Village-Pathra Tola, Dhadkidih, P.S. Barsol, District East Singhbhum, about three months prior to the occurrence and had been residing at her matrimonial home. On 08.09.2015, at about 5:00 p.m., he along with his two daughters went to Village Manusmuria to attend a fair and thereafter proceeded to the house of Shivani, where Chamtu Giri started abusing them. Thereafter, he along with his two daughters, went to the house of Shailendra Giri (PW-2), situated in the same village and stayed there for the night. On the following morning, i.e., on 09.09.2015, at about 6:00 a.m., they returned home. At about 7:00 a.m., Shrishti Giri, the elder brother of Chamtu Giri, informed him about the death of Shivani. Thereafter, he along with his wife and some villagers went to Village Pathra Tola, Dhadkidih, where he saw the dead body of Shivani and noticed injuries on her neck and scratches on her body along with bloodstains. He has specifically alleged that Shivani Giri has been killed by her husband.

4. Accordingly, Bahragora (Barsol) P.S. Case No. 61 of 2015 was registered for the offence under Section 302 of the I.P.C. against the above-named accused.

5. The investigation of the case was taken up by Karampal Bhakat (PW-9). On 09.09.2015, he was posted as the Officer-in-Charge of Barsol P.S. Nikhil Chandra Digar, the Chowkidar, informed him

about a murder in Village Pathra, whereupon he entered the information in the Station Diary and proceeded to the place of occurrence. He recorded the statement of Rabindra Nayak (PW-5) in the presence of two independent witnesses, prepared the inquest report of the dead body of Shivani Giri and sent the dead body for post-mortem examination. He inspected the place of occurrence, recorded the statements of Patit Nayak, Shailendra Giri, Surendra Giri, Sukhlal Hembram and others and arrested the accused.

On 09.09.2015, the accused made a confessional statement, pursuant to which an iron pipe and rope were recovered from a concealed place on the roof of the verandah of his house and in the presence of Sarpanch Mohan Lal Hembram, Deputy Head Prakash Bhol and Sukhlal Hembram, the iron pipe and rope were seized and a seizure list (Ext.-7), was prepared. The Investigating Officer recorded the statements of Uday Hembram and Mohan Lal Hembram, received the post-mortem report and sent the viscera to the SFSL, Ranchi, for chemical examination.

6. After completion of investigation, charge-sheet was submitted against the accused for the aforesaid offence. Accordingly, cognizance was taken and the case was committed to the Court of Sessions, where Sessions Trial No.71 of 2016 was registered. The accused denied the charge leveled against him and claimed to be tried.

7. In the course of trial, altogether nine witnesses were examined by prosecution including the I.O. and doctor.

Apart from oral testimony of witnesses following documentary evidence as well as material exhibits has been adduced.

Exhibit-1-Signature of Sukhlal Hembram on seizure list

Exhibit-1/1-Signature of Uday Hembram on seizure list

Exhibit-2-Signature of Sukhlal Hembram on confessional statement of Chamtu Giri

Exhibit-2/1-Signature of Prakash Bhol on confessional statement of Chamtu Giri

Exhibit-2/2-Signature of Mohan Lal Hembram on confessional statement of Chamtu Giri

Exhibit-3-Post Mortem report of Shivani Giri

Exhibit-4-Signature of Rabindra Nayak on his fardbeyan

Exhibit-4/1-Signature of Patit Nayak on fardbeyan of Rabindra Nayak

Exhibit-4/2-Fardbeyan of Rabindra Nayak

Exhibit-5-Formal F.I.R.

Exhibit-6-Relevant part of confessional statement of accused

Exhibit-7-Seizure list

Exhibit-8-S.F.S.L. Report No.1282 of 2015

Exhibit-X-Xerox copy of inquest report of Shivani Giri for identification

Material Exhibit-I-One piece of cycle frame of iron

Material Exhibit-II & II/1 Two pieces of rope

8. On the other hand, no oral or documentary evidence has been adduced by defence. The case of defence is denial from occurrence, plea of innocence and false implication.

9. After conclusion of trial, the appellant was held guilty for the offence under Section 302 of the I.P.C and sentenced as stated above which has been assailed in this appeal.

Submissions on behalf of the appellant: -

10. Learned counsel for the appellant has vehemently argued that the entire prosecution case is falsified by the medical evidence, although the witnesses have claimed to notice several bodily injuries caused to the deceased, but in the P.M. report, the doctor has not found any bleeding injury on her body. The prosecution story as depicted by witnesses disclosing the circumstances about some altercation having taken place between deceased and the appellant due to which the deceased might have got enraged and committed suicide by consuming poison. It is further submitted that the Forensic Science Laboratory report (Exhibit-8) has not been properly proved by examination of the expert witness. This case is based on circumstantial evidence and the prosecution has miserably failed to prove the chain of circumstances conclusively leading towards guilt of the appellant for committing murder of his wife. The learned Trial Court has failed to properly appreciate the evidence of witnesses which suffers from material contradictions, discrepancies and infirmities shaking their veracity. The impugned judgment of conviction and sentence is based on conjectures and surmises in complete ignorance of principles of law propounded by Hon'ble

Apex Court in several cases for basing conviction on circumstantial evidence. Therefore, impugned judgment is liable to be set aside and this appeal may be allowed.

Submissions on behalf of the State: -

11. On the other hand, learned A.P.P. has submitted that there is specific evidence of witnesses and not denied by the appellant that on intervening night of 08/09.09.2015 the appellant was residing with his wife (since deceased) and after assaulting her with iron pipe which was recovered at the instance of accused on the basis of his confessional statement, he hanged the body with a rope on the beam of his house. The recovery of rope and iron pipe at the instance of appellant on the basis of his disclosure statement further fortifies commission of murder by him of his own wife. The learned Trial Court has very wisely and aptly held the appellant guilty for the offence of murder of his own wife, which suffers from no illegality or infirmity calling for any interference in this appeal, which is devoid of merits and fit to be dismissed.

12. We have gone through the record of the case along with the impugned judgment in the light of contentions raised on behalf of the both side.

13. The only point for determination in this appeal is that "**as to whether the impugned judgment and order of conviction and sentence of the appellant passed by learned trial court suffers from any error of law calling for any interference in this appeal?"**

Analysis, discussions and reasons:-

14. Before delving upon to adjudicate the above point, it appears pertinent to take brief resume of evidence available on record.

P.W.1, Sukhlal Hembram is a witness of seizure list and proved his signature as **Exhibit-1** as well as signature of another witness Uday Hembram as **Exhibit-1/1**, which was prepared at the house of Santosh Giri at Village-Pathra and specifically states that one iron pipe and rope was recovered by police on the disclosure statement of Chamtu Giri. He has also stated that wife of Chamtu, who was married about three months prior to her death, died in her *sasural.* He admits to be not an eye-witness of the occurrence.

P.W.2, Shailendra Giri is the co-villager of the accused. According to his evidence, Chamtu Giri was residing along with his wife in Village-Pathra in Indira Awas allotted to him. He was married about three months ago with Shivani, who died in her aforesaid matrimonial home. This witness has been declared hostile by the prosecution and has expressed no knowledge as to how the deceased died. Although, he has admitted that at the relevant time of occurrence Manusmuria fair was organized in Village-Chandwa and informant of this case along with his two daughters stayed in his house. His attention has been drawn towards his statement under Section 161 Cr.P.C. which he has denied.

P.W.3, Surendra Giri is brother of P.W.-2. According to him, wife of Chamtu Giri died in the same year of her marriage. He also admits that Manusmuria fair was organized in his village, but at that time he was not present and he heard that informant had stayed at

that time in the house of his brother Shailendra Giri. This witness has also been declared hostile by the prosecution.

P.W.4, Dr. Lalan Choudhary has stated that on 10.09.2015 at about 03.40 P.M., he conducted post-mortem examination on the dead body of Shivani Giri, aged about 19 years, wife of Chamtu Giri, resident of Village Pathra, Tola Dhatkidih, P.S. Barsol, District-East Singhbhum.

On examination: - He found that rigors mortis was absent. Dried blood was present over neck and upper chest, perennial region and the eyeball, haemorrhagic blood in the oral cavity and frothy blood over face. No ante-mortem external injury found over body.

On dissection occipital scalp was found to be contused 3 c.m. x 3 c.m. Brain soft and congested. Larynx-trachea congested and contused and contains blood-stained froth. Lung soft and congested. Viscera congested. Uterus small. Stomach contains light brown (biscuit colour) oily pasty food 300 gms. Mucosa of stomach congested at places. Viscera preserved for chemical analysis.

Opinion: - Cause of death reserved till the chemical analysis of viscera come. Occipital scalp injury was ante-mortem and caused by hard and blunt object.

Time since death was approximately 36 to 48 hours. The post-mortem report is marked as **Exhibit-3**.

P.W.5, Rabindra Nayak is the informant-cum-father of the deceased. According to his evidence, his daughter (since deceased) was married with Chamtu Giri (appellant) about three months prior to occurrence. He has further deposed that he had gone to see

Manusmuria fair along with his two daughters and also visited to the house of his son-in-law Chamtu Giri, but he did not permit him to enter into his house and also abused and scolded him. He has also stated that his daughter Shivani was frequently assaulted by her husband. Thereafter, he returned back and stayed in the house of Shailendra Giri (P.W.-2) in the night. On the next day morning, elder brother of Chamtu Giri namely, Shrishti Giri came to house of this witness and told that Shivani has died. Thereafter, this witness along with his elder brother Patit Nayak and wife went to the house of Chamtu Giri, where they saw the dead body of Shivani in the house of Chamtu Giri sustaining injuries on her neck, stomach and hand. Police also arrived at the place of occurrence, where his statement was recorded and he has proved his signature on his *fardbeyan* as **Exhibit-4**.

In his cross-examination, this witness admits that there was cordial relationship between his daughter and the accused Chamtu Giri. He has not seen the occurrence himself. He has not stated before police that Chamtu Giri was frequently assaulting his daughter. His *fardbeyan* was also not read over to him. Hence, he can't tell what was written in his *fardbeyan*.

P.W.6, Patit Nayak is the brother of informant. He has also testified that Shivani was married about three months prior to occurrence with the present appellant. His brother Rabindra informed him in the morning that Shivani has died at her *sasural*. He also disclosed that Shrishti (elder brother of accused) has informed about the occurrence. Thereafter, he along with his brother Rabindra Nayak

went to matrimonial home of Shivani and found her dead body lying in the matrimonial home sustaining injuries on hand, stomach and leg. He has also proved his signature on the *fardbeyan* of his brother Rabindra Nayak marked as **Exhibit-4/1**. He has also deposed that Shivani used to come to her parental home and about 3-4 times she has disclosed him that her husband used to assault her due to her poor cooking.

In his cross-examination, he also reiterates that Shivani had come thrice at her parental home after marriage and on all occasions, she disclosed him about ill-treatment and scuffle with her husband.

P.W.7, Uday Hembram is a witness of seizure list and proved his signature as **Exhibit-1/1**. He further states that one iron pipe and piece of rope was recovered from the house of Chamtu Giri, while he was in police custody and seizure list was prepared. Except above facts, he has no knowledge about the occurrence.

P.W.8, Mohan Lal Hembram is another witness of seizure list. He has also proved his signature as **Exhibit-2/2**. One iron pipe and rope were recovered by police. He also states that Chamtu Giri has killed his wife and he is in jail custody, but he has not seen the occurrence himself.

P.W.9, S.I., Karampal Bhagat is the I.O. of this case. According to his evidence, on 09.09.2015, he was posted as Officer-in-charge of Barsole P.S., the village chowkidar Nikhil Chandra Digar came to police station and in the morning informed through telephonic message that in village Pathra, one woman has been murdered. He made entry in the station diary and for verification went

to the place of occurrence, where Rabindra Nayak, father of the deceased was present. He recorded the *fardbeyan* (Exhibit-4/2) of Rabindra Nayak in presence of witnesses and made endorsement for registration of FIR and assumed the charge of investigation himself. He has further proved the formal FIR as **Exhibit-5**. After preparing inquest report of the deceased, sent the dead body for post mortem. He inspected the place of occurrence, which is house of the accused situated in village Pathra Tola, Dhatkidih allotted under Indira Aawas. He saw the dead body of Shivani lying on a cot in the room sustaining cut injuries on her neck from all side and other part of the body. He recorded the statement of witnesses Patit Nayak, Shailendra Giri, Surendra Giri and Sukhlal Hembram, arrested the accused on 09.09.2015 and recorded his confessional statement at about 07:00 P.M. Relevant part of confessional statement of accused marked as **Exhibit-6**. The relevant part leading to recovery of iron pipe and rope used for hanging the dead body was recovered and seizure list was prepared in presence of witnesses. He also recorded statement of Sukhlal Hembram, Uday Hembram, Mohal Lal Hembram etc., who supported the prosecution case and also received the post-mortem report of the deceased and also sent the viscera of the deceased to F.S.L., Ranchi for chemical examination and after finding sufficient evidence against the accused, submitted charge-sheet for the offence under Section 302 of the I.P.C.

In his cross-examination, this witness admits that the informant in his *fardbeyan* has not levelled any allegation of frequent assault by the accused to his daughter. Seized material has not been produced

before the Court. He has also not recorded the statement of Shrishti Giri and Gurwa Murmu. He also admits that there is no eye-witness of the occurrence. Witness Sukhlal Hembram (P.W.1) has stated before him that he knows about the occurrence. He has not seized the blood-stained soil from the place of occurrence. He has denied the suggestion of defence that his investigation is defective and he has submitted charge-sheet against the accused without sufficient evidence. This witness has also proved material exhibits, piece of Atlas cycle frame made of iron as **Material Exhibit-1** and two small pieces of rope as **Material Exhibit-2 and 2/1**.

15. On the other hand, the case of defence is simple denial from occurrence and plea of innocence as well as false implication.

16. We have gone through the impugned judgment passed by learned Trial Court and find that the learned Trial Court has relied upon following proved circumstances leading to conclusion of guilt of the appellant.

(i) Deceased was married with the present appellant just three months prior to her death.

(ii) She was found dead in her matrimonial home, while she was residing along with her husband (present appellant) in a house provided Indira Awas Scheme.

(iii) The dead body of deceased was found in her matrimonial home sustaining head injury caused by hard and blunt object which was ante-mortem in nature as well as dried blood over her body.

(iv) Just after the marriage, the deceased was frequently abused and assaulted by her husband, therefore, there was tense relationship between them.

(v) On 08.09.2015 after fetching Manusmuria fair in matrimonial village of deceased, the informant, Rabindra Nayak (P.W.5) along with his two daughters went to matrimonial home of deceased, but the accused abused and not allowed them to enter into the house.

(vi) The informant in the night of 08.09.2015 stayed in the son-in-law's neighbour's house, as admitted by one Shailendra Giri (P.W.2).

(vii) In the very next day early morning when informant along with his two daughters returned to his home, elder brother of the accused, namely Shrishti Giri informed about death of Shivani at her matrimonial home, then again informant along with his family members went to place of occurrence and saw the dead body of his daughter lying in injured condition at her matrimonial home and his fardbeyan was recorded by police.

(viii) On the basis of confessional statement of accused one iron rod and two pieces of rope were recovered, allegedly used in commission of murder of the deceased.

(ix) The seizure list witnesses Sukhlal Hembram (P.W.-1) and Uday Hembram (P.W.-7), who have proved the discovery of iron pipe and two pieces rope on disclosure statement of the accused.

(x) S.F.S.L. report (Exhibit-8) also **shows that in the viscera of deceased pesticide was found.**

The above circumstances propounded and proved by prosecution were asked in the statement under Section 313 of the Cr.P.C. to the accused wherein he has admitted that he was residing with his wife in the matrimonial home and not disputed any of the aforesaid circumstances except the frequent scuffle and dispute with his wife.

17. In this view of the matter, the learned Trial Court invoked the principles of Section 106 of the Evidence Act, shifting the burden to explain the aforesaid circumstances, which were especially within the knowledge of the accused and due to non-offering of any valid and reasonable and convincing the explanation from the accused found additional link towards the chain of circumstantial evidence, which conclusively prove the guilt of the accused beyond all reasonable doubt for committing murder of his wife accordingly, convicted and sentenced him.

18. We have also meticulously examined the evidence available on record and find that aforesaid circumstances, as propounded by learned Trial Court has been categorically proved by the ocular testimony of witness examined by prosecution as well as documentary evidence like recovery of weapon and seizure list (Ext.-7), P.M. report of the deceased (Ext.-3) and S.F.S.L. report (Ext-8).

19. In the case of ***Ram Niwas versus State of Haryana,*** *reported in* (***2022) 15 SCC 306,*** relied upon by the learned counsel for the appellant, the Hon'ble Apex Court has propounded principles of law

for basing conviction on the basis of circumstantial evidence as under:-

> *The law with regard to conviction on the basis of circumstantial evidence has very well been crystallised in the judgment of Hon'ble Supreme Court in* ***Sharad Birdhichand Sarda versus State of Maharashtra (1984) 4 SCC 116,*** *wherein the panchsheel of circumstantial evidence was propounded the circumstances concerned must indicate that the accused must be guilty and not may or should be. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved". The mental distance between "may be" and "must be" is long and divides vague conjectures from sure conclusions.*
>
> *(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,*
>
> *(3) the circumstances should be of a conclusive nature and tendency,*
>
> *(4) they should exclude every possible hypothesis except the one to be proved, and*
>
> *(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.*

These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.

It was further observed that it is settled law that the suspicion, howsoever strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt.

20. In the case of ***Rajendra versus State (NCT of Delhi)*** reported in ***(2020) 1 SCC (Cri) 63,*** the Hon'ble Apex Court has held that Section 106 of the Evidence Act, 1872, provides that the burden of proof of any fact, i.e., specially within the knowledge of a person lies upon such person. Thus, if a person is last seen with the deceased, he must offer an explanation as to how and when he parted company with the deceased. In other words, he must furnish an explanation that appears to the Court to be probable and satisfactory, and if he fails to over such explanation on the basis of the facts within his special knowledge, the burden casts upon him under Section 106 of the Evidence Act is not discharged. Particularly, in cases resting on circumstantial evidence, if the accused fails to offer a reasonable explanation in discharge of the burden placed on him, such failure by itself can provide an additional link in the chain of circumstances proved against him. It, however, does not mean that Section 106 shifts the burden of proof of a criminal trial on the accused. Such burden always rests on the prosecution. Section 106 only lays down the rule when the accused does not throw any light upon facts which are specially within his/her knowledge and which cannot support any

theory or hypothesis compatible with his innocence, the Court can consider his failure to adduce an explanation as an additional link which completes the chain of incriminating circumstances.

21. In the case of ***State of Madhya Pradesh versus Balveer Singh*** reported in ***(2025) 8 SCC 545***, wherein the accused was charged with killing his wife in night in his house. The accused neither claimed that deceased was suffering from any ailment nor there found any evidence worth the name to suggest the possibility of her death occurring due to any health issue. In the case of non-explanation of circumstances, specially within the knowledge of the accused, the Hon'ble Apex Court has held as under:-

> *Section 106 of the Evidence Act provides that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. The word "especially" means facts that are or exceptionally within the knowledge of the accused. The ordinary rule that applies to the criminal trials that the onus lies on the prosecution to prove the guilt of the accused is not in any way modified by the rule of facts embodied in Section 106 of the Evidence Act. Section 106 of the Evidence Act is an exception to Section 101 of the Evidence Act. Section 101 with its Illustration (a) lays down the general rule that in a criminal case the burden of proof is on the prosecution and Section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible or at any rate disproportionately difficult for the prosecution to establish the facts which are, "especially within the knowledge of the accused and which, he can prove without difficulty or inconvenience". (para-77)*

Section 114 of the Evidence Act, empowers the court to presume the existence of any fact which it thinks likely to have happened. In that process, the courts shall have regard to the common course of natural events, human conduct, etc. in addition to the facts of the case. In these circumstances, the principles embodied in Section 106 of the Evidence Act can also be utilised. (para-80)

If an offence takes place inside the privacy of a house and in such circumstances where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence is insisted upon by the courts. A Judge does not preside over a criminal trial merely to see that no innocent man is punished. A Judge also presides to see that a guilty man does not escape. Both are public duties. The law does not enjoin a duty on the prosecution to lead evidence of such character which is almost impossible to be led or at any rate extremely difficult to be led. The duty on the prosecution is to lead such evidence which it is capable of leading, having regard to the facts and circumstances of the case. Here it is necessary to keep in mind Section 106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (b) appended to Section 106 of the Evidence Act throws some light on the content and scope of this provision. (para-81)

Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime they were seen together or the offence takes place in the dwelling home where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received

injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime. (para-81)

22. In view of the above discussion and reasons, we do not find any error of law in the impugned judgment warranting interference with the conviction and sentence of the appellant. There is no substance in the point of arguments raised on behalf of the appellant and no merits in this appeal which stands **dismissed**.

23. Appellant is in custody.

24. Let a copy of this judgment be furnished forthwith to the appellant through A.P.P.

25. Pending I.A., if any, stands disposed of, accordingly.

26. Let a copy of this judgment along with the Trial Court record be sent to the concerned trial court for information and needful.

(Pradeep Kumar Srivastava, J.)

I agree.
Ananda Sen, J.

(Ananda Sen, J.)

Jharkhand High Court
Dated 05/11/2026
Arpit/ ***N. A. F. R.***
Uploaded on 06/11/2026