

**\* THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER  
AND  
\* THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**

**+ Criminal Appeal No.909 of 2014**

**% Date: 24.03.2022**

**Between**

**# Mohd. Majeed**

**... Appellant/Accused**

**AND**

**\$ State of Telangana,  
Rep. by its Public Prosecutor,  
High Court of Judicature at Hyderabad.**

**... Respondent/Complainant**

**! Counsel for the Appellant : Smt. C.Vasundhara Reddy**

**^ Counsel for the Respondent : Public Prosecutor**

**> HEAD NOTE:**

**? Cases referred**

- 1) 2011 (1) ALD (Crl.) 759 (AP)
- 2) 2019 (1) ALD (Crl.) 289 (SC)
- 3) (2013) 12 Supreme Court Cases 406
- 4) (2017) 12 SCC 727
- 5) AIR 2018 SC 329
- 6) AIR 1984 SC 1622
- 7) AIR 1994 SC 458

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER  
AND  
THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**

**CRIMINAL APPEAL No.909 OF 2014**

**JUDGMENT** (Per Hon'ble Dr.Justice Shameem Akther)

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973, is filed by the appellant/accused, challenging the Judgment, dated 12.03.2014 passed in Sessions Case No.636 of 2012 by the learned III Additional Sessions Judge, Ranga Reddy District, whereby, the Court below acquitted the accused of the offence under Section 498-A IPC and convicted him of the offence punishable under Section 302 of IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default, to suffer simple imprisonment for a period of three months.

2. Heard the submissions of Smt.C.Vasundhara Reddy, learned counsel for the appellant/accused, Sri C.Pratap Reddy, learned Public Prosecutor appearing for the respondent/State and perused the record.

3. The case of the prosecution, in brief, is that on 16.04.2012 at 10:30 hours, PW.1-Smt. Reshma Begum, lodged Ex.P.1-report with Rajendranagar Police Station, stating that her junior paternal uncle's daughter namely Yasmin Begum (hereinafter referred to as

"deceased") got married to Mohd.Majeed (hereinafter referred to as "accused") about five months ago. At the time of marriage, cash of Rs.35,000/-, two tolas of gold, household articles and some amount to purchase auto, were given to the accused. On demand of the accused, parents of the deceased purchased an auto and gave it to him. The accused used to run the auto and they were residing in a rented house of their relatives. She along with the deceased and other family members attended a function in their relatives' house at Rayapalli Village, Bidar District, Karnataka. On 14.04.2012, accused left the deceased at Raipalli and came back to Hyderabad. Later, on 15.04.2012 at about 19:00 hours, she and the deceased returned to their house. At about 23:30 hours, the accused came to her house and took the deceased to his house along with him. On 16.04.2012 at about 9:30 hours, she went to the house of deceased and found the doors kept open, and the deceased lying dead on a cot. She observed that the deceased was hit by some instrument on her head and suffered bleeding injury and crow bar was attached to the cot with an electric wire and she suspected that accused beat the deceased with an instrument on her head and gave electric shock to the deceased. PW.1 found the accused absconding. Hence, she lodged Ex.P.1-report with the police for taking necessary action.

4. Basing on the said report, P.W.10-Inspector of Police, Rajendranagar, registered a case in Crime No.337 of 2012 under Sections 498-A and 302 IPC and took up investigation. During the course of investigation, the police visited the scene of offence i.e, rented house of the accused and the deceased, situated at Mohammadabad, Rajendranagar, recorded the statements of the witnesses, prepared scene of offence panchanama, drawn rough sketch, seized the material objects, got conducted inquest over the dead body of the deceased through MRO, Rajendranagar, and handed over the body of the deceased to her relatives. On 27.04.2012 at 9:00 hours, the police apprehended the accused and recorded his confession statement in the presence of mediators and pursuant to the same, seized the material objects at the instance of accused. Thereafter, the police arrested the accused and remanded him to judicial custody. On completion of investigation, police filed charge sheet against the accused of the offences under Sections 498-A and 302 of IPC before the learned VIII Metropolitan Magistrate, Cyberabad at Rajendranagar.

5. The learned VIII Metropolitan Magistrate, Cyberabad at Rajendranagar, took cognizance of the case and committed the case to the Metropolitan Sessions Judge, Cyberabad, under Section 209 Cr.P.C, since the offence under Section 302 I.P.C. is exclusively

triable by the Court of Session. On committal, the trial Court registered the case against the accused as S.C.No.636 of 2012 of the offences under Sections 498-A and 302 of I.P.C. The trial Court framed charges of the offences under Sections 498-A and 302 of IPC against the accused, read over and explained the same to him in his vernacular language, for which, the accused pleaded not guilty and claimed to be tried.

**6.** To prove the guilt of the accused, the prosecution has examined PWs.1 to 10 and got marked Exhibits P1 to P9 besides Material Objects 1 to 7. No oral or documentary evidence was adduced on behalf of accused.

**7.** P.W.1-Reshma Begum, is the complainant. P.W.2-Mir Amjaha, brother of the deceased. PW.3-Salma Begum, mother of the deceased. PW.4-Shaik Haleem, owner of the house and relative of the deceased. PW.5-Moulam Bee, is a panch witness for scene of offence panchanama and rough sketch. PW.6-Sakina Begum, is a witness for inquest panchanama. PW.7-G.Jagadishwar is Deputy Tahsildar, Rajendranagar Mandal, who conducted inquest over the dead body of the deceased. PW.8-Dr.Abijith Subedar is the doctor, who conducted post-mortem examination over the dead body of the deceased. PW.9-Mohd.Isamuddin, is a panch witness for confession-cum-seizure panchanama and PW.10-S.Jayaram, Inspector of

Police, Rajendranagar PS, is the Investigating Officer, who conducted investigation in this case and filed charge-sheet before the Magistrate concerned. Ex.P.1 is the report dated 16.04.2012. Ex.P.2 are photographs of dead body of the deceased and scene of offence. Ex.P.3 is the scene of offence panchanama. Ex.P.4 is the rough sketch of scene of offence. Ex.P.5 is the Inquest Report. Ex.P.6 is the post-mortem examination report. Ex.P.7 is the admissible portion of confession of accused. Ex.P.8 is the First information Report. Ex.P.9 is the Forensic Science Laboratory (F.S.L.) Report. M.O.1 is the Crowbar. M.O.2 is the broken bangle pieces. M.O.3 is the wire. M.O.4 is the blanket. M.O.5 is the pillow cover. M.O.6 is the grinding bowl and M.O.7 is the blood stained baniyan.

**8.** After completion of trial, the accused was examined under Section 313 Cr.P.C confronting the incriminating evidence appearing against him. The accused denied the same and did not examine any defence witness.

**9.** The trial Court, having considered the submissions made and the evidence available on record, *vide* impugned judgment, dated 12.03.2014, acquitted the accused of the offence under Section 498-A IPC and convicted him of the offence punishable under Section 302 I.P.C. and sentenced him, as stated above. Aggrieved

by the conviction recorded against him of the offence under Section 302 IPC, the accused preferred this appeal.

**10.** The learned counsel for the appellant/accused would contend that the whole prosecution case is based on circumstantial evidence. There are no direct witnesses to the subject death of the deceased. The prosecution failed to establish the links in the chain of circumstances to form a complete chain as to draw an irresistible inference that it is the accused who committed the murder of his wife i.e, deceased. There is no motive for commission of such offence. The accused is an auto driver. On the intervening night of 15/16.04.2012, he was away from the house and plying auto outside. On the intervening night of 15/16.04.2012, nobody had seen the accused and the deceased together in their house. The trial Court arrived at a conclusion that the accused had absconded immediately after the commission of offence, which is erroneous. Merely because the accused was not found immediately after the death of the deceased, it cannot be a ground to convict and sentence him of the offence under Section 302 IPC. There is no cogent and convincing evidence to substantiate that the accused had caused the death of the deceased. At the most the material on record leads to suspicion. Suspicion, however strong it may be, will not take the place of legal proof. On the basis of suspicion, the

accused cannot be convicted and sentenced of the offence under Section 302 IPC. M.O.6-grinding bowl and M.O.7-blood stained banyan, are planted in this case. The accused did not confess the commission of the offence. The explanation given by the accused in the defence is sustainable. The prosecution failed to prove the guilt of the accused beyond all reasonable doubt. The trial Court without there being any substantial evidence, erroneously convicted and sentenced the accused of the offence under Section 302 of IPC and ultimately prayed to allow the appeal by setting aside the conviction and sentence imposed against the accused by the trial Court. In support of her submissions, the learned counsel placed reliance on the following decisions:

- i) ***Gaddegudem Vadenna v. State of Andhra Pradesh***<sup>1</sup>
- ii) ***Reena Hazarika v. State of Assam***<sup>2</sup>
- iii) ***Sujit Biswas v. State of Assam***<sup>3</sup>

**11.** On the other hand, learned Public Prosecutor for the State would contend that there is ample evidence to prove the guilt of the accused. PW.1-cousin of the deceased witnessed the accused taking his wife from her house on the intervening night of 15/16.04.2012. There is also evidence of PWs.2 and 3, who supported the case of the prosecution. Further, in Ex.P.1-report

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<sup>1</sup> 2011 (1) ALD (Crl.) 759 (AP)

<sup>2</sup> 2019 (1) ALD (Crl.) 289 (SC)

<sup>3</sup> (2013) 12 Supreme Court Cases 406



lodged by PW.1, there is specific mention of the accused taking the deceased from the house of PW.1 on the night of 15.04.2012 and on the next day morning at about 9.00 AM, when PW.1 went to the house of accused, she found the dead body of the deceased and the accused was absconding. The accused was apprehended on 27.04.2012. Pursuant to the confession made by the accused, M.O.6-grinding bowl (mortar) and M.O.7-blood stained baniyan, were seized under Ex.P.7-confession-cum-seizure panchanama in the presence of PW.9-Mohd. Isamuddin, and those material objects were sent to F.S.L and received Ex.P.9-FSL report, wherein human blood is detected on M.Os.6 and 7. When the accused was examined under Section 313 Cr.P.C, he simply denied the incriminating evidence appearing against him, but did not state that he was not present in the house on the intervening night of 15/16.04.2012 and that he was plying auto. Further, the accused failed to discharge his burden in explaining the incriminating circumstances appearing against him under Section 106 of Evidence Act. Though the case is based on circumstantial evidence, the circumstances, taken cumulatively, 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. All the circumstances put-forth by the prosecution, being of a definite tendency, are unerringly pointing towards the guilt of the

accused. Absolutely, there is no explanation from the accused that he was not present at the scene of offence on the date of incident. The trial Court had elaborately dealt with the entire evidence on record and arrived at a just conclusion. The trial Court is justified in convicting and sentencing the accused of the offence under Section 302 of IPC and ultimately prayed to dismiss the appeal by confirming the conviction and sentence recorded against the accused. In support of his submissions, the learned Public Prosecutor placed reliance on the following decisions:

- i) ***Dilip Mallick v. State of West Bengal***<sup>4</sup>
- ii) ***State of Himachal Pradesh v. Raj Kumar***<sup>5</sup>

**12.** In view of the above submissions made by both sides, the following points arise for determination in this appeal:

- (1) Whether the subject death of the deceased is homicidal?**
- (2) Whether the accused caused the death of the deceased on the intervening night of 15/16.04.2012?**
- (3) Whether the prosecution was able to prove the guilt of the accused beyond all reasonable doubt?**
- (4) Whether the conviction and sentence recorded against the accused of the offence punishable under Section 302 of IPC, is liable to be set aside?**

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<sup>4</sup> (2017) 12 SCC 727

<sup>5</sup> AIR 2018 SC 329

**POINTS:**

**13.** The admitted facts of the case are that deceased is the wife of the accused and they were living in a rented house, situated at Mohammadabad, Rajendranagar. There is no much dispute with regard to the nature of death of deceased i.e, homicidal. There is evidence of PW.8-Doctor, who conducted post-mortem examination over the dead body of the deceased on 16.04.2012 between 4 PM and 5 PM and found the following injuries:

*"1) A contusion of 12 x 6 cms, over the left fronto temporo partial area irregular in shape, red in colour with a lacerated injury of 4 x 1 cms, into scalp deep, over the temporal area vertically placed.*

*2) On deflection of scalp corresponding contusion noted dark red in colour with underlined fishered fracture of the temporal bone of 4 cms, with thin film of subdural haemorrhage over the brain.*

*3) On internal examination all the organs are congested.*

*4) Uterus – on cut section of uterus a male foetus of 12 cms in length is found."*

According to PW.8-Doctor, the death of the deceased was due to head injury and the time of death was 12 to 24 hours prior to conducting post-mortem examination over the dead body of the deceased. Ex.P.6-post-mortem examination report substantiates the same. There is also Ex.P.3-scene of offence panchanama and Ex.P.5-inquest report. All these documents clinchingly establish that the death of the deceased is homicidal and it was caused during the intervening night of 15/16.04.2012 in the rented house of the accused and the deceased, situated at Mohammadabad,

Rajendranagar, Ranga Reddy District. The question that needs to be answered in this case is, who caused the death of the deceased.

**14.** It is to be noted that the whole prosecution case is based on circumstantial evidence. 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. The question whether chain of circumstances unerringly establish the guilt of the accused needs careful consideration. The proof of a case based on circumstantial evidence, which is usually called 'five golden principles', have been stated by the Hon'ble Apex Court in **Sharad Birdhi Chand Sarda Vs. State of Maharashtra**<sup>6</sup>, which reads as follows: -

*(1) The circumstances from which the conclusion of guilt is to be drawn should be fully established, as distinguished from 'may be' established.*

*(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.*

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<sup>6</sup> AIR 1984 SC 1622

*(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 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.*

**15.** Keeping the above principles in mind, we would now venture to analyse the evidence on record. The deceased is the wife of the accused and they were living in a rented house belonging to PW.4. PW.4-owner of the house and relative of the deceased, stated in his evidence that he let out the house to the accused on rent. The accused is auto driver by profession. The defence put up on behalf of accused is that on the intervening night of 15/16.04.2012 he was plying auto and that he was not available in the house and responsible for the death of the deceased.

**16.** P.W.1-Reshma Begum is the cousin of the deceased. Her evidence reveals that the accused was harassing the deceased to get money from her parents and beat the deceased and sent her to get the money, on that the parents of the deceased purchased one auto and handed over to the accused. Even then, there was no change in the attitude of the accused. One day prior to the incident, PW.1, deceased and her family members went to Raipalli village, Bidar District. The accused also accompanied them to Raipalli. After

taking food in the function, the accused left the function without informing them. Later, the accused called the deceased and pressurised her to come back. On that, PW.1 along with her husband and the deceased came back to Hyderabad. Thereafter, the accused came to their house around 10:30 PM and took the deceased along with him, even though PW.1 asked the accused to leave the deceased with them for a day. On the next day morning at about 9.00 AM, when her mixer (grinder) was not working, she went to the house of the deceased for mixer (grinder) and knocked the door, but nobody opened the door. Then she opened the window and peeped through the window and found the deceased lying on the cot. Then she opened the door, which was half bolted, went inside and found the deceased lying on iron cot, which was connected with electric wire and other end of the wire was connected to power supply board. She called her husband and locality people. PW.1 lodged Ex.P.1-report to police. Ex.P.1-report dated 16.04.2012 corroborates with the evidence of PW.1. Ex.P.2-photographs of the dead body of the deceased and scene of offence are marked through this witness. In the cross-examination of PW.1, she denied the suggestion that the deceased used to give chloroform tablets to the accused and used to have illicit intimacy with third person. No name of the third person is mentioned by the accused. Even in the 313 Cr.P.C examination also, the accused did

not state about the extra marital relationship of the deceased. In the cross-examination of PW.1, nothing was brought on record to discard her testimony.

**17.** PW.2-Mir Amjaha, is the brother of the deceased. His evidence corroborates with the evidence of PW.1 in relation to PW.1, her husband, deceased and the accused going to Raipalli village, Bidar District and reaching PW.1's house on the night of 15.04.2012 and that the accused taking the deceased to his house on the same day night and PW.1 finding the dead body of the deceased on the next day. The evidence of PW.3-Salma Begum, mother of the deceased, also corroborates the same. PW.4-Shaik Haleem, owner of the house and relative of the deceased, clearly stated in his evidence that he let out the house to the accused and the deceased. PW.5-Moulana Bee, deposed about preparation of Ex.P.3-scene of offence panchanama, drawing Ex.P.4-rough sketch and seizure of M.O.1-crow bar, M.O.2-broken red colour bangle pieces, M.O.3-electric wire, M.O.4 is the blanket and M.O.5 is the pillow cover. PW.6-Sakina begum, deposed about the conduct of inquest panchanama over the dead body of the deceased at Osmania General Hospital. She further deposed that she found one bleeding injury on the head of the deceased. Ex.P.5 is the inquest report. PW.7-G.Jagadishwar, Deputy Tahsildar, Rajendranagar

Mandal, deposed that he conducted inquest over the dead body of the deceased in the presence of PW.6 and one Mr.Md.Akbar. PW.8-Dr.Abijith Subedar, deposed that he conducted post-mortem examination over the dead body of the deceased on 16.04.2012 between 4 PM and 5 PM. PW.9-Mohd. Isamuddin, who is one of the panchas to the confession of the accused and recovery of M.O.6-grinding bowl, clearly deposed that the accused confessed the commission of the offence and pursuant to the confession, M.O.6-grinding bowl (as per Ex.P.7-panchanama mortar was seized and as per Ex.P.9-FSL Report, mortar was analysed and human blood was detected on it) was recovered. The accused brought the same, which was underneath the iron almarah of his house and handed it over to the police. Thereafter, the accused lead them to Shamshabad Railway Track and picked up a blood stained baniyan and handed over the same to the police. M.O.7 is the blood stained baniyan. Ex.P.7 is the admissible portion of confession panchanama leading to recovery. PW.9 has no reason to depose falsely against the accused. His evidence is consistent and cogent with Ex.P.7. Though all these material witnesses were cross-examined at length, nothing was brought on record to discard their testimony.

**18.** There is also evidence of PW.10-Inspector of Police, who registered a case against the accused and conducted investigation



in this case. It was suggested to PW.10 that he did not investigate in relation to any illegal intimacy of the deceased with other person and that the deceased used to give sedatives to the accused in food and thereafter, continue illicit relationship with other persons. Admittedly, no name of the third person was given. In the cross-examination of PW.10, it was not suggested that the accused was plying auto on the intervening night of 15/16.04.2012. Even in the 313 Cr.P.C examination, the accused simply denied the whole incriminating evidence and he did not state that he was plying auto on that night. PW.10 denied the suggestion that he falsely implicated the accused in this case.

**19.** It is evident from the ocular and material evidence on record that the subject death of the deceased was caused on the intervening night of 15/16.04.2012 and on the next day, when PW.1 went to the house of the deceased, she found the dead body of the deceased and she did not find the accused in the house and none of the witnesses found the accused anywhere since then. There was absence of the accused between 16.04.2012 and 26.04.2012. There is no plausible explanation from the accused where he was all those days and what is the reason for his abscondence. The evidence of PW.1 and the evidence of PWs.2 and 3 makes it clear with regard to the accused taking the deceased to

his house on the night of 15.04.2012. In Ex.P.1-report there is a specific mention that the accused took the deceased to his house around 10:30PM on 15.04.2012. Thereafter, there is no explanation from the accused about his absence and the subject death. Before the trial Court, the accused took a defence that he was plying the auto on the intervening night of 15/16.04.2012. Had it been true, the accused would have stated the same when he was examined under Section 313 Cr.P.C. It is suggested in the cross-examination of PW.1 and PW.10 that the deceased used to give sedatives to the accused and continue her extra-marital affairs. There is no evidence of deceased developing any illegal intimacy with any other person. It goes to show that the accused suspected the fidelity of the deceased. Further, it is also evident from Ex.P.9-FSL report that human blood was detected on M.O.6-grinding bowl (mortar) and M.O.7-blood stained baniyan. There is no reason for the police to plant the said material objects and falsely implicate the accused in the case of this nature. There is evidence of PW.9 and also Ex.P.7-confessoion and seizure panchanama to substantiate that M.O.6-grinding bowl (mortar) and M.O.7-blood stained baniyan, were seized pursuant to the confession made by the accused. When the accused was examined under Section 313 Cr.P.C, he would have given cogent and convincing explanation in relation to the blood stains found on M.O.7-Baniyan.

20. We have gone through the decisions relied upon by the learned counsel for the appellant/accused and the learned Public Prosecutor for the State. In **Gaddegudem Vadenna's** case (1 supra), the erstwhile High Court of Andhra Pradesh, while discussing the law relating to circumstantial evidence, benefit of doubt etc., held that except proving the fact that the death of the deceased therein was homicidal, there were no other incriminating circumstances to infer that the appellant therein alone is the assailant of the deceased and accordingly extended the benefit of doubt and acquitted the appellant therein for the offence under Section 302 of IPC. In **Reena Hazarika's** case (2 supra), the Hon'ble Apex Court, while discussing the law relating to circumstantial evidence, held that in view of the facts and circumstances of the said case and in light of nature of evidence available coupled with manner for its consideration, links in chain of circumstances cannot be said to have been established leading to inescapable conclusion that the appellant therein was the assailant of the deceased therein. In **Sujit Biswas's** case (3 supra), the Hon'ble Apex Court held that mere abscondence of an accused does not lead to a firm conclusion of his guilty mind and that abscondence is in fact relevant evidence, but its evidentiary value depends upon the surrounding circumstances, and hence, the same must only be taken as a minor item in evidence for sustaining

conviction and that an adverse inference can be drawn against the accused only and only if the incriminating material stands fully established and the accused is not able to furnish any explanation for the same. In ***Dilip Mallick***'s case (4 supra) relied upon by the learned Public Prosecutor, the Hon'ble Apex Court observed that facts in cases of circumstantial evidence should be consistent only with hypothesis of guilt of accused and circumstances should be of conclusive nature and tendency. In ***Raj Kumar***'s case (5 supra) relied upon by the learned Public Prosecutor, the Hon'ble Apex Court held that when conviction is based on circumstantial evidence, there should not be any gap in the chain of circumstances.

**21.** In the instant case, there is specific evidence of PW.1 that the accused took the deceased to his house around 10:30PM on 15.04.2012. When PW.1 went to the house of deceased at 9:30 AM on 16.04.2012, she found the deceased lying dead on a cot with bleeding injury on her head and the accused was not present in the house. The accused was absconding between 16.04.2012 and 26.04.2012. Though the accused contended that he was plying auto on the intervening night of 15/16.04.2012, he did not state the same when he was examined under Section 313 Cr.P.C. As per the evidence of PW.8-doctor, Ex.P.6-post-mortem examination report,

the post-mortem examination over the dead body of the deceased was conducted on 16.04.2012 between 4:00 PM and 5:00 PM and the time of death is 12 to 24 hours prior to conducting post-mortem examination, which indicates that the subject death was caused during the intervening night of 15/16.04.2012 i.e, immediately when the deceased was taken by the accused to his house. In addition to this evidence, pursuant to the confession made by the accused M.O.6-grinding bowl (mortar) and M.O.7-blood stained baniyan were seized and they were sent to FSL. Ex.P.9-FSL Report reveals that human blood was detected on M.O.6-grinding bowl (mortar) and M.O.7-blood stained baniyan.

**22.** As per Section 106 of the Indian Evidence Act, 1872, the accused is required to explain the facts within their knowledge. Section 106 of the Act, reads as follows:

*"106. Burden of proving fact especially with knowledge –  
When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him  
illustrations:*

*(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."*

**23.** It is appropriate to refer the decision rendered in ***State of Madhya Pradesh vs. Ratan Lal***<sup>7</sup>, wherein the Hon'ble Supreme Court held that in a case where various links have been satisfactorily made out and the accused did not offer any explanation consistent with his innocence, the absence of such explanation itself is an additional link which completes the chain. When the accused herein is confronted with incriminating material appearing against him and examined under Section 313 Cr.P.C, simply he stated that the case of the prosecution is false. He did not give any cogent explanation.

**24.** In view of the above discussion, it can be safely concluded without there being any doubt that the evidence adduced by the prosecution is consistent only with the hypothesis of the guilt of the accused and exclude every possible hypothesis of the innocence of the accused. The chain of evidence is so complete and do not leave any reasonable ground for the conclusion consistent with the innocence of the accused and would, in all probability, show that the subject death was caused by the accused and none else. As discussed above, the motive for commission of the offence was suspicion. The accused suspected the fidelity of the deceased and in order to eliminate her, he took her to his house on the intervening night of 15/16.04.2012 and caused her death. Ex.P.6–post-mortem

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<sup>7</sup> AIR 1994 SC 458

examination report substantiates the same. The manner in which the accused caused injuries to the deceased to eliminate her, the place, size and nature of the injury, clearly demonstrate that there was an intention on the part of the accused to eliminate the deceased and he was successful in doing so. Lastly, a feeble attempt is made on behalf of the accused contending that accused and deceased were living together and they were quarreling with each other and in that process, the accused got sudden provocation and involved in causing the subject death. There is no iota of evidence to demonstrate that any quarrel was picked up by the deceased and that lead to sudden provocation to the accused and it resulted in death of the deceased. From the circumstances of the case, as per Ex.P.6-Post-mortem examination report, the injuries were caused on vital organs of the deceased and the injuries i.e, 1) contusion of 12 x 6 cms, over the left fronto temporo partial area irregular in shape, red in colour with a lacerated injury of 4 x 1 cms, into scalp deep, over the temporal area vertically placed and 2) the corresponding contusion dark red in colour with underlined fishered fracture of the temporal bone of 4cms, with thin film of subdural hemorrhage over the brain, are grievous in nature and the death of the deceased was caused instantaneously. The injuries demonstrate that the deceased was hit with M.O.6-grinding bowl (mortar) to cause subject death of the deceased and the accused is successful

in doing so. In view of the circumstances narrated above, the requirements under Section 302 of IPC are proved by the prosecution beyond all reasonable doubt.

**25.** The trial Court had elaborately dealt with the entire ocular and material evidence on record and rightly found the accused guilty of the offence under Section 302 IPC. The findings arrived by the trial Court are based on evidence on record. There is nothing to take a different view. All the contentions raised on behalf of the appellant/accused do not merit consideration. The trial Court is justified in convicting the accused of the offence indicated above. The trial Court is also justified in imposing the sentence of imprisonment against the accused as indicated above. The Criminal Appeal is devoid of merit and is liable to be dismissed.

**26.** In the result, the Criminal Appeal is dismissed, confirming the judgment, dated 12.03.2014, passed in S.C.No.636 of 2012 by the learned III Additional Sessions Judge, Ranga Reddy District.

Miscellaneous petitions, if any, pending in this Criminal Appeal, shall stand closed.

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**Dr. SHAMEEM AKTHER, J**

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**JUVVADI SRIDEVI, J**

Date: 24.03.2022  
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