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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 2462 of 2025

Abhishek Chouhan S/o Nurpo Chouhan Aged About 22 Years R/o Village Kolaibahal P.S. Chakradhar Nagar Raigarh District And Tehsil Raigarh, Chhattisgarh

... Appellant(s)

versus

State of Chhattisgarh Through SHO Chakradhar Nagar Raigarh, District : Raigarh, Chhattisgarh

... Respondent(s)

(Case title taken from Case Information System)

For Appellant(s) : Mr. Ankit Singh, Advocate.

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

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

06/07/2026

Per, Ramesh Sinha, Chief Justice.

- 1 Though the matter was listed for consideration on application for suspension of sentence and grant of bail, however, with the consent of the parties the appeal is being finally heard as the appellant is in jail since 29.10.2025.
- 2 The present appeal under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed by the appellant against the impugned judgment of conviction and order of sentence dated 29.10.2025 passed by the learned Second Additional Sessions Judge,



Raigarh, District Raigarh (C.G.), in Sessions Trial No.72/2022, whereby the appellant has been convicted and sentenced in the following manner:-

Conviction	Sentence
Under Section 302 of the Indian Penal Code.	Life imprisonment and fine amount of Rs.1,000/-, in default of payment of fine, additional R.I. for 06 months (the fine amount has already been paid).

- 3 The brief facts of the case are that, on 12.08.2022, complainant Shankar Chauhan (PW-1) lodged merg intimation before Police Station Chakradhar Nagar stating that on 11.08.2022 at about 06:30 PM, on hearing hue and cry in the village, he came to know that Abhishek Chauhan had murdered his second wife Soni Sidar in his house situated at Indira Awas Mohalla, village Kolaibahal, by pressing her neck, and when he reached the house, he found Soni Sidar lying dead in the room with blood oozing from the back side of her head and the appellant shouting that he had strangled her as she was insisting that she would not live with him and was trying to leave the house. On the basis of the said information, merg intimation Ex.P/1 was recorded and thereafter FIR Ex.P/2 was registered against the appellant for the offence under Section 302 IPC. During merg inquiry, notice under Section 175 CrPC Ex.P/3 was issued to the witnesses and inquest over the dead body of the deceased was prepared vide Ex.P/4, wherein opinion was given for sending the dead body for postmortem. Spot map Ex.P/5 was prepared by the police and thereafter Patwari map Ex.P/6 and Panchanama Ex.P/7 were also prepared. The dead body was sent for postmortem examination to Government Hospital, Raigarh, where PW-11 Dr. Prakash Chetwani conducted autopsy and



gave his report Ex.P/15. During postmortem, he found lacerated injury over the upper lip, abrasion/bruising on the lower lip, congestion and contusions beneath the scalp, contusions over the face and chest, and opined that the cause of death was asphyxia due to pressure over the mouth, nose and chest, and that the death was homicidal in nature. During investigation, bloodstained cement concrete, plain cement concrete, bloodstained towel and pieces of broken bangles were seized from the spot vide seizure memo Ex.P/9. The appellant was arrested and his memorandum statement was recorded vide Ex.P/13, pursuant to which investigation proceeded further. One dark blue nighty preserved during postmortem was also seized vide Ex.P/16. The seized articles were sent for chemical examination/FSL and the report thereof was received as Ex.P/24.

- 4 The statement under Section 161 CrPC of the witnesses were recorded. After completion of usual investigation, charge sheet was filed against the appellant for the offence under Section 302 IPC before the Court of learned Judicial Magistrate First Class, Raigarh. Since the offence was exclusively triable by the Court of Session, the case was committed to the Court of Sessions, Raigarh, where it was registered as Sessions Trial No.72/2022 and was thereafter made over to the Court of Fifth Additional Sessions Judge, Raigarh for trial.
- 5 The trial Court has framed charge against the appellant for the offence under Section 302 of IPC. The appellant abjured his guilt and claimed trial.
- 6 In order to establish charge against the appellant, the prosecution has examined as many as 17 witnesses. The statement of the appellant/accused under Section 313 CrPC was also recorded, in



which he denied all the incriminating circumstances appearing against him in the prosecution evidence, pleaded innocence and stated that he has been falsely implicated in the case. In defence, however, he did not examine any witness.

- 7 After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial Court convicted the appellant and sentenced him as mentioned in opening para of this judgment. Hence this appeal.
- 8 Learned counsel for the appellant would submit that the prosecution has failed to prove its case beyond reasonable doubt. It is argued that there is no eyewitness to the incident and the entire case rests on circumstantial evidence, but the chain of circumstances is not complete so as to unerringly point towards the guilt of the appellant. It is further submitted that the prosecution witnesses, particularly the independent witnesses, have not supported the case of the prosecution in material particulars and there are material contradictions and omissions in their evidence. The alleged extra-judicial confession attributed to the appellant is not reliable and cannot be made the sole basis for conviction, especially when the witnesses in whose presence such confession is alleged to have been made have not consistently supported the prosecution version. It is also contended that though the deceased was found dead in the house of the appellant, mere recovery of the dead body from the house is not sufficient to draw an adverse presumption under Section 106 of the Evidence Act unless the prosecution first establishes, by cogent and reliable evidence, that at the relevant time the appellant and the deceased were together in the house and that no one else had access to the place of occurrence.



According to learned counsel, the memorandum and seizure witnesses have also not supported the prosecution case and, therefore, the memorandum and seizure lose much of their evidentiary value. It is thus submitted that in absence of any complete and reliable chain of incriminating circumstances, the conviction of the appellant is unsustainable in law and he is entitled to be acquitted of the charge under Section 302 IPC.

- 9 On the other hand, learned counsel for the State opposes the submissions advanced on behalf of the appellant and submits that the prosecution has adduced sufficient evidence to establish the guilt of the appellant for the offence in question. It is submitted that the deceased was found dead inside the house of the appellant and the medical evidence clearly establishes that her death was homicidal in nature, caused by asphyxia due to pressure over the mouth, nose and chest. It is further submitted that the evidence of prosecution witnesses, particularly Shankar Chauhan (PW-1), Raju Sidar (PW-8) and the investigating officers, shows that immediately after the incident the appellant was present at the spot and was stating that he had killed the deceased as she was insisting on leaving him and not residing with him. The dead body of the deceased having been found in the house where the appellant and the deceased were residing together, the burden was upon the appellant, in terms of Section 106 of the Evidence Act, to explain as to how the deceased suffered homicidal death inside his house, but no plausible explanation has been offered by him in his statement under Section 313 CrPC. It is also submitted that though some witnesses have not fully supported the prosecution case, their evidence does not demolish the core of the prosecution



story, and the testimony of the investigating officers and medical witness, coupled with the circumstances proved on record, complete the chain of circumstances pointing unerringly towards the guilt of the appellant. It is, therefore, argued that the trial Court has rightly appreciated the oral and documentary evidence available on record, recorded a proper finding of conviction and there being no perversity or illegality in the impugned judgment, the appeal deserves to be dismissed.

- 10** We have heard the counsel for the parties and perused the records of the case.
- 11** The homicidal death of the deceased Soni Sidar has been duly proved by the prosecution from the evidence available on record. Shankar Chauhan (PW-1), who lodged the merg intimation, has deposed that on receiving information regarding the incident, he went to the house of the appellant and found the deceased lying dead inside the room, with blood oozing from the back side of her head. The inquest over the dead body was prepared vide Ex.P/4 in presence of witnesses, including Mohd. Akhtar (PW-2), Ratan Kaner (PW-3), Damini Sidar (PW-7) and Raju Sidar (PW-8), who have also supported the factum of recovery of the dead body of the deceased from the house of the appellant. Further, Dr. Prakash Chetwani (PW-11), who conducted the postmortem over the dead body of the deceased and proved the postmortem report Ex.P/15, has clearly established that the death was homicidal in nature. He deposed that on examination of the dead body, he found, inter alia, a lacerated wound over the upper lip, abrasion/bruising on the lower lip, congestion and contusions beneath the scalp, contusions over the face and chest, swelling of lips and



breasts, and signs of pressure over the face and neck. On internal examination, he found contusions beneath the scalp, contusions over the facial skin and chest, congested lungs and other internal organs, and opined that the cause of death was asphyxia on account of pressure over the mouth, nose and chest, and that the nature of death was homicidal. Nothing substantial has been elicited in his cross-examination to discredit his medical opinion. Thus, the prosecution has successfully established that the deceased died a homicidal death.

- 12** So far as the involvement of the appellant in the offence in question is concerned, the case of the prosecution is based on circumstantial evidence. The deceased Soni Sidar was residing with the appellant Abhishek Chauhan and, according to the prosecution, she was his second wife. Shankar Chauhan (PW-1), who lodged merger intimation Ex.P/1, has stated that on hearing hue and cry in the village on 11.08.2022 at about 06:30 PM, he went to the house of the appellant and found the deceased lying dead inside the room, with blood oozing from the back side of her head and the appellant present there. He has further stated that the appellant was shouting that he had strangled Soni Sidar as she was saying that she would not stay with him and was trying to leave the house. Damini Sidar (PW-7) and Raju Sidar (PW-8) have also deposed that on receiving information, they reached the spot and found the deceased lying dead inside the appellant's house.
- 13** From the perusal of spot map Ex.P/5 prepared by the police, Patwari map Ex.P/6 and Panchanama Ex.P/7, it is clear that the dead body of the deceased was found lying on the cot inside the first room of the appellant's house. The evidence of Investigating Officer Santara Chauhan (PW-17) also shows that on inspection of the spot,



bloodstained cement concrete, plain cement concrete, bloodstained towel and pieces of broken bangles were seized from the room vide seizure memo Ex.P/9. Thus, the evidence on record clearly establishes that the deceased was found dead in homicidal circumstances inside the house where she was residing with the appellant.

- 14** PW-2 Mohd. Akhtar is one of the witnesses to the inquest proceedings and spot-related documents. However, he turned hostile and has not supported the prosecution's case. Though he turned hostile, but he admitted his signatures on notice Ex.P/3 and inquest/panchayatnama Ex.P/4.
- 15** PW-3 Ratan Kaner is a witness to the spot-related proceedings and seizure memo Ex.P/9 by which bloodstained cement concrete, plain cement concrete, bloodstained towel and broken pieces of bangles were seized from the place of occurrence.
- 16** PW-7 Damini Sidar and PW-8 Raju Sidar are the sister and father of the deceased respectively. PW-7 has stated that on receiving information from her maternal uncle, she reached the house of the appellant and found her sister Soni Sidar lying dead on the cot in a partially unclothed condition, with blood coming out from her head and mouth. PW-8 Raju Sidar has also deposed that on getting information, he went to the spot and found his daughter lying dead on the cot in the house of the appellant, and on making enquiry, he was told that the appellant had caused her death. Their evidence shows that the deceased was found dead inside the house of the appellant soon after the incident.
- 17** PW-10 Dashrath Lal Khadiya is the Patwari, who prepared the spot map Ex.P/6 and Panchanama Ex.P/7. Thus, the documentary evidence



prepared at the spot corroborates the prosecution case that the place of occurrence was the house of the appellant itself, where the deceased was residing with him.

18 From the evidence of these witnesses and the spot map, it transpires that the deceased was residing with the appellant in his house and that her dead body was found inside the said house in homicidal circumstances. Though the appellant, in his statement under Section 313 CrPC, denied the prosecution allegations and claimed false implication, he did not furnish any explanation as to how the deceased suffered homicidal death inside his house, nor did he lead any defence evidence to probabilise any alternative version.

19 In the case of ***Nagendra Sah Vs. 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.”

20 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."

- 21** The further circumstance relied upon by the prosecution is the memorandum statement of the appellant Ex.P/13 and the seizure of incriminating articles from the spot and during investigation. Though the witnesses to memorandum and seizure have not fully supported the prosecution case, the Investigating Officer Santara Chauhan (PW-17) has proved that during investigation bloodstained cement concrete, plain cement concrete, bloodstained towel and pieces of broken bangles were seized from the place of occurrence vide Ex.P/9, and one dark blue nighty preserved during postmortem was seized vide Ex.P/16. The seized articles were sent for chemical examination and the FSL report Ex.P/24 was obtained, in which presence of blood is reported on the sent articles except plain soil.
- 22** From the overall facts and circumstances of the case, what clearly emerges is that the deceased was residing with the appellant in his house and her dead body was found inside the said house in homicidal circumstances. The medical evidence proves that the death was caused by asphyxia due to pressure over the mouth, nose and chest.



The spot map Ex.P/5, Patwari map Ex.P/6 and Panchanama Ex.P/7

establish that the place of occurrence was the appellant's house itself. In such circumstances, when the deceased suffered homicidal death inside the house where she was residing with the appellant, the burden was upon the appellant, in terms of Section 106 of the Evidence Act, to offer a plausible explanation as to how she died in his house. However, in his statement under Section 313 CrPC, the appellant merely denied the incriminating circumstances and pleaded false implication, without furnishing any explanation regarding the homicidal death of the deceased inside his house. Thus, the proved circumstances, taken together, furnish a strong incriminating chain against the appellant and permit drawing of an adverse inference under Section 106 of the Evidence Act.

- 23** A false unsubstantiated defence of alibi is an additional incriminating factor against the appellant. In ***Trimukh Maroti Kirkan v. State of Maharashtra***, 2006 (10) SCC 681, it was observed as follows :-

“22. Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime they were seen together or the offence takes place in the dwelling home where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime. In *Nika Ram v. State of H.P.* it was observed that the fact that the accused alone was with his wife in the house when she was murdered there with “khukhri” and the fact that the relations of the accused with her were strained would, in the absence of any cogent explanation by him, point to his guilt. In *Ganeshlal v. State of Maharashtra* the appellant was prosecuted for the murder of his wife which took place inside his house. It was observed that when the



death had occurred in his custody, the appellant is under an obligation to give a plausible explanation for the cause of her death in his statement under Section 313 CrPC. The mere denial of the prosecution case coupled with absence of any explanation was held to be inconsistent with the innocence of the accused, but consistent with the hypothesis that the appellant is a prime accused in the commission of murder of his wife. In *State of U.P. v. Dr. Ravindra Prakash Mittal* the medical evidence disclosed that the wife died of strangulation during late night hours or early morning and her body was set on fire after sprinkling kerosene. The defence of the husband was that the wife had committed suicide by burning herself and that he was not at home at that time. The letters written by the wife to her relatives showed that the husband ill-treated her and their relations were strained and further the evidence showed that both of them were in one room in the night. It was held that the chain of circumstances was complete and it was the husband who committed the murder of his wife by strangulation and accordingly this Court reversed the judgment of the High Court acquitting the accused and convicted him under Section 302 IPC. In *State of T.N. v. Rajendran* the wife was found dead in a hut which had caught fire. The evidence showed that the accused and his wife were seen together in the hut at about 9.00 p.m. and the accused came out in the morning through the roof when the hut had caught fire. His explanation was that it was a case of accidental fire which resulted in the death of his wife and a daughter. The medical evidence showed that the wife died due to asphyxia as a result of strangulation and not on account of burn injuries. It was held that there cannot be any hesitation to come to the conclusion that it was the accused (husband) who was the perpetrator of the crime.”

- 24** Considering the entire facts and circumstances of the case, particularly the proved circumstance that the deceased was found dead in homicidal circumstances inside the house where she was residing with the appellant, coupled with the failure of the appellant to furnish any plausible explanation as to how the deceased suffered such homicidal death inside his house, and in the light of the law laid down by the Hon’ble Supreme Court with regard to the applicability of Section 106



of the Evidence Act, the learned trial Court has held the appellant guilty for commission of the murder of Soni Sidar. On due consideration of the evidence available on record, we do not find any illegality or perversity in the said finding recorded by the trial Court.

- 25** In the result, the appeal fails and is hereby **dismissed**. The appellant is reported to be in jail since 29.10.2025. He shall undergo the entire sentence as awarded by the trial Court.
- 26** 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 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.
- 27** The records of the case along with a copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice