



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.175 OF 2012

The State of Maharashtra,
Through Police Station Officer,
Neknoor Police Station, Tq. Beed,
District : Beed.

.... **APPELLANT**
(Ori. Complainant)

VERSUS

1. Sachin s/o Suresh Choudhari,
Age : 26 years, Occu.: Agril.,
R/o.: Chousala, Taluka and
District : Beed
2. Chandrakant s/o Suresh Choudhari
3. Suresh s/o Baban Choudhari
(Leave refused against respondent
Nos.2 & 3 vide order dated 28/02/20212) ... **RESPONDENTS**
(Original Accused)

.....

Mr. S. P. Sonpawale, APP for the Appellant-State
Mr. V. R. Dhorde, Advocate for Respondent No.1

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**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

RESERVED ON : 16/04/2026

PRONOUNCED ON : 05/05/2026.

JUDGMENT : (PER : SANDIPKUMAR C. MORE, J.) :

1. The appellant-State has challenged the acquittal of the present respondents, who were the original accused in Sessions



Case No.140 of 2010. Accused No. 1 in the said case, i.e., the present respondent No.1, was charged with an offence punishable under Section 302 of the Indian Penal Code, whereas respondent Nos. 2 and 3 (original accused Nos. 2 and 3) were charged with offences punishable under Section 498-A read with Section 34 of the Indian Penal Code. However, this Court did not grant leave to file appeal against respondent Nos. 2 and 3 and therefore, the present appeal is being prosecuted only against respondent No.1, namely Sachin.

2. As per the impugned common judgment, the mother of respondent No.1, namely Sunita, was also separately charged for an offence punishable under Section 498-A of the Indian Penal Code in Sessions Case No. 56 of 2011; however, she was acquitted. She is not impleaded as a respondent in the present appeal. The impugned common judgment in Sessions Case No.140 of 2010 as well as Sessions Case No.56 of 2011 was delivered by the learned Additional Sessions Judge, Beed (hereinafter referred to as “the learned Trial Judge”) on 03/10/2011.

3. According to the prosecution, PW-5 Sakharam Vishwanath Navale, a resident of Pali, Taluka and District Beed, who is the



father of deceased Ashwini, lodged a report with Neknoor Police Station at about 9:30 a.m. on 16/08/2010. He alleged that his daughter Ashwini got married to respondent No.1 – Sachin on 06/05/2006. Initially, for a period of about three years, her husband and his family members treated her well. During the said period, she gave birth to a son, Aditya, who was aged about one and a half years at the time of the incident.

It is further contended by the informant that on 14/01/2010, the respondents/accused started construction of their house in the field and therefore, all the accused demanded an amount of Rs.50,000/- from Ashwini and asked her to bring the said amount from her parental home. Accordingly, Ashwini went to her parental house and thereafter returned to the matrimonial home along with an amount of Rs.20,000/-. Her relatives requested the accused to treat her properly. However, Ashwini informed the informant about the harassment meted out to her by the accused for the remaining amount of Rs.30,000/-. She stated that the accused were insulting, abusing, and starving her. When the informant went to bring Ashwini for the Panchami festival on 14/08/2010, the accused did not permit her to accompany him.

Thereafter, on 15/08/2010 at about 5:30 p.m., the informant received a telephonic message that Ashwini was taken to the Civil



Hospital, Beed, due to her poor health condition. Accordingly, he, along with villagers Arun Uttam Navale and Ashruba Khandekar, immediately rushed to the said hospital. However, upon reaching there, he noticed that there was no movement in Ashwini's body and that she had abrasion injuries on her neck. Thereafter, the police arrived and carried out the necessary formalities. It was revealed that the cause of death of Ashwini was asphyxia due to throttling, and therefore, the informant lodged a report (Exhibit-49) against the accused on 16/08/2010. Accordingly, a crime under the aforesaid sections was registered against the accused. Upon completion of the investigation, a charge-sheet was filed against them. The learned Trial Judge, after conducting the trial and upon considering the evidence on record, acquitted all the accused of the charges levelled against them.

4. The learned A.P.P. submits that the death of Ashwini was homicidal and occurred in the residential house of the accused; therefore, the accused were under an obligation to explain the circumstances in which Ashwini died. However, all the accused failed to offer any such explanation and therefore, with the aid of Section 106 of the Indian Evidence Act, the learned Trial Judge ought to have convicted them. He further submits that, just one



day prior to the incident, Ashwini had informed the informant—her father, about the ill-treatment meted out to her on account of the non-payment of the remaining amount of Rs.30,000/-. Further, there were abrasion injuries on the neck of the deceased and it was only the respondent—Sachin, i.e., her husband—who had taken her to the hospital for treatment. Thus, according to him, the learned Trial Judge ought to have drawn an inference that Ashwini was killed by the accused. Accordingly, he has prayed that the appeal be allowed by converting the acquittal of the respondent into a conviction under Section 302 of the Indian Penal Code.

5. On the contrary, learned counsel Mr. V. R. Dhorde for the respondent supported the impugned judgment and submitted that the learned Trial Judge has taken an appropriate view in light of the evidence on record and has rightly acquitted the respondent. He pointed out that the prosecution was initially not certain about the cause of death of Ashwini and that it was subsequently projected as death due to asphyxia by throttling. According to him, there are material improvements in the testimony of the prosecution witnesses, rendering the prosecution case suspicious and doubtful. He further submitted that the financial condition of the accused was much better than that of the informant (PW-5)



and therefore, there was no reason for the accused to demand such a meager amount of Rs.50,000/- for the construction of their house.

6. Heard rival submissions and also perused the impugned judgment along with evidence and material on record.

7. On going through the material on record, it appears that the prosecution case is based on the alleged homicidal death of Ashwini in the residential house of the accused and their failure to explain the circumstances in which she died. The prosecution has also contended that the respondent—Sachin, i.e., her husband—had initially taken her to Dr. Jogdand for treatment and therefore, he was under an obligation to explain her serious health condition.

8. Admittedly, on the basis of the *post-mortem* report, the prosecution claims that the death of Ashwini was homicidal and caused due to throttling. However, PW-10 Dr. Sachin Deshmukh, though he noted external abrasions on the neck of the deceased, did not opine on the cause of death in the provisional death certificate (Exhibit-47) issued after conducting the post-mortem. Instead, he recorded the remark “opinion reserved.” Both the



medical officers admitted that, on 15/08/2010, they were not in a position to give any opinion regarding the cause of death.

9. Moreover, the *post-mortem* note (Exhibit-66) contains several blank columns and reflects that the cause of death was reserved. Not only this, but PW-10 Dr. Deshmukh admitted in clear terms that the solitary abrasion (injury No.1) had no nexus with the cause of death. Furthermore, both the medical officers admitted that there were no injuries to the trachea (central part of the throat) or to the major vessels of the neck. These admissions materially weaken the prosecution case of death due to throttling.

10. Although PW-11 Dr. Dhoot concurred with the opinion of PW-10 Dr. Deshmukh that the cause of death was asphyxia due to throttling, he also clearly admitted that no such opinion was recorded in the *post-mortem* note. The learned Trial Judge has, therefore, observed that the initial reservation of opinion regarding the cause of death creates a grave doubt as to whether Ashwini was in fact killed by throttling. The medical officers have not explained what led them to subsequently give a final opinion of death due to throttling and there is no plausible explanation on record in that regard. Therefore, the cause of death of Ashwini itself becomes



doubtful in the present case and no firm inference can be drawn that she died due to throttling at the hands of the accused.

11. The prosecution also contended that it was the respondent who had taken Ashwini to Dr. Prashant Jogdand (PW-8), their family doctor. However, this witness has not supported the prosecution case and therefore, no credible evidence has come on record to establish that the respondent had accompanied Ashwini. In these circumstances, the observation of the learned Trial Judge that the presumption under Section 106 of the Indian Evidence Act is not attracted against the accused appears quite reasonable.

12. So far as the allegation of cruelty is concerned, the prosecution has claimed that Ashwini was subjected to cruelty on account of her failure to meet the demand of Rs.50,000/- for the construction of a new house by the accused. The informant—father (PW-5) as well as the mother of Ashwini (PW-6) Kushawarta have deposed that Ashwini was harassed, beaten and starved for the remaining amount of Rs.30,000/-, as they had earlier paid Rs.20,000/- out of the demanded amount of Rs. 50,000/-. However, these witnesses, being the parents of the deceased, have made general and omnibus statements regarding the alleged



harassment, without specifying the individual roles of each accused. Further, no specific instances of cruelty, with details of particular dates or occasions, have been stated.

13. Moreover, PW-5 Sakharam has made material improvements in his testimony before the Court by stating that Ashwini had informed him about the monetary demand by the accused even prior to her visit to her parental home. On the other hand, PW-6 Kushawarta has introduced a new version by stating that she had visited the house of the accused 15 days prior to the incident, which is not stated by PW-5. These improvements do not find place either in the First Information Report or in the earlier statements of PW-6. It is also pertinent to note that all the witnesses examined are close relatives of the deceased from her parental side and no independent witnesses from the village of the accused have been examined to support the prosecution case regarding the allegations of cruelty.

14. Further, the record indicates that the financial background of the accused's family was sound. It has come on record that they were engaged in contract business and also owned two trucks. Moreover, the cost of construction of the house, which was under



construction at the time of the incident, was approximately Rs.7,00,000/-. In such circumstances, the alleged demand of a meagre amount of Rs.50,000/- from Ashwini appears to be improbable.

15. Thus, upon an overall consideration of the evidence on record, it emerges that the prosecution case regarding the cause of death of Ashwini, namely asphyxia due to throttling, is highly doubtful. Initially, the cause of death was kept reserved and subsequently, it was opined to be by throttling without any proper explanation. Even the injuries found on the body of the deceased are not consistent with throttling. It is also pertinent to note that the key witness, PW-8 Dr. Jogdand, has not supported the prosecution case so as to establish that the deceased was last seen in the company of the respondent. The testimonies of the informant (PW-5) and PW-6, who are the parents of the deceased, suffer from material contradictions and improvements. Further, the comparatively sound financial condition of the accused's family, as against that of the parental side of the deceased, renders the alleged demand of a meagre amount of Rs.50,000/- improbable. Therefore, despite examining as many as 11 witnesses, the prosecution has failed to establish beyond reasonable doubt that



the respondent is the author of the crime. The material on record clearly indicates that the learned Trial Judge has properly appreciated the evidence and has rightly extended the benefit of doubt to the accused. Considering the limited scope of interference in an appeal against acquittal, no different view can be taken merely because it is possible. Accordingly, we find no reason to interfere with the impugned judgment and order. In the result, the appeal fails and stands dismissed.

(ABASAHEB D. SHINDE, J.) (SANDIPKUMAR C. MORE , J.)