
(2002) 04 AP CK 0091
In the Andhra Pradesh High Court
Case No : Criminal A. No. 393 of 2000

Marepally Venkata Sree Nagesh

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 23-04-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 313
Penal Code, 1860 (IPC) — Section 302, 307

Citation : (2002) 1 ALD(Cri) 905 : (2002) 2 ALT(Cri) 52 : (2002) CriLJ 3625

Hon'ble Judges : Goda Raghuram, J; Bilal Nazki, J

Bench : Division Bench

Advocate : C. Praveen Kumar, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

Bilal Nazki, J.—This case is a unique case and first of its kind and with the development of Science and Technology unfortunately we may have to see many more cases of this nature in future. The accused-appellant is a scientist. He was awarded doctorate in Bio-chemistry. He was married to one Smt. Marepally Indira who died on 16-8-96 at 3.45 pm at Pramila Kidney centre, Secunderabad. The substance of the charge against the accused was that, on 3-7-96 in the bedroom of his house located at Marwadi bazaar, Tandur the accused with an intention to kill his wife inserted mercuric chloride crystals by mixing it with tamarind into her vagina. On the insertion of Mercuric chloride into the vagina she developed severe burnings in her genitals and eventually she died in a Nursing home. This was the case of the prosecution that, since the accused knew that by inserting Mercuric chloride into the vagina the lady could eventually die he inserted Mercuric chloride with an intention to kill her without leaving suspicion about his killing her. On the basis of these allegations charges were framed against the accused in the following manner by the trial Court.

"That you on the early hours of 3-7-96 in the Bedroom of your house located at

Marwadi Bazar, Tandur, with an intention to commit murder of your wife Smt. Marepally Indira, aged 27 years, inserted Mercuric chloride crystals by mixing with Tamarind into her vagina and thereby she developed severe burnings for which she died on 16-8-96 at 3.45 pm at Pramila Kidney centre, Secunderabad, and thereby committed an offence punishable u/s 302 of Indian Penal code and within my cognizance. "

2. He pleaded not guilty and claimed to be tried. Prosecution examined 18 witnesses, exhibited 24 documents. The defence produced 21 letters and also marked some relevant portions of the statements made by some of the witnesses u/s 161 Cr.P.C. The story would be unfolded by mentioning in detail the statements of witnesses recorded by the Trial Court.

3. P.W.1 is the father of the deceased. He was working as an officer in the State Bank of India. In 1996-97 he was posted at Vaddepally branch of State Bank of India in Warangal district. He has two daughters and a son. Indira, the deceased was his eldest daughter. She was married to the accused on 20th May, 1990 at Hyderabad. The accused was a Research scholar in Indian Institute of Science, Bangalore. Parents of the accused stayed at Tandur. His daughter stayed at the house of her in-laws at Tandur. Accused used to visit his parents home at Tandur once in a fortnight or once in a month. Out of the wedlock Indira had a daughter and a son. Accused was suspecting the character of the deceased and he was ill-treating her. On 5th July, 1996 he got a message that his daughter had been admitted in New citi Hospital, Secunderabad. On receiving the message he rushed to New citi hospital. The Security officer informed him that his daughter was in serious condition and she had chemical burns in her private parts. His daughter told him that her husband inserted some chemicals in her private parts. He met Dr. Shobha Jayanthi, Gynecologist. She told him that his daughter had serious burns in her vagina. His daughter was admitted to New citi hospital by the family members of the accused. He was told by Dr. Shobha Jayanthi that she enquired from the accused as to what he had done with the deceased and the accused had told her that he had mixed Mercuric chloride crystals in Tamarind and made them into small balls and inserted them into vagina of Smt. Indira. His wife and his son accompanied him to the New citi hospital. He stated that his daughter told him that on 3-7-96 the accused inserted something in her vagina. He got a complaint scribed by the police constable at hospital. Ex.P1 is the complaint scribed by him. By the end of March, 1995 his daughter had become pregnant, she had requested him to get the pregnancy terminated as accused was still unemployed. He got her pregnancy terminated with her consent. After her operation he had thought of not sending his daughter to Tandur for 3 or 4 months but the accused, his elder aunt i.e., Varahamma and his sister Pushpa came to him and assured him that they would treat Indira nicely, so he sent his daughter along with them to Tandur. Indira was in hospital for 40 days and she was discharged from hospital. After her discharge from hospital she was taken to the hospital for one week for dialysis because her both kidneys failed due to insertion of dangerous chemicals in her vagina. She died on 16-8-96 in Pramila

Kidney centre while undergoing dialysis. She died because of insertion of dangerous chemicals into her vagina by the accused. In his cross-examination he stated that, after 3 or 4 months of the marriage he came to know that the accused had started suspecting the character of his daughter. He did not attribute her intimacy with any particular person. He had learnt from his daughter that the accused was suspecting her character. She had informed him about it twice or thrice. He was a native of East Godavari district but was staying at Hyderabad since November, 1994. His two brothers were residing at Hyderabad. He had told his brothers and sister about the accused suspecting the character of his daughter. He had told the accused also that his suspicion against his daughter was unfounded. His daughter Indira discontinued her studies after her marriage. For the first four years after the marriage his daughter Indira was not permitted to visit his house by accused and his parents. His daughter wrote to him once complaining against the accused that he suspected her character. The letter was not available with him. Indira had stayed with accused at Bangalore for 6 months. The witness admitted that his daughter wrote letter dated 9-3-96 to accused Nagesh. He exhibited it as Ex.D1. He also exhibited the other letters written by deceased to the accused, they are Ex.D2 to D17. Ex.D18 and D19 were exhibited by him as greeting cards sent by his daughter to the accused Nagesh. The accused was getting stipend of Rs. 2,200/- as Research scholar on the date of marriage. His father was an R.M.P doctor.

4. P.W.2 is mother of the deceased. She also corroborated what had been stated by P.W.1. She stated that accused Nagesh telephoned to them that her daughter had been admitted to New citi hospital. On coming to know the information she went to New citi hospital, her son accompanied her. She also informed her husband about the admission of her daughter in the New citi hospital and after he received the message he also came to New citi hospital. When she enquired from her daughter she told her that she had intercourse with her husband twice on that night and that she started feeling burning sensation in her vagina by 4.00am and this had happened on 3-7-96. The deceased had further told her that burning sensation in her vagina slowly increased by 8.00am, she developed severe burning sensation in her stomach. The deceased also told her that she was taken to a private hospital at Tandur and that Doctor advised to shift her to Hyderabad for treatment. The deceased was discharged from New citi hospital on 27-7-96. She died on 16-8-96 in Prameela hospital while she was on dialysis. Her daughter died due to insertion of something in her vagina mixed with tamarind. After 6 or 7 days of admission of her daughter at New citi hospital the witness saw her vagina and there was some congestion. She also deposed that the accused had suspected the character of the deceased. She stated that she came to know about the admission of her daughter in the hospital on 5-7-96. When she reached the hospital the accused was also there in the hospital. Her daughter was conscious and was able to speak. Her son accompanied her to hospital. The husband of the witness came after them to the hospital. She was with her daughter throughout the day on 5-7-96. P.W.1 reached the hospital in the

evening of 5-7-96. The deceased was in a position to talk from the date of her admission till the date of discharge.

5. P.W.3 is a driver of jeep AP 28T 1715. He stated that one Ravi Kumar was the owner of the jeep. He knew Dr. Lavanya. She was a private practitioner. She had a Nursing home near his house. In the month of July, 1996 Dr. Lavanya asked him to shift a patient by name Indira to New citi hospital, Hyderabad. The accused engaged the jeep to shift Indira from Tandur to Hyderabad. He paid Rs.800/-. The witness shifted Indira by jeep from Tandur to New citi hospital. He did not know the ailment of Indira. Police examined him and recorded his statement.

6. P.W.4 is the Chief Security officer of New citi hospital, Secunderabad. On 3-7-96 at about 3.00 pm Smt. Indira aged about 25 or 26 years was brought from Tandur by her husband to New citi hospital for treatment. Smt. Indira complained severe stomach pain and burning sensation in her vagina. Dr. Loycoamen examined Smt. Indira and he suspected that it was a medico legal case. Doctors recorded the case as the Medico legal case. The witness interrogated the husband of Smt. Indira, he did not reveal anything to the witness. He asked Smt. Indira as to what had happened. She told him that something had happened while she was asleep. After registration of case as medico legal case he informed Tandur police station by telegram. He sent medico legal record to Tandur by post. Ex.P2 was the telegram sent by him on 4-7-96 and Ex. P3 was the telegram sent by him on 5-7-96. Ex.P4 was the medical record sent by him to Tandur police station by registered post. Ex.P5 was the registered cover. Police constable from Tandur police station came and the witness took him to Indira. The police constable enquired from him before recording the statement of Indira. Police constable examined Smt. Indira. Indira was in hospital for about 20 to 25 days. He enquired from Smt. Indira and also accused Nagesh, they did not tell him anything. After the death of Smt. Indira C.I of Police, Tandur police station examined him. At this stage the Public prosecutor sought permission to cross-examine the witness and requested the Court to declare him hostile as under 161 Cr.P.C statement the witness had stated that accused had told him that he had inserted Mercuric chloride crystals in the vagina of the deceased. The witness was declared hostile. In the cross-examination by Public prosecutor he denied that accused had ever told him that he had inserted Mercuric chloride crystals mixed with tamarind in the vagina of the deceased. He denied the suggestion that he had said so before the police.

7. P.W.5 is a Consultant physician in New citi hospital, Secunderabad. He stated that on 3-7-96 at about 3.45 pm Smt. Indira was brought by her husband Nagesh for treatment. He admitted her for treatment. He examined her. She complained acute pain in the lower abdomen. She expressed her inability to pass urine freely. She complained acute burning sensation in the genital track. He asked her whether she consumed any particular type of food, medicines or drugs. She kept quiet and did not reveal anything. He asked her husband Nagesh

as to what had happened to Smt. Indira. He was in perturbed mood and he did not tell anything initially but when he asked him persistently to tell him as to what had happened so that he can decide the line of treatment, then the accused told him that he had administered some chemicals to her. The witness made an endorsement on the case sheet that it was a medico legal case and it should be transferred to medico legal department of Gandhi hospital. She was shifted to acute medical care in New citi hospital. He informed the Chief security officer that it was a medico legal case. In his cross-examination he stated that he did not bring the case sheet of Smt. Indira to court. Police examined him after Smt. Indira discharged from the hospital. He accepted that he omitted to state to the police that after persistent enquiry with the accused as to what had happened to Smt. Indira to start line of treatment he stated to him that he administered some chemical substance to her.

8. P.W.6 is a Plastic surgeon and he was consultant in New Citi hospital, Secunderabad. He examined Smt. Indira on 4-7-96 in acute medical care ward. When he examined Smt. Indira he found some sort of erosion and pus discharge from her vagina, she was complaining acute pain and she did not permit him to examine her vagina thoroughly. Except oozing out of pus from the vagina there were no external injuries on her person. Her condition was stable when he examined her. He advised her to take antibiotics and pain killers and other fluids. When he examined her on 5-7-96 urine output was 100ml in 24 hours, so he suspected failure of kidney. He asked the Hospital authorities to call Dr. Raja Mallaiah to examine her. In spite of his repeated asking her as to what happened to her she did not tell anything. He asked the accused as to what had happened to Indira. He also did not tell him anything. He did not remember police examining him in this case. This witness was also declared hostile. In cross-examination by Public Prosecutor he denied the suggestion that police examined him and he stated to police that Smt. Indira told him that her husband inserted some poison in her vagina. In cross-examination by accused he stated that no vaginal swabs were collected in his presence by any Doctor. Blood of Smt. Indira was not sent to chemical analysis to know whether the blood contained any poison. Pus emanating from Vagina of Smt. Indira was sent to culture sensitive test.

9. P.W.7 is another Doctor who is a Nephrologist and consultant in New citi hospital, Secunderabad. He treated Indira in New citi Hospital on 5-7-96. He examined Indira and advised her to go for Hemo dialysis as she had developed renal failure. Smt. Indira was discharged from the hospital on 27-7-96. She had undergone Hemo dialysis in Prameela Kidney centre at Secunderabad. When Indira was in serious condition on 16-8-96 he was called to Prameela Kidney centre. She died on 16-8-96 due to Sepsiticismia and Taximia. He did not remember to have been examined by police. In cross-examination he stated that, on 5-7-96 he had examined Indira and diagnosed that she had renal failure. She was conscious while she was under his treatment. Doctors attending on her opined that she would take treatment as outpatient and she was discharged from

the hospital. On the date of discharge the urine discharge was increased. The urine discharge as on the date of discharge from the hospital was more than 100ml. Case sheet of Smt. Indira was available with Administrative Officer, New citi hospital.

10. P.W.8 is a consultant in New citi hospital. He examined Indira on 9-7-96. By the time he examined her Indira was being treated by another doctor. He examined her vagina under short general anesthesia. He found burns on the upper vaginal walls, servix was also burnt. He used to do dressing for Smt. Indira on alternative days. Dr. Raj Mallaiah was treating Smt. Indira for her renal failure. During the course of treatment he asked her husband Nagesh as to how Indira developed burns in her vagina. He told him that he put chloride crystals mixed in tamarind balls into vagina of Smt. Indira. Till she died he was doing her vaginal dressing. In the cross-examination he stated that Nagesh informed him that he inserted chloride crystals mixed in tamarind balls in the vagina of Smt. Indira. He could not say any reasons why he did not mention this in the case sheet. If chloride crystals are inserted in vagina they may cause abortion of pregnancy. He denied the suggestion that accused had not told him that he inserted chloride crystals in tamarind balls in vagina of Smt. Indira.

11. P.W.9 is a private practitioner and she runs a Nursing home at Tandur. She knew Smt. Indira. When she was carrying second pregnancy she came for her medical check up. She knew accused who was husband of the deceased. On 3-7-96 Nagesh brought Smt. Indira to her Nursing home. On 3-7-96 at 10.00am the accused Nagesh came alone and requested her to see his wife Smt. Indira. Since the witness herself was carrying 9 months pregnancy she told Nagesh that she was not in a position to examine her. He repeated the request and thereafter he brought his wife to the Nursing home. Nagesh told her that his wife had acute abdominal pain and vomiting. She did not examine her and advised Nagesh to take her to some other hospital. Nagesh told her that he would shift Indira to Hyderabad for treatment. Then she called P.W.3 who was a driver and asked him to shift Smt. Indira to Hyderabad for treatment. When she asked Nagesh he gave inconsistent answers, at one time he said that Smt. Indira was carrying pregnancy and at another time he said that Smt. Indira had menses three days before. This witness was also treated hostile as she had stated before the police in her statement u/s 161 Cr.P.C that Nagesh had told her that he had inserted Mercuric chloride crystals mixed in tamarind balls in vagina of Smt. Indira.

12. P.W.10 is a consultant in New city hospital. Three years before Smt. Indira was brought by her husband to the New citi hospital. He examined Smt. Indira. She had burns in vagina. There was some brownish material inside vagina. He asked her whether she had inserted anything in vagina. She told him that she was not aware of any insertion in her vagina. Then he called her husband and showed the material took out from the vagina of Indira. Then her husband cried out and told him that he inserted Mercuric chloride crystals mixed in Tamarind in vagina of his wife Smt. Indira. The witness asked him how could he get Mercuric

chloride crystals. He replied that he holds Ph.D in bio-chemistry and so he got Mercuric chloride crystals and inserted them in the vagina of his wife Smt. Indira and that after inserting them into her vagina he repented and therefore he brought her to hospital for treatment. Then he asked P.W.5 Dr. Loycomeans and told him that some Mercuric chloride crystals with tamarind inserted in the vagina of Smt. Indira. He gave first aid and then asked the hospital authorities to refer her to concerned Doctor. Police examined him and recorded his statement. In cross-examination he stated that the hospital authorities refer some cases and some patients directly come to him for treatment. He examined Smt. Indira in his consulting chamber. Mr. Daniel and Mr. Vasudev Reddy were Directors of the New citi Hospital and they asked him to examine Smt. Indira. He examined Indira between 2.00 pm to 4.00 pm. Smt. Indira came to his chamber on foot. By the time Smt.Indira came to his chamber he opened her case sheet and wrote history of the case. He found some brownish material in the vagina of Smt. Indira. He could not definitely say whether it was tamarind material or not. The brownish material was like paste. He instructed the Laboratory sister to preserve the brownish material for being sent to F.S.L. The total quantity of brownish material found in the vagina of Smt. Indira was about 5 grams. He did not collect vaginal swabs when he examined Smt. Indira. Brownish material was found scattered in the vagina. He wrote what all stated by the husband of Smt. Indira in the brief history of the case. He was examined by police before death of Smt. Indira. He examined Indira only once. He denied the suggestion that he had omitted to state to the police that the husband of Smt. Indira had told him that he holds Ph.D in Bio-chemistry and so he got Mercury chloride crystals. He also denied that her husband had told him that he had inserted Mercuric chloride crystals in her vagina. He exhibited Ex.P4 as the Injury certificate.

13. P.W.11 is Associate Professor of Department of Bio-chemistry, Indian Institute of Science, Bangalore. The accused Nagesh, according to him, was a student in his lab. He had joined in March, 1989 as a Research student. He was doing research under his guidance. He had submitted his thesis in January, 1995 and was awarded doctorate in December, 1995. After obtaining doctorate, he continued under him as a Senior Research fellow in the scheme of D.S.T (Department of Science and Technology) B.C (Bio-chemistry). He was getting stipend of Rs. 2,000/- per month. In the month of June or July, 1996 the accused did not attend the lab for about one or two weeks. He received a fax message sent by accused from his home-town. The fax message related to his resignation for the post of Senior Research fellowship. He sent the fax message received from the accused to the Registrar, Indian Institute of Sciences, Bangalore. The accused was working in his laboratory and was also doing experiments. Mercuric chloride was available in the laboratory where the accused was doing experiments. If the Mercuric chloride component is inserted in human body it is poisonous. Mercuric chloride was used for sterilization of plant seeds. All the students had access to the Mercuric chloride crystals. Tandur police examined him and recorded his statement. Police seized Mercuric chloride crystals form his

laboratory. Two policemen were present at the time of seizure. There was no other person present at the time of seizure of Mercuric chloride crystals from his laboratory. In his cross-examination he stated that, by the time he joined the lab as Lecturer in the year 1985 there were 100 grams of Mercuric chloride crystals available in a bottle in the lab. Mercuric chloride crystals were available in other Laboratories in the Indian Institute of Sciences and also in open market. Mercuric chloride crystals were being used by the students as and when they require sterilization of Kukumber seeds. For sterilization of any seeds, Mercuric chloride crystals are required. Besides the accused 3 other students were doing research under his guidance.

14. P.W.12 was Chairman, Biochemistry in Indian Institute of Sciences, Bangalore. He stated that Dr. Jayabhaskaran (PW 11) and Dr. Padmanabhan were Professors in Bio-chemistry department. He knew accused Nagesh who was a post-graduate student and he did research in Bio-chemistry under the guidance of P.W.11. The accused was awarded doctorate from Indian Institute of Sciences. Sekhana Sultana was also a post-graduate student in Bio-chemistry. She was also awarded doctorate in Bio-chemistry under the guidance of Professor Dr. Padmanabhan. Sekhana Sultana went abroad. Sekhana Sultana did not complain anything against accused. Prof. P.V. Subba Rao was incharge of entire Bio-chemistry Department. Neither Subba Rao nor Padmanabhan had told him about any complaint by Sekhana Sultana against the accused. This witness was also treated hostile.

15. P.W.13 is a witness to the inquest on the dead body of Smt. Indira. P.W.14 is a witness to the confession said to have been made by the accused. He stated that he was summoned by police on 20th August, 1996 to Tandur Police station. According to him, L.W.22 Ayub Khan was also summoned by police. The accused was in the police station. The accused confessed the offence and told him and the police that he had brought Mercuric chloride crystals from Indian Institute of Sciences, Bangalore. A panchanama with regard to the confession of the accused was reduced in writing. Ex.P12 was the admissible portion of panchanama. On 23-8-96 the accused brought a bottle from the Lab of Indian Institute of Sciences. One Vijaya Bhaskaran was also present in the lab when accused brought the bottle. Police seized the contents of the bottle under cover of panchanama. In his cross-examination he stated that they went to Bangalore by train and reached there by 2.00 or 2.30 pm on 23rd August, 1996. They went to Indian Institute of Sciences. C.I of Police, Dy. Superintendent of Police, accused and he went to the Lab of Indian Institute of Sciences. The lab comprised only one room. Dr. Vijaya Bhaskaran was sitting in the lab. While they were sitting with Vijaya Bhaskaran the accused spotted the bottle and he brought it to them. The accused put the bottle on the table in front of Dr. Vijaya Bhaskaran. C.I of Police collected part of contents in the bottle and seized.

16. P.W.15 is the Head constable in Karankode police station. He was Head constable of Tandur police station from 1993 to 1996. He was instructed by S.I of

police to go to New citi hospital Secunderabad and record the statement of Indira. He went to New citi hospital and found that Smt. Indira was not in a position to give her statement. P.W.1 Balakrishna Murthy who was father of Smt. Indira was present at the hospital. He recorded his statement. In cross-examination he stated that he was instructed by S.I of police on 7-7-96 at about 8.30am to record the statement of Smt. Indira. He was instructed at Tandur police station. He went to Secunderabad by bus. By 12.00 noon he reached the New citi hospital. When he went to hospital Smt. Indira was awake. He called her twice but she did not respond. He did not make enquiries from the Doctors of hospital as to the condition of Smt. Indira. P.W.1 was alone present by the side of Smt. Indira. Except recording of statement of P.W.1 he did not investigate in the case.

17. P.W.16 is the A.S.I of Police, Ghatkesar police station. Earlier he was S.I of Police Tandur from February, 1994 to December, 1996. On 4-7-96 at 1400 hours he received Ex.P2 telegram from New citi hospital, Secunderabad. On receipt of Ex.P2 telegram he deputed P.W.15 to record the statement of Smt. Indira. P.W.15 returned to Tandur and stated that Smt. Indira was not in a position to speak and none of her relation was available at New citi hospital. On 5-7-96 he received registered letter from Security Department, New citi hospital, Secunderabad. Ex.P5 was the registered letter. On 6-7-96 he deputed P.W.15 to New citi hospital to record the statement of Smt. Indira. He went to New citi hospital and recorded the statement of P.W.1 Balakrishna murthy. He registered a case in Cr. No. 53/96 u/s 307 IPC and issued FIR. Ex.P14 is FIR sent by him to the Court. On 10-7-96 he went to New citi hospital and examined P.W.1 and the deceased. Ex.P15 is the statement of Smt. Indira recorded by him. On 17-8-96 he examined L.W.3 M. Anil and P.W.2 M. Vimala and recorded their statements. On 16-8-96 at 1700 hours he received a telephone from S.D.P.O office, Vikarabad that Smt. Indira died at Pramila Hospital, Secunderabad. On receipt of telephonic information he altered the section of law to 302 IPC and filed a memo in the Court. He conducted inquest on the dead body of Indira at Gandhi hospital, Secunderabad in presence of witnesses. Subsequent investigation was taken by P.W.18.

18. P.W.17 is the Assistant Professor, Forensic Medicine, Kurnool. He was earlier Civil Assistant surgeon, Gandhi hospital, Secunderabad. On requisition from S.I of Police, Tandur he conducted postmortem examination of the dead body of Smt. Indira on 17-8-96 and found the following injuries on the dead body;

1. Healed pale wide fibrous scars over the vagina, curix, fornices and upper and inner aspects of both thighs. The mucus membranes of the cervix and the lower uterus were congested and few erosions are present here and there.

19. He preserved stomach, intestines, liver, kidney and blood and sent them to F.S.L. He exhibited Ex.P17 as the postmortem report. He reserved his opinion pending F.S.L report. After receipt of F.S.L report he gave his opinion that the death of the deceased to the best of his knowledge and belief was due to Mercuric chloride poisoning with resultant complications. Ex.P18 is his opinion. In

his cross-examination he stated that he gave his opinion basing on postmortem examination findings and hospital records. According to him the death was caused due to mercury chloride poisoning with resultant complications. In reply to a question he stated that he did not find Mercuric chloride in the vagina or any part of the body of the deceased. He also stated that F.S.L report also did not indicate presence of Mercuric chloride crystals in any of the part sent for examination.

20. P.W.18 is the C.I of police who completed the investigation. On 18-8-96 he took up the investigation in Crime No. 53/96. He verified the investigation done by P.W.16. He examined P.W.3. He went to New citi hospital where Smt. Indira took treatment. He examined P.Ws, 4,5,6,7, 8 and 10. He arrested the accused on 20-8-96 at his residence in Tandur town. He brought him to Tandur police station then the accused gave a confessional station. He summoned P.W.14 and L.W.22 Ayub Khan to act as panch witnesses. The accused stated that he would show the place from where he collected Mercuric chloride crystals from bottle. He also produced two bus tickets. Ex.P19 and Ex.P20 are the bus tickets. The accused led him and panchas to his residence and showed them the place where he and his wife Smt Indira slept. Ex.P21 is the scene of offence panchanama and Ex.P13 is rough sketch of the scene of offence. On the next day he sent the accused for judicial remand. In cross-examination he stated that he took up investigation in the case after the death of Smt. Indira. He stated that they reached Bangalore on 23-8-96 by 11am or 12 noon. The accused took him and another panch to Indian Institute of Science, Bangalore between 2.00 pm and 2.30 pm. The accused led them to the laboratory and showed P.W.11 C.Jayabhaskaran under whose guidance he did research. He examined P.W.11 and recorded his statement. Later the accused spotted a bottle stating that he collected Mercuric chloride crystals from it. He seized some quantity of Mercuric chloride crystals from the bottle. He denied the suggestion that he had prepared panchanama at Tandur Police station and he had taken the accused to Indian Institute of Sciences at Bangalore forcibly and he had collected Mercuric chloride crystals from P.W.11. He accepted the suggestion that P.W.10 Dr.Usha rani had omitted to state to him that she showed brownish material collected from vagina of Smt. Indira and thereupon the accused told her that he inserted Mercuric chloride crystals mixed in tamarind in her vagina.

21. D.W.1 is the Administrator of New citi Hospital, Secunderabad. He exhibited Ex.D23 case sheet pertaining to Smt. Indira when she was under treatment in the hospital from 3-7-96 to 27-7-96.

22. The accused took a plea that he had best relations with his wife and he was not at all in the house during the night of 2/3-7-1996. In his examination u/s 313 Cr.P.C he stated that he had gone to Hyderabad on 1-7-96 and returned to Tandur on 3-7-96 at 8.00 am. On reaching his home his wife had complained that she had burning sensation in urinal track, therefore he took her to P.W.9 who advised him to take her to New citi hospital and his in-laws foisted a false

case against him. The accused had not at all proved that he was not at home from 1-7-96 to 3-7-96, he had stated it only in his statement u/s 313 Cr.P.C.

23. The learned counsel for the appellant has made following submissions. (1) that there is no evidence in the case sheet indicating administration of Mercuric chloride crystals by the accused. (2) Doctors did not say that accused had told them that he had inserted Mercuric chloride crystals into the vagina of the deceased (3) recovery of Mercuric chloride crystals at Bangalore by the police is not proved, and (4) there is no basis for the Doctor who conducted the postmortem that the death had been caused because of insertion of Mercuric chloride crystals into the body of the deceased and as a matter of fact there was no basis for the Doctor to say that the deceased had died of poisoning because neither he found any poison in the body of the deceased nor the F.S.L report confirmed that the deceased had been poisoned and as a matter of fact the deceased died of renal failure which is disclosed in Discharge certificate. On the other hand, the learned Public Prosecutor submits that the conduct of the accused itself was reprehensive. He had taken a plea of alibi and had not proved it. There was nobody except the accused who could have access to the private parts of the body of the deceased in the house of the accused. There were declarations made by the deceased before the parents and immediately after such declarations FIR was filed by the father of the deceased with the police. Till the police arrived the lady was under the control of her husband and she could not disclose as to what had happened to her to the Doctors. The learned Public Prosecutor also stated that, when Doctors examined the deceased they found things like Mercury or acid and they were emphatic in their view that the injury caused to the private parts of the deceased was due to chemical burns. The deceased was all along treated for chemical burns.

24. Coming to the first argument of the learned counsel for the appellant that the evidence in case sheets does not indicate administration of Mercuric chloride crystals by the accused, some Doctors who had deposed that the accused had told them that he had inserted Mercuric chloride crystals into the vagina turned hostile. Before going to that it would be pertinent to refer to the statement of P.W.4 who is the Chief Security Officer of New citi Hospital. Although he turned hostile but his statements assumes importance in the facts and circumstances of the case. Even after turning hostile he supported the prosecution story to the following extent. (1) that on 3-7-96 Smt. Indira was brought to the hospital by her husband for treatment (2) that she complained severe stomach pain and burning sensation in her vagina (3) that Dr. Loycamoens suspected that it was a medico legal case and Doctors recorded the case as a medico legal case. (4) Smt. Indira told him that something had happened to her while she was sleeping (5) He registered the case as medico legal case and informed the police by telegram. It is tried by the learned counsel for the appellant to establish that it was a simple case of renal failure. Then, question would arise, why should have the Doctors as early as on 3-7-96 recorded this case as a medico legal case and informed the police about the case. The argument is belied by the record itself.

The telegram sent on 4th July, 1996 by P.W.4 to the police reads as under;

"INDIRA WIFE OF NAGESH AGED 27 RESIDENT OF 7-3-71 TANDUR REPORTED TO CASUALTY OF OUR HOSPITAL ON 3 JULY 96 AT 3 PM AND ADMITTED AS IN PATIENT VIDE NUMBER 7521 STOP REGISTERED AS MEDICO LEGAL CASE VIDE MLC NO. 381 STOP ALLEGED TO HAVE SUSTAINED CHEMICAL BURNS STOP CONDITION STABLE STOP FOR YOUR INFORMATION AND NECESSARY ACTION STOP ORIGINAL MEDICO LEGAL RECORD IN POST STOP."

So, in this telegram itself P.W.4 stated that the deceased was alleged to have sustained chemical burns. Therefore, even if it was not recorded in the case history it does not make a difference. The Doctors had informed the Chief Security officer who is P.W.4 that it was a Medico legal case and it was a case of chemical burns, therefore he sent telegram to the police and on the basis of this telegram case was registered. Now, coming to the case sheet, it appears that the lady was first seen by Dr. A.V.Ratnam. He recorded the description of wound as, "Corrosive burns of the vagina, cervix anterior, past 2 lateral walls Brownish material found". Against the column "Alleged cause" he recorded; "alleged to have sustained chemical burns accidentally". The place of occurrence has been recorded as "at her residence". We do not understand how the chemical burns could be sustained inside vagina of a lady accidentally. Two people only can do it in normal circumstances, either the husband of the lady or the lady herself. The lady had no access to such chemicals and the lady had also informed her parents immediately after she met them who had reported the matter to the police immediately. Therefore, we are not convinced that the case sheet does not disclose that it was a case of chemical burns. It appears from the history sheet that the patient was referred to Dr. Loycamoens (PW5). He examined the burns and raised a query, "Burns due to ? acid or metallic mercury?" No proper history given. No motive given. The lady seems to be unaware of what was done to her. It definitely is a medico legal problem". By going through the history sheet, it is clear that the deceased had always been treated for chemical burns. The learned counsel also referred to Discharge summary. Even in this discharge summary it was not mentioned that it was a case of poisoning but it was stated; "Entire vaginal vault with cervix/fornices upto lower 2/3 completely corrosive ? burns due to ? acid or metallic mercury. No proper history was given...." Therefore, the argument of the learned counsel cannot be accepted that it was not a case of poisoning by chemical burns but was a case of renal failure simpliciter.

25. The second argument was that the Doctors never said before the police that the accused had told them that he had inserted Mercuric chloride crystals into the vagina of the deceased. It is true that the Doctors had not stated before the police whatever had been told to them by the accused, though the accused had made a confession before them. Although such a statement had been made by P.W.9 allegedly before the police but she resiled from it. It is true that P.W.5 had not stated before the police but he is emphatic before the Court that the accused had told him that he had inserted chemical substance into the vagina of the lady

along with tamarind. But, even without relying on the extra-judicial confession there is sufficient evidence to prove the guilt of the accused. Let us see the statement of the deceased which was made before the father and mother on the basis of which the father approached the police which has not at all been contradicted by any evidence. Ex.P1 was the report given by P.W.1 to the police. In his report he stated that his daughter's character was being suspected by her husband. On 5-7-96 he had come to know by telephone that his daughter had been hospitalized in New citi hospital, immediately he and his wife went to the hospital. He stated that his daughter's health was not good. She had a wound in a secret place (vagina) and this was caused by her husband. He also stated that Indira had told him that this had happened on 3-7-96. This statement remains unblemished. Coupled with this, the case history to which a reference has been made herein above points towards the guilt of the accused. The expertise of the accused and his conduct are also pointing towards his guilt. He took a false plea that he was not in his house on the night of the occurrence which was not proved. Since the alibi was taken which has not been proved the presumption has to go against the accused.

26. The contention of the learned counsel for the appellant was that according to P.W.11 when police came to his laboratory on 23-8-96 the accused was not with them and he had not pointed out towards the bottle, whereas the case of the prosecution was that the accused had disclosed that he had brought Mercuric chloride crystals from the laboratory at Bangalore. In the facts and circumstances of the case it is not necessary to go into this controversy at all because even if the police had not gone to Bangalore and not seized any material from the laboratory, it had been established that the accused was a scientist who had done his Ph.D in the Bio-chemistry, these Mercuric chloride crystals are available in the laboratory in which he worked for number of years, these crystals are also available in other laboratories and according to P.W.11 these crystals are available in open market. The most important point in this case is that the accused knew the use or misuse of this chemical. It is not known to everybody that by inserting Mercuric chloride crystals into the vagina death can be caused but it was known to the accused who was a scientist in Bio-chemistry. Therefore, it was immaterial whether he got crystals from Bangalore where he worked or whether he got it from somewhere else. Even in this context the conduct of the accused is suspicious. During the same period he sent a telegram of resignation just to create another circumstance that the laboratory was not accessible to him. Therefore, whether the accused had pointed out towards the bottle containing Mercuric chloride crystals in the laboratory or not would not make a difference in the disposal of the case. Even otherwise, there is nothing to disbelieve the police officer and the panch witnesses who had accompanied the accused to Bangalore.

27. Now, the most important question that arises is, whether the death had been caused by insertion of any chemical into the vagina of the deceased or by renal failure. The learned counsel for the appellant submits, as has been pointed

herein above, that the Doctor who conducted the postmortem had no basis to come to the conclusion that the death was caused due to insertion of Mercuric chloride crystals and the resultant complications. He submits that, even according to the Doctor who conducted the postmortem, he had not found Mercuric chloride in the vagina or any part of the body of the deceased. The Doctor had further stated that F.S.L report also did not indicate the presence of Mercuric chloride crystals in any of the part sent for examination. Therefore there is no basis for his conclusion that the death was due to Mercuric chloride poisoning with resultant complications. It is true that the lady underwent dialysis for renal failure and she died due to renal failure but the renal failure, according to the learned Public Prosecutor, was caused because of poisoning which was done by insertion of Mercuric chloride crystals in to her vagina. We have already dealt with the case sheet of the lady to show that the Doctors from the day one had treated the deceased for chemical burns. Now, the only question remains is whether insertion of Mercuric chloride can cause renal failure or not. The Doctor who examined her on 5-7-96 had written in the case sheet, "chemical vaginal burns with toxic renal failure". In Modi's Medical Jurisprudence & Toxicology (22nd edition) in Section-II dealing with Toxicology he gave Routes of administration of poison. He stated that, "poisons may gain entry into the body by various other routes. These can grossly be considered as enteral routes. The poison may come in contact with the skin, mucous membrane of the respiratory tract, gastrointestinal tract, eye, ear and the vagina.". In the same book Modi has dealt with Mercury and its compounds as poisons. About Mercury it is stated at page 135 that, "Persons concerned with mercury mining are also liable to get poisoned. It is easily converted into a dull grey powder when shaken up with oil or triturated with sugar, chalk or lard. The process is known as deadening and is used in preparing mercurial ointment and emplastrum. The metal is not acted upon by hydrochloric acid. It is slightly dissolved by dilute cold sulphuric acid but completely dissolved by strong sulphuric and nitric acids." About compounds of Mercury, against Mercuric chloride he stated, " It is a violent poison, and is obtained in the bazaar, often mixed with impure subchloride." The learned counsel for the appellant, however, submits that the F.S.L did not find traces of any poisoning in any part of the body sent to it and even the Doctor who conducted the postmortem did not find any poison in the body of the deceased. It must be remembered that the patient died after 44 days of the administration of poison and according to Modi, "After mercury is absorbed into the system, it is eliminated in the saliva, urine and faeces, and in the milk and perspiration, if the quantity is large. It also passes rapidly to the foetus in utero through the placental circulation particularly methyl mercury compounds. Elimination commences within a few hours of the administration of a single dose and is completed within four to five days after which the metal cannot be detected in the urine, but its excretion is very slow, if mercury, is given in repeated small doses it may be detected in the solid organs after long periods. The diagnosis of clinical and industrial mercury poisoning can be proved by measuring the amount of mercury in the urine". He further said, "mercury is often used as a medicine,

hence the detection of small quantity in the viscera does not contra indicate death from some other cause." According to Modi this type of poison can cause renal failure.

28. A characteristic feature of poisoning by Mercury is suppression of urine at early stage of poisoning and presence of blood and albumin in urine. This is because mercurials are specific poisons to kidneys and cause necrosis of glomeruli. Shock and collapse supervenes and the cause of death is mostly kidney failure. This is the view of Dr. Bernard Knight in his book Medical Jurisprudence and Toxicology (5th edition) page-599.

29. The next and last argument made by learned Senior Counsel was that there were cordial relations between the accused and the deceased and there was no reason for the deceased to have killed her. He specifically mentions Ex.D1 to D24. These are all letters or cards sent by the deceased to the accused and they merely show howmuch the deceased loved the accused, but there is not a single letter written by the accused to his wife produced. In any case, these letters do not in any way create a doubt in the mind of the Court about the culpability of the accused.

30. For these reasons, we do not find any merit in this appeal which is accordingly dismissed.