
(2004) 10 AP CK 0103
In the Andhra Pradesh High Court
Case No : Criminal Appeal No. 1107 of 2002

Rachaputi Nageswara Rao @ Nagaraju APPELLANT
Vs
State of A.P. RESPONDENT

Date of Decision : 12-10-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 174
Penal Code, 1860 (IPC) — Section 302, 304B

Citation : (2005) 2 ALT(Cri) 60 : (2006) 1 DMC 410

Hon'ble Judges : S.R.K. Prasad, J;G. Bikshapathy, J

Bench : Division Bench

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

Final Decision : Allowed

Judgement

G. Bikshapathy, J.—The sole accused Rachaputi Nageswara Rao @ Naga Raju in S.C. No. 40 of 1996 on the file of the learned I Additional Sessions Judge, Ongole is the appellant. He was tried by the Trial Court for the offences punishable under Sections 302 and 304-B, I.P.C. He was found guilty of the charge for the offence punishable u/s 302, I.P.C. and sentenced to undergo imprisonment for life and to pay a fine of Rs. 50,000 in default to suffer rigorous imprisonment for one year. Out of Rs. 50,000, a sum of Rs. 45,000 was directed to be paid to P. Ws. 4 and 5 towards the compensation. However, he was acquitted for the charge u/s 304-B, I.P.C.

2. The substance of the charge against the accused was that on the intervening night of 4/5 of February, 1993 in the house of the accused, he caused the death of his wife Rachaputi Swarajyalakshmi (hereinafter called the deceased).

3. The case of the prosecution as unfolded at the trial is as follows:

P.W. 4 is Chapram Rama Mohana Rao, father of the deceased, P.W. 5 is Chapram Nageswaramma, mother of the deceased, P.W. 6-Venkata Satya Veerupaksha

Prasad is brother of the deceased. The parents of the deceased belonging to Piduguralla while the parents-in-law of the deceased are residents of Markapur. Marriage of the deceased and the accused took place about 6 months prior to the date of the incident.

4. It is the case of the prosecution that at the time of the marriage, P.W. 4 gave Rs. 3,00,000 cash and 20 sovereigns of gold and silver articles as dowry. The accused used to harass the deceased for getting additional dowry. Subsequently also P.W. 4 gave Rs. 50,000 to the accused as additional dowry. The deceased also informed P.W. 4 about the harassment of the accused in the month of January, 1993. The deceased was sent to her in-laws house at Markapur as mother of the accused was bed ridden due to leg fracture. The mother-in-law of the accused's brother informed about the death of the deceased. On hearing the news P.Ws. 4 to 7 rushed to the house of the accused and they saw the dead body of the deceased. It was laid on cot and they found face swollen and ligature marks on the body. The accused and deceased used to reside in the room in which the deceased died. They used to dine along with the family in the down stairs. P.W. 1 Village Administrative Officer came to know that the deceased died by hanging and gave a report to Mandal Revenue Officer, who in turn sent Ex. P-1 report to P.W. 13 Sub-Inspector of Police. On 5.2.1993 at about 6 p.m. P.W. 13 received the report Ex. P1 lodged by P.W. 1. Basing on the said report, the Sub-Inspector of Police registered a Crime in Crime No. 13 of 1996 u/s 174, Cr. P.C. He issued express F.I.R. Ex.P 13. He handed over the investigation to S.D.P.O. On 6.2.1993, at about 7:30 p.m. P. W. 8 conducted inquest under Ex. P 7 and he sent dead body to P. W. 9 Civil Asst. Surgeon, Markapur for post-mortem examination. She conducted autopsy and opined that the death was due to asphyxia due to strangulation by ligature. Ex. P8 is the post-mortem report, Ex. P 9 is the report of hyoid bone and Ex. P 10 is the Forensic Science Laboratory report. On 9.2.1993 as per instructions of S.D.P.O. P.W. 13 altered the section of law from 174, Cr. P.C. to Sections 302, I.P.C. and 304-B, I.P.C. He submitted the copies of F.I.R. Ex. P 14 is altered F.I.R. After completion of investigation, the Circle Inspector of Police filed the charge sheet.

5. The charge sheet came to be filed before the learned Judicial Magistrate of First Class, Markapur, who registered the same as P.R.C. No. 36 of 1993. As the offence u/s 302, I.P.C. is exclusively triable by the Court of Sessions, he committed the same to the Sessions Division. The learned Sessions Judge registered the same as S.C. No. 40 of 1996 and made over the same to the learned I Additional Sessions Judge, Ongole for trial and disposal according to law.

6. After hearing the prosecution and the accused the learned trial Judge framed the following charges:

That you on or about the intervening night of the 4th/5th day of February, 1993 in your house at Markapur, did commit the murder by intentionally or knowingly causing the death of your wife Rachaputi Swarajyalakshmi, aged 19 years (the

deceased) and that you thereby committed an offence punishable u/s 302 of the Indian Penal Code and within my cognizance.

That you on or about the intervening night of 4th/5th day of February, 1993 at your house in Markapur caused the death of your wife Rachaputi Swarajyalakshmi, aged 19 years (the deceased) within seven years of her marriage before her death by subjecting her to cruelty or harassing her by you viz., either in connection with any demand of dowry or otherwise and that you thereby committed an offence punishable u/s 304-B, Indian Penal Code and within my cognizance.

The plea of the accused is total denial and he claimed to be tried.

7. In support of the case of the prosecution 13 witnesses were examined and marked Exs. P1 to P14. On behalf of the defence, Exs. D 1 to D 16 contradictions were marked. The D.S.P., who registered the case had expired and the Circle Inspector of Police filed the charge sheet. However, he was also not examined.

8. The learned trial Judge after considering the evidence available on record held that the charges framed against the accused for the offence punishable u/s 304-B, I.P.C. were not proved, however, he found the accused guilty for the offence u/s 302, I.P.C. and he was convicted and sentenced as detailed above. Assailing the correctness of the judgment dated 30.9.2000 of the learned trial Judge, the present appeal has been preferred by the appellant/accused.

9. The learned Senior Counsel Mr. C. Padmanabha Reddy appearing for the appellant-accused submits that the finding of the Trial Court that the prosecution has established the guilt of the accused u/s 302, I.P.C. beyond reasonable doubt is not sustainable. He submits that the entire case was foisted at the instance of the parents of the deceased. Further, he submits that as per the statements of the parents of the deceased and the brothers of the deceased recorded u/s 161, Cr. P.C. and also recorded before the Mandal Executive Magistrate, it was clearly stated by them that the accused and the deceased were leading cordial life and there is no disturbance in their family life and that the accused never demanded any dowry at any point of time. It is also further stated that there is no necessity for them to ask additional dowry, as they are more affluent than the parents of the deceased. But, however, in the evidence before the Court they have completely changed their version and giving a go-bye to the statements before the police and Mandal Executive Magistrate, they stated before the Court that right from the date of marriage of the deceased with the accused, the accused was demanding additional dowry and causing humiliation and harassment to the deceased. Thus, the evidence of P. Ws. 4 to 6 is most unreliable and not trustworthy. He also submits that the entire case depends on the circumstances, which are not worth believing. Apart from that there was no link of chain of evidence. Thus, the learned Counsel would submit that the circumstantial evidence as adduced by the prosecution is wholly insufficient to connect the guilt of the accused. The learned Counsel would also submit that in the early morning,

when the P.W. 7 has seen the deceased was hanging to the fan and the door was bolted from the inside. They opened the door and laid the deceased on the cot and that his evidence and the circumstances would only indicate that it is a case of suicidal, not homicidal death. With reference to the medical evidence, the learned Counsel would submit that the rope with which the deceased was alleged to have strangled was not seized and that there were no ligature marks over the neck. Further, if the death is caused due to strangulation, the victim would try to wriggle out of the situation and there should have been some struggle marks on the neck. They are totally absent in this case. Even according to the opinion of Professor of Guntur Medical College, Ex. P-9 hyoid bone was not fractured and thus it is a case of suicidal and not a case of strangulation by ligature. Thus, he submits that the accused is entitled for acquittal.

10. Per contra, the learned Public Prosecutor submits that the evidence of P.Ws. 4 to 6 coupled with the evidence of P.W. 7 would establish that the marriage was performed six months prior to the date of the incident and she was sent to matrimonial house on account of the fracture to the mother-in-law of the deceased. On the night preceding the incident, they had dinner in the down stairs and it is confirmed by one of the brothers of the accused P.W. 7 that after the dinner, the accused and the deceased went to their room and next day morning he had seen the doors of the room were bolted from inside and then he peeped through the window. He found the deceased was hanging to the fan with a Sri to neck. Thus, he submits that she was strangled and there is no scope for any other person to enter into the house and commit the offence. The husband-accused was present when the P.Ws. 4 to 6 came from their village Piduguralla and thereafter he absconded until he was arrested. Thus, the conduct of the accused shows that he has committed the offence and the learned trial Judge has rightly convicted the accused for the offence punishable u/s 302, I.P.C. and there are no grounds to interfere with the judgment of the learned trial Judge.

11. The point that arises for consideration is whether the judgment of the Trial Court is sustainable in law and on facts and whether the prosecution has been able to established the guilt of the accused for the offences punishable u/s 302, I.P.C. beyond reasonable doubt?

12. The entire case depends on the circumstantial evidence. The marriage of the deceased with the accused was performed about six months prior to the date of the incident, but, however, the date of marriage was not stated by any of the witnesses. The incident was alleged to have taken place on the intervening night of 4th/5th February, 1993 in the house of the accused at Markapur. According to P.W. 1 he was working as Village Administrative Officer. Accused and the deceased were husband and wife. On hearing the news that deceased died by hanging he went to the place and thereafter he gave a report to Mandal Revenue Officer under Ex. P-1 and he also stated the same to the police. When he seen the deceased, he found the dead body was laid on the cot and he was also

present when the inquest was conducted on the next day. The Mandal Revenue Officer conducted the inquest. Ex. P 2 is the inquest report. He seized the broken bangle pieces of the deceased i.e., at the entrance of the room. In the cross-examination, he stated that the Mandal Revenue Officer recorded the statement of father, mother and brothers of the deceased in his presence and at the time of inquest all the family members of the deceased stated before the Mandal Revenue Officer that the accused and deceased were having cordial relations. They also stated that there were no suspicious circumstances against the accused.

13. P.W. 2 did not support the case of the prosecution and he was declared hostile. So also P.W. 3.

14. P.W. 4 is the father of the deceased. According to him he was doing limekiln business. The deceased Swarajyalakshmi was his elder daughter. Her marriage was performed six months prior to her death. He gave Rs. 3 lakhs in cash, 20 sovereigns of gold and silver articles and clothes as dowry. Accused has been harassing the deceased very regularly for additional dowry. He also paid Rs. 50,000 to the accused as additional dowry. The deceased was sent in January to her in-laws house as her mother-in-law was bed ridden. P. Ws. 4 and 5 also went along with the deceased to Markapur. When the deceased died, the accused did not inform and the mother-in-law of the accused's brother informed about the death of the deceased on phone. They reached Markapur by 4 or 5 p.m. and saw the dead body of the deceased on the upstairs and it was laid on cot.

15. P.W. 5 is the mother of the deceased. She deposed on lines that of her husband P.W. 4. She stated that she received a phone call from Guntur about the death of the deceased. She further stated that when they are on the way to Markapur, they were stopped 20 kms. away from Markapur and they came to know that the party, which obstructed belonged to the accused party. By the time they visited the house of the accused, no male persons were present. Immediately they went to the bedroom of the accused and found the dead body lying in a cot and found violent marks on the neck and as well as on the body of the deceased. Police came there, but she did not know as what was done by the police at the scene of offence. P.W. 4 cremated the dead body. She admitted in the cross-examination that what was stated in the chief examination was not stated before anybody except in this Court. For the first time, she went to Markapur while sending the deceased to lead marital life and later at the time of death after knowing the same.

16. P.W. 6 Mr. Satya Veerupaksha Prasad, the younger brother of the deceased. He stated that about 10 days prior to the death of the deceased, he went to the deceased in-laws house. His father gave dowry at the time of marriage and when he went there he demanded additional dowry. During the life-time of the deceased, she used to say that the accused used to harass for additional dowry. When they came to know about the death of the deceased immediately they went to see the dead body of the deceased and he found the dead body lying on

the cot in the bedroom of the deceased. He stated that the accused was present at the time of their arrival and thereafter he was not seen. After their arrival, when they are weeping the Mandal Revenue Officer obtained the signatures on a paper forcibly. He further stated that the people of the accused obstructed them near the outskirts of the village and threatened them if they do not put the signatures as per the desire, they will not permit to see the dead body of the deceased. He did not read the contents. He could not see the contents on which his signature was taken. He admitted the contradictions.

17. P.W. 7, the brother of the accused. He was declared as hostile by the prosecution. P.W. 8 is another Village Administrative Officer of Markapur. He visited the scene of offence and conducted the inquest on 6.2.1993 at 7 30 a.m., he conducted inquest vide Ex. P 7 over the dead body of the deceased. In the cross-examination, he stated that the Mandal Revenue Officer examined the parents of the deceased and brothers of the deceased. At the time of examination, they expressed that the deceased and the accused were amicable during their marital life and they never entertained suspicion about the death of the deceased. P.W. 10 was the Mandal Revenue Officer. He forwarded Ex. P 1 to the Police on 5.2.1993. He observed the scene of offence in the presence of P.W. 1 and seized broken bangle pieces M.O.1. He recorded the statements of P. Ws. 4, 5, 6 and 7 u/s 161, Cr. P.C. At this point, he was declared hostile. He marked contradictions Exs. D 2 to D 7 from the statements recorded by him.

18. In 161, Cr. P.C. statement Ex. P 3 of P.W. 2 Venkataramaiah, he stated that on 5.2.1993 he heard that the wife of the accused died and immediately he visited the house of his friend Nageswar Rao-accused and found the deceased lying dead on the cot in the bedroom. After 3 days of the incident, the accused went to his house and stated that he strangled his wife as to death while she was in asleep on 4.2.1993 in order to remarry fair girl. She was not cooperative with him during cohabitation time and, therefore, he has taken the step in order to make his way easy for remarriage. But, he did not support the case of the prosecution and he was declared as hostile. Ex. P 4 is 161, Cr. P.C. statement of P.W. 3. He stated that after marriage, the accused was frequently expressing before him that his wife was not handsome and he was not really interested in his marriage, but with the pressure of his parents and kith and kin, he had married. On 5.2.1993, after hearing the death of the deceased, he visited the house of the accused and that the accused was absent. He suspected that the accused might have committed the offence, but he did not support the case of the prosecution. He was declared hostile. Ex. P5 is the 161, Cr. P.C. statement of P.W. 7, he stated that on 4.2.1993 himself and Nageswar Rao had dinner at ground floor, after dinner, the accused got upstairs since his wife returned from Piduguralla very recently. He went to cultural programme and on early morning of 5.2.1993, his brother informed the deceased bolted the door inside and himself and his father peeped through window and found the deceased was hanging to the fan with her Sari. They opened the door and laid her on the cot and found she was dead. But, however, as per P.W. 7, he did not support the

case of the prosecution. He was declared as hostile.

19. Even Exs. D 1 to D 3 are the contradictions from 161, Cr. P.C. statements as well as the statements recorded from the Mandal Executive Magistrate. Ex. D 4 is the contradiction marked from the 161, Cr. P.C. statement of P.W. 5 and Ex. D 5 is the contradiction-marked from the statement recorded by the Mandal Executive Magistrate. Similarly, Ex. D 7 is the contradiction marked from the statement of P.W. 6 recorded by the Mandal Executive Magistrate, Ex. D 8 is the contradiction marked from the statement of P.W. 7 recorded by the Mandal Executive Magistrate, Ex. D 9 is the contradiction marked from the statement of P.W. 4 recorded by the Police, Ex. D 10 is the contradiction marked from the statement of P.W. 6 recorded by the Police, Ex. D 11 is the contradiction marked from the statement of P.W. 7 recorded by the Mandal Executive Magistrate, Ex. D 12 is the contradiction between the statement recorded by the Police and the Mandal Executive Magistrate, Ex. D 16 is the contradiction marked from the statement of P.W. 1 recorded by the police. While the statements were recorded by the police as well as the Mandal Executive Magistrate, the father, mother and brothers of the deceased have clearly stated that there was no dowry dispute at any point of time. Since their marriage, they were living amicably and that they did not suspect the involvement of the accused. Ex. P 2 is the inquest report, which was signed by the father and mother of the deceased, among others. It was recorded therein that the marriage was performed in August, 1992 and the deceased and the accused were spending amicable married life. The deceased used to stay only in the parents house, due to occurrence of several festivals and the accused used to visit their house. It was also recorded that the deceased never complained harassment to the parents. In the month of January, she was sent to the house of the accused for the first time after the marriage as her mother-in-law was bed ridden and the deceased was required to render her personal services. Even in the evidence of P.W. 4, and also in the statement recorded by the Mandal Executive Magistrate on 6.2.1993, the P. W. 4 has stated that after marriage, after Sankranti festival, she was sent to the house of the accused on 4th day, she went to Markapur to enquire about his daughter. They are leading happy life. Thereafter on 28th and 29th, his elder brother Prasad also visited Markapur. During that time, his daughter appears to have informed her brother Prasad that she was feeling some inconvenience and shy to attend her sickly mother-in-law in cleaning urine reign excreta etc. from the bed and, therefore, asked him to inform to arrange some maid servant. On 5.2.1993 at about 9 a.m. he received a telephone call from the Guntur Hospital informing that their daughter died and they reached Markapur by 4 p.m. In Ex. D 4, it was clearly stated as follows:

My daughter just sent to her in-laws house hardly 15 days since her death and more over there is no need to in-laws side to harass my daughter as my daughter stepped into her newly wedded life hardly 15 days back to her death.

Thus the statement of parents and brother of the deceased are quite consistent

before the police and the Mandal Executive Magistrate that there was no harassment at any point of time and they completely changed their version, when they gave evidence before the Court. They have given a complete go-bye to the statement and in single tone they stated that the deceased was harassed by the accused for additional dowry. There are many contradictions in the evidence of P.Ws. 4, 5 and 6 and their evidence has to be swallowed with pinch of salt. Number of contradictions shaking the very foundation of the prosecution clearly establishes that the evidence is most unreliable and cannot be depended upon. There is no evidence forthcoming as to how the incident had taken place and even coming to the medical evidence, the doctor was examined as P.W. 9. According to him, he conducted autopsy of the deceased on 6.2.1993 at about 1.15 p.m. and found the following injuries:

The body is lying on its back, eyes are closed. Mouth is closed, frank blood is seen running out through both nostrils. Petechial hemorrhages are found on the face. Both upper limbs and upper part of chest. The face is swollen, livid congested. P.M. lividity is seen over back of chest and back of abdomen. Three blebs present on the medial aspect of right thigh. Each 1" x 1 ".2 blebs on the medial aspect of left thigh. Each 1 1/2" x 1 1/2".2 blebs present on the front of abdomen 2"x2". Skin is detached on the front of right thigh due to decomposition. The detachment is around 2"x2". Involuntary discharge of faces present. Hymen is ruptured. Swabs from the vagina are taken and preserved for chemical analysis in Forensic Science Laboratory, Lingature mark-An oblique ligature mark is seen over the front of neck, situated above thyroid cartilages. The ligature mark is well demarcated over front of neck not well demarcated at the side and also on the back of the neck. Ligature mark width on the front of neck is about half inch. The ligature mark is ante mortem in nature. Another transverse mark is seen on the back of neck in its middle. It is 2" in length-half inch in width neck is not elongated. There is bluish discoloration at the tips of fingers of both hands and also under the nails. No foreign material under the nails. Internal appearances: (1) Bruising of neck muscles-present. Subcutaneous tissues in the neck are ecchymosed, thyroid cartilages and carotid arteries are not damaged. (2) Hyoid bone is preserved for expert opinion and sent to Forensic Medicine department for opinion. The lungs are markedly congested, heart is empty, liver, spleen, kidneys and intestines are congested. Stomach is empty, uterus is empty. Brain is congested and soft.

He opined that pending the report of the Chemical Analyst and Forensic Expert, the death might have occurred 36 to 40 hours prior to his examination and Ex. P 8 is the post mortem certificate and after receipt of the Forensic Professor opinion, he opined that there was no ante mortem fracture to hyoid bone and from the report of Forensic Laboratory semen and spermatozoa were not detected in vaginal swabs, blood was also not detected. He was of the opinion that the death was due to asphyxia due to strangulation by ligature. Ligature marks were appear to have been caused by the rope, of half-inch diameter. He stated that it is a case homicide by strangulation. In the cross-examination, he

admitted that he did not know the reason of the death before issuing post-mortem examination report. The ligature marks was half-inch width on the front of neck. There are no bruises and lacerations around the neck of the deceased externally.

20. The medical evidence is also not very clear and it creates any amount of suspicion whether it is homicidal death or suicidal death. The doctor has clearly stated that there were no bruises and lacerations around the neck and that the ligature marks were caused by rope. The rope was not seized and if it is a case of strangulation there would have been bruises and lacerations around the neck. More over, the doctor stated in his evidence that oblique ligature marks were seen over the front of neck situate above thyroid. The ligature marks are well demarcated above front of the neck and not well demarcated at the side and also on the back of the neck. Ligature marks width on the front was 1/2", the ligature mark was ante mortem in nature. If strangulation is resorted by the accused, there should have been ligature marks throughout the neck. If the strangulation has taken place by means of a rope there could have been abrasions and lacerations around the neck and they were totally absent in this case. The hyoid bone was not fractured. Dr. Narayan Reddy in his book Medical Jurisprudence and Toxicology, 1st Edn. at page 390 under head homicidal strangulation noted as follows:

Abrasions are usually seen due to movement of the ligature across the neck. Fingernail marks may be seen, either from the victim attempting to remove the ligature, or from the assailant attempting to secure the ligature, and/or restrain the neck from moving, or even attempting manual strangulation. The victim's clothing may sometimes be caught in the ligature during a struggle and produce marks, which require careful evaluation.

The doctor had stated that there were no bruises and lacerations. He noticed oblique ligature marks over the front of the neck above the thyroid cartilages. While the ligature mark was well demarcated over the front of the neck, there were light demarcated ligatures on the sides and back of the neck, which only indicate the suicidal tendencies. In the wake of the opinion expressed in the book and the observations of the doctor, who conducted autopsy, we do not find any symptomatic traces of homicidal death and thus there is any amount of doubt as to whether, it is strangulation by ligature or suicidal death. The Supreme Court in *State of U.P. v. Ashok Kumar Srivastava* 1992 CrI.LJ 1194, held that great care must be taken in evaluating the circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted.

21. It was sought to be contended by the learned Public Prosecutor that the accused was last seen with the deceased when they went to the bed room on the night of 4.2.1993 the accused ought to explain the death of the deceased. The learned Senior Counsel would submit that it is for the prosecution to establish the guilt of the accused beyond reasonable doubt and according to the statement

of the brother of the accused, the deceased bolted from inside and when he peeped through the window, he found she was hanging to the fan with a Sari to the neck and they opened the door and laid her on the cot . It is not also as if the accused was absconding from morning itself. Even the P.W. 6 stated that the accused was present till the P.Ws. 4, 5 and 6 arrived, and thereafter he was absconding. Mere absence of the accused cannot lead to the conclusion that the accused had committed the offence. Further, in this case we find that no photographs were taken and reasons were not forthcoming for not taking the photographs. P.W. 12 is Police Constable, working in Markapur P.S. He only stated that he was present at the time of inquest and the body was handed over to him for getting post-mortem examination. P.W. 13 was the Station House Officer at the relevant time. He received report of P.W. 11 through Mandal Revenue Officer and he registered the crime and he handed over the investigation to S.D.P.O. However, the D.S.P., who investigated the case was no more. The witnesses stated that as per the C.D., S.D.P.O examined P.Ws. 4 to 7 and others and Exs. D-1, D-4, D-16 to D-19 are contradictions marked in their statements. Except this evidence, on behalf of the investigation, no other information is forthcoming. Even there was no consistency in the statements made by P.Ws. 4 to 6. While P.W. 5 and P.W. 6 stated that on the way of Markapur at the outskirts, they were stopped, but P.W. 4 did not state anything about this. Of course, the accused is required to explain the reasons for the death of the deceased, when he was last seen in the company of the deceased. But the witness P.W. 7 who spoke about the accused having gone to the bedroom with the accused was declared hostile and there is no other independent evidence to corroborate this fact so as to accept the evidence of hostile witness. Further no motive whatsoever was forthcoming. As we have already observed that the evidence of P.Ws. 4 to 7 is most unreliable and even the lower Court found that the offence u/s 304-B, 1PC was not established. In the circumstantial evidence, one of the important incriminating material to be considered is the motive and that is totally absent. M.O. 1 pieces of bangles were found near the door of the room and no sketch marks were noticed by the doctor on the hands of the deceased and thus improbabilises the homicidal death. Further, from the scene of offence and the medical evidence, we find that none of the circumstances from which an inference of guilt is sought to be drawn were established. The Supreme Court in catena of decisions held that where the case rests squarely on the circumstantial evidence, the inference of the guilt can be justified only when all incriminating facts and circumstances are found incompatible with the innocence of the accused or guilt of any other person. The circumstances from which the inference to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown closely connected with the principle sought to be inferred from those circumstances. See: Vilas Panduranga Patil v. State of Maharashtra AIR 2004 SC 3441. These ingredients are totally absent in the case.

22. The case of the prosecution suffers from inherent improbabilities and the evidence adduced is intrinsically incredible.

23. Thus, we find the prosecution has miserably failed to bring home the guilt of the accused u/s 302, IPC on the basis of the circumstantial evidence beyond reasonable doubt and we find that the accused is entitled for benefit of doubt. Accordingly he is acquitted of the charge. The judgment of the learned Trial Judge is set aside and the accused is directed to be set at liberty forthwith, if he is not required in any other case.

24. Accordingly, the Criminal Appeal is allowed.