



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1063/2021

CHETAN DASHRATH GADE

.... APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA

....RESPONDENT(S)

J U D G M E N T

PRASANNA B. VARALE, J

1. The present appeal arises from the impugned judgement dated 15.03.2021 passed by the High Court of judicature at Bombay, in Criminal Appeal No. 1557 of 2018 whereby the High Court dismissed the appeal preferred by the appellant and upheld the judgement of Additional Sessions Judge, Nashik wherein the appellant was convicted for the offences under sections 302,201 r/w 34 of the Indian penal code,1860(For short, IPC), and sentenced to undergone life imprisonment and to pay fine of Rs.1,000/- in default to suffer two months simple imprisonment.

Signature Not Verified

Digitally signed by
NEHA GUPTA
Date: 2024.05.21
17:53:50 IST
Reason:

2. For convenience it is to be noted that the present appeal is filed by the accused no. 1, who is the appellant here.

FACTUAL MATRIX

3. Rupali daughter of Babasaheb Kumbharkar (P.W.1) got married to the present appellant on 24th April, 2012. That, she was living in her matrimonial home along with her husband, her in-laws and the appellant no.2 accused no.3 (younger brother of accused no.1). In November 2012, she had conceived pregnancy. Unfortunately, on 28th June 2013, there was intrauterine death of the foetus due to lack of blood supply as has been disclosed by P.W.3 Dr. Sunil Jadhav. In March 2015, she had given birth to a baby boy in a private hospital at Pimpalgaon, Baswant.

4. On 23rd August 2015, father of the deceased Rupali i.e. P.W.1 had called upon her father-in-law Dashrath and intimated to him that he would come to Shindvad to fetch Rupali to her maternal house on the occasion of Raksha Bandhan. However, at about 1.30 pm, accused no.3/appellant no.2 Akshay informed P.W.1 that his sister-in-law i.e. Rupali is no more. At about 2.50 pm, the father of the appellant Dashrath Gade approached Vani Police Station and informed that he had been to Khambala to participate in the 10th day rituals of his relatives. At about 11.00 am, his elder son Chetan had informed him that his wife Rupali had attempted suicide by hanging in their residential house but he suspected that she had not died and therefore, he is taking her to the Doctor. Dashrath Gade had then reached Vani Hospital and he was informed that Rupali had died. On the basis of his report, A.D. No.38/2015 is registered at Vani Police Station. The said report is marked at Exh.152.

5. One of the relatives of P.W.1 Mr. Pawar who is resident of the same village informed P.W.1 that Rupali had committed suicide. The parents and relatives of Rupali had gone to the residence of Rupali and upon inquiry, they had learnt that she was taken to Primary Health Centre at Vani Government Hospital. They had been to the Hospital and they had seen that there was a fresh injury mark on the right side of her cheek and there was a ligature mark on her neck. Due to disclosure made by Rupali to her mother on the earlier occasions that she was being harassed and ill-treated for failure to fetch one Tola Gold from her parents. P.W.1 approached Vani Police Station and lodged a report on the basis of which Crime No.99 of 2015 was registered at Vani Police Station at about 22.30. At the trial, prosecution examined as many as 12 witnesses to bring home the guilt of the accused.

6. According to P.W.1, the accused was demanding Rs. 1 Lakh for purchase of a pick-up vehicle and that Rupali was being harassed on that count. According to P.W.1, in the second week of January, he had handed over Rs.1 Lakh to the father-in-law of Rupali. From the tenor of the cross-examination, it appears that P.W.1 had verified the economic condition of the appellants prior to the marriage and only on realizing that their economic condition was sound they had got Rupali married to the appellant no.1. It is also elicited in the cross- examination that they had a wine-yard in their agricultural land. That, they were possessing Swift car. P.W.1 has also admitted that his economic condition was equally good. The suggestion extended to P.W.1 shows that according to the accused, Rupali had committed suicide. P.W.1 has deposed in

consonance with the FIR. It is testified before the Court by P.W.1 that when they saw the dead body at Vani Hospital, P.W.1 had noticed that the earrings of her left ear, anklet of right leg and toe rings in both legs were missing.

7. After completion of investigation, a charge-sheet was filed and the Trial Court framed the charges under Sections 498 A 302/34 of the IPC against the appellant. The Trial Court after appreciating the entire evidence by holding appellant guilty, convicted the appellant for the offences under Sections 302 and 201 r/w 34 of the IPC. The appeal of appellant challenging his conviction was also in vain, and the High Court affirmed the findings of the Trial Court against appellant.

8. The learned Sessions Court, upon appreciation of the evidence on record, convicted accused Nos. 1 and 3 for the offence punishable under Section 302 read with Section 34 IPC, holding that the death of the deceased was homicidal and that they had committed her murder in furtherance of their common intention, while acquitting all the accused of the charges under Sections 498-A and 304-B IPC on the ground that the prosecution failed to establish cruelty or dowry demand; the conviction thus rested on circumstantial evidence which, in the view of the Trial Court, formed a sufficient basis for guilt. In appeal, the High Court partly allowed the appeal by acquitting accused No. 3 but affirmed the conviction and sentence of accused No. 1 under Section 302 IPC, concurring that the death was homicidal rather than suicidal and relying on medical evidence to infer strangulation, and held that the circumstances were sufficient to sustain the conviction, thereby maintaining the finding of guilt against accused No. 1

while extending benefit of doubt to the co-accused for offence of murder. High court has convicted accused no. 2 for an offence punishable under section 201 of IPC and is sentenced to suffer RI for three years. Now the accused no.1 is the appellant herein filing the present appeal.

SUBMISSIONS

9. Learned Senior counsel for the appellant contended that there is no eye-witness to the alleged incident, no motive has been established and no evidence showing intention or common intention of the appellant to commit murder. He further submits that medical experts gave inconsistent opinions, one indicating hanging, another indicating both hanging and strangulation. Thus, the cause of death is doubtful, entitling the accused to benefit of doubt.

10. He further contended that the High Court incorrectly concluded strangulation, ignoring expert testimony. A suicide note was recovered from the deceased and the handwriting expert confirmed it to be of the deceased. The note indicates that no one was responsible for her death. The benefit of doubt was wrongly denied to the appellant.

11. Per contra learned counsel for the state submits, that the Sessions Court and High Court have both examined evidence and found the appellant guilty. Such concurrent findings should not be interfered with under Article 136. The chain of circumstances, when read together, points towards the guilt of the appellant. The death occurred inside the matrimonial home, placing a strong burden on the accused to explain.

12. He further submits that the post-mortem findings (fracture of larynx/trachea, asphyxia) indicate death by strangulation, not simple suicide. The High Court rightly relied on these factors. The alleged suicide note is suspected to be planted or not recovered in normal course (as per prosecution argument noted in HC findings). The deceased died under unnatural circumstances within the house of the accused and the appellant failed to give a satisfactory explanation.

ANALYSIS

13. We have carefully considered the submissions advanced by learned counsels. The question that falls for our consideration is whether the trial court and High Court rightly convicted the appellant for offences under section 302 of IPC on the basis of circumstantial evidence.

14. The appellant herein is seeking reversal of the concurrent findings by two courts, sessions Court and the High Court. This court in ***Mekala Sivaiah V. State Of Andhra Pradesh***¹ held thus:

"15. It is well settled by judicial pronouncement that Article 136 is worded in wide terms and powers conferred under the said Article are not hedged by any technical hurdles. This overriding and exceptional power is, however, to be exercised sparingly and only in furtherance of cause of justice. Thus, when the judgment under appeal has resulted in grave miscarriage of justice by some misapprehension or misreading of evidence or by ignoring material evidence then this Court is

¹ (2022) 8 SCC 253

not only empowered but is well expected to interfere to promote the cause of justice.

16. It is not the practice of this Court to re-appreciate the evidence for the purpose of examining whether the findings of fact concurrently arrived at by the trial court and the High Court are correct or not. It is only in rare and exceptional cases where there is some manifest illegality or grave and serious miscarriage of justice on account of misreading or ignoring material evidence, that this Court would interfere with such finding of fact."

In the above case, this Court, while dealing with a Criminal Appeal against an order of the High Court of Judicature of Andhra Pradesh upheld the conviction of the accused by the Sessions Court, and declined to interfere with the conviction.

15. This court in ***Sharad Birdhichand Sarda V. State of Maharashtra***² held thus:

“the five golden principles, the panchsheels of circumstantial evidence, namely, (i) The circumstances from which the conclusion of guilt is to be drawn should be fully established; (ii) The facts so established should be consistent with the hypothesis of guilt and the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty; (iii) The circumstances should be of a conclusive nature and tendency; (iv) They should exclude every possible hypothesis except the one to be proved; and (v) 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

² (1984) 4 SCC 116

all human probability the act must have been done by the accused”.

16. It is not in dispute the deceased died in the matrimonial home and the death is unnatural. Specific case of prosecution is death by strangulation. Both Trial Court and High Court after thorough scrutiny of evidence on record held the circumstances and the medical evidence are strongly suggesting strangulation they mainly relied on circumstances of missing left ear ring, right leg anklet and toe-rings from the fingers of the legs. As rightly recorded by Trial Court and High Court in case of hanging chance of missing these articles is very remote and missing of these articles is a strong circumstance for strangulation. The Trial Court and High Court also considered the fact that there was a fresh injury on cheek besides ligature mark which is clearly supported by medical evidence. Therefore, the circumstances recorded by Trial court and High court strongly point out the guilt towards appellant for the offence charged.

17. The prosecution in support of its case examined as many as 12 witnesses. Admittedly, the case of prosecution rests on circumstantial evidence. The witness namely, PW-1/Baba Saheb, father of the victim in his testimony before the Court provides certain details such as the marriage being solemnized between his daughter Rupali and the present appellant Chetan Gade on 24.04.2012. Rupali had completed her graduation whereas appellant studied upto 2nd year of B.A. and was doing agricultural work. Subsequent to the marriage, Rupali conceived and while she was carrying pregnancy of 8 months, unfortunately the baby could not survive in the course of natural delivery and was

declared dead due to intra-uterine death. Thereafter, she carried pregnancy for the second time and the couple was blessed with a male child and the said child was of 6 months of age at the time of the incident. PW-1 further in his testimony before the Court stated that his daughter told him about the ill-treatment caused at the hands of her in-laws and the said ill-treatment led to the sour relationships between the families. On an information received by him about the death of his daughter, he rushed to her in-laws house at Shindwad and made inquiry about whereabouts of Rupali and it was informed to him that she was in the Primary Health Centre, Vani. Then, he rushed to the Primary Health Centre and found that his daughter was dead. He also found certain fresh injury marks existing on her right side cheek. He found that certain articles which his daughter used to wear namely, the earring, toe-ring and right leg anklet were missing. It was the complaint of PW-1 that there was a demand from the in-laws of his daughter Rupali and as he failed to fulfil the demand, his daughter was subjected to physical ill-treatment and was subsequently murdered by the in-laws. In the cross-examination, PW-1 father of deceased Rupali admitted that his economic condition was good as he was possessing 10 acres of land and was having grapes garden. At the same time, the economic condition of in-laws of Rupali was equally good. The family of the accused was also doing agriculture and they were also cultivating grapes. It may not be out of place to state here that all the accused persons were acquitted for the charges under Sections 498A/304B read with Section 34 IPC.

18. We may now refer to the material evidence. The prosecution had examined 5 medical officers namely, PW-3/Dr. Sunil Chindhu

Jadhav, PW-5/Dr. Rajendra Suresh Bagul, PW-6/Dr. Amol, PW-9/Dr. Swapnil Madhukar Mahajan, and PW-11/Dr. Gorakhnath Kisanrao Gore. PW-6/Dr. Amol was running a clinic namely, Mauli Clinic and on the day of incident i.e. 23.08.2015 at about 12:45 PM, one Akshay Gade came to his clinic. Akshay Gade told PW-6 that patient is in the vehicle and requested PW-6 to examine the patient. As such, PW-6 had gone outside and found that a girl was sleeping in a four-wheeler at the backside. On her examination, he found her dead. Her pupils were dilated and he could not find her pulse. He found one scar on her neck. He advised to take the girl to civil hospital. In his cross-examination, PW-6 states that the appellant Chetan was there when the girl was brought to his clinic. He further stated that those persons who attended his clinic were in very much haste. As per the evidence before the Trial Court, PW-6 told the persons who visited his clinic that the lady is dead and asked them to take her to civil hospital. She was then brought to another private hospital namely, Radhekishan Hospital and Dr. Swapnil Mahajan/PW-9 who was working in that hospital examined the patient on 23.08.2015 at 1:30 pm. PW-9 found breath absent and eye lids were dilated. Another doctor who was with him namely, Dr. Umesh declared that the patient was brought dead. Dr. Umesh then also advised to take the patient to civil hospital. Thereafter, Rupali's dead body was brought to the rural hospital. Inquest Panchnama was drawn. The dead body was subjected to autopsy. Post-mortem started at 08:30 pm and closed at 09:00 pm. Dr. K.G. Gore, in his testimony before the Court stated that:

33.Deceased was 25 years averagely built and rigor mortis was present. No signs of decomposition. Eyes were partially opened. Sub conjunctiva hemorrhage, Nails were cynosed. Mouth was closed. No injuries were found in genitals. All Limbs were extended.

In respect of surface wounds and injuries three ligature marks were existing.

1. Ligature mark completely encircling the neck at the little/upwards at the level of thyroid cartilage which was 42 cm around, 1 cm in width 7 cm from the chin.

2. Ligature mark little obliquely upward 3cm in length, extending to the right, meeting to 1st and 3rd line

3. 16 cm in length above thyroid cartilage 5 cm below the chin. Bruise mark on left side of mandible- first about 1 cm, second 3 cm imprint mark of ligature.

34. All the injuries mentioned in column No. 17 were anti mortem injuries. There was no injuries to the scalp, no skull fracture, brain was normal.

35. In case of thorax, there was fracture of hyoid bone. Fracture of trachea. Right and left lungs were congested. Heart was normal. Left chamber is empty. Right chamber contain blood. There was little 50 ml to 70 ml semi digested food (mostly liquid.) Intestine, Lever Pancreas, spleen kidney were congested. Organs of generations were normal. Viscera was preserved. No fracture of cervical vertebra. Probable cause of death was "asphyxia due to strangulation"

37. Dr.G.K.Gore examined by the prosecution being PW 11 at Exh. 137 He has corroborated evidence of PW 5 Dr.Bagul that of 23.8.2015, he has done PM of Rupali of which the notes are produced at Exh.99. According to him, on 31.8.2015, he had also received one letter from the Wani police station requesting him to inform about period of cause of death and that letter is Exh, 126. He opined that the death of Rupali on 23.8.2015 within 12 hours before doing that PM, she caused death. The cause of death is asphyxia due to strangulation given by him. He also signed that PM notes..... Though he has opined that in hanging there used to come ligature marks on the neck, upwards ligature marks are sign of hanging and in column No.17(1) and 17(2) are going upward. He has not mentioned directions upto upward, but given the location of thyroid cartilage.

19. Though an attempt was made to submit that the allegation of strangulation is unsustainable and the strangulation itself is doubtful, the evidence referred to above clearly suggest that it was not the case of an act of suicide, particularly, in view of the injury marks found on the body of Rupali. It is also important to note that though at the very first instance when Rupali was brought to Mauli Clinic and PW-6 on examination of Rupali declared the patient dead and asked the appellant as well as Akshay Gade to take the body to civil hospital, the body was again taken to another private hospital. There is no satisfactory explanation provided by the appellant either for the injury marks found on the body of Rupali or for bringing body to another hospital in spite of the declaration by PW-6. The learned Trial Court had scrutinized the material

evidence thoroughly and particularly, the medical evidence is assessed on all possible angles.

20. The learned Trial Court also considered the statement of the accused under Section 313 of Cr.P.C. which needless to state provides an opportunity to the accused to explain his stand qua the accusations made against him. In the statement under Section 313 Cr.P.C., there is no explanation leave aside any satisfactory explanation in respect of the material evidence against the appellant. In defence, though an attempt was made to submit that Rupali committed suicide with the help of one chit, the Trial Court on appreciation of the evidence particularly, the handwriting expert's opinion found that the so-called chit had got written by the accused forcibly prior to the strangulation. The Trial Court also found that the material evidence brought before the Court clearly indicated that the appellant have caused distraction of the evidence of the offence and provided a false information that Rupali committed suicide. It may not be out of place to state that Rupali after her marriage was residing at her in-laws place. Death of Rupali was in suspicious circumstances and this fact was within the special knowledge of the appellant being her husband and the appellant utterly failed to provide a justifiable explanation so as to discharge the burden and this was an additional factor for the Trial Court for holding the appellant guilty and recording the order of conviction. The High Court in appeal could not find any error in the judgment and order of the Trial Court as such and affirmed the judgment and order on appreciation.

21. At the cost of repetition as already discussed in the preceding paragraph the appellant could not displace the burden cast upon him under 106 Indian Evidence Act.

22. This Court in ***Nagendra Sah v. State of Bihar***³ held thus:

“22. Section 106 of the Evidence Act will apply to those cases where the prosecution has succeeded in establishing the facts from which a reasonable inference can be drawn regarding the existence of certain other facts which are within the special knowledge of the accused. When the accused fails to offer proper explanation about the existence of said other facts, the court can always draw an appropriate inference.

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. In a case governed by circumstantial evidence, if the chain of circumstances which is required to be established by the prosecution is not established, the failure of the accused to discharge the burden under Section 106 of the Evidence Act is not relevant at all. When the chain is not complete, falsity of the defence is no ground to convict the accused.”

23. It is trite law in the cases of circumstantial evidence when the chain of circumstances have been adequately proved to link to the culpability of the accused, motive is irrelevant this principle is further echoed in the case of ***Mulakh Raj and Others v. Satish Kumar and Others***⁴ whereas in it was held as thus:

³ (2021) 10 SCC 725

⁴ (1992) 3 SCC 43

"17..... Undoubtedly in cases of circumstantial evidences motive bears important significance. Motive always locks up in the mind of the accused and some time it is difficult to unlock. People do not act wholly without motive. The failure to discover the motive of an offence does not signify its non-existence. The failure to prove motive is not fatal as a matter of law. Proof of motive is never an indispensable for conviction. When facts are clear it is immaterial that no motive has been proved. Therefore, absence of proof of motive does not break the link in the chain of circumstances connecting the accused with the crime, nor militates against the prosecution case"

24. High Court considered the case law relating to principle of circumstantial evidence and rightly applied the principle to the facts of this case.

CONCLUSION

25. We don't find any grounds to interfere with the concurrent findings based on evidence.

26. In view of the foregoing discussion, we are of the considered opinion that the prosecution has successfully established a complete and unbroken chain of circumstances which unerringly points towards the guilt of the appellant and is wholly inconsistent with any hypothesis of innocence. The medical evidence, the attending circumstances surrounding the death of the deceased within the matrimonial home, the conduct of the appellant subsequent to the incident, the false defence sought to be projected through the alleged suicide note, and the failure of the appellant to furnish any plausible explanation in discharge of the burden cast upon him under Section 106 of the Indian Evidence

Act, cumulatively form a chain so complete as to leave no reasonable ground for doubt. The principles governing conviction on circumstantial evidence as enunciated in **Sharad Birdhichand Sarda** (Supra) stand fully satisfied in the facts of the present case. We find no perversity, illegality, or miscarriage of justice in the appreciation of evidence by the learned Trial Court, as affirmed by the High Court, warranting interference by this Court in exercise of jurisdiction under Article 136 of the Constitution of India.

27. Consequently, the appeal being devoid of merit is dismissed. The conviction and sentence imposed upon the appellant under Sections 302 and 201 of the Indian Penal Code, as affirmed by the High Court, are hereby upheld

28. The appellant is at liberty to submit an application for premature release as per the state policy and if such application is submitted the authority to consider the same as per the prevalent state policy

29. Pending application(s), if any, shall stand disposed of.

.....**J.**

[PANKAJ MITHAL]

.....**J.**

[PRASANNA B. VARALE]

NEW DELHI;
MAY 21, 2026.