



2026:CGHC:3789-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1242 of 2024

1 - Dashrath Chandrawanshi S/o Late Shri Konda Chandrawanshi,
Aged About 78 Years, R/o Village- Andhiyarkhor, Thana- Pandatarai,
Distt.- Kabeerdham (C.G.)

... Appellant

versus

1 - State of Chhattisgarh Through The District Magistrate Kabeerdham
Distt. Kabeerdham (C.G.)

... Respondent

(Cause title taken from Case Information System)

For Appellant : Mr. Sunil Sahu and Sumit Shrivastava,
Advocates.

For State/Respondent : Mr. Priyank Rathi, Govt. Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

22-01-2026

1. The present criminal appeal has been filed by the appellant under Section 374(2) of the Cr.P.C. against the impugned judgment of conviction and sentence dated 23-05-2024 passed by the learned Additional Judge to the Court of learned Additional Sessions Judge, Kabeerdham, District Kabeerdham (C.G.) in S.T. No.11/2022 whereby the appellant has been convicted and sentenced in the following manner with a direction to run all the jail sentences concurrently:-

Conviction	Sentence
U/s 302 of the IPC	Life Imprisonment and fine of Rs.1000/-, in default of payment of fine additional R.I. for 03 months,
U/s 201 of the IPC	R.I. for 5 years and fine of Rs.500/-, in default of payment of fine additional R.I. for 01 month.

2. The brief facts of the case are that on 26-11-2021 the informant Khemas Chandrawanshi gave a merg intimation to P.S. Pandatarai, District Kabeerdham that at about 6:20 p.m. he was informed by Amar Chandrawanshi that he received an intimation that Maharani Chandrawanshi is missing since 1:00 p.m. who had gone to field for work. During her search her dead body was found in the field in hanging condition. The merg intimation Ex.-P/1 was recorded by the plice and the witnesses were called for inquest. The inquest Ex.-P/9 was prepared in presence of the witnesses and the dead body was sent for its postmortem to Govt. Hospital Pandariya where doctor Janaki Sharan Chandrawanshi PW-13 conducted the postmortem on the dead body and gave his postmortem report Ex.-P/28 and opined that death was due to cardio respiratory failure though final opinion for the mode of death will be given after viscera chemical analysis report basis duration of death within 24 hours prior to postmortem examination. The multiple abrasions, contusions were found on the body of the deceased during its postmortem. A query was raised from the doctor about nature and mode of death and the query report Ex.-P/29 was given by the doctor in which the nature of death is opined as cause of death was due to cardio respiratory failure and nature of death may be homicidal, but final report

for nature of death may be given after viscera and other articles chemical analysis report basis and circumferential evidence. The entries was caused by hard and blunt object and nature is antemortem in nature. The FIR Ex.-P/40 has been registered against unknown person for the offence under Section 302 of the IPC. Spot map was prepared by by the police and Ex.-P/25 was prepared by the Patwari. One violate colour bracelet, one golden colour bracelet, 3 pieces of green colour broken bangles, one golden like colour ear tops, one golden colour pearl, one black hair clip, one violate colour plastic bracelet and bunch of hairs have been seized from the spot vide seizure memo Ex.-P/10. From the same place from where the aforesaid articles have been seized blood stained soil and plain soil have been seized vide seizure memo Ex.-P/11. From the adjacent field where the dead body was found, two green colour pieces of broken bangle have been seized vide seizure memo Ex.-P/12. Two pieces of cut papaya which was in a polythene was also seized from Andhiyarkhor Lalpur road from the distance of 214 feet away from the dead body. Another bunch of hair lying from the legs of the deceased and shoes of the deceased have also been seized from the spot vide seizure memo Ex.-P/14. The viscera of the deceased was seized vide seizure memo Ex.-P/30. The nail cutting of the deceased was also seized vide seizure memo Ex.-P/31. During the investigation the appellant was taken into custody and his memorandum statement Ex.-P/15 was recorded and based on his memorandum statement the gamchha of the deceased has been seized vide seizure memo Ex.-P/16, one bicycle was seized vide

seizure memo Ex.-P/17. One white full shirt and full pant has also been seized from the appellant vide seizure memo Ex.-P/21. The appellant was also sent for his medical examination to community health center Pandariya where he was medically examined by PW-21 Doctor Keshav Jaiswal and after his medical examination he gave his report Ex.-P/62. During his medical examination the doctor has noticed certain injuries over the body of the appellant which were simple in nature. The spot panchnama as per the disclosure statement of the appellant was also prepared in presence of the witnesses which is Ex.-P/7. The PW-15 Doctor Purshottam Rajput taken the blood sample of the appellant for its DNA examination and the seizure memo of blood sample is Ex.-P/18. The vaginal slides of the deceased, clothes of the deceased, clothes of the appellant, blood stained soil and plain soil seized from the spot were sent for its FSL examination to State FSL, Raipur, from where the FSL report Ex.-P/47 was received and no semen or sperms were found on the same articles, however, in the clothes of the deceased as well as the appellant and blood stained soil human blood were found and in the clothes of the deceased and the appellant, O group blood was found. The pieces of nail of deceased and blood sample of the appellant were sent for its DNA test to the State FSL, Raipur DNA Unite, from where report Ex.-P/48 was received and the DNA profile of both these articles were not matched. In the viscera report Ex.-P/49 there is no poisonous substance found in the viscera of the deceased. Statement of the witnesses under Section 161 of the CrPC have been recorded and after completion of usual investigation charge sheet was filed against the

appellant for the offence under Section 302, 201 of the IPC before the learned JMFC, Pandariaya. The case was committed to the learned Sessions Judge Kabirdham from where it has been transferred to the learned trial Court for its trial.

3. The learned trial Court has framed charge against the appellant for the offence under Section 302 , 201 of the IPC. The appellant denied the charge and claimed trial.

4. In order to prove charge against the appellant the prosecution has examined as many as 21 witnesses. Statement of the appellant under Section 313 of the CrPC has also been recorded in which he denied the circumstances appearing against him, pleaded innocence and has submitted that he has been falsely implicated in the offence.

5. After appreciation of oral as well as the documentary evidence led by the prosecution, the learned trial Court has convicted and sentenced the appellant as mentioned in the earlier part of this judgment.

6. Learned counsel for the appellant would submit that the prosecution has failed to prove its case beyond reasonable doubt. There are material omissions and contradictions in the evidence of prosecution witnesses which cannot be basis to convict him in the offence in question. The case of the prosecution is based on circumstantial evidence and there are various missing links and chain of circumstances is not complete. The evidence of the witnesses are full of contradictions and exaggerations and only on suspicion the appellant has been convicted. The clinching piece of evidence, i.e., DNA is found negative which belies the prosecution's case. The deceased is

daughter-in-law and there is no reason or motive to commit her murder. The dead body of the deceased is found in hanging condition. The appellant was aged about 75 years on the date of incident and it is not possible for him to commit her murder and thereafter hanged her in the tree that too in an open place. The alleged time of incident is day time and it could not be possible that no one could see them together or committing the offence. The entire story is concocted. The memorandum statement and seizure allegedly made from the appellant has also not been proved in accordance with law. Therefore, in absence of any corroborative and cogent evidence against the appellant he cannot be convicted for the capital offence and therefore, he is entitled for acquittal.

7. On the other hand, learned counsel for the State opposes the submission made by the learned counsel for the appellant and has submitted that the prosecution has proved its case beyond reasonable doubts. All the chain of circumstantial evidence are closely linked with each other which pointing towards the guilt of the appellant. There is evidence of last seen together, false explanation by appellant and injuries found on the body of the appellant which he has not explained in the FSL O group of human blood has been found and the same O group of blood has also been found on the clothes of the deceased. After committing murder of the deceased by strangulation her body was hanged to conceal the evidence and to show that she committed suicide which itself shows the criminal intention of the appellant. A number of injuries have been found on the body of the deceased which reflected

that before her death she was subjected to assault. But for minor omissions or contradictions the evidence of witnesses are supported and corroborated with each other. The learned trial Court after considering the entire facts and circumstances of the case as well as the law laid down by the Hon'ble Supreme Court applicable to the facts of the case has convicted the appellant and sentenced him which is absolutely justified and not required to be interfered with and the appeal of the appellant is liable to be dismissed.

8. We have heard learned counsel for the parties and perused the record of the trial Court with utmost circumspection.

9. It is not disputed in the case that deceased Maharani Chandrawanshi is daughter-in-law of the appellant. There is no eye-witness to the incident and the prosecution's case is based on circumstantial evidence. The circumstances which are available in the present case has been summarized by the learned trial Court in para 22 of the judgment which are reproduced as under:-

“(1) क्या घटना दिनांक को मृतका एवं अभियुक्त रामफल के खेत में काम करने गये थे, जो दोपहर बाद खाना खाकर समय पर वापस काम पर नहीं आये थे ?

(2) क्या घटना दिनांक को अभियुक्त एवं मृतका को ग्राम अंधियारखोर के सेहरी खार में अंतिम बार देखा गया था ?

(3) क्या घटना के समय अभियुक्त को भी चोटें आयी थी ?

(4) क्या घटना के समय अभियुक्त के पहने हुए कपड़े में पाये गये खून के दाग को मानव रक्त होना पाया गया था ?

(5) क्या अभियुक्त दशरथ चंद्रवंशी से पूछताछ किये जाने पर अपनी बहू मृतका की

हत्या किया जाना स्वीकार किया है ?

(6) क्या अभियुक्त तथा उनके परिवार वालों एवं मृतका के मध्य पूर्व से घरेलू विवाद होता रहता था जो कि घटना का हेतुक (Motive) था ?”

10. With respect to the consideration of circumstantial evidence the Hon'ble Supreme Court has laid down the law in catena of decisions that the circumstances from which the conclusion of guilt is drawn should be fully proved and must be conclusive in nature. In the case of ***Ravindra Singh Vs. State of Punjab, 2022 (7) SCC 581*** held in para 10 as under:-

10. The conviction of A2 is based only upon circumstantial evidence. Hence, in order to sustain a conviction, it is imperative that the chain of circumstances is complete, cogent and coherent. This court has consistently held in a long line of cases [See *Hukam Singh v. State of Rajasthan* AIR (1977 SC 1063); *Eradu and Ors. v. State of Hyderabad* (AIR 1956 SC 316); *Earabhadrapa @ Krishnappa v. State of Karnataka* (AIR 1983 SC 446); *State of U.P. v. Sukhbasi and Ors.* (AIR 1985 SC 1224); *Balwinder Singh @ Dalbir Singh v. State of Punjab* (AIR 1987 SC 350); *Ashok Kumar Chatterjee v. State of M.P.* (AIR 1989 SC 1890)] that where a case rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused. The circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances.

10.1. In *Bhagat Ram v. State of Punjab* (AIR 1954 SC 621), it was laid down that where the case depends upon the conclusion drawn from circumstances, the cumulative effect of the circumstances must be such as to negate the innocence of the accused and bring the offence home beyond any reasonable doubt.

10.2. We may also make a reference to a decision of this Court in *C. Chenga Reddy and Ors. v. State of A.P.* (1996) 10 SCC 193, wherein it has been observed that:

“21. In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be

complete and there should be no gap left in the chain of evidence. Further the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence....”.

11. In the matter of para ***Surendra Kumar and Another Vs. State of Uttar Pradesh, 2021 (20) SCC 430***, the Hon’ble supreme Court has held in 11 and 12 as under:-

“11. As the case against the appellants is entirely based on circumstantial evidence, it is necessary to determine whether the available evidence lead only to the conclusion of guilt and exclude all contrary hypothesis. The enunciation on the law of circumstantial evidence stood the test of time since Hanumant Vs. State of Madhya Pradesh¹ where Mahajan J., has written as under:-

“10.....It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused.....”

12. The nature, character and essential proof required in criminal cases was discussed in detail by Fazal Ali J in Sharad Birdhichand Sarda vs. State of Maharashtra² and the proposition of law culled out on circumstantial evidence was approved in many subsequent judgments and was recently reiterated by Krishna Murari J., writing the opinion for a three Judges Bench in Shailendra 1 AIR 1952 SC 343 2 (1984) 4 SCC 116 Rajdev Pasvan & Ors. Vs. State of Gujarat & Ors. 3 where it was succinctly laid down as under:-

“17. It is well settled by now that in a case based on circumstantial evidence the courts ought to have a conscientious approach and conviction ought to be recorded

only in case all the links of the chain are complete pointing to the guilt of the accused. Each link unless connected together to form a chain may suggest suspicion but the same in itself cannot take place of proof and will not be sufficient to convict the accused.”

12. In the matter of ***Digambar Vaishnav and Another Vs. State of Chhattisgarh, 2019 (4) SCC 522***, the Hon’ble supreme Court has held :-

“14. One of the fundamental principles of criminal jurisprudence is undeniably that the burden of proof squarely rests on the prosecution and that the general burden never shifts. There can be no conviction on the basis of surmises and conjectures or suspicion howsoever grave it may be. Strong suspicion, strong coincidences and grave doubt cannot take the place of legal proof. The onus of the prosecution cannot be discharged by referring to very strong suspicion and existence of highly suspicious factors to inculcate the accused nor falsity of defence could take the place of proof which the prosecution has to establish in order to succeed, though a false plea by the defence at best, be considered as an additional circumstance, if other circumstances unfailingly point to the guilt.

15. This Court in *Jaharlal Das v. State of Orissa*, (1991) 3 SCC 27, has held that even if the offence is a shocking one, the gravity of offence cannot by itself overweigh as far as legal proof is concerned. In cases depending highly upon the circumstantial evidence, there is always a danger that the conjecture or suspicion may take the place of legal proof. The court has to be watchful and ensure that the conjecture and suspicion do not take the place of legal proof. The court must satisfy itself that various circumstances in the chain of evidence should be established clearly and that the completed chain must be such as to rule out a reasonable likelihood of the innocence of the accused.

16. In order to sustain the conviction on the basis of circumstantial evidence, the following three conditions must be satisfied:

i.) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

ii.) those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused; and

iii.) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else, and it should also be incapable of explanation on any other hypothesis than that of the guilt of the accused.

17. In *Varkey Joseph v. State of Kerala*, 1993 Suppl (3) SCC 745, this Court has held that suspicion is not the substitute for proof. There is a long distance between 'may be true' and 'must be true' and the prosecution has to travel all the way to prove its case beyond reasonable doubt.

18. In *Sujit Biswas v. State of Assam*, (2013) 12 SCC 406, this Court, while examining the distinction between 'proof beyond reasonable doubt' and 'suspicion' has held as under:

"13. Suspicion, however grave it may be, cannot take the place of proof, and there is a large difference between something that "may be" proved, and something that "will be proved". In a criminal trial, suspicion no matter how strong, cannot and must not be permitted to take place of proof. This is for the reason that the mental distance between "may be" and "must be" is quite large, and divides vague conjectures from sure conclusions. In a criminal case, the court has a duty to ensure that mere conjectures or suspicion do not take the place of legal proof. The large distance between "may be" true and "must be" true, must be covered by way of clear, cogent and unimpeachable evidence produced by the prosecution, before an accused is condemned as a convict, and the basic and golden rule must be applied. In such cases, while keeping in mind the distance between "may be" true and "must be" true, the court must maintain the vital distance between mere conjectures and sure conclusions to be arrived at, on the touchstone of dispassionate judicial scrutiny, based upon a complete and comprehensive appreciation of all features of the case, as well as the quality and credibility of the evidence brought on record. The court must ensure, that miscarriage of justice is avoided, and if the facts and circumstances of a case so demand, then the benefit of doubt must be given to the

accused, keeping in mind that a reasonable doubt is not an imaginary, trivial or a merely probable doubt, but a fair doubt that is based upon reason and common sense".

13. The Supreme Court in case of ***Madhu Vs. State of Kerala, 2012***

(2) SCC 399 has held in paragraph 5 as under:

"5. The care and caution with which circumstantial evidence has to be evaluated stands recognized by judicial precedent. Only circumstantial evidence of a very high order can satisfy the test of proof in a criminal prosecution. In a case resting on circumstantial evidence, the prosecution must establish a complete unbroken chain of events leading to the determination that the inference being drawn from the evidence is the only inescapable conclusion. In the absence of convincing circumstantial evidence, an accused would be entitled to the benefit of doubt."

14. In the matter of ***Nagendra Sah Vs. State of Bihar, 2021 (10)***

SCC 725 in paragraphs 17 and 18 replying upon the golden principles enumerated in case *Sharad Birdhichand Sarda Vs. State of Maharashtra, 1984 (4) SCC 116*, the Supreme Court has held as under:

"17. As the entire case is based on circumstantial evidence, we may make a useful reference to a leading decision of this Court on the subject. In the case of *Sharad Birdhichand Sarda v. State of Maharashtra*², in paragraph 153, this Court has laid down five golden principles (Panchsheel) which govern a case based only on circumstantial evidence. Paragraph 153 reads thus : -

"153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

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

It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and "must be or should be proved" as was held by this Court in *Shivaji Sahabrao Bobade &*

Anr. v. State of Maharashtra where the following observations were made:

19.....Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions.

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(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 and must show that in all human probability the act must have been done by the accused."

(emphasis added).

18. Paragraphs 158 to 160 of the said decision are also relevant which read thus :

"158. It may be necessary here to notice a very forceful argument submitted by the Additional Solicitor-General relying on a decision of this Court in Deonandan Mishra v. State of Bihar, to supplement his argument that if the defence case is false it would constitute an additional link so as to fortify the prosecution case. With due respect to the learned Additional Solicitor-General we are unable to agree with the interpretation given by him of the aforesaid case, the relevant portion of which may be extracted thus:

9.....But in a case like this where the various links as started above have been satisfactorily made out and the circumstances point to the appellant as the probable assailant, with reasonable definiteness and in proximity to the deceased as regards time and situation, . . . such absence of explanation or false explanation would itself be an additional link which completes the chain."

159. It will be seen that this Court while taking into account the absence of explanation or a false explanation did hold that it will amount to be an additional link to complete the chain but these observations must be read in the light of what this Court said earlier, viz., before a false explanation can be used as additional link, the following essential conditions must be satisfied :

(1) various links in the chain of evidence led by the prosecution have been satisfactorily proved,

(2) the said circumstance points to the guilt of the accused with reasonable definiteness, and

(3) the circumstance is in proximity to the time and situation.

160. If these conditions are fulfilled only then a court can use a false explanation or a false defence as an additional link to lend an assurance to the court and not otherwise. On the facts and circumstances of the present case, this does not appear to be such a case. This aspect of the matter was examined in Shankarlal case where this Court observed thus:

30.....Besides, falsity of defence cannot take the place of proof of facts which the prosecution has to establish in order to succeed. A false plea can at best be considered as an additional circumstance, if other circumstances point unfailingly to the guilt of the accused." (emphasis added)"

15. In view of the aforesaid law laid down by the Hon'ble Supreme Court we are examining the evidence available on record.

16. The first and foremost question for consideration would be the nature of death of the deceased as to whether she died due to homicidal death or not.

17. As per the evidence of PW-9 Ganesh Chandrawanshi who was the husband of the deceased, it transpires that the deceased had gone to the field for agricultural work and while her search her dead body was found in hanging condition in the tree in the field. The merg intimation Ex.-P/1 was given by Khemas Chandrawanshi (PW-2) who is the brother of the deceased. The dead body of the deceased was sent for postmortem to Govt. Hospital Pandariya where PW-13 Doctor Janaki Sharan Chandrawanshi conducted postmortem of the dead body of the deceased. During the postmortem the doctor has found the following injuries on her body:-

1. multiple impacted abrasion present on lower abdomen as well as the upper abdomen tailing present upwards and midline with various shape and direction,
2. multiple impacted abrasion present on both knee size about 5 x 5 cm.,
3. impression (pressure) mark present on both side of breast below nipple ,
4. multiple contusion marks on both side of upper limb,
5. multiple abrasion wound present over both leg and foot, abrasion wound present in face about approx (1 x 0.5) cm. (0.5 x 0.3) cm. And (0.3 x 0.8) cm. ,
6. bleeding present on both nose and right ear.

All the injuries are showing red colour echymosis and red clotted blood. All injuries are fresh and the ligature mark present around neck, widest part of mark is 5 cm and narrowest part of mark is about 3 cm and total length of ligature mark is about 24 cm. direction of ligature mark is upward, forward, left side of neck.

On internal examination the doctor has found fracture of hyoid bone and opined that death was due to cardio respiratory failure but final opinion for the mode of death will be given after viscera's chemical analysis report basis and his postmortem report is Ex.-P/28.

18. A query was raised from the doctor with respect to the nature of death of the mode of the injuries which have been found on the body of the deceased. The doctor has given his query report Ex.-P/29 that:-

- (1) the nature of death – cause of death was due to cardio respiratory failure and nature of death may be homicidal, but final report for nature of death may be given after viscera's and other articles chemical analysis basis and circumferential evidence ,
- (2) the injuries was caused by hard and blunt object and nature is antemortem in nature.

In cross-examination Doctor Janaki Sharan Chandrawanshi (PW-13) has admitted that he has not written in his postmortem report that the nature of death of the deceased was homicidal, but while conducting the postmortem number of fresh injuries have been found on the body of the deceased including fracture of hyoid bone. The external injuries are abrasions and contusions which are numerous and may be caused by hard and blunt object. The said fresh injuries was antemortem in nature which clearly reflects that before her death the deceased might have been raised protest or struggle to save herself.

In the viscera report Ex.-P/49 no poisonous substance were found in viscera of the deceased and in the FSL report Ex.-P/47 semen and sperms were absent in the vaginal slides of the deceased. While considering the other circumstances it also found that from the place where the dead body was found hanging, the plastic bracelets of the deceased, broken piece of bangles, ear tops, hair clip and bunch of hairs have been seized at the instance of 97 feet from the dead body. Blood stained and plain soil have also been seized from the place where the aforesaid articles and wearings of the deceased have been seized. From the distance of 183 feet from the place of incident other

broken piece of bangles of the deceased have been seized which also demonstrate that before her death she was subjected to assault in different places and then her body was hanged. There is no allegation by her husband PW-9 that the deceased might have committed suicide for any other reason. All these circumstances of the case and the evidence available on record as well as the evidence of Doctor Janaki Sharan Chandrawanshi PW-13 and postmortem report Ex.-P/28 and query report Ex.-P/29 the death of the deceased is found to be homicidal in nature which has rightly been considered by the learned trial Court also.

19. With respect to involvement of the appellant in offence in question and condition of requirement to prove the case against the accused in circumstantial evidence, we again examine the evidence available on record.

20. PW-5 Shiv Kumar Yadav is a witness who has seen the appellant and the deceased going towards the field. He stated in his evidence that on the date of incident he was grazing his shegoats and saw that appellant Dashrath was going towards road and his daughter-in-law followed him. When rumor spread up in the village then he came to know that the daughter-in-law of the appellant has died. He admitted that he stated in his police statement that he saw that at about 2:00 p.m. Dashrath was going towards his field by his bicycle and his daughter-in-law is going by walking. In cross-examination he admitted that he saw the deceased going towards her field. At about 2:00 p.m this witness had seen the appellant and the deceased going towards field and in the

evening the dead body of the deceased was found in hanging condition. The deceased was daughter-in-law of the appellant and both of them were going towards the field.

21. PW-9 Ganesh Chandrawanshi who is the husband of the deceased has stated in his evidence that on 26-11-2021 he had gone to village Mahegaon for repairing of the tractor and his daughter has informed through phone that her mother had not returned back from the field. He he made a telephone call to Ramfal PW-3 he informed him that his wife has not come to field for work and then he started searching her. The evidence of PW-5 Shiv Kumar Yadav could not be rebutted by the defence that the deceased had not gone towards the field.

22. PW-6 Ganesh Singh Chouhan has stated in his evidence that on the date of incident he had gone to village Andhiyarkhor and when he had gone to field of Himanshu to bring firewood he saw that appellant near his field. On the same night he heard that his daughter-in-law has not come back and her family member is searching her. When he was declared hostile and cross-examined by the prosecution he admitted that he disclosed in his police statement that at about 2-3 p.m. when they were returning to their house near the field of Udhopuri Goswami the appellant was standing along with his bicycle. In cross-examination by the defence he again admitted that at the time when they were carrying firewood by the tractor Dashrath (appellant) was going towards Shaharikhar.

23. PW-7 Himanshu also has stated that when they had gone Shaharikhar to bring firewood in his tractor and while returning back

they found the appellant Dashrath on the way who was standing along with his bicycle at that time he was disconcerted and blood coming out from his left hand finger. In the night dead body of his daughter-in-law was found in hanging condition in the field. He also saw injuries on the chest of the appellant. In his cross-examination also the presence of the appellant near the place of incident could not be rebutted and in the very night the dead body of the deceased was found in hanging condition.

24. From the evidence of PW-5, PW-6 and PW-7, presence of the deceased as well as the appellant at the same field is found proved by the learned trial Court and the said fact could not be disbelieved in absence of any rebuttal in the evidence of the witnesses and thus, it is found that at the relevant point the appellant was last seen with deceased in the noon and in the evening her dead body was found.

25. In the matter of **Satpal Vs. State of Haryana**, (2018) 6 SCC 610 the Hon'ble Supreme Court in para 6 held that:-

“6. We have considered the respective submissions and the evidence on record. There is no eyewitness to the occurrence but only circumstances coupled with the fact of the deceased having been last seen with the appellant. Criminal jurisprudence and the plethora of judicial precedents leave little room for reconsideration of the basic principles for invocation of the last seen theory as a facet of circumstantial evidence. Succinctly stated, it may be a weak kind of evidence by itself to found conviction upon the same singularly. But when it is coupled with other circumstances such as the time when the deceased was last seen with the accused, and the recovery of the corpse being in very close proximity of time, the accused owes an explanation under Section 106 of the Evidence Act with regard to the circumstances under which death may have taken place. If the accused

offers no explanation, or furnishes a wrong explanation, absconds, motive is established, and there is corroborative evidence available inter alia in the form of recovery or otherwise forming a chain of circumstances leading to the only inference for guilt of the accused, incompatible with any possible hypothesis of innocence, conviction can be based on the same.....”

26. In the present case, the appellant has also received injuries on his body. He was medically examined by PW-21 Doctor Keshav Jaiswal. After medically examining the appellant on 04-12-2021 he gave his report Ex.-P/62 and while examining him the doctor has found the following injuries on the body of the appellant:-

1. abrasion on both knee, approx. 6 x 4 x 0.5 cm. Right side and 5 x 4 x 0.1 cm. Left side,
2. lacerated wound on left middle tip of finger and laterally approx. 3 x 1 x 0.5 cm. Approx. 8 days old around,
3. abrasion on left zygomatic region (above) approx. 1 x 1 cm.,
4. scratches on right lower chest, 2 in upper and right upper chest, all are approx. 5 x 0.1 x 0.1 cm. and dried and 8 days old,
5. also scratches on (right) neck backside and lateral side, two in line of scratches present approx. 13 x 0.1 x 1 cm.

And opined that the injuries were simple in nature. In cross-examination this witness has admitted that if a person is fell by waling in field he could receive the injuries from the sugarcane. Such person can also receive the injuries by sickle while working in the field. When a number

of abrasions have been found on various parts of body particularly in the chest and around neck, one cannot say that such injuries can be received by fall on the field. It is common situation that when a person is working in the field he was about to be in sitting position and even if he fell on the field he could have received only one or two simple abrasions, but definitely he could not receive number of injuries that too on the chest and around neck.

27. The date of incident is 26-11-2021 whereas the appellant has been examined by the doctor on 04-12-2021 and he opined that the injuries are 8 days old which duly corroborated the time of receiving the injuries on the body of the appellant, i.e., the time of the alleged incident of death of the deceased.

28. PW-3 Ramfal Chandrawanshi has stated in para 3 of his evidence that at about 03:30 p.m. the appellant came to him, he was in disconcerted and very afraid of condition, he was having cut injury on his left index finger and blood was coming out from the injury. He asked him as to whether Maharani had come to field or not. He too has asked from him about the injuries.

29. PW-4 Dilip Kumar Kesarwani who is owner of medical store has stated in his evidence that at the time of incident the appellant came to his shop and informed that his finger is cut from sickle and asked for medicine and then he applied handiplast in the injury of the appellant. He also informed that while cutting sugarcane he received the injuries. After declaring him hostile when he was cross-examined by the prosecution he stated that on 26-11-2021 at about 4:00 hours the

appellant knocked the door of his house and he asked him as to why he was disconcerted and then he asked for medicine for injury of his finger.

30. PW-5 Shiv Kumar Yadav has also stated in his evidence that he disclosed in his police statement that at the time when he saw the appellant the appellant was having injury and he was disconcerted. PW-6 is also a witness to the fact that he saw the appellant injured having injury on his finger of left hand and he was disconcerted. Similar is the evidence of PW-7 Himanshu Chandrawanshi also that the appellant was having injury on his left finger and he was in very disturbed condition.

31. The evidence of these witnesses that they saw injuries found on body of the appellant could not be rebutted in their cross-examination. The injuries found on body of the appellant has not been explained by him as to how he received injuries on his chest and around neck except explanation that the injuries are 8-10 days old.

32. The non-explanation of the injuries is another circumstance against the appellant, it is not that only one injury has been found on the body of the appellant in his finger which may raise presumption that it may be caused while cutting sugarcane in the field, but a number of abrasions found on the other part of the body including the chest and around the neck. At the same time a number of abrasions and contusions have been found on the body of the deceased also. The non-explanation of the circumstances in 313 Cr.P.C. statement is also an additional circumstance when the prosecution has proved the chain of circumstances leading to no other conclusion than the guilt of the

accused as has been held by the Hon'ble Supreme Court in **Shivaji Chintappa Patil v. State of Maharashtra**, (2021) 5 SCC 626.

33. The other circumstance which has been relied upon by the prosecution is that in the FSL report Ex.-P/47, O group of blood has been found from the saree of the deceased and shirt and pant of the appellant. The saree of the deceased was seized by the police vide seizure memo Ex.-P/30 along with viscera of the deceased and shirt and pant of the appellant has been seized vide seizure memo Ex.-P/21. There is no explanation on this circumstance also in his 313 CrPC statement particularly when the O group of blood was found on the saree of the deceased as well as clothes of the appellant. This would also a clinching and connecting link towards guilt of the appellant in the offence in question.

34. PW-8 Arjun Chandrawanshi is the memorandum and seizure witness. He stated in his evidence that the police has seized the articles belonging to the deceased from the field of Udhopuri Goswami vide seizure memo Ex.-P/10 and from 97 feet away from the field of Udhopuri Goswami ear tops, blood stained and plain soil were also seized Ex.-P/11 and from 183 feet away other broken piece of bangle have been seized vide seizure memo Ex.-P/12 from 214 feet away from the dead body, pieces of papaya in polythene have been seized vide seizure memo Ex.-P/13 and bunch of hair and plastic shoes of the deceased has been seized vide seizure memo Ex.-P/14. On 27-11-2021 the appellant was interrogated by the police in his presence and he disclosed that by sitting on her chest he pressed her neck and committed

her murder and thereafter hanged her body on the neem tree. His memorandum statement is Ex.-P/15 and his signature is there over it. Based on the memorandum a gamchha has been seized by the police from appellant Dashrath from his house vide seizure memo Ex.-P/16. The bicycle has also been seized from him by seizure memo Ex.-P/17 and the blood sample has also been collected from the appellant. The police has also seized the full shirt and pant of appellant vide seizure memo Ex.-P/21. Though he admitted in his cross-examination that when he reached to the police station, the police have already prepared the document and he only signed over it. He also not read the documents. He also admitted that the appellant has not given any memorandum statement to the police in his presence and he signed the document at the police station.

35. PW-11 Pradeep Puri Goswami is another witness to the memorandum and seizure memo. He is sarpanch of the village. He stated in his evidence that in his presence the appellant made his memorandum statement in which he disclosed the incident and the clothes have been seized from his house. In his cross-examination he admitted his signature over the document and stated that he has not read over the documents which has been prepared by the police and he signed the document at the police station. He denied in cross-examination that the appellant has not disclosed anything about the incident in his presence.

36. PW-19 Dwarika Deshlaharey, who is Investigating Officer has stated in his evidence that on 03-12-2021 he recorded the

memorandum statement of the appellant which is Ex.-P/15 and thereafter the appellant produced gamchha belonging to the deceased from his house and seizure memo Ex.-P/16 was prepared. Bicycle of the appellant has also been seized vide seizure memo Ex.-P/17. The shirt and pant of the appellant has also been seized vide seizure memo Ex.-P/21. The said memorandum and seizure from the appellant could not be rebutted by the defence in his cross-examination and he duly proved recording of memorandum and seizure of clothes of the appellant as well as gamchha of the deceased.

37. Other part of the circumstantial evidence is motive to commit murder of the deceased.

38. The Supreme Court in ***Nathuni Yadav Vs. State of Bihar, 1978 (9) SCC 238*** has held as under:

“17. Motive for doing a criminal act is generally a difficult area for prosecution. One cannot normally see into the mind of another. Motive is the emotion which impells a man to do a particular act. Such impelling cause need not necessarily be proportionally grave to do grave crimes. Many a murders have been committed without any known or prominent motive. It is quite possible that the aforesaid impelling factor would remain undiscoverable. Lord Chief Justice Champbell struck a note of caution in Reg v. Palmer (Shorthand Report at page 308 SCC May 1850; thus: "But if there be any motive which can be assigned, I am bound to tell you that the adequacy of that motive is of little importance. We know, from experience of criminal courts that atrocious crimes of this sort have been committed from very slight motives; not merely from malice and revenge, but to gain a small pecuniary advantage, and to drive off for a time pressing difficulties". Though, it is a sound proposition that every criminal act is done with a motive, it is unsound to suggest that no such criminal act can be presumed unless motive is proved. After all motive is a psychological phenomenon. Mere fact that prosecution failed to translate that mental disposition of the accused into evidence does not

mean that no such mental Condition existed in She mind of the assailant. In *Atlcy v. Slate of U.P.*, AIR (1955) SC 807 it was held "that is true, and where there is clear proof of motive for the crime, that lends additional support to the finding of the court that the accused was guilty but absence of clear proof of motive does not necessarily lead to the contrary conclusion," In .some cases, it may not be difficult to establish motive through direct evidence. While in some other cases inferences from circumstances may help in discerning the mental propensity of the person concerned. There may also be cases in which it is not possible to disinter the mental transaction of the accused which would have impelled him to act. No proof can be expected in all Cases as to now the mind of the accused worked in a particular situation. Sometimes, it may appear that the motive established is a weak one. That by itself is insufficient to lead to any inference adverse to the prosecution. ”

39. Further, in case of ***Pradeep Kumar Singh & Others Vs. State of Madhya Pradesh, 2009 CrLJ 770***, in paragraph 21, the Supreme Court has held as under:

“21. In the present case entire case of prosecution is silent on the motive part and there is no evidence in this regard. Though in order to prove charge under Section 302, I. P. C. motive part is insignificant when the case of prosecution is based on direct evidence, however, if the case is based on circumstantial evidence motive part assumes great significance inasmuch as its existence is an enlightening factor in a process of presumptive reasoning.”

40. With respect to motive to commit murder of the deceased the prosecution has produced evidence of Bimlabai Chandrawanshi PW-1 Bimlabai Chandrawanshi, who is the mother of the deceased. She stated in her evidence that her daughter was married with Amarchand since 15 years back. She is having 5 daughter and one son. She was being harassed by her in-laws that she gave birth to 5 daughters. She made complaint to them whenever she used to come to her house and

they convinced her time to time and sent her back. They also came to know that the deceased gave her husband Rs.70,000/- to purchase tractor and when the accused came to know about this fact he became annoyed on the apprehension that the deceased would rule in the family and then he committed her murder. This witness tried to establish that the relation between the appellant and the deceased were not good. In cross-examination she remained firm in saying that whenever her daughter came to her house she informed about the harassment given by her in-laws. Though in some places she stated that her daughter was living in her matrimonial house happily and there was no quarrel, but she further stated that the appellant regularly asking from his son and daughter-in-law about the account of the crop.

41. PW-2 Khemas Chandrawanshi is brother of the deceased. He too has stated in his evidence that his sister was being harassed in her matrimonial house by her in-laws for the reason that she procured 5 female child. Whenever she came to his house she informed the same to her parents. His sister had given Rs.20,000/- to her husband for repairing of the tractor and by the grudge against her the appellant committed her murder. Though he too has stated that they have not made complaint to any authority or police, but with respect to the harassment to his sister he remained firm in saying that the appellant was harassing his sister for which she was murdered.

42. Considering the evidence of PW-1 and PW-2 who are mother and brother of the deceased, the learned trial Court has also found the

motive to commit murder is proved by the prosecution against the appellant.

43. In the matter of **Pattu Rajan v. State of Tamil Nadu**, (2019) 4 SCC 771 the Hon'ble Supreme Court has held in para 52 that:-

“52. Like all other opinion evidence, the probative value accorded to DNA evidence also varies from case to case, depending on facts and circumstances and the weight accorded to other evidence on record, whether contrary or corroborative. This is all the more important to remember, given that even though the accuracy of DNA evidence may be increasing with the advancement of science and technology with every passing day, thereby making it more and more reliable, we have not yet reached a juncture where it may be said to be infallible. Thus, it cannot be said that the absence of DNA evidence would lead to an adverse inference against a party, especially in the presence of other cogent and reliable evidence on record in favour of such party.”

44. Considering the entire evidence and surrounding circumstances having its cumulative effect of involvement of the appellant in the offence of committing murder of the deceased, after adverting the entire evidence available on record, the learned trial Court has convicted the appellant for the alleged offence of commission of murder of deceased Maharani Chandrawanshi and causing disappearance of evidence of the offence by putting the body in hanging condition so that it reflects that the deceased has committed suicide by hanging.

45. In view of the above discussion, in the considered opinion of by this Court the judgment of conviction passed by the learned trial court is found to be proper appreciation of evidence and the same does not suffer from any infirmity or perversity.

46. Consequently, the appeal filed by the appellant is **dismissed**. The appellant is reported to be in jail since 03-12-2021, he shall serve out the remaining part of the sentence as has been awarded to him by the learned trial Court.

47. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentences to serve the same on 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.

48. Record of the trial Court be sent back along with copy of this judgment.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Head Note

(1) In the absence of DNA evidence, it cannot lead to an adverse inference against a party, specially when other cogent and reliable evidence is available on record.

(2) In a case based on circumstantial evidence, motive part assumes great significance inasmuch as its existence is an enlightening factor for commission of offence.