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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

RESERVED ON: 23rd September, 2026.
DATE OF DECISION: 28th October, 2026.
UPLOADED ON : 29th October, 2026.

\# **CNR No. DLHC010581872024**

\+ **CRL.A. 837/2024 & CRL.M.(BAIL) 73/2026**

JAG PRASAD .....Appellant

Through: Mr. Kanhaiya Singhal, Mr. Prasanna, Mr. Ajay Kumar, Ms. Avantika Shankar, Mr. Mehul Gupta, Mr. Yash Arora, Mr. Naval Goel, Mr. Sarthak Gupta, Ms. Amrita Kumari, Ms. Nivedita Tiwari, Ms. Isha Singh & Mr. Pradeep Yadav, Advs. (M: 9810066150)

versus

STATE (NCT OF DELHI) .....Respondent

Through: Mr. Ritesh Kumar Bahri, APP with Mr. Lalit Luthra & Mr. Rajender Pal, Advs. for State (M: 9910645959)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DINESH BHATT

JUDGMENT

DINESH BHATT, J.

1. This hearing has been done through hybrid mode.

2. The present appeal arises out of the impugned judgment dated 3rd June, 2024 and the order on sentence dated 31st July, 2024.

3. The Appellant has been convicted under Section 302 of Indian Penal Code, 1908 (*hereinafter called as IPC*) and has been sentenced in the following terms:-

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> *"Keeping in view the above-mentioned facts and circumstances, the convict Jag Prasad is hereby sentenced to undergo rigorous imprisonment for life and to pay a fine Rs. 10,000/- for offence punishable u/s 302 of IPC. In default of payment of fine amount, the convict shall undergo further simple imprisonment for a period of three months. The benefit of Section 428 Cr.P.C. shall also be conferred upon the convict. Fine not deposited on behalf of convict.*
>
> *In view of inadequate capacity of convict, it is hereby recommended that compensation be provided to the parents of deceased and children of deceased out of the Victim Compensation Fund by the Office of DLSA, North-east, KKD, Delhi. Out of the entire fine amount, Rs. 5,000/- shall be given to the LRs of deceased i.e. children of deceased namely Master Yash, aged 9 years and Master Raj, aged 10 years as compensation and Rs. 5,000/- shall be given to the State, as and when same is deposited."*

4. As per the record, the incident occurred on 02nd October, 2016 when DD No. 26D (DP 209) was recorded that the victim lady of 24 years of age had hanged herself (*faansi laga li hai*). At the relevant point of time, the statements of the brother, father and mother of the victim were recorded by the Ld. SDM. None of the family members of the deceased raised any complaint that any demand of dowry was being made from them. In fact, the statement of all family members was that the marriage was a happy marriage with the Appellant.

5. After medical examination of the deceased, post-mortem was carried out, where it was reported that the cause of death of deceased was ligature

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strangulation and not hanging. Thus, the case which was initially reported as a suicide, after obtaining the post-mortem report, was converted and registered under Section 302 IPC. The accused was arrested and further investigation was carried out. Prosecution thereafter sought subsequent opinion regarding the ligature material which was found on the spot which accused had disclosed was used by the deceased for hanging herself. The expert (doctor) opined that the injuries found on the neck of the deceased were possible by the said ligature material, i.e. *saree* produced by investigator for opinion. On further investigation accused in his disclosure statement had mentioned that on the day and time of the incident in question when he had returned for his lunch he found his wife with another man in an objectionable situation and on seeing him, the other man ran away. He was angry and, in his anger, he hit deceased's head on the wall which rendered her unconscious, he thereafter strangulated her with a nylon rope and threw the rope in a drain. Thereafter, he made it appear like a hanging case and that he had cut the hanging material (*saree*) and brought down the deceased and thereafter informed the police. In consequence of the disclosure, police stated that they tried to search for the said nylon rope but the same could not be recovered. Further investigation was carried out and after completion of the investigation charge sheet was filed. The case was thereafter committed and was tried before the Court of Additional Session Judge, where charge under Section 302 IPC was framed, accused pleaded not guilty and claimed trial.

6. The prosecution examined 28 witnesses. The statement of the accused was recorded under Section 313 Cr.P.C/ Section 351 BNSS wherein he stated that he was shocked and shattered upon finding his wife hanging from the ceiling fan he cut the *saree* and took her down and maintained that the

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deceased has committed suicide. He denied the allegations of having murdered his wife and asserted that the present case was one of suicide. However, the accused did not lead any evidence in his defence. Upon appreciation of the evidence on record, the Ld. Trial Court came to a conclusion that the Accused/Appellant was guilty of murder of his wife (deceased).

7. Mr. Kanhaiya Singhal, ld. counsel appearing for the Appellant/accused has relied upon Ex. PW1/C and PW3/C (DP-347) to show that there was no demand of dowry. In fact, the Appellant was working on the said date and had gone home from his place of work to have lunch when he noticed that his wife had committed suicide and he had immediately called his employer around 1:30 pm itself. The summary of the incident is recorded in DP 349 and DP 447. Various witnesses who had appeared including the brother PW1 who does not make any such allegation of mental harassment or dowry demand. PW7 and PW11, the two employers, i.e., PW7 Shri Shiva Kant Pandey states clearly that the Appellant had gone for lunch around 1:00 pm and had not returned. PW11 states that the Appellant had made a call at 1:32 pm that his wife has committed suicide. The neighbours PW13, PW14 and PW16, in fact, did not support the case of the prosecution. It is his submission that the, post-mortem report also states clearly that the death was due to Asphyxia caused by strangulation, however, the doctor has not given any opinion as to whether this is a case of suicide or homicide.

8. Reliance is also placed upon the testimony of PW6, who is the IO who reached at the spot DP-253 and he states that he saw the lady hanging from the ceiling fan and she was brought down. Jag Prasad also states that he had seen the victim hanging from the fan.

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9. It is his submission that the evidence in the present case does not support the case for conviction as there is no demand of dowry. The Appellant and the victim were blessed with two children who were two years and one year of age. The date of marriage being 21st May, 2011 and within a period of five years, the death took place.

10. Considering the age of the children and the fact that all the family members of the victim had made initially a statement that no demand of dowry existed, there was no motive for the Appellant to cause the death of his wife.

11. Mr. Bahri, ld. Counsel for Respondent on the other hand has relied upon the testimony of PW7, 10, 11, 16, 24, 26 and 27. According to him, the admitted facts are that the Appellant has misled the police. He made a call to Mr. Ajay Mishra, PW11, at 1:30 pm but he, thereafter, made the call to the police only for the first time almost one hour later which shows his unnatural conduct. Mr. Bahri, ld. Counsel has argued that in the statement under Section 313, various facts have been admitted by the Appellant who is the accused and hence these facts need not be proved by the prosecution.

12. Reliance is placed upon the following questions put to the Appellant under Section 313. Questions 1, 18, 19, 23, 24, 25, 31, 35, 42, 44, 54, 73. In all these answers, the facts that have emerged is that the Appellant was living with his wife in the same premises. He initially in answer to question No.3, states that the PW6 had found the deceased hanging. Whereas in answer to question 35 he states that the body was lying on the floor. These are contradictory stands taken by the appellant. In answer to question 74, he alleges that the mother-in-law had sought rupees 10 lakhs after the death of the victim and due to non-payment of the same, he has been falsely implicated.

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13. Mr. Bahri, Ld. Counsel relies upon the post-mortem report Ex. PW-24/A to argue that the death is through strangulation. The height and weight of the victim is relied upon to argue that no dent has been caused on the fan, if she had hung herself, there ought to have been some dent on the fan. The crime scene itself would show that there is no possibility of the victim having hung herself using a stool considering the location of the fan and the height of the room as also the height and weight of the victim. PW10, the mother has given the motive that the Appellant has had an extramarital affair. The Appellant has misrepresented to the police repeatedly. In the subsequent opinion which was sought, there was a possibility of death due to two pieces of the *saree*, however, it is still not clear that it is not due to strangulation. When a post-mortem report says strangulation on the basis of the circumstantial evidence, it ought to be clearly inferred that the appellant is guilty. Trial Court judgment paragraphs 18, 19, 23 are relied upon to show the analysis made by the trial court to establish the guilt of the accused.

14. In rejoinder submissions, Mr. Singhal, ld. Counsel submits that the subsequent opinion which has been sought clearly shows that there was possibility of death by hanging. The seizure memo PW-23/P1 and the seizure memo of the saree pieces and the steel drum Ex.PW-23/E shows the relevant evidence. Finally, it is concluded by Mr. Singhal that there is no injury on the victim. Even the nail clippings which were taken, there is no DNA matching with the appellant (Report Ex.PW-23/C). Thus, there is lack of any forensic evidence to show that the appellant was guilty.

15. Ld. Counsel for the Appellant had vehemently argued that the case in question was a case of suicide but was wrongly converted into a case of murder. He had also stated that there were police witnesses i.e., PW6 and

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PW11, who had themselves mentioned that they had seen one lady hanging from the ceiling fan, she was taken down after cutting the printed *chuni*, he had inspected the dead body, prior to cutting of *chuni* and photographer had taken 12 photographs.

16. This argument however does not seem to be substantiated from the record and seems to be inadvertent factual mistake made by the witnesses PW6 and PW11. This is clear from the statement of other witnesses and documents filed on record. This witness i.e. PW6 was accompanied by the photographer PW9, who had mentioned that he along with the crime team and SI Jagbir Singh PW6 had reached the spot, where SI Abodh (PW 27) along with other police officials were present at the spot, they had noticed one female dead body lying on the floor of the room, two parts of *chuni* were also lying near the dead body, one pair of scissors was also lying, on instructions, he had he had taken 12 photographs of the dead body and the room where dead body and household articles were lying. He identified the 11 photographs, ex. PW9/A1 to ex.PW 9/A11 of the spot and clarified that the 12th photograph was not related to the incident in question. The said 11 photographs are clear which show that the dead body and other articles were lying on the floor, there is no photograph showing the body hanging from the fan. Other witnesses who had reached prior to PW6 is PW27 SI Abodh Sharma, who categorically mentioned that after the information was received through phone and recorded as DD, Ex. PW 5/A it was assigned to him by the duty officer to take action in the matter, he had gone to the spot along with constable Pawan and found one female dead body was lying on the floor, PCR officials were also present, husband (accused) of deceased was also present on this spot who had made call at 100 number and the caller had told that his

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wife had committed suicide and he had taken her body down from the fan. He informed about the incident to senior police officers as well as crime team and thereafter PW6 along with photographer PW9 had come to the spot. This fact is further corroborated from the Delhi police control room report wherein the caller on 2nd October, 2016 at 14:32:13, had informed that his wife had committed suicide.

The said report reads as under:-

> *" 02/10/2016 14:56:36 RCD MNT ---- KIRAN W/O JAG PRASAD AGE 24 YRS R/O H. NO. 5, GALI NO. 4 SHAHID BHAGAT SINGH COLONY NE SAARI FAN SE BAANDHKAR FANSHI LAGAI HAI' GHARWALO NE NEECHE UTAAR RAKHI HAI. PATI MAUKE PAR HAI. FAANSI LAGANE KA KOI KARAN NAHI BATA RAHA HAI. KOI SUICIDE NOTE NAHI MILA HAI. GHAR PAR DO BACHCHE AUR LADY AKELI THI PATI KAAM PAR GAYA THA. JO KARIB 12:45 HRS PAR AAKER DEKHA LADY FAN SE LATKI MILI THI. ISNE LADY KO NEECHE UTAR LIYA THA. MAUKE PAR DEAD HAI. WLP 02/10/2016 16:05:22 SI ABODH PS KARAWAL NAGAR"*

17. This report was also entered as DD no. 26B/ Ex 5/A. In any case, it is also not the defence of the accused that he had not removed the body from the fan. In fact, his defence right from the beginning and reiterated in answers to question nos. 21 of his statements under Section 313 Cr.P.C/ 351 BNSS was, as under:

> "……. *In fact, my wife was hanging from the ceiling fan and as soon as I found her, I cut the saree with the help of the scissor and brought her body down and then informed people around me."*

18. There thus appears to be no doubt that in fact accused was the first

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person who had seen the deceased and had reported that he had found her hanging from the ceiling fan and he had taken down the body himself and only thereafter informed the police. It is also not disputed that the accused had gone for his work at about 6:00 am in the morning and had returned to his house during lunch hour at about 1:00 pm where he states that he found the deceased hanging from the ceiling fan and had committed suicide. It is also an admitted case that he had informed the police on 100 about alleged the alleged suicide committed by his wife, though prosecution has also taken his voice samples and also corroborated about his voice but this fact was never disputed by the accused and his consistent stand is that he had himself first informed the police about the suicide of his wife.

19. There was however a twist in the investigation of the case after the post-mortem report Ex. PW24/A was received wherein the doctor had opined that the injuries which showed horizontal ligature marks on the neck, seemed to be more consistent with case of strangulation and he had specifically mentioned the cause of death to be ligature strangulation. This witness PW24 was not cross examined on the issue of cause of death by asphyxia as a result of ante mortem ligature strangulation. In cross examination by the ld. Counsel for the Accused/Appellant, this witness further clarified that he had found internal injuries over brain and scalp tissue and those injuries were ante mortem recent injuries that is within 12 to 24 hours and no mark of struggle or assault was noticed over the body.

20. The Ld. Trial Court has also elaborately dealt on this issue and has noted in great detail in paragraph 28 quoting texts from Modi's medical jurisprudence 25th Edition, about the differences between hanging and strangulation and as given by the Supreme Court in ***Javed Abdul Rajjaq***

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Shaikh v. State of Maharashtra (2019) 10 SCC 778.

> *"**28.** The differences between hanging and strangulation have been highlighted by Modi on Medical Jurisprudence and Toxicology, 25th Edn., as follows:"*

	Hanging		*Strangulation*
1.	Most suicidal.	*1.*	Mostly homicidal.
2.	Face—Usual pale and petechiae rare.	*2.*	Face—Congested, livid and marked with petechiae.
3.	Saliva—Dribbling out of mouth down on the chin and chest.	*3.*	Saliva—No such dribbling.
4.	Neck—Stretched and elongated in fresh bodies.	*4.*	Neck—Not so.
5.	External signs of asphyxia usually not well marked.	*5.*	External signs of asphyxia, very well marked (minimal if death due to vasovagal and carotid sinus effect).
6.	Ligature mark—Oblique, non-continuous placed high up in the neck between the chin and the larynx, the base of the groove or furrow being hard, yellow and parchment-like.	*6.*	Ligature mark—Horizontal or transverse continuous, round the neck, low down in the neck below the thyroid, the base of the groove or furrow being soft and reddish.
7.	Abrasions and ecchymoses round about the edges of the ligature mark, rare.	*7.*	Abrasions and ecchymoses round about the edges of the ligature mark, common.
8.	Subcutaneous tissues Under the mark—White, hard and glistening.	*8.*	Subcutaneous tissues under the mark—Ecchymosed.
9.	Injury to the muscles of neck—Rare.	*9.*	Injury to the muscles of the neck—Common.
10.	Carotid arteries, internal coats ruptured in	*10.*	Carotid arteries, internal coats ordinarily ruptured.
11.	Fracture of the larynx and trachea—Very rare and may be found that too in judicial hanging.	*11.*	Fracture of the larynx, trachea and hyoid bone.
12.	Fracture—dislocation of the cervical vertebrae—Common in judicial hanging.	*12.*	Fracture—dislocation of the the cervical vertebrae—Rare.
13.	Scratches, abrasions and bruises on the face, neck and other parts of the body—Usually not present.	*13.*	Scratches, abrasions fingernail marks and bruises on the face, neck and other parts of the body—Usually present.
14.	No evidence of sexual assault.	*14.*	No evidence of sexual assault.
15.	Emphysematous bullae on surface of the lungs—Not present.	*15.*	Emphysematous bullae on the surface of the lungs — May be present.

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21. The ld. Trial court in paragraph 12 of the impugned judgment has made reference to the post-mortem report Ex. PW24/A of the deceased, as provided under: -

> *"…..seen in the light of the above-said literature contained in Modi's Medical Jurisprudence as discussed in the above judgment of the Hon'ble Supreme Court, following characteristics of death due to strangulation are mentioned in the post-mortem report Ex. PW24/A and they clearly point towards the fact that the cause of death in the present case was ligature strangulation and not hanging (i.e. it was not a case of suicide by hanging as claimed by accused).*
> *In the said report Ex. PW 24/A:-*
>
> 1. *There is no mention of dribbling of saliva.*
> 2. *As per the general observation noted in the PM report, the face of the deceased was congested and there is subconjunctival hemorrhage in both eyes.*
> 3. *The ligature mark was complete and horizontal around the neck over thyroid cartilage.*
> 4. *There is no finding of stretching of neck, which is must in the case of suicide by hanging. Rather, it is reported that there was injury to the muscles of neck in the form of bruising of bilateral carotid sheath and neck muscles present with extravasation in surrounding tissues.*
> 5. *Apart from the ligature mark, injury on the scalp is also reported in the form of extravasation over bilateral occipital and right parietal region."*

22. Further reference to the post-mortem report is important wherein injuries on the neck have been mentioned.

> **General observations and details of external injuries.**
>
> ***"(A) General observation:*** *Dead body of an adult*

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female wrapped in white plastic cover and mearing black blouse, cream saree with the multicolour prints and light blue colour petty coat. Eyes closed, mouth partially open. Red sacred thread around neck. Red beaded mala around neck. Face congested. subconjunctival hemorrhage in both eyes. Rigor mortise passed off. Marbling over both arms anteriorly and front of chest. Greenish discolouration over body at places. Ligature material not present around neck.

(B) Details of External injuries

Reddish abraded ligature mark is present completely and horizontally around neck over thyroid cartilage. In midline ligature mark is 1.0 cm wide and 6.2 cm below chin. Mark goes horizontally backwards on right side and is 1.0 cm wide and 4.8 cm below right angle of mandible. Mark goes further backwards horizontally and is 1.0cm wide and 6.0 cm below mastoid. Further posteriorly mark is 1.0cm wide and 8.0cm below occipital protuberance over midline back of neck. Mark goes horizontally forwards on left side and is 1.2 cm wide and 5.5cm below left mastoid. Mark goes forwards and is 0.8 wide and 4.7 cm below left angle of mandible and further meets in midline neck circumference is 33.0 cm.

(C) Internal examination of Head and Neck

Scalp: Extravasation over bilateral occipital and right parietal region.
Skull: NAD 1210 gm, congested
Brain: Subarachnoid hemorrhage over bilateral occipital region.
Neck: Bruising of bilateral carotid sheath and neck muscles present with extravasation in surrounding tissues."

23. The injuries clearly show that the ligature marks were going horizontally backwards, were complete and not vertical. It was well-defined

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and slightly depressed mark corresponding roughly to the breadth of the ligature, situated low down in the neck below the thyroid cartilage and encircling the neck horizontally and completely. The same is in contrast to ligature mark of hanging which would normally be incomplete and present higher on the neck. The report assumes greater importance as the opinion given by the doctor was not challenged by the accused and no question on this being either a wrong opinion or possibility of similar injuries in hanging have been put to the witness. In light of this, there is no infirmity in the finding of the Ld. Trial Court that the case in question was a case of strangulation and not hanging.

24. Learned counsel for the Appellant argued that even if it is presumed that that the present case was of strangulation and not hanging, there is no opinion of the expert (doctor) as to whether the said death was a homicide or a suicide. For this purpose, Modi's Medical Jurisprudence and Toxicology 25th Edition (*Supra*) defines "*strangulation as the compression of the neck by a force other than hanging. Weight of the body has nothing to do with strangulation*". "*Ligature strangulation is a violent form of death, which results from constricting the neck by means of a ligature or by any other means without suspending the body*." It is also mentioned that if the windpipe is compressed so suddenly as to occlude the passage of air altogether, the individual is rendered powerless to call for assistance, becomes insensible, and may die instantly. It is also medically well recognized that voluntary strangulation is very rare as if the body is made to struggle for air using voluntary power, reflex action immediately starts and it is difficult for the individual to continue with the said process of strangulation by oneself. Therefore, hanging or other processes which once started proceed further

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involuntarily are mostly found in cases of suicide.

25. The injuries which were found as external injuries mentioned in the post-mortem report and the internal injuries show that the ligature mark was about 1.0 cm wide from the front as well as from left and right side of the neck and extending almost completely on the back but ligature mark was about 1.2 cm wide below the left mastoid and while going forward was 0.8 cm. wide below left angle of mandible which shows that the major pressure of the ligature mark was on the front side. This gives an inference that the strangulation was probably done from the left back side of the neck. This also gives a strong suggestion of presence and involvement of a second person at the spot. The next important fact which is required to be appreciated in the present case is that since there is no eyewitness and accused was the first person who had seen the dead body. It was for the said first person to have explained truly the said circumstances in which he found the deceased. However, accused's statement given to the police was that when he returned to his home at lunch time around 1.00pm he found his wife hanging from the fan. He immediately cut the *saree* and brought her down. He removed the *saree* from the fan and thereafter informed his employer and also informed the police on 100 number. But as per the prosecution, accused had given a false version of deceased having committed suicide by hanging. This fact of accused having made a false statement is corroborated from the medical evidence which shows the cause of death to be ligature strangulation and not hanging. There is also no evidence on record to show that except the accused anybody else had actually seen the deceased in hanging condition at the spot. It has also been noted by the Ld. Trial Court that the ceiling fan did not show any signs of either the blades being twisted or the fan being damaged in any

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manner, particularly, in view of the fact that the deceased was stated to be 162 centimetres in height and 68 kgs in weight. If a body of such stature and weight was suspended from the fan, it would almost be impossible that there would not have been any damage to either the blades or the ceiling fan. The photographs in question placed on record Ex. PW9/A1 to A11 also show that the fan is seen to be completely okay and no damage or twisting in any form is visible. It was also the initial stand of the accused that a stool and a drum which had been kept there had been used for hanging but the photographs show that these two items had been kept at different places and did not seem to have been disturbed. In any case, the mere fact of absence of any damage to the fan is one of very important circumstances to show that the story of hanging from the said ceiling fan as narrated by the Accused/Appellant could be suspicious story. In these circumstances where the circumstantial evidence assumes prime importance, it was for the accused person to have explained truthfully the said circumstances in which he found the deceased but he failed to do so and the Ld. Trial Court had rightly concluded that Section 106 of the Evidence Act, 1872 was applicable in the case.

26. Coming to one another important fact disclosed by the accused which does give a probable explanation about the incident in question. It is the case of the prosecution that after the I.O. had found that the accused had been misleading the prosecution and had raised a false story of suicide by his wife, he was arrested and he had made a disclosure statement wherein he mentioned that he had found his wife with some other male person in objectionable circumstances and on seeing him he had fled away. In the rage of anger, he had hit the head of the deceased on the wall and she had become unconscious and thereafter he had strangulated her with a nylon rope and he had thrown

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the nylon rope in the drain *nala*. Nothing was recovered in pursuance to the said disclosure statement but the prosecution has tried to rely on the same, to point out that the same was disclosing a motive for committing the offence in question. The said disclosure statement for the purpose of the recovery made on disclosure is inconsequential as no recovery was affected, however, it still can be considered as disclosure of an additional fact wherein it was mentioned by the accused that he had hit the head of the deceased against a wall and thereafter she was rendered unconscious.

27. This fact assumes greater importance as the body of deceased did not show any struggle marks or external injuries on her body and in fact even the nail clippings did not show any incriminating material. When the said fact is analysed in the backdrop of the accused's disclosure statement, there appears to be a probable explanation as to why there is absence of any struggle marks on the deceased's body. Thus, if the deceased became unconscious after her head was hit against a wall, there is a strong possibility that before the deceased regained consciousness, accused had strangulated her. PW24, in cross-examination mentioned that there were internal injuries over brain and scalp tissue and those injuries were ante-mortem injuries caused within 12 to 24 hours. The details of the internal examination of the head and neck as given in post mortem report Ex. PW4/A show that in the brain there was Subarachnoid hemorrhage over bilateral occipital region while on the scalp, extravasation over bilateral occipital and right parietal region was noticed. This would mean that the lower back portion of the head was injured prior to her death almost matching with the time of reporting the death of deceased by her husband. Thus, the above said disclosure statement corroborated by post-mortem report of internal head injuries does explain the manner in which the

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deceased might have received internal injuries on her head.

28. Ld. Counsel for the Appellant has also raised an issue that the witnesses, namely mother and father of the deceased had made material improvements stating that accused had been demanding dowry. This fact of the demand of dowry disclosed by mother and sister of deceased in her later statement seems to be an afterthought and are clear improvements, particularly, in view of the fact that the statement of mother and brother was recorded by the SDM, i.e., Ex.PW1/C and Ex.PW3/A and in these statements none of the witnesses have mentioned about any dowry demand by the accused. In fact, they mentioned that the accused and deceased's married life was happy. The witness PW1 Vashishth Mishra, brother of the deceased is also clear to the extent that he did not support the prosecution case on the issue of any dowry demand and he had in fact mentioned that he had stayed with the accused and deceased for some period of time and did not find that there was any dispute between them and in fact they were residing happily with each other and their children. The mother of the deceased PW10 in a subsequent statement before the Court had mentioned about the dowry demand. But in cross examination clearly mentioned that she had never filed any complaint regarding the such demand against the accused at any point of time. The subsequent statement of the dowry demand by the accused seems to be a clear improvement by the mother and sister of the deceased. Ld. Counsel for the Appellant contends that in absence of motive by the accused, prosecution case must fail. However, the motive by the accused for committing the crime is not absolutely essential and the Ld. Trial Court had dealt with this issue in the judgment citing the judgment of the Hon'ble Supreme Court in ***Amitava Banerjee vs. State of W.B., (2011) 12 SCC 554,***

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which reads as under:

> *"21. In* ***Amitava Banerjee vs. State of W.B., (2011) 12 SCC 554,*** *it was observed as under:*
>
> *"41. Motive for the commission of an offence no doubt assumes greater importance in cases resting on circumstantial evidence than those in which direct evidence regarding commission of the offence is available. And yet failure to prove motive in cases resting on circumstantial evidence is not fatal by itself. All that the absence of motive for the commission of the offence results in is that the court shall have to be more careful and circumspect in scrutinizing the evidence to ensure that suspicion does not take the place of proof while finding the accused guilty.*
>
> *42. Absence of motive in a case depending entirely on circumstantial evidence is a factor that shall no doubt weigh in favour of the accused, but what the Courts need to remember is that motive is a matter which is primarily known to the accused and which the prosecution may at times find difficult to explain or establish by substantive evidence.*
>
> *43. Human nature being what it is, it is often difficult to fathom the real motivation behind the commission of a crime. And yet experience about human nature, human conduct and the frailties of human mind has shown that inducements to crime have veered around to what Wills has in his book "Circumstantial Evidence" said:*
>
> *"The common inducements to crime are the desires of revenging some real or fancied wrong; of getting rid of rival or an obnoxious connection; of escaping from the pressure of pecuniary or other obligation or burden of obtaining plunder or other coveted object, or preserving reputation, either that of general character or the conventional reputation or profession or sex or,*

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gratifying some other selfish or malignant passion."

In Tarsem Kumar Vs. Delhi Administration, 1995 Cri.L.J.470, the Hon'ble Supreme Court had repeatedly pointed out that where the case of prosecution has been proved beyond reasonable doubt on the basis of material produced before the Court, motive losses its importance but in a case which is based on circumstantial evidence, motive for committing the crime on the part of the accused assumes greater importance. It was further emphasised that if each of the circumstances, proved on behalf of prosecution is accepted by the Court for the purpose of recording a finding that it was the accused who committed the crime in question even in absence of any proof of a motive for commission of such crime, the accused can be convicted."

29. In the facts and circumstances of the case, there does not appear to be any infirmity in the judgment of the Ld. Trial Court, the appeal is accordingly dismissed. The conviction *vide* judgment dated 03rd June, 2024 and the sentence awarded *vide* order on sentence dated 31st July, 2024 is upheld.

DINESH BHATT
JUDGE

PRATHIBA M. SINGH
JUDGE

OCTOBER 28, 2026
SS/RS/Jayant

Signature Not Verified
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