

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (D.B.) No. 626 of 2016

[Against the judgment and order of conviction and sentence dated 21.11.2015 passed by learned Sessions Judge, Dhanbad in Sessions Trial No.202 of 2012 (arising out of Topchanchi P.S. Case No. 11 of 2012)]

Ugan Das, son of Prasadi Das, resident of Topchanchi, P.O.-Kathratand, P.S.-
Topchanchi, District-Dhanbad (Jharkhand)

... ... **Appellant**

Versus

The State of Jharkhand

... ... **Respondent**

P R E S E N T

SRI ANANDA SEN, J.

SRI PRADEEP KUMAR SRIVASTAVA, J.

For the Appellant : Ms. Swati Shalini, Advocate

For the State : Mr. Rajneesh Vardhan, A.P.P.

JUDGMENT

C.A.V. on 28.09.2026

Pronounced on 15/10/2026

Per- Pradeep Kumar Srivastava, J:

1. We have heard the arguments of Ms. Swati Shalini, learned counsel for the appellant and Mr. Rajneesh Vardhan, learned A.P.P. for the State.
2. The instant criminal appeal is preferred by above named sole appellant challenging his conviction and sentence dated 21.11.2015, passed by learned Sessions Judge, Dhanbad in Sessions Trial No. 202 of 2012 (arising out of Topchanchi P.S. Case No. 11 of 2012, G.R. Case No. 406 of 2012) whereby and whereunder the appellant has been convicted for the offence under Section 302 of the I.P.C. and sentenced to undergo imprisonment for life along with fine of Rs.20,000/- with default stipulation.

Factual Matrix:-

3. Factual matrix giving rise to this appeal in a narrow compass is that Chinta Devi (deceased) was married with the present appellant prior to 12 years from the date of lodging the F.I.R., i.e., on 04.02.2012. Both were blessed with two sons out of their wedlock presently aged about 10 years and 8 years respectively. It is alleged that on 04.02.2012 at about 06:00 A.M., brother of the accused, namely Buddhan Das informed him that his son-in-law was quarrelling with his daughter and they should come immediately. The informant along with his family members went to the matrimonial home of his daughter and saw her mutilated dead body lying inside the house. The accused (son-in-law of the informant) was pacing there with a blood stained axe. The elder brother of the accused, namely Buddhan Das snatched away the axe then informant could manage to enter inside the house. Subsequently, police was informed and arrived at the place of occurrence, arrested the accused and seized the murder weapon.
4. A written report of the occurrence was lodged by Raghu Das against his son-in-law (appellant) for causing murder of his daughter. Accordingly, F.I.R. was registered for the offence under Section 302 of the I.P.C.
5. After investigation, sufficient evidence was found against the appellant and charge-sheet was submitted against him for the offence under Section 302 of the I.P.C.

6. After taking cognizance, the case was committed to the Court of Sessions, where Sessions Trial No. 202 of 2012 was registered. The accused did not plead guilty and claimed to be tried.
7. In the course of trial, altogether seven witnesses were examined by prosecution. P.W.1, Baidyanath Ravidas and P.W.6, Kritiwas Pandey are witnesses of seizure list, P.W.2 Raghu Das is the informant, P.W.3, Dinesh Kumar Das and P.W.4, Shanti Devi are brother and mother of the deceased respectively, P.W.5, Dr. Shailendra Kumar has conducted autopsy on the dead body of the deceased and P.W.7, S.I., Ajay Kumar is the I.O. of the case.

Apart from oral testimony of witnesses following documentary evidence has been adduced.

Exhibit-1-Signature of Baidyanath Ravidas on seizure list.

Exhibit-1/1-Signature of Kritiwas Pandey on seizure list.

Exhibit-2-Written report

Exhibit-2/1-Signature of Kritiwas Pandey on written report

Exhibit-3-Signature of Raghu Das on inquest report

Exhibit-4-Post mortem report

Exhibit-5-Formal F.I.R.

Exhibit-6-Inquest report

Exhibit-7-Seizure list

8. On the other hand, no oral or documentary evidence has been adduced by defence. The case of defence is false implication and plea of innocence.

9. The learned Trial Court evaluating the oral as well as documentary evidence available on record arrived at definite conclusion that the prosecution has proved that at the relevant time of occurrence, the accused was quarrelling with the deceased. The information about the occurrence was received through elder brother Buddhan Das at early in the morning. The informant along with his family members reached at the place of occurrence and saw the accused was pacing with an axe which was snatched by his brother Buddhan Das and the dead body of deceased under severe injuries was lying in the room of the accused under pool of blood. The murder weapon was also seized and proved by witnesses of seizure list. Therefore, prosecution has been able to prove the foundational facts showing culpability of the accused. The accused has offered no explanation as to how his wife died homicidal death, while living with her in the same room. Therefore, it was concluded that there are overwhelming evidence against the accused that he has committed murder of his own wife. Accordingly, the accused was convicted and sentenced for the offence under Section 302 of the I.P.C., which has been assailed in this appeal.

Submissions on behalf of the appellant: -

10. Learned counsel for the appellant has strenuously argued, raising the following main points:-
- (i) The case is based on circumstantial evidence alone and no eye-witness has been examined by prosecution. The chain of

events proved by the prosecution taken in totality do not point towards the guilt of the accused.

- (ii) The murder weapon was seized by the I.O. lying near the dead body of deceased. Admittedly, the said weapon was not sent to Forensic Science Laboratory for chemical examination to connect the same with commission of the alleged murder. As against it, the witnesses says that the same was snatched by elder brother of the accused, but the said elder brother Buddhan Das has not been examined by prosecution to prove the aforesaid facts. The learned Trial Court has ignored the vital contradictions appearing in the evidence of prosecution witnesses, namely P.W.s-1, 2, 6 and 7 regarding the seizure and manner of assault.
- (iii) The ocular witnesses have stated that the deceased was assaulted by using axe, which is a sharp cutting weapon, but no sharp cut injury has been found on the body of deceased as depicted in her post-mortem report conducted by P.W.-5, who has categorically opined that the injuries were caused by heavy hard and blunt substance.
- (iv) The prosecution has failed to prove any motive behind the occurrence, which is essential to be proved in a case based on circumstantial evidence.

Therefore, impugned judgment of conviction and sentence of the appellant is absolutely illegal, beyond the weight of evidence and based on only suspicion, which never

culminated into legal proof. Accordingly, fit to be set aside and appellant is entitled for acquittal from the charge levelled against him.

11. Learned counsel for the appellant has placed reliance upon following reported judgments:-

- (i) *Ravi versus The State of Punjab SLP (2025) 3 SCC 584*
- (ii) *Kanhaiya Lal versus State of Rajasthan (2014) 4 SCC 715*
- (iii) *Anand Ramachandra Chougule versus Sidarai Laxman Chougala and others (2019) 8 SCC 50*
- (iv) *Babu versus State of Kerala (2010) 9 SCC 189*
- (v) *Sharad Birdhichand Sarda versus State of Maharashtra (1984) 4 SCC 116*
- (vi) *Nusrat Parween versus State of Jharkhand 2024 SCC OnLine SC 3683*
- (vii) *Manoj @ Munna versus State of Chhattisgarh 2025 SCC OnLine SC 2858*
- (viii) *Anees versus State Government of N.C.T. (2024) 15 SCC 48*

12. In the case of ***Ravi versus The State of Punjab***, the material witnesses of facts were declared hostile by the prosecution and the prosecution case was left with the formal witnesses, namely doctor who conducted autopsy (P.W.5), D.S.P. Bagla Ram (P.W.6), who registered the Zero F.I.R. and Inspector Rachhpal Singh (P.W.4), who registered the formal F.I.R. and Inspector Amolak Singh

(P.W.-7), who carried out the investigation. It was also held in that case that the cause of death as per opinion of the doctor was also doubtful inasmuch as ligature marks found on the dead body could be on account of long journey of the dead body and also due to chronic tuberculosis from which the deceased was suffering. Therefore, in the instant case, the facts and circumstances as well as evidence adduced stands on differing footing and does not tally with the facts and question of law involved in the above case.

13. The case of ***Kanhaiya Lal versus State of Rajasthan*** is based on circumstantial evidence particularly on last seen theory as such also not helpful in the facts and circumstances of the present case.
14. In the case of ***Anand Ramachandra Chougule versus Sidarai Laxman Chougala and others*** relied upon by the appellant at para 10 of the judgment, Hon'ble Apex Court has held as under:-

“10. The burden lies on the prosecution to prove the allegations beyond all reasonable doubt. In contradistinction to the same, the accused has only to create a doubt about the prosecution case and the probability of its defence. An accused is not required to establish or prove his defence beyond all reasonable doubt, unlike the prosecution. If the accused takes a defence, which is not improbable and appears likely, there is material in support of such defence, the accused is not required to prove anything further. The benefit of doubt must follow unless the prosecution is able to prove its case beyond all reasonable doubt.

It was further held that the fact that a defence may not have been taken by an accused under Section 313 Cr.P.C. again cannot absolve the prosecution from proving its case beyond all reasonable doubt. If there are materials which the prosecution is unable to answer, the weakness in the defence taken cannot become the strength of the prosecution to claim that in the circumstances it was not required to prove anything. The prosecution must stand or fall on its own feet. It cannot draw support from the weakness of the case of the accused, if it has not proved its case beyond reasonable doubt.

15. *Babu versus State of Kerala* is also based upon circumstantial evidence wherein the husband was indicted for murder of his wife by administration of poison. The factual aspect of this case is also not inconsonance with the facts and circumstances of the present case. The appellant has relied upon this citation showing importance of motive in a case depending on circumstantial evidence which is a factor that weighs in favour of the accused.
16. *Sharad Birdhichand Sarda versus State of Maharashtra* is also based upon circumstantial evidence where death was caused by poison.

Submissions on behalf of the State: -

17. On the other hand, learned A.P.P. for the State has submitted that prosecution has proved the foundational facts leading to reasonable inference about commission of murder of his own wife by the appellant. Therefore, the principles of law under Section 106 of the Indian Evidence Act, corresponding to Section 109 of the Bharatiya Sakshya Adhiniyam is squarely applicable in this case. The appellant

has offered no explanation at all as to how and under what circumstances his wife died homicidal death in her own room, while in presence of the appellant at the time of occurrence. The prosecution has established that just prior to occurrence, the appellant was quarrelling with his wife and thereafter, inflicted injuries to her. The matter was immediately communicated by none-else, but the elder brother of the appellant to the informant, who arrived along with his family members at the place of occurrence. The dead body of the deceased was found sustaining severe injuries and the appellant was also pacing with *tangi* inside the house. The cause of death is also proved to be fatal injuries given by hard object. Mere non-examination of elder brother of the appellant, namely Buddhan Das is not sufficient to discard the evidence of prosecution witnesses, who arrived at the place of occurrence upon his information. The defence has not cross-examined the witnesses on the point that they were not informed by Buddhan Das about the occurrence or Buddhan Das was also not present in the house at the relevant time. Under such circumstances, the learned Trial Court has very wisely and aptly held the appellant guilty for the offence of murder of his own wife, which suffers from no illegality or infirmity calling for any interference in this appeal, which is devoid of merits and fit to be dismissed.

18. We have gone through the record of the case along with the impugned judgment and order in the light of contentions raised on behalf of the both side.

19. The only point for determination in this appeal is that “**as to whether the impugned judgment and order of conviction and sentence of the appellant passed by learned trial court suffers from any error of law calling for any interference in this appeal?**”

Analysis, discussions and reasons:-

20. Before delving upon to adjudicate the above point, it appears pertinent to take brief resume of evidence available on record.

P.W.1-Baidyanath Ravidas is the uncle of the deceased. According to his evidence, he, after receiving information about murder of his niece, went to her matrimonial home and saw the dead body lying in the house in severe injured condition at different parts of her body and the accused was wondering in the house with the *tangi*. He further states that Ugan Das (appellant) was apprehended with the assistance of local villagers and was handed over to the police. He is also witness of seizure list of blood stained axe and has proved his signature as **Ext.1**.

In his cross-examination, he admits the cordial relationship between the accused and his wife and both were blessed with two children.

P.W.2-Raghu Das is the informant. According to his evidence, on 04.02.2012 at about 6:00 A.M., the elder brother of the appellant, Buddhan Das has informed him that his son-in-law, Ugan Das and his daughter, Chinta Devi are quarrelling with each other, then he rushed towards the matrimonial home of his daughter and

saw the crowd of people at the door. He saw that the accused, Ugan Das was walking with an axe, which was snatched by Buddhan Das, then he went inside the house and saw the dead body of his daughter. He states that his daughter was killed by her husband Ugan Das by means of axe blows. There were injuries on her neck and blood was oozing. The village chowkidar has informed at the police station, then the police arrived at the place of occurrence. This witness has submitted written report scribed by his cousin, Lalit Das before the police, which is proved as **Ext.2**. The accused, Ugan Das was handed over to the police. The inquest report was also prepared at the place of occurrence, which bears his signature marked **Ext.3**.

In his cross-examination, he admits that he went to the place of occurrence by his motorcycle, which is at a distance of 6 kms from his house and reached there at about 6:30 am.

P.W.3-Dinesh Kumar Das is brother of the deceased. He has also consistently stated that on 04.02.2012 in the morning, Buddhan Das, the elder brother of the appellant came to his house and told that Ugan Das is quarrelling with his wife. Thereafter, he along with his mother and father went to the matrimonial home of his sister where he saw Ugan Das (appellant) wondering with an axe in his house, which was snatched by the elder brother of the appellant and then they went inside the house and saw the dead body of his sister, Chinta Devi @ Indri Devi. The police also arrived at the place of occurrence. He further admits that he cannot tell the reason for commission of murder of his sister by her husband. He further

admits that the deceased has two children, one is residing with him and another has gone to his parental house.

In his cross-examination, he reiterates that he does not know the reason behind the occurrence.

P.W.4-Shanti Devi is mother of the deceased. She has also reiterated the same thing and stated that after getting information from Buddhan Das, the elder brother of the appellant, she along with her husband and son went to the matrimonial home of her daughter where her son-in-law was pacing with an axe and her daughter was laying dead sustaining injuries on her neck. She has also failed to disclose any reason for the incident.

P.W.5-Dr. Shailendra Kumar, who has conducted post-mortem on the dead body of the deceased, Chinta Devi, has found following ante-mortem injuries:-

(I) Lacerated wound:-

1/2" x 1/4" bone deep on the left side of lower jaw, where the jaw was found broken.

(II) Abrasions:-

(a) 5" x 2" on left side of neck just below the lower jaw.

(b) 2" x 1" on the left side of collar bone

(III) Swelling with bruise of red color 10" x 6" on the left side of face and neck.

Dissection:-

Ecchymosis was found all over the left side of neck with deposition of blood clots over cervical vertebrae in huge amount.

Fourth and fifth cervical vertebrae were found fractured, dislocation of joints, third, fourth, fifth and sixth cervical vertebrae with laceration of spinal cord at the side blood clots were found on the spinal cord.

He has opined that the death has occurred due to aforesaid injuries caused by hard and blunt substance. He has proved the post-mortem report marked as **Ext.4**.

P.W.6-Kritiwas Pandey is another seizure list witness. According to his evidence, on 04.02.2012 at about 06:00 am, the blood stained axe was seized by the police from the house of Ugan Das (appellant) and the seizure list was prepared in his presence at the place of occurrence, which bears his signature marked **Ext.1/1**. He has also proved the signature on written report as **Ext.2/1**.

In his cross-examination, he admits that the seized axe has not been produced before him. He resides at a distance of 2 kms from the place of occurrence. He has denied the suggestion of defence that nothing was seized in his presence and he has signed on seizure list in police station.

P.W.7-S.I. Ajay Kumar is the Investigating Officer of this case. He assumed the charge of investigation of this case on direction of Officer-in-Charge of Topchanchi P.S., namely, Shankar Kamto. He has proved the formal FIR as **Ext.5**. Inquest report of the deceased was prepared in presence of the witnesses as **Ext.6**. In course of investigation, he has recorded the restatement of the informant and visited the place of occurrence. He has further proved

the place of occurrence, which is situated in village Kharni, Kathal Tand. The house of Prasadi Das is consisting of two rooms and in the eastern side room, the dead body of the deceased was found lying on earth. He has also seized the blood stained tangi from the room of the accused, where the dead body was lying and prepared the seizure list in presence of two independent witnesses, which is marked **Ext.7**. He has recorded the statement of other witnesses, namely, Shanti Devi, Dinesh Das, Baidhnath, Ravi Das, Kriti Das, Amrit Gope, Gehlul Das, Budhan Das etc. and they have supported the contents of FIR. He arrested the accused, Ugan Das on 04.02.2012 and sent him to judicial custody. After finding sufficient evidence against the appellant for commission of murder of his own wife, he has submitted charge-sheet against him for the offence under section 302 of IPC.

In his cross-examination, he admits that the seized blood-stained *tangi* was not produced in the court at the time of his evidence. He also admits that the seized *tangi* was not sent for forensic test. He has denied the suggestion of defence that his investigation is defective and perfunctory and without any evidence, he has submitted charge-sheet.

21. The accused (appellant) in his statement under Section 313 Cr.P.C. has simply denied the circumstances appearing against him and pleaded his innocence. No any defence has been cropped up in the cross-examination of the witnesses. The defence has also not adduced any oral or documentary evidence.

22. From the aforesaid discussion of evidence of material witnesses, namely P.W.-1, Baidyanath Ravidas (uncle of the deceased), P.W.2 Raghu Das (informant-cum-father of deceased), P.W.3, Dinesh Kumar Das (brother of the deceased) and P.W.4, Shanti Devi (mother of the deceased) it appears that they have consistently stated that information about the occurrence was given by Buddhan Das (brother of the appellant) at about 06:00 A.M., on 04.02.2012 and they proceeded to matrimonial home of the deceased and reached there at about 06:30 A.M. in the morning.
23. The following facts have been proved by the aforesaid witnesses, which have not been impeached in their cross-examination.
- (i) Information was received from Buddhan Das early in the morning that a quarrel is going on between appellant and his wife.
 - (ii) It was also learnt that appellant has assaulted his wife by means of a *tangi*.
 - (iii) The village chowkidar informed about the occurrence at the police station. The police arrived at the place of occurrence, where written report of the informant was submitted. The police seized the weapon of offence (*tangi*) from the very room, where the dead body of deceased was lying under pool of blood along with blood stained soil in presence of witnesses.
 - (iv) The police also prepared inquest report of the deceased on the spot.
 - (v) The accused was arrested by the police on the spot.

(vi) The presence of the appellant in the intervening night till the occurrence of murder of his wife in his house is not rebutted nor there is any plea of the accused that he was not present in his house on the relevant date and time of occurrence for any reason whatsoever.

(vii) The accused (appellant) has also not offered any explanation as to how his wife has died in her matrimonial home, a homicidal death by inflicting brutal assault on her body, while she was in custody of the appellant and residing with him.

24. From the aforementioned proved facts and circumstances a reasonable inference can be drawn against the culpability of the appellant in commission of murder of his wife.

25. In the case of *Anees versus State Government of N.C.T. 2024 SCC OnLine 757*, the Hon'ble Apex Court has elaborately considered the principles of law governing the applicability of Section 106 of the Evidence Act and has held that the Court should apply Section 106 of the Evidence Act in the criminal cases with care and caution. **The ordinary rule** which applies to criminal trials places the onus on the prosecution to prove the guilt of the accused, does not, in any way, stand modified by the provisions contained under Section 106 of the Evidence Act. The said provision cannot be invoked to make up the inability of the prosecution to produce the evidence of circumstances pointing to the guilt of the accused. The said provision cannot be used to support a conviction unless the prosecution has discharged the onus by proving all the elements necessary to establish the

offence. In other words, the prosecution does not stand absolved from its initial liability to prove the offence and it is only when such an onus is discharged, a prima facie case of guilt is made out that the provisions of Section 106 of the Evidence Act may come into play.

26. In the instant case, the circumstances discussed above appear to be sufficient to establish a *prima facie* case of guilt of the appellant for causing murder of his own wife. Therefore, he cannot keep mum and explain nothing as to under what circumstances the occurrence took place and his wife was murdered in his presence.
27. The provision of Section 106 of the Indian Evidence Act with illustrations is extracted hereunder :-

“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.

Illustrations

(a) *When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.*

(b) *A is charged with travelling in a railway without a ticket. The burden of proving that he had a ticket is on him.”*

In the instant case, since the occurrence has taken place in presence of the appellant and he was also seen with axe which was snatched from him and produced before the I.O. has not been rebutted by him by offering any explanation which provides additional link in the chain of circumstances fortifying the guilt of the appellant. In the facts and circumstances of the case proving motive behind the

occurrence is not an essential link of chain to arrive at conclusive conclusion about guilt of the appellant and not sufficient to cast any doubt on prosecution story.

28. In view of the totality of circumstances brought on record, we are of the definite opinion that the prosecution has proved the guilt of the appellant beyond all shadow of reasonable doubt.
29. We don't find any error of law in the impugned judgment and order of conviction and sentence passed by learned Trial Court against the appellant. The citations relied upon on behalf of appellant are also not helpful to his defence. Therefore, we don't find any merit in this appeal which stands **dismissed**.
30. Pending I.A., if any, stands disposed of.
31. Let a copy of this judgment along with the Trial Court record be sent back to the concerned court for information and needful.

(Pradeep Kumar Srivastava, J.)

Ananda Sen, J: I Agree

(Ananda Sen, J.)

Jharkhand High Court

Dated 15/10/2026

Arpit/ N. A. F. R.

Uploaded on 15/10/2026