

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Jail Appeal No. 19 of 2019

Roshan Lal

..... Appellant

Vs.

State of Uttarakhand

.....Respondent

Presence:

Mr. Vishwa Prakash Bahuguna, learned Amicus Curiae for the appellant.

Mr. Pankaj Joshi, learned AGA for the State.

Reserved on : 26.05.2026

Delivered on : 02.06.2026

Coram: Hon'ble Ravindra Maithani, J.
Hon'ble Siddhartha Sah, J.

(Per: Hon'ble Siddhartha Sah, J.)

Present Criminal Appeal has been preferred against the judgment and order dated 28/29.11.2018, passed by the court of learned 1st Additional Sessions Judge, Rishikesh, District Dehradun in Sessions Trial No.19 of 2018, State vs. Roshan Lal, arising out of Case Crime No.602 of 2017, P.S. Rishikesh, District Dehradun under Section 302 IPC, whereby the appellant has been convicted under Section 302 of the I.P.C. and has been sentenced with life imprisonment and imposed a fine of Rs. 10,000/- and to undergo

additional four months simple imprisonment on failure to pay the fine.

2. The facts of the case are being narrated hereinafter. FIR dated 01.11.2017 was lodged by the PW1 Deepak Sarkar alleging that he, along with his parents and family members, resides on rent in the house of Govind Mandal at Mayakund. His younger sister, Rupa, was residing along with her husband, the appellant Roshan Lal, and their daughter in a rented house belonging to Harish Khanduri at Chandeshwar Nagar. It was alleged that the appellant regularly assaulted his sister. On the previous night, the appellant allegedly murdered his wife Rupa by strangulating her neck. The said report was registered as FIR No. 602 of 2017 at Police Station Rishikesh, District Dehradun, under Section 302 of the Indian Penal Code. The FIR was entered at Police Station Rishikesh vide GD Entry No. 013 dated 01.11.2017 at 7:19 a.m. Following the registration of the FIR, an inquest report dated 01.11.2017 was prepared, wherein the opinion of the panch witnesses was that the death of the deceased Rupa had occurred due to strangulation of the neck. The police also arrested the appellant at 10:10 a.m., and the arrest information memo was given to landlord Harish Khanduri. The police also recovered a clutch/break wire from the rented house of Harish Khanduri in Chandeshwar Nagar in which the appellant and the deceased were residing. The appellant confessed to having committed murder from that wire. The said wire was taken into possession in the presence of witnesses, sealed, and a recovery memo was prepared at 10:15 a.m.

3. It is pertinent to mention that, GD Entry No. 10 dated 01.11.2017 at 4:35 a.m. records the information given by the appellant at Police Station Rishikesh that he had murdered his wife

Rupa by strangulating her with a wire. Vide G.D. Entry No. 031, the appellant was entered in Thana on 01.11.2017 along with the sealed bundle containing clutch wire, sample seal and arrest memo. The post-mortem examination on the body of Smt. Rupa was conducted at S.P.S. Government Hospital, Rishikesh, at 3:30 p.m. on 01.11.2017, wherein rigor mortis was found present all over the body. Bleeding was found from the nose and right ear. Signs of struggle were also found. Multiple contusions and lacerations were present on the face and neck of the deceased. A ligature mark extending around the entire neck was also found. The cause of death was opined to be asphyxia due to strangulation.

4. Upon completion of the investigation, a chargesheet dated 18.12.2017 was submitted in the court under Section 302 IPC. The case was registered as Sessions Trial No.19 of 2018 and charge under Section 302 IPC was framed against the appellant vide order dated 21.04.2018 passed by the learned Ist Additional District & Sessions Judge, Rishikesh. The appellant denied the charge and claimed trial.

5. In order to prove its case, the prosecution examined ten witnesses, namely, PW1, Deepak Sarkar, PW2, Harish Khanduri, PW3, Dr. Vijayesh Bhardwaj, PW4, Constable Shankar Singh, PW5, Geeta Sarkar, PW6, Babu Ram, PW7, S.I. Mukesh Negi, PW8, Tipu Sultan, PW9, S.I. Raghuvir Singh and PW10, S.I. Vijay Bharti.

6. After the prosecution evidence, the appellant was examined under Section 313 of the Code of Criminal Procedure, 1973 ("the Code"). According to him, the prosecution case is false and he is innocent and his wife has committed suicide. The

appellant examined himself as DW1 & deposed that deceased had committed suicide.

7. After hearing the parties, by the impugned judgment and order, the appellant has been convicted and sentenced, as stated hereinbefore. Aggrieved, the appellant has preferred the instant appeal.

8. Heard learned counsel for the parties and perused the record.

9. Learned Amicus Curiae for the appellant submitted that the prosecution has failed to prove its case beyond reasonable doubt and that the learned trial court has erred in convicting and sentencing the appellant. It was contended that the appellant has been in custody since 01.11.2017 and has already undergone approximately eight years of incarceration, including the period during trial and pendency of proceedings. It was further argued that the marriage between the appellant and the deceased was a love marriage solemnized against the wishes of the deceased's family members, due to which they were hostile towards the appellant. On account of such enmity, a false FIR has been lodged against him. Learned Amicus Curiae further submitted that at the time of the incident, only the minor daughter of the deceased was present in the house and there is no direct evidence connecting the appellant with the alleged offence.

10 It is further submitted by learned Amicus Curiae that although the prosecution alleged that a quarrel had taken place between the husband and wife prior to the incident, no reliable evidence has been produced to substantiate the same. It was contended that the circumstances do not conclusively establish

homicidal death and that the possibility of suicide has not been ruled out. It was further argued that the prosecution has improperly invoked Section 106 of the Indian Evidence Act, 1872 (“the Evidence Act”) and wrongly shifted the burden upon the appellant to explain the circumstances of death. It has been further contended that mere failure of the appellant to satisfactorily explain the death cannot by itself form the basis of conviction. It was further submitted that prior to the incident, the deceased had left the matrimonial home for a long time and she returned only on 30.10.2017. The deceased had committed suicide and the appellant is innocent.

11. The learned Amicus Curiae further argued that GD Entry No. 10, allegedly recording the confession of the appellant, is inadmissible in evidence. He emphasized that there is no eye-witness of the occurrence and relied upon the testimony of PW-1, the landlord, in support of the defence case. It was also contended that the alleged weapon of offence, namely the wire allegedly used for strangulation, was never sent for forensic examination to the FSL. Therefore, the prosecution case, being entirely based on circumstantial evidence, suffers from an incomplete chain of circumstances and does not satisfy the settled principles governing conviction in a case based solely on circumstantial evidence. On these grounds, it was prayed that the appellant be acquitted and the impugned judgment and order passed by the learned trial court be set aside.

12. Per contra, learned counsel appearing for the State supported the impugned judgment and order passed by the learned trial court and submitted that the prosecution has successfully established the guilt of the appellant beyond reasonable doubt. It was contended that there existed a clear motive for the commission

of the offence. Referring to the testimonies of PW-1 and PW-5, learned counsel submitted that the appellant used to suspect the character of the deceased, which often resulted in quarrels between them. PW-2, the landlord, has also categorically stated that frequent quarrels used to take place between the husband and wife. Learned counsel further submitted that although the deceased had gone to her parental home, she had returned to the matrimonial home on 30.10.2017. Thereafter, in the early morning of 01.11.2017, the police informed the landlord that the appellant had murdered his wife by strangulating her with a wire. It was also argued that the neighbours, including PW-6, have corroborated the prosecution version regarding the regular quarrels between the husband and wife. The medical evidence, particularly the ligature marks found on the neck of the deceased, clearly establishes death by strangulation and rules out the possibility of suicide.

13. Learned counsel for the State further submitted that since the deceased and the appellant were residing together in the matrimonial home, the burden under Section 106 of the Evidence Act squarely lay upon the appellant to explain the circumstances in which the deceased died. However, the appellant failed to discharge the said burden or offer any plausible explanation regarding the homicidal death of his wife inside the house. On the aforesaid grounds, learned counsel for the State submitted that the prosecution has proved a complete chain of circumstances pointing only towards the guilt of the appellant and that the learned trial court has committed no illegality or error in convicting the appellant under Section 302 of the IPC.

14. Before appreciating the arguments, it would be appropriate to examine the statements made by the witnesses. The

informant, Deepak Sarkar, was examined as PW1. He deposed that Rupa was his younger sister, who had married the appellant of her own free will about three years ago. From the wedlock, they had a daughter and were residing together at Chandreshwar Nagar in the house of Harish Khanduri. The appellant used to quarrel with Rupa, as he was suspicious of her character. On 30.10.2017, at about 5:30 p.m., Rupa came to the house of PW1 and informed him that the appellant had beaten her and was doubting her character. Thereafter, Rupa returned to Chandreshwar Nagar on the same evening. On the morning of 01.11.2017, at about 5:00–5:30 a.m., police officials from Police Station Rishikesh came to their house and asked him to accompany them to Chandreshwar Nagar. He went there along with the police. The police were present at the house of Harish Khanduriji, PW1 went with the police to the room of his sister Rupa and saw her lying dead with marks on her neck. The appellant, who was present in Court, was also present there. When PW1 asked the appellant why he had murdered his sister, the appellant replied that Rupa was characterless and did not pay heed to him. Thereafter, PW1 lodged the report of the incident against the appellant at the police station and proved the FIR submitted by him, which was marked as Ex. A-1. The police also took possession of the wire from the spot at the instance of the appellant. PW1 identified his signatures on the inquest report, which was marked as Ex. A-2. The witness was cross-examined at length.

15. PW2, Harish Khanduri, the landlord of the house in which the deceased and the appellant were residing at Chandeshwar Nagar, was examined as PW2. He deposed that he had let out a room on rent to the appellant, his wife, and their daughter. According to the witness, on 30.10.2017, a quarrel had taken place between the husband and wife. In the morning of 01.11.2017, the

police came to his house and woke him up. The police informed him that the appellant had himself gone to the police station and informed them that he had murdered his wife by strangulating her neck. The witness further deposed that the police recovered a wire from the room of the appellant at his instance and sealed the same in his presence. He had signed the recovery memo and identified his signatures thereon, which was marked as Ex. A-3. The police also prepared the inquest report, which was signed by him, and he identified his signatures on the same. The witness further identified his signatures on the cloth bundle, which was opened in Court, from which a wire was taken out. The witness stated that the said wire had been recovered at the instance of the appellant. The wire was marked as Material Ex-1, the white plastic bag (panni) as Material Ex-2, the cloth bundle as Material Ex-3, and the sample seal as Material Ex-4.

16 PW3, Dr. Vijesh Bhardwaj, who conducted the post-mortem examination of the deceased, deposed that the body of the deceased bore clear signs of strangulation and struggle. He stated that the face of the deceased had turned blue, bleeding was present from the nose and right ear, and multiple abrasions, bruises, and cut injuries were found on the face, neck, chest, and other parts of the body. A deep ligature mark was found encircling the neck, with compression of the underlying arteries. In his opinion, the death had occurred approximately 12 hours prior to the post-mortem due to asphyxia caused by strangulation, and the probable time of death was between 3:00 a.m. and 4:00 a.m. on 01.11.2017. The witness proved the post-mortem report prepared by him which was marked as Ex.A3 and further opined that the ligature mark could have been caused by the wire marked as Material Exhibit-1.

17. PW4, Constable Shankar Singh, was posted at Thana office from 20:00 hours (8:00 p.m.) on 31.10.2017 till 8:14 a.m. on 01.11.2017. He brought the printout of the GD entries recorded from 20:00 hours on 31.10.2017 till 01.11.2017. The GD entries had been made by him and were proved and marked as Ex. A4/1 to Ex. A4/11. On 01.11.2017, the appellant came to the Police Station and informed that he had killed his wife Rupa by strangulating her neck. The said information was entered by the witness vide GD Entry No. 10 at 4:35 a.m. in the computer. On the basis of the report submitted by Deepak Sarkar, he registered Case Crime No. 602/17 under Section 302 IPC in the computer, which was signed by In-charge Inspector Praveen Koshyari. The witness identified the signatures of Praveen Koshyari, and the same was marked as Ex. A5. The said case was entered in GD Entry No. 13 at 7:19 a.m., the printout whereof was taken from the computer and signed by Praveen Koshyari, and was marked as Ex. A6.

18. PW5, Geeta Sarkar, mother of the deceased Rupa, reiterated the version of PW1 Deepak Sarkar.

19. PW6, Babu Ram, who was a tenant in the house of Harish Khanduri, stated that the appellant and the deceased were residing in the house of Harish Khanduri along with their daughter and that quarrels frequently took place between them. He further stated that whenever he returned from work in the evening, he used to hear sounds of quarrelling from their room. Upon inquiry by the police personnel, the appellant had stated that he had killed Rupa by strangulating her neck with a wire.

20. PW7, SI Mukesh Negi, had prepared the inquest report and also proved the photo nash, police Form No. 13, Paper 10 Kha,

and the application for sample seal prepared by him, which were marked as Ex. 7, Ex. 8, Ex. 9, and Ex. 10 respectively.

21. PW8, Tipu Sultan another tenant of Harish Khanduri and neighbour, deposed on similar lines as PW6. He too was a panch witness of *panchayatnama*.

22. PW9, S.I. Raghuvir Singh was posted at Kotwali Roorkee on the night intervening 31.10.2017 and 01.11.2017. At about 4:35 a.m., Munshi Rehan Lal came to him and informed him about the commission of the murder of a woman by strangulation. Thereafter, he proceeded to the place of occurrence along with other police personnel.

23. PW10, SI Vijay Bharti, was posted as Sub-Inspector at P.S. Rishikesh on 01.11.2017 and was the Investigating Officer in the case. He deposed that, upon receiving the report, he commenced the investigation and proceeded to the place of occurrence along with the police party. At the instance of the informant, he prepared the site plan, which was marked as Ex. 11. He also recorded the statements of the neighbours and arrested the appellant at 10:10 hours, for which an arrest memo was prepared and was marked as Ex. 12. The witness further deposed that the appellant pointed out the wire allegedly used in the commission of the offence, which was taken into possession in the presence of witnesses. Thereafter, the clothes and other materials belonging to the appellant were seized, and the statement of the appellant was recorded. On 02.11.2017, the statements of witnesses were also recorded. The witness further stated that he had recorded the General Diary entries, prepared the *panchayatnama*/inquest report, and recorded the same in the case diary. Nothing material could be elicited in the cross-examination.

24. It is apt to mention that in the case of Godabarish Mishra vs. Kuntala Mishra and another, reported in (1996) 11 SCC 264, the Hon'ble Supreme Court observed that suicide by self-strangulation is ordinarily not possible unless some contrivance is used to maintain pressure on the neck till death. The relevant paragraph of the said judgment is extracted hereinunder:-

“26. It may also be indicated here that both in Modi's book on medical jurisprudence and Taylor's book on medical jurisprudence, it has been categorically stated that for committing suicide by self-strangulation, the aid of a contrivance to maintain force till death is got to be taken, otherwise, it is not possible to maintain the force required. The absence of such contrivance clearly rules out any possibility of suicide by self-strangulation. In the aforesaid fact, excepting the accused no other person had any opportunity whatsoever to cause the murder of the deceased. The circumstantial evidence in this case are absolutely clinching in establishing the complicity of the accused in committing the murder of the deceased. The view taken by the High Court is clearly against the weight of the evidence and cannot be held to be a possible view which could have been taken.”

25. The medical evidence adduced by PW3 clearly proves that the cause of death was asphyxia due to strangulation. The nature of injuries and the ligature marks found on the neck of the deceased negate the theory of suicide. In this regard, the law laid down by the Hon'ble Supreme Court in Godabarish Mishra (*supra*) squarely applies, wherein it was held that suicide by self-strangulation is not possible in the absence of any contrivance to maintain force till

death. No such contrivance was found in the present case. Therefore, the theory of suicide is wholly untenable.

26. Though the GD Entry No.10 would not be admissible against the appellant but the evidence of PW2, PW4 and PW6 indicates that the appellant himself disclosed before the police and witnesses that he had strangled his wife with a wire. The recovery of the wire at the instance of the appellant also stands duly proved. Merely because the wire was not sent to the FSL does not demolish the otherwise cogent and reliable prosecution case, particularly when the medical evidence fully corroborates the prosecution version.

27. The contention regarding inadmissibility of GD Entry No.10 or absence of eye-witnesses is also of no assistance to the appellant, as the present case is based on circumstantial evidence and the circumstances proved by the prosecution form a complete and unbroken chain leading only to the hypothesis of guilt of the appellant. The appellant failed to offer any plausible explanation regarding the homicidal death of his wife inside the matrimonial home, especially when both were residing together. Consequently, the presumption under Section 106 of the Evidence Act also operates against the appellant.

28. The plea taken by the appellant that the deceased committed suicide due to harassment by her parental family is not supported by any reliable evidence. On the contrary, the consistent testimony of the prosecution witnesses, coupled with the medical evidence and the conduct of the appellant, clearly establish that the deceased died a homicidal death at the hands of the appellant.

29. The contentions raised on behalf of the appellant that no reliable evidence has been produced to substantiate the quarrel between the husband and wife prior to the incident also cannot be accepted, since the landlord and the other neighbours have made consistent statements regarding quarrels between the husband and wife. Thus, the contentions raised on behalf of the learned Amicus Curiae are, by and large, not acceptable.

30. Thus, from the aforesaid, the following facts are clear and evident:

(i). The appellant and the deceased along with daughter were residing in the rented accommodation of Harish Khanduri at Chandreshwar Nagar, Rishikesh.

(ii). The deceased had returned to the matrimonial home on 30.10.2017.

(iii). In the early hours of 01.11.2017 the police reached the matrimonial home at Chandreshwar Nagar, where the dead body of the deceased was found lying in the rented room where the appellant, the deceased, and their daughter used to reside.

(iv). The wire, which was the mode of offence, was recovered at the pointing out of the appellant and was taken into possession in the presence of witnesses, and a recovery memo was prepared.

(v). The FIR was lodged promptly on 01.11.2017 at 7:19 a.m. and clearly mentions the past quarrels between the

deceased and the appellant. It also mentions that the appellant had murdered Rupa by strangulating her neck.

(vi). The postmortem examination was conducted on the same day at 3:30 p.m. Inter alia, strangulation marks and ligature marks extending around the entire neck were found and marks of struggle were found on the body, and the cause of death was opined to be asphyxia due to strangulation.

(vii). The prosecution witnesses have been consistent in their testimony regarding the appellant being found in the matrimonial home after the incident and have also stated that he admitted his guilt of committing the murder by strangulation.

31. Thus, from the above, it is clear that though the present case is based on circumstantial evidence, the chain of circumstances is clinching and complete, and it points towards the hypothesis that the crime was committed by none other than the appellant. The said chain is complete and satisfies the five Panchsheel principles as enunciated by the Hon'ble Supreme Court in the case of *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116.

32. Upon appreciation of the entire evidence available on record, this Court finds no infirmity or illegality in the judgment and order passed by the learned trial court convicting the appellant under Section 302 IPC. The prosecution has successfully established a complete chain of circumstances pointing unerringly towards the guilt of the appellant. The testimonies of PW1, PW2, PW5, PW6 and PW8 consistently establish that frequent quarrels

used to take place between the deceased and the appellant, primarily on account of the appellant suspecting the character of the deceased, thereby furnishing a clear motive for the commission of the offence. The evidence further establishes that the deceased and the appellant were residing together in the matrimonial home at the relevant point of time and the deceased was found dead inside the house with ligature marks on her neck.

33. Accordingly, this Court is of the considered opinion that the prosecution has proved the charge against the appellant beyond reasonable doubt. The findings recorded by the learned trial court are based on proper appreciation of evidence on record and do not warrant any interference by this Court. The appeal, being devoid of merit, is liable to be dismissed and is accordingly dismissed.

34 The records be transmitted to the court concerned.

(Siddhartha Sah, J.)
02.06.2026

(Ravindra Maithani, J.)
02.06.2026

BS