HC-KAR

NC: 2026:KHC:62726-DB
CRL.A No. 2038 of 2019

CNR: KAHC010569122019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 2038 OF 2019 (C)

BETWEEN:

MANJUNATHA @ MANJA
S/O LATE MUNIRAJ,
AGED ABOUT 32 YEARS,
R/A NO.205, NEW BINNAMANGALA SLUM,
INDIRA NAGAR, BENGALURU-560 038.

...APPELLANT

(BY SRI. S.R. SREEPRASAD, ADVOCATE)

AND:

Digitally signed by LAKSHMI T
Location: High Court of Karnataka

STATE OF KARNATAKA
BY INDIRA NAGAR POLICE STATION,
BENGALURU-560 038.

REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
HIGH COURT BUILDINGS,
BANGALORE-560 001.

...RESPONDENT

(BY SRI. VIJAYKUMAR MAJAGE, SPP-II ALONG WITH
SRI. SUDHINDRA B.S., HCGP)

CNR: KAHC010569122019

THIS CRL.A. IS FILED U/S 374(2) OF CR.P.C., PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 28.11.2019 PASSED BY THE LX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU IN S.C.NO.727/2014 AND ACQUIT THE APPELLANT.

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 16.10.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE B.PRAMOD

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

This appeal is filed against the judgment of conviction and order of sentence dated 28.11.2019 passed in S.C.No.727/2014 by the LX Additional City Civil and Sessions Judge, Bengaluru, whereby the appellant/accused has been convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to undergo imprisonment for life and to pay a fine of Rs.25,000/-, in default, to undergo rigorous imprisonment for a period of six months.

2. The case of the prosecution is that the deceased, Smt. Shobha, was earlier married to one Marappa and had two daughters and a son from the said wedlock. Owing to certain differences, Marappa is stated to have left her company. Thereafter, the deceased developed a relationship with the appellant. The appellant, who used to consume alcohol, frequently quarrelled with the deceased. On 13.03.2014, at about 1.45 p.m., when the deceased was in her house situated at No.205, New Binnamangala Slum, Indiranagar, Bengaluru, the appellant picked up a quarrel with her and assaulted her with a knife, inflicting injuries on her chest. The deceased, immediately thereafter, came out of the house and went to the house of PW.1 – Jayamma, who is her aunt, holding her chest and bleeding. She informed PW.1 and the other persons present there, namely, PW.2 – Shyamala and PW.3 – Sumitra, that the appellant had stabbed her with a knife. When PW.1 to PW.3 proceeded towards the house of the deceased, they saw the appellant coming out of the

house with a knife, which he threw away before fleeing from the spot. The deceased was thereafter shifted to Bowring Hospital, Bengaluru, for treatment. However, she succumbed to the injuries at about 2.40 p.m. on the same day.

3. On the basis of the complaint lodged by PW.1, Indiranagar Police registered a case in Crime No.95/2014 for the offence punishable under Section 302 of IPC.Upon completion of investigation, charge sheet was filed against the appellant. The trial Court framed the charge for the offence punishable under Section 302 of IPC against the appellant to which he pleaded not guilty and claimed to be tried.

4. In order to establish its case, the prosecution examined 22 witnesses as PWs.1 to 22 and got marked Exs.P.1 to P.21, besides producing MOs.1 to 8. The prosecution examined, inter alia, PW.1 – the complainant, PWs.2 to 4 – the witnesses to the circumstances

surrounding the occurrence, the mahazar witnesses, the police officials who conducted the investigation and PW.19 – the medical officer who conducted the post-mortem examination. The post-mortem report was marked as Ex.P.18 and the forensic report as Ex.P.17.

5. Upon appreciation of the oral and documentary evidence, the Trial Court held that the death of Smt. Shobha was homicidal and that the prosecution had established the charge against the appellant beyond reasonable doubt. The Trial Court placed reliance, inter alia, on the testimony of PWs.1 to 3, the statement allegedly made by the deceased before them, the circumstances in which the appellant was stated to have come out of the house with a knife, the medical evidence, the seizure of material objects and the evidence relating to the plea of alibi. Holding that the act of the appellant attracted the offence punishable under Section 302 of IPC, the Trial Court convicted him and imposed the sentence as stated hereinabove.

6. Being aggrieved by the said judgment of conviction and order of sentence, the appellant has preferred the present appeal, challenging the findings recorded by the Trial Court and seeking interference with the conviction and sentence.

7. Learned counsel appearing for the appellant would contend that the judgment of conviction and order of sentence passed by the Trial Court are contrary to law, facts and circumstances of the case and are therefore liable to be set aside. It is submitted that the prosecution case rests entirely on circumstantial evidence and there is no eyewitness to the alleged incident. None of the prosecution witnesses has actually witnessed the appellant assaulting the deceased. PWs.1 to 4 are stated to have seen the appellant only after the occurrence, when he was allegedly coming out of the house and running away. Such evidence, by itself, is insufficient to establish that the appellant had caused the fatal injuries.

8. It is further contended that the evidence of PWs.1 to 3 is not free from material discrepancies and improvements. Their presence at the alleged place of occurrence is doubtful and their versions are not consistent with the statements recorded by the Investigating Officer during the course of investigation. The learned counsel would submit that PWs.1 to 3 are closely related to the deceased and are interested witnesses. Their evidence is not corroborated by independent witnesses. PW.4 has not supported the prosecution case, while PW.2 and PW.3 have only shifted the injured to the hospital in an autorickshaw. The other independent witnesses have also not supported the prosecution in material particulars. In such circumstances, the Trial Court was not justified in placing reliance upon the testimony of PWs.1 to 5 to record a conviction for the offence punishable under Section 302 of IPC.

9. Learned counsel would further contend that the alleged statement of the deceased before PWs.1 to 3

cannot be treated as a reliable dying declaration. The statement is not supported by any independent or contemporaneous record, and the versions attributed to the deceased are not free from contradictions. It is submitted that the Trial Court failed to properly consider the inconsistencies in the evidence of the witnesses and mechanically accepted the alleged statement as one admissible under Section 32 of the Indian Evidence Act. The mere fact that the deceased sustained injuries and subsequently succumbed to them would not, by itself, establish the identity of the assailant.

10. It is also contended that the medical evidence does not establish the prosecution case against the appellant. Though the post-mortem report indicates that the deceased died due to shock as a result of stab wounds, there is no medical evidence directly connecting the appellant with the infliction of those injuries. The learned counsel would submit that the medical evidence and the oral evidence have not been properly appreciated

together and that the Trial Court failed to consider the discrepancies arising between the prosecution version and the medical evidence.

11. Learned counsel would further submit that the appellant was not present at the scene of occurrence at the relevant time and that he had been admitted to a de-addiction center. The defence examined DWs.1 to 3 in support of the said plea. It is contended that the Trial Court failed to properly appreciate the defence evidence and the circumstances relied upon by the appellant. It is also urged that the first husband of the deceased, Marappa, used to visit her house, quarrel with her and threaten her with dire consequences, including taking her life. This circumstance, according to the learned counsel, was not properly considered by the Trial Court while evaluating the possibility of false implication and the alternative defence version.

12. It is further contended that the alleged recoveries have been created for the purpose of the case and that the prosecution has failed to establish the seizure of the material objects in a manner inspiring confidence. The evidence relating to the seizure mahazars and the material objects does not provide reliable corroboration to the prosecution version. The learned counsel would submit that the true genesis of the incident has been suppressed and that the Trial Court failed to take into consideration the material contradictions, omissions and improvements appearing in the evidence of the prosecution witnesses.

13. Lastly, it is submitted that even assuming, without admitting, that the appellant had caused the injuries sustained by the deceased, the evidence on record does not establish the requisite intention to commit murder so as to attract Section 302 of IPC. It is argued that, at the highest, the act may fall within the ambit of Section 304(1) of IPC. The learned counsel would therefore contend that the Trial Court has failed to

properly appreciate the evidence and the defence put forth by the appellant and that the findings recorded therein are unsustainable. Accordingly, it is prayed that the appeal be allowed, the judgment of conviction and order of sentence be set aside and the appellant be acquitted of the charge levelled against him.

14. Learned SPP-II, supporting the judgment of conviction, would contend that the Trial Court, upon proper appreciation of the oral and documentary evidence on record, has rightly held that the prosecution has established the guilt of the appellant beyond reasonable doubt. It is submitted that, though none of the witnesses had witnessed the actual act of stabbing, the evidence of PWs.1 to 3, particularly the statement made by the deceased immediately after sustaining injuries, coupled with the circumstances in which the appellant was seen coming out of the house holding a knife and fleeing from the spot, clearly establishes his involvement in the commission of the offence.

15. It is further contended that the statement made by the deceased before PWs.1 to 3, identifying the appellant as the person who had stabbed her, is admissible under Section 32 of the Indian Evidence Act. The said statement is consistent with the surrounding circumstances and finds corroboration in the medical evidence. The deceased had approached PW.1 immediately after the occurrence, holding her chest and in an injured condition, and there is no material to indicate that she had any reason to falsely implicate the appellant.

16. Learned SPP-II would further submit that the presence of PWs.1 to 3 at the relevant time is natural and their evidence cannot be discarded merely on the ground that they are related to the deceased. Their testimonies have to be appreciated in their entirety, and minor discrepancies or variations in their statements, particularly with regard to events occurring in the immediate aftermath of the incident, would not discredit the prosecution case. The material particulars regarding the

deceased having sustained injuries and having attributed the assault to the appellant remain consistent.

17. It is also submitted that the medical evidence lends assurance to the prosecution case. The post-mortem examination conducted by PW.19 and the report at Ex.P.18 establish that the deceased sustained multiple injuries, including stab injuries, and that her death was due to shock resulting from the stab wounds. The medical evidence, therefore, supports the prosecution version that the deceased had suffered a homicidal death. The seizure of the material objects, the evidence of the mahazar witnesses and the forensic report at Ex.P.17 are also relied upon as corroborative circumstances.

18. With regard to the defence plea of alibi, it is submitted that the appellant has failed to establish that he was admitted to the Yeshodha De-addiction and Rehabilitation Centre at the time of the incident. On the contrary, the evidence of PW.22, who was the Managing

Director of the said Centre, and the register produced at Ex.P.21 disclose that the appellant was not admitted to the Centre on the relevant date. The evidence of DWs.1 to 3, particularly their admissions in cross-examination that they had gone to the Centre only in the evening to secure admission for the appellant and that the Centre had refused admission, does not support the plea of alibi. The Trial Court has, therefore, rightly rejected the said defence.

19. It is further contended that the evidence on record, when considered cumulatively, establishes a consistent chain of circumstances pointing towards the guilt of the appellant. The conduct of the appellant in leaving the house with the knife and fleeing from the spot, immediately after the deceased emerged with bleeding injuries and disclosed the identity of her assailant, is a relevant circumstance which lends support to the prosecution case. The defence has not brought on record any material to probabilise the suggestion that the

deceased was assaulted by some other person or that the appellant has been falsely implicated.

20. Lastly, it is submitted that the nature and location of the injuries, particularly the stab injuries inflicted on the chest of the deceased with a knife, establish the intention or, in any event, the requisite knowledge on the part of the appellant. The act cannot be brought within either of the parts of Section 304 of IPC, as no circumstances warranting such alteration of the offence have been established. The Trial Court has, therefore, rightly convicted the appellant for the offence punishable under Section 302 of IPC and imposed the sentence of imprisonment for life. Accordingly, it is submitted that the appeal is devoid of merit and is liable to be dismissed.

21. We have heard the learned counsel appearing for the appellant, learned SPP-II along with High Court Government Pleader for the State and perused the material placed on record.

22. At the outset, there is no serious dispute with regard to the homicidal nature of the death of Smt. Shobha. The evidence of PW.19, who conducted the post-mortem examination, coupled with Ex.P.18 – the post-mortem report, establishes that the deceased had sustained several ante-mortem injuries. The external injuries included sutured wounds on the left side of the chest, a wound on the left side of the back of the chest, a punctured wound on the right upper chest and an incised wound over the left shoulder. The doctor has opined that the death was due to shock as a result of stab wounds sustained by the deceased. He has further opined that injuries Nos.1 to 8 were not self-inflicted. The evidence of PW.19, therefore, establishes that the death of the deceased was homicidal and not due to natural causes.

23. The fact that the death was homicidal, however, does not by itself establish the identity of the assailant. The prosecution is required to establish, by reliable evidence, that the appellant was responsible for causing

the injuries which resulted in the death of the deceased. In the present case, admittedly, none of the witnesses have witnessed the actual act of assault. The prosecution principally relies upon the evidence of PWs.1 to 3, the statement allegedly made by the deceased immediately after sustaining the injuries, the circumstance of the appellant being seen coming out of the house holding a knife and thereafter fleeing from the spot, apart from the medical and forensic evidence and the seizure of material objects.

24. PW.1 – Jayamma is the complainant and the aunt of the deceased. Her evidence discloses that on the relevant day, she was engaged in cloth-vending business and PWs.2 and 3 were also present. The deceased, after stating that she was going to the church, went inside her house. After about fifteen minutes, she came out crying, holding her chest, with blood oozing from the injury. She informed PW.1 that the appellant had stabbed her with a knife. PW.1 has further stated that PWs.2 and 3 held the

injured and, by that time, the appellant came out of the house holding a knife. On seeing them, he threw the knife and ran away. She has also spoken about the deceased being shifted to Bowring Hospital and lodging the complaint at Ex.P.1.

25. The evidence of PW.2 – Shyamala, who is the sister of the deceased, is substantially in consonance with the version of PW.1. She has stated that the deceased came out of the house holding her left chest and informed them that the appellant had stabbed her. She has further stated that she saw the appellant holding a knife and that, on seeing them, he threw the knife and ran away. PW.3 – Sumitra has also spoken about the deceased emerging from the house with injuries and attributing the assault to the appellant. She has further supported the circumstance of the appellant fleeing from the spot after throwing the knife.

26. It is true that PWs.1 to 3 are related to the deceased. However, relationship by itself is not a ground to discard their testimony. The evidence of a related witness requires careful scrutiny, particularly when the prosecution case rests substantially upon such evidence. The relevant consideration is whether the witness was naturally present, whether the testimony is consistent on material particulars and whether there is any circumstance indicating that the witness had reason to falsely implicate the accused.

27. In the present case, the evidence of PWs.1 to 3 discloses that they were present in the vicinity of the house of the deceased and that the deceased approached them immediately after sustaining the injuries. Their presence is also supported to an extent by the evidence of PW.4 – Srinivas @ Seenee and PW.6 – Chandru, who have spoken about the deceased falling near the road and being shifted to the hospital by PWs.2 and 3 in an autorickshaw. Though PWs.4 and 6 have not supported the prosecution

in its entirety, their evidence lends assurance to the circumstance that the deceased emerged from the house with injuries and was immediately taken to the hospital.

28. The fact that PWs.1 to 3 are related to the deceased does not render their evidence inherently unreliable. Their relationship with the deceased also explains their presence at the relevant place. The defence has suggested that the first husband of the deceased, Marappa, used to visit the house, quarrel with the deceased and threaten her with dire consequences. PW.1 has denied the said suggestion. Except for putting such suggestions, the defence has not brought any material on record to establish that Marappa had any role in the occurrence or that PWs.1 to 3 had any reason to falsely implicate the appellant. The possibility suggested by the defence, without supporting material, cannot displace otherwise credible evidence.

29. The principal circumstance emerging from the evidence of PWs.1 to 3 is the statement allegedly made by the deceased immediately after she came out of the house with bleeding injuries. The statement, as noticed by the Trial Court, was to the effect that Manja had stabbed her with a knife below the left side of her chest. The said statement is relevant under Section 32(1) of the Indian Evidence Act, 1872, as it relates to the cause of the death of the deceased and the circumstances of the transaction which resulted in her death.

30. It is well settled that a dying declaration need not necessarily be recorded by a Magistrate or reduced into writing. An oral dying declaration can form the basis of conviction if the Court is satisfied that it was made voluntarily, that the maker was in a fit state of mind and that the statement is otherwise trustworthy. The absence of a formal recording of the statement is not, by itself, fatal to its admissibility or evidentiary value.

31. In the present case, the deceased is stated to have emerged from the house, approached PW.1 and, in the presence of PWs.2 and 3, identified the appellant as the person who had stabbed her. The statement was made immediately after the occurrence and before the deceased was shifted to the hospital. PW.4 and PW.6 have stated that the deceased was conscious when she was taken to the hospital and remained conscious during the journey. There is no material on record to indicate that the deceased was incapable of speaking or that she was not in a fit condition to make the statement at the relevant time.

32. The fact that the deceased had sustained serious injuries does not necessarily mean that she was incapable of making a statement. The surrounding circumstances, including the fact that she came out of the house, approached PW.1 and communicated the identity of her assailant, support the version of PWs.1 to 3. The statement is also consistent with the injuries found on the body of the deceased and the circumstance of the

appellant being seen coming out of the house holding a knife. We find no material circumstance on record to suggest that the deceased had any reason to falsely implicate the appellant at that critical juncture.

33. The Trial Court has also observed that the accused had not disputed the mental condition of the deceased while considering the alleged dying declaration. We are of the view that the evidentiary value of a dying declaration cannot be founded merely on the absence of a specific denial by the accused. The Court is required to independently satisfy itself about the fitness of the maker and the reliability of the statement. In the present case, however, such satisfaction is available from the evidence of PWs.1 to 4 and 6, particularly the evidence that the deceased was conscious and was able to communicate immediately after the occurrence. The alleged oral dying declaration, therefore, cannot be discarded merely because it was not formally recorded.

34. Another circumstance relied upon by the prosecution is that the appellant was seen coming out of the house holding a knife and, on seeing PWs.1 to 3, threw it away and fled from the spot. This circumstance assumes significance when considered along with the statement made by the deceased immediately after sustaining the injuries. The deceased had attributed the assault to the appellant, and almost contemporaneously, PWs.1 to 3 saw the appellant emerging from the very house where the deceased had sustained the injuries, holding a knife. The appellant's conduct in throwing the knife and running away from the spot is a relevant circumstance which lends assurance to the prosecution version.

35. The Trial Court has considered the circumstance of the appellant and the deceased having been last seen together. Strictly speaking, the principle of last seen together is not the most appropriate description of the evidence in the present case, since PWs.1 to 3 did not

speak of having seen the appellant and the deceased together immediately before the assault. Their evidence is that the deceased came out of the house after sustaining injuries and that the appellant emerged thereafter holding a knife. Therefore, the finding of the Trial Court in that regard requires to be understood in the context of the actual evidence. Nevertheless, the prosecution case does not rest merely upon the theory of last seen together. The immediate oral statement of the deceased identifying the appellant, the circumstance of the appellant emerging from the house with a knife and fleeing from the spot, and the medical evidence, when considered cumulatively, constitute the relevant circumstances connecting the appellant with the occurrence.

36. The medical evidence further lends support to the prosecution case. As noticed above, PW.19 found multiple injuries on the body of the deceased. Injuries Nos.2 to 4 were sutured wounds on the left side of the chest and back of the chest. The doctor has opined that

force was used in causing these injuries and that, except injuries Nos.1, 6 and 7, the other injuries could be caused by MO.1 – knife. He has further opined that injuries Nos.1, 6 and 7 could have been caused in a scuffle or by a hard and blunt object. Thus, the medical evidence is consistent with the prosecution version that the deceased had been subjected to a forceful assault involving a sharp-edged weapon. The medical evidence does not contradict the ocular circumstances spoken to by PWs.1 to 3.

37. The forensic report at Ex.P.17 is also a relevant circumstance. The articles sent for examination included mud, one knife, one baniyan, one nicker, the clothes worn by the deceased and other articles. The report records the presecnce of human blood on the articles examined and identifies the blood group as 'O'. The report, therefore, lends corroboration to the circumstance that the knife and the clothes sent for examination bore human blood. Though the report, by itself, does not identify the source of the blood as that of the deceased, it has to be

considered along with the oral and medical evidence and cannot be viewed in isolation.

38. The evidence relating to the seizure of MO.1 – knife and MO.2 – bloodstained mud is spoken to by PWs.14 and 15, who are the mahazar witnesses to Ex.P.2. They have stated that the police took them to the house of the deceased, where they noticed bloodstains on the wall and floor and that the police seized the knife and bloodstained mud under the mahazar. Their evidence supports the seizure of the material objects from the scene of occurrence. PW.20, the first Investigating Officer, has also spoken about conducting the spot mahazar and seizure of MO.1 and MO.2.

39. It is true that the evidence of PWs.1 to 3 is that the appellant threw the knife before fleeing from the spot, whereas the evidence of PWs.14 and 15 is that the police subsequently seized the knife from inside the house during the spot mahazar. The precise place where the knife was

found and the manner in which it was seized have to be appreciated in the context of the entire evidence. The fact that the knife was not recovered pursuant to any disclosure statement of the appellant does not, by itself, render the seizure inadmissible or unreliable. The seizure is supported by the mahazar witnesses and the Investigating Officer. Further, the identity of the knife as the weapon allegedly used in the assault is spoken to by the witnesses, and the forensic report records the presence of human blood on it. The said circumstance, therefore, provides corroboration to the prosecution case.

40. The evidence relating to the seizure of the appellant's clothes under Ex.P.8 also requires consideration. PWs.7 and 8 have spoken about the seizure of the T-shirt and nicker, though their evidence indicates that the police showed the clothes to them at the police station. The Trial Court has noticed that these witnesses partly turned hostile. The Investigating Officer has stated that the appellant led the police to his house and produced

the clothes. The evidentiary value of this recovery is, therefore, not as strong as the prosecution would seek to make it appear. Nevertheless, the forensic report records human blood of group 'O' on the clothes sent for examination. This circumstance can be taken into consideration as corroborative material.

41. The appellant has also raised a plea of alibi, contending that he was admitted to the Yeshodha De-addiction and Rehabilitation Centre at the relevant time. In support of the said plea, the defence examined DWs.1 to 3. The Trial Court has considered their evidence and found that, during cross-examination, they admitted that they had gone to the Centre along with the mother of the appellant only at about 4.30 p.m. to 5.00 p.m. to secure admission for him and that the Centre had refused admission as the appellant had consumed alcohol.

42. The evidence of PW.22, the Managing Director of the said Centre, assumes significance in this regard. He

has stated that the appellant had been admitted to the Centre on 21.05.2013 and was discharged on 21.07.2013. He has further stated that during 2014 the appellant came to the Centre along with three women and his brother for the purpose of admission. However, as the appellant had consumed alcohol and had not brought the admission fee, he was not admitted to the Centre. He was advised to approach a Government hospital and waited in the visiting hall for some time. PW.22 has produced the register at Ex.P.21 and stated that the appellant was not admitted to the Centre during the year 2014.

43. The evidence of DWs.1 to 3, when considered in the light of their admissions in cross-examination and the evidence of PW.22 supported by Ex.P.21, does not establish that the appellant was admitted to the Centre at the time of the occurrence. On the contrary, the defence evidence indicates that the appellant and the persons accompanying him had approached the Centre only in the

evening to secure admission. The plea of alibi, therefore, has not been established.

44. The defence has also suggested that the first husband of the deceased, Marappa, had threatened the deceased and was responsible for the occurrence. However, no material has been brought on record to substantiate the said suggestion. The mere fact that there were differences between the deceased and her first husband, or that he had allegedly threatened her, cannot be treated as proof that he committed the offence. In the absence of any supporting evidence, the said suggestion does not create a reasonable doubt in the prosecution case, particularly when the deceased herself is stated to have identified the appellant as her assailant immediately after the occurrence.

45. The appellant has further contended that the witnesses have made material improvements and that the Trial Court failed to consider the contradictions between

their testimony before the Court and their earlier statements recorded by the police. We have considered the said contention. It is true that the Trial Court has described certain discrepancies as minor and has not discussed each alleged contradiction separately. However, every variation in the testimony of a witness would not necessarily affect the credibility of the prosecution case. What is required to be examined is whether the discrepancy relates to a material circumstance bearing upon the identity of the assailant or the manner of occurrence.

46. In the present case, the core version of PWs.1 to 3, namely, that the deceased came out of the house with bleeding injuries, identified the appellant as the person who had stabbed her and that the appellant emerged from the house holding a knife and fled from the spot, remains consistent. The evidence of PWs.4 and 6 lends support to the circumstance that the deceased was found injured immediately thereafter and was taken to the

hospital. The discrepancies referred to by the defence do not, on the material placed before us, discredit the central part of the prosecution version.

47. It is also contended that the prosecution has not examined independent witnesses who could have spoken about the actual occurrence. As already noticed, there is no eyewitness to the act of stabbing. However, the absence of an eyewitness is not fatal if the prosecution establishes its case through reliable circumstantial evidence. In the present case, the evidence of PWs.1 to 3 is not confined to the mere fact that the deceased was found injured. They have also spoken about the statement made by the deceased identifying the appellant and the circumstance of the appellant emerging from the house with a knife and fleeing from the spot. Their evidence is supported by the medical evidence and the surrounding circumstances. The evidence of the hostile witnesses, to the extent it supports the factum of the deceased having

sustained injuries and being shifted to the hospital, can also be taken into consideration.

48. On an overall consideration of the evidence, we find that the circumstances established by the prosecution are not isolated or disconnected circumstances. The deceased was inside the house shortly before the occurrence. Within a short time, she emerged with bleeding injuries and immediately attributed the assault to the appellant. PWs.1 to 3 saw the appellant coming out of the same house holding a knife and fleeing after throwing it. The medical evidence establishes that the deceased sustained multiple ante-mortem stab injuries and died due to shock resulting from those injuries. The forensic report records the presence of human blood on the knife and other articles seized during investigation. The plea that the appellant was admitted to the de-addiction center at the relevant time has not been established.

49. These circumstances, when considered cumulatively, lend assurance to the prosecution case and establish a close and proximate connection between the appellant and the homicidal death of the deceased. The possibility of the occurrence having been caused by some other person is not supported by any material on record. We are, therefore, of the view that the prosecution has established beyond reasonable doubt that the appellant was responsible for causing the fatal injuries to the deceased.

50. The next question is whether the offence established against the appellant would fall under Section 302 of IPC or whether the act would attract either of the parts of Section 304 of IPC, as contended by the learned counsel for the appellant.

51. The nature of the weapon used, the location of the injuries and the manner in which the assault was carried out are relevant considerations. The deceased

sustained several injuries, including multiple stab wounds on the chest and back of the chest. The medical evidence indicates that force was used in causing injuries Nos.2 to 4. The injuries were not confined to a single superficial wound. The use of a knife to inflict repeated injuries on vital parts of the body, particularly the chest, demonstrates the intention to cause bodily injuries of such nature as are likely to result in death.

52. There is no material on record to establish that the occurrence took place in circumstances attracting any of the exceptions to Section 300 of IPC. Though the evidence indicates that the appellant and the deceased used to quarrel, particularly when the appellant consumed alcohol, there is no satisfactory material to establish that the fatal assault was committed in the course of a sudden fight, without premeditation, in the heat of passion and without the appellant having taken undue advantage or acted in a cruel or unusual manner. The mere fact that the parties were involved in frequent quarrels would not, by

itself, bring the case within Exception 4 to Section 300 of IPC. We are, therefore, unable to accept the submission that the offence should be altered to one punishable under Section 304(1) of IPC.

53. For the foregoing reasons, we find that the Trial Court, on an appreciation of the evidence on record, has rightly concluded that the prosecution has established the charge against the appellant/accused. We find no reason to interfere with the judgment of conviction and order of sentence passed by the Trial Court.

54. Accordingly, the appeal is ***dismissed.***

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

HB
List No.: 1 Sl No.: 1