



DATED THIS THE 13th DAY OF JULY, 2026

SESSIONS CASE No.205/2022

(By Public Prosecutor, Belagavi)

ACCUSED : Mehaboobsab Garibsab Goravanakolla,
Age: 36 years, Occ: Coolie,
R/o Gandhinagar, Munavalli,
Tq: Saundatti, Dist: Belagavi.

**(By Sri P.J Gangai, Advocate and
Legal Aid Defense Counsel)**

1.	Date of commission of offence	18.08.2022
2.	Date of report of offence	18.08.2022
3.	Arrest of the accused	18.08.2022
4.	Name of the complainant	Sri Isamil Fakrusab Beedi

5.	Date of commencement of recording of evidence	04.12.2024
6.	Date of closing of evidence	06.05.2026
7.	Offences complained of	Under Section 302 of Indian Penal Code.
8.	Opinion of the Judge	Accused found guilty and is convicted.

J U D G M E N T

Saundatti Police have filed the charge sheet by alleging that the accused has committed the offence punishable under Section 302 of Indian Penal Code ('IPC' for short).

2. Case of the prosecution in brief is as follows:

One Shabana is the legally wedded wife of the accused, as their marriage was performed during the year 2012 and from the said wedlock, they got a son by name Sufiyan, Aged 9 years and a daughter by name Aliya, Aged 6 years. Subsequently, matrimonial dispute took place between them, as the accused suspected that Shabana is having an illicit relationship with other man and started quarreling with Shabana. Due to the said dispute, dissolution of their marriage took place by mutual consent and there after,

Shabana started to reside separately in a rented house at Saundatti with her daughter, whereas, the accused started to stay separately at Munavalli with his mother and son. On 18.08.2022, the accused went to the rented house of Shabana at Saundatti, to see his daughter Aliya. At that time, a quarrel took place between them and Shabana asked the accused to see his daughter from outside the house and being enraged by the same, the accused took a knife from his pant pocket and stabbed her on the abdomen, limbs and slit her neck, due to which, she died at the spot and thereby committed the murder of said Shabana.

3. On the basis of the complaint lodged by the father of Shabana, Saundatti police have registered the FIR in Crime No.216/2022 for the offence punishable under Section 302 of IPC. The Investigating Officer has proceeded to the spot and conducted inquest panchanama on the dead body of Shabana, snapped photos and shifted the dead body to the Government Hospital, Saundatti for conducting postmortem. Thereafter, the Investigating Officer has arrested the accused and recorded his voluntary statement. As per his voluntary statement, the accused has produced the knife used for the crime and also his clothes and

mobile phone, which were seized by drawing panchanama in the presence of panchas. Thereafter, the Investigating Officer has recorded the statement of witnesses and seized the blood stained clothes of deceased, which was recovered at the time of postmortem and thereafter, produced the accused before the JMFC, Saundatti. The Investigating Officer has continued further investigation and forwarded seized materials for the chemical examination to RFSL, Hubballi and obtained sketch from PWD Department and report from Electricity Department regarding electricity connection and also received documents from the Court relating to the matrimonial dispute between the accused and the deceased and dissolution of their marriage. The Investigating Officer has received the postmortem report and the report from RFSL Hubballi and after completion of investigation, CW31 filed charge sheet before the jurisdictional Magistrate.

4. The jurisdictional Magistrate took the cognizance and registered the case in C.C.No.1582/2022. The accused, who was produced before the Court was remanded to the judicial custody. After complying Section 207 of Code of Criminal Procedure ('Cr.P.C.' for short), learned Magistrate has committed the case to this Court

for trial, as the alleged offences are exclusively triable by this Court.

5. After receipt of committal records from the learned Prl. Civil Judge and JMFC, Saundatti, presence of the accused is secured from the Central Prison, Belagavi. This Court heard the accused on charge and having found prima facie materials, charges were framed against the accused for the offence punishable under Section 302 of IPC. The accused pleaded not guilty and claimed to be tried.

6. To bring home the guilt of the accused, prosecution examined 12 witnesses as PW1 to 12 and got marked Ex.P1 to 51 and MO1 to 15 material objects.

7. The statement of the accused, as provided under Section 313 of Cr.P.C., was recorded. The accused denied the incriminating evidence appearing against him and submitted his say in the form of a written statement. As defence evidence, accused examined his son as DW1 on his behalf.

8. I have heard the arguments of learned Public Prosecutor and the learned Legal Aid Defense Counsel appearing for the accused.

9. The points that arise for my consideration are:

1. **Whether the prosecution proves the homicidal death of deceased Shabana?**
2. **Whether the prosecution proves beyond all reasonable doubt that on 18.08.2022 at about 10.30 a.m., the accused visited the rented house of Shabana at Sy.No.54/5B, Ayyappaswamy Nagar in Ramapur site, Saundatti and when said Shabana asked the accused to see his daughter from outside the house, he quarreled with Shabana, took a knife, stabbed on her abdomen, limbs and slit her neck, causing her death and committed the murder and thereby committed an offence punishable under Section 302 of IPC?**
3. **What Order?**

10. My answers for the above points are as follows,
because of my below discussed reasons:

Point No.1: **IN THE AFFIRMATIVE**

Point No.2: **IN THE AFFIRMATIVE**

Point No.3: **AS PER THE FINAL ORDER**

REASONS

11. **Point No.1 and 2:** To avoid the repetition of my discussion, I have taken these points together for consideration. The allegation against the accused is that, there was a matrimonial dispute between the accused and Shabana, due to which, she started to reside separately in a rented house at Saundatti along with her daughter. On 18.08.2022 the accused went to the rented house of Shabana at Saundatti to see his daughter and when Shabana asked the accused to see his daughter from outside the house, a quarrel took place between them, due to which, the accused took a knife from his pant pocket, stabbed on her abdomen, limbs and slit her neck, causing her death at the spot and thereby committed her murder.

EVIDENCE LET IN BY THE PROSECUTION:

12. CW2, who was examined before the Court as PW1, has deposed that he knows CW1, deceased and the accused and also about relationship between them. PW1 further said that marriage of the accused was performed with Shabana during the year 2012-13 and thereafter, she was staying at Saundatti. PW1 further said that on 18.08.2022 at about 10.30 to 11.00 a.m., CW1 came to his

house and informed him that his daughter was murdered by the accused. PW1 further deposed that he reached Saundatti at about 1.30 p.m. and found dead body of Shabana and she sustained stab injury on her chest, abdomen and slit injury on her neck. PW1 further deposed that CW4 told that her father has stabbed her mother with knife and even after her crying, her father has not left her mother. PW1 further deposed that thereafter, CW1 appeared before the police station and lodged complaint and police issued a notice to him as per Ex.P1. PW1 further deposed that police came to the spot, drawn the panchanama as per Ex.P2 and snapped photos as per Ex.P3 to 6. PW1 further deposed that thereafter, police have drawn the spot panchanama as per Ex.P7 and seized bangle piece, clothes and blood samples and snapped photos as per Ex.P8 to 14. PW1 has identified those materials as MO1 to 6 and further deposed that police have called him to the police station, where the accused was present and produced a knife used for the crime and the police have seized the same by drawing panchanama as per Ex.P15 and snapped the photos as per Ex.P16 and 17. PW1 further said that the accused produced his blood stained clothes and same was seized as per MO8 to 10, by drawing

the panchanama as per Ex.P18 and snapped the photos as per Ex.P19 to 22. PW1 further deposed that thereafter, on the next day, police called him to the police station and seized the blood stained clothes of deceased Shabana by drawing panchanma as per Ex.P23. PW1 has identified those blood stained clothes as MO11 to 15 and also identified the accused.

13. CW4, who was examined as PW2, has deposed that the accused is her father and at the time of death of her mother, she was in their house at Saundatti and her brother Sufiyan, her father and grandmother were staying at Munavalli. PW2 further deposed that on the date of death of her mother, she was in the house, as there was holiday for school. PW2 further said that the accused came to their house when she and her mother were there in the house and her mother asked her father as to why he came to the house. PW2 further said that her father grabbed the hair tuft of her mother, assaulted her on her back and thereafter took a knife and stabbed on abdomen and neck of her mother. PW2 further deposed that she cried and her mother died at the spot and thereafter, her father ran away from the spot with knife. PW2 further deposed that at about 1.30 p.m. her grandfather,

grandmother, uncle and aunt came and police came to their house at about 3.30 p.m.

14. CW5, who was examined as PW3, has deposed that he knows deceased Shabana, who was residing in a house belonged to Shivanand Walikar. PW3 further deposed that on 18.08.2022 at about 10.30 a.m. when he was in his house, he heard the voice of daughter of Shabana crying loudly and when he went to their house, he saw Shabana fallen down with injuries and accused was present there with knife. PW3 further deposed that the accused ran away from the spot with knife and at about 12.30 p.m. father and mother of deceased Shabana came and he informed them about the incident. PW3 further deposed that on 23.08.2022, the police took him to Saundatti Court and his statement was recorded there as per Ex.P25. PW3, however, showed ignorance as to the reason for the accused committing murder of Shabana.

15. CW11, who was examined as PW4, has deposed that deceased Shabana is his younger sister and she was given in marriage to the accused during the year 2012 and from their wedlock, they got two children by name Sufiyan and Aliya. PW4

further said that after the marriage, the accused started ill-treating Shabana, due to which, she stayed separately at Saundatti. PW4 further said that on 18.08.2022 at 10.45 a.m. CW20 called him and informed him that the accused has murdered his sister Shabana. PW4 further deposed that he and his parents along with elders came to the house of Shabana at Saundatti and found the dead body of Shabana and she sustained stab injuries on her neck, abdomen and back. PW1 further deposed that PW2 informed them that her father has stabbed her mother. PW4 identified the accused.

16. CW13, who was examined as PW5, has deposed about the relationship between the complainant, deceased and the accused and further said that during the year 2012, marriage of Shabana was performed with the accused and from their wedlock, they have two children. PW5 further said that the accused started doubting the conduct of Shabana and in this regard, quarrel took place between them. PW5 further said that on 18.08.2022 at about 11.00 a.m. CW1 and PW4 informed him that the accused has murdered Shabana and thereafter, they went to the house of Shabana at Saundatti. PW5 further said that they found dead body

of Shabana and she had sustained stab injuries on her neck, abdomen and hands. PW5 further said that PW2 informed them that her father stabbed her mother with a knife. PW5 further deposed that thereafter, they went to the police station and CW1 lodged complaint as per Ex.P26, which was in his handwriting.

17. CW19, who was examined as PW6, has deposed that they own two houses at Saundatti, one at Shanti Nagar and another at Ayyappaswami Nagar. PW6 further deposed that Shabana has approached them to lease out their house at Ayyappaswamy Nagar and she leased out the said house to Shabana, where she was residing along with her daughter Aliya. PW6 further deposed that about 15 days after leasing out the house, they received an information about husband of Shabana stabbing Shabana and murdering her. PW6 further said that immediately they went the house and found the dead body of Shabana and stab injuries on her neck, abdomen and hands. PW6 further deposed that the police have inquired her in this regard and she has given statement.

18. CW24, who was examined as PW7, has deposed that when he was serving as Assistant Executive Engineer in Saundatti

PWD, as per the request of the Saundatti police, he visited the scene of crime along with police staff and prepared sketch as per Ex.P28 and forwarded the same to the police through a letter as per Ex.P29.

19. CW26, who was examined as PW8, has deposed that he is working as photographer and running a photo studio by name Laxmi Photographer. PW8 further deposed that on 18.08.2022 Saundatti police called him and took him to the house at Ayyappaswamy Nagar, where there was a murder of a lady and he snapped photos. PW8 further deposed that on 19.08.2022, police called him again to the police station and he snapped the photos and he identified those photos as per Ex.P3 to 6, 8 to 14, 16, 17, 19 to 20. PW8 further deposed that he has downloaded those photos in CD as per Ex.P32 and issued certificate as per Ex.P33 under Section 65 of Indian Evidence Act.

20. CW30, who was examined as PW9, has deposed that when he was serving as police constable in Saundatti police station, on 30.08.2022 as per the directions of CW31, he took the seized materials to RFSL, Hubballi and submitted a report as per

Ex.P34. PW9 has identified those materials as MO1 to 9 and 11 to 15.

21. CW28, who was examined as PW10, has deposed that when he was serving as police stable in Saundatti police station, on 18.08.2022, he was directed by CW31 to trace out the accused by issuing memo as per Ex.P36. PW10 further deposed that on the same day at about 6.45 p.m. they found accused in front of the police station with a knife and they caught him and got the confirmation that he is the accused involved in this case. PW10 further deposed that he took the accused to his custody and produced him before CW31 with a report as per Ex.P37. PW10 identified the accused.

22. CW33, who was examined as PW11, deposed that, when she was working as medical officer at Government Hospital, Saundatti, on 18.08.2022 at 9.00 p.m. she received a request from Saundatti police to conduct postmortem on the dead body of deceased Shabana. PW11 further deposed that she has conducted postmortem and found the following injuries:

1. ಕತ್ತಿನ ಮೇಲ್ಭಾಗ 7 ಇಂಚು ಉದ್ದ ಮತ್ತು 1½ ಇಂಚಿನ ಅಗಲದ ಆಳವಾದ ಹರಿದ ಗಾಯ, ಸದರಿ ಗಾಯದಲ್ಲಿ ಅನ್ನನಾಳ, ಶ್ವಾಸನಾಳ, ಮುಖ್ಯವಾದ ರಕ್ತನಾಳಗಳು ತುಂಡಾಗಿದ್ದವು.

2. ಹೊಟ್ಟೆಯ ಮೇಲ್ಭಾಗ ಬಲಬದಿಯಲ್ಲಿ ಸುಮಾರು 2 ಇಂಚು ಉದ್ದ ಮತ್ತು 1 ಇಂಚು ಅಗಲದ ಆಳವಾದ ಹರಿದ ಗಾಯ ಇತ್ತು .
3. ಬಲಪಕ್ಕಲುಬಿನ ಕೆಳಗಿನ ಭಾಗದಲ್ಲಿ 2 ಇಂಚು ಉದ್ದ ಮತ್ತು ½ ಇಂಚು ಅಗಲದ ಆಳವಾದ ಹರಿದ ಗಾಯ ಇತ್ತು .
4. ಬಲಮುಂಗೈಯ ಬಲಭಾಗದಲ್ಲಿ ಮುಂದಿನ ಭಾಗದಲ್ಲಿ 3 ಇಂಚು ಉದ್ದ ಮತ್ತು 1 ಇಂಚು ಅಗಲದ ಆಳವಾದ ಹರಿದ ಗಾಯ ಇತ್ತು .
5. ಈ ಮೇಲೆ ಹೇಳಿದ ನಾಲ್ಕನೇ ಗಾಯದ ಮೇಲ್ಭಾಗದಲ್ಲಿ 1½ ಇಂಚು ಉದ್ದ ಮತ್ತು ½ ಇಂಚು ಅಗಲದ ಹರಿದ ಗಾಯ ಇತ್ತು .
6. ಬಲ ಮುಂಗೈಯಲ್ಲಿ 2 ಇಂಚು ಉದ್ದ ಮತ್ತು 1 ಇಂಚು ಅಗಲದ ಹರಿದ ಗಾಯ ಇತ್ತು .
7. ಬಲಮಣಿಕಟ್ಟಿನ ಮೇಲ್ಭಾಗದಲ್ಲಿ 1 ಇಂಚು ಉದ್ದ ಮತ್ತು ½ ಇಂಚು ಅಗಲದ ಹರಿದ ಗಾಯ ಇತ್ತು .
8. ಎಡ ಅಂಗೈಯಲ್ಲಿ 1½ ಇಂಚು ಉದ್ದ ಮತ್ತು ½ ಇಂಚು ಅಗಲದಹರಿದ ಗಾಯ ಇತ್ತು .
9. ಎಡಮುಂಗೈಯ ಹೊರಭಾಗದಲ್ಲಿ 2½ ಇಂಚು ಉದ್ದ ಮತ್ತು 1 ಇಂಚು ಅಗಲದ ಹರಿದ ಗಾಯ ಇತ್ತು .
10. ಬಲತೊಡೆಯಲ್ಲಿ 2 ಇಂಚು ಉದ್ದ ಮತ್ತು 1 ಇಂಚು ಅಗಲದ ಹರಿದ ಗಾಯ ಇತ್ತು ಮತ್ತು
11. ಬಲಭುಜದಲ್ಲಿ 1½ ಇಂಚು ಉದ್ದ ಮತ್ತು 2 ಸೆಂಟಿಮೀಟರ ಅಗಲದ ಹರಿದ ಗಾಯ ಇತ್ತು .

23. PW11 further deposed that she has issued a postmortem report in this regard as per Ex.P39 and handed over the clothes found on the dead body to the police and issued a

report as per Ex.P40 regarding blood group of the deceased. PW11 further deposed that on 20.03.2023, she received a knife from the police and she examined the same and issued a final report as per Ex.P41 by opining that the death of deceased was caused due to stab with the said knife. PW11 identified the said knife as MO7.

24. CW31, who was examined as PW12, has deposed that when he was working as a Police Inspector at Saundatti police station, on 18.08.2022 at about 1.30 p.m. CW1 appeared before the police station and lodged complaint as per Ex.P26, on the basis of which, he registered a FIR in Crime No.216/2022 as per Ex.P44. PW12 further deposed that he secured the CW2 and 3 as panchas and in their presence, visited the house at Ayyappaswamy Nagar, Saundatti and conducted inquest panchanama on the dead body of deceased Shabana as per Ex.P2. PW12 further deposed that he sent the dead body to Saundatti Government Hospital for postmortem and thereafter, drawn the spot mahazar as per Ex.P7 and sketch as per Ex.P7(c) and snapped photos as per Ex.P8 to 14 and seized MO1 to 6 material objects. PW12 further deposed that on the same evening, the accused was produced before him by their staff and he recorded his voluntary statement as per Ex.P45.

PW12 further deposed that on the basis of his voluntary statement, the accused has produced a knife used for crime and also his blood stained clothes and mobile phone and he seized the same by drawing mahazar as per Ex.15 and 18 and snapped photos as per Ex.P16, 17, 19 to 23. PW12 has identified the knife as Mo7 and blood stained clothes and mobile phone as MO8 to 10. PW12 further deposed that he recorded the statement of witnesses and seized the blood stained clothes found on the dead body of the deceased by drawing panchanama as per Ex.P24. PW12 further deposed that he secured the sketch of the spot from PWD Department, property extract from Tahasildar, Saundatti, and report from Electricity Department about electricity connection. PW12 further deposed that thereafter, he has forwarded the seized materials to RFSL, Hubballi for scientific examination and received order sheet from the Court relating to the case between the accused and the deceased in OS No.299/2022 on the file of Saundatti Court. PW12 further deposed that after receiving postmortem report, final opinion and RFSL report, he filed charge sheet before the committal Court.

DEFENCE EVIDENCE LET IN BY THE ACCUSED:

25. As I said earlier, as defence evidence, the accused examined his minor son as DW1, who deposed before the Court that relationship between his father and mother was cordial at initial stage and thereafter, a male person used to visit their house. DW1 further deposed that, when said male used to visit their house, his mother used to sent him out of the house and stay with said person by locking the door. DW1 further said that name of that person is one Hussain Mulla. DW1 further said that initially they were staying at Saundatti and thereafter, his father brought them to Munavalli and they were staying in a house at Munavalli. DW1 further said that said Hussain Mulla used to come to their house even when they were in their house at Munavalli, due to which, his father has divorced his mother. DW1 further said that on the date of the alleged incident, he and his father were at Munavalli and his father is noway connected to the death of his mother.

SUBMISSION MADE ON BEHALF OF THE STATE:

26. The learned Public Prosecutor appearing for the State has vehemently argued before me that the prosecution has proved

all the essential ingredients of the offence under Section 302 of IPC by proving the motive, intention, preparation and also the alleged crime. It is further submitted by the learned Public Prosecutor that the prosecution could not examine the complainant, because he was medically not fit to appear before this Court and tender evidence. However, according to the learned Public Prosecutor, that cannot be fatal to the prosecution, when there is other evidence before this Court to prove the commission of crime by the accused. It was further argued by the learned Public Prosecutor that the accused has murdered his wife with knife in the presence of the minor child, who has deposed and explained the alleged incident in detail and there was no reason to disbelieve the evidence of child witness. It is further submitted by the learned Public Prosecutor that there are other corroborative evidence to prove the motive and the seizure of weapon used for the crime and other evidence. It is further submitted by the learned Public Prosecutor that even though the accused has tried to introduce a plea of alibi, same was attempted to be introduced during the course of defence evidence and no cross examination was made in this regard to any of the prosecution witnesses. It was further

submitted by the learned Public Prosecutor that plea of alibi has to be proved through documentary evidence and not through oral evidence. On all these grounds, the learned Public Prosecutor prayed for conviction of the accused.

SUBMISSION MADE ON BEHALF OF THE ACCUSED:

27. On the other hand, the learned counsel appearing for the accused has vehemently argued before me that there are lot of contradictions, omissions and discrepancies in the evidence of the witnesses examined by the prosecution. It is further submitted by the learned counsel for the accused that the sole evidence of child witness to prove the incident cannot be accepted, as she was tutored by mother of the deceased to depose before this court. The learned counsel for the accused further argued that recovery of the weapon has not been proved and the accused has successfully proved that he was at some other place at the time of the alleged incident, by examining his minor son as DW1. Therefore, the learned counsel for the accused prayed for acquittal of the accused.

HOMICIDAL DEATH OF DECEASED SMT. SHABANA:

28. In cases like this, the first question, which has to be considered by this Court is, regarding the homicidal death of the deceased Shabana. In this regard, prosecution has produced postmortem report and opinion issued by the Medical Officer by examining the seized weapon and also relied upon the evidence of Medical Officer, who conducted postmortem on the dead body of the deceased Shabana and opinion given by her by examining the knife used for the crime. Smt. H.V. Kavita, Medical Officer of the Government Hospital, Saundatti, who was examined before this court as PW11, deposed during the course of her evidence that on 18.08.2022 at about 9.00 p.m. she received requisition from the Saundatti police for conducting postmortem on the dead body of Smt. Shabana. PW11 further deposed that accordingly, she conducted postmortem in the hospital on the same night in between 9.00 pm to 10.45 pm. PW11 further deposed about external injuries found on the dead body and also said about other things, which she noticed on the dead body while doing the postmortem. PW11 further deposed that she has issued postmortem report as per Ex.P39 by opining that death of the

deceased was due to the above injuries and also due to the bleeding due to the above injuries. PW11 further deposed that she has also issued a report as per Ex.P40 by certifying that blood group of deceased as AB⁺. PW11 further deposed that the Investigating Officer has forwarded MO7 knife and sought her opinion and after verifying the knife, she has issued opinion as per Ex.P42 by certifying that the injury found on the dead body of Shabana can be caused with the said knife.

29. Even though PW11 was cross examined in length by the learned counsel for the accused, except few suggestions, nothing material has been brought out from the cross examination of PW11 to disbelieve her oral testimony and discard the postmortem report issued as per Ex.P39 and final opinion issued as per Ex.P42. Of course, PW11 admitted that 11 injuries found on the dead body of Smt. Shabana can be caused, if a person falls on the sharp edged object. However, PW11 said that that all the 11 injuries cannot be caused at the same time. Under such circumstances, there was no reason for this court to discard the evidence of PW11.

30. Now, let me consider the Ex.P39 postmortem report and injuries reported in the postmortem. As per Ex.P39 postmortem report, following 11 injuries were found on the dead body of the deceased Shabana:

1. **Incised wound measuring 7 inch length and 1½ inch width extend below Jawline to 4 cm above sterno clavicular 4 inch imposing underlying cervical vertebra is present in the neck. The underlying muscles are cut, trachea, Jugular vein, B/L carotid arteries and esophagus are cut, blood clot present.**
2. **Perforating stab wound obliquely placed present over upper abdomen in epigastric region slightly to right measuring 2 inch x 1 inch.**
3. **Incised wound measuring 2 inch x ½ inch present near xiphoid manubrio costal region.**
4. **Incised wound of 3 inch x ½ inch present over mid forearm on anterior aspect on right side.**
5. **Oblique incised wound of 1½ inch x ½ inch just above the 4th injury**
6. **Incised wound of 2 inch x 1 inch over right elbow present**
7. **Incised wound of 1 inch x ½ inch present on dorsal aspect of right wrist**
8. **Incised wound of 1½ inch x ½ inch over left hand on palmar aspect**

- 9. Incised wound on left forearm measuring 2½ inch and 1 cm depth in post aspect**
- 10. Incised wound of 2 inch x 1 inch over right thigh**
- 11. Incised wound of 1½ inch x 2 cm over right shoulder**

31. Above injuries were found on the vital part of the body. Ex.P42 opinion goes to show that those injuries can be caused from the weapon, which was recovered from the accused. The accused has failed to assign any other reason for the injuries found on the body of the deceased and death of the deceased Shabana for the reason other than the injuries reported in the wound certificate. Under such circumstances, this Court has to accept the prosecution version to hold that the death of Smt. Shabana is a homicidal death.

MOTIVE BEHIND THE CRIME:

32. The next important question, which has to be considered by this Court, is regarding motive behind crime. Of course in cases like this, where there is direct evidence and version of eyewitness to prove the alleged crime, motive behind crime need not be proved by the prosecution in a strict sense. Rather,

theory of motive has no role to play when there is direct evidence to prove the murder. However, direct evidence available before this Court to prove the incident is the evidence of a child witness and the witness, who have arrived at the spot after hearing the cry of the daughter of the deceased. Moreover, the allegation has been made against the husband about him murdering his own wife. Under such circumstances, for their success in the present case, the prosecution is required to prove the motive behind crime and reason for a husband to murder his wife.

33. As per the prosecution case, after the marriage between the accused and the deceased and after the birth of two children from the said wedlock, matrimonial dispute arose between them. According to the prosecution, the accused used to doubt the conduct of the deceased and used to allege that she had illicit relationship with another man. The matrimonial relationship between the accused and the deceased has been admitted and proved by the prosecution. In fact, it is the deceased, who has approached Civil Judge, Saundatti by filing a suit in O.S.No.299/2022 claiming decree for dissolution of her marriage.

As the parties belonged to Mohammedan, a suit has been filed for dissolution of marriage, rather than filing a matrimonial proceeding before the Family Court or the Court of Senior Civil Judge. The Investigating Officer, during the course of investigation, has secured order sheet relating to O.S.No.299/2022 from the Civil Judge, Saundatti and marked the same as per Ex.P51.

34. It is evident from Ex.P51 that on 29.07.2022 i.e., about 20 days before the incident, deceased Shabana had filed a suit before the Saundatti Court for dissolution of her marriage with the accused. This accused, as a defendant in the said suit, appeared through his counsel and the matter was referred to Lok Adalath held on 11.08.2022. In the Lok Adalath, both the parties have filed a joint compromise petition, whereby, they agreed for the dissolution of their marriage. Accordingly, the compromise was accepted before the Lok Adalath and their marriage was dissolved on 11.08.2022 as evident from Ex.P51. There is no dispute about all these proceedings, as the accused has not asked any question to PW12 in disputing all these proceedings. So, Ex.P51 not only proves the matrimonial dispute between them, but also dissolution of marriage, which is just 7 days before the alleged incident.

35. The accused making the allegations against the deceased and doubting her character about her having illicit relationship is also proved through the suggestions made to the prosecution witnesses during the course of their cross examination and also from the evidence of DW1, who was examined by the accused as defence witness. During the course of cross examination of prosecution witnesses, there were suggestions that the deceased was having illicit relationship with another man and their family members trying to settle the dispute between the accused and deceased. Of course, the prosecution witnesses have shown ignorance regarding the deceased having illicit relationship with some other man.

36. The accused, as a defence evidence, examined his minor son as DW1 and tried to prove that the deceased was having illicit relationship with one Hussain Mulla. The witness examined by the accused as DW1 is none other than his minor son. In fact, it has come out during the course of evidence that after the matrimonial dispute between them and dissolution of marriage, their minor son used to stay with the father, whereas, minor daughter used to stay with the mother. The accused used to stay with his son at

Munavalli, whereas, the deceased used to stay with her daughter at Saundatti in a rented house, where the alleged incident took place.

37. DW1, during the course of his evidence, deposed that initially there was cordiality between his father and mother and subsequently, a male person used to visit their house. DW1 further said that his mother use to send him out of the house and stay with that man by locking the door. DW1 further deposed that name of that man is one Hussain Mulla. So, by examining DW1, the accused tried to impress upon the Court that the deceased is having illicit relationship with that man.

38. Even for the sake of the arguments, if it is accepted that the deceased was having illicit relationship, it would not give the accused a license to kill her. The accused trying to establish the illicit relationship of the deceased during the course of defence evidence and also during the course of cross examination of prosecution witnesses, would also prove the motive. It is because of this reason, the accused has developed enmity and eliminated the deceased. It appears that the accused, with intention to

eliminate her, has entered into a compromise with her and about 7 days after the compromise between them and dissolution of their marriage, he eliminated her. So, motive behind crime is also proved by the prosecution.

DIRECT EVIDENCE TO PROVE THE CRIME:

39. Now, I have to consider the direct evidence and the version of eyewitness, who are examined by the prosecution to prove the alleged crime. According to the prosecution, on 18.08.2022 the accused went to the rented house, where the deceased was staying with her minor daughter at Rampur site, Saundatti and asked the deceased to show her minor daughter. When the deceased objected for the entry of the accused to her house and asked him to see the daughter from outside the house, he quarreled with her, took a knife and stabbed on her back and then on her abdomen and killed her at the spot.

40. In order to prove the alleged incident, there is evidence of minor daughter of the deceased and the accused, who was examined before the Court as PW2. PW2 is a minor daughter, aged 9 years. Before recording her evidence, this Court has taken

all the necessary precautions and followed all the protocol required to examine a minor witness to satisfy that the minor is deposing voluntarily. In this regard, this Court, before recording the evidence of PW2, has recorded the following, in her deposition in a question and answer format:

“ಸಾಕ್ಷಿ ಗೆ ವಯಸ್ಸು 09 ವರ್ಷವಾಗಿದ್ದು, ಆಕೆ ಬಾಲಸಾಕ್ಷಿ ಯಾಗಿರುವ ಕಾರಣ ಸಾಕ್ಷಿ ಗೆ ಸತ್ಯಪ್ರತಿಜ್ಞೆಯನ್ನು ಮಾಡಿಸಿಲ್ಲ. ಈ ಕೆಳಗಿನಂತೆ ಕೆಲವು ಪ್ರಾಥಮಿಕ ಪ್ರಶ್ನೆಗಳನ್ನು ಕೇಳಲಾಗಿ ಸಾಕ್ಷಿ ಯು ಸದರಿ ಪ್ರಶ್ನೆಗಳನ್ನು ಅರ್ಥೈಸಿಕೊಂಡು ಉತ್ತರ ಹೇಳಿರುತ್ತಾಳೆ. ಈ ಕಾರಣದಿಂದ ಸಾಕ್ಷಿ ಯನ್ನು ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಲು ಅನುಮತಿ ನೀಡಲಾಯಿತು.

1) ನಿನ್ನ ಹೆಸರೇನು?

ಉತ್ತರ: ಆಲಿಯಾ.

2) ಈಗ ನಿನಗೆ ಎಷ್ಟು ವಯಸ್ಸು ?

ಉತ್ತರ: 9 ವರ್ಷ.

3) ನಿನ್ನ ತಂದೆ ಮತ್ತು ತಾಯಿಯ ಹೆಸರೇನು?

ಉತ್ತರ: ಅಪ್ಪನ ಹೆಸರು ಮೆಹಬೂಬ ಮತ್ತು ತಾಯಿಯ ಹೆಸರು ಶಬಾನಾ.

4) ಈಗ ನೀನು ಶಾಲೆಗೆ ಹೋಗುತ್ತಿದ್ದೀಯೇ ಮತ್ತು ಎಷ್ಟನೇ ತರಗತಿಯಲ್ಲಿ ಓದುತ್ತಿದ್ದೀಯಾ?

ಉತ್ತರ: ನಾನು ಶಾಲೆಗೆ ಹೋಗುತ್ತಿದ್ದೇನೆ ಮತ್ತು ನಾಲ್ಕನೇ ತರಗತಿಯಲ್ಲಿ ಓದುತ್ತಿದ್ದೇನೆ.

5) ನಿನಗೆ ಸತ್ಯ ಮತ್ತು ಸುಳ್ಳಿನ ಮಧ್ಯೆ ಇರುವ ವ್ಯತ್ಯಾಸ ಗೊತ್ತಿದೆಯೇ?

ಉತ್ತರ: ನನಗೆ ಸತ್ಯ ಮತ್ತು ಸುಳ್ಳಿನ ವ್ಯತ್ಯಾಸ ಗೊತ್ತು. ನಾವು ಯಾವಾಗಲೂ ಸತ್ಯವನ್ನು ಹೇಳಬೇಕು. ಸುಳ್ಳನ್ನು ಹೇಳಬಾರದು. ಸುಳ್ಳು ಹೇಳಿದರೆ ಅದು ತಪ್ಪು.

6) ಈಗ ನಿನ್ನ ತಾಯಿ ಇದ್ದಾರೆಯೇ?

ಉತ್ತರ: ಇಲ್ಲ. ಅವರು ಈಗ ತೀರಿಕೊಂಡಿರುತ್ತಾರೆ. ಅಪ್ಪ ನನ್ನ ತಾಯಿಗೆ ಹೊಡೆದಿರುತ್ತಾರೆ.

7) ಈಗ ವಿ.ಸಿ. ಮೂಲಕ ನ್ಯಾಯಾಲಯದ ಮುಂದೆ ಹಾಜರು ಇರುವ ವ್ಯಕ್ತಿ ಯಾರು?

ಉತ್ತರ: ಅವರು ನನಗೆ ಗೊತ್ತು. ಅವರು ನನ್ನ ತಂದೆ.

8) ಈ ದಿನ ನೀನು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಯಾಕೆ ಬಂದಿರುವೆ?

ಉತ್ತರ: ಜವಾಬ ಹೇಳಲು ಬಂದಿರುತ್ತೇನೆ.

(ಈ ಮೇಲೆ ಹೇಳಿದಂತೆ ನ್ಯಾಯಾಲಯವು ಸಾಕ್ಷಿಗೆ ಪ್ರಶ್ನೆಗಳನ್ನು ಕೇಳಿ ಆಕೆಯಿಂದ ಉತ್ತರಗಳನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತದೆ.)"

41. The Court questioned the minor about her name, age, name of her parents and her education, difference between truth and falsehood and also reason for her coming to the Court and also about identification of the accused as her father. After following all these procedures, this Court recorded the evidence of PW2.

42. During the course of her evidence, PW2 said that at the time of death of her mother, she and her mother were in their house and on the date of incident, she had not gone to the school, as it was holiday due to festival. PW2 further said that at about 10.30 a.m. the accused came to their house, when she and her mother were in the house and her mother asked her father as to the reason for his visit. PW2 further said that when her father replied that he has come to see his daughter, her mother asked to

go out of the house. PW2 further said that then her father held the hair tuft of her mother, stabbed on her back and then on abdomen and thereafter, stabbed on her neck. PW2 further said that she cried and neighbors came to their house and thereafter, her father ran away from the spot with the knife. PW2 further said that at about 1.30 p.m. her grand-father, grand-mother and relatives came and 5 days after the incident, she has appeared before the Court for recording her statement.

43. Though the PW2 was cross examined, except the suggestion that she was instructed by her grandmother to depose against her father, nothing material has been brought out from the cross examination of PW2 to disbelieve her evidence. It is true that the Court has to take all the care and caution while appreciating the evidence of a child witness and accepting the same. It is true that there is every possibility of a child being influenced by the others to depose falsely before the Court. In this case, child has deposed about the incident taken place in her presence, whereby her father stabbed her mother and caused her death. A minor child is also having love and affection towards her father equal to that of mother. One cannot believe that at the

instigation of police or her grand-mother, PW2 would depose against her father and explain the incident, which has actually not occurred. Hence, I have not found any reason to disbelieve the evidence of PW2 in this regard.

GUIDELINES FOR ACCEPTING THE EVIDENCE OF CHILD WITNESS :

44. The Rule relating to appreciation of evidence of child witnesses stands on all together different footings. The Hon'ble Supreme Court has laid down the guidelines in various decisions for appreciating and accepting the evidence of child witnesses. The Hon'ble Supreme Court, in a recent decision in **Criminal Appeal No.1669/2012 dated 24.02.2025** in between the **State of Madhya Pradesh vs. Balveer Singh** has prescribed the guidelines to test reliability of the child witnesses. As per the ratio laid down in the above decision, before recording the testimony of a child witness, Court must assess as to whether the child understands the difference between the truth and falsehood, by making preliminary examination.

45. Though the testimony of child witness can form sole basis for conviction, Court must generally seek corroborative

evidence to ensure reliability. The Hon'ble Supreme Court has also held that the Court must evaluate the demeanor of the child and ability of child to understand cross examination and remain consistent in their statement. The Court must also ascertain the possibility of child being tutored or influenced by others. The Court must also assess truthfulness of testimony with overall impression of the witness statement, which indicates the credibility, rather than the inconsistency of any corroboration.

46. A child witness is always a vulnerable witness, because child can easily be tutored and influenced. Therefore, Hon'ble Supreme Court has laid down the guidelines for appreciating and accepting the evidence of child witness. In the case on hand, whatever cloud cast upon the genuineness of the evidence of PW2, because she is the child witness, have been dispelled from her preliminary examination and also due to the answer given by her during the course of her cross-examination. Under such circumstances, this Court is of the opinion that it is very safe to rely on the evidence of PW2 to accept the prosecution version. So, on the basis of evidence of PW.2/child witness, prosecution has successfully proved the alleged incident.

47. One of the essential requirements to accept the evidence of child witnesses is corroboration. Even though there is no legal bar as such for convicting the accused by simply relying on the evidence child witnesses without corroboration, still prudence requires corroboration for the evidence of child witness before accepting the same. In this case, there is corroboration for the oral testimony of child witness and to prove the incident.

48. To corroborate the evidence of child witness, there is evidence of CW5, who was examined as PW3, before this Court. PW3 is the resident of neighboring house, where the alleged incident took place. PW3 deposed that he knows the deceased Shabana and she was his neighbor and staying in a house of one Shivanand Walikar, with her minor daughter. PW3 further deposed that, on 18.08.2022 at about 10.30 a.m. when he was in his house, he heard crying voice of Shabana's daughter and on hearing the same, he ran towards their house. PW3 further deposed that when he entered the house, he saw Shabana was fallen down with bleeding injuries and the accused was standing there with knife in his hand. PW3 further deposed that the accused has kept his leg on the head of Shabana and stabbing on her neck and there was

bleeding. PW3 further said that immediately, he called his wife and his wife and CW7 to 9 also came there and the accused ran away from the spot with knife.

49. So, the evidence of child regarding the accused stabbing the deceased Shabana with knife is corroborated with the evidence of PW3. PW3 is a natural witness, because he is neighbor, who reached the spot after hearing the cry of child witness. Though PW3 was cross examined by the learned counsel for the accused, barring some minor contradictions and variations, no such material contradictions were come out from the cross examination of PW3 to disbelieve his oral testimony.

50. It is pertinent to note here that PW3 has also appeared before the JMFC, Saundatti, where his statement under Section 164 of Cr.P.C recorded as per Ex.P25, which is corroborated with the evidence of child witness. So, as held in the above referred decision, one of the essential requirement for accepting the evidence of child witness is the corroboration. In this case, there is corroboration of evidence of PW3 to the evidence of child witness.

Therefore, there is no legal hurdle as such this Court to accept the evidence of child witness.

RECOVERY OF THE WEAPON USED FOR THE CRIME

51. Now, I have to consider another important circumstance relating to the recovery of the weapon used for the crime. According to the prosecution, after the accused was arrested, he has produced the knife used for the crime and same was seized in the police station in the presence of panchas. In this regard, there is evidence of CW2, who was examined before this Court as PW1. PW1 deposed before this Court that he was called to the Saundatti police station, where the accused was present and he has produced the knife used for the crime and same was seized in his presence by drawing the panchanama as per Ex.P15. PW1 also said that while drawing the panchanama, photos were snapped as per Ex.P16 and 17. PW1 has identified MO7 knife. Thereafter, seized knife was subjected for the forensic examination and it was also forwarded to the Medical Officer for his opinion. In this regard, there is evidence of PW11 and the opinion letter issued by him as per Ex.P42.

52. PW11 deposed before the Court that on 20.03.2023 Saundatti police have sent a knife to him and he examined the same and issued opinion as per Ex.P42 by opining that the injuries found on the dead body of the deceased, as reported in the postmortem report, can be caused by the said knife. PW11 has also identified MO7 knife. So, recovery of the knife and commission of the crime by using the said knife is also proved with the evidence of prosecution witnesses and also with the evidence of expert evidence. Hence, the prosecution has also proved the recovery of the knife used for the crime.

FORENSIC EVIDENCE:

53. Now, I have to consider the forensic evidence produced by the prosecution before this Court. The evidence on record goes to show that, after registration of FIR, the Investigating Officer has visited the spot and drawn spot mahazar in the presence of CW2 and CW3. CW2, who was examined as PW1, deposed that the Investigating Officer has issued a notice to him and CW3 as per Ex.P1 and thereafter, drawn the inquest mahazar as per Ex.P2 and snapped photos as per Ex.P3 to 6. PW1 further deposed that thereafter, the police have drawn the spot

panchanama as per Ex.P1 and seized the blood stained clothes, bangle pieces and dupatta of Shabana and snapped photos as per Ex.P8 to 14. PW1 has identified all those materials seized from the spot as MO1 to 6. PW1 also deposed when the accused has produced the knife, same was seized in the police station and blood stained shirt and jeans pant of accused were also seized. PW1 has identified them as MO8 to 10. PW1 further deposed that on the next day, the police have also drawn panchanama as per Ex.P24 by seizing the clothes found on the dead body of the deceased Shabana and he identified the same as MO11 to 15.

54. All these materials, which were seized while drawing the panchanamas, were sent to the RFSL, Hubballi for chemical examination. The police official, who has taken all those materials, was examined as PW9. MO1 to 9 and MO11 to 15 were subjected for forensic examination and report issued by the RFSL, Hubballi is marked with consent as per Ex.P43. The accused has not at all disputed the report issued from the RFSL Hubballi and accordingly, it was marked with consent as per Ex.P43. All together 14 material objects were subjected for medical examination. Ex.P43 report

shows that the presences of the blood stains were detected in all the items, except the item No.2, which is the sample cotton. It is also reported that the blood stains found in those items were belonged to a female individual. More importantly, same blood stains were found in the shirt and pant of the accused, which were recovered from him in the police station. So, undisputed forensic report as per Ex.P43 will also substantiates and corroborates with other evidence regarding involvement of the accused in the alleged crime by committing the murder of the deceased.

OTHER CORROBORATIVE EVIDENCE:

55. The prosecution has let in other corroborative evidence, apart from the evidence already discussed by me. Of course, the prosecution could not examine the complainant before this Court, because when the summons issued to the CW1, it is reported that he was not in a position to appear before the Court, because of his old age. According to me, non examination of the complainant is not fatal to the prosecution case, when there is other evidence before this Court, which proves the prosecution version. The witness examined as PW4 is the brother of the deceased and the son of the complainant. During the course of

evidence, PW4 has deposed about the matrimonial relationship between the deceased and the accused and birth of two children from the said wedlock. PW4 further said that the accused used to ill-treat his sister by doubting her conduct and in this regard, they conducted panchayaths and advised him. PW4 further deposed that on 18.08.2022 at about 10.45 a.m. when he was in his house, he received phone message from CW20 about murder of deceased Shabana and thereafter, they came to her house at Ayyapaswami Nagar, Saundatti and found her dead body. PW4 has deposed about the injuries found on the dead body.

56. CW13, who was examined as PW5, is the family friend of the complainant and he is also deposed regarding relationship between the deceased and the accused and he participated in the compromise talk, which has taken place to settle the matrimonial dispute between the deceased and the accused. PW5 further said that, he come to know that the deceased was murdered and thereafter, he reached the spot and found dead body of the deceased Shabana and thereafter, he went to the police station along with the complainant. PW5 is the scribe of Ex.P26 complaint,

which was lodged by the CW1. Even though CW1 was not examined, in order to prove the contents of Ex.P26, there is evidence of PW5, who has actually written the complaint.

57. Another witness, who was examined as PW6, is the owner of the house, where the deceased Shabana was residing and the house where her murder took place. PW6 further deposed before the Court that, about 15 days before the incident, when she has let out the saidr house to the deceased Shabana and Shabana told her that there was dispute between herself and her husband, due to which, she is residing separately with her daughter. PW6 further deposed that after coming to know about the murder of deceased, she visited the house and found the dead body of Shabana. Even though PW 4 to 6 are not the eyewitnesses, who have seen the accused stabbing the deceased, they are the persons, who have reached the spot after coming to know about the incident and found the dead body. More importantly, these witnesses knows about the dispute between the deceased and the accused.

58. Another witness examined by the prosecution as PW7, is the Assistant Executive Engineer of PWD, who has prepared the

sketch of the spot as per Ex.P28. The witness, examined as PW8, is the photographer, who has snapped the photos of the spot and also photos taken at the time of inquest and seizure of the knife. PW8 deposed about snapping the photos, issuing CDs and also certificate under Section 65B of Indian Evidence Act. There was no reason for this Court to discard the digital evidence produced before this Court. The prosecution, by examining all those witnesses, have also corroborated the other evidence before this Court, which proves that the accused has committed the murder of deceased Shabana.

PLEA OF ALIBI INTRODUCED BY THE ACCUSED:

59. The accused, at the fag end of the proceeding before this Court and while leading defence evidence, tried to introduce plea of alibi by contending that, at the time of alleged incident, he was in his house at Munavalli and not at the incident spot at Saundatti. In this regard, the accused has examined his minor son as DW1. The witness examined by the accused as DW1 is the minor son of the accused, aged about 14 years. This Court, before recording his evidence, has made preliminary examination about his capability to tender evidence and thereafter, recorded his

statement. During the course of his evidence, DW1 said that his mother was having illicit relationship with a person called Hussain Mulla and thereafter, he was residing separately with his father at Munavalli and his father has divorced his mother. DW1 further said that on the date of alleged incident, he and his father were at Munavalli and his father was no way connected to the death of his mother.

60. The statement made by DW1 in this regard is very vague, without disclosing the actual time, when he and his father were together at Munavalli. The actual time is very important, because the distance between Saundatti to Munavalli is only 17 km. DW1 has not said that through out the day on the date of the alleged incident, his father was at Munavalli and that he was with his father at Munavalli through out day. The alleged incident has taken place at Saundatti around 10.30 a.m. The possibility of accused going to Saundatti can not be ruled out. Therefore, from the vague statement of DW1, the accused cannot establish the plea of alibi and prove that he was at Munavalli at the time of alleged incident and not at the incident spot.

61. It is pertinent to note here that, this plea of alibi was introduced only at the fag end of this proceedings, that too at the time of leading defence evidence. This plea of alibi was never introduced during the course of trial and during the cross examination of prosecution witnesses. For none of the prosecution witnesses, suggestion has been made by stating that the accused was not at the incident spot and he was at Munavalli in his house at the time of incident. This indicates that the plea of alibi introduced by the accused is after thought, which cannot be accepted by this Court.

62. The learned Public Prosecutor, by relying upon a decision of the Hon'ble Supreme Court in **Criminal Appeal No.1578/2012** in between **Kamal Prasad and others vs. The State of Madhya Pradesh dated 10.10.2023**, has argued that there should be documentary evidence to prove the plea of alibi and plea alibi cannot be established only by ocular statement. The Hon'ble Supreme Court in the above referred decision held that, to establish the plea of alibi, something other than a mere ocular statement should be produced. In this case, except the vague statement of the minor son of the accused, there is no evidence to

show that at the time of alleged incident, the accused was in his house at Munavalli with his minor son. Under such circumstances, this Court cannot accept the plea of alibi introduced by the accused.

CONTRADICTIONS AND VARIATIONS:

63. The learned counsel representing the accused, during the course of his arguments, has pointed out some contradiction, variations and discrepancies in the prosecution case and evidence let in by the prosecution. Of course, there are certain contradiction, variations and discrepancies in the evidence let in by the prosecution. But they are very minor and negligible. Regarding the minor contradictions and variations found in the evidence let in by the prosecution, it is necessary to refer to a judgment of the Hon'ble Supreme Court reported in **2023 LiveLaw (SC) 804 (Rameshji Amarsing Thakor Vs. State of Gujarat)(Criminal Appeal No.1183/2026)**, wherein it was held that, minor variations in the evidence of the witnesses, are often the hallmark of truth of their testimony. If all the witnesses depose consistently, colour of interestedness will be attached to the oral testimony of those

witnesses. These inconsistencies and contradictions are bound to appear in every prosecution case.

64. In another decision reported in **2016 (4) Crimes 121 (SC) (Yogesh Singh Vs. Mahabeer Singh and Others)**, it was held that minor contradictions and inconsistencies do not affect the core of prosecution case and should not be a ground to reject the entire prosecution case.

65. Regarding the appreciation of evidence of prosecution witnesses, where there are contradictions and variations, it is necessary to refer to the decisions of the Hon'ble Supreme Court reported in **(2013) 12 SCC 187 (Bakhshish Singh vs State of Punjab and another)**, **(2010) 13 SCC 657 (Sunil Kumar Sambhudayal Gupta vs State of Maharashtra)** and **(2013) 5 SCC 722 (Raj Kumar Singh vs State of Rajasthan)**.

66. As per the ratio laid down in the above decisions, the variations, discrepancies and contradictions are bound to appear in every prosecution case and witnesses examined by them. Not a single prosecution case is free from such minor discrepancies, contradictions and variations. The minor variations of trivial

matters, which do not affect the core of the prosecution case, must not prompt the Courts to reject the evidence thus provided in entirety. When two or more persons are called upon to depose before the court on oath in respect of an incident, which took place about 3 to 4 years back, some variations are bound to appear in their oral testimony, because they will see and approach the said incident in their own perceptions and tend to forget about some of the aspect of incident due to the passage of time. However, the court has to consider as to whether the variations and contradictions are strong and major enough to create a doubt in the mind of the court about the entire case set up by the prosecution. In the case on hand, this court has not found any such major contradictions in the prosecution evidence to disbelieve the same.

CONCLUSION:

67. To sum of my discussion, prosecution has successfully proved that the death of deceased Shabana is a homicidal death. Motive behind crime is also established by the prosecution, as there is a matrimonial dispute between the accused and deceased, resulting in dissolution of their marriage 7 days before the alleged

incident. The accused had the grievance of deceased having illicit relationship with other man and the accused tried to prove the same before the Court, which also establishes the motive behind the crime. The prosecution has proved the alleged incident by direct evidence and the version of the eyewitnesses. There was no reason for this Court to disbelieve the evidence of minor daughter of the deceased and the accused, which is corroborated with the evidence of PW3. No enmity was suggested between the accused and prosecution witnesses, for they depose falsely against the accused. The prosecution has also established the recovery of weapon used for the crime and also proved that from the said weapon, the accused has murdered the deceased, by producing the evidence of expert. There is also other corroborative evidence in support of the prosecution case and the forensic evidence. On the other hand, the accused has failed to prove the plea of alibi introduced by him. Therefore, this Court has to accept the prosecution version and hold the accused as guilty of committing the murder of deceased Shabana and thereby committed the offence punishable under Section 302 of IPC. Hence, by answering the point No.1 and 2 **in the Affirmative.**

68. **Point No.3:** In view of my findings on Point No.1 and 2, accused has to be convicted for the offence punishable under Section 302 of IPC. Accordingly, I proceed to pass the following order:

ORDER

The accused is found guilty.

**Acting under Section 235(2) of Cr.P.C, the
accused is convicted for the offence punishable
under Section 302 of Indian Penal Code.**

Call on for hearing on sentence.

(Dictated to the Stenographer Grade-III, after transcription computerized and print out taken by her, corrected, signed and then pronounced by me in the Open Court on this the 13th day of July 2026)

**(Manjunath Nayak),
Prl. District & Sessions Judge,
BELAGAVI.**

(00000)

15.07.2026

ORDER ON SENTENCE

i). I have heard the accused, learned counsel for the accused and also learned Public Prosecutor on sentence.

ii). The learned Public Prosecutor has submitted before this Court that accused has committed the heinous crime of killing his wife, due to the matrimonial dispute between them. The children of the deceased have lost their loving mother. Therefore, according to the Learned Public Prosecutor, the accused does not deserve any leniency and thereby prayed for imposing the maximum punishment to the accused.

iii). On the other hand, the accused and learned counsel for the accused submitted that accused is aged about 40 years and married and got two children and old aged parents. It was further submitted that accused is the only bread earner of his family and if he is sent to prison for longer duration, his old aged mother, children and other family members, will be put to irreparable loss and hardship. Therefore, accused prayed for showing the leniency while imposing the punishment to him.

iv). The accused is found guilty of committing the offence punishable under Section 302 of IPC. The offence under Section 302 of IPC is punishable with death or imprisonment for life and fine. It is a case of accused killing his wife, aged 28 years, due to the matrimonial dispute between them. The facts and circumstances of this case and manner in which crime is committed, this case does not come within the purview of rarest of rare case to impose the capital punishment. Therefore, accused has to be sentenced to undergo imprisonment for life and to pay fine of Rs.50,000/- for the offences punishable under Section 302 of IPC.

v). It has come out during the course of evidence that deceased has got a son and a daughter, who are aged about 10 years and 08 years. Because of the death of their mother, these minor children were put to lot of mental agony, hardship, loss and inconvenience. Now their father is also not there to look after them, as he is sentenced for life imprisonment. Hence, I feel it is just and proper to recommend to the District Legal Services Authority, Belagavi, for providing the compensation to the minor children of deceased Shabana under the Victim Compensation

Scheme. Accordingly, I proceed to pass the following order on sentence.

ORDER

The accused is sentenced to undergo imprisonment for life and to pay the fine of Rs.50,000/- for offence punishable under Section 302 of IPC.

In default to pay the fine amount, accused shall undergo simple imprisonment for a period of 06 months.

Out of the fine amount, if deposited by the accused, Rs.25,000/- shall be paid to Kum. Aliya (CW4/PW2), as a compensation and balance amount of Rs.25,000/- to be remitted to the state.

The accused is entitled for the benefit of set off for the period for which, he is in judicial custody in respect of this case.

MO1 to 6, 8, 9, 11 to 15, being worthless, are ordered to be destroyed and MO7 knife and MO10 mobile phone are ordered to be confiscated to the State after expiry of the appeal period.

Office to furnish free copy of the judgment to the accused forthwith.

Office to send the copy of this judgment to the Central Prison Belagavi, for information and for implementation of sentence.

Office to send the copy of this judgment to the District Legal Services Authority, Belagavi, for providing the compensation to the minor children of the deceased Shabana, under Victim Compensation Scheme of the Government and also to provide legal assistance to the accused to prefer appeal against this judgment, if he so desires.

Office to send the copy of this judgment to the District Magistrate, Belagavi, as required under Section 365 of Cr.P.C.

(Dictated to the Stenographer Grade-III, after transcription, corrected and then pronounced by me in the Open Court on this **15th day of July 2026**)

**(Manjunath Nayak),
Prl. District & Sessions Judge,
BELAGAVI.**

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ANNEXURE**Witnesses examined on behalf of the prosecution:**

PW1	Mahesh Murulidhar Patil
PW2	Aliya Mehaboobsab Goravanakolla
PW3	Shivanand Ramakrishna Chopade
PW4	Subani Ismail Beedi
PW5	Muktum Hussain Madarsab Savakar
PW6	Girijavva Shivanand Walikar
PW7	Basavaraj Shivalingappa
PW8	Giriprasad Venkateshprasad Revadi
PW9	Sangamesh Yallappa Kuri
PW10	Anand Somappa Kappatti
PW11	Dr. H.V Kavita
PW12	Karuneshgouda Pompanagouda J.

List of witnesses examined for the accused:

DW1	Sufiyan Mehaboobsab Goravanakolla
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Documents got exhibited on behalf of prosecution:

Ex.P1	Police notice of PW1
Ex.P2	Inquest panchanama
Ex.P3 to 6	Photos
Ex.P7	Spot panchanama
Ex.P8 to 14	Photos
Ex.P15	Weapon seizure panchanama
Ex.P16&17	Photos
Ex.P18	Cloth seizure panchanama

Ex.P19to23	Photos
Ex.P24	Cloth seizure panchanama
Ex.P25	Statement of PW3
Ex.P26	Complaint
Ex.P27	Letter dated 20.08.2022
Ex.P28	Sketch issued by PW7
Ex.P29	Letter dated 26.08.2022
Ex.P30&31	Photos
Ex.P32	CD
Ex.P33	65B certificate
Ex.P34	Report of PW9
Ex.P34(a)	Signature of PW9
Ex.P35	Acknowledgment
Ex.P36	Memo
Ex.P37	Report of PW10
Ex.P38	Report of CW29
Ex.P39	Postmortem report
Ex.P40	Blood report
Ex.P41	Requisition
Ex.P42	Opinion of weapon
Ex.P43	FSL report
Ex.P44	FIR
Ex.P45	Statement of accused
Ex.P46	Report of PW12
Ex.P47	Letter of PW12
Ex.P48&49	Record of rights

Ex.P50 Report of PW12
Ex.P51 Certified copy of order sheet

List of documents marked on behalf of the accused:

Ex.D1 Portion of statement of PW3

Material objects marked on behalf of prosecution:

MO1 Blood stained cotton swab
MO2 Cotton
MO3 Blood stained blue cloth
MO4 Blood stained mat
MO5 Blood stained broken bangle pieces
MO6 ACE company blue coloured phone
MO7 Blood stained knife
MO8 Blood stained pink colour shirt
MO9 Blood stained dark blue jeans pant
MO10 Samsung company phone
MO11 Blood stained white veil
MO12 Blood stained pink bra
MO13 Blood stained purple and blue colour nighty
MO14 Blood stained blue colour petticoat
MO15 Blood stained chocolate colour underwear

**(Manjunath Nayak),
Prl. District & Sessions Judge,
BELAGAVI.**