



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRA No.42 of 2002

(From judgment dated 24.1.2002 passed by the learned Sessions Judge, Dhenkanal in Sessions Trial Case No.22-D of 1998)

(1) Urmila Sahoo

(2) Madhusudan Sahoo

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Appellants

-Versus-

State of Orissa

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Respondent

Advocates appeared in the case through hybrid mode:

For Appellants:

Miss Bini Mishra, Advocate

For Respondent:

Miss Suvalaxmi Devi,
[Additional Standing Counsel]

CORAM:

THE HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

THE HONOURABLE MR. JUSTICE SASHIKANTA MISHRA

Date of Hearing:02.7.2026 Date of Judgment:23.7.2026

Sashikanta Mishra,J. Appellants Nos.1 and 2, who are mother and son respectively, have filed this appeal questioning the correctness of the judgment dated 24.1.2002 passed by learned Sessions Judge, Dhenkanal-Angul in S.T. Case No.22-D of 1998, convicting them under Sections 498-A/304-B/302 read with 34 of I.P.C. and Section 4 of the D.P. Act. Further, the appellants were sentenced



to rigorous imprisonment for one year and fine of Rs.1,000/-, in default, to undergo R.I. for three months under Section 4 of the D.P. Act read with Section 34 of I.P.C.; R.I. for two years and fine of Rs.2,000/-, in default to undergo R.I. for 6 months under Section 498-A read with Section 34 of I.P.C.; imprisonment for life under Section 304-B read with Section 34 of I.P.C. and imprisonment for life under Section 302 I.P.C. read with Section 34 of I.P.C. The above sentences were also directed to run concurrently.

2. The prosecution case, briefly stated, is as follows:-

The accused-appellant Madhusudan Sahoo had married Anusuya Behera (deceased), the daughter of Narayan Behera of village Dhirapatna. At the time of marriage, dowry of Rs.20,000/- in cash, gold ornaments, a small T.V. and other household items were given by the father of the deceased, but there was demand for further dowry resulting in physical assault on the deceased by her in-laws. Letters were also sent by them to her paternal home seeking dowry. The matter was attempted to be resolved amicably in the presence of village gentries.

On 20.8.1997, Mahendra Kumar Behera, brother of the deceased, received information around 6.00 P.M. that his sister had died. Immediately, he rushed to Dhirapatna along with his



relations and found that his sister was hanging from the roof in her kitchen. Her legs were touching the ground and several marks of injury were on her body. Mahendra suspected that the appellants had killed his sister. Accordingly, he went to Bhapur Outpost and lodged a report. After making Station Diary Entry, the report was sent to Sadar P.S., where it was registered as P.S. Case No.133 of 1997 followed by investigation. In course of investigation, the complicity of the accused persons having come to light, charge-sheet was submitted against them.

3. The accused persons took the plea of denial and false implication. Additionally, they took the plea of alibi to the effect that both of them had been to Cuttack on the date of occurrence for treatment of appellant No.1's back ailment and to buy utensils.

4. To prove its case, prosecution examined thirteen witnesses and proved fifteen documents. It also proved five material objects. Defence, on the other hand, examined two witnesses from its side.

5. Considering the evidence adduced, the trial Court first took up the plea of alibi for consideration. After noting the settled position of law vis-à-vis the evidence, it held that the plea did not inspire confidence at all. As regards the cause of death, the trial Court; mainly relying on the evidence of the autopsy surgeon



arrived at the conclusion that the deceased was physically tortured which caused her death. It was thus held that the death was homicidal in nature.

On the question whether there was demand for dowry and the deceased was subjected to cruelty because of its non-fulfillment, the trial Court, after analyzing the evidence was convinced that the prosecution was able to prove both the points. On the question as to if dowry death was caused, taking note of the evidence particularly, the letter written by the accused Madhusudan to the deceased demanding further dowry some months prior to the occurrence and the manner in which the injuries were inflicted, the trial Court held that it was a case of dowry death.

As regards authorship of the crime, the trial Court found that no one other than the accused persons would have committed the offence and that both the accused persons having killed the deceased attempted to project it as a case of suicide by hanging her dead body with a rope. It was, according to the trial Court, a pre-planned act revealing their intention to cause the death of the deceased. The trial Court, therefore, found the accused persons to have caused the homicidal death of the deceased punishable under Section 302 of I.P.C. Basically, on such findings, both the accused-



appellants were convicted and sentenced as already stated hereinbefore.

6. Heard Miss Bini Mishra, learned counsel for the accused-Appellants and Miss Suvalaxmi Devi, learned Additional Standing Counsel for the State-Respondent.

7. Miss Mishra vehemently argues that the impugned order of conviction and sentence cannot be sustained in law as the trial Court has stretched the evidence on record to somehow record findings of guilt ignoring material discrepancies and gaps therein.

In particular, she advances the following arguments: -

(i) The evidence of P.W.s 1, 2, 4, 7 and 10 reveals that the relationship between the accused and the deceased was normal and/or good and therefore, there was no motive for them to cause any harm to the deceased.

(ii) The trial Court rejected the defence plea of alibi on flimsy grounds, ignoring the fact that even the prosecution witnesses such as P.Ws. 1, 2, 3 and 4 supported it.

(iii) The I.O. admitted that he did not verify the plea of alibi as he did not believe the witnesses, which is nothing but a serious gap in investigation which the trial Court completely ignored.

(iv) Reliance placed by the trial Court on the so-called letter demanding dowry marked Ext.2 is



untenable in view of the fact that there is no corroboration at all.

(v) The evidence relating to dowry death as deposed by the witnesses was found to be improvements of their own version before the I.O. for which no reliance could have been placed on them.

Miss Mishra sums up her argument by submitting that this being a case of circumstantial evidence, the so-called incriminating circumstances referred to by the trial Court are such as not to exclude the possibility of someone else committing the crime.

8. Per contra, Miss Suvalaxmi Devi argues that the plea of alibi was required to be proved to the hilt, but the defence miserably failed to do so. The trial Court therefore, rightly rejected the plea. The so-called improvements made by some prosecution witnesses regarding the demand for dowry are actually not improvements since all of them have referred to dowry demand in their statements before the police. The evidence clearly shows demand and torture of the deceased by the accused persons for dowry. The nature of death, injury sustained and the manner in which the dead body was found unerringly points at the guilt of the accused persons.

9. This is a case where prosecution has attempted to prove its case through circumstantial evidence in the absence of any eye-



witness to the occurrence. We have given our anxious consideration to the rival contentions noted hereinbefore and have also perused the evidence on record carefully. We find that the trial Court framed the following six points for determination in this case:-

- “(a) Whether the defence has been able to prove the plea of alibi?*
- (b) As to how the death of the deceased was caused?*
- (c) Whether there was demand of dowry?*
- (d) Whether the deceased was subjected to cruelty by the accused persons due to non fulfilment of dowry demand?*
- (e) As to whether dowry death has been caused?*
- (f) As to who has caused the death of the deceased?”*

Having seen the evidence and considering the contentions raised, we feel that the answer to the above questions would determine the case adequately.

10. On the first point, i.e. the plea of alibi, we may briefly take note of the position of law. In the case of ***State of Maharashtra v. Narsingrao Gangaram Pimple***¹, the Supreme Court held as follows:-

“It is well settled that a plea of alibi must be proved with absolute certainty so as to completely exclude the possibility of the presence of the persons concerned at the place of occurrence.”

11. In the case at hand, both the accused persons have taken the plea of alibi to the effect that on the fateful day they had been to

¹ (1984) 1 SCC 446



Cuttack to treat the back problem of accused Urmila and to purchase utensils. They further claim to have returned to Dhirapatna on a bus called 'Maa Mangala'. To prove such plea, the defence elicited from the mouth of P.Ws.1 and 3 in cross-examination that both the accused persons were standing at Dhirapatna Bus Stand when the informant and others, after hearing about the death of the deceased, were proceeding to the said village on a Trekker. They stated that both the accused persons were picked up in that Trekker to their house by the informant and others. It is also stated that the accused persons were waiting with a gunny bag full of utensils. The brother of the deceased, P.W.5, however, denied the defence suggestion in this regard. To further prove the plea of alibi, defence examined two witnesses-D.Ws.1 and 2. According to D.W. 1, on the date of occurrence when he was in the outer room of his house, the accused persons passed that way and on his asking they said that they were going to Cuttack to purchase steel utensils. D.W.2 deposed that he is an aluminum utensils seller and used to come to village Dhirapatna once or twice in a month. He stated that on the date of occurrence at about 7.00 A.M., both the accused persons came to Kalaragada Chhak to catch a bus to Cuttack and



at about 7.30. A.M. he, along with them boarded a private bus named 'Maa Mangala' to Cuttack. On his asking, the accused persons said that they had come to Cuttack to purchase steel utensils for business purpose. He went with them to a shop at Pithapur, Cuttack and left them there. At about noon, he returned to the shop when the accused persons were present and gave Rs.250/- to accused Urmila to pass it on to his wife at Dhirapatna. He finally said that the accused persons left Cuttack with the utensils at about 5.30 P.M. by 'Maa Mangala' bus. In cross-examination by prosecution, he stated that the accused persons had purchased stainless steel utensils worth more than Rs.14,000/-.

12. We are now required to consider whether the plea as advanced is acceptable. Firstly, we find that despite taking a specific plea that both the accused persons had gone to Cuttack for two purposes, one, for treatment of accused Urmila and second, for purchase of utensils, the same does not find mention in the evidence we have just discussed. In other words, none of the witnesses referred above have whispered a word regarding the so-called treatment of accused Urmila. On the contrary, D.W.2 stated that both the accused persons were engaged in purchasing utensils



in a shop at Pithapur. Even otherwise, no medical prescription or document showing the ailment and treatment of accused Urmila was proved shown by the accused persons. That apart, not a scrap of paper much less any acceptable documentary proof of purchase of utensils of such high value (considering the year of so-called purchase, that is 1997) was put forth such as, cash memo to support the stand taken. Though it is stated by P.Ws.1 and 3 that they were standing at Dhirapatna Bus Stand with a bag full of utensils, yet what happened to the said utensils thereafter is not forthcoming from the evidence at all. The Investigating Officer has not seized any such utensils. He also stated that no bus comes from Cuttack side to Bhapur through Dhirapatna and that the villagers of Dhirapatna had to come to Kalaragada Chhak in order to catch any bus. All the above aspects raise considerable doubts as to the veracity of the plea of alibi. Reading of the impugned judgment reveals that the trial Court has meticulously analyzed the evidence in this regard and rejected the plea of alibi on reasons similar to what we have arrived at independently. The defence argument as laid before us is, therefore, not acceptable.

13. Coming to the second point for determination, we feel the same shall not detain us for long in view of the undisputed and



unchallenged medical evidence on record regarding cause of death of the deceased. The autopsy surgeon P.W.6 stated as follows: -

“3. Fracture and dislocation and disease of the muscles and bones absent. All the injuries are antemortem in nature. The opinion as to the cause of death is due to shock and haemorrhage resulted from the injuries noted in anorectal region. The time since death is within 18 to 24 hours since from the time of P.M. examination. This is the P.M. examination report by my colleague doctor Amiya Ch. Swain in his hand and I have agreed with the said report and the finding. The report is marked Ext.7 and Ext.7/1 is the signature of Doctor Swain and Ext.7/2 is my signature.”

He ruled out suicidal hanging as being a cause of death in cross-examination. We therefore, find no reason to discard the medical evidence, which unequivocally states that the cause of death was due to injuries in the anorectal region. We are persuaded to concur with the inference drawn by the trial Court that the injuries found on the deceased are suggestive of insertion of some foreign blunt substance into the anorectal part of the victim in order to torture her. Under such circumstances and particularly, in the absence of any ligature mark on the neck of the deceased as well as internal injury to the neck structure or signs of asphyxia, we are also inclined to accept the trial Court's finding that after severely torturing the deceased and causing injuries resulting in her death, the culprits hung her dead body to project it as suicidal hanging.



14. We find that the trial Court considered Point Nos.(c) and (d) together as they are interlinked. It was argued that though there is proof of some cash and gold articles etc. being given at the time of marriage yet, there is no evidence of subsequent demand for dowry by the accused persons or of subjecting the deceased to cruelty in connection with the same. Prosecution has relied upon the evidence of P.Ws. 5, 7, 8, 9 and 10 in this regard. Besides, the prosecution also relied upon a letter allegedly written by the accused to the deceased demanding dowry.

We find that all these witnesses have consistently deposed about the payment of cash of Rs.20,000/-, T.V. set, gold ornaments etc. at the time of marriage. Learned counsel for the appellants has referred to the evidence of the I.O. to argue that several statements of such witnesses were found to be improvements. In order to satisfy ourselves, we perused the statements of the aforementioned witnesses recorded by the I.O. under Section 161 of Cr.P.C. We find that all of them, except P.W.10 had consistently stated about the further demand by the accused persons for dowry and of subjecting the deceased to cruelty in such connection. True, there are some discrepancies and even embellishments, but then the statements of witnesses are not to be weighed technically or sentence by



sentence, but are required to be read as a whole. Put differently, only because a witness is found to have improved upon his original version before the I.O. to some extent does not mean that his entire evidence is to be rejected. There is no reason to discard his evidence in so far as it is consistent with his earlier version. Even otherwise, the sum and substance of the statement must also be taken into account. Tested in the above background, we find no reason to discard the evidence of these witnesses.

15. Insofar as the letter marked Ext.2 is concerned, prosecution claims that the same was written by the accused to the deceased which contains demand for gold chain and fan. Learned counsel for the appellants argues that no conclusive proof was adduced to show that the letter was actually written by accused Madhu. Even assuming that it was written, the date mentioned on it shows that it was long before the date of occurrence and therefore, cannot be said to have any proximate nexus with the offence.

We have carefully perused the letter. From its recitals, it is apparent that there was some sort of dissension between the two families. Further, there is an explicit demand for a gold chain and a fan. As regards the identity of the writer, we find that the trial Court took the pain of comparing the admitted signatures and



handwriting of accused Madhu with the signature and writing in the letter to be convinced that it was written by the same person. Obviously, the Court did not see any ambiguity or harbor any doubt in this regard so as to be prompted to get the letter analyzed by a handwriting expert. Be it noted that the Court is considered to be the expert of experts and therefore, can make its own analysis based on observations. Such a course is not unknown to law. In the case of **Ajit Savant Majagvai v. State of Karnataka²**, the Supreme Court held as follows;

“38. As a matter of extreme caution and judicial sobriety, the Court should not normally take upon itself the responsibility of comparing the disputed signature with that of the admitted signature or handwriting and in the event of the slightest doubt, leave the matter to the wisdom of experts. But this does not mean that the Court has not the power to compare the disputed signature with the admitted signature as this power is clearly available under Section 73 of the Act.”

[Emphasis added]

We therefore, fully concur with the findings of the trial Court under Point Nos. (c) and (d).

16. Coming to Point No. (e) i.e., whether it can be said that dowry death was caused, we have already discarded the defence plea of alibi. It is not disputed that the dead body of the deceased was found in the kitchen apparently in a hanging condition. We have

² (1997) 7 SCC 110



already held that the medical evidence has ruled out the possibility of the death due to hanging which fosters the prosecution allegation that it was a post-mortem act. The deceased was found with several injuries on her body all of which were ante-mortem and from their nature, it cannot be said that they were self-inflicted. In fact, her death was caused, according to the autopsy surgeon, because of severe injury to her anorectal region resulting from insertion of blunt object inside her anus. We have seen and accepted the evidence relating to demand for dowry and of the sour relationship between the accused persons and the deceased and her family for such reason.

Defence has tried to project alternative theories while cross-examining prosecution witnesses. For instance, according to P.W.2, who turn hostile, stated that after death of the deceased her father went to the house of the accused persons, blackmailed and demanded cash of Rs.20,000/- and since they did not pay, the case was initiated. P.W.4 stated in cross-examination that the accused Madhu was inimical to many of the villagers due to land disputes and that there was threat given to him to eliminate his family and set fire to his house. It was suggested to P.W.7 in cross-examination that she had proposed the marriage of her next



daughter with accused Madhu after death of the deceased and since he did not agree, this case was foisted falsely.

Coming to the defence evidence, D.W.1 stated in cross-examination that he cannot say if the deceased had enmity with anyone but volunteered to say that there were some enemies of the accused persons namely, Radha Mohan Sahu and Duryodhan Rout, but he clarified that both of them are good souls and the enmity was not such as to prompt them to commit murder of the deceased.

Thus, we find that the defence has taken prevaricating pleas regarding the probable reason for someone other than the accused persons to cause the death of the deceased. It shows that defence does not really have a definite stand in the matter. Under such circumstances, presence of the accused persons in the village at the so-called bus stand though not in the house itself, is by itself adequate to raise a strong suspicion against them. From the evidence laid, it can be safely concluded that both the accused persons subjected the deceased to severe physical cruelty resulting in her death and thereafter attempted, unsuccessfully, to give it a colour of suicide before fleeing from the house. However, because of arrival of the family members of the deceased in the village and



their meeting with the accused persons, they were unable to leave the village entirely. We find from the impugned judgment that the trial Court has analyzed the evidence in the proper perspective to arrive at the conclusion that the accused persons committed dowry death of the deceased. For the reason indicated, there is nothing for us to differ.

17. Coming to Point No.(f), in view of what has been discussed in detail hereinbefore regarding manner of death of the deceased and the fact that the accused persons were the authors thereof, it is to be considered whether such death can also be treated as ‘murder’ within the meaning of Section 300 of I.P.C.

18. The evidence reveals that an attempt was made by the accused persons to project the death of the deceased as suicide, some tiles of the roof of the kitchen were removed and a bamboo ladder was also placed on one of its walls. Evidently, it was to suggest that somebody had entered into the kitchen from the roof by removing the tiles but from the evidence of the I.O. it was clearly proved that the gap created by removal of the tiles was not wide enough to admit any person to pass through it. We have seen the degree of cruelty meted out to the deceased and manner of its commission. All these facts can only suggest that the act of the



accused persons was premeditated with planning and preparation. We have already accepted that they had a motive too. All these make it a case of culpable homicide amounting to murder apart from being dowry death. The trial Court has also arrived at the same conclusion with which we fully concur.

19. Thus, from a conspectus of the analysis of evidence on record in the light of the contentions advanced by the parties, we are not persuaded to take a different view than what was taken by the trial Court so as to interfere in the matter.

20. In the result, the appeal fails and is therefore, dismissed. The appellants being on bail shall be taken to custody forthwith to serve the remaining part of their sentences. Their bail bonds be cancelled.

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(Sashikanta Mishra, J)

Manash Ranjan Pathak, J I agree.

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(Manash Ranjan Pathak, J)

Ashok Kumar Behera