



CGHC010513622025

2026:CGHC:34473-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 2541 of 2025

Prem Singh Meshram S/o. Late Jay Meshram Aged About 32 Years R/o Baksahi, Police Station - Pali, Distt - Korba, Chhattisgarh.

... Appellant

versus

State of Chhattisgarh Through District Magistrate - Korba, Distt - Korba, Chhattisgarh.

... Respondent

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Bhaskar Payashi, Advocate
For State/Respondent	:	Mr. Ashish Shukla, Additional Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge
Judgment on Board

Per Ramesh Sinha, Chief Justice

06.08.2026

1. Heard Mr. Bhaskar Payashi, learned counsel for the appellant as well as Mr. Ashish Shukla, learned Additional Advocate General, appearing for the State/respondent.
2. Though the present criminal appeal has been listed for hearing on I.A. No.01, an application under Section 430 of the Bharatiya

Nagarik Suraksha Sanhita, 2023 (for short, "BNSS") seeking suspension of sentence and grant of bail to the appellant, considering that the appellant has remained in custody since 14.08.2020, and with the consent of the learned counsel appearing for the parties, this Court deems it appropriate to hear and dispose of the appeal finally at this stage.

3. In view of the appeal having been taken up for final hearing and disposal, I.A. No.01, seeking suspension of sentence and grant of bail, does not survive for consideration and is accordingly disposed of.
4. This criminal appeal is filed by the appellant/accused under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') is directed against the impugned judgment of conviction and order of sentence dated 03.11.2025 passed by the learned First Additional Sessions Judge, Katghora, District Korba (C.G.) in Sessions Case No. 50 of 2020, by which the appellant has been convicted for the offence punishable under Sections 302 of the Indian Penal Code, 1860 (for short, 'IPC') and sentenced to undergo rigorous imprisonment for life with fine amount of Rs.2,000/-, in default of payment of fine, additional rigorous imprisonment for 06 months.
5. The case of the prosecution, as unfolded before the learned trial Court, is that on 23.03.2020, an information was received at Police Station Pali, District Korba, regarding the deceased Smt.

Kirti Meshram having sustained burn injuries and being admitted for treatment. Subsequently, upon her death during treatment at CIMS Hospital, Bilaspur on 27.03.2020, merg intimation under Section 174 of the Code of Criminal Procedure was registered and an inquiry was commenced. During the course of investigation, on the basis of the statements of the relatives of the deceased and other witnesses, as well as inspection of the place of occurrence, the prosecution alleged that the death of the deceased was homicidal in nature and was caused by the appellant/husband Prem Singh Meshram. The criminal case was registered as Crime No.189/2020 for the offence punishable under Section 302 of the IPC.

6. According to the prosecution, the deceased Kirti Meshram was married to the appellant about one and a half years prior to the incident. It was alleged that the appellant was addicted to alcohol and used to frequently quarrel with the deceased on account of suspicion regarding her character and alleged relationship with one Lakhan. On 23.03.2020, at about 11:00–12:00 noon, after consuming alcohol, the appellant again entered into a dispute with his wife and assaulted her inside the house. It was further alleged that the appellant assaulted the deceased with household articles including a belcha and tawa, tied her hands and legs, and attempted to take her towards the well. When his brother and neighbours intervened, the appellant brought the deceased back inside the house, closed the doors, poured kerosene oil over her

and set her ablaze with an intention to cause her death.

7. It was the further case of the prosecution that on hearing the cries of the deceased, the neighbours reached the spot and found the deceased burning inside the room. The door was allegedly broken open by the villagers, after which the fire was extinguished and the deceased was shifted first to Community Health Centre, Pali and thereafter to CIMS Hospital, Bilaspur for further treatment. However, owing to the severity of the burn injuries, she succumbed to her injuries on 27.03.2020 at about 07:45 a.m. The post-mortem examination revealed extensive burn injuries and the cause of death was opined to be complications arising out of the burn injuries.
8. During investigation, the statement of the appellant was recorded under Section 27 of the Indian Evidence Act vide memorandum (Ex.P-08). Pursuant thereto, at the instance of the appellant, seizure of an old iron belcha, old iron tawa and a plastic jerican containing smell of kerosene oil was effected vide seizure memo Ex.P-07 in the presence of witnesses. The appellant was thereafter arrested vide arrest memo Ex.P-06. The seized articles were sent for forensic examination and the FSL report was brought on record as Ex.P-32 and Ex.P-33.
9. After completion of investigation, the police filed the charge-sheet against the appellant before the competent Magistrate Court for the offence punishable under Section 302 of the IPC. The case

was thereafter committed to the Court of Sessions and registered as Sessions Case No.50/2020 before the Court of First Additional Sessions Judge, Katghora, District Korba. The learned trial Court framed charge against the appellant under Section 302 IPC, which was read over and explained to him. The appellant denied the charge, pleaded innocence and claimed to be tried. In his statement recorded under Section 313 Cr.P.C., the appellant stated that he had been falsely implicated, though he did not lead any evidence in defence.

- 10.** In order to establish its case, the prosecution examined as many as 28 witnesses before the learned trial Court. The witnesses examined included Nain Singh God (PW-01), Fagni Bai (PW-02), Dukala Bai (PW-03), Indrapal Singh Uikey (PW-04), Mahetter Singh Maravi (PW-05), Purushottam Singh Tekam (PW-06), Kirti Kumar Maravi (PW-07), Devesh Kumar Maravi (PW-08), Siyaram Tekam (PW-09), Lalit Raj (PW-10), Hariom Meshram (PW-11), Dr. R.K. Markam (PW-12), Shatrughan Das (PW-13), Patwari Sandeep Kashyap (PW-14), Pyare Lal (PW-15), Dr. Anil Saraf (PW-16), Dr. Sushma Mahajan (PW-17), Manoj Kumar Bhagat (PW-18), Dr. Binesh Nayak (PW-19), Dr. Amit Singh (PW-20), Rati Ram Dhruv (PW-21), Sub-Inspector Amit Sahu (PW-22), Sarjeet Singh (PW-23), Ramgopal Maravi (PW-24), Investigating Officer Liladhar Rathore (PW-25), Praveen Narde (PW-26), Amar Singh (PW-27) and Investigating Officer Ashok Sharma (PW-28).

- 11.** The prosecution also relied upon various documentary exhibits, including the Patwari map (Ex.P-01), inquest notice (Ex.P-02), spot panchnama (Ex.P-03), police statement of Fagni Bai (Ex.P-04), nazri map (Ex.P-05), arrest memo (Ex.P-06), seizure memo (Ex.P-07), memorandum statement (Ex.P-08), post-mortem report (Ex.P-09), query report (Ex.P-10), merg intimation (Ex.P-17), medical documents, FSL reports (Ex.P-32 and Ex.P-33), and the First Information Report (Ex.P-35).
- 12.** Upon appreciation of the oral and documentary evidence available on record, the learned trial Court held that the prosecution had succeeded in proving beyond reasonable doubt that the deceased Kirti Meshram died on account of burn injuries caused by the appellant. The learned trial Court, therefore, convicted the appellant for the offence punishable under Section 302 IPC and imposed the sentence as recorded in the impugned judgment dated 03.11.2025.
- 13.** Being aggrieved by the aforesaid judgment of conviction and order of sentence, the appellant has preferred the present criminal appeal before this Court, challenging the findings recorded by the learned trial Court and seeking reversal of his conviction and sentence.
- 14.** Mr. Bhaskar Payashi, learned counsel appearing for the appellant submits that the learned trial Court has committed a serious error of law and fact in convicting the appellant for the offence

punishable under Section 302 of the IPC. It is contended that the conviction is based upon conjectures and surmises and the prosecution has failed to establish the chain of circumstances beyond reasonable doubt. Learned counsel submits that there is no direct evidence on record to prove that the appellant had set the deceased on fire. The prosecution witnesses are admittedly not the eyewitnesses to the actual occurrence of pouring kerosene and setting the deceased ablaze, and their testimony is based largely on hearsay and subsequent events.

- 15.** Learned counsel further submits that the evidence of the prosecution witnesses suffers from material contradictions and inconsistencies with regard to the manner of occurrence, particularly regarding the alleged assault, tying of hands and legs of the deceased and the appellant taking her towards the well. It is argued that the possibility of accidental fire while the deceased was cooking cannot be ruled out, particularly in view of the defence version and the circumstances emerging from the evidence of certain prosecution witnesses. It is also contended that the relationship between the appellant and the deceased was cordial and they had entered into a love marriage, which belies the allegation of motive based on suspicion regarding the character of the deceased.
- 16.** Learned counsel lastly submits that the learned trial Court has failed to extend the benefit of doubt arising from the discrepancies

in the prosecution case. The alleged recovery of household articles and kerosene container does not conclusively establish the involvement of the appellant in commission of the offence. Therefore, the impugned judgment of conviction and order of sentence deserves to be set aside and the appellant is entitled for acquittal.

- 17.** Per contra, Mr. Ashish Shukla, learned Additional Advocate General appearing for the State, vehemently opposes the submissions advanced by learned counsel for the appellant and submits that the learned trial Court, after detailed appreciation of the entire oral and documentary evidence available on record, has rightly convicted the appellant for the offence punishable under Section 302 of the IPC. It is submitted that the prosecution has established beyond reasonable doubt that the deceased sustained burn injuries inside her matrimonial house and the appellant was the only person present with her at the relevant time.
- 18.** Learned Additional Advocate General submits that the testimony of the prosecution witnesses, particularly the neighbours who reached the spot immediately after hearing the cries of the deceased, clearly establishes the conduct of the appellant before and after the incident. It is submitted that the deceased was found in a burnt condition inside the room, the door of which was closed from inside, and the appellant was found present at the spot. The

conduct of the appellant in fleeing from the place of occurrence after the incident is also a relevant incriminating circumstance against him.

19. Learned Additional Advocate General further submits that the medical evidence corroborates the prosecution version, as the deceased had sustained extensive burn injuries along with injuries caused by a hard and blunt object prior to her death. The recovery of kerosene container and other articles pursuant to the memorandum statement of the appellant further strengthens the prosecution case. It is argued that the minor contradictions, if any, in the statements of the witnesses are natural and do not affect the core of the prosecution story. Hence, no interference is warranted with the well-reasoned judgment of conviction and order of sentence passed by the learned trial Court, and the appeal deserves to be dismissed.
20. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original records of the trial Court with utmost circumspection and carefully as well.
21. **The first question for determination in the present appeal is whether the learned trial Court was justified in holding that the death of the deceased Kirti Meshram was homicidal in nature.**
22. The learned Trial Court, while considering the aforesaid question,

has examined the entire medical and ocular evidence available on record and recorded a categorical finding that the death of the deceased was not accidental or suicidal, but was homicidal in nature. The said finding of the learned Trial Court is based upon a proper appreciation of the evidence led by the prosecution, particularly the evidence of the medical witnesses, the post-mortem report and the surrounding circumstances proved during the course of trial.

23. At the outset, the learned Trial Court noticed that the deceased was initially taken to the Community Health Centre, Pali in an injured condition, where she was medically examined by Dr. Anil Saraf (PW-16). The said witness deposed that on 23.03.2020, the deceased was brought to the hospital in an unconscious condition and was found to have sustained extensive burn injuries. As per his examination, the deceased had suffered burns over her face, eyes, chest, back, hair, both hands and legs, and approximately 90-95% of her body was burnt. He further noticed an injury on the right eyebrow measuring approximately 2 cm × 1 cm and a blood clot on the forehead. The said medical examination was recorded in the MLC report vide Ex.P-15. The Trial Court, therefore, found that the nature and extent of injuries sustained by the deceased clearly indicated that the incident was not a simple case of accidental burning.

24. The learned Trial Court further considered the evidence of Dr.

Binesh Nayak (PW-19), who examined the deceased after she was referred to CIMS Hospital, Bilaspur. The said witness stated that the deceased had burn injuries over her entire body and approximately 90-95% of her body was burnt. The medical evidence further established that despite treatment, the condition of the deceased deteriorated and she ultimately succumbed to the injuries sustained by her. The Trial Court also noticed that the death intimation was sent to the police vide Ex.P-21.

- 25.** The most important evidence considered by the learned Trial Court was the post-mortem report and the testimony of the post-mortem doctors. Dr. Sushma Mahajan (PW-17), who conducted the post-mortem examination along with Dr. R.K. Markam (PW-12), stated that the deceased had sustained burn injuries over approximately 62% of her body. In addition to the burn injuries, two other injuries were noticed on the body of the deceased, namely a contusion injury on the right side of the forehead measuring 2 cm × 2 cm and another contusion injury over the left hip measuring 5 cm × 2 cm. The doctors opined that both these injuries were caused by hard and blunt objects and were ante-mortem in nature. The internal examination also revealed black coloured mucus in the respiratory tract, and the final opinion was that the cause of death was due to complications arising out of the burn injuries. The post-mortem report was exhibited as Ex.P-09.
- 26.** Upon appreciation of the aforesaid medical evidence, the learned

Trial Court rightly concluded that the deceased had not died due to any ordinary accidental burn injury. The presence of ante-mortem injuries caused by a hard and blunt object, coupled with extensive burn injuries, clearly indicated that physical assault had preceded the burning incident. The Trial Court specifically recorded that the evidence of Dr. Sushma Mahajan (PW-17) and Dr. R.K. Markam (PW-12) established that the death occurred due to burn injuries and the complications arising therefrom, and that the deceased had sustained contusion injuries on her forehead and left hip before death.

- 27.** The learned Trial Court also considered the surrounding circumstances proved through the prosecution witnesses. The evidence of the witnesses disclosed that the deceased was found in a burnt condition inside the house, and the door of the house was found closed from inside. The witnesses further stated about the condition of the deceased when they entered the room and noticed that she had sustained severe burn injuries. The circumstances surrounding the incident, when considered along with the medical evidence, ruled out the possibility of a mere accidental fire. The Trial Court, therefore, held that the death of the deceased was the result of a deliberate act causing burn injuries and was consequently homicidal in nature.
- 28.** It is well settled that the nature of death has to be determined on the basis of the cumulative effect of medical evidence, the injuries

found on the body, and the circumstances established during the trial. In the present case, the deceased had sustained extensive burn injuries, coupled with ante-mortem injuries caused by a hard and blunt object. The medical evidence clearly established that the death was caused due to burn injuries and their complications, while the other circumstances indicated that such injuries were not accidental in origin.

29. Therefore, this Court finds that the learned Trial Court has correctly appreciated the evidence available on record and has rightly held that the death of the deceased was homicidal in nature. The finding recorded by the learned Trial Court does not suffer from any infirmity and is accordingly affirmed.

30. The next question for consideration would be whether the learned Trial Court was justified in holding that the appellant is the author of the crime, on the basis of the following circumstances:—

(i) That the death of the deceased Kirti Meshram was homicidal in nature and not accidental, stands established from the medical evidence available on record. The evidence of Dr. Anil Saraf (PW-16), Dr. B.K. Nayak (PW-19) and Dr. Amit Singh (PW-20) establishes that the deceased had sustained extensive burn injuries to the extent of 90-95% of her body and ultimately succumbed to the said injuries during treatment at CIMS Hospital, Bilaspur. The

nature and extent of burn injuries, coupled with the surrounding circumstances proved by the prosecution, clearly establish that the death was not a result of any accidental occurrence but was caused in suspicious and unnatural circumstances.

(ii) That the incident occurred inside the residential house of the appellant, where the appellant and deceased were residing as husband and wife, and the presence of the appellant at the place of occurrence at the relevant point of time stands firmly established from the testimony of the prosecution witnesses. The evidence of Fagni Bai (PW-02), mother of the appellant, Nain Singh (PW-01), Mahattar Singh Maravi (PW-05), Kirti Kumar Maravi (PW-07), Devendra Kumar (PW-08) and Lalit Raj (PW-10) establishes that immediately before the occurrence, the appellant was present with the deceased inside the house and thereafter the deceased was found in a burnt condition inside the room of the appellant. The fact as to how the deceased caught fire and the circumstances in which she sustained fatal burn injuries were especially within the knowledge of the appellant, who was the only person present with her inside the house at the relevant time.

(iii) That the conduct of the appellant immediately before and after the occurrence provides a strong incriminating

circumstance against him. The evidence of Nain Singh (PW-01) reveals that the mother of the appellant, Fagni Bai, came to call him stating that the appellant was taking his wife towards the well after tying her. When Nain Singh reached near the house of the appellant, he saw the deceased burning in the verandah. Thereafter, when other villagers reached the spot, the appellant closed the door from inside, preventing them from entering the room. After the door was broken open, the deceased was found lying in a burnt condition and the appellant was present there. The appellant, when questioned by Nain Singh as to what he had done, replied that "a mistake had occurred". Thereafter, he again closed the door, threatened the persons who came for rescue and attempted to escape from the rear side of the house. Such conduct of the appellant immediately after the occurrence is a relevant fact under Section 8 of the Indian Evidence Act and forms a significant link in the chain of circumstances.

(iv) That despite the aforesaid incriminating circumstances being put to the appellant during his examination under Section 313 of the Code of Criminal Procedure, the appellant failed to offer any plausible explanation regarding the circumstances in which his wife sustained extensive burn injuries inside their residential house. The appellant merely denied the allegations and took a defence that the

deceased had accidentally caught fire while cooking. However, the said explanation does not find support from the evidence available on record, particularly the evidence showing that the deceased was found with her hands tied, the door of the room was closed from inside, a kerosene container was found at the spot and the appellant attempted to prevent the witnesses from entering the room.

(v) That in view of Section 106 of the Indian Evidence Act, 1872, the burden was upon the appellant to explain the circumstances which were especially within his knowledge. Since the deceased died an unnatural death inside the house occupied by the appellant and the appellant was the person who was admittedly present with her immediately before the occurrence, it was incumbent upon him to explain how such an incident occurred. His failure to furnish any satisfactory explanation provides an additional link in the chain of circumstances established by the prosecution.

- 31.** The first circumstance relied upon by the prosecution relates to the occurrence having taken place inside the house of the appellant and the presence of the appellant at the relevant time. The evidence available on record clearly establishes that the deceased was residing along with the appellant in his matrimonial home situated at village Baksahi. The incident occurred inside the said house and immediately after the occurrence, the deceased

was found in a severely burnt condition inside the room of the appellant.

- 32.** Fagni Bai (PW-02), mother of the appellant, has deposed that on the date of incident, she had gone to village Chepa and when she returned after about two-three hours, she found her daughter-in-law lying burnt. However, during her cross-examination by the prosecution, she admitted that after returning from village Chepa, her son informed her that the appellant was assaulting his wife. She further admitted that she had gone to call Nain Singh and when she returned, the neighbours had opened the door and she saw her daughter-in-law lying burnt on the floor. She also admitted that the appellant was pouring water over the deceased to extinguish the fire.
- 33.** The testimony of Nain Singh (PW-01) further establishes that on receiving information from Fagni Bai, he reached the house of the appellant. He stated that he saw the deceased burning in the verandah of the house and thereafter called other villagers. He specifically stated that the appellant closed the door of the verandah from inside and the villagers had to break open the door. After entering inside, they found the deceased lying burnt on the ground. He further stated that when he questioned the appellant, the appellant stated that a mistake had occurred. The said conduct of the appellant immediately after the occurrence clearly establishes his presence and involvement.

- 34.** The evidence of Mahattar Singh Maravi (PW-05), Kirti Kumar Maravi (PW-07), Devendra Kumar (PW-08) and Lalit Raj (PW-10) also corroborates the fact that when they reached the house of the appellant after receiving information, the door was closed from inside and after breaking open the door they found the deceased burnt near the door. These witnesses consistently stated that the appellant was present inside the house and attempted to prevent them from entering. They further stated that the deceased had suffered burn injuries and her hands were tied with a rope. A kerosene container was also found near the place of occurrence.
- 35.** The testimony of these witnesses cannot be discarded merely because they are neighbours or related to the parties. On the contrary, they are natural witnesses who reached the spot immediately after the incident and witnessed the condition prevailing at the place of occurrence. There is no material on record to suggest any previous enmity or motive on their part to falsely implicate the appellant. Their evidence is consistent on material particulars and has remained substantially unshaken during cross-examination.
- 36.** Thus, the prosecution has successfully established that:—
- the deceased was residing with the appellant in the same house;
 - the incident occurred inside the residential house of the appellant;

- the appellant was present with the deceased immediately before and after the occurrence;
- the deceased was found burnt inside the closed room of the appellant; and
- no possibility of presence of any outsider at the relevant time has been established.

37. The aforesaid circumstance assumes great significance because the occurrence had taken place within the four walls of the appellant's house. The appellant, being the husband of the deceased, was expected to provide a satisfactory explanation regarding the circumstances in which his wife sustained fatal burn injuries. The prosecution evidence clearly establishes that the deceased was last in the company of the appellant and thereafter she was found in a burnt condition inside the house. In such circumstances, the burden of explanation naturally lies upon the appellant.

38. The next circumstance relates to the failure of the appellant to explain the incriminating circumstances appearing against him during his examination under Section 313 Cr.P.C.

39. From the record, it is evident that all material circumstances appearing against the appellant were put to him during his examination under Section 313 Cr.P.C., including:—

- the deceased being found burnt inside his residential house;

- his presence at the place of occurrence;
- the evidence of witnesses regarding assault upon the deceased immediately prior to the incident;
- the appellant closing the door from inside and preventing villagers from entering;
- his conduct of threatening the witnesses and attempting to flee;
- the recovery of belcha, tawa and kerosene container pursuant to his memorandum statement; and
- the statement made by him that “a mistake had occurred”.

40. However, the appellant did not furnish any explanation as to how the deceased sustained such extensive burn injuries inside the house. His defence that the deceased accidentally caught fire while cooking has remained a mere suggestion and is not supported by any evidence. The said defence is also inconsistent with the proved circumstances, particularly the deceased being found with her hands tied and the presence of kerosene container near the place of occurrence.

41. It is settled law that though an accused has a right to remain silent, failure to explain circumstances which are especially within his knowledge, after the prosecution has established foundational facts, may provide an additional link in the chain of circumstances. In the present case, the silence of the appellant regarding the

manner in which his wife sustained fatal injuries inside the house assumes significance.

- 42.** The last circumstance ‘Applicability of Section 106 of the Indian Evidence Act’ - Section 106 of the Indian Evidence Act provides that when any fact is especially within the knowledge of any person, the burden of proving that fact lies upon him. Section 106 of the Indian Evidence Act, 1872, states as under: -

“106. Burden of proving fact especially within knowledge.—When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.”

- 43.** This provision states that when any fact is specially within the knowledge of any person the burden of proving that fact is upon him. This is an exception to the general rule contained in Section 101, namely, that the burden is on the person who asserts a fact. The principle underlying Section 106 which is an exception to the general rule governing burden of proof applies only to such matters of defence which are supposed to be especially within the knowledge of the other side. To invoke Section 106 of the Evidence Act, the main point to be established by prosecution is that the accused persons were in such a position that they could have special knowledge of the fact concerned.
- 44.** In the matter of ***Shambhu Nath Mehra v. The State of Ajmer***¹, their Lordships of the Supreme Court have held that the general

¹ AIR 1956 SC 404

rule that in a criminal case the burden of proof is on the prosecution and Section 106 of the Evidence Act is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution, to establish facts which are “especially” within the knowledge of the accused and which he could prove without difficulty or inconvenience. The Supreme Court while considering the word “especially” employed in Section 106 of the Evidence Act, speaking through Vivian Bose, J., observed as under: -

“11. ... The word "especially" stresses that it means facts that are preeminently or exceptionally within his knowledge. If the section were to be interpreted otherwise, it would lead to the very startling conclusion that in a murder case the burden lies on the accused to prove that he did not commit the murder because who could know better than he whether he did or did not. It is evident that cannot be the intention and the Privy Council has twice refused to construe this section, as reproduced in certain other Acts outside India, to mean that the burden lies on an accused person to show that he did not commit the crime for which he is tried. These cases are Attygalle v. The King, 1936 PC 169 (AIR V 23) (A) and Seneviratne v. R. 1936-3 ER 36 AT P.49 (B).”

Their Lordships further held that Section 106 of the Evidence Act cannot be used to undermine the well established rule of law that save in a very exceptional class of case, the burden is on the prosecution and never shifts.

45. The decision of the Supreme Court in **Shambhu Nath Mehra** (supra) was followed with approval recently in the matter of **Nagendra Sah v. State of Bihar**² in which it has been held by their Lordships of the Supreme Court as under: -

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

23. When a case is resting on circumstantial evidence, if the accused fails to offer a reasonable explanation in discharge of burden placed on him by virtue of Section 106 of the Evidence Act, such a failure may provide an additional link to the chain of circumstances. In a case governed by circumstantial evidence, if the chain of circumstances which is required to be established by the prosecution is not established, the failure of the accused to discharge the burden under Section 106 of the Evidence Act is not relevant at all. When the chain is not complete, falsity of the defence is no ground to convict the accused.”

46. Similarly, the Supreme Court in the matter of **Gurcharan Singh v. State of Punjab**³, while considering the provisions contained in Sections 103 & 106 of the Evidence Act, held that the burden of

2 (2021) 10 SCC 725

3 AIR 1956 SC 460

proving a plea specially set up by an accused which may absolve him from criminal liability, certainly lies upon him, but neither the application of Section 103 nor that of 106 could, however, absolve the prosecution from the duty of discharging its general or primary burden of proving the prosecution case beyond reasonable doubt. It was further held by their Lordships that it is only when the prosecution has led evidence which, if believed, will sustain a conviction, or which makes out a *prima facie* case, that the question arises of considering facts of which the burden of proof may lie upon the accused. Their Lordships also held that the burden of proving a plea specifically set up by an accused, which may absolve him from criminal liability, certainly lies upon him.

47. The principle of law laid down by their Lordships of the Supreme Court in **Gurcharan Singh** (supra) has been followed with approval by their Lordships in the matter of **Sawal Das v. State of Bihar**⁴ and it has been held that burden of proving the case against the accused was on the prosecution irrespective of whether or not the accused has made out a specific defence.
48. In the present case, it stands established from the evidence available on record that the deceased Kirti Meshram suffered an unnatural and homicidal death inside the residential house where she was residing along with the appellant as his wife. The medical evidence of Dr. Anil Saraf (PW-16), Dr. B.K. Nayak (PW-19) and Dr. Amit Singh (PW-20), coupled with the surrounding

4 AIR 1974 SC 778

circumstances proved by the prosecution, establishes that the deceased had sustained extensive burn injuries to the extent of 90-95% of her body and ultimately succumbed to the said injuries during treatment. The evidence of the prosecution witnesses further establishes that at the relevant time the deceased was inside the house of the appellant and the appellant was present with her. No evidence has been brought on record regarding the presence of any third person inside the house. Therefore, the manner in which the deceased sustained such extensive burn injuries and the circumstances leading to her death were facts especially within the knowledge of the appellant.

- 49.** Once the prosecution successfully established the foundational facts, namely, (i) that the deceased suffered an unnatural death due to burn injuries; (ii) that the incident occurred inside the residential house of the appellant; (iii) that the appellant was present with the deceased immediately prior to and after the occurrence; and (iv) that the deceased was found in a burnt condition inside the closed room of the appellant, the burden was upon the appellant to furnish a plausible explanation regarding the circumstances in which his wife sustained such fatal injuries. However, in his statement recorded under Section 313 of the Code of Criminal Procedure, the appellant failed to provide any satisfactory explanation. He merely denied the allegations and claimed false implication. His defence that the deceased accidentally caught fire while cooking remained a bald assertion

unsupported by any evidence and was also inconsistent with the circumstances proved by the prosecution.

- 50.** It is well settled that Section 106 of the Indian Evidence Act does not relieve the prosecution of its primary obligation to prove the guilt of the accused beyond reasonable doubt. However, once the prosecution establishes the foundational facts indicating the involvement of the accused, the accused cannot avoid furnishing an explanation regarding facts which are particularly within his knowledge. In the present case, the appellant, being the husband of the deceased and the person who was present with her inside the house at the relevant time, was expected to explain the circumstances in which the deceased caught fire and sustained fatal injuries. His failure to offer any reasonable explanation, coupled with his conduct immediately after the occurrence, provides an additional link in the chain of circumstances against him. Therefore, the learned Trial Court has rightly applied the principle embodied under Section 106 of the Indian Evidence Act.
- 51.** Upon an overall, cumulative and holistic appreciation of the entire oral, documentary and scientific evidence available on record, this Court finds that the circumstances relied upon by the prosecution have been duly established and, when considered collectively, they form a complete and unbroken chain of circumstances pointing towards the guilt of the appellant.
- 52.** Firstly, the unnatural death of the deceased Kirti Meshram stands

firmly established through the evidence of the medical witnesses. Dr. Anil Saraf (PW-16), Dr. B.K. Nayak (PW-19) and Dr. Amit Singh (PW-20) have consistently stated that the deceased had suffered extensive burn injuries and was not in a condition to give any statement. The deceased ultimately succumbed to the said injuries during treatment at CIMS Hospital, Bilaspur. The nature and extent of the injuries, coupled with the circumstances in which the deceased was found, rule out the possibility of a normal or accidental occurrence.

53. Secondly, it is established from the evidence of Fagni Bai (PW-02), Nain Singh (PW-01), Mahattar Singh Maravi (PW-05), Kirti Kumar Maravi (PW-07), Devendra Kumar (PW-08) and Lalit Raj (PW-10) that the incident occurred inside the residential house of the appellant. The evidence further establishes that immediately before the occurrence, the appellant was present inside the house with his wife and thereafter the deceased was found in a burnt condition inside the said house. The appellant has failed to explain the circumstances in which such an incident occurred inside his own house.

54. Thirdly, the evidence of Nain Singh (PW-01) and other independent witnesses establishes the conduct of the appellant immediately before and after the occurrence. Fagni Bai (PW-02) informed Nain Singh that the appellant was assaulting his wife and was taking her towards the well after tying her. When Nain

Singh and other villagers reached the spot, the deceased was found burning inside the house. The appellant had closed the door from inside and prevented the witnesses from entering. After the door was broken open, the deceased was found lying burnt on the floor and the appellant was present there. Such conduct of the appellant immediately after the occurrence is a highly incriminating circumstance against him.

- 55.** Fourthly, the prosecution has established that the appellant made an incriminating admission immediately after the incident. Nain Singh (PW-01) has stated that when he questioned the appellant as to what he had done, the appellant replied that “a mistake had occurred”. Similarly, Kotwar Shatrughan Das (PW-13) also stated that while taking the appellant to the police station, the appellant was repeatedly saying that “a mistake had occurred”. Such statements made immediately after the occurrence by the appellant himself lend further assurance to the prosecution case.
- 56.** Fifthly, the evidence of the prosecution witnesses establishes the conduct of the appellant after the occurrence. The appellant not only closed the door from inside and attempted to prevent the villagers from entering the house, but also threatened the persons who came for rescue and subsequently attempted to escape from the spot by breaking the roof of the house. Such conduct is wholly inconsistent with the conduct of an innocent person and is a relevant circumstance under Section 8 of the Indian Evidence Act.

- 57.** Sixthly, despite all these incriminating circumstances being specifically put to the appellant during his examination under Section 313 Cr.P.C., he failed to provide any plausible explanation regarding the death of his wife inside the house. His mere denial of the prosecution case and plea of false implication cannot be accepted in view of the overwhelming circumstances established against him. The defence version that the deceased accidentally caught fire while cooking has not been substantiated by any evidence and stands completely contradicted by the testimony of the witnesses who immediately reached the spot and found the deceased with her hands tied and a kerosene container lying nearby.
- 58.** Lastly, the present case squarely attracts the principle embodied under Section 106 of the Indian Evidence Act. The circumstances leading to the death of the deceased inside the residential house were especially within the knowledge of the appellant, as he was the husband of the deceased and was present with her immediately before the occurrence. Once the prosecution established that the deceased suffered an unnatural death inside the appellant's house and no possibility of intervention by any outsider was established, the appellant was required to explain the manner in which the deceased sustained such fatal burn injuries. His failure to do so constitutes an additional incriminating circumstance against him.

- 59.** Thus, when all the aforesaid circumstances are considered collectively and in their cumulative effect, they form a complete, coherent and unbroken chain of circumstances leading to the irresistible conclusion that the appellant and none else was responsible for causing the death of his wife Kirti Meshram. The circumstances proved by the prosecution, namely, the presence of the appellant at the place of occurrence, the deceased being found burnt inside the appellant's house, the conduct of the appellant in preventing the witnesses from entering the room, his subsequent attempt to flee, his incriminating admissions, recovery of articles pursuant to his memorandum statement and his failure to explain the circumstances within his special knowledge, are wholly inconsistent with the innocence of the appellant.
- 60.** In view of the foregoing discussion and upon careful scrutiny of the entire evidence available on record, this Court is of the considered opinion that the learned Trial Court has correctly appreciated the oral and documentary evidence in its proper perspective and has rightly recorded the conviction of the appellant under Section 302 of the Indian Penal Code. The findings recorded by the learned Trial Court are based upon proper appreciation of evidence and are neither perverse nor contrary to the settled principles of law. No illegality, infirmity or miscarriage of justice has been demonstrated so as to warrant interference with the impugned judgment of conviction and order of sentence in the present appeal.

- 61.** Accordingly, the criminal appeal preferred by the appellant fails and is hereby **dismissed**.
- 62.** The judgment of conviction and order of sentence dated 03.11.2025 passed by the learned First Additional Sessions Judge, Katghora, District Korba (C.G.) in Sessions Case No. 50 of 2020, convicting the appellant for the offence punishable under Section 302 of the IPC, is hereby affirmed.
- 63.** It is stated at the Bar that the appellant is presently lodged in jail, he shall continue to remain in custody and shall serve out the sentence as awarded to him by the learned trial Court.
- 64.** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.
- 65.** Let a certified copy of this order alongwith the original record be transmitted to trial Court concerned forthwith for necessary information and action, if any.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice