

COURT OF ADDITIONAL SESSIONS JUDGE, SRINAGAR

CNR No JKSG01-003356-2022

Challan: 30/2022

Date of Institution: 29/10/2022

Date of Judgment: 13/10/2026

In the case of:

State of J&K through Police Station Batmaloo

Through: Ld. APP.

Versus

- 1. Mst. Hafeeza Begum W/o Ghulam Qadir Dar**
- 2. Mst. Sumiya W/o Parveez Ahmad @ Bilal**
- 3. Mst. Saika W/o Yasir Ahmad Dar**
- 4. Parveez Ahmad Dar @ Bilal**
- 5. Shahnawaz Ahmad Dar**
4 and 5 sons of Ghulam Qadir Dar
Residents of Nund-Reshi Colony-B Bemina.

(Accused Persons)

Through: Adv. M. Abdullah Pandith & Associates.

Case FIR No 109 of 2022 P/S Batmaloo

Under Sections 498-A, 302, 120-B, 201 IPC.

Coram: Mr. Farooq Ahmad Bhat

JO Code: JK00119

J U D G M E N T

1. This charge sheet bearing Crime No. 109/2022 of Police Station Batmaloo, for the commission of offences under Sections 498-A, 302, 120-B and 201 IPC, was initially presented before the Court of Ld. Chief Judicial Magistrate, Srinagar, who, vide its order dated 29th October 2022, committed the same to the Court of Ld. Principal Sessions Judge, Srinagar. Thereafter, the challan came to be transferred to this Court by the Ld. Principal Sessions Judge, Srinagar, vide his order dated 15th November 2022, for disposal under law.
2. Briefly stating the facts and circumstances of the case, as put forth in the challan, are that on 02/08/2022, Police Station received a docket on behalf of ASI Mumtaz Ahmad No. 190/S to the effect that on 17th June 2022, Police Station received information through reliable sources that at Nund-Reshi Colony-B, Bemina, the death of Mst. Tasleema, wife of Shahnawaz Ahmad Dar, resident of Nund-Reshi Colony (B), Bemina, had been caused under mysterious circumstances, regarding which people were whispering. She was taken by her heirs to the hospital. On the basis of this information, a report with respect to the death under mysterious circumstances, in terms of Section 174 Cr.P.C., was registered and an enquiry was started in the matter. During the enquiry, the dead body was taken into possession by the police and post-mortem was conducted at Medical College, Srinagar, regarding which the post-mortem report was received on 02/08/2022. As per the post-mortem report, the death of

the deceased was caused due to respiratory failure (smothering).

After receiving the docket, a case under FIR No. 109 of 2022 for the commission of the offence under Section 302 IPC was registered in Police Station Batmaloo, and investigation of the case was started through PW-24 and PW-25 named in the challan. During the investigation, after visiting the place of occurrence, the site map was prepared and statements of some witnesses were also recorded afresh. During the investigation, after going through the medical documents, it was found that the injuries shown in the report were found on different parts of the body of the deceased. During the investigation, statements of some witnesses were recorded under Section 164-A Cr.P.C. During the investigation, it was found that the deceased was being harassed by her in-laws because, despite the passing of 9 years since her marriage, the deceased could not give birth to any child. It was found that on the day of occurrence, while cleaning the room, all the evidence had disappeared, from which it was certified that the murder of the deceased had been committed under a well-planned conspiracy; as such, the offences under Sections 498, 120-B and 201 were added in the case. During the investigation, it was established that the occurrence had been committed during the presence of the accused in the house, as such, the accused persons were taken into custody for the commission of the said offence and, accordingly, arrest memos were prepared. During the investigation, it was found that the accused Parvaiz Ahmad Dar, besides beating the deceased, had also, with the intention of killing her, tried to electrocute her with a heater. Whereas the husband of the deceased had taken golden ornaments from the deceased and, after selling them, had used the same for his own expenditure, and later on the matter had reached up to divorce. However, due to the intervention of some persons, the deceased came back to her matrimonial house, but the in-laws were again harassing the deceased. During the investigation, it was found that, one day before Eid-ul-Fitr, the husband, Shahnawaz Ahmad Dar, had quarreled with the deceased. The terms of accused No. 1, mother-in-law, were not good with the deceased. Actually, the said Hafiza Begum and other family members wanted to throw out the deceased from the home, as she could not bear any child, and were willing to perform the second marriage of accused Shahnawaz Ahmad Dar. Since the deceased was a gentle lady, she was willing to live her life in her matrimonial home. During the investigation, the CDR details of the phone numbers of the accused persons and the deceased were obtained as per the procedure, from which the location of the accused persons was established, who were in contact with each other on the day of occurrence, as such, they, under a well-planned conspiracy, had committed the occurrence, whereas the deceased, at the last time, had talked with her aunt, Mst. Sayara, on phone in the morning at 11:01:13 seconds (a.m.). Whereas the sister of the deceased, Mst. Shami Jan, had called on phone No. 9541199196 of the deceased from 11:30 a.m. till 2:45 p.m., which call was not picked up by the deceased. From this, it was established that the accused persons had committed the occurrence after the phone call at 11:01:13 till 11:30 (in between) and had deliberately not informed the parental home people of the deceased about her condition or death. Actually, the accused

persons, knowingly and in order to cool down the matter, had created a false impression of taking the deceased to the hospital, as such, they had not given proper information to the parental family members of the deceased. While the parental home people of the deceased had, of their own, come to the JVC Hospital and seen the dead body of the deceased. During the investigation, the proceedings conducted under Section 174 Cr.P.C. were also seized and a seizure memo was prepared. During the investigation, the remand of the accused persons was taken from time to time, and they are at present lodged in Central Jail, Srinagar. Lastly, the challan came to be presented against the accused persons before the Court for taking action against them under law.

3. The accused persons were charged for the commission of the offences punishable under Sections 302, 498-A, 201 and 120-B IPC by this Court vide order dated 20/02/2023. The contents of the charge were read over to the accused one by one, who pleaded not guilty and claimed trial in the case. The prosecution was accordingly directed to produce the evidence in support of its case. The prosecution, out of 25 listed witnesses, has produced 23 witnesses, whereas PW-10 has been dropped from the list of witnesses by the prosecution and the report of FSL submitted by PW-23 was admitted by the defence counsel; as such, his statement was not recorded. The evidence of the prosecution came to be closed on 13th February 2025. The statements of the accused persons under Section 313 Cr.P.C. came to be recorded on 30th May 2025. Since the accused could not be acquitted under the provisions of Section 273 Cr.P.C., as such, the accused were directed to lead evidence in their defence under the provisions of Section 233 Cr.P.C. The defence counsel submitted that the accused did not want to produce any evidence in their defence; as such, their right was closed vide order dated 19th June 2025, and the file was posted for final arguments.
4. The details of the witnesses examined by the prosecution are as under:

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| PW-1) | Abdul Aziz S/o Abdul Rahim Dar R/o HMT Zainakote Srinagar (witness to identification of dead body, receipt of dead body and occurrence) examined on 16/3/2023 & 17/3/2023. |
| PW-2) | Mohammad Ramzan Dar S/o Abdul Rahim Dar R/o HMT Zainakote Srinagar (witness to occurrence) examined on 20/04/2023. |
| PW-3) | Ali Mohammad Dar S/o Mohammad Abdullah Dar R/o Zainakote HMT (witness to identification, receipt and possession of dead body) examined on 20/05/2023. |
| PW-4) | Mohammad Younis Dar S/o Abdul Aziz Dar R/o Zainakote HMT(witness to identification, receipt , Receipt of dead body, Seizure of s wearing apparels and occurrence) examined on 17/10/2023. |
| PW-5) | Abdul Rashid Dar S/o Abdul Razak R/o Zainakote HMT (witness to occurrence) examined on 19/08/2023. |

- PW-6) Zaffar Habib Dar S/o Habib-ullah Dar R/o Zainakote (Witness to occurrence) examined on 23/03/2024.
- PW-7) Mst Sayara W/o Abdul Latief Sheikh R/o Ziyarat Batmaloo (Witness to occurrence) examined on 20/08/2024.
- PW-8) Mst. Sami Jan W/o Shabir Ahmad Sofi R/o Noorbagh Srinagar (Witness to occurrence) examined on 16/05/2024.
- PW-9) Tasleem Ahmad Mir S/o Khurshid Ahmad Mir R/o Nund Reshi Colony (Witness to seizure of mobile phone of deceased) examined on 06/04/2024.
- PW-11) Mst Kulsooma Jan W/o Ishfaq Ahmad Dar R/o Zainakote (Witness to occurrence) examined on 04/07/2024.
- PW-12) Arshad Ahmad Malik S/o Ayaz Ahmad Malik R/o Zafran Colony Pantha-chowk at present Nund-Reshi Colony Bemina (Witness to occurrence) examined on 19/7/2024.
- PW-13) ASI Mumtaz Ahmad 190/S of Police Station Batamaloo (witness to the investigation under sectionn174 Cr.P.C) examined on 12/09/2024.
- PW-14) SG Constable Mohammad Shafiq 4625/S of P/S Batmaloo (Witness to arrest of accused) examined on 14/10/2024
- PW-15) Constable Zakir Hussain 520/S (Witness to arrest of accused) examined on 28/09/2024.
- PW-16) Mst Afrooza HC No 527/S P/S Batamaloo (Witness to arrest of ladies accused) examined on 28/10/2024.
- PW-17) Sameena No 29/F of P/S Batamaloo (Witness to arrest of ladies accused) examined on 25/11/2024.
- PW-18) Yasmeen No 494/SPO of P/S Batamaloo (Witness to arrest of ladies accused) examined on 25/11/2024.
- PW-19) Abdul Wahid Mir S/o Gh. Ahmad Mir R/o Dayarwani Batamaloo (Witness to occurrence) examined on 09/11/2024.
- PW-20) Dr. Uzma Buch Lecturer Govt. Medical College Srinagar (Witness to post mortem report) examined on 10/07/2023.
- PW-21) Dr. Firdous Khan Lecturer Govt. Medical College Srinagar (Witness to post mortem report) examined on 07/08/2023.
- PW-22) Dr. Bilal Ahmad Wani Medical Officer J&K Health Services.Govt. Medical College Srinagar (Witness to post mortem report) examined on 07/08/2023.
- PW-23) Sheikh Vakil Sub-Inspector 115533/ARP Investigating officer Initial investigation examined on 02/01/2025.
- PW-24) Mir Qazim Inspector No 115536/ARP Investigating officer part investigation examined on 13/02/2025.

5. The memos and documents produced by prosecution in this case along-with the challan and their respective exhibits during the trial of the case are detailed as under:

S. No	Details of documents	Exhibit No's
1.	Docket (first information report) (1 page)	EXTP-13
2.	Post mortem report (5 pages)	EXT-P-20
3.	Site map regarding place of occurrence	EXPW-24/I
4.	Identification memo regarding dead body	EXT-P-4
5.	Search and seizure memo regarding the accused	EXT-P-1
6.	Seizure memo regarding file of proceedings u/S 174 Cr.P.C	EXPW-24
7.	Seizure memo regarding the wearing apparels of deceased	EXT-P3
8.	Seizure memo regarding seizure memo of phone	EXPW-9
9.	Arrest memo regarding accused Parveez Ahmad & Shahnawaz Ahmad	EXPW-15
10.	Arrest memo of accused Mst. Hafeeza, Shameema and Saika	EXPW-16

6. As stated here-in-above that prosecution has produced 23 witnesses and FSL report of PW-24 of has been admitted, as such the gist of their evidence is reproduced as under:

PW-1. Abdul Azeez Dar S/o Abdul Raheem Dar R/o Zainakote Srinagar Dated 16-03-2023 & 17/03/2023.

During the examination-in-chief, the witness deposed that I know the accused persons. Today, I have seen the accused persons through V.C. The deceased was my daughter. The deceased was married, and her marriage was solemnized with accused Shahnawaz Ahmad Dar. The marriage of the deceased was performed in the year 2013, and her death was caused in the year 2022, on 27th June 2022. On the day of occurrence, accused Shahnawaz Ahmad Dar called my son, Ishfaq Ahmad Dar, on phone at 3:00 p.m. and told him that his sister, i.e., the deceased, had fallen ill and had been admitted to JVC Hospital. Shahnawaz Ahmad Dar told my son on phone that he should inform regarding the illness only to me (witness) and not to anyone else. After this, I and my son came out of the house and went towards JVC Hospital, Bemina. After travelling some distance, my son called Shahnawaz Ahmad Dar on phone and asked him what had happened to the deceased. Shahnawaz Ahmad Dar replied that he himself did not know what had happened to the deceased. After travelling some distance, Shahnawaz Ahmad Dar again called on the phone

and stated that the deceased had died. Then, I and my son reached JVC Hospital, Bemina, where the police came and post-mortem was conducted. The deceased was then handed over to me by the police, and thereafter, the relatives buried the deceased. I identified the dead body of the deceased, regarding which the police had, on the spot, prepared an identification memo, which is on the file. I have seen it, which bears my signature, which I have identified. I heard the contents, which are true and correct, and the same is exhibited as EXTP-1. I received the dead body of the deceased from the police. Regarding the dead body, the police prepared a receipt memo, which is annexed with the file and which I have seen. I identify my signatures on the same. The contents of the same are true and correct, and the same is exhibited as EXTP-1/I. The police seized the wearing apparels and mobile phone of the deceased. I have recorded my statement under Section 164 Cr.P.C. in the Court of Judicial Magistrate. I recorded my statement before the Court of Judicial Magistrate and stated therein that the marriage of the deceased was solemnized with Shahnawaz Ahmad Dar in the year 2013. After the marriage, for about one and a half years, the relations remained good, after which the relations between the deceased and her in-laws deteriorated. The deceased had not given birth to any child. The brother-in-law of the deceased, namely Parvaiz Ahmad Dar @ Bila, and the mother-in-law of the deceased, Mst. Hafiza, were having discord with the deceased. Accused Parvaiz Ahmad Dar had beaten the deceased and had also touched her with a heater. The deceased ran away from her matrimonial home in order to save herself. However, accused Pervaiz Ahmad Dar followed her on a scooter and again brought her back to the matrimonial home. Accused Parvaiz Ahmad Dar then came to my house and started rebuking me and gave me threats that he, Pervaiz Ahmad Dar, would kill the deceased and that he would get a divorce for the deceased. Accused Shahnawaz Ahmad Dar, who was the husband of the deceased, was not coming to the defence of the deceased and was not telling anything to the family members. During the matrimonial life, once the deceased ran away from the matrimonial home and came to my home and remained at my home for six months. Then, some respectable persons of the Baradari intervened between the parties in the matter and brought about a compromise, after which the deceased returned to her matrimonial home. During the matrimonial life of the deceased, one day accused Shahnawaz Ahmad called me on the phone and told me to take my daughter back home. After this, accused Mst. Hafeeza had, several times, told me on the phone that I had given them a "Khota-Sika" and also told me that, before the marriage of the deceased, I should have conducted her medical examination. Then, I, along with my sons and brothers, went to the matrimonial house of the deceased, where the situation between the parties reached a hand-to-hand struggle. Thereafter, I brought my daughter, the deceased, back to my home, where she remained for about two and a half years. Accused Shahnawaz Ahmad had told the cousin brother of the deceased that he wanted to give divorce to the deceased. When the deceased was at my home, the accused persons initiated the process to sort out the matter and stated that they did not want to give divorce to the deceased. The accused sent one of their relatives, Wahid Ahmad, R/o Batamaloo, to me with a

suggestion for compromise. After this, a sitting took place in which the relatives of the accused were present. I suggested that if the deceased would again go to the house of Shahnawaz, it would be better if accused Shahnawaz arranged a rented room at some place where he would keep the deceased. However, the relatives of the accused persons stated that, since accused Shahnawaz Ahmad was a driver by profession, he was not in a position to keep the deceased in a rented room. The relatives of the accused persons stated that they would arrange a separate room for the deceased in her matrimonial home, where the deceased and her husband would reside separately. Then, the in-laws of the deceased gave a room on the second storey to the deceased, and the deceased returned from her parental home to her matrimonial home. The deceased and the accused were residing separately at the matrimonial home for some time. Then, on the day before Eid-ul-Fitr (Arafah), accused Mst. Hafeeza told the deceased that she had been separated from the in-laws' family, as such, she should remain separate. After this, the deceased went back to her room and started living separately. On the day of "Arafah", the deceased and accused Shahnawaz Ahmad Dar went to the house of Aijaz Ahmed Dar, who was the second brother-in-law of the deceased, and remained there for the night. Then, in the morning at 8:00 a.m., they returned to the matrimonial home. On 25-07-2022, the deceased had come to my home and had taken meals with the family members. On that day, the deceased and my other daughter had to go to the house of my daughter-in-law with some gifts. When the deceased came back from the house of her sister-in-law, my son dropped the deceased on his bike at her matrimonial home. On the day of occurrence, she told her sister on the phone that she would purchase clothes from Lal Chowk for the girl child of her sister. After this, she also called her aunt on the telephone, who was residing at Batamaloo. From 11:01 a.m., the deceased did not make any phone call nor did she pick up any phone call. Then, at 3:00 p.m., they came to know that the deceased had been taken to JVC Hospital, Bemina. I gave my statement before the Judicial Magistrate, which is annexed with the file. I have seen it. It bears my signature, which I identify.

During the cross-examination, the witness deposed that it is true that I have given the same statement before Judge Sahib, Judicial Magistrate, which I have given today in the Court. I have given a statement before the police; besides, I have also given a statement before the Court of Judicial Magistrate, and today I have given a statement in the Court. Today, I was not shown the statement in the Court which I had given before the police, however, today I have not seen any other statement given before the police in the Court. During his further cross-examination on 17-03-2023, the witness deposed that it is true that I have given my statement before the Judicial Magistrate in terms of Section 164 Cr.P.C. after 56 days of the occurrence, which means that after 20 days of registration of the case. I have given a statement before the Judicial Magistrate, Srinagar, under Section 164 Cr.P.C. I have not given any application regarding the occurrence to the police for taking action in the matter. However, the police, of their own, started the investigation. The police, after receiving the FSL report,

registered the case. Prior to receiving the FSL report, I had not given any written complaint or application against the accused persons before the police. I have filed a written complaint before the police regarding the occurrence. I have also given a statement before the police. No written complaint was made. The deceased, during her lifetime and during the matrimonial relations, was residing in a room on the second storey of her matrimonial home. The deceased was residing separately at the matrimonial home and living her life very decently. Accused Bilal and accused Hafeeza were also residing separately in the house of the deceased. The Maher of the deceased was fixed at Rs. 2 lakhs, which she had received, and then the accused had taken the same back. The accused had taken the Maher of the deceased by stealing it. Regarding this, the deceased had not registered any complaint with the police. I had kept a piece of land in the name of the deceased, which was worth Rs. 3 lakhs at that time. I had given golden bangles (kadas) worth Rs. 85,000/- to the deceased at the time of marriage. I had told the police that the accused persons had grabbed the Maher amount of Rs. 2 lakhs from the deceased. I had also stated in my statement before the Court of Judicial Magistrate that the accused had grabbed the Maher amount of the deceased. The deceased had not kept the Maher amount with me for safety. However, the accused persons had taken the Maher amount from the deceased and had incurred the same. In case it is mentioned in the statement attributed to me that she had stated to Abdul Wahid, namely, the person, that the deceased had kept the Maher amount with me, then such statement is wrong. No property (Jiadad) of the deceased was lying with me. Between me and the accused persons, several times, embroilment had happened; however, no serious scuffle took place. Accused Pervaiz Ahmad Dar @ Bila had given the deceased threats of killing. However, I had not taken any police action against the same. Pervaiz Ahmad Dar had given life threats to the deceased two years before the occurrence. When the deceased was taken to JVC Hospital on the day of occurrence, at that time, the accused were accompanying the deceased to the hospital and were present there. It is true that Shahnawaz Ahmad Dar had told his relatives that he would reside separately with the deceased. Then stated that this was told by me, and that the deceased and accused Shahnawaz Ahmad Dar would reside together separately. It was settled between the deceased and Shahnawaz Ahmad Dar that accused Shahnawaz Ahmad Dar would return two golden bangles. The deceased had given accused Shahnawaz Ahmad Dar two golden bangles for purchasing the vehicle. Accused Shahnawaz had taken the golden bangles from the deceased after the settlement. It is true that accused Shahnawaz Ahmad Dar had taken two golden bangles for purchasing the vehicle, and the deceased had given those two golden bangles to accused Shahnawaz Ahmad Dar after she returned to her matrimonial home. The matter regarding the golden bangles was discussed with Abdul Wahid Mir, but I do not know what my daughter had told Wahid Mir. I have stated in my statement that I have knowledge to that extent.

PW-2. Mohammad Ramzan Dar S/o Abdul Raheem Dar R/o Zanakot HMT Dated: 20-04-23.

During the examination-in-chief, the witness deposed that I have seen the accused persons today in the Court through V.C. The accused persons were produced today in the Court from the concerned Jail through V.C. I know the accused persons. The marriage of the deceased was solemnized nine years before with Shahnawaz Dar. No child was born to the deceased. The in-laws of the deceased were subjecting the deceased to mental torture. The terms between the deceased and her in-laws were not good, and due to the souring of relations, a number of Panchayats and Baradari meetings took place between the parties. The brother of Shahnawaz, who has been arrayed as an accused in the case, once went to the father of the accused and gave him threats that he would, in any case, get the deceased divorced and also beat the deceased. The father of the deceased once told me that the mother-in-law of the deceased had made a phone call to the mother of the deceased and asked whether she had worn bangles and also told the mother of the deceased that she should come to the matrimonial home of the deceased and take her back to her parental home. Then, I and the father of the deceased went to the matrimonial home of the deceased, where the deceased hugged me and asked whether we had come there for taking her back to her parental home, and the deceased greeted me in her matrimonial home. Then, I and the father of the deceased brought her back to her parental home. After this, there were some negotiations between the parties, and the negotiator was Abdul Wahid R/o Batamaloo. On the basis of his negotiations, their relations became good. Then stated that the terms had not improved, but accused Shahnawaz Ahmad Dar was adamant that he had to divorce his wife (deceased). When the attempt at negotiation was unsuccessful, Abdul Wahid told the deceased and her in-laws to prepare a list regarding the property of the deceased. The parental home persons of the deceased presented a list regarding the golden articles, and their cost was about Rs. 11.50 lakhs. The matrimonial relatives were not willing that accused Shahnawaz should give divorce to the deceased. As such, my nephew Ali Mohammad asked accused Shahnawaz, in friendship, whether he really wanted to give divorce to the deceased, to which the accused told him that he really wanted to give the deceased divorce. Then, for some time, the matter remained pending. Then, I and the father of the deceased went for Hajj pilgrimage. Thereafter, after some months, when we returned back, the brother of accused Shahnawaz, accused Shahnawaz and one of his uncles came to the parental home of the deceased and negotiated and told that whatever had happened between the deceased and her in-laws had gone and, further, told that they wanted to take the deceased back to her matrimonial home and also told that they would give a separate room to the deceased at the matrimonial home where she would reside separately. Then, the brother of accused Shahnawaz, namely Aijaz Ahmad, gave them the assurance that they would remain as a guard for the deceased. Some golden ornaments were taken from the deceased by accused Shahnawaz and, after selling the same, he purchased a vehicle. The brother of accused Shahnawaz Ahmad, namely Aijaz Ahmad, also gave assurance to the parental home relatives of the deceased that they would return the golden ornaments to the deceased. Then, the deceased, on this assurance, returned to her matrimonial home, and on 27th June

2022, the occurrence took place. At that time, I was present at my home and, after taking meals, was relaxing. After some time, noise arose outside. I heard the noise and told my wife to go outside and see what the matter was. I was under the impression that Ali Mohammad, who is my nephew, had done some untoward incident. However, my wife came back and told me that the deceased had died. Then, I and Ali Mohammad went to JVC Hospital, where the deceased had been brought by her in-laws for treatment. The deceased had died. I saw the dead body of the deceased personally in the hospital. I saw that the clothes on the arm of the deceased upwards were wet with water, due to which it appeared that the deceased might have been washing clothes. Then, the police came to JVC Hospital and took the dead body of the deceased into their possession. Then, the police conducted the post-mortem of the dead body of the deceased, and after the post-mortem, the dead body of the deceased was handed over to the relatives of the parental home, where the last rites of the deceased were performed. I have given the same statement in the Court of Judicial Magistrate. My statement under Section 164 Cr.P.C. is annexed with the file, on which I identify my signatures.

During the cross-examination, the witness deposed that I reached JVC Hospital in the afternoon at about 3:00 p.m., but I do not perfectly remember what the time was when I reached JVC Hospital. At that time, the police had not reached there. After I reached the hospital, the police reached JVC Hospital. Three to four police personnel came to JVC Hospital, among whom one was namely Mumtaz and the others were police personnel. Mumtaz Sahib was appointed as the Investigating Officer in the case. I had not given any statement to the Investigating Officer at JVC Hospital. I had not told the Investigating Officer to record my statement on the day of occurrence. Then, after performing the last rites of the deceased, the police came to the matrimonial home of the deceased for a search. After that, I gave my statement before the Investigating Officer, Mumtaz Sahib. Today, I have not been shown that statement by the Government Advocate which I gave before the Investigating Officer. The SHO of the police station concerned recorded my statement, and I put my signatures on the same. Today, I have not seen that statement in the Court which the SHO of the police station concerned had recorded. After two months of the death of the deceased, I recorded my statement in the Court of Judicial Magistrate, Srinagar, regarding the case. My statements which the Investigating Officer and the SHO of the police station concerned had recorded were read over to me by them. Accused Bilal Ahmad had given a threat to the father of the deceased that he would get the deceased divorced and that he had beaten the deceased, but the said threat was given by accused Bilal Ahmad to the father of the deceased prior to 2019. I have not registered a complaint in the police station against the accused persons that they had killed the deceased. I have also not suggested to the father of the deceased that he should file a complaint against the accused in the police regarding the occurrence. I was a government employee and retired from service in the year 2008. I took premature retirement, and at the time of retirement, my age would have

been 56 years; then stated 58 years. Accused Bilal Ahmad had given the said threat to the father of the deceased. This was told to me by the father of the deceased. I had not told the father of the deceased to file a complaint against accused Bilal Ahmad before the police. When the deceased, after the settlement, came back to her in-laws' house, I had not accompanied her to her matrimonial home. After returning to her matrimonial home, the deceased was putting up separately. The deceased was putting up in a room on the second floor of the matrimonial home. Aijaz Ahmad, who is the brother of accused Shahnawaz Ahmad, had given an assurance that they would guard the life of the deceased, however, no document was executed in this regard. The accused persons had never beaten the deceased in my presence. It is not true that the ornaments of the deceased were lying with her father. It is not true that the father of the deceased had sold any of the ornaments of the deceased. It is not true that the father of the deceased had purchased any land in the name of the deceased. I was also present during the negotiation that took place between the parties through Abdul Wahid. The deceased had not remained present before Abdul Wahid. However, accused Shahnawaz remained present before Abdul Wahid. It is not true that Tasleema, i.e., the deceased, had ever presented herself before Abdul Wahid. It is not true that the deceased had stated before Abdul Wahid that her father had sold her golden ornaments and purchased a piece of land. Accused Bilal Ahmad had never talked with me regarding the divorce to be given to the deceased.

PW-3. Ali Mohammad Dar S/o Mohammed Abdullah Dar
R/o Zainkot dated 20/05/2023

During the examination-in-chief, the witness deposed that in the year 2013, Nikah between Mst. Tasleema and Shahnawaz was performed. For about 1½ years, no child was born, due to which a dispute arose. During this period, accused Shahnawaz fell ill and surgery was performed. Mst. Tasleema sold her ornaments and got the surgery of the accused performed. For some time, the relations between the two remained good; however, due to not having any child, a dispute started. After some time, accused Parvez @ Bila went to the father of the deceased and told him that accused Pervaiz had given electric current to the deceased and had also beaten her. He also told him that they would give divorce to his daughter, whether today or tomorrow. After this, we went to Police Post Bemina, where a Dy. S.P. was present. We informed the Dy. S.P. regarding the matter. Then, the police called both the parties to the police station, where the accused, i.e., Hafeeza, Shahnawaz and Pervaiz, sought apology and agreed to take the deceased back home. Then, after some time, in the year 2018, again a dispute arose, and the deceased again came to her parental home and remained there for 2½ years. Then, the in-laws of the deceased brought a relative, namely Abdul Wahid, who is a resident of Batamaloo, to initiate negotiations in the matter. During the negotiations, I asked accused Shahnawaz what decision he had to take with his wife, i.e., the deceased. In reply, he stated that he had to give divorce to the deceased. I asked the accused why he was willing to give divorce, to which the accused replied that the deceased could not give birth to a child. It was decided through Abdul

Wahid that regarding the property (Jaidad) which the deceased had, a list be prepared. The deceased herself prepared a list, the cost of which was about Rs. 11.50 lakhs. Accused Shahnawaz, his brother Aijaz and uncle sought one month's time. After one month, we enquired from Abdul Wahid on the phone regarding the matter, who replied that the relatives of the accused persons had stopped visiting them, i.e., their uncle and brother. After the passing of one year, accused Shahnawaz, his brother Aijaz Ahmad and his uncle came to my house and requested that they would take the deceased back to her matrimonial home. Later on, it was decided that the deceased and accused Shahnawaz would reside separately. However, accused Shahnawaz refused to keep the deceased in some separate house for living. After this, accused Shahnawaz and the deceased started residing in a room on the second storey of the matrimonial house, and for some period, the terms between the deceased and the accused remained cordial. On 25th June 2022, the deceased came to their house, and in the evening, the brother of the deceased again left the deceased at her matrimonial home. On 27th June 2022, the deceased had a phone call with her sister and remained in contact w.e.f. 10:30 a.m. to 10:45 a.m. On the same day, i.e., 27th June 2022, the brother of the deceased, Ishfaq, received information over the phone that the health condition of Mst. Tasleema had deteriorated, and he and his father were asked to reach JVC Hospital. I called accused Shahnawaz on the phone regarding this, but some lady picked up the phone and told me that Mst. Tasleema had died. Then, we, i.e., I and other relatives, reached JVC Hospital, where we found Mst. Tasleema dead. I found that there were injuries on the right and left sides of the throat, and then we asked the doctor regarding the marks; however, they told us that they had given information to the police. The police came on the spot and took the dead body into their custody for conducting the post-mortem. Then, we reached SMHS, where the post-mortem of the deceased was conducted. After this, the dead body was handed over to us, and the in-laws created a ruckus that the dead body be given to the in-laws. On the spot, the police prepared some documents on which I put my signatures. On the identification memo regarding the dead body, EXTP-1, I identify my signature. The contents are true and correct. I identify my signature on the seizure memo annexed with the file. The contents of the same are true and correct, which is marked as EXTP-3. I identify my signature on the memo regarding receipt of the dead body, EXTP-1/I. The contents of the same are true and correct. I have recorded my statement in this regard before the police. Then stated that in the year 2022, I recorded.

During the cross-examination, the witness deposed that I have put my signatures on the documents (fardat) at the place where the post-mortem was conducted. The post-mortem was conducted at SMHS Hospital. My statement was recorded by the police at that time, where I put my signatures on the memos (fardat). I have put my signatures on the memos, and the same have been shown to me today in the Court. The father of the deceased is residing 50 feet away from my house. My father as well as the father of the deceased are living separately. I have not given my statement before the police. Accused Pervaiz had gone to the shop of the father of the deceased, and on that day, I was at my

home. The father of the deceased had told me on the phone that Pervaiz had come there, and when I reached the shop, accused Pervaiz went away from there in an auto. When I reached the father of the deceased, he told me that Pervaiz had told him regarding giving electric current and divorce to the deceased. Regarding this, we had filed a complaint before the police; however, the case was not registered. The police told us that they would call the parties and then make a settlement. This complaint was lodged by the father of the deceased himself and uncle Mohammad Ramzan. We had verbally complained before the police. The deceased had told me regarding the selling of ornaments and that she had got the surgery of accused Shahnawaz done. It is not true that all the ornaments of the deceased were sold or stolen, but the jewellery was lying with her in-laws, i.e., the golden jewellery was not stolen, but the entire articles were with her in-laws. However, the deceased had told me that she had only sold the golden bangles and nothing else. What she might have sold, I have no knowledge regarding the same. It is true that, due to not having a child, disputes often arose in the family. It is not true that Abdul Wahid had told them that they would give one or two months to the parties for thinking. It is not true that Abdul Wahid had told that after one month the parties were residing with each other very well, because Abdul Wahid was not involved in the settlement. It is true that the deceased was putting up on the second storey. On the day of occurrence, the deceased had made a phone call to Sami Jan. The deceased had talked with her very well and had to go to the market and somewhere else. It is true that they had talked between 10:30 a.m. and 10:45 a.m. in the morning. Accused Shahnawaz was working as a driver in the PDD Department. His brother had arranged the work for him there, but he was not an employee. I do not know who had made a phone call regarding this. Accused Pervaiz was driving an auto. On the day of occurrence, who had told Pervaiz on the phone, I do not know. He was at his home, and we were also at our home. It is true that Shahnawaz had stated that he could not keep the deceased separately in another house because she was alone and could not live alone. Due to not having a child, they had an embroilment between them and used to beat each other. No case had been registered regarding the beating. Before this, I had gone to the matrimonial house of the deceased; however, I do not remember the date.

PW-4. Mohammad Younis Dar S/o Abdul Azeez Dar R/o Zainakote HMT Dated: 17-12-2023.

During the examination-in-chief, the witness deposed that I identify the accused persons through V.C. In the month of September 2013, the marriage of my sister was performed with accused Shahnawaz. For one year, the matrimonial relations of the accused and my sister were good. After this, the mother-in-law of my sister, Mst. Hafeeza, brother-in-law Pervaiz Ahmad Dar, and husband Shahnawaz Ahmad Dar started harassing and beating the deceased. After this, regarding many disputes, some negotiations and decisions were taken. After consultation, the deceased was sent back to her matrimonial home. In the year 2018, the deceased was thrown out by the accused from the house. After this, the mother-in-law of my sister (deceased) told me that she was of no use

(khota-Sikka) because she could not give birth to a child, as such, I should take her back home. During this, Bilal @ Pervaiz came to my father's shop and gave him threats that they would kill our daughter today or tomorrow. This was stated after the negotiation took place with the accused persons because they had told that he had to perform a second marriage as she was not in a position to give birth to a child. Then, a middleman, Wahid Ahmad, was sent to my house for negotiation, as they wanted to end the relation, and he told us to give the list of the articles which my sister had taken along with her there. We gave the middleman, i.e., Abdul Wahid, the list of 11.50 lacs. They also made a promise that they would pay the amount of the vehicle in instalments. When the accused persons saw the list, they again talked regarding the negotiation. Then, we told the elder persons that we would send our sister back to her in-laws' house on the condition that they would keep her separately in the matrimonial home. She would be provided a separate room in the matrimonial home, which was later on decided. Then, on the day of occurrence, 27th June 2022, we received a phone call at 3:15 p.m. which came to my younger brother from the phone of my brother-in-law, and it was told to me that my sister had fallen ill and that, for seeing her, I and my father were asked to come there. After this, another phone call was received whereby it was stated that my sister had died. After this, when I reached JVC Hospital, I saw the dead body of my sister lying in the hospital. Both the hands of my sister were folded and her lips had turned black. Near her ears, blood had fallen. On her throat, there were marks of pressing by some article. Then, we saw the prescription in which it was written "brought dead". After this, the police came on the spot and started the investigation. On the seizure memo EXTP-3, I identify my signature, the contents were read over and explained to me, which are true and correct. On the receipt memo regarding the dead body EXTP-1/I, I identify my signature, the contents are true and correct. On the identification memo regarding the dead body EXTP-1, I identify my signature, the contents are true and correct. The memo regarding seizure of the dead body annexed with the file bears my signature, which I identify, and the same is exhibited as EXTP-4. I have recorded my statement before the police.

During the cross-examination, the witness deposed that the statement which I have given today was the same as that given by me before the IO, i.e., the Investigating Officer. On the statement which was recorded by the IO, I put my signature on the same. After the death of the deceased, proceedings under Section 174 Cr.P.C. were initiated. After lodging of the FIR, I do not know whether my statement was recorded by the police. The witness was shown his statement recorded during the proceedings under Section 174 Cr.P.C. However, the statement under Section 161 Cr.P.C. is not in the file. I had gone to the IO, but do not know who recorded the statement. The IO was Mumtaz Ahmad, ASI. My statement was not recorded by Mohammed Shafiq. My statement was recorded during the proceedings under Section 174 Cr.P.C. At the instance of Wahid, a list regarding the articles worth 11.50 lakhs was given to the accused persons. That is not mentioned in the proceedings under Section 174 Cr.P.C. I have no knowledge whether my father had

told my sister about selling ornaments and purchasing a plot near his house. It is true that the husband Shahnawaz and the deceased were living separately. They were happy. Whenever the in-laws of my sister threw my sister out of the home, she used to go into depression. They also used to beat her. We used to provide treatment to her. In the statement under Section 164, then stated in 175, there is no mention of her being beaten. However, there is mention regarding the harassment. Before the occurrence, regarding the beating, no complaint was lodged at the police station. However, after consultation with the Masjid Committee, the accused persons had assured that in future it would not be repeated and that the matter would be solved. I had told all this to the IO verbally. The shop of my father is at a distance of 2 km. My father is selling flour, rice, etc., whereas I am selling chicken, etc. My father told me that the mother-in-law of my sister had told him on the phone that my sister was a 'Khota-Sikka', so he should take her back. In my statement, it is not mentioned that the mother-in-law of my sister had told that my sister was a Khota-Sikka. It was told to me by my father in his shop, as she (mother-in-law) had told it in the year 2018, and I heard the same in the year 2021. It is true that between them and the accused persons, it was decided that the deceased would live separately with her husband, and it was also decided that they would return the money of the vehicle to her. This amount was to be given by the in-laws of the deceased together. I have no knowledge regarding the matter that my sister had given the amount to her husband, Shahnawaz, for purchasing a vehicle for his business. The golden bangles of my sister were sold by her husband, accused Shahnawaz, for the vehicle. The Scorpio vehicle was given on rent to the PDD Department. I have no knowledge regarding the rent, i.e., how much PDD was paying as rent monthly, nor had I asked regarding the same from my sister. In the year 2018, the deceased was thrown out by her in-laws, i.e., her mother-in-law Hafeeza, Bilal @ Pervaiz, Shahnawaz, and other family members. I have given a statement in this regard before the police that my sister was thrown out from the house in the year 2018, and it is mentioned in his statement. In the statement under Section 175 Cr.P.C., it is mentioned that the in-laws had thrown my sister out of the home, but it does not mention that they had beaten her. For giving a guarantee on behalf of the in-laws, Aijaz Ahmad Dar, who is the elder brother of Shahnawaz, came, and the Mohallah Committee was kept as a witness to the same. I had stated all this verbally, but do not know whether the police had written it or not. After reading the statement, he stated that it is not mentioned in it. It is true that accused Shahnawaz had gone to the mediator, Wahid, and told him that he wanted to take my sister back home.

PW-5. Abdul Rasheed Dar S/o Abdul Razak Dar R/o Zainkote HMT Dated: 19-08-2023

During the examination-in-chief, the witness deposed that I identify the accused persons present through V.C. The deceased, Tasleema, daughter of Abdul Aziz Dar, was married to Shahnawaz Ahmad Dar in the year 2013, and they were residing at Nund Reshi Colony, Bemina. For about $1\frac{1}{2}$ years, the matrimonial life between them remained

well. After this, disputes arose between both of them, and Ahli-Baradari had conducted many settlements. In the year 2018, the deceased came back to her parental home and remained in her parental home for 2 years. Later on, in the year 2020, it was settled that both would reside separately. After this, the deceased was living separately in the in-laws' house in another room. On 27-07-2022, the brother of the deceased was told by accused Shahnawaz on the phone and was asked to reach JVC Hospital along with his father. I also reached JVC Hospital, where I saw that the death of Mst. Tasleema had been caused. After this, the deceased was taken to SMHS Hospital for post-mortem. After performing her last rites, the deceased was buried. The cause of the death of the deceased was the reason that her in-laws were rebuking and beating her as she could not give birth to a child. The mother-in-law of the deceased was rebuking and beating the deceased. Regarding this, I have given my statement before the police.

During the cross-examination, the witness deposed that the father of the deceased is his cousin brother. My house is situated at a distance of $\frac{1}{4}$ km from the house of the father of the deceased. The phone call which came on the day of occurrence, as per the saying of Ishfaq, had been made by accused Shahnawaz. Since 2020, the deceased was living separately. The husband of the deceased was driving a vehicle belonging to some other person and driving the same on salary. From 2020 to June 2022, I had not gone to the house of the in-laws of Tasleema. I heard that the deceased was living separately. The decision regarding living separately was taken in the year 2020. I was not included in that Baradari decision. I heard from my relatives that they were living separately. Tasleema herself told me that her mother-in-law was harassing her for not giving birth to a child. After 3-4 days of the death of the deceased, I gave my statement before the Enquiry Officer, but I had not given any statement before the Investigating Officer.

PW-6. Zaffar Habib Dar S/o Habib Ullah Dar R/o Zainakotedated 20-02-2024.

During the examination-in-chief, the witness deposed that his one relative, Mst. Tasleema, was married 8 years before; however, he did not know the name of her husband. During these 8 years, no child was born to Tasleema, due to which reason quarrels took place between Tasleema and her husband. Since two years before the death of Mst. Tasleema, she was residing at her parental home. Then, on the request of the brother-in-law of Mst. Tasleema, whose name I do not know, we sent Mst. Tasleema to her matrimonial home. Then, one day in the morning, suddenly, a phone call came to the aunt of the deceased, and the deceased told her aunt that she was coming to her for taking meals. Then, within half an hour, the husband of Mst. Tasleema informed her aunt on the phone that the health of Mst. Tasleema had deteriorated and that she was taken to JVC Hospital. When the brother of the deceased reached JVC Hospital, he found his sister dead. Then, Younis informed me regarding the same, and I also read on Facebook the news regarding the death of the deceased. Then, the post-mortem of the deceased was conducted, and thereafter, the deceased was taken to her parental home

for her last rites. During the ritual bath, some bruises and injuries were seen on the body of the deceased, due to which suspicion arose that the deceased was killed. Then, we protested regarding this incident at Press Colony and requested the authorities to conduct the investigation of the matter as per procedure. Then, the in-laws of the deceased were taken into custody, and the post-mortem was conducted. The police recorded my statement. I have given the same statement to the police.

During the cross-examination, the witness deposed that I have given my statement only once. When I gave my statement, at that time, the in-laws of the deceased were arrested. I gave my statement before the police after registration of the case. The deceased is my distant relative. The grandfather of the deceased is the brother of my maternal grandmother. I do not remember the date of marriage of the deceased; however, the same was performed about 8 years before. Two years before, on the assurance of the brother of the husband of the deceased, the deceased was sent to her matrimonial home. This was told to me by the father of the deceased, but I have no personal knowledge regarding the same. The deceased was living with her husband, separately from her mother-in-law and father-in-law, but I have never gone to the matrimonial home of the deceased. I was told by the father of the deceased regarding the deceased living separately. After the marriage ceremony, as per custom, I have not gone to the in-laws' home of the deceased after 7 days. The father of the deceased had told the Masjid Committee, of which I am also a member, that the deceased was being harassed by her in-laws because of not giving birth to any child. I have no personal knowledge regarding the harassment. Regarding the matter of the deceased coming to the house of her aunt for taking meals, I was told by the brother of the deceased, Mohammed Younis. I have no personal knowledge regarding the phone call. At what time the husband of the deceased gave information on the phone to Mohammed Younis regarding the illness of the deceased, I have no knowledge regarding the same. The deceased was mentally disturbed due to the reason of not having a child and also due to the harassment. I had told this to the police. The statement given by me to the police regarding the deceased being upset is true. It is also true that I had not told the police that the deceased was upset due to harassment by her in-laws. I have no personal knowledge regarding the actual facts.

PW-7. Mst.Sayara W/o Abdul Lateef Sheikh R/o Ziyarat Batamloo dated 20-06-2024.

During the examination-in-chief, the witness deposed that the deceased, Mst. Tasleema, was her niece. About 11 years before, the marriage of Mst. Tasleema was solemnized with Shahnawaz Dar, R/o Nundrish Colony. After 2 years of marriage, Shahnawaz fell ill and then underwent surgery. Then, one day, some guest came to the matrimonial home of the deceased, Mst. Tasleema, from Sopore. Then, the accused Pervaiz Ahmed, who is the brother-in-law of the deceased, slapped the deceased and told her that they would throw her out of the house today

as well as tomorrow. Then, the brother-in-law, Pervaiz, went to the house of the father of the deceased and told him to take his daughter back, else she would be thrown out of the house today as well as tomorrow, or they would kill her. Then, the deceased came to her parental home and, after some months, due to negotiation and compromise, she returned to her matrimonial home. Then, again, they quarreled with her, and she returned to her parental home. They had snatched valuable dresses and golden ornaments from the deceased. Then, after 2 years, the brother-in-law, Aijaz Ahmad, after compromising, took the deceased back to her in-laws' house. In this decision, her husband's uncle, Mohammad Ayoub Dar, was also included and went to the matrimonial home after 2 years, where the deceased started living separately along with her husband, regarding which her in-laws gave them permission; however, in the same house, the in-laws and the deceased were residing. The deceased had no child. At the time of living separately, the deceased had given her golden bangles to Shahnawaz for purchasing the vehicle. Then, on 27th June, the deceased called me on the phone and asked regarding my well-being. Then, on the same day at 3:00 p.m., my nephew gave me information on the phone that something had happened with Mst. Tasleema. Then, after 5 minutes, he told me that Mst. Tasleema had died. After hearing this news, I lost consciousness. I started running towards that house. After reaching there, a lot of people had gathered there. However, the dead body of the deceased was still in the hospital. Then, near about evening, the dead body of the deceased was brought to her parental home and the last rites were performed. On the next day, the police came to the parental home of the deceased, and I gave the same statement to the police which I gave today in the Court. However, I do not remember after how many days from the day of occurrence the police came there. At the time of ritual bath, I saw the body of the deceased. The neck of the deceased was broken, and blood was oozing from her mouth and nose.

During the cross-examination, the witness deposed that I have told the police that during the ritual bath, I had seen scars on the body of the deceased. After writing my statement, the police read the same to me, and in case the mention of the same is not in my said statement as is stated herein, then that statement is not true. The matter relating to the quarrel between the deceased and her in-laws was told to me by the deceased on the phone; however, no quarrel had taken place in my presence. After marriage, for about 9 years, she remained in Nikah with Shahnawaz. However, due to frequent quarrelling, she used to remain at her parental home. Regarding the slapping and beating by her brother-in-law, no complaint was registered with the police. I do not remember perfectly the dates on which the scuffle took place. I gave my statement to the police after 3 days of the occurrence. I have told the police that neither she went to the hospital nor to the matrimonial home of the deceased. During 9 years, I have twice visited the matrimonial home of the deceased because their terms were not good. Once, I visited to enquire about the health condition of Shahnawaz Dar, and the second time, I went there for an invitation, and on those days, Mst. Tasleema was residing separately from her in-laws. After 4 years of marriage, the deceased and her husband started living separately from her in-laws. I

have told the police that the deceased told me on the phone regarding the family disputes. I put my signature on the statement which was recorded by the police. I have not been shown any such statement today in the Court.

PW-8. Sami-Jan W/o Said Ahmad Sofi R/o Noor Bagh
Dated 16-05-2024.

During the examination-in-chief, the witness deposed that I identify the accused persons through V.C. The deceased, Tasleema, was my sister, who was murdered by the accused persons present before the Court through V.C. I have seen the dead body of the deceased. There were bruises on her chest, and the tongue had come between the teeth. Bruises were on her face, and her neck was broken. When I reached JVC Hospital and saw the condition of the dead body, it was kept in the freezer. Actually, we were informed by the accused at 2:45 p.m. that my sister was ill, while she had already died. The husband of my sister was Shahnawaz Dar, and their matrimonial relations were not well. The in-laws of the deceased were harassing her, and the cause for the dispute with the deceased was that she could not give birth to a child. Before two years of the occurrence, the deceased was at her parental home. Then, her husband's brother and uncle came for taking the deceased back and, after their supplication, took the deceased back to her matrimonial home. On the day of occurrence, the deceased called me on the phone at 9:55 a.m. in the morning and told me to come with her to Lal Chowk for bringing clothes for my daughter, to which I consented on the phone to come with her to Lal Chowk. Then, I continuously called her on the phone, but no one gave a reply to the phone. Then, at about 2:44 p.m., my brother Ishfaq told me on the phone to reach JVC Hospital because his sister was ill and not to tell this to anyone. However, the brother told the father and also took him to the hospital. Then, I called my brother-in-law on the phone, and his phone was picked up by some person who told me that my sister had died. Very much injustice has been done to us, and we want justice. The police have recorded my statement, and I have given the same statement before the police which I have given today in the Court.

During the cross-examination, the witness deposed that on 27th June 2023, the death of my sister occurred. I have told the police regarding the bruises on the dead body of my sister and told them regarding the bruises on the face of the deceased. I have also told them regarding the breaking of her neck, and my statement was recorded by the police in my presence and recorded at my home. After 2-3 days of the occurrence, my statement was recorded. We gave an application to the police regarding the death of the deceased. The dispute between the deceased and her husband continued till her death. Regarding the unfairness of the in-laws, we approached the police twice; however, the deceased sister did not agree to register any case. The deceased was living separately in the in-laws' house for 2 months. On the day of occurrence, from 10:00 a.m. to 2:45 p.m., I had not gone to the in-laws' house of the deceased. On the day of occurrence, in the morning, when the deceased talked with me, I imagined that the deceased was not in

good condition. This was also told by me to the police. It was settled that when the deceased would return to her matrimonial home, she would reside separately. It is wrong that the deceased was suffering from heart disease. I have not told the police regarding having the body of the deceased cool.

**PW-9 Tasleem Ahmad Mir S/o Khursheed Ahmad Mir
R/o Nund Reshi Colony Bemina Dated 06/04/2024.**

During examination-in-chief deposed that the seizure memo regarding mobile phone annexed with the file bears my signatures. The contents of the seizure memo are true and correct and I identify my signature on the same which is exhibited as EXPW-9 dated 06/04/23.

The witness was not cross examined despite being given opportunity for the same to defence Counsel.

**PW-11 Mst. Kulsuma W/oIshfaq Ahmad Dar R/o HMT
Zainkote dated 04/07/2024.**

During the examination-in-chief, the witness deposed that she knows all the accused persons. The occurrence is of 27/06/22. The marriage of Mst. Tasleema was solemnized 9 years before with accused Shahnawaz Ahmad Dar. Despite the passing of 9 years, they had no child, due to which there was an embroilment between them, and often the in-laws were harassing her. One day, deceased Mst. Tasleema, who had come to me on the occasion of Eid, told me that her mother-in-law told her that nowadays the daughters-in-law are being killed and no inquiry is conducted. The deceased had told her that the present era is not such, but now, after conducting post-mortem, the mother-in-law is being sent to jail. Each member of her in-laws was harassing her. In the year 2018, after a quarrel, the deceased had come to her parental home. Then, after two years, at the instance of the in-laws, a decision was taken and the deceased went to her in-laws' house. Then, after the killing of the deceased, the husband of the deceased told my husband on the phone to come to the hospital and told him that the father and son should come to the hospital as Taslema had fallen ill. When my husband and his father went to the hospital, they saw Mst. Tasleema dead there. On the different parts of the body of the deceased, there were wounds and scars. I have seen the wounds and scars on her body at the time of her ritual bathing. The deceased had a wound on the back of her ear, and on the front side of the ear, on the face, there was a wound of about 4 inches and also a wound on her chin. On the ankle of the left arm of the deceased, there was a scar. The thumbs of both hands of the deceased were also pulled. After the settlement of 2020, when the deceased went back to her matrimonial home, she told me that due to not having a child, she was being harassed by her in-laws. One day before the day of occurrence, she met me and I found her in good health, and her death within one day indicates towards her killing. She is sure that the deceased has been killed. The Investigating Officer has recorded my statement.

During cross-examination, the witness deposed that in the year 2020, the husband of the deceased, maternal uncle, uncle, and brother Aijaz Ahmad had come to take back the deceased and had told that they would keep the deceased separately with her husband. She was residing in the house where her mother-in-law was also residing. On the day of occurrence, what had happened with the deceased, I have no personal knowledge regarding the same because I was not present there. I was myself under treatment those days, due to which reason I had not gone to the hospital. Before ritual bathing, the post-mortem of the deceased was conducted. The deceased was living with her husband on the second storey of the house. After living separately, the 'argument and fighting' was also taking place between them. The police called me to the police station several times. I do not remember on how many papers I put my signatures. On 12/7/22, the police took my statement, and after that, the police also recorded my statement today. I was not shown the statement which I had given to the police. I do not remember whether I had told the details about the wounds and scars which were on the body of the deceased or not. I also do not know whether the police had written my whole statement or had left some, but it is not true that the police had taken my signature on blank paper. My statement was read over to me. I have also read the same and then put my signature on it. At the time of giving the statement to the police, I was sick. The deceased was not taking any medicine those days and was quite healthy. I was sitting with my husband at the time when the husband of the deceased called my husband on the phone and told him to come to the hospital.

PW-12 Arshad Ahmad Malik S/o Ayaz Ahmad Malik R/o Zafran Colony Panthachowk at present Nund Reshi Colony Bemina dated 04/07/2024.

During the examination-in-chief, the witness deposed that the occurrence is of 22/6/22. I, in the afternoon, had come to my home at Nund Reshi Colony for taking lunch. As soon as I started taking lunch, the daughter of accused Parveez, namely Muntaha, came and told me that something had happened to Nachi. The deceased, Tasleema, was commonly known by the name of Nachi, who was the wife of Shahnawaz. I left my lunch there and started my auto. During this, accused Parveez had brought another auto and told me to help. Then, I went with Parveez to his house, and when we went inside, there was Mst. Jooli, Mst. Diya, and Baji, namely Mst. Hafeeza. I took Mst. Tasleema out of the room and brought her down the stairs. Then, Mst. Tasleema was boarded in the auto and taken to the hospital. The auto was of Parveez. I know the accused persons who are present virtually. When they reached the hospital with Mst. Tasleema, a Medical Assistant told them that perhaps Mst. Tasleema had died and told them that the actual fact would be told by the doctor. Due to the rush, they were brought out by the hospital staff. Later on, I went back home. Then, I heard on the same day that Mst. Tasleema had died and was buried during the same night. I have not participated in the funeral. The police have recorded my statement regarding this matter.

During cross-examination, the witness deposed that Muntaha came from the street and called me from the window. Accused Parveez was residing in my neighbourhood. There is one house existing between my house and the house of the accused persons. Accused Parveez is an auto driver by profession, and he too had come with the auto. The auto stand of Parveez is at Bemina, about $\frac{1}{2}$ km away from his house. The above-named ladies, while weeping, were trying to bring down Mst. Tasleema. Besides accused Parveez, I have not seen any other male member present in the house. Accused Parveez had also come to the spot from some place in an auto at that time.

PW-13 ASI Imtiyaz Ahmad S/o Said-ud-din R/o Bandipora dated 12/09/2024.

During the examination-in-chief, the witness deposed that the occurrence is of 22nd June 2022. I was posted in Police Station Batamaloo. On the day of occurrence, I was present in Police Station Batamaloo. An information was received through reliable sources that at Nund-Reshi Colony "B", a lady namely Mst. Tasleema Begum, wife of Shahnawaz Ahmad Dar, R/o Nund-Reshi Colony, had died under suspicious circumstances. In this regard, rumours were going on in the area, and it also came to be known that she had been taken to the hospital by her heirs. In this regard, I was given Nakal Mad from the police station, and I was directed to go to SMHS Hospital for conducting the legal formalities. I went to SMHS Hospital and, on reaching there, the dead body of the deceased was not there. After enquiry, I came to know that the dead body of the deceased was at JVC Hospital. Then, I went to JVC Hospital and found the dead body of the deceased lying there. I gave information to the superior officers regarding the facts and circumstances. From JVC, I went to Nund-Reshi Colony, where I conducted the inspection of the site and went back to JVC Hospital. In JVC, there were no proper facilities for conducting the post-mortem of the dead body, due to which reason the dead body was taken to Govt. Medical College, SMHS, for conducting the post-mortem. I prepared the memos. The contents of the memo regarding the handing over of the dead body are true and correct, which bears my signatures and is already marked as EXTP-4. The identification memo of the dead body, seen by the witness in the Court, was deposed to have been prepared by me and bears my signatures; the contents of the same are true and correct. I identify my signatures on it, which is already marked as EXTP-1. After the post-mortem of the dead body, the body was handed over to her legal heirs against proper receipt. After conducting the post-mortem, I obtained the samples of viscera and, on the next day, sent the samples to FSL for analysis and expert opinion. All this was done by me during the proceedings conducted under Section 174 Cr.P.C. The neighbours were called to the police station from time to time for investigation, and the statements of the suspicious persons were recorded. On 2/8/22, the report was received from the Medical College, from which it came to be known that the death of the deceased was caused due to respiratory arrest. I prepared a docket in the name of the SHO, in which I mentioned that the matter was of murder, as such, FIR be registered in the case and investigation be conducted. The docket regarding lodging of

the FIR bears my hand and signature, and the contents of the same are true and correct, which is marked as EXTP-13. Later on, the investigation of the case was conducted by the SHO. During the inquest proceedings under Section 174 Cr.P.C., I found that there was an embroilment going on between the deceased and the accused persons, and in this connection, the deceased was residing at her parental home, and at the time when the death was caused, the deceased was residing in her in-laws' house separately. During the inquest proceedings under Section 174 Cr.P.C., I obtained the call details and the tower location.

During cross-examination, the witness deposed that I was entrusted with the matter for conducting inquest proceedings under Section 174 Cr.P.C. regarding the occurrence and had conducted the proceedings under Section 174 Cr.P.C. During the proceedings under Section 175 Cr.P.C., I recorded the statement of witness Arshid Ahmad Malik, who was an auto driver. He stated that something had happened to the wife of Shahnawaz and that she was taken to JVC Hospital. He had given a further statement that as soon as he reached the spot, before him, one more auto came, which was driven by Parveez Ahmad. It is true that, as per the witness Arshad Ahmad Malik, when he reached the spot, thereafter Parvaiz Ahmad Dar reached the spot. It is true that Parvaiz Ahmad Dar was not present at home at that time. The witness Mushtaq Ahmad Bhat, in his statement under Section 175 Cr.P.C., has stated that on the day of occurrence, on 27/6/22, Shahnawaz Ahmad Dar was in his office from 10:00 a.m. to 2:30 p.m. and also stated that Parvaiz Ahmad had taken lunch with him. The PA of MD Sahib had given his vehicle, Scorpio, to Shahnawaz for taking the dock to Hyderpora. This means that Shahnawaz Ahmad Dar was also not present at his home on the day of occurrence. Shahnawaz Ahmad Dar has been arrayed as an accused in this case. Mudasir Ahmad Malla, who is a driver in PDD, has given his statement that on 27/6/22, the day of occurrence, Shahnawaz Ahmad Dar was present in his office but was not present at his home. Witness Mohammad Iqbal Ganie has given a statement that on the day of occurrence, Shahnawaz Ahmad Dar was present in his office at 2:30 p.m., and after this, the PA of MD gave Shahnawaz Ahmad Dar the office dock and sent him to Project Office, Hyderpora. One employee, Basharat Bashir, who is PA of MD, has given a statement that on 27/6/22 at 2:30 p.m., he gave the office dock to Shahnawaz and told him to drop it at Project Office, Hyderpora. The PDD office is situated at Lal Chowk. In case the road is open, it will take 12 minutes to reach from Lal Chowk to Hyderpora. In case there is a jam, it will take one or two hours. I have seized all the prescriptions and letters regarding the disease of the deceased. The defence counsel told the witness whether he had recorded on-the-spot statement of a lady, Saleema Begum, on the spot. She had stated that the deceased was well during the day. She had not given this statement that the deceased, on the day of occurrence, was harassed at her home.

PW-14 SGCT Shafiq Ahmad S/o Mohammad Yousuf R/o Anantnag Dated 14/10/2024.

During the examination-in-chief, the witness deposed that in the year 2022, I was posted as SGCT in Police Station Batamaloo. I was posted as an escort to the Incharge, Police Station. During the investigation of case FIR No. 109 of 2022, I went with the SHO, Police Station Batamaloo, to Nund-Reshi Colony-B, and I am a witness to the arrest of the accused Parvaiz Ahmad Dar and Shahnawaz Ahmad Dar, sons of Ghulam Qadir Dar. The accused were arrested in my presence. The arrest memo regarding the arrest of the accused bears my signature, and I identify my signature on the same. The contents are true and correct, which is already exhibited as EXPW-15. My statement was recorded by the police.

During cross-examination, the witness deposed that the accused were arrested at 3:45 in the evening. I do not know whether the House Officer had issued any notice to the accused for their arrest. I do not know whether the time was written on that seizure memo or not. On the arrest memo, the time of arrest is not written. I have read the contents of the arrest memo, in which it is not written that the family members of the accused persons were given information regarding their arrest. The arrest memo was prepared by the SHO, who was the IO. I do not know when the arrest memo was prepared.

PW-15 Zakir Hussain S/o Shabnum Ahmad R/o Harwan
Dated 28/09/2024.

During the examination-in-chief, the witness deposed that he knows the accused persons who were presented through VC from Central Jail Srinagar. On the day of occurrence, i.e., 27th June 2022, I was performing my duties with the escort of the SHO, Batamaloo, and on the day of occurrence, I, along with the SHO and other police personnel, went to Nund-Reshi, Bemina, where the accused persons were arrested. Because a murder was committed there, we went for arresting the accused. The contents of the arrest memo are true and correct, which bears my signature. I identify my signature on it, and it is marked as EXPW-15.

During cross-examination, the witness deposed that the arrest memo was prepared by the SHO on the spot. In my presence, the SHO arrested five persons, and in this regard, he prepared the arrest memo, on which I put my signature. The contents of the arrest memo were read over to the witness; however, the same is regarding two accused persons.

PW-16 Mst. Afrooza W/o Shabnum Ahmad No 527/S
Dated 28/09/2024

During examination-in-chief witness deposed that I know the accused persons present through VC. I know the accused No-3 as well as accused 1 and 2. I have knowledge regarding the arrest of accused 1 to 3. I put my signature on arrest memo. The contents of the same are true and correct. I identify my signature on it which is marked as EXPW-16.

During cross examination deposed that I put my signature on EXPW-16 in police station. Arrest memo might have been prepared by SHO.

PW-17 Shahmema W/o Altaf Hussain No 29/F Dated 25/11/2024.

During examination-in-chief witness deposed that in the year 2022, I was posted in Police Station Batamaloo. In the case FIR No 109 of 2022, I was given information by SHO that constables have to go to the Nundresh Colony Batamaloo regarding the above case where accused were arrested. The contents of the arrest memo are true and correct which bears my signature which is already marked as EXPW-16. In this regard, I have recorded my statement before the police.

No question was put to witness by the defence counsel in cross examination.

PW-18 Yasmeena W/o Ab Rehman SPO Dated 25/11/2024.

During examination-in-chief witness deposed that I went with SHO Police Station Batamaloo to Nundreshi colony where the accused were arrested. I identify the accused through the photographs on the challan.

During cross examination witness deposed that the five photographs shown were arrested. Where the accused were arrested, the house was two storeyed. On the document prepared regarding the arrest, I put my signature on the same. Then I put my signature on the statement recorded under section 161 Cr.P.C. The witness was shown the arrest memo and the statement under section 161 Cr.P.C which are annexed with the file, on both documents my signature as witness is not there.

PW-19 Abdul Wahid Mir S/o Gh Ahmad Mir R/o Dayarwani Dated 9/11/2024.

During the examination-in-chief, the witness deposed that among the accused persons, he knows accused Shahnawaz and Parvaiz and also accused No. 1. The occurrence took place about three years ago, but he does not remember the year. The accused Shahnawaz came to me and told me that he had some dispute with his wife; however, I do not know the name of his wife. The accused Shahnawaz came and told me that he was having a dispute with his wife regarding golden ornaments and told me to conduct negotiations between them. There is a committee in the area in which I am working as a member. Regarding these matters, a committee is working. Then I arranged a meeting in which accused Shahnawaz, his brother and his maternal uncle, and from the other side, there were the deceased, her father and brother. Both the parties were asking for ending the relation by giving talaq; however, the accused Shahnawaz took me to a separate room and told me that he was not willing to end relations with his wife because he had good terms with his wife. The deceased told that she did not want talaq but wanted to live her life. Then I gave a suggestion to the parties to wait for one month, as such the meeting ended. Then accused Shahnawaz took his wife along with him to the matrimonial home. The parties have not talked with me till date regarding that matter. At this stage, the witness, on the request

of Ld. APP, was declared hostile and, during cross-examination by the Ld. APP, stated that during the initial investigation, I had given my statement before the police. My signature bears on my statement under Section 161 Cr.P.C. It is true that the deceased had told me that the accused Shahnawaz had taken two golden bangles from her for purchasing the vehicle; however, I do not know which vehicle they had to purchase. The deceased had also told me that whatever the accused Shahnawaz earned from that vehicle, he gave the same to his family members, and it is also true that the deceased had told me that she did not receive anything from the income of the vehicle. It is true that the father of the deceased had sold some ornaments of the deceased and also added his own amount to the same and purchased land for the wife of Shahnawaz, and accused No. 5 Shahnawaz had also accepted that the same had happened. Accused No. 5 had told me that he took it ill as to why Mst. Tasleema had purchased a plot near her parental home. It is not correct that Shahnawaz had told that why his wife had purchased land in her own name. It is true that accused No. 5 was telling me that whatever he was earning from the vehicle, he was spending it at his home. I was told by both of them that Shahnawaz was not giving any amount from the income of the vehicle to her. His other statement is true and correct.

During cross-examination by the counsel for the accused, he stated that it is true that Shahnawaz and the deceased, Mst. Tasleema, wanted to spend their life with each other happily. I had called both the husband and wife separately in the room to enquire as to why the matter had reached up to talaq, but both of them had stated that they wanted to live their life happily. This was accepted by Shahnawaz, that the deceased Tasleema had given her two golden bangles for purchasing the vehicle and whatever amount of the same would be, the same would be paid back to her slowly. Then I also found that there was no dispute between the husband and wife due to which divorce would take place between them. It is true that accused No. 5 Shahnawaz had come to me, after which the deceased Tasleema remained present with her father in the committee. There was no matter regarding any fighting or arguing.

PW-20 Dr. Uzma Manzoor Buch Lecturer Forensic Medicine and Taxcology GMC sgr. Dated-10-07-23.

During the examination-in-chief, the witness deposed that I was posted as Lecturer, Forensic Medicine and Toxicology, GMC Srinagar, on 27th June 2022. On the said date, we received the body of the deceased at around 5:30 p.m., and after receiving the docket for autopsy, we started the autopsy at around 7:00 p.m. There was a team of doctors, myself, Dr. Firdous Khan, Lecturer, GMC Srinagar, and Dr. Bilal Ahmad Wani, Medical Officer, J&K Health Services. We noted the external injuries, which are documented in our post-mortem report. Further, we sent viscera for histopathological examination and toxicological analysis, and after perusal of the reports given by these respective departments, we gave the final post-mortem report on 2nd August 2022. During external examination, the upper and lower lips were deeply cyanosed, with multiple small contusions present on the inner side of the lip. There was a

lacerated wound measuring 1 cm x 0.5 cm present behind the left ear. Contusions measuring 4 cm x 3 cm were present on the left side of the face in front of the left ear. A contusion measuring 2 cm x 2 cm was present on the chin. A contusion measuring 2 cm x 1.5 cm was present on the outer side of the left arm, 4 cm above the elbow joint. An abrasion, reddish in colour, measuring 3 cm x 2 cm, was present 1 cm above the right elbow joint. A contusion measuring 5 cm x 4 cm was present on the right thenar area, just below the proximal phalanx of the right thumb. A contusion measuring 5 cm x 4 cm was present on the left thenar area, just below the proximal phalanx of the left thumb. There was petechial haemorrhage present on the right and left sides of the face in front of both ears. The tongue was bitten between the teeth, and blood-stained discharge was present in the mouth. A contusion was present over the bridge of the nose, with deeply cyanosed nostrils. There was subconjunctival haemorrhage present in both eyes. The injuries above mentioned are not self-inflicted. During post-mortem, organs like the brain, lungs, liver, spleen and kidneys were congested. After perusal of the toxicological analysis report, radiological examination report, histopathological report and complete post-mortem examination, we are of the opinion that the findings were consistent with death due to asphyxia. The post-mortem report on the file is under my signature and is identified by me. The contents of the post-mortem report from page 1 to page 5 are true and correct, and the same is exhibited as EXT. P-20, dated 10-7-2023.

During cross-examination, the witness deposed that it is true that smothering is a type of asphyxia caused by blockage of the external air passage. I have not gone through the medical jurisprudence of Modi. Smothering is homicidal, and it can be rarely accidental, especially in children. In my opinion, suicidal smothering is not possible. If Modi has written in his book that suicidal smothering is difficult but not impossible, in this aspect, I have not seen any such cases till date. I have not received the form which is called Report Marg No. 1, and I have only received the docket from the police for conducting the post-mortem. Whatever the police has written on Report Marg No. 1, I cannot comment upon it. I have not enquired from the relatives of the deceased or the police regarding any such disease, etc., of the deceased. I asked the Incharge Officer to provide me with the health history of the deceased, but the same was not provided. At the time of post-mortem, I was not provided with any medical history of the deceased. I have not been informed by any person that the deceased was suffering from acute depression for not conceiving a child. During post-mortem, I have not opened the food pipe, and I only opened the windpipe. If any foreign particle gets stuck in the food pipe, it can cause choking and can block the passage of air also. I cannot comment as to whether heart ailments and heart disease can cause stoppage of air; it can only be answered by a specialized doctor. I have not found any abrasion marks or any sort of

injuries on the foot or heels of the deceased, and even there were no scratch marks on the face of the deceased. There were no scratch marks on both hands of the deceased on the upper side. There were no injury marks on the wrists of the deceased. I cannot comment upon the presence of any struggle marks on the heels of the deceased, as there were no such visible injuries. Question: You have not directed the IO to produce the accused persons before you to ascertain as to whether there were any struggle nail injuries on their faces? Answer: I am in no position or authority to direct the IO about how to conduct his investigation. The clothes of the deceased were in order before conducting the post-mortem. I received the body of the deceased at 7:00 p.m. for conducting the post-mortem. I have not mentioned the duration of the time since death, as per rule, rigor mortis starts to develop in 12 hours and stays in the body for 12 hours, and it vanishes in the manner as it appears in the next 12 hours. I have mentioned in my post-mortem that rigor mortis was present only in the upper extremities. Post-mortem staining was present on the back, and it was not fixed. The deceased was moderately built and well-nourished. Lungs cannot rupture due to smothering.

PW-21 Doctor Firdous Khan (Lecturer) Government Medical College Srinagar dated 7-08- 2023.

During the examination-in-chief, the witness deposed that on 22.06.2022, I was posted as a Lecturer at Government Medical College, Srinagar. The post-mortem report EXT. P-20 on the file bears my signature. The body of the deceased was brought to GMC Srinagar on 27.06.2022, at around 5:30 p.m. The deceased was identified by her father, namely Mr. Abdul Aziz Dar, and the body was brought by ASI Mohd. Amin of P/S Batmaloo. The post-mortem was started at around 7:00 p.m. by the team of doctors, including me, Dr. Uzma Buch and Dr. Bilal from the Health Department. On conducting the post-mortem of the deceased, the height was around 5.5 ft., she was moderately built, her hair was coloured, and the maximum length was 60 cm. Post-mortem staining was present on the back and it was not fixed. During physical examination of the deceased, there was a contusion of the nasal bridge, and there were multiple small contusions present on the lower lip. A tongue bite was present, and blood-stained discharge was seen from the mouth. Contusions were present on the right and left sides of the face, just below the ear, with petechial haemorrhages. Besides, laceration was present behind the ear. A contusion was present on the outer side of the left arm, 4 cm above the elbow joint. Contusions were present on the left and right thenar areas, just below the proximal phalanx, and abrasions were present on the right elbow joint. After conducting the external examination, we opened the body and examined the internal organs and found that the liver, spleen and kidney were congested, and left ventricular hypertrophy was seen in the heart. As a routine procedure, we collected blood samples, portions of the liver, kidney, spleen and lung,

and the entire stomach, which were sent for chemical analysis. We also sent the heart, kidney, lung, liver and spleen for histopathological examination, and after receiving all the reports, we were of the opinion that the findings were consistent with death due to asphyxia (smothering). The physical injuries were not self-inflicted injuries. The FSL report that was received from the expert FSL and the report from Pathology, GMC Srinagar, are on the file, which was shown to me today, and on the said reports, we framed the opinion with regard to the death of the deceased.

During cross-examination, the witness deposed that on 27th June 2022, after opening the body while conducting the post-mortem, we, all the doctors, had not framed the opinion as to the case of smothering. The final opinion was not framed on that day because it was departmental protocol to rule out any pathology or the case of poisoning or intoxication. Had there been a case of poisoning or intoxication, the opinion would have been the same (smothering). Suicidal smothering is possible if a portion of the face is covered with polythene; electrical discharge is produced because polythene gets stuck, and the person is not able to breathe, and there will be no contusions on the lips or around it. It is not possible that smothering can be done by a person himself. I have not found any struggle marks, scuffle or violence marks on the body of the deceased. There were no violence marks on the cheeks; however, violence marks were present on the side of the face, nasal bridge, lower lips and behind the ear. There were no nail injuries on the cheeks of the deceased. We have not examined the food pipe of the deceased because we did not suspect any aspiration. Choking can cause blockage of the air passage. We have examined the heels of the deceased, but there were no injuries or abrasions. Before conducting the post-mortem of the deceased, no one confirmed any heart disease; however, I enquired about the medical history from the police, who showed that the deceased was suffering from hypertension, and the document was shown to me by the police. Initially, I opened the body of the deceased from the sternal notch to the pubic symphysis. Theatre boy Tariq was present during the post-mortem proceedings. I cannot recall the name of the postgraduate who was writing the contents of the post-mortem. Dr. Uzma and I were dictating the post-mortem proceedings. The proceedings were written on a piece of paper, and I do not remember where the piece of paper was kept. In suicidal smothering and homicidal smothering, the marks are not the same.

PW-22 Doctor Bilal Ahmad wani Medical Officer J&K Health service Srinagar dated 07-08-2023.

During the examination-in-chief, the witness deposed that on 27th June 2022, I was posted/deputed at GMC Srinagar. We received the body of the deceased on 27th June 2022 at around 5:30 p.m. and started to conduct the post-mortem at around 7:00 p.m. First, we examined the external injuries sustained by the deceased. A lacerated

wound was visible behind the left ear. Contusions were seen on the left side of the face and in front of the left ear. Contusions were present on the chin. Contusions were also visible on the left arm above the elbow joint. Abrasions were present above the right elbow joint. Contusions were visible on the right thenar area, just below the proximal phalanx of the right thumb. Contusions were also visible on the left thenar area, just below the proximal phalanx of the left thumb. During internal examination, we collected the viscera, stomach and blood samples, which were sent for histopathological examination, and the stomach and blood samples were sent to FSL Srinagar. After receiving the histopathological report from the Pathology Department, GMC Srinagar, and the FSL opinion, we came to the conclusion that the death of the deceased was due to asphyxia (smothering). Dr. Firdous Khan, Dr. Uzma Buch and myself were the team of doctors. The post-mortem report EXT. P-20 bears my signature. The contents are true and correct. The FSL report and pathological report on the file are shown to me; they are the reports on which we framed the final opinion.

During cross-examination, the witness deposed that I was deputed at GMC Srinagar; however, I was posted at Trauma Hospital, Lawaypora. As per the monthly roster, I was deputed to GMC Srinagar. The dead body was brought to me by ASI Mumtaz Ahmad. I was supposed to conduct the post-mortem on receipt of the dead body. I did not conduct the post-mortem of my own. We all, that is, Dr. Uzma, Dr. Firdous and I, conducted the post-mortem of the deceased. I preferred to consult the experts for conducting the post-mortem of the deceased. Dr. Uzma and Dr. Firdous were having expertise in post-mortem. I do not have any specialization. I am simply a Medical Officer. The post-mortem was conducted in the mortuary of GMC Srinagar. I cannot remember who first opened the body of the deceased during the post-mortem; however, both the doctors started opening the body of the deceased for post-mortem. Apart from the three of us, there were two post-mortem boys. I exactly do not know who was actually writing the findings of the post-mortem. I do not know whether their findings were written in a notebook or on a piece of paper. No one was dictating to the person who was writing their findings of the post-mortem. I have not written the findings of the post-mortem, nor conducted the post-mortem myself. As such, I do not know about the findings of the post-mortem. We all three doctors framed the final opinion. I have only put my signatures on the final opinion since I have not conducted the post-mortem nor have I given any finding on the post-mortem. When I signed the final report, it was 2nd August 2022, and on the same date, I was not on roster duty. I had personally gone to sign the final opinion. On that date, I was posted as Medical Officer at Trauma Hospital, Lawaypora. On the first page of the opinion, there are no signatures of the doctors or myself. Likewise, there are no signatures of the concerned doctors and myself on pages 2 to 4. I do not know where the final opinion was drafted and by whom it was compiled.

FSL report of Syed Nabi Ahmad Andrabi Asstt. Scientific Office admitted by accused persons on 13/02/2025.

Subject:- VISCERA OF TASLEEMA SANO W/O SHAHNAWAZ AHMAD DAR R/O BEMINA.

Received on 29-06-2022 two (02) sealed jars and one (01) sealed vial marked as "1, 2 and 3" enclosed within adhesive tape bearing 04, 04 and 03 intact seals respectively, forwarded for examination by Dr Firdous Khan MD Forensic Medicine GMC Sgr, vide letter No. FM/MC/PM/2022/13 dated: 17-06-2022, sent through ASI Mumtaz Ahmad EXK-911890.

DESCRIPTION OF THE EXHIBITS:

Jar 1:- Said to contain "Stomach" which was given exhibit No. NA-1099/22 by me in the lab.

Jar 2 (Vial):- Said to contain "Blood which was given exhibit No. NA-1100/22 by me in the lab.

Jar 3:- Said to contain "One half of each Kidney, Liver, Lung and Spleen" which was given exhibit No. NA-1101/22 by me in the lab.

The above seals were opened in my presence and the contents of the exhibits were duly examined by me remaining under my immediate custody until the examination was completed.

EXAMINATION AND RESULT:

The exhibits were subjected to chemical, Microscopical and chromatographic examinations and the result arrived at is as under:

"NO POISON WAS DETECTED IN THE EXHIBIT NO'S NA-1099/22 TO 1101/22".

PW-24 Sheikh Vakeel Sub-Inspector No 115533/ARP Dated 02/01/2025.

During the examination-in-chief, the witness deposed that the accused persons presented through VC from the concerned jail are known to me. I also know the exempted accused. In the year 2022, I was posted as SHO, Police Station Batamaloo. On 02.08.2022, ASI Mukhtar, who was conducting the inquest enquiry under Section 174 Cr.P.C. regarding the deceased Tasleema, resident of Nund-Reshi Colony, Bemina, received the final post-mortem report, as per which Dr. Uzma found that the death of the deceased was caused due to asphyxia through smothering. After receiving the final medical opinion in the proceedings under Section 174 Cr.P.C., case FIR No. 109 of 2022 under Section 302 IPC was registered in Police Station Batamaloo. I started the investigation of the case myself. During investigation, firstly, I seized the file regarding the proceedings conducted under Section 174 Cr.P.C. I prepared the seizure

memo regarding the seizure of the file pertaining to the proceedings under Section 174 Cr.P.C. The seizure memo prepared by me bears my signature. I identify my signature on the same, which is marked as EXPW-24. I had a cursory look at the place of occurrence and prepared the site map. The site map was prepared by me, which bears my signature. I identify the same, which is true and correct, and is marked as EXPW-24/1. I recorded the statements of three witnesses and then arrested the accused persons, among whom three are ladies and two are male. The arrest memos regarding the lady accused and male accused were prepared separately. The contents of the same are true and correct, which bear my hand and signature. I identify my signatures on the same, which are already exhibited as EXPW-15 and EXPW-16, respectively. The post-mortem report of the deceased was seized by me during the investigation and made part of the challan. After the arrest of the accused persons, their remand was taken from time to time. During investigation, on the basis of the statements of the witnesses, the offence under Section 498-A IPC was found to be made out. The concerned telecom companies were contacted regarding the call details of the phone numbers of the accused persons and the deceased, and during the investigation, the statements of some witnesses were recorded under Section 164-A Cr.P.C. After conducting the investigation of the case for 20 days, I was transferred from Police Station Batamaloo to Safakadal.

During cross-examination, the witness deposed that I have perused the file of the enquiry conducted under Section 174 Cr.P.C. The file regarding the inquest was conducted from 27.06.2022 to 02.08.2022. During the inquest, no document came to me that some person/persons had deliberately murdered the deceased. During my investigation, no evidence came on behalf of the neighbours that any scuffle took place between the deceased and the accused persons. It is true that the deceased had talked with her sister on the day of occurrence at 11:30 a.m. It is true that the deceased, while talking with her sister at 11:30 a.m., had not stated that she was beaten by her in-laws. After registering the FIR, no such written complaint was received by me from which it would be established that the deceased was beaten, however, in the statements, it is stated that the deceased was deliberately killed. All the witnesses recorded before the registration of the FIR and after the registration of the FIR are residents of HMT area. The statements of the witnesses which I recorded were not residents of the deceased's in-laws' area but belonged to the area of the parental home of the deceased. The parents of the deceased were residents of HMT area. The deceased was residing separately with her husband. She was living with her husband in the same house of her in-laws and was having a separate cooking stove in the kitchen. During investigation, I called all the persons present in the in-laws' house of the deceased as well as the children for questioning and inquiry. The accused ladies were also called to the police station before their arrest for questioning. The suspicious persons who were called to the police station during the investigation, from none of their statements was it found that the occurrence was committed by them, as far as my investigation in the

case is concerned. It is true that, besides the post-mortem report and the statements which were recorded by me under Sections 161 and 164, no other evidence came regarding the involvement of the accused persons. During the inquiry from the neighbours of the matrimonial home of the deceased, it was not certified that any scuffle had taken place. I have not asked the doctor as to what kind of smothering had taken place. I have not seen the dead body of the deceased during the investigation or during the proceedings under Sections 174 or 175 Cr.P.C. I have not inquired from the doctors during the investigation whether on the neck or mouth of the deceased there were any nail marks. During investigation, I have not seen any such mark. The Inquiry Officer had written to the doctor whether on the mouth or neck of the deceased there were marks of violence and smothering, however, no reply has come regarding the same. As per my investigation, the site map of the house, i.e., the room where the dead body of the deceased was lying, as per the inquest report, makes it clear that no article was disturbed in the room. It is true that during the investigation, I issued summons under Section 107 Cr.P.C. to the witnesses Mudasir Ahmad, Driver, PDD; Mohammed Iqbal, Driver, MD-PDD; Mushtaq Ahmad, Driver, PDD; Zahoor Ahmed, PSO, MD-PDD; and Basharat Ahmad, PA to MD PDD, for ascertaining the fact as to from what time till what time the accused Shahnawaz was present in the office on the day of occurrence. The office, which is situated in Rajbagh-Jawahar Nagar, is at a distance of 1 km from the matrimonial home of the deceased. From the statement of the said witness, it came to know that accused Shahnawaz Ahmad was on duty, and during this, a phone call came that his wife was ill. During the investigation, from the questioning of the accused persons, it came to know that accused Pervaiz had also received a phone call whereby he was told to come home with an Auto as something had happened to the deceased Tasleema. It is also correct that one witness, namely Arshad, who is the neighbour of the accused person, when he reached near the house of the accused person, at that time Pervaiz Ahmad had reached near the house of the accused person in an Auto. In the post-mortem, the opinion given by Dr. Uzma Bhat is her own expert opinion. During the investigation, I have not received any adequate reply from the telecom company. As per my opinion, from the CDR (Call Detail Record), it would be ascertained whether accused Shahnawaz and accused Pervaiz were at home on the day of occurrence or not. It is true that during the inquest proceedings, the accused persons were not arrayed as accused. No independent evidence came whereby it would be known that the occurrence was committed by all the five accused or by three accused or by one accused. It can be stated by the doctor whether the medicines which the deceased was taking could cause death or not. During the proceedings under Section 174, the Inquiry Officer seized the prescription of those medicines from the matrimonial home of the deceased and wrote to the doctor whether by taking these medicines, smothering could happen or not. No such reply was received during the inquest proceedings.

PW-25 Inspector Mir Qazim No 5536 Dated
13/02/2025.

During the examination-in-chief, the witness deposed that in the year 2022, I was posted as SHO, Police Station Batamaloo. The FIR bearing No. 109 of 2022 under Sections 302, 498-A and 120-B IPC was registered in Police Station Batamaloo. Before me, Sheikh Vakeel, who was SHO of the police station, conducted part of the investigation of the matter. He was transferred, and I took over the case and conducted the remaining investigation in the case. I obtained remand of the accused persons from time to time from the competent court. During investigation, I obtained the mobile phone numbers of five accused persons and, regarding their CDR details, I made communication with the telecom companies and obtained CDR details regarding the cell numbers. As per the CDR details, the location of all the five accused persons was shown to be at the same place, which is Abubakar Colony, Bemina. During investigation, I came to know that, as per the CDR details, the accused persons were in contact with each other on phone, therefore, I added the offence under Section 120-B IPC in the case. Later on, I perused the evidence minutely and reached the conclusion that the offences were proved against the accused persons and presented the challan against the accused persons before the court.

During cross-examination by the counsel for the accused, the witness stated that after obtaining the CDR details, I added the offence under Section 120-B IPC and presented the challan in the court. It is true that all the accused persons are relatives, as such, it is natural that the accused would be in contact with each other. From the CDR details, it came to be known that the accused persons were in contact with each other since 10:00 a.m. Where and when the conspiracy was hatched, I do not know. Only the location of the accused persons was found at the same place. I have not verified whether, during the proceedings under Section 174 Cr.P.C., evidence had come that accused Shahnawaz was present in his office on the day of occurrence. I have not perused the statements of those witnesses who, during the enquiry under Section 174 Cr.P.C., had given the statement that accused Shahnawaz, on the day of occurrence, was present in his office. I have not verified from the witnesses at what distance the house of accused Shahnawaz was from his office. I have not perused the statements of the witnesses who were recorded during the proceedings under Section 174 Cr.P.C. or by the earlier Investigating Officer to see whether Parveez had come home after receiving information on phone. Before me, no eyewitness had come who would have stated that the accused persons had committed the occurrence. Before me, the earlier Investigating Officer had conducted the investigation, and then I conducted the remaining investigation in the matter. I have obtained CDR details, regarding which the certificate under Section 65-B of the Evidence Act was not obtained.

7. The incriminating evidence which has come on the record through the evidence of the prosecution was put to the accused persons for their explanation one by one under the provisions of Section 313 Cr.P.C on 30th of May 2025. It would be proper to reproduce the statements of the accused persons, which is as under:-

Accused No-1 Mst Hafeeza.

Q) Whether you have heard the statements of the witnesses?

Ans) Yes Sir.

Q) In the evidence of Prosecution Witness No. 1, it has come that the deceased was his daughter and her marriage was solemnized with your son, Shahnawaz Ahmad, in the year 2013, and she died in 2022. For about 1½ years after the marriage, the deceased lived her life in her in-laws' house in a cordial atmosphere, and later, her relations with you and the other accused deteriorated because the deceased could not bear any child. You and the other accused, Parveez Ahmad, were disgracing her, and you told PW-1 on the phone that you had given them a "Khota Sika" and that, before the marriage of the deceased, he should have conducted her medical examination. The witness No. 1 has also stated that you and the other accused had grabbed the mahar amount of Rs. 2.0 lakh belonging to the deceased and that, on a number of occasions, there were disagreements between you and the other accused persons and PW-1. What do you have to say about the same?

Ans) The prosecution witness has given a false statement. I have never quarrelled with the deceased, nor have I had any disagreement with her. I have never told PW-1 that he had given them the 'Khota Sika'. The mehar amount of the deceased has not been grabbed by her or other family members.

Q) It has come in the statement of PW-2 that he knows you, and the marriage of the deceased was performed with your son, Shahnawaz Ahmad, 9 years ago. The deceased could not beget any child, on which you and the other accused were committing torture upon her, and once you called the father of the deceased on the phone and told him to take the deceased back to her parental home. What do you have to say in this regard?

(Ans) The witness has given false statements and has implicated the accused persons in a false case. I have never told Witness No. 1 to take his daughter back.

(Q) It has come in the evidence of PW-3 that the marriage of the deceased was solemnized with Shahnawaz Ahmad in the year 2013. After 1½ years, no child could be born to the deceased, due to which differences occurred between them. Then Shahnawaz Ahmad fell ill, and his surgery was conducted, and thereafter, for some period, the terms between them remained cordial. Then again, due to not giving birth to a child, differences started, and your second son, namely Parvaiz Ahmad @ Bilal Ahmad, gave electric current to the deceased with the heater and also beat her. Then they went to Police Station Bemina, where the Dy. SP was present, who called you and the other accused persons to the police post, where you, Parvaiz Ahmad and Shahnawaz sought an apology. The witness has further admitted the contents of the disclosure memo EXTP-1, seizure memo EXTP-3, and receipt memo regarding the dead body EXTP-1/I to be true and correct. What do you have to say about it?

(Ans)_The prosecution witness has given a false statement. It is true that Shahnawaz was ill and that his surgery was conducted. The deceased was not given an electric shock by anyone using a heater. The witness has given a false statement due to animosity.

Q) It has come in the statement of Prosecution Witness No. 4 that he knows you and the other accused persons. The marriage of his sister was solemnized with your son Shahnawaz. Then you and the other accused persons were harassing the deceased, and in the year 2018, you threw her out of the home because she had not given birth to any child. Later on, they compromised, and it was settled that the deceased would reside separately in her matrimonial home. Then, on 27th June, they received information that the deceased was admitted to the hospital, and later on, she died. The witness has admitted the contents of the seizure memo EXTP-3, EXT- $\frac{1}{2}$, EXAT, and EXTP-4 to be true and correct. What do you have to say regarding this?

(Ans) The prosecution witness has given a false statement. The deceased was never thrown out of her home, however, she was living separately with her husband.

Q) It has come in the evidence of Prosecution Witness No. 5 that the deceased was the daughter of Abdul Aziz and her Nikah was performed with accused Shahnawaz in the year 2013. For one year, the terms of the deceased with her in-laws were cordial, and later on, the relations between accused Shahnawaz and the deceased deteriorated, and in the year 2020, the deceased returned to her parental home. Later on, in the year 2022, she returned to her in-laws' house. On 26/7/2022, the deceased was taken to JVC Hospital, where her death occurred. It has come in the evidence of the witness that you and the other accused persons were beating and rebuking the deceased because she could not give birth to a child. What do you have to say about this?

(Ans) It is true that the Nikah of accused Shahnawaz and the deceased was performed in the year 2013, and both were living their lives happily. The deceased used to go to her parental home and then return to her matrimonial home with her husband. I have no knowledge regarding the statement given by Prosecution Witness No. 5.

(Q)It has come in the evidence of PW-8 that she knows you and the other accused persons. The deceased was the sister of the witness, and she had seen the dead body of the deceased and found that there were injuries on her chest, her tongue was between her teeth, marks were present on her face, and her neck was broken. The witness has further stated that the terms between accused Shahnawaz and the deceased were not good. You and the other family members were harassing the deceased because she could not give birth to any child. What do you have to say regarding the same?

(Ans) At the time of the death of the deceased, there were no wounds on her body or face. The prosecution witness has given a false statement.

(Q) It has come in the evidence of Prosecution Witness No. 7 that you, Mst. Diya and Joli brought down the deceased through the stairs and boarded her in an auto, and the said witness, along with accused Parvaiz Ahmad, went to your home. Regarding this, the daughter of accused Parvaiz Ahmad called the said witness to the home and told him that something had happened to the deceased and that she was to be taken to the hospital. What do you have to say regarding the same?

(Ans.) She, as well as the other accused persons, boarded the deceased in the auto of Parvaiz for taking her to the hospital because she had become unconscious. We called the said witness, Irshad Ahmad Malik, and told him that something had happened to the deceased and that she was to be taken to the hospital, and in the meanwhile, we gave information to Parvaiz.

(Q) It has come in the statement of PW-11 that he knows you and the other accused persons presented through VC. The marriage of the deceased was solemnized with accused Shahnawaz Ahmad Dar 9 years before, and despite the passing of 9 years, they had no child, due to which there was disgrace between them, and often you and the other family members were harassing her. The witness has further stated that the deceased had come to you on the day of Eid, and you told her that today wives are being murdered and no investigation is being conducted regarding the same, upon which the deceased told you that nowadays, after post-mortem is conducted, the mothers-in-law are sent to jail. What do you have to say about this?

(Ans.) The prosecution witness has given a false statement. The fact is that the deceased was residing separately with her husband and was not residing with her.

(Q) It has come in the statement of PW-12 that you along with Mst. Diya & Juli were bringing down the deceased from the stairs and boarded her in the Auto when the witness and Parvaiz Ahmad reached your house and qua which daughter of Parvaiz Ahmad called the witness from his house and told him that something untoward has happened to the deceased. What do you have to say about this?

(Ans.) I and along with other accused took the deceased to the hospital in the Auto of Parvaiz Ahmad as the deceased was conscious and we had called the prosecution witness Parvaiz Ahmad to our house and told him something untoward happened to the deceased and she is to be taken to hospital and in the meantime accused Parvaiz Ahmad was also informed about the incident.

(Q) It has come in the statement of PW-13 that on 27th June 2022, he was posted at Police Station Batamaloo, and the police received information that a death had occurred in Nund-Reshi Colony. The witness was directed to go to SHMS Hospital and conduct the proceedings as per law. Then, after conducting the post-mortem of the dead body, the memos were prepared, and the contents of the receipt memo of the dead body, EXPW-4, are true and correct. The viscera samples were sent to FSL, and expert opinion and the post-mortem report were obtained. As the matter was one of murder, an FIR was lodged, and the contents of the FIR, EXT.P-13, are true and correct. What do you have to say?

(Ans.) The prosecution witness has performed his official duties. The post-mortem of the deceased was conducted by the police. She does not know whether the contents of the same are true and correct.

(Q) It has come in the statements of Prosecution Witnesses Nos. 14, 15, 16, 17, and 18 that they, along with the SHO Batamaloo, went to Nund-Reshi Colony, where you and the other accused persons were arrested. The witness has admitted the contents of EXPW-10 to be true and correct. What do you have to say regarding the same?

(Ans.) It is true that she and the other accused persons, Saike and Sumyi, were arrested by the police.

(Q) It has come in the statement of PW-20 that, after conducting the examination of the deceased, it was found that the upper and lower lips were deeply cyanosed, with multiple small contusions present on the inner side of the lips. There were lacerated contusions measuring 4 cm × 3 cm, 2 cm × 2 cm, and 2 cm × 1.5 cm present on the left side of the face in front of the left ear, on the chin, and on the outer side of the left arm, 4 cm above the elbow joint, respectively. There was petechial haemorrhage present on the right and left sides of the face in front of both ears. The tongue was bitten between the teeth, and blood-stained discharge was present in the mouth. There was subconjunctival haemorrhage present in both eyes. The opinion was consistent with death due to asphyxia. The injuries were not self-inflicted. The witness identified his signatures, and the contents of the report EXTP-20 are true and correct. What do you have to say regarding the same?

(Ans.) She has no knowledge regarding the statement given by the prosecution witness, however, there was no injury on the body of the deceased.

(Q) It has come in the statement of PW-21 that the death of the deceased was caused due to asphyxia (smothering). The FSL report was received from the FSL expert and the report of the Pathology Department, GMC Srinagar. The witness accepted that, on account of the reports, the medical opinion was framed with regard to the death of the deceased. It is further testified by him that the

injuries were not self-inflicted. What do you have to say regarding the same?

(Ans.) I have no knowledge regarding the statement given by the prosecution witness; however, the death of the deceased was caused by herself.

(Q) It has come in the evidence of PW-22 that the death of the deceased was caused due to asphyxia (smothering). During the examination, it was stated that contusions were present on the chin, on the left arm above the elbow joint, and on the left thenar area, just below the proximal phalanx of the left thumb. Abrasions were found above the right elbow joint. What do you have to say about this?

(Ans.) I have no knowledge regarding the statement given by the prosecution witness. However, there was no mark of injury on the body of the deceased. The body of the deceased was clear like a mirror.

(Q) It has come in the evidence of PW-24 that he knows you. In the year 2022, he was posted as SHO at Police Station Batamaloo. On 2/8/2022, Mukhtar Hussain was conducting the proceedings under Section 174 Cr.P.C., and on 2/8/2022, the final report was received, as per which Dr. Uzma found that the death of the deceased was caused due to asphyxia through smothering. Thereafter, FIR No. 109 of 2022 under Section 302 IPC was registered, and the witness started the investigation and prepared the seizure memo. The witness has admitted the contents of the seizure memo EXPW-24 to be true and correct, and it bears his hand and signature. The witness recorded the statements of witnesses and arrested you and the other accused persons. He has admitted the contents of EXPW-16 to be true and correct and also obtained remand from time to time. What do you have to state?

(Ans.) The witness has performed his official duties. I have no knowledge regarding the same.

(Q) It has come in the evidence of Prosecution Witness No. 25, Inspector Mir Qasim, that he was working as SHO in the year 2022. Case FIR No. 109 of 2012, for the commission of offences under Sections 302, 498-A, 120-B, and 201 IPC, was registered at Police Station Batamaloo. The witness obtained your remand as well as the remand of other accused persons from time to time and also obtained your phone numbers during the investigation and obtained the CDR, from which it was established that your location was at the same place at Abu Bakar Colony, Bemina, Srinagar. During the investigation, it came to be known that you were in contact with each other on the phone. As such, the offence under Section 120-B IPC was added against you, and after going through the evidence, the above offences were found established against you and the other accused persons, and the challan against you and the other

accused persons was presented before the competent court. What do you have to say regarding the same?

(Ans.) The prosecution witness has given a false statement. I do not know which witness made the phone call, however, the relatives might have made phone calls to the deceased after she was taken to the hospital.

(Q) Why have the prosecution witnesses given statements against you?

(Ans.) Why the prosecution witnesses have given statements against me, on what basis, and why they have given false statements, I do not know.

Accused No -2 Mst Sumiya

(Q) Whether you have heard the statements of the witnesses?

(Ans) Yes Sir.

(Q) In the evidence of Prosecution Witness No. 1, it has come that the deceased was his sister and her marriage was performed with your brother-in-law, Shahnawaz Ahmad Dar, in the year 2013, and she died in the year 2022. After the marriage, the deceased was living in her matrimonial house for about $1\frac{1}{2}$ years and was living very well. Later on, your terms and those of the other family members with her deteriorated because the deceased could not give birth to any child. What do you have to say about the same?

(Ans.) The prosecution witness has given a false statement. I myself am a daughter-in-law, and she was not having any grudge against me for not giving birth to a child.

(Q) It has come in the evidence of PW-2 that he knows you. The marriage of the deceased was performed with your brother-in-law, Shahnawaz Ahmad Dar, 9 years ago. The deceased had not given birth to any child. You and your in-laws were subjecting her to torture.

(Ans.) The prosecution witness has given a wrong statement. She is also a daughter-in-law in the said house and is living separately. She was not having any interest in whether the deceased gave birth to a child or not.

(Q) In the statement of Prosecution Witness No. 3, it has come that the marriage of the deceased was performed in the year 2013 with Shahnawaz Ahmad. For not giving birth to a child during $1\frac{1}{2}$ years, differences arose. Then Shahnawaz fell ill, and his surgery was conducted, and thereafter, their relations remained cordial for some time. However, the child could not be born, and again differences started, and your brother-in-law, Parvaiz Ahmad @ Bilal, gave the deceased an electric shock with a heater. Further, the witness has admitted the contents of the identification memo of the dead body, EXT-P1, seizure memo, EXT-P3, and seizure memo regarding the dead body, EXT-P1/2, to be true and correct. What do you have to say about the same?

(Ans.) The prosecution witness has given a false statement. The deceased was not given an electric shock with a heater by anyone. The witness has stated correctly that the dead body of the deceased was at JVC. I have personally seen the dead body.

(Q) The prosecution witness, in her statement, has stated that she knows you and that the marriage of her sister was performed with your brother-in-law. You and the other accused persons were harassing her, and in the year 2018, she was thrown out of the home because she could not give birth to any child. Later on, a settlement took place, and it was decided that the deceased would reside separately in the in-laws' home, and on 27th June, information was received that she had died. The witness has admitted the contents of the seizure memos EXTP-2, EXTP-3, and EXTP-4 to be true and correct. What do you have to say regarding the same?

(Ans.) The deceased died on 22nd June, however, she has no knowledge regarding any harassment caused to her because she was residing separately.

(Q) It has come in the statement of Prosecution Witness No. 7 that Mst. Diya and Joli brought down the deceased from the room through the stairs and boarded her in the auto, and the said witness, along with accused Parvaiz Ahmad, had reached his home. Regarding this, the witness was called by the daughter of accused Parvaiz and was told that something had happened to the deceased, who was taken to the hospital. What do you have to say about the same?

(Ans.) I and the other accused persons boarded the deceased in the auto of Parvaiz for taking her to the hospital because the deceased was unconscious, and the said witness, Irshad Ahmad, was called by them and was told that something had happened to the deceased and that she was to be taken to the hospital. In the meanwhile, Parvaiz Ahmad was also given information.

(Q) It has come in the evidence of PW-5 that the deceased Tasleema was the daughter of Abdul Aziz and her Nikah was performed with accused Shahnawaz in the year 2013. For one year, her relations with her in-laws remained good, and later on, differences arose between her and accused Shahnawaz. In the year 2020, the deceased came to her parental home and then, in the year after the settlement, came back to her matrimonial home. On 26/7/22, he received a phone call that the deceased was in JVC Hospital. When he went to the hospital, the deceased had died. The deceased was being harassed by you and the other family members on the ground that she could not give birth to a child, and you often rebuked her. What do you have to say about this?

(Ans.) There was no disagreement between accused Shahnawaz and the deceased. The deceased was residing separately with her husband, and they were living their lives happily.

(Q) It has come in the evidence of PW-8 that she knows you and the other accused persons. The deceased was the sister of the witness, and she saw the dead body of the deceased. There were injuries on her chest, her nails had turned yellow, her tongue was between her teeth, and there were bruises on her face, and her neck was broken. The witness has further stated that the deceased was not having good relations with her husband and that you and the other in-laws and family members were harassing her because she could not give birth to any child. What do you have to say?

(Ans.) The prosecution witness has given a false statement. There was no injury on the body of the deceased, and there were no bruises on her face. She was never harassed by anyone.

(Q) It has come in the statement of PW-13 that on 27th June 2022, he was posted at Police Station Batmaloo, and the police received information that a death had occurred in Nund-Reshi Colony. The witness was directed to go to SHMS Hospital and conduct the proceedings as per law. Then, after conducting the post-mortem of the dead body, the memos were prepared, and the contents of the receipt memo of the dead body, EXPW-4, are true and correct. The viscera samples were sent to FSL, and the expert opinion and post-mortem report were obtained. As the matter was one of murder, an FIR was lodged, and the contents of the FIR, EXT.P-13, are true and correct. What do you have to say?

(Ans.) She does not know what investigation the police has conducted.

(Q) It has come in the statements of Prosecution Witnesses Nos. 14, 15, 16, 17, and 18 that they, along with the SHO Batmaloo, went to Nund-Reshi Colony, where you and the other accused persons were arrested. The contents of EXPW-10 are true and correct. What do you have to say regarding the same?

(Ans.) It is true that she was not taken into custody by the police from home. However, the police came to my home, and she, of her own accord, went to the police station because, at that time, she was with her child at the hospital.

(Q) It has come in the statement of PW-20 that, after conducting the examination of the deceased, it was found that the upper and lower lips were deeply cyanosed, with multiple small contusions present on the inner side of the lips. There were lacerated contusions measuring 4 cm × 3 cm, 2 cm × 2 cm, and 2 cm × 1.5 cm present on the left side of the face in front of the left ear, on the chin, and on the outer side of the left arm, 4 cm above the elbow joint, respectively. There was petechial haemorrhage present on the right and left sides of the face in front of both ears. The tongue was bitten between the teeth, and blood-stained discharge was present in the mouth. There was subconjunctival haemorrhage present in both eyes. The opinion was consistent with death due to asphyxia. The injuries were not self-inflicted. The witness

identified his signatures, and the contents of the report EXTP-20 are true and correct. What do you have to say regarding the same?
(Ans.) She does not know what statement has been given by the witness; however, there was no injury on the body of the deceased.

(Q) It has come in the statement of PW-21 that the death of the deceased was caused due to asphyxia (smothering). The FSL report was received from the FSL expert and the report of the Pathology Department, GMC Srinagar. The witness accepted that, on account of the reports, the medical opinion was framed with regard to the death of the deceased. It is further testified by him that the injuries were not self-inflicted. What do you have to say regarding the same?

(Ans.) She does not know what statement the witness has given. However, there were no marks of injury on the body of the deceased.

(Q) It has come in the evidence of PW-22 that the death of the deceased was caused due to asphyxia (smothering). During the examination, it was stated that contusions were present on the chin, on the left arm above the elbow joint, and on the left thenar area, just below the proximal phalanx of the left thumb. Abrasions were found above the right elbow joint. What do you have to say about this?

(Ans.) The witness has given a false statement. There was no mark of injury on the body of the deceased. She has been implicated in a false case.

(Q) It has come in the evidence of PW-24 that he knows you. In the year 2022, he was posted as SHO at Police Station Batamaloo. On 2/8/2022, ASI Mukhtar Hussain was conducting the proceedings under Section 174 Cr.P.C. regarding the deceased Tasleema, who was residing in Nund-Reshi Colony, Bemina, and on 2/8/2022, the final report was received, as per which Dr. Uzma found that the death of the deceased was caused due to asphyxia through smothering. Thereafter, FIR No. 109 of 2022 under Section 302 IPC was registered, and the witness started the investigation and prepared the seizure memo. The witness has admitted the contents of the seizure memo EXPW-24 to be true and correct, and it bears his hand and signature. The witness recorded the statements of witnesses and arrested you and the other accused persons, which included three ladies and two males. The contents of the arrest memo EXPW-16 are true and correct, and the witness also obtained remand from time to time. During the investigation, on the basis of the statements of witnesses, the offence under Section 498-A was added. What do you have to say?

(Ans.) She has no knowledge regarding what statement the witness has given and what investigation the police has conducted. The doctors have stated that the death of the deceased was caused by her own actions.

(Q) It has come in the evidence of Prosecution Witness No. 25, Inspector Mir Qasim, that he was working as SHO Batamaloo in the year 2022. Case FIR No. 109 of 2012, for the commission of offences under Sections 302, 498-A, 120-B, and 201 IPC, was registered at Police Station Batamaloo. During the investigation, CDR details of you as well as of the other accused persons were obtained, from which it was established that your location was at the same place at Abu Bakar Colony, Bemina, Srinagar. During the investigation, it came to be known that you were in contact with each other on the phone. As such, the offence under Section 120-B IPC was added against you, and after going through the evidence, the above offences were found established against you and the other accused persons, and the challan against you and the other accused persons was presented before the competent court. What do you have to say regarding the same?

(Ans.) The prosecution witnesses have given false statements. On the day of occurrence, I did not have any phone, nor do I have one at present.

(Q) Why prosecution witnesses have give statement against you.

(Ans) The prosecution witnesses have implicated her in a false case and on the basis of animosity have given statement against her.

Accused No 3 Mst Saika

Q) Whether you have heard the statements of the witnesses?

Ans) Yes Sir.

Q) In the evidence of Prosecution Witness No. 1, it has come that the deceased was his sister and her marriage was performed with your brother-in-law, Shahnawaz Ahmad Dar, in the year 2013, and she died in the year 2022. After the marriage, the deceased was living well in her matrimonial home for about 1½ years, and later on, her terms with her in-laws and family members deteriorated because the deceased could not give birth to a child. What do you have to say about the same?

(Ans.) The prosecution witness has given a false statement. My marriage was solemnized in the year 2019 with Nazir Ahmad, and she is living with her mother-in-law.

(Q) It has come in the evidence of PW-2 that he knows you. The marriage of the deceased was performed with your brother-in-law, Shahnawaz Ahmad Dar, 9 months ago. The deceased has not given birth to any child. You and your in-laws were subjecting her to torture. What do you have to say?

(Ans.) Her marriage was solemnized in the year 2019 with Yasir Ahmad. The marriage of Shahnawaz was performed in the year 2013, and I have no knowledge regarding the same. The witness has given a false statement.

(Q) In the statement of Prosecution Witness No. 3, it has come that the marriage of the deceased was performed in the year 2013 with Shahnawaz Ahmad. For not giving birth to a child during 1½ years, differences arose, and then Shahnawaz fell ill and his surgery was conducted, and thereafter their relations remained cordial for some time. However, due to not having a child, differences again started, and your brother-in-law, Parvaiz Ahmad @ Bilal, gave the deceased an electric shock with a heater. Further, the witness has admitted the contents of the identification memo of the dead body, EXT-P1, seizure memo, EXT-P3, and receipt regarding the dead body, EXTP-1/1, to be true and correct. What do you have to say about the same?

(Ans.) The prosecution witness has given a false statement. The relations between the deceased and accused Shahnawaz were good. When she came to her in-laws' home, she found that the relations between the deceased and accused Shahnawaz were good.

(Q) It has come in the statement of Prosecution Witness No. 4 that she knows you, and the marriage of her sister was performed with your brother-in-law. You and the other accused persons were harassing her, and in the year 2018, she was thrown out of the home because she could not give birth to any child. Later on, a settlement took place, and it was decided that the deceased would reside separately in her in-laws' home, and on 27th June, information was received that she had died. The witness has admitted the contents of the seizure memos, EXTP-2, EXTP-3, and EXTP-4, to be true and correct. What do you have to say regarding the same?

(Ans.) The witness has given a false statement. She does not know that the deceased was being harassed for not giving birth to a child.

(Q) It has come in the evidence of PW-5 that deceased Tasleema was the daughter of Abdul Aziz and her Nikah was performed with accused Shahnawaz in the year 2013. For one year, her relations with her in-laws remained good, and later on, differences arose with accused Shahnawaz. In the year 2020, the deceased came to her parental home, and then, in the year 2022, after a settlement, the deceased came back to her matrimonial home. On 26/7/22, a phone call was received that the deceased was in JVC Hospital. When he reached the hospital, the deceased had died. The deceased was being harassed by you and other family members on the ground that she could not give birth to a child and was often rebuked by them. What do you have to say about this?

(Ans.) I remained with the deceased for only two years after my marriage, and after that, the deceased died of her own. During those two years, the relations between the deceased and accused Shahnawaz remained good, and she was residing separately with her husband.

(Q.) It has come in the evidence of PW-8 that she knows you and the other accused persons. The deceased was the sister of the witness, and she saw the dead body of the deceased. There were injuries on her chest, her nails had turned yellow, her tongue was between her teeth, and there were bruises on her face, and her neck was broken. The witness has further stated that the deceased was not having good relations with her husband and that you and the other in-laws and family members were harassing her because she could not give birth to any child. What do you have to say?

(Ans.) The prosecution witness has given a false statement. There was no injury on the body of the deceased.

(Q.) It has come in the statement of PW-13 that on 27th June 2022, he was posted at Police Station Batamaloo and the police received information that a death had occurred in Nund-Reshi Colony, and the witness was directed to go to SHMS Hospital and conduct the proceedings as per law. Thereafter, after conducting the post-mortem of the dead body, the memos were prepared, and the contents of the receipt memo of the dead body, EXPW-4, are true and correct. The viscera samples were sent to FSL, and expert opinion and the post-mortem report were obtained. As the matter was one of murder, the FIR was lodged, and the contents of the FIR, EXTP-13, are true and correct. What do you have to say?

(Ans.) What investigation the witness has conducted as a police personnel, she has no knowledge regarding the same.

(Q.) It has come in the statements of Prosecution Witnesses 14, 15, 16, 17 and 18 that they have arrested you.

(Ans.) Yes, I was arrested by the police from my home.

(Q.) It has come in the evidence of Prosecution Witness No. 7 that you, Mst. Diya and Joli brought down the deceased through the stairs and boarded her in an auto, and the said witness, along with accused Parvaiz Ahmad, came to your home. Regarding this, the daughter of accused Parvaiz Ahmad called the said witness to the home and told him that something had happened to the deceased and that she was to be taken to the hospital. What do you have to say regarding the same?

(Ans.) She, as well as the other accused persons, boarded the deceased in the auto of Parvaiz for taking her to the hospital because she had become unconscious. We called the said witness, Irshad Ahmad Malik, and told him that something had happened to the deceased and that she was to be taken to the hospital, and in the meantime, we also gave information to Parvaiz.

(Q.) It has come in the statements of PW-20 that after conducting the examination of the deceased, it was found that the upper and lower lips were deeply cyanosed, with multiple small contusions present on the inner side of the lip. There were

lacerated contusions measuring 4 cm x 3 cm, 2 cm x 2 cm, and 2 cm x 1.5 cm present on the left side of the face in front of the left ear, on the chin, and on the outer side of the left arm, 4 cm above the elbow joint, respectively. There was petechial haemorrhage present on the right and left sides of the face in front of both ears. The tongue was bitten between the teeth, and blood-stained discharge was present in the mouth. There was subconjunctival haemorrhage present in both eyes. The opinion was consistent with death due to asphyxia. The injuries were not self-inflicted. The witness identified his signatures, and the contents of the report, EXTP-20, are true and correct. What do you have to say regarding the same?

(Ans.) What statement has been given by the witness and what opinion has been given, she does not know anything about the same. However, there was no injury on the body of the deceased, and her death occurred of her own.

(Q.) It has come in the statement of PW-21 that the death of the deceased was caused due to asphyxia (smothering). The FSL report was received from the FSL expert and the report of the Pathology Department, GMC Srinagar. The witness accepted that, on account of the report, the medical opinion was framed with regard to the death of the deceased. It is further testified by him that the injuries were not self-inflicted. What do you have to say regarding the same?

(Ans.) What statement the witness has given, she does not know. However, there was no mark of injury on the body of the deceased.

(Q.) It has come in the evidence of PW-22 that the death of the deceased was caused due to asphyxia (smothering). During examination, it is stated that contusions were present on the chin, on the left arm above the elbow joint, and on the left thenar area just below the proximal phalanx of the left thumb. Abrasions were found above the right elbow joint. What do you have to say about this?

(Ans.) There was no mark of injury on the body of the deceased. She does not know what statement the witness has given.

(Q.) It has come in the evidence of PW-24 that he knows you. In the year 2022, he was posted as SHO at Police Station Batamaloo. On 2/8/2022, ASI Mukhtar Hussain was conducting the proceedings under Section 174 Cr.P.C. regarding the deceased Tasleema, who was residing in Nundreshi Colony, Bemina, and on 2/8/2022, the final report was received, as per which Dr. Uzma found that the death of the deceased was caused due to asphyxia through smothering. Thereafter, FIR No. 109 of the year 2022 under Section 302 IPC was registered, and the witness started the investigation and prepared the seizure memo. The witness has admitted the contents of the seizure memo, EXPW-24, to be true and correct, and it bears his hand and signature. The witness recorded the statements of witnesses and arrested you and other

accused persons, which included three ladies and two males. The contents of the arrest memo, EXPW-16, are true and correct, and he also obtained remand from time to time. During the investigation, on the basis of the statements of witnesses, the offence under Section 498-A was added. What do you have to say?
(Ans.) What statement the witness has given and what investigation the police has conducted, she has no knowledge regarding the same.

(Q.) It has come in the evidence of Prosecution Witness No. 25, Inspector Mir Qasim, that he was working as SHO Batamaloo in the year 2022. The case FIR No. 109 of the year 2012 for the commission of offences under Sections 302, 498, 120-B and 201 IPC was registered at Police Station Batamaloo. During the investigation, CDR details of you as well as of other accused persons were obtained, from which it was established that your location was at the same place at Abu Baker Colony, Bemina, Srinagar. During the investigation, it came to be known that you were in contact with each other on the phone. As such, the offence under Section 120-B IPC was added against you, and after going through the evidence, from which the above offences were found established against you and other accused persons, the challan against you and other accused persons was presented before the competent court. What do you have to say regarding the same?

(Ans.) What investigation the witness has conducted as a police personnel, she has no knowledge regarding the same.

(Q.) Why have the prosecution witnesses given statements against you?

(Ans.) She does not know why the witnesses have given statements against her. She has been implicated in a false case.

Accused No-4 Parveez Ahmad Dar

Q) Whether you have heard the statements of the witnesses?

Ans) Yes sir.

Q) It has come in the evidence of Prosecution Witness No. 1 that he knows you. The deceased was the daughter of the witness, and her marriage was performed with your brother-in-law, Shahnawaz Ahmad Dar, in the year 2013, and she died in the year 2022. On 27th June 2022, the day of occurrence, the witness was told on the phone by Shahnawaz Ahmad Dar that the deceased was ill and had been admitted to JVC Hospital. After some time, the witness reached JVC Hospital and came to know that his daughter had died. The witness has further stated in his statement that the relations between the deceased and her in-laws were not good because the deceased had not given birth to any child. You and your mother were ill-treating the deceased. You were beating her and had also touched her with a heater. The deceased, in order to save herself, ran away from her matrimonial home, and you

followed her on a scooter and then went to the house of the witness and also rebuked the witness and threatened him with killing the deceased. The witness has admitted the contents of the identification memo, EXTP-1, and EXTP-1/1, to be true and correct. What do you have to say regarding the same?

(Ans.) The prosecution witness has given a false statement. However, the fact is that the marriage of the deceased and accused Shahnawaz was performed in the year 2013. I have my own family and am residing separately. The deceased was never harassed by anyone for not giving birth to any child.

(Q.) It has come in the evidence of PW-2 that he knows you. The marriage of the deceased was performed with your brother, Shahnawaz Ahmad Dar, 9 months ago. The deceased has not given birth to any child. You, your family members, and her in-laws were harassing and torturing her. You and your family members did not have good terms with the deceased, and once you went to the father of the deceased and gave him a threat that you would give divorce to the deceased and had also beaten the deceased. The deceased, for some period, went to her parental home, and after some settlement, the deceased came back to her matrimonial home and died on 27th June 2022, and her death occurred at JVC Hospital. What do you have to say about this?

(Ans.) The witness does not know me and has given a false statement. However, the marriage of the deceased was performed with Shahnawaz. I was residing separately from them. I was not concerned with their not giving birth to a child.

(Q.) In the statement of Prosecution Witness No. 3, it has come that the marriage of the deceased was performed in the year 2013 with Shahnawaz Ahmad, who is your brother. For 1½ years, no child was born to them. The witness has stated that when the father of the deceased came to his shop, the father of the deceased called the witness, and when you saw the witness, you went from there in an auto. After some period, she came to the parental home of the deceased and told that you had given an electric shock with a heater to the deceased and had also beaten her and further stated that he would get the deceased divorced. Then she went to Police Post Bemina, where the Dy. S.P. called the parties, and you, your mother, and brother Shahnawaz sought apology. Further, the witness has admitted the contents of the identification memo of the dead body, EXT-P1, seizure memo, EXT-P3, and receipt regarding the dead body, EXTP-1/1, to be true and correct. What do you have to say about the same?

(Ans.) The prosecution witness has given a false statement. He is a driver and goes from his house early in the morning and returns back in the evening very late and remains busy with my family, as such, I have no knowledge regarding the personal relationship of the deceased and accused Shahnawaz.

(Q.) It has come in the statement of Prosecution Witness No. 4 that she knows you and the marriage of her sister was performed with your brother in the month of September 2013. For one year, the relationship between the couple remained good. Then your mother, you, and other accused persons were harassing the sister of the witness and also beating her. In the year 2018, you and other accused persons threw her sister out of the home because she could not give birth to any child. Then you went to the shop of the father of the witness and told him that you would kill his daughter today as well as tomorrow. The witness has admitted the contents of the seizure memo, EXP-1/I, and EXT-P1, to be true and correct. What do you have to say regarding the same?

(Ans.) The witness has given a false statement. I am residing separately. I have no knowledge regarding the personal relations of the deceased and accused Shahnawaz. However, this is true that the deceased, along with her husband, was living separately very well.

(Q.) It has come in the evidence of PW-5 that the marriage of the deceased was performed 8 years before, and during these years, no child was born to Mst. Tasleema, due to which reason, scuffles often took place between Tasleema and her husband. Before the death of the deceased, she was at her parental home. The deceased died at JVC Hospital, and her last rites were performed at her parental home. On the body of the deceased, some scars were seen, due to which they became suspicious that the deceased was killed. Then you and other accused persons were arrested after the post-mortem. What do you have to say about this?

(Ans.) On the day of occurrence, he had, as usual, gone from his home for work, and he received a phone call and came to know that something had happened. He, along with the auto, came towards home, and on reaching the house premises, he came to know that the deceased was to be taken to the hospital.

(Q.) It has come in the evidence of Prosecution Witness No. 7 that about 11 years before, the marriage of deceased Tasleema was performed with accused Shahnawaz Dar, and after marriage, Shahnawaz Ahmad Dar fell ill and some guests came to the home. You slapped the deceased regarding some medicine and told her that she would be thrown out of the home today as well as tomorrow, and then went to the house of the father of the deceased and told him to take his daughter back as she had to leave the home today as well as tomorrow, otherwise you would kill her. The deceased then came back to her parental home and remained there for some months.

(Ans.) The prosecution witness has given a false statement. I have never slapped the deceased nor have I ever harassed her. I am residing separately, and the deceased and her husband are residing separately.

(Q.) It has come in the evidence of PW-8, Sami Jan, that she knows you and other accused persons seen through VC. The deceased Tasleema was the sister of the witness, who was killed by you and other accused persons. The said witness saw the dead body of the deceased, which was having scars and yellow nails, and her tongue was between her teeth, and there were bruises on her face and her neck was broken. Actually, accused Shahnawaz Dar, who is your brother, was not having good relations with his wife, the deceased, because she could not give birth to any child. You and other in-laws were harassing her. What do you have to say?
(Ans.) The witness has given a false statement.

(Q.) The prosecution witness has admitted the contents of the seizure memo regarding the phone, EXPW-9, to be true and correct. What do you have to say about this?
(Ans.) What the witness has admitted to be true and correct, he has no knowledge regarding the same.

(Q.) It has come in the statement of PW-11 that you and other accused persons who have been produced through VC are known to her. The marriage of the deceased was performed with accused Shahnawaz 9 years before. Out of this marriage, no child was born to the deceased, and the relations between them remained unstable, and often you and other family members were harassing her. After the death of the deceased, it was found that on different parts of her body there were scars and bruises. The deceased was having a scar on the left ear at the back side, and there was also a wound about 0.4 inch on the face of the deceased. She was having bruises on the left arm on the upper side of the elbow as well as on the right arm above the elbow. The witness has further stated that she met the deceased one day before her death, and she was healthy, and her death within one day points towards her murder. What do you have to say about this?
(Ans.) The witness has given a false statement. The deceased was not having any wound on her body. Her death occurred of her own.

(Q.) It has come in the statement of PW-13 that on 27th June 2022, he was posted at Police Station Batamaloo and the police received information that a death had occurred in Nund-Reshi Colony, and the witness was directed to go to SHMS Hospital for conducting the proceedings as per law. Thereafter, after conducting the post-mortem of the dead body, the memos were prepared, and the contents of the receipt memo of the dead body, EXPW-4, are true and correct. The viscera samples were sent to FSL, and expert opinion and the post-mortem report were obtained, and the matter being one of murder, the FIR was lodged, and the contents of the FIR, EXTP-13, are true and correct. What do you have to say?
(Ans.) What investigation the witness has conducted, he has no knowledge regarding the same, and he has been implicated in a false case. He is innocent.

(Q.) It has come in the evidence of Prosecution Witness No. 7 that you also came to the spot along with your auto, and the witness entered the house premises, and the deceased was brought down through the stairs by your mother, Mst. Joli, and Diya, and people were weeping at the spot. Later on, you took the deceased to the hospital in the auto, and when the daughter of Parvaiz went to the house of the witness, he was eating his food, and the witness left his food there and reached your home along with you.

(Ans.) It is true that he reached the home with the said witness, and he and the witness took the deceased to the hospital.

(Q.) It has come in the statements of the prosecution witnesses 14, 15, 16, 17 and 18 that they have arrested you and the other accused persons.

(Ans.) The witnesses have given a false statement. I myself went to the police station.

(Q.) It has come in the statements of PW-20 that after conducting the examination of the deceased, it was found that the upper and lower lips were deeply cyanosed, with multiple small contusions present on the inner side of the lip. There were lacerated contusions measuring 4 cm x 3 cm, 2 cm x 2 cm, and 2 cm x 1.5 cm present on the left side of the face in front of the left ear, on the chin, and on the outer side of the left arm, 4 cm above the elbow joint, respectively. There was petechial haemorrhage present on the right and left sides of the face in front of both ears. The tongue was bitten between the teeth, and blood-stained discharge was present in the mouth. There was subconjunctival haemorrhage present in both eyes. The opinion was consistent with death due to asphyxia. The injuries were not self-inflicted. The witness identified his signatures, and the contents of the report, EXTP-20, are true and correct. What do you have to say regarding the same?

(Ans.) What statement has been given by the witness, he has no knowledge regarding the same. However, there was no injury on the body of the deceased.

(Q.) It has come in the statement of PW-21 that the death of the deceased was caused due to asphyxia (smothering). The FSL report was received from the FSL expert and the report of the Pathology Department, GMC Srinagar. The witness accepted that, on account of the report, the medical opinion was framed with regard to the death of the deceased. It is further testified by him that the injuries were not self-inflicted. What do you have to say regarding the same?

(Ans.) What statement and opinion have been given by the witness, he does not know. However, when he saw the dead body in the hospital, there was no mark of injury on her body, and the doctors in JVC stated that her death had occurred of her own.

(Q.) It has come in the evidence of PW-22 that the death of the deceased was caused due to asphyxia (smothering). During examination, it is stated that contusions were present on the chin, on the left arm above the elbow joint, and on the left thenar area just below the proximal phalanx of the left thumb. Abrasions were found above the right elbow joint. What do you have to say about this?

(Ans.) What statement has been given by the witness, he has no knowledge regarding the same. However, there was no mark of injury on the body of the deceased.

(Q.) It has come in the evidence of PW-24 that he knows you. In the year 2022, he was posted as SHO at Police Station Batamaloo. ASI Mukhtar Hussain was conducting the proceedings under Section 174 Cr.P.C. regarding the deceased Tasleema, who was residing in Nundreshi Colony, Bemina, and on 2/8/2022, the final report was received, as per which Dr. Uzma found that the death of the deceased was caused due to asphyxia through smothering. Then FIR No. 109 of the year 2022 under Section 302 IPC was registered, and the witness started the investigation and prepared the seizure memo. The witness has admitted the contents of the seizure memo, EXPW-24, to be true and correct, and it bears his hand and signature. The witness recorded the statements of witnesses and arrested you and other accused persons, which included three ladies and two males. The contents of the arrest memo, EXPW-16, are true and correct, and he also obtained remand from time to time. During the investigation, on the basis of the statements of witnesses, the offence under Section 498-A IPC was added. What do you have to say?

(Ans.) What investigation the witness, as a police personnel, has conducted, she has no knowledge regarding the same. However, he knows that a phone call came to him from the phone, and after going there, he was kept in lock-up.

(Q.) It has come in the evidence of Prosecution Witness No. 25, Inspector Mir Qasim, that he was working as SHO Batamaloo in the year 2022. The case FIR No. 109 of the year 2012 for the commission of offences under Sections 302, 498, 120-B and 201 IPC was registered at Police Station Batamaloo. During the investigation, CDR details of your phone as well as those of other accused persons were obtained, from which it was established that your location was at the same place at Abu Baker Colony, Bemina, Srinagar. During the investigation, it came to be known that you were in contact with each other on the phone. As such, the offence under Section 120-B IPC was added, and after going through the evidence, the above offences were found established against you and the other accused persons, and the challan was presented before the competent court. What do you have to say regarding the same?

(Ans.) What investigation the witness has conducted, he has no knowledge regarding the same. However, his remand was taken from time to time. He is innocent.

(Q) It has come in the evidence of PW-12 that you reached the spot along with Auto and entered the house along with the witness as the deceased was brought down through the stairs by your mother along with Mst. Diya and Juli and they were crying at the spot and further that the deceased was boarded in your Auto and taken to the hospital and when the daughter of Parvaiz Ahmad called the witness from his house, the witness was taking his meals and the witness left behind his meals and went to your house.

(Ans.) It is true that the witness along with him reached his house and took the deceased to the hospital.

(Q.) Why have the prosecution witnesses given statements against you?

(Ans.) He has been implicated in a false case, and, on the basis of animosity, the statements have been given against him. He is innocent.

Accused No 5 Shahnawaz Ahmad Dar.

Q) Whether you have heard the statements of the witnesses?

Ans) Yes sir.

Q) It has come in the evidence of Prosecution Witness No. 1 that he is your father-in-law. The deceased was his daughter, whose marriage was performed with you in the year 2013. The deceased passed away on 27th June 2022. On the day of occurrence, you made a phone call to the son of the witness, namely Ishfaq Ahmad, at about 3 PM and told him that the deceased was ill and had been admitted to JVC Hospital. Then Ishfaq Ahmad asked you on the phone what had happened to the deceased, and you replied that you did not know what had happened to the deceased. After some time, Ishfaq Ahmad made a phone call to you, and you told him that she had died. Then the said witness and his son reached JVC Hospital, where the police had already come. The post-mortem of the deceased was conducted, and the deceased was handed over to the witness, and later on, she was buried. The contents of the identification memo, EXTP-1, are true and correct. After her marriage, the deceased had remained well in her in-laws' house for about 1½ years, and thereafter, the situation did not remain feasible as the deceased could not give birth to any child. The witness has further stated that you and other accused persons had taken away the Mehr amount of Rs. 2 lakh and that you had also taken two bangles worth Rs. 85,000 from the deceased for purchasing a vehicle, which you had not returned to her. What do you have to say about it?

(Ans.) The prosecution witness has given a false statement. On the day of occurrence, I made a phone call to the brother of the

deceased that the deceased was in JVC Hospital. At that time, I was in the office of PDD at Jahangir Chowk. I have not grabbed any amount from my wife nor received the amount of the bangles from her. The contents of EXTP-1 are true and correct. There were cordial relations between me and my wife, and we were living our life pleasantly.

(Q.) It has come in the evidence of PW-2 that he knows you and other accused persons. The marriage of the deceased was performed with you 9 months ago. The deceased has not given birth to any child. You, your family members, and her in-laws were harassing and torturing her. You and your family members did not have good terms with the deceased, and your brother had many times gone to the father of the deceased and given him threats that he would get the deceased divorced, and then, on the intervention of the Baradari, a settlement was arrived at. After resolving the misunderstanding, you took golden ornaments from your wife and sold them and purchased a vehicle. On 27th June 2022, the death of the deceased occurred. The deceased was seen by the witness at home, and he saw that the cloth of the deceased was in his arm on the upper side. The police came to the spot and took the dead body into their possession for conducting the post-mortem, and after the post-mortem was conducted, the dead body was handed over to her parental family members, where the last rites of the deceased were performed. The witness has further stated that you told the nephew of Prosecution Witness No. 2, Ali Mohammad, that you really wanted to give divorce to the deceased and that, after selling the ornaments of the deceased, you had purchased a vehicle. What do you have to say about this?

(Ans.) The witness has given a false statement. I and my family members were not harassing the deceased. The deceased was residing with me separately. Our terms and relations were good with each other. My brother Parvaiz Ahmad is not residing with me but is residing separately. He does not know when he gave threats to Prosecution Witness No. 1.

(Q.) In the statement of Prosecution Witness No. 3, it has come that the marriage of the deceased was performed in the year 2013 with you. For 1½ years, no child was born to the deceased, due to which a dispute arose with her. During this period, you fell ill and surgery was conducted upon you. After this, for some time, your terms and relations with the deceased remained good; however, due to not giving birth to a child, a dispute again took place. After this, the prosecution witness and other family members went to Police Post Bemina, where the Dy. S.P. called both the parties, and you, your mother Hafeeza, and your brother Parvaiz sought apology. Then the deceased again came to her in-laws' home and remained there for about 1½ years, and then again a dispute took place. Then one person, Abdul Waheed, came for settlement. Prosecution Witness No. 3 asked you what was to be done, and you told him that you wanted to give divorce to the deceased because

she was unable to give birth to a child. The witness has further stated that you were beating the deceased due to the reason that she could not give birth to a child. The witness has admitted the contents of the identification memo of the dead body, EXTP-1, seizure memo, EXTP-3, and seizure memo, EXTP-1/I, to be true and correct. The witness has further stated that on the left and right sides of the throat of the deceased, there were marks of injuries. What do you have to say about the same?

(Ans.) The prosecution witness has given a false statement. He never, along with his mother and brother, went to the police station and they did not seek apology there. Prosecution Witness No. 3 met me once. I have not told him about giving divorce to my wife; however, at home, some altercation of words took place. The deceased went from the matrimonial home to her parental home, and then I brought her back to my home. The deceased was not having any scar on the left and right sides of her throat. The witness has given a false statement.

(Q.) It has come in the statement of Prosecution Witness No. 4 that she knows you and the marriage of her sister was performed with you in the year 2013. For one year, the relationship between you and the deceased remained good. Then you and other family members were harassing the deceased and also beating her. In the year 2018, you threw the deceased out of the home because she could not give birth to any child. Then your brother Parvaiz Ahmad gave a threat to the father of the witness that he would kill his daughter today as well as tomorrow and also told him that his daughter, the deceased, was not giving birth to a child. Then Waheed Ahmad, after consultation, asked for the list of the articles. The witness has further stated that the list of the articles was given, worth Rs. 11.50 lakhs, because the bangles, etc., of the deceased were sold and a vehicle was purchased, and your mother told them that they would pay the amount of the bangles back in instalments from the vehicle. Then a compromise was arrived at, and the deceased went to her in-laws' home. On 27th June 2022, a phone call came that the deceased had fallen ill and was in JVC Hospital. When he reached the hospital, there was the dead body of the deceased. Both the hands of the dead body were broken. Blood was oozing near the ears, and on the throat, the mark of pressing with something was visible. Later on, the police came and conducted the proceedings. The seizure memo, EXTP-3, EXTP-P/12, receipt memo of the dead body, identification memo of the dead body, EXT-P-1, are true and correct. The contents of EXPTP-5 are true and correct.

(Ans.) The witness has given a false statement. I have never harassed the deceased for not giving birth to a child, nor have I grabbed any of her money. The deceased died a natural death. The witness has admitted the identification memo of the dead body to be true because, after her death, the deceased was handed over to her parental family members.

(Q.) It has come in the evidence of PW-5 that the deceased was the daughter of Abdul Aziz and her marriage was performed with you in the year 2013. For one year, your terms with the deceased remained good, and after that, differences arose between the deceased and you, and in the year 2018, she came back to her parental home. Then, in the year 2020, it was settled that the deceased would reside separately. Then you and the deceased started residing in another room at your in-laws' house. Then, on 26/7/22, you made a phone call to the brother of the deceased that the deceased was in JVC Hospital. When he went to the hospital, the deceased had died. You and your family members were harassing the deceased on the ground that she could not give birth to any child and were also rebuking her. What do you have to say regarding the same?

(Ans.) It is true that I and the deceased were living separately and we had no differences between us. I told the brother of the deceased on the phone that the deceased was admitted in JVC Hospital. At that time, he was going from the office to JVC Hospital.

(Q.) It has come in the evidence of PW-6 that the marriage of the deceased was solemnized with you 8 years before. During this period, your wife, the deceased, could not give birth to any child, due to which there used to be scuffles between you. Before her death, the deceased was in her matrimonial home. The deceased died in JVC Hospital, and her last rites took place at her parental home. There were marks of scars on the body of the deceased, due to which suspicion arose that the deceased had been killed, and the police investigated the matter under due procedure, and the witness gave her statement before the court.

(Ans.) The prosecution witness has given a false statement. The actual fact is that the death of the deceased was caused due to natural death. There was no scar on the body of the deceased. He and the deceased were spending their life very well. Why the witness has stated about the killing, I have no knowledge regarding the same.

(Q.) It has come in the evidence of PW-7 that your marriage was solemnized with deceased Mst. Tasleema about 11 years before, and after marriage, you fell ill. One day, a guest had come to your home, and your brother Parvaiz Ahmad had slapped the deceased. A scuffle took place, and then the deceased went to her parental home, and you snatched valuable dresses and ornaments from her. Then you made a settlement with your wife, and then you sold her golden bangles and purchased vehicles. What do you have to say about this?

(Ans.) The prosecution witness has given a false statement. I was ill, and my brother Parvaiz Ahmad did not slap the deceased.

(Q.) It has come in the evidence of PW-8 that she knows you and other accused persons. The deceased was her sister, who was

murdered by you and your family members. The witness has stated that she saw the dead body of the deceased, which was having scars on the chest and yellow nails, and her tongue was between her teeth, and there were bruises on her face and her neck was broken. Actually, there were no good relations between you and the deceased because she could not give birth to any child. What do you have to say?

(Ans.) There was no scar on the body or face of the deceased. The witness has given a false statement.

(Q.) It has come in the statement of PW-11 that you and other accused persons who have been produced through VC are known to her. The marriage of the deceased was performed with you 9 years before. From this marriage, no child was born to the deceased, and relations between them remained unstable, and often you and other family members were harassing her. At the time of the death of the deceased, it was found that on different parts of her body there were scars and bruises. The deceased was having a scar on the left ear at the back side, and on the face of the deceased there was a wound about 0.4 inch. She was having bruises on the left arm on the upper side of the elbow as well as on the right arm above the elbow. The witness has further stated that she met the deceased one day before her death, and she was healthy, and the cause of her death within one day points towards her murder. What do you have to say about this?

(Ans.) The witness has given a false statement. The deceased was not having any wound on her body. I have never quarrelled with the deceased on the ground that she had not given birth to any child.

(Q.) It has come in the statement of PW-13 that on 27th June 2022, he was posted at Police Station Batamaloo and the police received information that a death had occurred in Nund-Reshi Colony, and the witness was directed to go to SHMS Hospital and conduct the proceedings as per law. Then, after conducting the post-mortem of the dead body, the memos were prepared, and the contents of the receipt memo of the dead body, EXPW-4, are true and correct. The viscera samples were sent to FSL, and expert opinion and the post-mortem report were obtained, and the matter being one of murder, the FIR was lodged, and the contents of the FIR, EXTP-13, are true and correct. What do you have to say?

(Ans.) I have no knowledge regarding the post-mortem or FSL. What investigation the police has conducted, he has no knowledge regarding the same.

(Q.) It has come in the statements of Prosecution Witness No. 14 that in the year 2022, he was posted at Police Station Batamaloo as SGCT. He was performing escort duty with his higher officer. During the investigation of case FIR No. 109/2022, he, along with the SHO of the police station, went to Nund-Reshi Colony, from where you and your brother Parvaiz Ahmad were arrested. The

contents of the arrest memo are true and correct. What do you have to say regarding the same?

(Ans.) I myself went to the police station and was not arrested.

(Q.) It has come in the evidence of Prosecution Witnesses No. 15, 16 and 17 that they, along with the SHO of Police Station Batamaloo, went to Nund-Reshi Colony, where you and other accused persons were arrested. What do you have to say about this?

(Ans.) In the evidence of the witnesses, it has come that I was arrested, but the same is wrong. My brother and I, of our own accord, went to the police station when we received a phone call from the police station.

(Q.) It has come in the evidence of Prosecution Witness No. 19 that he knows you. You had come to the witness and told him that you had some dispute with your wife and told him that you had a dispute with your wife over golden ornaments, and the said witness told you that he would intervene in the matter. What do you have to say about it?

(Ans.) The prosecution witness has given a false statement.

(Q.) It has come in the statements of PW-20 that during examination of the deceased, it was found that the upper and lower lips were deeply cyanosed, with multiple small contusions present on the inner side of the lip. There were lacerated contusions measuring 4 cm x 3 cm, 2 cm x 2 cm, and 2 cm x 1.5 cm present on the left side of the face in front of the left ear, on the chin, and on the outer side of the left arm, 4 cm above the elbow joint, respectively. There was petechial haemorrhage present on the right and left sides of the face in front of both ears. The tongue was bitten between the teeth, and blood-stained discharge was present in the mouth. There was subconjunctival haemorrhage present in both eyes. The opinion was consistent with death due to asphyxia. The injuries were not self-inflicted. The witness identified his signatures, and the contents of the report, EXTP-20, are true and correct. What do you have to say regarding the same?

(Ans.) On the day of occurrence, he was not at his home. What opinion the doctor has given, I have no knowledge regarding the same. The deceased was a heart patient and was taking medicines.

(Q.) It has come in the statement of PW-21 that the death of the deceased was caused due to asphyxia (smothering). The FSL report was received from the FSL expert and the report of the Pathology Department, GMC Srinagar. The witness accepted that, on account of the report, the medical opinion was framed with regard to the death of the deceased. It is further testified by him that the injuries were not self-inflicted. What do you have to say regarding the same?

(Ans.) He does not know what opinion has been given by the doctor. On what basis the doctor has given the opinion, I do not know.

(Q.) It has come in the evidence of PW-22 that the death of the deceased was caused due to asphyxia (smothering). During examination, it is stated that contusions were present on the chin, on the left arm above the elbow joint, and on the left thenar area just below the proximal phalanx of the left thumb. Abrasions were found above the right elbow joint. What do you have to say about this?

(Ans.) He does not know what opinion has been given by the doctor. The deceased was a heart patient, and she was taking medicines in this regard.

(Q.) It has come in the evidence of PW-24 that he knows you. In the year 2022, he was posted as SHO at Police Station Batamaloo. On 2/8/2022, ASI Mukhtar Hussain was conducting the proceedings under Section 174 Cr.P.C. regarding the deceased Tasleema, who was residing in Nundreshi Colony, Bemina, and on 2/8/2022, the final report was received, as per which Dr. Uzma found that the death of the deceased was caused due to asphyxia through smothering, and then FIR No. 109 of the year 2022 under Section 302 IPC was registered, and the witness started the investigation and prepared the seizure memo. The witness has admitted the contents of the seizure memo, EXPW-24, to be true and correct, and it bears his hand and signature. The witness recorded the statements of witnesses and arrested you and other accused persons, which included three ladies and two males. The arrest memos bear the hand and signature of the witness. The contents of the arrest memos, EXPW-15 and EXPW-16, are true and correct, and after arrest, remand was obtained from time to time. During the investigation, on the basis of the statements of witnesses, the offence under Section 498-A IPC was added. What do you have to say?

(Ans.) The prosecution witness has given a false statement. I myself went to the police station. My remand, as well as that of other accused persons, was taken from time to time. I have been implicated in a false case. I am innocent.

(Q.) It has come in the evidence of Prosecution Witness No. 25, Inspector Mir Qasim, that he was working as SHO Batamaloo in the year 2022. The case FIR No. 109 of the year 2012 for the commission of offences under Sections 302, 498, 120-B and 201 IPC was registered at Police Station Batamaloo. During the investigation, CDR details of you as well as of other accused persons were obtained, from which it was established that your location was at the same place at Abu Baker Colony, Bemina, Srinagar. During the investigation, it came to be known that you were in contact with each other on the phone; as such, the offence under Section 120-B IPC was added, and after going through the evidence, the offences were found established against you and other accused persons. The challan against you and other accused

persons was presented before the competent court. What do you have to say regarding the same?

(Ans.) It is true that at the time of occurrence, the accused persons were not at home but had gone to their respective workplaces, and regarding the occurrence, they were informed on the phone and were contacting each other on the phone till they reached the hospital.

(Q.) Why have the prosecution witnesses given statements against you?

(Ans.) The witnesses have given statements against them on the basis of animosity and have implicated him in a false case.

8. Heard the arguments of the Ld. APP as well as the Ld. defence counsel. The Ld. APP, while arguing the matter, has submitted that the marriage of the deceased was performed with accused No. 5 in the year 2013 and that, till her murder, she was subjected to torture and harassment by the accused persons. There was no period of time when the matrimonial relationship had remained peaceful, and the evidence which has come on record does clearly prove that she was being put in distress throughout her matrimonial relationship due to the reason that she had not given birth to any child. Even the evidence on record also proves that the accused had taken golden ornaments from her. It is further argued that the accused husband and the other accused, Parvaiz, wanted to get rid of the deceased and had said so openly and explicitly, which fact has also been proved by the prosecution through the evidence. It is further argued that the deceased wanted to continue with her relationship and live as an obedient wife, but the accused had done everything in order to put an end to the relationship by forcing the deceased to seek separation. However, the accused, instead of adopting the legal and acceptable way for separation, which would have entailed costs (i.e., return of jewellery, alimony, etc.), caused smothering to the deceased so that it might be given an impression that the deceased had committed suicide. It is further argued by the Ld. APP that the deceased was unsuccessfully subjected to electrocution by accused No. 4, Parvaiz, and there is also evidence regarding the Dy. SP having intervened and trying to settle the issue. However, the evidence on record does suggest that the accused was consistent in divorcing his wife/deceased and used to give her threats of divorce as a weapon against the deceased. It is further argued that the accused wanted the deceased to seek separation herself because they were not ready to pay Rs. 11.50 lakhs (the cost of the list of the articles, including gold, etc.) to the deceased. Since the accused was not in a position to pay the deceased the said amount, the accused, in order to get rid of her as soon as possible, took the step themselves and caused the death of the deceased by smothering. The Ld. APP has further argued that the prosecution, through the evidence, has proved that the dead body was in the room of the deceased wherein she was living with her husband separately in the matrimonial home. Further, as per the Ld. APP, there is clear medical evidence which has been corroborated by the concerned witnesses during their statements before the Court that the death was unnatural and caused due to asphyxiation (smothering), and the injuries inflicted upon the deceased were not self-

inflicted. It is further the stand of the Ld. APP that the foregoing facts, which stand proved by the prosecution through evidence, make it clear, without any iota of doubt, that the accused (husband) wanted to get rid of the wife/deceased and that his brother also wanted the same and was part of the crime. As per the Ld. APP, the background of the case is quite incriminating, and once all the facts are put into context, the motive of the crime is established. The motive is that the deceased did not give birth to any child for almost ten years and there were also strained matrimonial relations, as a result, the crime was committed by the accused persons. The Ld. APP has further submitted that, in these circumstances, which stand proved by the prosecution without any doubt, the only inference which could be drawn is that the accused, in all probability, had premeditated and planned to perpetrate the offence. It is the further argument of the Ld. APP that the circumstances which stand established are such that all the accused can reasonably be understood to have conspired in order to bring about the death of the deceased, as the chain of circumstances is unbroken and there is no missing link which may render the allegation suspect. It is further the stand of the Ld. APP that there cannot be direct evidence of conspiracy, but it is to be inferred from the overall circumstances. The circumstances in this case, as per the Ld. APP, unequivocally suggest that there, in all probability, was a well-knit conspiracy to adopt the modus operandi of causing death by 'smothering' and then taking the deceased to the hospital so that an impression gets created in the minds of all concerned that the accused would be thought to be innocent and no one would suspect them of the criminal act. This subsequent act on the part of the accused is also incriminating in nature because it was not consistent with human nature. As per the Ld. APP, there is no doubt left that the deceased had been in the house of her in-laws and was living with her husband/accused No. 5 (Shahnawaz) at the time and on the day of her death, and the other accused were living in the same house separately. However, all the accused had free access to every room of the house. The foundational facts, as per the Ld. APP, stand proved through the evidence of the prosecution, and on the side of the accused, there is no evidence put forth before the Court which may even remotely contradict and dispel the evidence of the foundational facts. In such circumstances, as per the Ld. APP, the onus of proof shifts upon the accused to explain as to in what circumstances the deceased had died, and the silence on the part of the accused in giving any reasonable and plausible explanation would tantamount to saying that they have nothing to say on the contrary. The Ld. APP has lastly submitted that, in a case of this nature, there cannot be direct or independent witnesses because the circumstances are peculiar and only a conclusion can be drawn inferentially, especially when all those present had a common intention to share and had entertained the requisite mens rea. As such, the accused deserve to be convicted for the commission of the offences charged against them.

On the other hand, the defence counsel, Advocate Mohammad Abdullah Pandith while arguing the matter, has submitted that the first circumstance which is required to be evaluated by this Court is whether the prosecution has fastened the accused through direct evidence, as it

is the admitted case of the prosecution that there is no direct evidence on record which could implicate the accused persons in the instant case. The perusal of the oral statements recorded during the course of the trial, i.e., PW-1 to PW-8 and PW-19, would reveal that they have not directly implicated the accused persons in the commission of the crime. As such, the prosecution has failed to connect the accused with the commission of the crime directly in the case. There cannot be any dispute to the fact that the case in hand is one of circumstantial evidence, as there is no eyewitness to the occurrence. It is a settled principle of law that an accused can be convicted provided the prosecution is able to prove, beyond reasonable doubt, the circumstances which point towards the involvement and guilt of the suspect or accused, as the case may be. The accused are entitled to acquittal because there is no eyewitness in the case.

It is the further argument of the Ld. Counsel Advocate Mohammad Abdullah Pandith that the case of the prosecution is that the circumstance relied upon by the prosecution is whether the deceased was subjected to cruelty by her husband and in-laws before the occurrence. In order to prove this allegation, the prosecution seeks to rely upon the statements of PW-1 to PW-8 and PW-11 & PW-19, which are required to be scrutinized by this Court. The general assertion of these witnesses is that the accused persons (A-1, A-4 & A-5) used to torture the deceased for the fact that she was unable to beget any child; however, the same was never reported to the police despite the allegations being severe and serious. Although PW-5 has made an assertion that they had registered a complaint at the police station, the police had not registered it. The statements of other witnesses, particularly the statements of the father of the deceased and the brother of the deceased, are in clear contradiction to the said statement. PW-1, being the father of the deceased, has categorically stated that he has never initiated any police action regarding the same. More so, PW-4, being the brother of the deceased, has also stated that there was no complaint filed by them before the occurrence. Therefore, it is quite suspicious that the family of the deceased has chosen not to report the incidents, given how serious they appear to be according to their testimonies. It appears that the cruelty angle perpetrated by the prosecution is nothing but a confabulation. It may be true to some extent that there was some discord between the deceased and her in-laws, but the gravity of it alleged by the family of the deceased seems rather doubtful. The callous and casual approach to the alleged acts of cruelty casts a very serious doubt upon the case of the prosecution. Furthermore, as per the Ld. Counsel, it is a settled position of law that mere quarrels do not amount to cruelty under the Penal Code. To attract the provisions of Section 498-A, there must be a continuous infliction of cruelty by the accused persons, or the cruelty must have been inflicted soon before the complaint was filed, as held by the Hon'ble Supreme Court in the case of *Manju Ram Kalita v. State of Assam*, AIR 2009 SC (Supp.) 2056. As per the Ld. Counsel, in the instant case, the complaint was never filed by the deceased or her family, and it is a matter of fact that the deceased was always willing to maintain her relationship with her husband, which also suggests that the discord had never escalated to the degree alleged by

the prosecution, as PW-19, who had brokered the settlement between the parties, has emphatically asserted that the deceased had herself asked him to bring forth a reconciliation, as she did not want a divorce from her husband. Also, PW-1, the father of the deceased, has admitted that the deceased was living very decently with her husband after the settlement was reached and that they had started living separately for two years preceding the fateful death of the deceased. Therefore, the prosecution has utterly failed to prove that any untoward incident occurred soon before the FIR was registered, and therefore, the allegation under Section 498-A stands unsubstantiated. Furthermore, as per the Ld. Counsel, none of the witnesses have themselves witnessed any physical torture being committed upon the deceased. Further, the prosecution has deliberately not cited any neighbour as a witness in this regard, as the neighbours would definitely have been aware of the level of discord that was existing between the deceased and her in-laws. If at all it was to the extent as alleged by the prosecution, the neighbours would definitely have been aware. Moreover, the witnesses have also stated that ever since the compromise had been reached in the year 2019 (i.e., two years prior to the occurrence), the deceased lived happily and decently with her husband. All these facts point out that, though there may have been some difficulties in the relationship between the deceased and her in-laws, as there are in most of such matrimonial relationships, the same were not such as would amount to cruelty. The Id. counsel during these arguments has relied upon the case law Manju Ram Kalita Vs State of Assam AIR 2009SC and Madhya Pardesh High Court case titled Shashi Khare Vs The State of Madhya Pardesh M.Cr.C No 5985/2017.

It is further argued by the Ld. Counsel Advocate Mohammad Abdullah Pandith that, if the relationship was so sour and there were threats given by the accused persons, then why the family of the deceased had not registered a complaint when they found out that the deceased had died an unnatural death, as PW-24, the initial IO, has, in clear terms, stated that during the inquiry under Section 174 Cr. PC, no document was received by him alleging that the accused had killed the deceased. These questions raise serious doubts regarding the role of the accused and, coupled with the fact that many of the witnesses have improved upon their statements recorded under Sections 161 and 164 Cr. PC, render the whole story of the prosecution doubtful, as the cited witnesses from the parental home of the deceased have tried to implicate the accused persons by giving different versions at different stages of the investigation and have also improved their version during the course of the trial. It is further asserted that the cited witnesses, being family members of the deceased, have only asserted that there was some dispute as the deceased could not give birth to any child, which resulted in altercation prior to six years of the incident. It is admitted by the cited witnesses that the deceased and her husband were living separately. There is no such assertion in the statements of the cited witnesses which could prove that there was any discord prior to the death of the deceased, as the facts revealed by the family members of the deceased do not make any such assertion which proves proximity

between the death of the deceased and the marital discord. It is further submitted that PW-19 has also made an assertion while recording his statement that it is true that both the husband and wife wanted to spend their life happily. He further stated that there was no matter regarding any fighting and arguing. PW-24, being an IO, has stated that no evidence has come on behalf of the neighbours that any scuffle between the deceased and the accused persons had taken place. More so, PW-25, being an IO, has not cited any witness from the neighbourhood of the maternal home of the deceased who could have unfolded the sequence of events which led to this act, as neighbours are considered to be the eyes and ears of one another. As such, mere bald allegations levelled by the interested witnesses that marital discord was existing between the deceased, her husband and other matrimonial relatives right after the marriage cannot be relied upon. However, there is no indication either in the FIR or in the evidence of any of the prosecution witnesses that the relations were so strained that the accused could go to the extent of murdering his own wife. As per the Ld. Counsel, in the totality of circumstances, the prosecution has failed to prove any cruelty prior to the death of the deceased.

As per the Ld. Counsel, Advocate Mohammad Abdullah Pandith the further circumstance relied upon by the prosecution is the presence of the accused persons at the place of occurrence at the relevant point of time. In order to prove this fact, the prosecution has relied upon the Call Data Record, as PW-24, being an IO, has stated that during the course of investigation, the phone numbers of the accused were sent to the concerned cellular companies for obtaining the Call Data Record of the phone numbers and the tower location of the accused persons at the relevant point of time when this murder could have been committed. As per the Ld. Counsel, the mandate of Section 65-B of the Evidence Act would reveal that, before admitting the electronic evidence, it is a condition precedent that a certificate is mandatorily required to be issued by the concerned nodal officer of the concerned cellular company, which is missing from the record, and in the absence of which the electronic evidence is not admissible within the four corners of the Evidence Act. More so, there are no such witnesses cited by the prosecution who would prove when the accused and the deceased were last seen alive, as neither any cited witness has asserted who was present inside the house throughout the day in order to rule out the possibility that any outsider may have committed this crime. As per the Ld. Counsel, taking into totality the above submissions, the prosecution has failed to prove the presence of the accused persons at the place of occurrence. The Id. counsel in support of this argument has relied upon the judgments cited as *Arjun Panditroa Khotkar vs Kalish Kishan Roa Goratiyal and Others* (Civil Appeal Nos. 20825-20826 of 2017), *Anwar P.V. versus P.K. Basheer* AIR 2015 SC 180, *Jagdeo Singh Versus State (MCT f Dehli)* 2015 SCC and *Yugraj Singh Versus Union Territory of Jammu & Kashmir* in Cr.LM No 1638/2024.

It is the further argument of the Ld. Defence Counsel that one more circumstance relied upon by the prosecution is whether the medical evidence proves the culpability of the accused persons in the instant

case, as the case of the prosecution is that the deceased had died due to smothering, as the doctors who have been examined during the course of the trial, i.e., PW-20 and PW-21, testified that the cause of death was smothering. As per the Ld. Counsel, the only proposition that needs some deliberation by the Court is that, even if it is considered that the death of the deceased was by unnatural means and the body of the deceased was found in her matrimonial home, it is sufficient to infer that the death was caused by the accused. As per the Ld. Counsel, the points to be kept in mind while deliberating upon this issue are that no witness has deposed before this Court that they had last seen the accused with the deceased, which consequently discards any last-seen theory that may have been read in favour of the prosecution case. Furthermore, the instrument/tools that had been used to smother the deceased have also not been recovered. Further, the silence of the prosecution about the identity of the persons actively and directly involved in the act of smothering raises a grave suspicion upon its case, which must necessarily favour the accused. As per the Ld. Counsel, in these circumstances, the case of the prosecution substantially weakens and solely revolves around the fact that the body was found in the matrimonial home. As per the Ld. Counsel, the law on this fact is clear that merely because the body of the deceased was found in the matrimonial home, it is not conclusive to prove the guilt of the matrimonial family. It is further submitted by the Ld. Counsel that PW-44, being an I.O., has stated that no independent evidence came whereby it would be known that the occurrence was committed by all the accused persons, or by three accused, or by one accused. The Ld. counsel in support of these arguments has placed reliance on the law cited as P.Mani Vs State of T.N 2006(s) SCC 161, Vikramjit Singh Vs State of Punjab 2006(12) SCC, High Court Allahabad titled Dr. (Smt.) Nupur Talwar vs State Of U.P. and Anr and High Court of Orissa Jeet Ram Satpathy vs State of Orissa on 21 May, 2024, Jeet Amaresh Satpathy Vs State of Orissa decided on 21 May 2024 and Shivaji Chintappa Patil Vs State of Maharashtra 2021(5) SCC 626.

It is the further argument of the Ld. Defence Counsel that an extremely important question which has arisen for the consideration of this Court is whether the prosecution has been able to corroborate its case beyond reasonable doubt and whether the case of the prosecution deserves to be accepted by the Court on the basis of the evidence adduced during the course of the trial. As per the Ld. Counsel, it is true that there is no direct evidence in the case and that the case of the prosecution is based on circumstantial evidence. The prosecution has miserably failed to establish that the accused have killed the deceased, as there is no legally admissible evidence on record which could have established anything incriminating against the accused in the instant case. The Ld. Counsel further submitted that suspicion, however grave it may be, cannot take the place of proof. The guilt of the accused has to be adjudged not by the fact that a vast number of people believe him to be guilty, but whether his guilt has been established by the evidence brought on record. As per the Ld. Counsel, indeed, the Courts have hardly any other yardstick or material to adjudge the guilt of the person

arraigned as an accused. It is further submitted by the Ld. Counsel that it is well settled that the prosecution must stand or fall on its own legs and it cannot derive any strength from the weakness of the defence. The Ld. Counsel during the course of arguments has relied upon Hanumant Govind Nargundkar & Anr V.State of M.P AIR 1952 SC 343, State through CBI V Mahender Singh Dahiya AIR 2011 SC 1017, Ramesh Harijan V State of U.P AIR 2012 SC 1979, Anjan Kumar Sarma & OrsVs State of Assam (2017) 14 SCC 359 and Renuka Prasad Vs State Represented by Assistant Superintendent of Police 2025(7) SCR 2025.

It is the further argument of the Ld. Defence Counsel that the circumstances of this case, upon being collectively considered, do not lead to the irresistible conclusion that the accused is involved in the case. Between 'may be true' and 'must be true', there is a long distance to travel, which must be covered by clear, cogent and unimpeachable evidence by the prosecution before an accused is convicted. There is an incomplete chain of circumstances, with missing links, and the major links in the chain of circumstances have not been established in a manner consistent only with the guilt of the accused and no one else. The Ld. Counsel has further submitted that, if the case of the prosecution is evaluated with an in-depth analysis of the evidence qua each link in the chain of circumstances, it stands established that the prosecution has failed to prove its case against the accused beyond reasonable doubt. The Ld. Counsel has lastly prayed that, in light of the above submissions, the accused be acquitted of the charges levelled against them, in order to secure the interests of justice.

9. Considered the arguments advanced by both the sides and have minutely perused the challan, the documents in support of the case placed on the file, the evidence lead by the prosecution during trial, statement of the accused persons recorded in terms of Section 313 Cr.P.C and the law relied upon by Id. APP as well as Id. defence counsel. The charge as framed against the accused persons is that accused persons were committing cruelty upon the deceased and on 27-06-2022 under a well knitted conspiracy has killed the deceased by smothering and thereafter have destroyed the evidence, as such have been charged for the commission of the offences under section 498A, 302,120B and 201 IPC.
10. Since the accused persons besides other offences are charged for committing atrocities upon the deceased Mst Tasleema wife of accused No 5. The cruelty as laid under section 498 A IPC reads as under:

498A. Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

For the purpose of this section, "cruelty" means—

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b)harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

11. The prosecution, in order to prove the offence of cruelty, has produced PW-1 to PW-8 and PW-19 as witnesses before the Court. As such, this Court, in the first instance, needs to go through the statements of these witnesses one by one. PW-1, the father of the deceased, in his statement before the Court, has stated that the deceased was married and her marriage was solemnized with accused Shahnawaz Ahmad Dar. The marriage of the deceased was performed in the year 2013, and her death was caused in the year 2022, on 27th June 2022. After the marriage, for about one and a half years, the relations remained good, after which the relations between the deceased and her in-laws deteriorated. The deceased did not give birth to any child. The brother-in-law of the deceased, namely Parvaiz Ahmad Dar @ Bilal, and the mother-in-law of the deceased, Mst. Hafeeza, were having discord with the deceased. Accused Parvaiz Ahmad Dar had beaten the deceased and had also burned her with a heater. Accused Parvaiz Ahmad Dar then came to my house and started rebuking me and gave me threats that he, Parvaiz Ahmad Dar, would kill the deceased and that he would get a divorce for the deceased. During the matrimonial life, once the deceased ran away from the matrimonial home and came to my home, where she remained for six months. Then, some respectable persons of the Baradari intervened between the parties in their matter and effected a compromise, after which the deceased returned to her matrimonial home. After this, accused Mst. Hafeeza had several times told me on the phone that I had given them a "Khota-Sika" and also told me that, before the marriage of the deceased, I should have conducted her medical examination. Then I and my sons and brothers went to the matrimonial house of the deceased, where the situation between the parties reached a hand-to-hand struggle. Thereafter, I brought my daughter, the deceased, back to my home, where she remained for about two and a half years. The accused sent one of their relatives, Wahid Ahmad R/o Batamaloo, to me with a suggestion of compromise. After this, a sitting took place in which the relatives of the accused were present. I suggested that, if the deceased would again go to the house of Shahnawaz, it would be better if accused Shahnawaz arranged a rented room at some place where he would keep the deceased. However, the relatives of the accused persons told me that, since accused Shahnawaz Ahmad was a driver by profession, he was not in a position to keep the deceased in a rented room. The relatives of the accused persons stated that they would arrange a separate room for the deceased in her matrimonial home, where the deceased and her husband would reside separately. Then, the in-laws of the deceased gave a room on the second storey to the deceased, and the deceased returned from her parental home to her matrimonial home. The deceased and the accused were residing separately in the matrimonial home for some time. During cross-examination, he has stated that the deceased was residing separately in the matrimonial home and living her life very decently. Accused Bilal and

accused Hafeeza were also residing separately in the house of the deceased. Accused Parvaiz Ahmad Dar @ Bilal had given the deceased threats of killing. However, I have not taken any police action against the same. Parvaiz Ahmad Dar, two years before the occurrence, had given life threats to the deceased. The deceased had given accused Shahnawaz Ahmad Dar two golden bangles for purchasing a vehicle. Accused Shahnawaz had taken the golden bangles from the deceased after the settlement.

PW-2 has stated that the marriage of the deceased was solemnized nine years before with Shahnawaz Dar. No child was born to the deceased. The in-laws of the deceased were subjecting the deceased to mental torture. The terms between the deceased and her in-laws were not good, and due to the souring of relations, a number of Panchayats and Baradari meetings took place between the parties. The brother of Shahnawaz, who has been arrayed as an accused in the case, once went to the father of the deceased and gave him threats that he would, in any case, get the deceased divorced and had also beaten the deceased. On the basis of his negotiation, their relations became good. He then stated that the terms had not improved, but accused Shahnawaz Ahmad Dar was adamant that he had to divorce his wife (deceased). The matrimonial relatives were not willing that accused Shahnawaz should divorce the deceased, as such my nephew Ali Mohammad asked accused Shahnawaz, in friendship, whether he really wanted to divorce the deceased. To this, the accused told him that he really wanted to divorce the deceased. Then, for some time, the matter remained pending. Thereafter, after some months, when we returned back, the brother of accused Shahnawaz, accused Shahnawaz and one of his uncles came to the parental home of the deceased and negotiated and told us that whatever had happened between the deceased and her in-laws had gone and, further, told us that they wanted to take the deceased back to her matrimonial home and also told us that they would give a separate room to the deceased at the matrimonial home where she would reside separately. Then, the brother of accused Shahnawaz, namely Aijaz Ahmad, gave them the confidence that they would remain as guards for the deceased. Some golden ornaments were taken from the deceased by accused Shahnawaz and, after selling the same, he purchased a vehicle. During cross-examination, the witness deposed that accused Bilal Ahmad had given a threat to the father of the deceased that he would get the deceased divorced and that he had beaten the deceased, but it was given by accused Bilal Ahmad prior to 2019 to the father of the deceased. After returning to the matrimonial home, the deceased was putting up separately. The deceased was putting up in a room on the second floor of the matrimonial home. The accused persons had never beaten the deceased in my presence.

PW-3 has stated that, in the year 2013, Nikah between Mst. Tasleema and Shahnawaz was performed. For about $1\frac{1}{2}$ years, no child was born, due to which a dispute arose. During this period, accused Shahnawaz fell ill and underwent surgery. Mst. Tasleema sold her ornaments and got the surgery of the accused done. For some time, the relations between the two remained good; however, due to not having any child, a dispute

started. After some time, accused Parvez @ Bilal went to the father of the deceased and told him that accused Pervaiz had given electric current to the deceased and had also beaten her and also told him that they would give divorce to his daughter today as well as tomorrow. After this, we went to Police Post Bemina, where a Dy. SP was present. We informed the Dy. SP regarding the matter. Then the police called both the parties to the police station, where the accused, i.e., Hafeeza, Shahnawaz and Pervaiz, sought apology and agreed to take the deceased back home. Then, after some time, in the year 2018, a dispute again arose and the deceased again came to her parental home and remained there for $2\frac{1}{2}$ years. Then, the in-laws of the deceased brought a relative, namely Abdul Wahid, who is a resident of Batamalo, to initiate negotiations in the matter. During the negotiation, I asked accused Shahnawaz what decision he had to take with his wife, i.e., the deceased. In reply, he stated that he had to give divorce to the deceased. I asked the accused why he was willing to give divorce, upon which the accused replied that the deceased could not give birth to a child. After passing of one year, accused Shahnawaz, his brother Aijaz Ahmad and his uncle came to my house and requested that they would take the deceased back to her matrimonial home. Later on, it was decided that the deceased and accused Shahnawaz would reside separately; however, accused Shahnawaz refused to keep the deceased in some separate house for living. After this, accused Shahnawaz and the deceased started residing in a room on the second storey of the matrimonial house, and for some period, the terms between the deceased and the accused remained cordial. During cross-examination, he stated that, due to not having a child, there was an estrangement between them and they used to beat each other. No case had been registered regarding the beating.

PW-4, brother of the deceased, has stated that, in the month of September 2013, the marriage of my sister was performed with accused Shahnawaz. For one year, the matrimonial relations of the accused and my sister were good. After this, the mother-in-law of my sister, Mst. Hafeeza, brother-in-law Pervaiz Ahmad Dar, and husband Shahnawaz Ahmad Dar started harassing and beating the deceased. After this, regarding many disputes, some negotiations and decisions were taken. In the year 2018, the deceased was thrown out by the accused from the house. After this, the mother-in-law of my sister (deceased) told me that she was of no use (Khota-Sikka) because she could not give birth to a child and, as such, to take her back home. During this, Bilal @ Pervaiz came to my father's shop and gave him threats that they would kill our daughter today or tomorrow. Then, a middleman, Wahid Ahmad, was sent to my house for negotiation, as they wanted to end the relation, and he told us to give the list of the articles which my sister had taken along with her there. We gave the middleman, i.e., Abdul Wahid, the list of Rs. 11.50 lakhs. They also made a promise that they would pay the amount of the vehicle in instalments. When the accused persons saw the list, they again talked regarding the negotiation. Then, we told the elder persons that we would send our sister back to her in-laws' house on the condition that they would keep her separately in the matrimonial home. She would

be provided a separate room in the matrimonial home, which was later on decided. During cross-examination, the witness deposed that it is true that the husband Shahnawaz and the deceased were living separately. They were happy. Before the occurrence, regarding the beating, no complaint was lodged in the police station. However, after consultation with the Masjid Committee, the accused persons had assured that, in future, it would not be repeated and the matter would be solved. I had told all this to the IO verbally. In the year 2018, the deceased was thrown out by her in-laws, i.e., her mother-in-law Hafeeza, Bilal @ Pervaiz, Shahnawaz and other family members.

PW-5 has stated that the deceased Tasleema, daughter of Abdul Aziz Dar, was married to Shahnawaz Ahmad Dar in the year 2013, and they were residing at Nund Reshi Colony, Bemina. For about 1½ years, the matrimonial life between them remained good. After this, a dispute arose between the two, and Ahli-Baradari conducted many settlements. In the year 2018, the deceased came back to her parental home and remained there for two years. Later, in the year 2020, it was settled that both would reside separately. After this, the deceased was living separately in the in-laws' house in another room. The cause of the death of the deceased was the fact that her in-laws were rebuking and beating her because she could not give birth to a child. The mother-in-law of the deceased was rebuking and beating the deceased regarding this. I had given my statement before the police. During cross-examination, he stated that since 2020, the deceased was living separately. The decision regarding living separately was taken in the year 2020. Tasleema herself told me that her mother-in-law was harassing her for not giving birth to a child.

PW-6 has stated that one of his relatives, Mst. Tasleema, was married eight years before; however, he did not know the name of her husband. During these eight years, no child was born to Tasleema, due to which reason quarrels took place between Tasleema and her husband. Since two years before the death of Mst. Tasleema, she was residing at her parental home. Then, on the request of the brother-in-law of Mst. Tasleema, whose name I do not know, we sent Mst. Tasleema to her matrimonial home. During cross-examination, he stated that two years before, on the assurance of the brother of the husband of the deceased, the deceased was sent to her matrimonial home. This was told to me by the father of the deceased, but I have no personal knowledge regarding the same. The deceased was living with her husband, separately from her mother-in-law and father-in-law, which was told by the father of the deceased. The deceased was mentally disturbed due to the reason of not having a child and also due to the harassment.

PW-7 has stated that deceased Mst. Tasleema was his niece. About 11 years before, the marriage of Mst. Tasleema was solemnized with

Shahnawaz Dar R/o Nundrish Colony. After two years of marriage, Shahnawaz fell ill and underwent surgery. Then, one day, some guest came to the matrimonial home of the deceased Mst. Tasleema from Sopore. Then accused Pervaiz Ahmed, who is the brother-in-law of the deceased, slapped the deceased and told her that they would throw her out of the house today as well as tomorrow. Then, the brother-in-law Pervaiz went to the house of the father of the deceased and told him to take his daughter back, else she would be thrown out of the house today as well as tomorrow, or they would kill her. Then, the deceased came to her parental home and, after some months, due to negotiation and compromise, she returned to her matrimonial home. Then, again, they quarrelled with her and she returned to her parental home. Then, after two years, the brother-in-law Aijaz Ahmad, after compromising, took the deceased back to her in-laws' house, where the deceased started living separately along with her husband, regarding which her in-laws gave them permission. However, in the same house, the in-laws and the deceased were residing. The deceased had no child. At the time of living separately, the deceased had given her golden bangles to Shahnawaz for purchasing the vehicle. Then, on 27th June, the deceased called me on the phone and asked about my well-being. During cross-examination, he stated that the matter relating to the quarrel between the deceased and her in-laws was told to me by the deceased on the phone; however, no quarrel had taken place in my presence. Regarding the slapping and beating by her brother-in-law, no complaint was registered with the police. I do not perfectly remember the dates on which the scuffles took place. Once, I had visited to enquire about the health condition of Shahnawaz Dar, and the second time I went there for an invitation, and during those days, Mst. Tasleema was residing separately from her in-laws. After four years of marriage, the deceased and her husband started living separately from her in-laws.

PW-8 has stated that deceased Tasleema was my sister, who was murdered by the accused persons present before the Court through V.C. The husband of my sister was Shahnawaz Dar, and their matrimonial relations were not good. The in-laws of the deceased were harassing her, and the cause for the dispute with the deceased was the fact that she could not give birth to a child. Before two years of the occurrence, the deceased was at her parental home. Then, her husband's brother and uncle came for taking the deceased back, and after negotiation, they took the deceased back to her matrimonial home. During cross-examination, he stated that the dispute between the deceased and her husband continued till her death. Regarding the unfairness of the in-laws, we approached the police twice; however, the deceased sister did not agree to register any case. It was settled that, when the deceased would return to her matrimonial home, she would reside separately.

PW-19 has stated that, from among the accused persons, I know accused Shahnawaz and Parvaiz and also accused No. 1. The accused Shahnawaz

came to me and told me that he had some dispute with his wife, however, I did not know the name of his wife. The accused Shahnawaz came and told me that he was having a dispute with his wife regarding golden ornaments and told me to conduct negotiations between them. There is a committee in the area in which I am working as a member. Regarding these matters, a committee is working. Then, I arranged a meeting in which accused Shahnawaz, his brother and his maternal uncle, and from the other side, the deceased, her father and brother were present. Both the parties were asking for ending the relation by giving talaq, however, the accused Shahnawaz took me to a separate room and told me that he was not willing to end relations with his wife because he had good terms with his wife. The deceased told that she did not want talaq but wanted to live her life. During cross-examination by the counsel for the accused, he stated that it is true that Shahnawaz and deceased Mst. Tasleema wanted to spend their lives with each other happily. I called both the husband and wife separately into the room to enquire as to why the matter had reached up to talaq, but both of them stated that they wanted to live their lives happily. It was accepted by Shahnawaz that deceased Tasleema had given her two golden bangles for purchasing the vehicle and that whatever amount the same would fetch would be paid back to her slowly. Then, I also found that there was no dispute between the husband and wife due to which divorce would take place between them.

12. While considering and evaluating the statements of these witnesses, it is clear that almost all the witnesses have stated that there remained a matrimonial discord between the deceased and accused No. 5, her husband, and even some of the witnesses have stated about the differences of the deceased with accused No. 1, her mother-in-law, and accused No. 4, her brother-in-law, and have even stated that accused No. 4 once tried to electrocute the deceased with a heater. It has come in the evidence of these witnesses that, after the dispute, the deceased stayed at her parental home for about two years, and thereafter a settlement was arrived at, whereby the deceased and accused No. 1 started residing separately at the in-laws' house. No doubt, in the evidence of PW-1 to PW-8, it has come regarding the matrimonial discord/dispute between the deceased and her husband, brother-in-law and mother-in-law, but the same has been stated by the witnesses to have taken place before 2020, and even it has come in the evidence of some witnesses that once the matter came before the Dy. SP, whereafter the matter was resolved when the accused sought an apology. It has even been admitted by the father of the deceased, PW-1, that after the deceased started residing separately, she was residing happily with her husband. No doubt, in the evidence of the prosecution, it has come that there was some discord between the deceased and her in-laws, but, as per the evidence on record, that was only prior to the settlement arrived at, whereafter the deceased and her husband (accused No. 5) started residing separately, and after that nothing in the evidence of the prosecution has come to show that the deceased, till her death, had been harassed by any of her matrimonial family members. Further, the discord/dispute between the deceased and her in-laws seems not to have

been to such an extent of cruelty where the matter would have been reported to the police and an FIR would have been lodged, but no such action has been taken with regard to the alleged harassment or beating. Petty quarrels cannot be termed as "cruelty" to attract the provisions of Section 498-A IPC. Causing mental torture to the extent that it becomes unbearable may be termed as cruelty. From the evidence, it is clear that the deceased was always willing to make her relationship workable with her husband, which also makes it clear that the discord had never escalated to such a degree as alleged by the prosecution. Even in the statements of these witnesses, not a single word regarding any role of accused Nos. 2 and 3 has come whereby any act of any kind of harassment has been attributed to them as having been committed against the deceased.

13. It is well settled that to prove offence under Section 498-A, it has to be established that the woman has been subjected to cruelty continuously or persistently or atleast in close proximity of time of lodging the complaint, as petty quarrels do not amount to cruelty. In Girdhar Shankar Tawade v. State of Maharashtra, AIR 2002 SC 2078 Hon'ble Supreme Court held that "cruelty" has to be understood having a specific statutory meaning provided in Section 498A I.P.C. and there should be a case of continuous state of affairs of torture by one to another.

14. In Mohd Hoshan Vs. State of A.P (2002) 7 SCC 414, the Hon'ble Supreme Court while dealing with the similar issue held that mental or physical torture should be continuously practiced by the accused on the wife. The court further observed as under:-

"Whether one spouse has been guilty of cruelty to the other is essentially a question of fact. The impart of complaints, accusations or taunts on a person amounting to cruelty depends on various factors like the sensitivity of the individual victim concerned, the social background, the environment, education etc. Further, mental cruelty varies from person to person depending on the intensity of sensitivity and the degree of courage or endurance to withstand such mental cruelty. In other words, each case has to be decided on its own facts to decide whether the mental cruelty was established or not."

15. The Hon'ble Supreme Court in the case of Manju Ram Kalita Vs State of Assam AIR 2009 SC(Supp)2056 it has been held as under:-

22. "Cruelty" for the purpose of [Section 498-A](#) I.P.C. is to be established in the context of [S. 498-A](#) IPC as it may be a different from other statutory provisions. It is to be determined/inferred by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find out as to whether it is likely to drive the woman to commit suicide etc. It is to be established that the woman has been subjected to cruelty continuously/persistently or at least in close proximity of time of lodging the complaint. **Petty quarrels cannot be termed as**

`cruelty' to attract the provisions of [Section 498-A IPC](#). Causing mental torture to the extent that it becomes unbearable may be termed as cruelty.

16. While examining the instant case and the evidence which has come on record, while taking into consideration the aforesaid settled legal provisions, it is clear that, undoubtedly, as stated by the witnesses, there has been some matrimonial discord between the deceased and her in-laws after one and a half years of the marriage of the deceased with accused No. 5 till 2020, when she started residing separately with her husband in a separate room in her matrimonial home. None of the witnesses have stated that any kind of discord or any occurrence of alleged cruelty had taken place with the deceased at the hands of her in-laws, i.e., the accused persons, since the time she was living separately till her death. Though PW-8, the sister of the deceased, has stated during her cross-examination that the dispute between the deceased and her husband continued till her death, the same has not been corroborated by any other witness, including the father and brother of the deceased. Therefore, in view of the evidence which has come on record through the statements of PW-1 to PW-8 and PW-19, and also taking into consideration the law cited hereinabove, it is clear that the prosecution has not succeeded in proving the alleged cruelty within the meaning of Section 498-A Cr.P.C. against the accused persons.
17. **Now this court needs to evaluate and analyze the prosecution evidence on record in order to hold the accused guilty for the commission of the offences under Section 302, 120-B, 201 IPC.** It emerges to be noted that there is no eye witness to the occurrence. The case is based on pre and post crime conduct of the accused, motive for crime, expert opinion, etc, as the case is entirely based on circumstantial evidences. Before coming to the facts, circumstances and features, on analysis and appreciation of evidence, of this case, it would be apt to note the admitted legal position regarding the burden of proof in criminal cases and the norm and standard of proof required in a case based on circumstantial evidence.
18. In *Dr. N.G. Dastane Vs. Mrs. S. Dastane* (AIR 1975 SC 1534), it is observed that in criminal trials higher standard of proof commonly identified with the phrase "beyond reasonable doubt" is required. The courts insist on this higher standard of proof as freedom and liberty of subject is involved in a criminal case. The same principle is found in *Sawal Dass Vs. State of Bihar* (AIR 1974 SC 778).
19. In *Sharad Birdhi Chand Vs. Sarda* (AIR 1984 SC 1622), the court has observed:—

"...that the cardinal principle of criminal jurisprudence is that a case can be said to be proved only when there is certain and explicit evidence and no person can be convicted on pure moral conviction...."

20. In *State of U.P. Vs. Krishna Gupta* (AIR 1988 SC 2154 (2160)), the court, in the context of proof beyond reasonable doubt, the standard of norm laid in a criminal case observed:—

“...To constitute reasonable doubt it must be free from an over emotional response. Doubts must be actual and substantial doubts as to the guilt of the accused person arising from the evidence or from the lack of it, as opposed to mere vague apprehension. A reasonable doubt is not an imaginary, trivial or a merely possible doubt; but a fair doubt based upon reason and commonsense. It must grow out of the evidence in the case.

The concepts of probability, and the degrees of it, cannot obviously be expressed in terms of units to be mathematically enumerated as to how many of such units constitute proof beyond reasonable doubt....”

21. In *Hanumant S.R. Dass Vs. State of M.P.* (AIR 1952 SC 342), the following five “Golden principles” are ruled to constitute the basis for proof of a case based on circumstantial evidence:—

(i) The circumstances from which the conclusion of guilt is to be drawn should be fully established.

(ii) The facts so established should be consistent only with the hypothesis of the guilt of the accused; that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.

(iii) The circumstances should be of a conclusive nature and tendency.

(iv) They should exclude every possible hypothesis except the one to be proved, and

(v) There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

The above norms and standard of proof required to sustain conviction on criminal charge based on circumstantial evidence has been reiterated in *Aryad (a) Papu Vs. State* (Delhi Administration JT 1999 (3) SC 544).

22. In *Dhananjay Chatterjee Vs. State of West Bengal* (AIR 1994 SCC (Cri) 358 (366)), the Apex Court observed:—

"It needs no reminder that legally established circumstances and not merely indignation of the court can form the basis of conviction and the more serious the crime, the greater should be the care taken to scrutinise the evidence lest suspicion takes the place of proof."

23. Having noted the law on the question of examination and appreciation of evidence and norms and standard of proof required in criminal cases generally and in cases based on circumstantial evidence, it is contextually appropriate to take note of the observation in AIR 1984 SC 1622, that suspicion however strong cannot take the place of legal proof and that the "fouler the crime higher the proof".

24. In *Jaga Singh Vs. State of Punjab* (AIR 1995 SC 135), this rule is reiterated as "suspicion cannot be substitute for proof".

25. Now adverting to the question of examination and appreciation of evidence of this case, the whole matter can be approached under the following heads:-

- (i) Expert opinion and evidence.
- (ii) Conduct and Preparation.
- (iii) Burden of proof upon the accused in terms of Section 106 of the Evidence Act.
- (iv) Conclusion.

(i) Expert opinion and evidence.

26. As per the prosecution case, on 27th June, the Police Station received information that at Nund Reshi Colony, Bemina, Mst. Tasleema, W/o Shahnawaz Ahmad Dar, resident of Nund Reshi Colony, Bemina, had died under mysterious circumstances, and accordingly, during the enquiry proceedings, the body was taken into possession. After conducting the post-mortem of the deceased, as per the report EXPW-20, the death of the deceased was reported to have been caused due to asphyxia (smothering). The prosecution, in order to prove that the death of the deceased had been caused by asphyxia due to smothering, produced the team of doctors who had conducted the post-mortem of the deceased and submitted the report EXPW-20 before the Court as witnesses. Their statements were recorded, and in their statements, they admitted the contents of the post-mortem report EXPW-20 to be true and correct, wherein they had given the final opinion as follows: "After the perusal of the Toxicological Analysis Report, Radiological Examination Report, Histopathological Report and complete post-mortem examination, we are of the opinion that the findings are consistent with death due to asphyxia (smothering)." The said doctor witnesses, PW-20, PW-21 and PW-23, have fully narrated the details of the post-mortem so conducted by them. As such, the material part of their statements needs to be analysed, which is as under:

PW-20 Dr. Uzma Has stated that on 27th June 2022, we received the body of the deceased at around 5:30 p.m., and after receiving the docket for autopsy, we started the autopsy at around 7:00 p.m. There was a team of doctors, myself, Dr. Firdous Khan, Lecturer, GMC Sgr., and Dr. Bilal Ahmad Wani, Medical Officer, J&K Health Services. We noted the external injuries, which were documented in our post-mortem report. Further, we sent the viscera for histopathological examination and toxicological analysis, and after perusal of the reports given by these respective departments, we gave the final post-mortem report on 2nd August 2022. During external examination, the upper and lower lips were deeply cyanosed, with multiple small contusions present on the inner side of the lip. There was a lacerated wound measuring 1 cm × 0.5 cm present behind the left ear. Contusions measuring 4 cm × 3 cm were present on the left side of the face in front of the left ear. A contusion measuring 2 cm × 2 cm was present on the chin. A contusion measuring 2 cm × 1.5 cm was present on the outer side of the left arm, 4 cm above the elbow joint. An abrasion, reddish in colour, measuring 3 cm × 2 cm, was present 1 cm above the right elbow joint. A contusion measuring 5 cm × 4 cm was present on the right thenar area, just below the proximal phalanx of the right thumb. A contusion measuring 5 cm × 4 cm was present on the left thenar area, just below the proximal phalanx of the left thumb. There was petechial haemorrhage present on the right and left sides of the face in front of both ears. The tongue was bitten between the teeth, and blood-stained discharge was present in the mouth. A contusion was present over the bridge of the nose, with deeply cyanosed nostrils. There was subconjunctival haemorrhage present in both eyes. The injuries above mentioned are not self-inflicted. During the post-mortem, organs like the brain, lungs, liver, spleen and kidneys were congested. After perusal of the toxicological analysis report, radiological examination report, histopathological report and complete post-mortem examination, we are of the opinion that the findings were consistent with death due to asphyxia. The post-mortem report on the file is under my signature and is identified by me. The contents of the post-mortem report from page 1 to page 5 are true and correct, and the same is exhibited as EXT. P-20, dated 10-07-2023.

PW-21 Doctor Firdous Khan Has stated that the post-mortem report EXT. P-20 on the file bears my signature. The body of the deceased was brought to GMC Srinagar on 27.06.2022 at around 5:30 p.m. and was identified by her father, namely, Mr. Abdul Aziz Dar. The body was brought by ASI Mohd. Amin of P/S Batmaloo. The post-mortem was started at around 7:00 p.m. by the team of doctors, including me, Dr. Uzma Buch and Dr. Bilal from the Health Department. During physical examination of the deceased, there was a contusion of the nasal bridge, and there were multiple small contusions present on the lower lip. A tongue bite was present, and blood-stained discharge was seen from the mouth. Contusions were present on the right and left sides of the face, just below the ears, with petechial haemorrhages. Besides, a laceration was present behind the ear. A contusion was present on the outer side of the left arm, 4 cm above the elbow joint. Contusions were present on the left and right thenar areas, just below the proximal phalanx, and an

abrasion was present on the right elbow joint. After conducting the external examination, we opened the body and examined the internal organs and found that the liver, spleen and kidneys were congested, and left ventricular hypertrophy was seen in the heart. As a routine procedure, we collected blood samples and portions of the liver, kidney, spleen, lung and entire stomach, which were sent for chemical analysis. We also sent the heart, kidney, lung, liver and spleen for histopathological examination, and after receiving all the reports, we were of the opinion that the findings were consistent with death due to asphyxia (smothering). The physical injuries were not self-inflicted injuries.

PW-22 Doctor Bilal Ahmad wani Has stated that on 27th June 2022, we received the body of the deceased at around 5:30 p.m. and started to conduct the post-mortem at around 7:00 p.m. First, we examined the external injuries sustained by the deceased. A lacerated wound was visible behind the left ear. Contusions were seen on the left side of the face and in front of the left ear. Contusions were present on the chin. Contusions were also visible on the left arm above the elbow joint. Abrasions were present above the right elbow joint. Contusions were visible on the right thenar area, just below the proximal phalanx of the right thumb. Contusions were also visible on the left thenar area, just below the proximal phalanx of the left thumb. During internal examination, we collected the viscera, and the stomach and blood samples were sent for histopathological examination. The stomach and blood samples were sent to FSL Srinagar. After receiving the histopathological report from the Pathology Department, GMC Srinagar, and the FSL opinion, we came to the conclusion that the death of the deceased was due to asphyxia (smothering). The post-mortem report EXT. P-20 bears my signature. The contents are true and correct.

27. From the overall consideration of the post-mortem report EXT. P-2 and the statements of PW-20, PW-21 and PW-22, it stands fully proved that the deceased died due to asphyxia (smothering). Though the Ld. Defence Counsel has thoroughly cross-examined the said witnesses, he has failed to extract anything from them which could raise even a slight doubt regarding the post-mortem report EXT. P-20. Even the physical injuries which have been reported by the said doctors in their report have also been fully proved by them during their statements before the Court, which, as per the opinion of the said doctors, are not self-inflicted injuries. Even the said injuries on different parts of the body of the deceased have also been testified to by some other prosecution witnesses who had seen the deceased after her death. PW-4 has stated that when I reached JVC Hospital, I saw the dead body of my sister lying in the hospital. Both the hands of my sister were folded, and her lips had turned black. Near her ears, blood had fallen. On her throat, there were marks of pressing by some article. PW-6 stated that during the ritual bath, some bruises and injuries were seen on the body of the deceased, due to which suspicion arose that the deceased was killed. PW-7 has stated that at the time of the ritual bath, I had seen the body of the deceased. The neck of the deceased was broken, and blood was oozing from her mouth and nose. PW-8 has stated that I had seen the dead

body of the deceased. There were bruises on her chest, and the tongue had come between the teeth. Bruises were present on her face, and her neck was broken. PW-11 has also stated that on different parts of the body of the deceased, there were wounds and scars. I had seen the wounds and scars on her body at the time of her ritual bathing. The deceased had a wound on the back of her left ear, and on the front side of her left ear, on her face, there was a wound of about 4 inches, and there was also a wound on her chin. On the ankle of the left arm of the deceased, there was a scar. The thumbs of both hands of the deceased were also pulled.

Therefore from the overall consideration of the evidence of these witnesses and from the circumstances it stand established beyond any shadow of doubt that the death of the deceased has been caused by smothering and the injuries which are found on the body of the deceased were not self-inflicted, as such it stand proved beyond shadow of doubt that death of the deceased has been caused by some person or persons.

28. It is the stand of the prosecution that, during the investigation, the CDR details of the phone numbers of the accused persons and the deceased were obtained as per the procedure, from which it was established that the locations of the accused persons were determined and that they were in contact with each other on the day of occurrence, as such, they, under a well-planned conspiracy, had committed the occurrence, whereas the deceased, at the last time, had talked with her aunt, Mst. Sayara, on the phone in the morning at 11:01:13 seconds (a.m.). Whereas the sister of the deceased, Mst. Shami Jan, had called on phone No. 9541199196 of the deceased from 11:30 a.m. till 2:45 p.m., which calls were not picked up by the deceased. From this, it was established that the accused persons had committed the occurrence after the phone call at 11:01:13 a.m. till 11:30 a.m. (in between) and had deliberately not informed the parental family members of the deceased about her condition or death.
29. PW-25, the Investigating Officer of the case, in his statement before the Court, has stated that during the investigation, I obtained the mobile phone numbers of five accused persons and, regarding their CDR details, I communicated with the telecom companies and obtained the CDR details regarding the cell numbers. As per the CDR details, the locations of all the five accused persons were shown to be at the same place, which is Abubakar Colony, Bemina. During the investigation, I came to know that, as per the CDR details, the accused persons were in contact with each other on the phone, therefore, I added the offence under Section 120-B IPC in the case. Later on, I perused the evidence minutely and reached the conclusion that the offences were proved against the accused persons.
30. Therefore from the prosecution case as well as the statement of the investigating officer PW-25, it is clear that the prosecution is alleging the involvement of the accused persons in the conspiracy on the basis of the CDR details obtained by the investigating officer. The PW-25 during his cross examination has admitted that he has obtained CDR details regarding which the certificate under section 65-B of evidence Act was not obtained. The certificate under section 65-B is mandatory for admitting the electronic records as evidence when the original is not produced. Section 65-B of the Evidence Act reads as under:

65B. Admissibility of electronic records.

(1) Notwithstanding anything contained in this Act, any records. information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely:-

(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether-

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers.all

the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,-

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,

and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

31. The Hon'ble Supreme Court in case titled Arjun Panditroa Khotkar versus Kalish Kishan Roa Goratiyal and Others (Civil Appeal Nos. 20825-20826 of 2017) decided on 14-07-2020 ruled that: "Compliance of section 65-B Indian Evidence Act is essential to admit Electronic record as evidence.

The Hon'ble Supreme Court in Anwar P.V. versus P.K. Basheer AIR 2015 SC 180 has held that:-"Certificate under section 65B is mandatory for admitting electronic records when the original is not produced.

The Hon'ble Dehli High court in case titled in Jagdeo Singh versus state (MCT of Dehli) 2015 SCC has held that: "Call detail records (CDR) and other electronic documents are in admissible without 65B certificate".

32. While going through Section 65-B of the Evidence Act, the law cited hereinabove and the Call Data Record placed on the file, it is clear that the requisite certificate is not placed along with the CDR details. Though the prosecution has placed, along with the CDR, the certificate obtained from the concerned company, that certificate does not fulfil the requirements of Section 65-B of the Evidence Act. Moreover, no other evidence in the shape of witnesses is cited by the prosecution who could have proved the alleged conspiracy of the accused persons. It is established law that the failure of the prosecution to produce a

certificate under Section 65-B or the original electronic devices completely invalidates the Call Detail Records (CDRs), effectively breaking the chain of circumstantial evidence required to prove a criminal conspiracy under Section 120-B. Therefore, the prosecution has failed to prove the offence of conspiracy in terms of Section 120-B IPC, as the Call Detail Records of the accused persons placed on the record and relied upon by the prosecution are inadmissible, as the same do not fulfill the necessary requirements of Section 65-B of the Evidence Act.

(ii) Conduct and Preparation.

33. In the instant case, the prosecution, through the evidence of the PW doctors, has proved that the death of the deceased was caused due to smothering and that the injuries found on various parts of the body of different kinds, as detailed in the post-mortem report EXT. P-20, as well as stated by the prosecution witnesses PW-20, PW-21 and PW-22 (doctors), as well as by other prosecution witnesses stated hereinabove, were not self-inflicted, as per the statements of PW-20 and PW-21. It emanates from the evidence on record that the deceased was married to accused No. 5, and the couple shared a cordial matrimonial relationship after their marriage. However, the inability of the deceased to give birth to a child strained the relationship between the parties, which ultimately resulted in the accused Nos. 1, 4 & 5 subjecting the deceased to torture and harassment. According to PW-1 corroborated by other prosecution witnesses, the approach of accused No. 1 was always hostile towards the deceased. Even accused No. 4 went to the shop of PW-1 and told him that the deceased would be divorced, and further threatened PW-1 with dire consequences qua the deceased. PW-1 testified that accused Nos. 1 and 4 also told him to take back his daughter. This was coupled with the fact that accused No. 1 asked PW-1 why he had not subjected the deceased to a medical examination before the marriage. PW-1 is corroborated on material propositions by other prosecution witnesses, who testified that the approach of accused Nos. 1, 4 & 5 was always hostile towards the deceased for her inability to give birth to a child, and that accused No. 5 was adamant about divorcing the deceased. However, before the death of the deceased, the relationship between the parties improved for a limited period, and the deceased was living in a separate room in the same house, wherein the other family members were also residing in separate accommodation. However, access to the room occupied by accused No. 5 and the deceased was common, and there is no evidence on record to substantiate that access to the room occupied by the deceased and accused No. 5 was separate or that the room had no connection with the rest of the accused.
34. Further, it is the admitted case of the prosecution, as well as proved through the evidence of the witnesses, that the deceased was living separately with her husband, accused No. 5, in a separate room in the matrimonial home but the entry to the room was through the portion housing the other accused under one roof. Even the Investigating Officer, in his statement, has substantiated that the deceased was residing separately with her husband but there is no evidence in rebuttal that there was a separate staircase used as a means for ingress and

egress by the deceased and her husband. She was living with her husband in the same house of her in-laws and was having a separate cooking stove in the kitchen. Further, prosecution witnesses No. 7 and PW-8 (sister of the deceased) have stated that the deceased, on the day of occurrence, had talked with them in the morning, and PW-8 has stated that the deceased, on the day of occurrence, at 9:55 a.m. in the morning, called her on the phone, which clearly proves the fact that the deceased, on the day of occurrence, was present in her matrimonial home, where she was putting up. Even from the evidence of the prosecution witnesses, and also as admitted by accused Nos. 1 to 3 in their statements under Section 313 Cr.P.C., the dead body of the deceased was brought down from the room of the deceased through the stairs by accused Nos. 1, 2 and 3 and was boarded in the auto of accused No. 4, Parvaiz Ahmad, who had also reached the spot. This fact was admitted by prosecution witness PW-12, who has stated that when he was informed by Muntaha, daughter of accused Parvaiz, that something had happened to Tasleema, he went to the spot, where Mst. Jooli, Mst. Diya and Baji, namely Mst. Hafeeza, were present, and I, along with them, took out Mst. Tasleema from the room and brought her down the stairs and boarded her into the auto and took her to the hospital, where the Medical Assistant told us that Mst. Tasleema had perhaps died. Therefore, it also stands established that the deceased was brought out from her room, where she was residing separately with her husband, and taken to the hospital, where the deceased was declared dead by the doctors, and accordingly, the dead body of the deceased was taken into possession by the police vide receipt memo EXT. P-4, which stands proved by the statements of PW-3, PW-4 and PW-14. Further, the prosecution has also proved the identification memo of the dead body EXT. P-1 through the evidence of PW-1, father of the deceased, PW-3, PW-4 and PW-14, whereby it stands proved that the dead body taken into possession was that of deceased Mst. Tasleema, wife of Sahanawaz Ahmad Dar, R/o Nund Reshi Colony, which was taken to the hospital for post-mortem, as proved by the statements of PW-20 to PW-22. Further, the receipt of the dead body by the legal heirs for its burial, as per EXT. P-1/1, also stands proved by the prosecution witnesses PW-1, PW-3, PW-4 and PW-14. Therefore, the prosecution, through the evidence, has proved that the death of the deceased was caused in the room where the deceased was residing with her husband/accused No. 5. However, there is no evidence on record to rebut the prosecution case that the room occupied by the deceased and her husband was separate and exclusively meant for their use, with restricted access to the other accused. The accused have failed to establish that they had no access to the said room or that their access thereto was in any manner restricted. Merely because separate entrances were available to the deceased and her husband, on the one hand, and the other accused residing in the same house, on the other, does not, by itself, establish that the room occupied by the deceased and her husband was beyond the reach or access of the remaining accused. In the absence of cogent and reliable evidence establishing exclusive possession and restricted access to the said room, the contention that the other accused had no access thereto cannot be accepted merely on the basis of the existence of separate entrances.

(iii) Burden of Proof

35. As such, under Section 106 of the Evidence Act, the burden is upon accused to prove who had committed the smothering of the deceased. The section 106 of the Evidence Act reads as under:

106. Burden of proving fact especially within knowledge.

When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

36. The Hon'ble Supreme Court in case titled Nagendra Shah Vs The State of Bihar Criminal Appeal No 1903 of 2019 while discussing upon the applicability of Section 106 of the Evidence Act has held in para No 20 and 21 as under:

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

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

37. In the instant case, in light of the fact that there is no direct evidence available, rather, through circumstantial evidence, the prosecution has fully proved the case of smothering of the deceased in the room where accused No. 5 and the deceased were residing for more than one year. As such, the burden is shifted upon accused in terms of Section 106 of the Evidence Act to give an explanation in this regard as to who had committed the act of smothering the deceased, when it stands proved through the evidence of PW-20 and PW-21, through their statements before the Court, that the injuries and bruises on various parts of the body were not self-inflicted. It needs to be taken note of that smothering, depending upon the circumstances in which it is committed, may involve the participation of more than one person. The medical evidence establishes that the deceased was well-built and that the cause of her death was conclusively opined to be smothering, so the injuries sustained by deceased are not result of any Cardiac arrest. However, the nature of the fatal act, by itself, conclusively establish the involvement of multiple persons. Upon an overall appreciation of the circumstances and the evidence led by the prosecution, I am of the considered opinion that the persistent hostile attitude and conduct attributed to accused

Nos. 1, 4 & 5, viewed in conjunction with the other incriminating circumstances brought on record, give rise to a strong inference regarding their concerted involvement in the commission of the crime and the possibility of a pre-planned conspiracy to eliminate the deceased "beyond any reasonable doubt". Conversely, the role attributed to accused Nos. 2 & 3 creates ambiguity in the mind of the Court, and a reasonable doubt persists regarding their involvement in the commission of the offence. The evidence on record does not specifically implicate them in the matrimonial discord between the deceased and accused No. 5, nor does it establish their active participation in the persistent interference and hostility allegedly exhibited by accused Nos. 1 and 4. The prosecution evidence, on the contrary, indicates that accused Nos. 1 and 4 played a dominant role in aggravating the matrimonial discord by repeatedly interfering in the relationship between the deceased and her husband. Accused No. 5, too, was not a mere passive spectator in the dispute, rather, the evidence suggests that he was adamant about divorcing his deceased wife on account of her inability to give birth to a child soon after the marriage, contrary to his expectations, as he was required also to return the gold to the deceased in terms of settlement for resumption of matrimonial ties of deceased with accused No.5 and the deceased subsequent thereto resumed the matrimonial obligations with accused No.5. These circumstances, when considered cumulatively, assume significance in assessing the respective roles of the accused. Nevertheless, the finding of a conspiracy against accused Nos. 1, 4 & 5 must ultimately rest upon cogent and reliable evidence establishing their meeting of minds and participation in the alleged criminal design, while the benefit of any reasonable doubt arising from the evidence must be extended to accused Nos. 2 & 3.

38. The Hon'ble Supreme Court in Chetan Dashrath Gade Vs. The State of Maharashtra 2026 LiveLaw (SC) 526 has held in para in 19 to 22:-

"19. Though an attempt was made to submit that the allegation of strangulation is unsustainable and the strangulation itself is doubtful, the evidence referred to above clearly suggest that it was not the case of an act of suicide, particularly, in view of the injury marks found on the body of Rupali. It is also important to note that though at the very first instance when Rupali was brought to Mauli Clinic and PW-6 on examination of Rupali declared the patient dead and asked the appellant as well as Akshay Gade to take the body to civil hospital, the body was again taken to another private hospital. There is no satisfactory explanation provided by the appellant either for the injury marks found on the body of Rupali or for bringing body to another hospital in spite of the declaration by PW-6. The learned Trial Court had scrutinized the material evidence thoroughly and particularly, the medical evidence is assessed on all possible angles.

20. The learned Trial Court also considered the statement of the accused under Section 313 of Cr.P.C. which needless to state provides an opportunity to the accused to explain his stand qua the accusations made against him. In the statement under Section 313 Cr.P.C., there is no explanation leave aside any satisfactory explanation in respect of the material evidence against the appellant. In defence, though an attempt was made to submit that Rupali committed suicide with the help of one chit, the Trial Court on appreciation of the evidence particularly, the handwriting expert's opinion found that the so-called chit had got written by the accused forcibly prior to the strangulation. The Trial Court also found that the material evidence brought before the Court clearly indicated that the appellant have caused distraction of the evidence of the offence and provided a false information that Rupali committed suicide. It may not be out of place to state that Rupali after her marriage was residing at her in-laws place. Death of Rupali was in suspicious circumstances and this fact was within the special knowledge of the appellant being her husband and the appellant utterly failed to provide a justifiable explanation so as to discharge the burden and this was an additional factor for the Trial Court for holding the appellant guilty and recording the order of conviction. The High Court in appeal could not find any error in the judgment and order of the Trial Court as such and affirmed the judgment and order on appreciation.

21. At the cost of repetition as already discussed in the preceding paragraph the appellant could not displace the burden cast upon him under 106 Indian Evidence Act.

22. This Court in Nagendra Sah v. State of Bihar 3 held thus:

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

facts, the court can always draw an appropriate inference.

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

39. While going through the statement of accused No's 1, 4 & 5 recorded under Section 313 Cr.P.C., the accused have stated that accused No.5 was living happily with his wife and had cordial relations with her, and that the deceased was residing with accused No.5 separately, while his brother, Parvaiz Ahmad, was living separately. They were not harassing the deceased for not giving birth to any child, and the deceased had died a natural death and was not having any kind of injury on her body. The deceased was a heart patient and was taking medicines for the same. The accused Nos 4 & 5 also stated that, at the time of occurrence, they were not present at home and accused No.5 was in his office at PDD, Jahangir Chowk whereas accused No.4 goes from his house early in the morning and returns back in the evening very late and remains busy with his family and on the day of occurrence on receiving phone call he along with his auto came towards home and after reaching his house, he came to know that the deceased was taken to the hospital. Accused No. 3 to 5 have not given any explanation, much less any satisfactory explanation, in respect of the evidence which has come on the record, especially the medical evidence. Though they have stated that the deceased was a heart patient, neither has the cause of death been reported to be a heart attack nor has any such medical record been placed before the Court by which this stand taken by accused No.1, 4 & 5 could find any support. Further, the stand taken that the deceased had died a natural death and was not having any kind of injuries on her body, in light of the medical record and the evidence of PW-20 to PW-23, has no legs to stand upon. Further, the stand that both the accused 4 & 5 not present at home at the time when the alleged occurrence took place and one being out of house for his work and the other accused was in the PDD office at Jahangir Chowk has not been proved by them before the Court through any evidence in this behalf. Though PW-24, the Investigating Officer, during cross-examination, has stated that from the statements of the witnesses recorded during the enquiry proceedings, it came to be known that accused Shahnawaz Ahmad was on duty and, during this, a phone call came that his wife was ill. The said witness has not stated anything as to

from what time he was present in the office of PDD situated at Jahangir Chowk. As such, the plea of accused No. 5 that he was not present at home at the time of occurrence does not find any support from the statement of the said PW-24. Qua accused No.4, the investigating officer also received a phone call whereby he was told to come home with an auto as something had happened to the deceased Tasleema and further the I/O PW-24 testifies that one of the prosecution witnesses Arshad stated that when the witness reached near the house of the accused persons, at that time accused No.4 Parvaiz Ahmad have reached near the house of the accused persons in an Auto. Therefore, accused No. 1, 4 & 5 have failed to discharge the burden cast upon them in terms of the provisions of Section 106 of the Evidence Act.

(iv) Conclusion

40. The circumstances must make so strong a mesh that the innocence of the accused is wholly excluded that on every reasonable hypothesis the guilt of the accused must be the only inference. The question then is, whether the cumulative effect of the guilt pointing circumstances, in the present case is such, that the Court can conclude, not that the accused may be guilty, but he must be guilty. I must here offer a word of caution about this mental sense of 'must' lest it should be confused with the conclusion of every contrary possibility. In the case of S.S. Bobade Vs. State of Maharashtra, AIR 1973 SC 2622, the Apex Court explained that proof beyond reasonable doubt cannot be distorted into a doctrine of acquittal when any delicate or remote doubt flits past a feeble mind. It was further pointed out by the Apex Court that the rule of benefit of reasonable doubt does not imply a frail willow bending to every whiff of hesitancy. There needs to be taken a practical view of legitimate inference flowing from evidence, circumstantial or direct. The Apex Court, at the same time, also held in Kali Ram Vs. State of Himachal Pradesh, AIR 1973 SC 2773, that if a reasonable doubt arises regarding the guilt of the accused, the benefit of that cannot be withheld from him. To form a strong chain of sure guilt pointing the accused, link after link must be forged firmly by credible testimony of the witnesses. Each link taken separately may just suggest but when hooked on to the next and on again may manacle the accused inescapably. It is only then can a concatenation of incriminating facts suffice to convict an accused.
41. Coming to the case in hand, there are certain incontrovertible facts. The deceased was married to accused No. 5, and they had a marital discord on account of the deceased having failed to give birth to a child. The deceased faced torture and harassment during this entire process, but, on account of the intervention of third parties and good sense having prevailed upon them, accused No. 5 and the deceased, for a brief period prior to the death of the deceased, resumed their matrimonial obligations, as the accused No.5 was also required to return the gold to the deceased under the settlement arrived at between the parties to the matrimonial discord of deceased with the accused No.5. The grudge carried by accused Nos. 1, 4 & 5 against the deceased never ended, even though, for a short period, the deceased was residing separately in the same house where the other accused were also residing along with her

husband, who is accused No. 5. The plea of the accused that the deceased was suffering from a cardiac ailment and died a natural death is negated by the medical evidence, which reveals that the death of the deceased occurred due to asphyxia (smothering). Accused Nos. 1, 4 & 5 failed to discharge the onus that shifted upon them to prove that they had no role in the death of the deceased, as it was allegedly a natural death. All these incriminating circumstances that emerged after the marriage of the deceased with accused No. 5, including the conduct of accused Nos. 1, 4 & 5, coupled with the medical testimony, conclusively establish the guilt of the accused beyond "a reasonable doubt", particularly when natural likelihoods were brought on record or elicited from the evidence of the witnesses to neutralise the incriminating circumstances arising therefrom. No reasonable inference other than the guilt of accused Nos. 1, 4 & 5 is possible. Consequently it is established beyond "reasonable doubt" that Accused Nos. 1, 4 & 5 killed the wife of accused No. 5 by resorting to requisite measures for cutting the oxygen supply to the body thereby resulting in the smothering of the deceased.

42. It is established law that in cases of circumstantial evidence, when the chain of circumstances has been adequately proved to link the culpability of the accused, motive is irrelevant. In the instant case, while going through the evidence of prosecution witnesses PW-1 to PW-8, it is clear that they have stated that accused No. 5 was not happy with the deceased as she could not give birth to any child and even wanted to divorce her. However, after they started living separately in the matrimonial house, no such incident has been stated by these witnesses which would show that, after they started living separately, there was any such dispute. **The failure to prove the motive is not fatal, as proof of motive is not indispensable for conviction.** The Hon'ble Supreme Court in Mulakh Raj and others Vs Satish Kumar and other 1992 AIR 1175 has held as under:-

".....Undoubtedly in cases of circumstantial evidences motive bears important significance. Motive always locks up in the mind of the accused and some time it is difficult to unlock. People do not act wholly without motive. The failure to discover the motive of an offence does not signify its non-existence. The failure to prove motive is not fatal as a matter of law. Proof of motive is never an indispensable for conviction. When facts are clear it is immaterial that no motive has been proved. Therefore, absence of proof of motive does not break the link in the chain of circumstances connecting the accused with the crime, nor militates against the prosecution case".

43. It has been observed time and again by the Courts that cases are frequently coming before the Courts where husbands, due to strained marital relations and doubts as regards the character, have gone to the extent of killing their wives. These crimes are generally committed in complete secrecy inside the house, and it becomes very difficult for the prosecution to lead evidence. "No member of the family, even if he is a witness to the crime, would come forward to depose against another family member." It is further observed that the role of the Courts in

such circumstances assumes greater importance, and it is expected of the Courts to deal with such cases in a more realistic manner and not allow the criminals to go scot-free on account of procedural technicalities, perfunctory investigation or insignificant lacunae in the evidence, as otherwise serious crimes would go unpunished. The Courts are expected to be sensitive in cases involving crimes against women.

44. The Hon'ble Supreme court regarding the cases based on the circumstantial evidence has held in Shard Birdhichand Sarda Vs State of Maharashtra 1984 AIR 1622, 1985 SCR (1) 88 as under:-

"It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

45. In the instant case, the prosecution has succeeded in establishing the circumstances of guilt fully, and all the facts so established are consistent only with the hypothesis of the guilt of accused No. 1, 4 & 5, as the accused have failed to discharge the burden in terms of Section 106 of the Evidence Act, and their failure in this regard has provided an additional link to the chain of circumstances established by the prosecution. Hence, the instant case is found to be fit for the prosecution to invoke Section 106 of the Evidence Act.
46. So far considering the offence under section 201 IPC which has also been charged against the accused, same has not been proved by the prosecution by leading any evidence. Neither in the post-mortem report nor in the evidence of the PW-20 to PW-22 the doctors concerned, anything has been surfaced which was used by the accused while committing the offence of smothering the deceased, as such prosecution has failed to prove the commission of offence under section 201 IPC. However, the evidence on record and the intent shown during the entire process by the accused 1, 4 & 5 against the person of the deceased clearly indicates that there was meeting of minds between the trio and this agreement was to commit an illegal act or achieve an object by illegal means which finally culminated in the elimination of the deceased from the scene. I am of the considered opinion that there is no direct evidence in this regard but it needs to be kept in mind that for criminal conspiracy, direct evidence is not essential. It is established principle of law that conspiracies are generally hatched in secrecy and the agreement which gave rise to the criminal conspiracy in the present case has been proved through circumstantial evidence, including the conduct of the accused and the surrounding circumstances. Law is established that the essence of criminal conspiracy is the meeting of minds to accomplish an

unlawful objective and the agreement may be inferred from the conduct and circumstances of the case. In the present case, this essential component is apparent from the conduct of the accused and the peculiar circumstances of the case, thereby holding the accused 1, 4 & 5 liable for the commission of offence under Section 120-B, IPC.

47. In view of the foregoing discussion, I am of the considered opinion that the prosecution has successfully established a complete and unbroken chain of circumstances which unerringly points towards the guilt of the accused No's 1, 4 & 5 and is wholly inconsistent with any hypothesis of innocence. The medical evidence, the attending circumstances surrounding the death of the deceased within the matrimonial home particularly caused in the room where deceased was living with her husband (accused No 5) separately from the other accused named herein but deceased being within the reach of the other accused, the false pleas raised by accused 1, 4 & 5 in their statement under section 313 Cr.P.C, and the failure of the accused No 1, 4 & 5 to furnish any plausible explanation in discharge of the burden cast upon them under Section 106 of the Indian Evidence Act, cumulatively form a chain so complete as to leave no reasonable ground for doubt. **Accordingly the accused No's 1, 4 & 5 Mst. Hafeeza Begum, W/o Ghulam Qadir Dar, Parveez Ahmad Dar @ Bilal, S/o Ghulam Qadir Dar and Shahnawaz Ahmad Dar S/o Ghulam Qadir Dar, All Residents of Nund-Reshi Colony-B Bemina are convicted for the commission of the offence under section 302, 120-B IPC. The accused No 2 & 3 named herein while giving them benefit of doubt are acquitted of the charges levelled against them. The bail bonds of the accused 2 & 3 shall stand discharged forthwith. Since the accused No.1 is presently on bail and is available before the Court, she is hereby taken into custody forthwith and shall be lodged in judicial custody at Central Jail Srinagar, in accordance with law. The Superintendent of the concerned Jail shall ensure compliance of this order and shall produce the accused No.1, 4 & 5 before this Court on the next date fixed for hearing. Put up the matter for hearing the accused No. 1, 4 & 5 on the question of quantum of sentence/punishment. List on 14-10-2026.**

**Announced
13-10-2026**

FAROOQ
AHMAD BHAT
Addl. Sessions Judge
Srinagar.

Digitally signed
by FAROOQ
AHMAD BHAT