

[2026 LiveLaw \(SC\) 324](#)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SANJAY KAROL; J., NONGMEIKAPAM KOTISWAR SINGH; J.
Special Leave Petition (Crl.) No.13899 OF 2025; April 2, 2026
SHANKAR versus STATE OF RAJASTHAN

Conviction for Murder and Dying Declaration - Indian Penal Code, 1860 — Section 302 and Section 342 — Conviction Upheld — The Appellant was accused of beating his wife, pouring kerosene, and setting her on fire following a dispute over preparing food - The Supreme Court refused to interfere with the concurrent findings of the Trial Court and High Court - Held that interference in concurrent findings is restricted unless there are manifest errors in law or misappreciation of crucial evidence.

Indian Evidence Act, 1872 — Section 32 (Bhartiya Sakshya Adhiniyam, 2023 — Section 26) — Dying Declaration — Admissibility and Sanctity — The conviction was primarily based on the dying declaration recorded by a Magistrate in a question-and-answer format - reiterated that a dying declaration rests on the philosophical premise that a person facing imminent death will speak only the truth - If found consistent, believable, and free from tutoring, it can form the sole basis for conviction - In this case, the medical evidence from duty doctors and the certificate of mental fitness provided by the duty doctor on the flip side of the declaration paper affirmed its sanctity.

Dying Declaration — Mental Condition and Procedure — The Appellant's contention that the Magistrate reported the victim was not in a fit mental condition was rejected - A perusal of the Magistrate's testimony and the medical certificate confirmed the deceased was conscious and in a position to give a statement - The lack of a specific note by the Magistrate regarding "sound mind" on the document itself was immaterial since a duty doctor had separately certified her condition. [Relied on *Manjunath v. State of Karnataka, 2023 SCC OnLine SC 1421; Paras 9-17*]

[Arising out of impugned final judgment and order dated 20-08-2019 in DBCRA No. 65/2015 passed by the High Court of Judicature for Rajasthan at Jaipur]

For Petitioner(s): Ms. Kavita Vadia, Sr. Adv. Mr. Tabrez Ahmad, Adv. Mr. Syed Mehdi Imam, AOR Ms. Syeda Aaliya Fatima, Adv.

For Respondent(s): Mr. Divyank Panwar, Adv. Ms. Nidhi Jaswal, AOR

J U D G M E N T

SANJAY KAROL, J.

Leave granted.

2. Shankar, the appellant was accused of having beaten up, poured kerosene over his wife – Sugna Bai, and killed her by setting her on fire. The Trial Court, Sessions Judge, Bundi, in Sessions Case No.249/2012 in terms of judgment dated 10.12.2014 sentenced him to life imprisonment under Section 302 and rigorous imprisonment for one year under Section 342, Indian Penal Code 1860¹. Fines of Rs.1000/- each for both the offences was also imposed, and simple imprisonment for one month was indicated to be suffered by him in the event of default. Criminal Appeal No.65 of 2015 was dismissed by the learned

¹ IPC

Division Bench by judgment dated 20.08.2019. Shankar, now is before this Court, asking us to overturn his concurrent conviction.

3. The facts, leading up to the position as indicated above was that the deceased had married the appellant about a month prior to her death on 19.10.2012 and within approximately 20 days the relationship had taken a sour turn on account of alleged excessive consumption of alcohol and the former possessing a violent streak. The deceased had apparently gone to her parental home when the appellant demanded that she return home immediately and make fresh food for him. While she was complying with such a demand, the appellant beat her up and, while doing so was allegedly drunk. Although she managed to free herself and move away, the appellant allegedly poured kerosene and threw a lit matchstick on her. Resultantly, she screamed causing the neighbours and those nearby including the appellant, to come to her aid. This included pouring water and also using blanket to quell the flame. Parents of the deceased who had, by this time, reached the scene of incident called the ambulance and she was taken to MBSH Hospital, Rajasthan for treatment.

4. The FIR was recorded as under:

“Statement Smt. Sugna Bai W/o Shankar D/o Bheru caste Bhil age 20 years R/O Near Power House, Dabi PS, Dabi District Bundi, presently Dhaneshwar PS, Dabi District Bundi (Rajasthan), under treatment, admitted in Burn Ward, Bed No.3, MBSH Hospital (Rajasthan), Date 15-10-12, Time 5.20 pm, on request, stated in the form that I was living with my husband at the above mentioned address in a rented room in the house of Shri Gulab Chand S/o Gajanand Ji Kalal in village Dhaneshwar, my parental home is also in village Dhaneshwar. About a month before my relationship with my x-husband Ramesh S/o Nanda caste Bhil resident of Dabi broke down, with the consent of my parents, I had a love married with Shankar S/o Modhu caste Bhil resident of Dabi, presently Dhaneshwar. He kept me well for about 20 days, but for the last 10-12 days, my husband Shankar used to beat me up after drinking alcohol every day and did not allow me to talk to anyone. Today, on 15-10-12, at about 12:30 PM, I had gone to my father’s house to meet my mother, where my husband Shankar came and said, come home and make rotis, I am hungry. As soon as I said that, I came from home to our rented room and came and started cutting ladyfinger to make vegetables. Then my husband Shankar came who was drunk. As soon as he came, he started beating me with kicks and punches and strangled me, from which I was freed with great difficulty. Then a plastic bottle kept in the room was filled with about half a bottle of kerosene oil. He locked the room from inside and poured kerosene on me and set me on fire with a matchstick and opened the latch from inside and ran away. When I shouted, he came back outside and threw a blanket on the fire on my body. At that very moment, the tenant living in the adjacent room, whose name and address I do not know, came running. My husband ran outside and the tenant woman poured water on me and after wetting the blanket, put it on me then my fire was extinguished. Later whoever heard about it came running. Somebody informed my parents and they also came running to my room and called 108 ambulance, which brought me for treatment and got me admitted to Bada Safakhana Kota, where I am undergoing treatment. Due to the burns, my whole body including face has blisters and the skin has torn. SD Ni. Thumb impression Sugna Bai Police Station Debi District Bundi Bumukam MBSH Burn ward Kota/Date 15-10-12 Time 5.45 PM Action Police. It is certified that the above mentioned form statement of the victim Smt. Sugna Bai W/O Shankar D/O Bheru caste Bhil age 20 years R/O present Dhaneshwar Jair admitted in Burn Ward Bed No. 3 MBSH Kota, should be written down word by word as per the statement given by the victim, please read it out loud and consider it to be correct. When the body of the victim was examined, the skin on forehead, left cheek, beard, hands and entire body was burnt due to fire. This has happened. They will be medically examined. Text of the form.

From the search and inspection, the case falls under sections 323,307 IPC, hence, a case was registered at the return at police station. ASI was busy on the spot and investigation was commenced.

Sd Inspector

Thumb Sugana Bai

Sd Gopal Lal

ASI PS-Dabi/Date 15.10.12 Time 10 PM.

Police action Taken-

The above mentioned form statement of Smt. Sugana Bai W/o Shankar caste Bhil, age 20 years R/O near Power House, Dabi, presently Dhaneshwar PS Dabi (Bundi), under treatment, admitted in MBS Hospital Burn Ward Bed No. 3, Kota was brought and presented by Gopal Lal ASI I/C police station. From the written form statement, the crime under section 323, 307 IPC is found to fall under the category, hence, case No. 220/12, Section above, was registered and investigation was started.”

5. Upon completion of investigation, challan was presented for trial. To establish its case, the prosecution examined 15 witnesses and exhibited 23 documents. The accused did not lead any oral evidence and only furnished only one document in defence. In his statement under Section 313 Code of Criminal Procedure, 1973² he pled innocence and deliberate false implication. The findings of the Trial Court are tabulated as below:

Sl. No.	Point for consideration	Relevant paragraphs	Conclusion
1.	Whether the death of Smt. Sugna Bai was not natural but was caused as a result of the injuries caused by the burning of her body with fire substance before death.	9-13	Death of Sugna Bai was not natural and caused by injuries due to igneous substance.
2.3.	Did the accused Shankar voluntarily restrain his wife Smt. Sugna Bai Bhil(deceased) in a rented room in the house of Gulab Chand Kalal situated in Munja Dhaneshwar at about 12-12.30 PM on 15.10.2012 and wrongfully confined her by locking the room from inside. Whether the accused Shankar with the intent to commit culpable homicide of his wife Smt. Sugna Bai Bhil, on the said date, time and place, voluntarily burnt her by pouring kerosene oil on her body and setting her on fire with an igneous substance (match stick) and as a result of the injuries caused by the burning she died	14-55	The prosecution has been successful in proving the offences against the appellant under Sections 342 and 302 IPC beyond reasonable doubt.

² Cr.PC

	on 19.10.2012 at 7 .a.m. in Maharao Bhim Singh Hospital, Kota, while undergoing treatment. Under these circumstances the accused committed the murder of his wife Smt.Sugna Bai Bhil.		
4.	If yes then what will be the punishment?	57-64	Particulars already mentioned in para 1 (supra)

6. On appeal, the High Court found the view taken by the Trial Court to be entirely justified, including the reliance placed on the dying declaration of the deceased. As such, the conviction and sentence of the appellant was confirmed.

7. We have heard Ms. Kaveeta Wadia, learned senior counsel for the appellant and Mr. Divyank Panwar, learned counsel for the respondent-State. At the outset, it must be stated that the scope of interference in concurrent findings of conviction, is well- settled, as being fairly restricted. It would only be permissible for this Court to do so if the Courts below had committed manifest errors in law, misdirected itself in appreciating evidence, or completely missed out crucial pieces of evidence that would have bearing on the overall outcome of the case. The only aspect that remains to be seen is whether any of these criteria above, or any other ones of the recognised parameters, are met.

8. The dying declaration which forms the basis of punishment awarded to the appellant, is not appended to the record placed before this Court. We record our surprise on that count, particularly given that it is the most essential document in a case of this nature. In these circumstances, we have no choice but to reproduce for reference, the relevant portion of the judgment of the Trial Court as follows: -

“Dying statement Exhibit P.20 has been recorded by PW. 12 Ajay Kumar Sharma, the then Additional Civil Judge (Special Court) No.4, Kota in the form of question and answer and before recording this statement, the clinical opinion has been taken on the back side of the paper of the same statement itself in which doctor has shown Sugna Bai to be competent to make the said statement. It is also mentioned on the same page that Sugna Bai has been identified by Gopal Lal Meena, ASI and the endorsement to this effect bears the signature of Gopal Lal Meena. The dying declaration Exhibit P.20 is based on only 05 questions and their short answers in the form of question and answer. Here the said questions and their answers are being written as follows:-

Question.1 Who did this to you?

Answer – My husband poured kerosene on me and set me on fire.

Question.2When did you get burnt?

Answer - I was burnt in my rented room at 12 noon. Then my husband ran away.

Question.3What was it about which you were burnt?

Answer - my husband drinks alcohol and suspects me. If I look at anyone else, he fights.

Question.4 Who came to save?

Answer - There is a tenant near our house, his wife saved him. I don't know the name.

Questions.5 Who lives in the room?

Answer- My husband and I live here.

On this dying declaration (Exhibit P.20) the thumb impression of Sugna Bai (deceased) is marked on. At the end of this declaration, the said Magistrate put his seal on it and has been signed.”

9. Section 32 of the Indian Evidence Act, 1872 and Section 26 of its successor, Bhartiya Sakshya Adhiniyam, 2023 deal with dying declarations. Generally speaking, these declarations enjoy a special position given the timing and the nature thereof. This position rests on a philosophical understanding that when a person is about to meet his maker or in other words the oncoming of death and its finality is imminent, considerations which may force a person to speak other than the truth pale into insignificance and what does fall from them would, therefore, be only the truth. They are exceptions to the rule of hearsay and, if a Court finds them consistent, believable and free of tutoring, it can convict the person named therein. This Court has, in a number of judgments including one by one of us (Sanjay Karol, J.) in **Manjunath v. State of Karnataka**³, after considering the law on the issue culled out the applicable principles.

10. In assailing his concurrent conviction, one of the grounds urged by the appellant was “...*the magistrate while recording the dying declaration of the deceased has reported that the mental condition of the victim is not good and not in a position to give statement as she was admitted in hospital on 15.10.2012 and died on 19.10.2012. The Magistrate has taken her certification on some blank paper and he had made the endorsement on blank paper it is true that she could not sign on blank paper as she was not educated.*” At the cost of brevity, the statement of the concerned officer namely Mr. Ajay Kumar Sharma, learned ACJM No.4-Kota at the relevant time, is reproduced as under: -

“Examination in Chief: -

On 15-10-2012, I was posted as Additional Chief Judicial Magistrate No.4, Kota. On that day, Gopal Lal ASI of Police Station Daabi presented a written requisition Exhibit P-19 to the effect that a woman from our police station area is admitted in M.B.S. in a burnt condition and we want to record her dying declaration. The order passed by me on the application is from C to D and the signature is from E to F. After this, I recorded the dying declaration of Sugna Bai admitted in M.B.S. Hospital, Kota. Before recording the statement, I had taken a certificate from the duty doctor regarding the condition of giving the statement of Sugna Bai, the dying declaration is Exhibit P-20 on which the certificate of the doctor from E to F is mentioned and Sugna Bai was identified by Shri Gopal Lal, whose reference is mentioned from A to B. Sugna Bai’s dying declaration is recorded by me in the form of questions and answers. Exhibit P-20 has my signatures G to H. When the statement of Sugna Bai was recorded, she was in a position to give the statement and was conscious. After recording the said dying statement, the said statement and documents were sent by me to the concerned court through Exhibit P-22, on which my signatures A to B are there.

CROSS EXAMINATION BY THE ADVOCATES OF ACCUSED :-

It is true that I had sent Exhibit P-22 to the concerned Court in my capacity as ACJM No.4 on which my seal is not marked. It is true that I did not put a note on the dying declaration Exhibit P-20 that injured was in a sound mind to give the statement, and today herself said that I had obtained a certificate in this regard from the duty doctor. It is true that there is no mention that the dying declaration is certified by the doctor. I first got the injured identified from Gopal Lal and then took the certificates from the doctor and after this the statements were recorded. On the day the application Exhibit P-19 was presented, I was working as the Chief Judicial Magistrate, Kota. It is true that I have not written the word C.J.M. below my ordersheet. It is true that the name of the acting C.J.M. is not mentioned in Exhibit P-19. That day I had remand duty and I was the one working. I am a resident of Jaipur. I could very well understand the language in which the injured gave her statement. I cannot say whether she was speaking Hadoti or Mewadi Language at that time, but I could be written in question-answer format as it is according to the law. It is wrong to say that since injured was not in a position to speak, I took injured’s statement in question-

³ 2023 SCC OnLine SC 1421

answer format because that is as per law. It is true that I have not mentioned the time in my dying statement as to what time the statement was taken. It is wrong to say that I took the help of Gopal Lal ASI to understand the language of religion. When I recorded Injured's statement, only I and injured were present. No one else was present. I had sent injured's family out. I did not ask Majhruba's mother whether Majhruba was in a position to give a statement or not."

A perusal of the above extracted statement makes abundantly clear that nowhere did the officer state to the effect that the deceased not of sound mind. It is also evident that the duty doctor had given a certificate of her condition. PW-15 (Dr. Tez Pratap Singh) the duty doctor has testified that prior to giving the certificate on a blank paper he had examined the condition of the deceased. It stands to reason that, after the condition has been certified, only then, would the doctor record the statement on paper. The fact that it was on the flip side of the same paper does not affect the sanctity thereof. That being the case, we cannot appreciate the ground as raised by the appellant.

11. Yet another point also needs to be addressed. Before the learned Trial Court the counsel for the accused attempted to argue that the parents of the deceased tutored her into giving the statement that she gave. However, we are of the considered view that such a submission, was correctly, not accepted by the Trial Court. It appears to us, to be nothing but a bald assertion.

12. In this case, the eyewitnesses PW-2 (Brajmohan) and PW3 (Mamta Bai) have turned hostile and supported the prosecution case. In ordinary circumstances this would accrue to the favour of the accused. However, given the consistency of medical evidence with the dying declaration, the difference in events testified to by the above two witnesses would lose its significance. In respect of PW-3 and PW-8 (parents of the deceased), it be observed that apart from a vague implication of tutoring which has not made its way into either the examination-in-chief or cross examination, their statements cannot be challenged or kept aside. As such their statements cannot be of any use to the appellant, in discrediting the case of the prosecution. That apart the medical evidence as given by PW-9 (Dr. Navneet Parashar) and PW-10 (Dr. Rakesh Sharma) are consistent with the statement of the deceased that she was burnt. One of the grounds raised is that the evidence of PW-10 cannot be relied upon by the Court for the reason that he was not a practicing doctor and was only a '*medical jurist*'. That in our view, cannot be a reason to disregard his testimony for it is not the case that he was unqualified to give such a testimony nor is it the case that he was underqualified. Additionally, his testimony is also in line with the testimony of PW-9, Medical Officer at MBS Hospital, who has also deposed that the deceased was burnt and the cause of death was *septicaemia* due to burning.

13. Taking a cumulative view of the above discussion, the appeal must fail, and is accordingly dismissed. However, before parting with the matter we deem it necessary to pen down a postscript.

14. The offence in question is of the year 2011. At that point in time, we were 64 years into being an independent country. The Constitution promises equality, non-discrimination on the basis of sex and the right to life and liberty amongst others. However, cases such as these, demonstrate that even after so many years, rights enshrined in the founding Charter are still elusive for many. It could be argued and very well proved that a further fourteen years down the line, in spite of incremental progress the issues highlighted by the incidence such as in the present case, largely remain the same. Over the years numerous legislations were enacted, schemes brought into force, and judgments delivered, focussed on the upliftment of women and eradication of difficulties faced by

them arising out of inherent social stigma and deep-rooted patriarchal and conservative practices.

The process of unshackling the society from these deeply stigmatic understandings of women and their roles, began immediately after independence. Early legislative efforts such as the Dowry Prohibition Act, 1961 were aimed at dismantling one of the most deep-rooted practices of patriarchal control, i.e., dowry. This was followed by introduction of provisions like Section 498A, IPC addressing cruelty by husbands and relatives, and later the Protection of Women from Domestic Violence Act, 2005⁴ which recognized domestic abuse as a civil wrong requiring immediate relief and protection. When it comes to equality in workplace, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 institutionalized safeguards following the *Vishaka* guidelines laid down by this Court.

The interpretation of these rights and their expansion into varied aspects of women's life has taken place through a series of judicial pronouncements. In ***Shayara Bano v. Union of India***⁵, the practice of instant *triple talaq* was declared unconstitutional, affirming women's rights within personal law frameworks. In ***Joseph Shine v. Union of India***⁶, the Court struck down the adultery law, emphasizing equality and autonomy. In ***Secretary, Ministry of Defence v. Babita Puniya***⁷, the Court upheld the right of women officers to be granted permanent commission in the Indian Army, rejecting institutional stereotypes about gender roles. In ***Vineeta Sharma v. Rakesh Sharma***⁸, daughters were recognized as equal coparceners in Hindu joint family property. The Court has also addressed the complexities of domestic violence, in ***Arnesh Kumar v. State of Bihar***⁹, while cautioning against misuse of Section 498A, it reaffirmed the seriousness of cruelty against married women, and in ***Hiral P. Harsora v. Kusum Narottamdas Harsora***¹⁰, it expanded the scope of the DVA to include complaints against female relatives within the household. The Court has further intervened in matters of personal liberty and choice. In ***Shakti Vahini v. Union of India***¹¹, it issued detailed guidelines to prevent honour killings, recognizing that societal and familial control over women's choices in marriage is a direct assault on their fundamental rights. Similarly, in ***Shafin Jahan v. Asokan K.M.***¹², the Court upheld an adult woman's right to choose her partner, affirming that neither the State nor the family can dictate personal decisions central to individual dignity and autonomy.

15. Parallel to legal reform, the State has also invested in welfare and social transformation schemes. Programmes such as ***Beti Bachao, Beti Padhao***, are aimed at correcting gender imbalances and improving girls' education, while initiatives like ***Sukanya Samridhi Yojana*** and ***Ujjwala Yojana*** aim to enhance financial security and improve living conditions for women.

16. Yet, despite this sustained intervention from different branches of Government, empirical data shows that all is not well. It presents a sobering picture indeed. As per the National Crime Records Bureau, more than 4.48 lakh crimes against women were

⁴ DVA

⁵ (2017) 9 SCC 1

⁶ (2018) 2 SCC 189

⁷ (2020) 7 SCC 469

⁸ (2020) 9 SCC 1

⁹ (2014) 8 SCC 273

¹⁰ (2016) 10 SCC 165

¹¹ (2018) 7 SCC 192

¹² (2018) 16 SCC 368

recorded in 2023¹³. Dowry-related violence continues to claim over 6,000 lives annually, revealing the persistence of practices that have long been outlawed. Complaints before the National Commission for Women also consistently show domestic violence as one of the most reported grievances¹⁴. What makes this reality particularly troubling is the context in which it exists. India has experienced significant economic growth, rising literacy, and increased participation of women in education and the workforce. Gender Roles do not apply strictly anymore in many urban areas. One cannot assume that all house-hold related work falls to the woman, whereas it is only the male who is tasked with bread winning. Yet, in rural and semi-urban scenarios, patriarchy remains a facet of everyday life. Authority within the household is still overwhelmingly male, and women's autonomy is often conditional and constrained. Even if the woman earns, it would still be expected of her that she would set the house right before leaving for work, and busily engage herself in similar work including preparation of meals, when she returns from work.

17. The coexistence of progress and violence signals to a paradox. Legal and economic advancements are visible on a macro-level, but patriarchy still permeates the everyday. Dowry is outlawed and has been for decades but the social legitimacy that sustains it is yet to be dismantled. Welfare schemes can incentivize education, but cannot alter long-held beliefs about women's roles within marriage and family. As a result, practices such as domestic abuse or even extreme acts like burning a wife (such as in this case) persist not as aberrations, but as indications of a disease afflicted social order.

18. After decades of laws, schemes, reforms, and judicial recognition of equality across workplaces, homes, personal relationships, and even the armed forces, why does the control over women's bodies, choices, and lives still persist so deeply within society? Perhaps, the answer lies only with "*We, the People of India*".

Pending applications, if any, shall stand disposed of.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)

¹³ <https://www.ncrb.gov.in/uploads/files/1CrimeinIndia2023Part1.pdf>

¹⁴ <https://ncwapps.nic.in/frmReportNatureState.aspx?Year=2023>;
<https://ncwapps.nic.in/frmReportNatureState.aspx?Year=2024>;
<https://ncwapps.nic.in/frmReportNatureState.aspx?Year=2025>