



2026:CGHC:13120-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 525 of 2025

Shiv Kumar Koshle @ Bablu S/o Late Shri Jagdish Prasad Koshle Aged
About 39 Years R/o Nayapara Ganesh Nagar, Police Station- Sirgitti,
District- Bilaspur (C.G.)

... Appellant(s)

versus

State Of Chhattisgarh Through- The Station House Officer, Police
Station- Sirgitti, District- Bilaspur (C.G.)

... Respondent(s)

For Appellant (s) : Mr. Rishi Rahul Soni, Advocate
For Respondent(s) : Mr. S.S. Baghel, Govt. Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

19.03.2026

1. Heard Mr. Rishi Rahul Soni, Advocate, appearing for the learned counsel for the appellant as well as Mr. S. S. Baghel, Govt. Advocate General for the Respondent/ State in the present criminal appeal.
2. The appellant has preferred this criminal appeal under section 415 (2) of the B.N.S.S.2023, against the judgement of conviction and sentence dated 26.11.2024, passed by learned 6th Additional Sessions Judge, Bilaspur, in Sessions Case No. 104/2022, whereby the appellant has been convicted Under Section 302 of IPC and sentenced him for life imprisonment with fine of Rs. 500/-, in default of payment of fine additional RI for 01 month.
3. The case of the prosecution in brief is that on 01.11.2021, at about 11.20 AM, the complainant Umend Lal Bharati (PW/16) gave a merg intimation to the Police that he was being informed by his neighbour that Priti Koshle have been murdered and dial 112 Police took the accused to the Police Station and when he had gone to his house, he found her dead body in her house in injured condition. The accused suspected the fidelity of his wife and used to quarrel regularly. Based on the merg intimation (Ex-P/16), the Police started an inquiry. Inquest (Ex-P/7) was prepared, and the dead body of the deceased was sent for its postmortem to the District Hospital, Bilaspur. (PW/14) Dr. Katlam Singh Dhruve conducted the postmortem of the dead body of the deceased and gave the report (Ex-P/20). While conducting the postmortem, the doctor found following injuries on her body:-

1. Injury on the forehead, postauricular region left side,
2. Vertex region,
4. left ear post auricular region, the skull bone was found fractured,
5. Abrasion on the left hand and elbow,
6. Abrasion on the right side of the neck
7. Abrasion on the right scapular region
8. Hematoma on the left thigh
9. and left tibial region

And opined that according to the finding, death was due to cardio respiratory arrest.

4. Spot Map (Ex-P/5) was prepared by the Police, and (Ex-P/9) was prepared by the Patwari. Blood-stained and plain soil have been seized from the spot vide seizure memo (Ex-P/8). FIR (Ex-P/17) was registered against the appellant for the offence under Section 302 of the IPC. The appellant was arrested on 01.11.2021, and his memorandum statement (Ex-P/1) was recorded. Based on his memorandum statement, one spade, one half shirt, one half pant and one mobile phone have been seized from him vide seizure memo (Ex-P/2). The spade was sent for its query report to the doctor, who gave his report (Ex-P/21) and opined that the injuries found on the body of the deceased could have been caused by the said weapon. The seized articles, i.e. blood stain and plain soil, the spade seized from the appellant, his clothes and the clothes of the deceased were sent for their chemical examination

to the Regional FSL, Bilaspur, from where a report (Ex-P/27) was received. According to the FSL report, in the blood stain soil and spade, "A" group of human blood was found, and in the clothes of the accused and the clothes of the deceased, blood was found; however, their origin could not be determined. Statement of the witnesses under Section 161 of Cr.P.C. has been recorded, and after completion of the usual investigation, charge sheet has been filed before the learned Judicial Magistrate First Class, Bilaspur, for the offence under Section 302 of IPC.

5. The case was committed to the learned Sessions Judge, Bilaspur, from where it was transferred to the learned Trial Court for its trial.
6. The learned trial Court has framed charge against the appellant for the offence under Section 302 of the IPC. The appellant denied the charge and claimed trial. In order to prove the charge against the appellant, the prosecution has examined as many as 16 witnesses. Statement of the appellant under Section 313 of CRPC has also been recorded, in which he denied the circumstances appear against him, pleaded innocence and has submitted that he is innocent and has been falsely implicated in the offence.
7. After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial Court has convicted and sentenced the appellant as mentioned in the earlier part of the judgment, hence this appeal.

8. Learned counsel for the appellant would submit that the prosecution has failed to prove its case beyond a reasonable doubt. There are material omissions and contradictions in the evidence of the prosecution witnesses. There is no eye witness of the case, and the case of prosecution is based on circumstantial evidence, and the chain of circumstances is not complete. There is no evidence that at the relevant point in time, the accused was present in the house along with the deceased. There are other inmates of the house, and the liability to explain the fact within the special knowledge cannot be imposed upon the appellant. None of the witnesses has stated that the appellant was present on the spot. The burden shifts upon the appellant only after successfully discharging the burden upon the prosecution that the accused alone was present in the house with the deceased. There is no ground to draw a presumption under Section 106 of the Evidence Act. He would also submit that the accused himself has given the intimation of the incident to dial 112, but there is no document produced by the prosecution regarding the intimation given by the appellant to prove the nature of the information. It is also submitted that the children of the accused, as well as the deceased, were also residing with them, but their statements have not been recorded, and they have not been cited as witnesses. In such circumstances, the benefit of doubt goes in favour of the accused. It is further submitted that there is cogent evidence with respect to the seizure of the spade and clothes on the instance of

the accused, as the spade was lying there on the spot, and the seizure of the articles has not been supported by the seizure witnesses. In such lack of evidence, the appellant cannot be convicted of the alleged offence, and he is entitled for acquittal. In support of his submission, he would rely upon the judgment of **“Shivaji Chintappa Patil Vs. State of Maharashtra”**, 2021 (5) SCC 626, **“Nusrat Parween Vs. State of Jharkhand”**, 2024 SCC Online SC 3683, **“Manharan Rajwade Vs. State of Chhattisgarh”** 2024 (16) SCC 32, and **“Pooranmal Vs. State of Rajasthan and another”**, 2026 SCC Online SC 344.

9. On the other hand, learned counsel for the State opposes the submissions made by learned counsel for the appellant and has submitted that the prosecution has proved its case beyond reasonable doubt. But for minor omissions or contradictions, the. The appellant was present on the spot at the relevant point of time, which has been proved by his Mother (PW/2) Durga Bharti. As per the submission of the appellant himself, he informed Dial 112 Police and meaning thereby, he was present on the spot. The wife of the appellant was found dead in a seriously injured condition, having numerous injuries on her body, and the incident occurred at night, then the appellant is under an obligation to explain how his wife was found dead in injured condition. There is absolutely no explanation from the appellant. From the evidence produced by the prosecution, it has clearly been established that the appellant was in the house along with the deceased at the

relevant point in time, and blood has been found on the clothes of the appellant, for which there is also no explanation. There are evidence on record with respect to the strange relation between the appellant and the deceased and thus all the chain of circumstances are enter connected with each other which forms a complete chain of circumstances which pointing towards guilt of the appellant that he committed murder of his wife, therefore, there is no merits in the appeal and the same is liable to be dismissed.

10. We have heard learned counsel for the parties and perused the record of the trial Court with utmost circumspection.
11. The first and foremost question that arises for consideration is the nature of the death of the deceased.
12. The dead body of the deceased was found inside the house, having numerous injuries on her body. The injuries have been proved by the doctor (PW/14) who conducted the postmortem of the dead body. He stated in his evidence that while conducting the post-mortem, he noticed various injuries on the dead body and opined that the cause of death of the deceased is cardiorespiratory arrest, and his post-mortem report is (Ex-P/20). Nothing in his cross-examination makes his evidence doubtful. He specifically denied that the deceased might have received injury on his head by falling on the sharp-edged and pointed object.

13. From the evidence of the doctor (PW/14) and also from the evidence of (PW/4) Kawal Prasad, who is the witness of the inquest. The prosecution has proved that the death of the deceased was due to the injuries found on her body, and she was murdered in her house.
14. The next question involved in the present case would be the involvement of the appellant in the offence in question.
15. It is not disputed that the deceased is the wife of the appellant. Her dead body was found inside the house where the appellant and the deceased were residing. With respect to the presence of the appellant at his house at the relevant point of time has been proved by (PW/2), who is the mother of the deceased. She stated in her evidence that the deceased was married to the appellant 14-15 years back. Her daughter was being harassed by her in-laws; therefore, the appellant and the deceased started residing at Ganesh Nagar Naya Para. Shiv Kumari, who is a resident of the vicinity, informed her that her daughter is being murdered. When the leading question was being asked, she denied that the appellant confessed to her that he had murdered the deceased. She also admitted that the appellant suspected her fidelity and used to beat her. There was a frequent quarrel going on between them. In her cross-examination, the defence could not extract any material to show that the appellant was not present at his house on the date of the incident. Though she stated that she did not come to know on the spot who had murdered her daughter. When

this witness has stated that the appellant was residing with the deceased at Ganesh Nagar Naya Para, it is for the appellant to get her evidence rebutted in her cross-examination, but he failed to do so.

16. (PW/3) Shiv Kumari is the resident of the vicinity who informed the mother of the deceased about the incident. She stated in her evidence that on the date of the incident, when she came to know about the incident, she informed it to her mother. Though she has not supported the prosecution's case, however, it comes in her evidence that she came to know on the spot that the deceased was being murdered by his husband, which she informed her mother.
17. (PW/4) Kamal Prasad is the relative of the appellant and the deceased. When he came to know about the incident, he had gone to the place of the incident where the father of the deceased informed him that the deceased was murdered by her husband, then he accompanied Umend Lal for lodging the report. 15 days back, there was a quarrel between the appellant and the deceased, and he, along with Umend Lal Bharati, had gone there and convinced them. In cross-examination, he denied the suggestion that, due to his relationship, he is not telling the truth. He too remains firm in his cross-examination about the statement made in his examination in chief.
18. (PW/5) Pramod Bharati, who is the brother of the deceased. He stated in his evidence that when he came to know about the

incident, he too had gone to the place of the incident and saw the dead body of the deceased inside his house. He too has stated that they married 13 years back, having 4 children. The appellant suspected the fidelity of his sister, and for that reason, he assaulted her with a spade and committed her murder. There is nothing in his evidence that their relation was not strange or that the appellant was not present in his house on the fateful night.

- 19.** (PW/7) Laxmikant Mishra is the Constable and is attached to dial 112 Police. He stated in his evidence that on 13.10.2021, he was on duty with dial 112. He received a phone call from the Raipur command centre that the appellant had committed the murder of his wife at Ganesh Nagar, Naya Para. When he reached on the spot, he found the appellant there and confessed his guilt. He immediately informed the Station House Officer of P.S. Sirgitti through his mobile phone and also replied to the command centre in Raipur. He took the appellant to the Sirgitti Police station by 112 vehicle. In his cross-examination, he denied the suggestion that he had falsely implicated the accused in the offence. From the evidence of this witness, it has been clearly established that at the relevant point of time, the accused was present in the spot, he informed dial 112, and dial 112 Police took him to the police station, which clearly establishes his presence on the spot.
- 20.** (PW/16) Umend Lal Bharati, who is the father of the deceased, has stated that when he received information about the incident, he went to her house and saw her dead body. He informed the

Sirgitti Police, where merg intimation was recorded. When he was declared hostile and cross-examined by the prosecution, he stated that his daughter has been married to the appellant for 13 years. He admitted that 2 years back, his daughter had eloped with her brother-in-law, and after staying with him for 03 months, she came back to the appellant. There was a frequent quarrel between the appellant and the deceased, and due to this reason, the appellant committed the murder. In cross-examination, he too had remained firm about their strange relation, and the defence could not extract any material from this witness, which makes his evidence doubtful.

21. Upon hearing learned counsel for the parties and on a careful perusal of the entire record, it clearly emerges that the death of the deceased was homicidal in nature. The dead body of the deceased was found inside her house bearing multiple injuries on vital parts of the body, which have been duly proved by the evidence of the doctor (PW/14), who conducted the postmortem examination and submitted report (Ex-P/20). The doctor has categorically opined that the death was due to cardiorespiratory arrest resulting from the injuries sustained by the deceased, and he has specifically ruled out the possibility of such injuries being caused by an accidental fall. His testimony has remained unshaken in cross-examination. The inquest witness (PW/4) has also supported the prosecution's case regarding the condition of the dead body. Thus, from the medical as well as ocular evidence,

it stands firmly established that the deceased died an unnatural and homicidal death inside her matrimonial home.

- 22.** As regards the involvement of the appellant, the prosecution's case rests on circumstantial evidence, and the chain of circumstances is found to be complete and consistent only with the hypothesis of the guilt of the appellant. It is not in dispute that the deceased was the wife of the appellant and that both were residing together in the same house where the incident occurred. The presence of the appellant at the relevant point of time has been established by the evidence of (PW/2) and further corroborated by (PW/7), the constable attached to Dial 112, who categorically stated that upon receiving information, he reached the spot and found the appellant present there, and thereafter took him to the police station. The evidence on record also establishes that there were strained relations between the appellant and the deceased on account of suspicion regarding her fidelity, leading to frequent quarrels. The appellant has failed to offer any explanation in his statement under Section 313 Cr.P.C. regarding the incriminating circumstances, particularly as to how the deceased sustained fatal injuries inside the house where he was present. The recovery of the weapon (spade) at the instance of the appellant, coupled with the medical opinion that the injuries could have been caused by such weapon, and the presence of blood stains on the seized articles, further strengthens the prosecution's case. Taken together, these circumstances form a

complete chain pointing unerringly towards the guilt of the appellant, ruling out any hypothesis of innocence.

- 23.** 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".

24. 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."

of the evidence on record as well as the judgment passed by the learned trial Court, we do not find any perversity or illegality in the conviction and sentence of the appellant. The learned trial Court, while considering the case against the appellant and the evidence available on record, has rightly considered the five golden principles settled by the Hon'ble Supreme Court, in the case of **"Sharad Birdhi Chandra Sarda Vs. State of Mararashtra"** 1984 (4) SCC 116 and the provision of 106 of the Evidence Act, and held the appellant guilty of the alleged offence. We found no scope for interference in the appeal in view of the evidence available on record.

25. The judgment cited by the learned counsel for the appellant does not assist his case, as the facts and consideration on those cases are different from the facts of the present case, and therefore, distinguishable. The case of “**Shivaji Chintappa Patil**” (supra) pertains to the issue of whether the death of the deceased was suicidal or homicidal, whereas the present case clearly involves a homicidal death, as evidenced by the numerous injuries found on the body of the deceased. The judgment of “**Nusrat Parween**” (supra) pertains to the availability of evidence regarding the presence of the accused on the spot and the existence of motive, whereas in the present case, both aspects stand established through the evidence of the witnesses. The judgment of “**Manharan Rajwade**” (supra) concerns the burden on the prosecution to establish the presence of the accused on the spot and the consideration of his explanation under Section 313 Cr.P.C. However, in the present case, the prosecution has successfully proved his presence, and the appellant has failed to offer any explanation regarding the incriminating circumstances in his statement under Section 313 Cr.P.C. The “**Pooranmal**” case (supra) relates to the acceptance of the DNA/FSL report, whereas in the present case, there is other evidence also apart from the FSL report; therefore, it is also distinguishable.
26. Consequently, the appeal filed by the appellant is **dismissed**.

- 27.** The appellant is reported to be in jail since 01.11.2021; he shall serve the entire sentence awarded to him by the learned trial Court.
- 28.** Registry is directed to send a copy of this judgment to the appellant through the concerned Superintendent of Jail where the appellant is undergoing his jail sentence, 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.
- 29.** The trial court record, along with a copy of this judgment, should be sent back immediately to the trial court concerned for compliance and necessary action.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice