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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 317 of 2023

Sanjay @ Sanju Verma S/o Madan Lal Verma Aged About 42 Years R/o Village Gadadih Police Station- Khairagarh,, District : Khairagarh-Chhuikhadan-Gandai, Chhattisgarh

... Appellant

versus

State Of Chhattisgarh Through Station House Officer, Police Station Khairagarh, District : Khairagarh-Chhuikhadan-Gandai, Chhattisgarh

... Respondent

(Cause title taken from Case Information System)

For Appellant : Smt. Deepa Ramteke, Advocate

For Respondent/State : Mr. Ashish Shukla, Addl. A.G.

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

05/05/2026

1. The present criminal appeal has been filed under Section 374(2) of the Code of Criminal Procedure, 1973 by the appellant Sanjay @ Sanju Verma against the impugned judgment of conviction and order of sentence dated 12.10.2022 passed by the learned Additional Sessions Judge, Khairagarh, District Khairagarh-Chhuikhadan-Gandai (C.G.) in



Sessions Case No. 14/2019, whereby the appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life along with a fine of Rs. 2,000/-, and in default of payment of fine, to further undergo imprisonment for a period of three months.

2. The brief facts of the case are that on 07.05.2019 at about 07:20 PM, the appellant Sanjay @ Sanju Verma brought his wife Lata Verma (deceased) to the Community Health Center, Khairagarh within the jurisdiction of Police Station Khairagarh, where she was declared dead by the attending doctors. On receiving such information, merger intimation under Section 174 of the Code of Criminal Procedure was recorded and necessary proceedings were undertaken. During the course of inquiry, finding the death to be suspicious in nature, First Information Report was registered against the appellant for the offence punishable under Section 302 of the Indian Penal Code on 16.05.2019. During investigation, inquest over the dead body of the deceased was conducted in presence of witnesses and the dead body was sent for postmortem examination, wherein the Medical Officer opined that the cause of death was asphyxia and the nature of death was homicidal. The spot map was prepared and various articles were seized during the course of investigation.
3. During the course of investigation, the appellant was taken into custody and was interrogated, wherein he made a memorandum statement leading to discovery, pursuant to which certain incriminating articles were seized from his possession. The seized articles were sent



for forensic examination to the Forensic Science Laboratory, and the report was obtained. Statements of witnesses under Section 161 of the Code of Criminal Procedure were recorded. After completion of investigation, charge-sheet was filed before the learned Additional Chief Judicial Magistrate, Khairagarh, District Rajnandgaon for the offence punishable under Section 302 of the Indian Penal Code.

4. The case was committed to the Court of learned Additional Sessions Judge, Khairagarh, District Khairagarh-Chhuikhadan-Gandai (C.G.) for trial. The learned trial Court framed charge against the appellant for the offence punishable under Section 302 of the Indian Penal Code. The appellant denied the charge and claimed to be tried.
5. In order to bring home the charge against the appellant, the prosecution has examined 21 witnesses and adduced documentary evidence in support of its case. The statement of the appellant under Section 313 of the Code of Criminal Procedure was recorded, wherein he denied the incriminating circumstances appearing against him, pleaded innocence and stated that he has been falsely implicated in the present case. In defence, the appellant has examined Neha Verma (DW-1) in support of his case.
6. After appreciation of the oral as well as documentary evidence brought on record, the learned trial Court found the appellant guilty of the offence punishable under Section 302 of the Indian Penal Code and convicted and sentenced him as stated hereinabove. Hence, this appeal has been preferred by the appellant.



7. Learned counsel appearing for the appellant would submit that the prosecution has failed to prove its case beyond reasonable doubt. It is contended that the entire case rests on circumstantial evidence and there is no eye-witness to the incident, and the chain of circumstances is not complete so as to point unerringly towards the guilt of the appellant. He would further submit that the medical evidence does not conclusively establish that the death of the deceased was caused in the manner alleged by the prosecution, and there are material omissions and contradictions in the statements of prosecution witnesses, rendering their testimonies unreliable. It is also argued that the memorandum statement and consequent seizure are doubtful and do not inspire confidence. She would further submit that even the defence witness Neha Verma (DW-1) has not been properly appreciated by the learned trial Court. It is contended that in absence of cogent and reliable evidence, the conviction of the appellant is not sustainable in law. Hence, it is prayed that the impugned judgment of conviction and order of sentence be set aside and the appellant be acquitted of the charge.
8. Per contra, learned counsel appearing for the State opposed the submissions made by learned counsel for the appellant and submitted that the prosecution has successfully proved its case beyond reasonable doubt. It is contended that though the case is based on circumstantial evidence, the chain of circumstances is complete and clearly points towards the guilt of the appellant. He would further submit that the medical evidence unequivocally establishes that the death of the deceased was homicidal in nature due to asphyxia. It is



also submitted that the conduct of the appellant in bringing the deceased to the hospital and thereafter absconding is a relevant incriminating circumstance against him.

9. Learned State counsel would further submit that the memorandum statement of the appellant and the consequent seizure of articles have been duly proved and the same lend support to the prosecution case. It is contended that the minor discrepancies in the statements of witnesses do not affect the core of the prosecution case. It is also submitted that the learned trial Court has duly appreciated the evidence of defence witness and has rightly discarded the same for valid reasons. Hence, it is submitted that the impugned judgment of conviction and order of sentence passed by the learned trial Court does not call for any interference by this Court and the present appeal deserves to be dismissed.
10. We have heard learned counsel for the parties and considered their rival submissions made herein above and also gone through the records of the trial court with utmost circumspection.
11. The first and foremost question for consideration would be, whether the death of the deceased Lata Verma was homicidal in nature or not?
12. The next question which arises for consideration is whether the prosecution has been able to prove beyond reasonable doubt that the appellant is the author of the crime and whether the chain of circumstantial evidence is complete so as to exclude every hypothesis consistent with the innocence of the appellant.



13. At the outset, it is evident from the testimony of PW-1, who conducted the post-mortem examination, that the deceased sustained injuries including an abrasion on the forehead, contusion on the bridge of the nose and hematoma on the occipital region of the scalp. The medical officer has opined that the cause of death was asphyxia resulting from smothering, i.e., closure of mouth and nostrils. The said medical evidence clearly establishes that the death was not natural but occurred due to external interference leading to suffocation, thereby indicating a homicidal nature of death. The postmortem findings rule out the possibility of natural or accidental death.
14. Further, though in cross-examination the doctor has stated that no external marks of struggle were found on the body of the deceased, the same by itself is not sufficient to discard the prosecution case, as it is well settled that in cases of smothering, absence of visible struggle marks is not uncommon, particularly when the victim is overpowered or the act is committed in a sudden manner. The suggestion of the defence that the injuries might have been caused due to fall from a 'Nishaini' (ladder) has not been substantiated by any cogent evidence and does not probalilise an accidental death in the facts of the present case.
15. The prosecution has also relied upon the recovery of a 'Gamcha' (towel) alleged to have been used in the commission of offence. Although certain discrepancies have been elicited in the testimony of seizure witnesses, the same do not go to the root of the matter so as



to discredit the entire prosecution case, particularly when the medical evidence independently supports death by smothering.

16. The evidence of PW-2 Pradeep Verma and other related witnesses indicates that the marital relationship between the accused and the deceased was not cordial, thereby providing a relevant circumstance in the chain of events. Their testimonies, though not direct evidence of the occurrence, lend support to the prosecution case when considered along with other circumstances on record.
17. Upon cumulative evaluation of the evidence, it emerges that the medical findings clearly establish death due to smothering and the defence version of accidental fall does not inspire confidence. The circumstances brought on record form a consistent chain pointing towards the guilt of the accused. Accordingly, it can be safely held that the death of the deceased was homicidal in nature.
18. The next question which arises for consideration is whether the prosecution has been able to establish a complete chain of circumstantial evidence so as to unerringly point towards the guilt of the appellant and exclude every possible hypothesis consistent with his innocence. It is well settled that each circumstance relied upon by the prosecution must not only be proved beyond reasonable doubt, but all such circumstances, when taken cumulatively, must form a continuous and complete chain leading only to the conclusion of guilt of the accused.



19. In the present case, the following circumstances stand duly established from the evidence available on record: (i) the deceased died a homicidal death due to smothering; (ii) the incident occurred inside the matrimonial home where the appellant and the deceased were residing together; (iii) the appellant was present with the deceased immediately prior to the occurrence and it was he who brought the deceased to the hospital; (iv) the appellant failed to furnish any plausible explanation regarding the circumstances in which the deceased sustained fatal injuries inside the house; (v) the conduct of the appellant in leaving the deceased at the hospital and thereafter absconding is an incriminating circumstance; and (vi) the evidence on record indicates strained marital relations between the appellant and the deceased, thereby furnishing motive for the commission of the offence. The aforesaid circumstances, when considered cumulatively, form a complete and coherent chain pointing only towards the guilt of the appellant.
20. So far as the authorship of the crime by the appellant is concerned, the prosecution case rests entirely upon circumstantial evidence. It is settled law that the circumstances proved must form a complete chain pointing unerringly towards the guilt of the accused and must exclude every hypothesis consistent with innocence. It is pertinent to note that the case of the prosecution rests primarily on circumstantial evidence. It is a settled principle of law that in cases based on circumstantial evidence, the chain of circumstances must be complete, cogent and consistent, and should exclude every hypothesis except the guilt of the accused. In the present case, it is not in dispute that the incident occurred inside the house where the deceased was residing with the



appellant, who is her husband. The presence of the appellant with the deceased at the relevant time and the fact that it was he who took the deceased to the hospital are material circumstances which bring the incident within his special knowledge.

21. PW-2, Pradeep Verma, who is the brother of the deceased and brother-in-law of the appellant, has stated in his evidence that when he received information about the accident, he had gone to the Hospital, Khairagarh, he was not found the appellant there, and absconded from the place. He refused to give permission for post-mortem of the dead body of his sister. He informed the police about the merge intimation. Thereafter, the post-mortem of the dead body of his sister was conducted. He further stated that the appellant used to torture his sister and committed marpeet with her regularly. On some part of his police statement (exhibit D-1 and D-2), he was declared hostile. However, in his cross-examination, he reiterated that when he had gone to the hospital, he found the dead body of his sister there and his brother-in-law i.e. the appellant was not present there. Though the defence have suggested that this part of his statement is not in his police statement (exhibit D-1). However, when this Court examined the document (exhibit D-1), it is found that this witness has stated in his 161 CRPC statement that the appellant left the dead body of his sister at hospital and absconded, and has not returned back. In cross-examination, he admitted that when he reached to the hospital, initially his brother-in-law and his family members were present and they informed him that when the deceased fell illness, they get her treated



by the village doctor. He further reiterated about harassment and torture given by the appellant to his sister.

22. PW-3, Sandesh Verma is a villager who too has stated that when they reached to the hospital, after receiving the information, the doctor who treated the deceased has informed that the deceased was being brought by her husband, however, he was not found there. The doctor has also informed that when he informed the appellant about death of his wife, he wanted to take her back, but they refused to give her dead body to him, and then, he fled away.
23. PW-4, Ramkumar is the uncle of the deceased. He too has stated about the fact that when they had gone to the hospital, after receiving information, the appellant was not present there and no one of his family members were there, whereas the dead body was lying in the hospital.
24. PW-5, Lalit Verma is the brother of the deceased and brother-in-law of the appellant. He also stated that whenever his sister came to his house, she informed about harassment of the appellant to her and demand of money from her.
25. PW-6, Inkar Verma is also a witness to the fact that when they have reached to the hospital, they have not found appellant there.
26. PW-7, Firantin Verma is the mother of the deceased. She too has stated about the fact that the deceased was being harassed and beaten by the appellant regularly.



27. PW-9, Samliya Ram is also another uncle of the deceased. He too has stated that they could not found the appellant in the hospital when they reached there, after receiving the information.
28. PW-11, Rajesh Verma is the cousin brother of the appellant. He has stated in his evidence that on the date of incident, the appellant Sanjay came to his house and asked for his BOLERO vehicle to take the deceased to the hospital. When he saw the deceased, she was in her house and then he asked the appellant Sanjay to take her to the hospital and he will join later on. After half an hour, when he went to the hospital, the doctor informed him that she has already died.
29. From the evidence of all these witnesses, it clearly reveals that when the deceased was alive in the evening and she was being taken to hospital, she was declared dead. The appellant fled away from the hospital and was not present to take her care. The conduct of the appellant is suspicious and he has not explained, as to why he left the deceased in the hospital and fled away. On being medically examined the deceased, injuries have been found on her body, for which also there is no explanation from the appellant.
30. The conduct of the appellant in leaving the deceased at the hospital and thereafter leaving the hospital without offering any explanation assumes significance. Such conduct is not consistent with the normal behaviour of an innocent person. The appellant has failed to offer any plausible explanation in this regard. Further, the evidence available on record indicates that the marital relationship between the appellant and the deceased was strained, particularly on account of suspicion



regarding character, which provides a relevant motive for the commission of the offence.

31. Another incriminating circumstance against the appellant is his memorandum statement and the consequent seizure effected pursuant thereto. Though certain discrepancies have been pointed out in the testimony of the seizure witnesses, the same are not of such magnitude as to render the recovery wholly unreliable, especially when the same stands corroborated by other evidence on record. The circumstances so established form a coherent chain pointing towards the involvement of the appellant.
32. Even assuming that certain discrepancies exist with regard to the recovery proceedings, the same would not materially affect the prosecution case, inasmuch as the conviction of the appellant does not rest solely upon the recovery evidence. The other proved circumstances, particularly the homicidal death inside the matrimonial home, the presence and conduct of the appellant, and his failure to explain the circumstances leading to the death of the deceased, are by themselves sufficient to complete the chain of circumstantial evidence against the appellant.
33. It is also significant to note that the occurrence took place within the confines of the matrimonial home, where the presence of outsiders is unlikely. In such circumstances, the appellant was required to offer an explanation in terms of Section 106 of the Evidence Act, to explain as to how the deceased sustained injuries leading to her death. The



appellant has failed to furnish any satisfactory explanation, which further strengthens the prosecution case.

34. It is also pertinent to note that during his examination under Section 313 of the Code of Criminal Procedure, the appellant failed to offer any satisfactory or plausible explanation regarding the homicidal death of his wife inside the matrimonial home. The explanation furnished by the appellant is vague and does not probalilise the defence version of accidental death. In a case where the incident occurred within the special knowledge of the accused, failure to furnish a reasonable explanation constitutes an additional incriminating circumstance against him.
35. Upon cumulative consideration of the aforesaid circumstances, it is evident that the chain of circumstantial evidence is complete and consistent, leaving no room for any hypothesis other than the guilt of the appellant. Accordingly, it can be safely held that the appellant is responsible for the commission of the offence in question.
36. In a case resting on circumstantial evidence, the legal position is well settled by the Hon'ble Supreme Court in **Sharad Birdhichand Sarda vs. State of Maharashtra**, (1984) 4 SCC 116, wherein it has been held as under:

“(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established;

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused;



(3) the circumstances should be of a conclusive nature and tendency;

(4) they should exclude every possible hypothesis except the one to be proved; and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused.”

37. Applying the aforesaid principles to the present case, this Court finds that the circumstances established by the prosecution are fully proved, form a complete chain and are consistent only with the guilt of the appellant.
38. In the present case, the incident admittedly occurred within the matrimonial home where the appellant and the deceased were residing together. The appellant has failed to offer any plausible explanation regarding the circumstances leading to the death of the deceased, thereby attracting the principle laid down under Section 106 of the Evidence Act.
39. Further, in **Trimukh Maroti Kirkan vs. State of Maharashtra**, (2006) 10 SCC 681, the Hon'ble Supreme Court, while dealing with offences committed inside the house, has held:

“Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in



other cases of circumstantial evidence. ... Where the accused is the only person present in the house, it is for him to explain how the incident occurred.”

40. In **State of Rajasthan vs. Kashi Ram**, (2006) 12 SCC 254, the Hon’ble Supreme Court has held:

“If the accused fails to offer a reasonable explanation in discharge of the burden placed on him under Section 106 of the Evidence Act, that itself provides an additional link in the chain of circumstances proved against him.”

41. In the case at hand, the appellant has not furnished any satisfactory explanation as to how the deceased sustained fatal injuries inside the house, which further strengthens the prosecution case.

42. In the case of **Nagendra Sah v. the State Of Bihar** (2021) 10 SCC 725 the Hon’ble Supreme Court in Para 23 has held as under:

“23. When a case is resting on circumstantial evidence, if the accused fails to offer a reasonable explanation in discharge of burden placed on him by virtue of Section 106 of the Evidence Act, such a failure may provide an additional link to the chain of circumstances.”

43. In the case of **Balvir Singh v. State of Uttarakhand**, (2023) Live Law (SC) 861 the Hon’ble Supreme Court in Para 33 and 34 has held as under:

“33. Section 106 of the Evidence Act, states as under:



"106. Burden of proving fact especially within knowledge. When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.(b) A is charged with travelling on a railway without a ticket, The burden of proving that he had a ticket is on him.

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



44. With regard to absence of external injuries or marks of struggle in cases of asphyxia/smothering, the Hon'ble Supreme Court in **State of U.P. vs. Krishna Gopal**, (1988) 4 SCC 302 has observed:

“Minor discrepancies or absence of certain expected features in medical evidence cannot override the direct and circumstantial evidence which is otherwise cogent and reliable.”

45. In view of the aforesaid settled legal principles and upon careful evaluation of the evidence on record, this Court is of the considered opinion that the prosecution has successfully established the guilt of the appellant beyond reasonable doubt. The learned trial Court has rightly appreciated the evidence and has not committed any illegality or perversity in recording the conviction of the appellant under Section 302 of the Indian Penal Code.
46. Consequently, this Court finds no merit in the present appeal. The judgment of conviction and order of sentence passed by the learned trial Court call for no interference and are hereby affirmed. The appeal is accordingly **dismissed**.
47. The appellant shall undergo the entire sentence awarded by the learned trial Court.
48. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to communicate the same to the appellant informing him that he is at liberty to assail the present judgment passed by this Court by



preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

49. Let a copy of this judgment and the original records be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

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