IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No. 1575 of 2024

[Against the judgment of conviction and order of sentence dated 14.02.2018 and 16.02.2018 respectively passed by learned Additional Sessions Judge-II, Latehar in S.T. Case No. 149 of 2013 arising out of Manika P.S. Case No. 53 of 2013 corresponding to G.R. No. 554 of 2013.]

Rajendra Ghatwar, aged about 50 years, son of Lodha Ghatwar, resident of Jamira, P.O. & P.S.- Chandwa, Dist.-Latehar, 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 : Md. Razaullah Ansari, Advocate

For the State : Mr. Manoj Kr. Mishra, A.P.P.

JUDGEMENT

Dated: 28th October, 2026

By Court:-

1. In the Instant Criminal Appeal, the above named appellant has assailed his judgment of conviction and order of sentence dated 14.02.2018 and 16.02.2018 respectively passed by learned Additional Sessions Judge-II**,** Latehar in S.T. Case No. 149 of 2013 arising out of Manika P.S. Case No. 53 of 2013 corresponding to G.R. No. 554 of 2013, whereby and whereunder, the appellant has been held guilty for the offences under Sections 302 of the Indian Penal Code corresponding to 103 B.N.S., 2023 and sentenced to undergo **rigorous imprisonment for life alongwith the fine of Rs. 5,000/-** with default stipulation.

Factual Matrix:-

2. Factual matrix giving rise to this appeal in a narrow campus is that on 29.12.2012, the dead body of deceased Basanti Devi was sent to Sadar Hospital, Latehar for post-mortem and on the basis of fardbeyan of the husband of the deceased, UD case No. 08 of 2012 was registered and ASI Krishna Kumar Singh was given charge of investigation. During investigation, on the basis of statement of witnesses and inspection of the place of occurrence, it came in light that deceased Basanti Devi and her husband Rajendra Ghatwar had gone Latehar Market on 27.12.2012. Some dispute occurred with Basanti Devi and for the same, Rajendra Ghatwar started assaulting his wife. In the course of assault, he brought his wife to Kumandih railway station and assaulted her with leg, fists and danda, due to which she became unconscious. Thereafter, he took his wife in the quarter and killed her by strangulating by rope. On 28.12.2012, he brought the deceased to Shamshan-Ghat for burning her. When senior police officer received such information, the dead body was seized by police sub-inspector Markandey Banra of Manika Police station and it was sent for post-mortem. Accordingly, on the basis of written report of the informant Krishna Kumar Singh, F.I.R. (Manika P.S. Case No. 53 of 2013) was registered against the above named accused for the offence under Section 302 of the I.P.C. and investigation commenced.

3. After conclusion of investigation, the investigating officer has submitted charge-sheet against the accused husband named in the F.I.R. After taking cognizance, the case was committed to the Court of Sessions, where S.T. Case No. 149 of 2013 was registered and charges were framed under Section 302 of the I.P.C.

4. The accused did not plead guilt and claimed to be tried.

5. In the course of trial altogether 12 witnesses have been examined by the prosecution.

Apart from oral testimony of the witnesses, following documentary evidence has been adduced:-

i. Exhibit-1: Written report of the informant.

ii. Exhibit-2: Post-mortem report of the deceased.

iii. Exhibit-3: Charge-sheet.

6. On the other hand, the case of the defence is denial from the occurrence and plea of innocence with false implication.

However, no oral or documentary evidence has been adduced by the defence.

7. The learned Trial Court after scrutinising the evidence oral as well as documentary adduced by the prosecution and on hearing the arguments of prosecution and defence, held the appellant guilty for killing the deceased by strangulating her with an intention to cause her death, which also found corroboration from the medical evidence and the learned Trial Court convicted the appellant under Section 302 of the I.P.C. and sentenced him accordingly, as stated above, which has been assailed in this appeal.

Submissions on behalf of appellant: -

8. Learned counsel appearing on behalf of the appellant assailing the impugned judgement has strenuously argued on following main grounds:-

(i) The learned Trial Court has failed to properly appreciate the evidence available on record, which suffers from inherent weakness and based on inadmissible evidence.

(ii) The learned Trial Court ignored the material contradictions and discrepancies appearing in the prosecution evidence shaking the very root of the prosecution case.

(iii) For conviction in a case under Section 302 of the I.P.C. the prosecution is bound to prove the ingredients of the said offence beyond all reasonable doubt but the impugned judgment is based upon circumstantial evidence alone, which are very scanty. Therefore, the learned Trial Court has based its judgment on presumption and assumption.

(iv) No incriminating articles were seized from the place of occurrence..

In view of the above grounds, it is pleaded that the impugned judgment of conviction and order of sentence of the appellant is absolutely illegal, improper, based upon inadmissible evidence, conjecture and surmises, which is liable to be set aside. The appellant deserves acquittal form charge levelled against him and this appeal may be allowed.

Submissions on behalf of State:-

9. Per contra; learned A.P.P. defending the impugned judgment of conviction and sentence of the appellant has argued that the learned Trial Court has very wisely and aptly analysed overall aspects of the case and scrutinized the evidence available on record. There is strong evidence against the appellant for committing murder of the deceased by strangulating her. It is also submitted that there is no reason for false implication of the appellant as the deceased died homicidal death at railway quarter of the appellant. Therefore, there is no illegality or

infirmity in the impugned judgment of conviction and sentence of the appellant calling for any interference in this appeal, which is devoid of merits and fit to be dismissed.

Analysis, discussions and reasons: -

10. We have gone through the record of the case alongwith impugned judgment in the light of contentions raised on behalf of respective parties.

11. On the basis of rival contentions of both the parties, the only question for consideration in this appeal emerges that ***"as to whether the impugned judgment of conviction and sentence of the appellant suffer from any serious error of law calling for any interference in this appeal or not?"***

12. Before adverting to record any finding on the above point, we have to appraise with the ocular testimony of witnesses available on record adduced by the prosecution during trial.

13. It appears that altogether 12 witnesses have been examined in this case by the prosecution:-

PW-2 Krishna Kumar Singh is the informant-cum-investigating officer of this case. He has stated that on 29.12.12, he received the charge of investigation of UD case 08/2012 by the then officer in-charge Markandey Banra. He recorded the statement of Rajendra Ghatwar (accused) and inspected the place of occurrence. The place of occurrence is at railway quarter at a distance of 200 yards in the west side of Kumandih railway station. During investigation, he recorded the statement of witnesses Naresh Lohra, Ramadhar, Raju Yadav, Manoj and Dewanti Devi. During statement of the witnesses, he received the information that Rajendra Ghatwar, husband of the deceased, has killed

his wife by pressing her neck with rope. He received the postmortem report. After perusal of the post-mortem report, he came to know that deceased has been murdered. He filed written report on 17.08.2013 to the officer in-charge. Thereafter, the charge of investigation was handed over to him. During investigation, he inspected the place of occurrence. He recorded the statement of Teko chand, Ravindra Prasad Sah, Mahesh Rajwar, Baldeo Rajwar, Krishna Rajwar, Pradip Rajwar, Bhuji Devi. He also recorded the defence statement of accused Rajendra Ghatwar after arresting him. After investigation, he submitted chargesheet against the accused for the offence under Section 302 I.P.C. The written report in his writing and signature and also bears endorsement for the registration of case on the written report in the writing of Mithilesh Kumar, he identifies the same marked Ext.-1.

In his cross-examination, he has stated that the witnesses have stated in their evidence regarding committing murder of deceased by the accused, after assaulting her and also by strangulating her. He has further stated that he entered into the house but did not recover any rope from there. He has also explained the reason of delay of lodging the F.I.R., i.e., late receiving of postmortem report. He received the postmortem report on 17.8.2013. He also recorded the statement of father and mother of deceased. He has denied the suggestion of defence that his investigation is defective and he has submitted false chargesheet.

PW-1 Ram Adhar has been declared hostile by the prosecution.

This witness has been cross-examined by prosecution, wherein, he admits that wife of the accused has died.

This witness has also been cross-examined by defence, wherein, he has stated that he has no personal knowledge about the occurrence.

PW-3 Raju Yadav, PW-4 Manoj Oraon and PW-5 Ravindra Saw have also been declared hostile by the prosecution as these witnesses have that they have no personal knowledge about the occurrence and police has not recorded their statement.

PW-6 Dhuji Devi is mother of the deceased. She has stated that her daughter's marriage was solemnized with this appellant. Her daughter died due to cold. Her daughter was suffering from disease earlier. She has further stated that she has not stated before police about death of her daughter due to cold. This witness has also been declared hostile by the prosecution.

In her cross-examination by prosecution, she declines that she has stated before police that her daughter was taken to house by accused by beating mercilessly, where she died at home.

In her cross-examination by defence, she has denied to be interrogated by police.

PW-7 Bigal Rajwar is father of the deceased. He has also been declared hostile by prosecution and has corroborated the evidence of PW-6.

PW-8 Mahesh Rajwar, PW-9 Baldeo Rajwar, PW-10 Pradeep Rajwar & PW-11 Krishna Rajwar are brothers of the deceased. They have also corroborated that their sister died due to cold and police has not recorded their statement. These witnesses have also been declared hostile.

PW-12 Dr. Ajay Kumar Bhagat has conducted post mortem examination of the dead body of the deceased and has found following injuries on her body:-

External Injuries:-

(i) Ligature mark well defined, slightly depressed, Mark at neck and mark completely encircle the neck, but more prominent at front and side than back. Ligature mark measuring about 1.5 CM wide.

Internal Injuries:-

(i) Brain and head intact and pale.

(ii) Fracture of the neck joint.

(iii) Fracture of both shoulder joint.

(iv) Lung and heart pale and congested.

(v) Liver, Kidney spleen pale and congested.

(vi) Genitalia intact.

Cause of Death:- Asphyxia due to strangulation.

Time since death:- More than 48 hours.

This witness has identified his signature on the above post-mortem report, which is marked as Ext.-2.

14. On the other hand, defence has not adduced any oral or documentary evidence.

15. We have given thoughtful consideration to overall aspects of the case as testified by the prosecution witnesses during trial and also examined the evidence available on record.

16. From the aforesaid discussion of evidence, it emerges that there is no dispute that the deceased was married wife of present appellant. It is also admitted fact that on the date of occurrence, the deceased and the accused

had gone to market and dispute arose between them, to which, the accused started beating at the market place. Thereafter, he took his wife to railway quarter, where both of them used to reside, and there also the accused assaulted and strangulated the deceased. The death of the deceased was due to strangulation, which has been also proved by Dr. Ajay Kumar Bhagat (PW-12). There is no case of defence that the death of the deceased was caused due to cold as there is no any documentary evidence by defence showing any medical treatment of the deceased. It is also brought on record by the prosecution that initially a U.D. Case was registered by the accused. When the investigating officer started investigation on the U.D. case, it came in light by witnesses that the deceased was strangulated by the accused, which was ascertained by the post-mortem report of the deceased. Police received the post-mortem report of the deceased on 17.08.2013, thereafter, lodged written report against the accused. From the aforesaid proved foundational circumstances, reasonable inference about commission of murder of the deceased by the appellant can be drawn. Therefore, corresponding burden of prove shifts on the shoulder of accused to prove the facts specially within his knowledge under Section 106 of the Indian Evidence Act to explain the facts and circumstance under which the deceased died homicidal death in the railway quarter of the accused.

17. In his statement under Section 313 of the Cr.P.C. the accused has simply denied the occurrence and pleaded his innocence.

18. It is trite that provision of Section 106 of the Indian Evidence Act is not intended to relieve the prosecution of its burden to prove guilt of the accused beyond reasonable doubt, but it would apply to cases where the

prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding the existence of certain other facts, unless the accused by virtue of his special knowledge regarding such facts, failed to offer any explanation which might drive the Court to draw a different inference.

19. In the case of ***"State of Madhya Pradesh vs. 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 at paras 77, 80 & 81 as under:-

> ***"77.*** *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".*
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> ***80.*** *In Tulshiram Sahadu Suryawanshi v. State of Maharashtra [Tulshiram Sahadu Suryawanshi v. State of Maharashtra, (2012) 10 SCC 373 : (2013) 1 SCC (Cri) 193] , this Court observed as under: (SCC pp. 381-82, para 23)*
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> > *"23 [Ed.: Para 23 corrected vide Official Corrigendum No. F.3/Ed.B.J./58/2012 dated 9-10-2012.] . It is settled law that presumption of fact is a rule in law of evidence that a fact otherwise*

doubtful may be inferred from certain other proved facts. When inferring the existence of a fact from other set of proved facts, the court exercises a process of reasoning and reaches a logical conclusion as the most probable position. The above position is strengthened in view of Section 114 of the Evidence Act, 1872. It 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. We make it clear that this section is not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt, but it would apply to cases where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding the existence of certain other facts, unless the accused by virtue of his special knowledge regarding such facts, failed to offer any explanation which might drive the court to draw a different inference. It is useful to quote the following observation in State of W.B. v. Mir Mohammad Omar [State of W.B. v. Mir Mohammad Omar, (2000) 8 SCC 382 : 2000 SCC (Cri) 1516] : (SCC p. 393, para 38)

'38. Vivian Bose, J., had observed that Section 106 of the Evidence Act is designed to meet certain exceptional cases in which it would be impossible for the prosecution to establish certain facts which are particularly within the knowledge of the accused. In Shambu Nath Mehra v. State of Ajmer [Shambu Nath Mehra v. State of Ajmer, (1956) 1 SCC 337 : AIR 1956 SC 404] the learned Judge has stated the legal principle thus: (SCC OnLine SC para 9)

"9. This 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 facts which are "especially" within the knowledge of the accused and which he could prove without difficulty or inconvenience. The word "especially" stresses that. It means facts that are pre-eminently or exceptionally within his knowledge."'"

(emphasis supplied)

81. *In Trimukh Maroti Kirkan v. State of Maharashtra [Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681 : (2007) 1 SCC (Cri) 80] , this Court was considering a similar case of homicidal death in the confines*

of the house. The following observations are considered relevant in the facts of the present case: (SCC pp. 690-91 & 694, paras 14-15 & 22)

> *"14. 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, as noticed above, 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. (See Stirland v. Director of Public Prosecutions [Stirland v. Director of Public Prosecutions, 1944 AC 315 (HL)] — quoted with approval by Arijit Pasayat, J. in State of Punjab v. Karnail Singh [State of Punjab v. Karnail Singh, (2003) 11 SCC 271 : 2004 SCC (Cri) 135] .) 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 this section throws some light on the content and scope of this provision and it reads:*
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> *'(b) A is charged with travelling on a railway without ticket. The burden of proving that he had a ticket is on him.'*
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> *15. Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a comparatively lighter character. In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.*
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> * * *

> *22. 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."*
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> (emphasis supplied)

20. In view of the above principles of law and the factual aspects proved by prosecution and no reasonable explanation offered by defence, we don't find any error of law in the impugned judgment. There is no substance in the point of arguments raised on behalf of the appellant and no merits in this appeal. Therefore, the conviction and sentence passed by the learned Trial Court against the appellant is hereby confirmed and upheld.

21. Accordingly, this appeal is **dismissed**.

22. The appellant is in custody. Let a copy of this judgment be furnished forthwith to the appellant through the learned A.P.P.

23. Pending I.A.(s), if any, stands disposed of.

24. Let a copy of this judgment be sent to the concerned Trial Court for information and needful.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

High Court of Jharkhand at Ranchi
Date: 28/10/2026
Rahul/ ***N. A. F. R.***
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