



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 1803 of 2014

Gour Acharjee

..... Appellant(s)

Versus

The State of Tripura & Ors.

..... Respondent(s)

J U D G M E N T

K. V. Viswanathan, J.

1. Could the life of young Soma Acharjee have been saved? Did the fear of societal opprobrium result in Soma being thrown to the wolves? These questions will remain hypothetical. Within a few days after her marriage, the deceased, Soma, was subjected to immense torture on account of demand for dowry. She repeatedly made entreaties to her parents to save her and even came to her parental home and stayed with them for a few days.

However, every time she raised the issue, efforts were made only to effect a patch-up and send her back to the matrimonial home. Village elders were involved and even resolutions were passed after effecting a purported compromise. Soma's near and dear naively believed that somehow -somehow- the situation will turn for the good. A false sense of optimism engulfed them. Their hopes were betrayed when Soma met with a tragic end at her matrimonial home. Hopefully, the story of her life will be an eye-opener for many.

2. The present appeal calls in question the correctness of the judgment dated 24.08.2012 in Criminal Appeal (J) No. 58 of 2009 passed by the High Court of Gauhati, Agartala Bench. By the said judgment, the High Court confirmed the judgment of the Additional Sessions Judge, Sonamura, West Tripura, dated 03.06.2009 by which the appellant was sentenced to undergo rigorous imprisonment for life (and to pay a fine of Rs. 10,000/-) for offence punishable under Section 302 IPC and rigorous imprisonment for a period of 3

years for offence punishable under Section 498A of IPC. Appropriate default sentences were also imposed.

3. Along with the appellant (A1), appellant's mother Arati Acharjee (A2), appellant's brother Nitai Acharjee (A3) and Appellant's father Bimal Acharjee (A4) were tried together. Though the Trial Court acquitted A4, Bimal Acharjee, the father, it convicted the mother and brother along with the appellant. They have also since been acquitted by the High Court and the State is not in appeal.

BRIEF FACTS:-

4. The deceased is Soma Acharjee, wife of the appellant. She died on 16.06.2007. The prosecution was set in motion by a First Information Report lodged on the very same day at around 12:15 hours by PW-7 Swapan Acharjee, the father of the deceased. According to the FIR, about fifteen months ago, the deceased was given in marriage to the appellant. The deceased was subjected to dowry demand by her in-laws and was tormented and tortured. FIR states that the

panchayat had to intervene and the daughter was taken back from the parental home to the matrimonial home on several occasions. The complainant avers that on 16.06.2007, he received information that his daughter committed suicide by way of hanging herself. Suspecting that the in-laws were responsible, he lodged the FIR which was registered for offences under Section 498A, 304B and 34 of IPC.

5. The Trial Court, however, framed charges against the accused under Section 498A and 302 of the IPC read with Section 34. At the Trial, the prosecution examined 15 witnesses and marked several exhibits. The accused were examined under Section 313 of Cr.P.C. No witness was examined by the defence.

6. We have heard Ms. Diksha Rai, learned counsel for the appellant and Mr. Shuvodeep Roy, learned counsel for the State. Both counsels very ably presented their respective points of view. They exhaustively took us through the records of the case. We have considered their submissions

including the written submissions. We have also perused the original trial Court records.

HOMICIDAL NATURE OF DEATH:-

7. The Trial Court and the High Court had no difficulty in concluding that the accused died a homicidal death. PW-13, Dr. Bhanu Bhusan Deb, who was posted as Medical Officer at Boxanagar Primary Health Centre conducted the postmortem on 16.06.2007. He was also examined at the Trial. We have perused the postmortem report and his deposition. PW-13 reiterated the contents of the post mortem report which was as follows:-

“On 16-06-08 (sic) I was posted as MO at Boxanagar PHC. On that day I conducted post mortem on the dead-body of Soma Acharjee as was identified by Pintu Kr. Sarkar and others. On physical examination of the dead-body I found the following injuries :

- 1. 1/2" X 1/2" small haemotomma over sternum (front middle portion of chest)**
- 2. 1/2" X 1/2" sized small haemotomma over right angle of the mandible (right side of the face jaw)**
- 3. 1/2" X 1/2" sized haemotomma over occipital area.**

No typical ligature mark was seen. A flat depressed measuring 3" X 5" (U shaped) over left side of neck was found. No abrasion or acchimosi on that area was seen.

There was depressed fracture of the scalp. **No cervical vertebrae fracture was seen.** The details about the injuries seen in the thorax region, abdomen and muscles, bones and joints are mentioned in the report, at pages 2 & 3. More detail description about the external and internal injuries is mentioned in the report.

From the external and the internal injuries observed during the post mortem examination in my opinion, the cause of death was head injury caused by blunt weapon like hammer. This opinion is mainly based on the injury No.3 above mentioned, which resulted in congestion of the effected areas. The consequent depressed fracture of occipital area caused pita, dora, arachnoids of matter of that effected area getting congested. The brain tissue of the effected area was also congested.

The patient was later on put on hanging so it was a case of homicidal hanging. The basis of this conclusion is that there was no typical hanging ligature mark, on the left lateral side of neck where skin tissues were pressed with an area of 3" X 5" (U shaped) where no abrasion or acchimosi was seen. This was indicative of circulatory failure. There was no inflammatory sign seen. The person was dead and so called pressed area was below the thyroid cartilage. There was no congestion seen in conjunctiva, eye lids, face, nose, oropharynx, laryngopharynx and tongue which are generally seen in a case of hanging. Tongue was not also protruded. There was no vaginal discharge. No fecal matter was seen in the annus, which are generally seen in a typical hanging death case.

OPINION OF DOCTOR AS TO CAUSE OF DEATH

From the above findings, I am in the opinion that the lady was died due to head injury caused by blunt weapon like hammer and then she was put on hanging. So, this is a case of homicidal hanging."

(Emphasis supplied)

8. We are amply supported here by the literature on medical jurisprudence. In this case, the doctor (PW-13), has noticed injuries on the chest, jaw and on the head of the deceased. There was no typical ligature mark. Further, there was no abrasion or ecchymosis near the skin tissue on the left lateral side of the neck. No inflammatory sign was seen. No congestion was seen in conjunctiva, eyelids, face, nose, oropharynx, laryngopharynx and tongue. The tongue was not protruded. There was no vaginal discharge and no fecal matter was seen in the anus.

9. In Modi's *Medical Jurisprudence and Toxicology* [Twenty-third Edition], dealing with the characteristics of death by hanging, it is set out as under: -

“However, one can safely say that death was due to hanging, if, in addition to the cord mark, there was dribbling of saliva from the angle of mouth, ecchymoses and slight abrasions around the ligature-mark, laceration of the intima of the carotid arteries with extravasation of blood within their walls and the post-mortem signs of asphyxia, besides if there are no evidence of a struggle, scratches and nail marks, fatal injuries or poisoning.”

10. Equally informative is Dr. C.K. Parikh's *Text Book of Medical Jurisprudence and Toxicology* [Fourth Edition]. The

learned author dealing with the attributes of hanging and how it was not uncommon to kill a victim and suspend the person's body elucidates as under: -

“Whether death was due to hanging: It is not uncommon in India to kill a victim and then suspend his body (postmortem hanging) from a tree or rafter to mislead the relatives and the police. In such a case, a ligature mark is usually found. Therefore, when a person is found dead and his body suspended, no opinion can be given from the ligature mark alone. Death could be attributed to hanging if one finds (1) a ligature mark with petechial haemorrhages and ecchymoses into its substance (2) dribble-marks of saliva (3) tear of the intima of carotid arteries with extravasation of blood within their walls (4) congestion and haemorrhage in the lymph nodes above and below the ligature mark, and (5) absence of fatal injuries and poisoning.”

Again, dealing with injuries in the case of a person found hanging, the learned author sets out as follows: -

“Injuries: When injuries are present on bodies found hanging, several possibilities exist for their causation. They might be suicidal, such as cut throat, cuts of the wrists, etc. **They could also be homicidal, the individual having been beaten to death and then subsequently hanged to make it appear as a case of hanging.** The nature of the injuries will help in many cases. As for example, fractures of multiple ribs, several contusions all over the body, and rupture of viscera can only be homicidal. It should be remembered that accidental injuries may be sustained due to violent convulsions which may precede death when the body of the person may strike the nearby wall or furniture. Postmortem injuries such as fractured limbs or ribs may occur when the ligature is cut and the body falls from a height or during attempts at resuscitation.”

11. Significantly, the injuries found on the body of the deceased are not consistent with an ordinary case of suicidal hanging. The existence of ante mortem injuries on different parts of the body of deceased Soma is not ordinarily capable of being self-inflicted. This fact substantially undermines the defence version of suicide. As demonstrated earlier, treatises on medical jurisprudence recognised the fact that where signs of assault or struggle are found on a body, later discovered hanging, the possibility of a case of simulated hanging cannot be lightly disregarded. In the present case, the medical evidence indicates that the deceased has been subjected to violence prior to her death thereby negating the theory of voluntary suicidal act.

12. Hence, we have no hesitation in confirming the finding of the trial Court and the High Court that the death was due to the head injury and that the deceased was put on hanging.

SUMMARY OF OTHER RELEVANT PROSECUTION

WITNESSES:-

13. Dhiraj Biswas (PW-1), who was the Upapradhan of South Kalamchura village speaks about the deceased having talked about the torture by her appellant-husband for the delay in the delivery of a motorcycle that was demanded by him. He also speaks about a compromise being effected and how she went back to the house of her husband after a resolution (Ex-1) was drawn up. He also speaks about the death of the deceased about 20 days after the said resolution. PW-1 deposed that upon hearing the news of the death, he immediately rushed to the house of the appellant and saw the dead body hanging.

14. Pintoo Kumar (PW-2), who was a neighbour speaks about how Swapam Acharjee (PW-7)-father of the deceased-Soma had come to him complaining of trouble between the deceased Soma and her husband-appellant. He also speaks about how he advised PW-7 to go to PW-1. He further reiterates the meeting and the resolution passed. PW-2

deposed that the deceased did not make any complaint against any other person except her husband – the appellant. This witness on the aspect of the discovery of the hammer stated that he was asked to sign a seizure list by Sub-inspector-Nirpati Bhushan Das. The witness was declared hostile. The witness in the cross-examination by the public prosecutor denied that deceased Soma informed him that all four accused persons tortured her and demanded motorcycle and money. He further denied that after motorcycle was given, the deceased informed him that the appellant tortured her.

15. Ranu Das (PW-5), speaks about the panchayat and the resolution passed as spoken to by PW-1. In the cross-examination, PW-5 submitted that, according to their understanding, the deceased and the appellant doubted each other about their character. PW-5, in cross-examination denied the suggestion that the deceased Soma did not inform in the meeting of the villagers about her husband torturing her. She further denied the suggestion that the parents of the

deceased did not inform her that the deceased was being tortured by the appellant. Haripada Nama (PW-6), like PW-2, did not support the prosecution on the seizure of the hammer.

16. Swapan Acharjee (PW-7), the father of the deceased, deposed that after two months of the marriage, deceased Soma informed him that she was being tortured by her husband, mother-in-law and brother-in-law for delivery of the motorcycle immediately and for payment of cash amount; that he immediately sent the T.V. set and sought time for the delivery of the motorcycle; that after seven days, deceased Soma rang him up and informed that she was being assaulted and tortured by the husband, mother-in-law and brother-in-law for failure to deliver the motorcycle; that he conveyed that within seven days the appellant could come and take delivery of the motorcycle, and that he went to Agartala purchased a motorcycle and delivered it to the appellant. PW-7 further deposed that within four days, there was a phone call from the deceased informing him that she was

being tortured for the cash amount. That on hearing this, he went to the house of the appellant and thereafter informed the matter to PW-5 and ultimately attended the meeting at the house of PW-1.

17. PW-7 further deposed that the meeting ended with Soma being advised to stay with the husband; that after two days, deceased Soma again called over phone and informed about the torture by the husband, mother-in-law and brother-in-law; that there was a further meeting in the house of PW-5; that again she was advised to stay with the husband; that within four days of the second meeting, the deceased rang up to say that the torture had become unbearable; that within a fortnight, a third meeting was held; that in this meeting also deceased Soma expressed her inability to stay in the house because of the prolonged torture by the appellant, brother-in-law and mother-in-law, and that he was helpless since he had met all demands.

18. PW-7 deposed that after 15 days the appellant went to the house of PW-7 with the deceased and left her there; that

the deceased informed him that she was severely assaulted by her mother-in-law and brother-in-law in the absence of the husband. That he learnt from PW-5 that the appellant had disposed of the motorcycle and left for Bihar; that after about a month the appellant came to his house and asked the deceased to accompany him to Bihar; and that the appellant on being advised to think over the matter left alone.

19. PW-7 deposed that he contacted the Upapradhan and PW-2 with regard to the return of Soma; that again a meeting was held on 27.05.2007 which both families attended. That at the meeting, the deceased cried and complained of torture. That PW-2 took the initiative to settle the matter and asked the appellant and his brother to seek pardon and to promise that they would not torture Soma and that Bimal Acharjee and Arati were also advised to ensure that there was no torture. PW-7 deposed that the resolution of the meeting was reduced into writing and signatures of both sides were taken.

20. PW-7 stated that it was decided in the meeting that if there was further torture, the matter would be taken up as per law; that after the meeting, the deceased accompanied the accused to their house and that on 16.06.2007, the appellant informed him over phone that the deceased Soma had committed suicide by hanging. He deposed that thereafter he went to the Police Station and filed a complaint; that with the police he went to the house and found the dead body hanging from the roof in a room on the southern side and that as the body was being brought down he saw a black spot on the neck and another on the chest. PW-8, wife of PW-7 and mother of the deceased, also deposed on the same lines as her husband.

21. PW-12-Titan Das is the neighbor of the appellant. He deposes to the effect that about a year and a half back, one morning around 7.00 AM, when he went to the house of the appellant to bring a pen he found the dead body of Soma hanging from the ceiling. He deposed that he cried and returned home and did not see anybody in the room. He was

declared hostile and cross-examined with regard to his previous statement that he had seen the appellant lying on the bed and about how he asked the appellant to deliver the pen and, thereafter, on seeing the body of the deceased hanging he asked the appellant about it. He denied the suggestion. He admitted that he had come to the court with the accused persons. In cross-examination, he deposed that when he saw the deceased hanging, there was still life in her and she was moving her hands and legs.

22. PW-14 Jitendra Das is an important witness. A neighbour of the appellant, he deposed that about one and a half years back - two days before the death of the deceased, he had asked Soma whether she had taken food. She stated that her mother-in-law had not given her food and that she had taken food elsewhere; that the next evening, on return to his house he found the deceased sitting on the verandah and altercation with hue and cry was going on inside the house of the appellant and that even at 11.00 PM, the deceased was sitting on the verandah. That around 1.30 AM, he heard cries

and that the following morning around 6.35 AM, he heard the cries of Soma - the deceased saying “Ma... go” twice. That after 3-4 minutes, he heard the cries of PW-12, Titan Das; that he came out and asked Titan Das as to what happened and Titan Das told him that Soma had committed suicide. The witness deposed that immediately he rushed to the appellant’s room and found the appellant lying on the bed with face downwards on the pillow and the witness found the body of Soma hanging from the ceiling.

23. PW-14 further deposed that he did not see any stool or anything and he wondered how she could have hung herself. He thereafter deposed that the body was hanging with a piece of saree usually worn by the appellant’s mother; that he called for appellant’s parents from the northern side room and that police arrived about an hour later. During cross-examination, he was confronted with his statement about how the facts set out by him now were not part of the statement. However, he reiterated that he had stated the same to the police. He, however, admitted that he did not state to the

police that he saw Soma's body hanging with the saree of appellant's mother.

24. Though in the cross-examination of PW-1 and PW-2, it was suggested that there was a boundary dispute between PW-14 and the appellant's family and the accused in 313 statement did refer to the same, we are not convinced that such a dispute would by itself constitute a sufficient motive to falsely implicate the appellant in a serious offence relating to the death of the deceased Soma. PW-14 denied the suggestion that he was deposing against the appellant due to previous enmity. PW-14 is a neighbour and his presence is natural and cannot be doubted.

25. There is clear evidence to the effect that there was consistent torture of the deceased with regard to the demand for dowry especially for the motorcycle and cash. Repeated panchayats have been held, as spoken to by the witnesses hereinabove. Even though on the same evidence, the three other accused have been acquitted and the State has not challenged the same in appeal, we are not inclined to acquit

the appellant for the offence under Section 498A in the teeth of the direct overwhelming evidence against the appellant.

IS THE APPELLANT GUILTY OF MURDER:-

26. The further question is whether the appellant has been rightly found to be guilty for the offence under Section 302. We have already found that the doctor's evidence, namely, PW-13, Dr. Bhanu Bhushan Dev, and the post-mortem report (Exh.13) have been rightly accepted by the courts below to conclude the homicidal nature of the death. The trial Court acquitted A-4-Bimal Acharjee and the High Court had acquitted A-2 (Arati Acharjee) and A-3 (Nitai Acharjee) for the offence under Section 302.

27. While the trial Court acquitted A-4 since nothing emerged in evidence against the father-in-law, the High Court acquitted the mother-in-law and the brother-in-law on the ground that the two were not sharing the same dwelling hut though they were in the same compound.

28. As far as A-1, the appellant is concerned, both the courts are categorical that it was the appellant who was in the dwelling unit with the deceased when she was found dead. The medical opinion clearly points to simulated hanging or homicidal hanging. It was the bounden duty of A-1 to put forward a reasonable and probable cause of her death and also to explain the injuries which the deceased sustained prior to her death.

29. It is well settled that if an offence takes place inside the privacy of a house, though the initial burden to establish the case would be on the prosecution there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the victim succumbed.

30. In the landmark judgment of **Trimukh Maroti Kirkan** vs. **State of Maharashtra**, (2006) 10 SCC 681, this Court had the following telling observations to make: -

“**13.** The demand for dowry or money from the parents of the bride has shown a phenomenal increase in the last few years. Cases are frequently coming before the courts, where the husband or in-laws have gone to the extent of killing the bride if the demand is not met. These crimes are

generally committed in complete secrecy inside the house and it becomes very difficult for the prosecution to lead evidence. No member of the family, even if he is a witness of the crime, would come forward to depose against another family member. The neighbours, whose evidence may be of some assistance, are generally reluctant to depose in court as they want to keep aloof and do not want to antagonise a neighbourhood family. The parents or other family members of the bride being away from the scene of commission of crime are not in a position to give direct evidence which may inculcate the real accused except regarding the demand of money or dowry and harassment caused to the bride. But, it does not mean that a crime committed in secrecy or inside the house should go unpunished.

14. If an offence takes place inside the privacy of a house and in such circumstances where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence, as noticed above, is insisted upon by the courts. A judge does not preside over a criminal trial merely to see that no innocent man is punished. A judge also presides to see that a guilty man does not escape. Both are public duties. (See *Stirland v. Director of Public Prosecutions* [1944 AC 315 : (1944) 2 All ER 13 (HL)] — quoted with approval by Arijit Pasayat, J. in *State of Punjab v. Karnail Singh* [(2003) 11 SCC 271 : 2004 SCC (Cri) 135] .) The law does not enjoin a duty on the prosecution to lead evidence of such character which is almost impossible to be led or at any rate extremely difficult to be led. The duty on the prosecution is to lead such evidence which it is capable of leading, having regard to the facts and circumstances of the case. Here it is necessary to keep in mind Section 106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (b) appended to this section throws some light on the content and scope of this provision and it reads:

“(b) A is charged with travelling on a railway without ticket. The burden of proving that he had a ticket is on him.”

15. Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a comparatively lighter character. In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.”

(Emphasis supplied)

Thereafter, in para 22, this Court emphatically laid down as under: -

“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.* [(1972) 2 SCC 80 : 1972 SCC (Cri) 635 : AIR 1972 SC 2077] 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* [(1992) 3 SCC 106 : 1993 SCC (Cri) 435] **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* [(1992) 3 SCC 300 : 1992 SCC (Cri) 642 : AIR 1992 SC 2045] 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* [(1999) 8 SCC 679 : 2000 SCC (Cri) 40] 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.”

(Emphasis Supplied)

31. In the present case, PW-14 clearly states of the presence of the appellant when the body of the deceased was found hanging. It was also early morning and it is believable that the appellant would be in the house. In any event, that fact is not denied by him because it was the appellant who informed PW-7, though he told PW-7 that the deceased had committed suicide. When confronted with the circumstances under Section 313, Cr.P.C., the appellant did not choose to offer any explanation. The appellant did not endeavour to discharge the burden and to explain the injuries on the deceased by offering a plausible explanation. His defence that it was a case of suicide has been belied by the overwhelming medical evidence. Even if we discount the aspect of discovery of the hammer that does not carry the case of the appellant any further.

32. For the reasons stated above, the appeal stands dismissed. We have been informed that the appellant is absconding. Now that we have dismissed the appeal, steps

should be taken immediately to trace the appellant and take him into custody. Let a copy of this judgment be sent to the Director General of Police, Tripura, who shall immediately constitute a team and take steps to apprehend the convict.

.....J.
[**PRASHANT KUMAR MISHRA**]

.....J.
[**K. V. VISWANATHAN**]

New Delhi;
25th May, 2026