



HIGH COURT OF TRIPURA

AGARTALA

CRL A (I) 60 OF 2025

Shri Prasanta Deb @ Raju,
Resident of Aralia, Madhya Para,
P.S. East Agartala.

....Convict-Appellant.

Versus

The State of Tripura

....Respondent.

Present:

For the Appellant : Mr. Ratan Datta, Advocate.
Mr. A. Baidya, Advocate.

For the Respondent : Mr. Raju Datta, P.P.

Date of hearing : 23.09.2026

Date of delivery of
judgment & Order : 06.10.2026

Whether fit for reporting :

Yes	No
✓	

HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR.JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

[Dr. T. Amarnath Goud, J]

This criminal appeal under Section 374 of CrPC is directed against the judgment and order of conviction and sentence dated 26.02.2016, passed by learned Additional Sessions Judge, Court No.2, West Tripura, Agartala, in Case No. ST(T-1) 20 of 2011, where-under learned Sessions Judge found the accused-appellant guilty of committing offence punishable under Section 302 of the Indian Penal Code (for short, 'IPC'), and sentenced him to suffer imprisonment for life and to pay a fine of Rs.5,000/- with default stipulation.

2. The facts of the case may be summarized thus:

2.1 One Maran Nama lodged a written complaint on 15.03.2010 before the Officer-in-Charge, East Agartala Police Station stating that one of his relatives, namely, Utpal Das informed him that his sister, the deceased victim of this case had died on the night of 14.03.2010 in her matrimonial home. After getting this information, he along with others reached her matrimonial home and found her lying on the floor of a room in a bleeding condition. Having seen such incident, he believed that his sister was murdered by the accused persons namely Sri Prasanta Deb alias Raju Deb (the appellant herein) and Smt. Ratna Deb. It is mainly alleged in the complaint stating *inter alia* that the marriage of his sister Sumi Deb alias Maya was solemnized with Prasanta Deb alias Raju of Aralia, Madhyapara as per Hindu rites and customs about two years back from the date of lodging the complaint. At the time of their marriage, his father gave all household articles, gold ornaments and cash amount of Rs.50,000/- to them. But after two months of her marriage, the accused persons started torturing her on demand of money. However, on two occasions i.e. on 15.07.2008 and 08.08.2008, they provided some cash amount i.e. Rs.10,000/- and Rs.5,000/- to her husband but in spite of that her husband continued torture upon her. They approached the Women Commission regarding the atrocity of the accused persons to the victim and ultimately the accused persons assured that they would not do such kind of torture upon the victim. But still they continued such torture upon the victim and subsequently, she was murdered by them. Hence this case.

3. Based on the said FIR, police took up the investigation of this case, visited the place of occurrence, prepared hand sketch map with separate index, examined and recorded the statements of available witnesses, seized some documents and materials, arranged for examination of the dead body of the deceased and finally, after collecting P.M. report and forensic report of the deceased victim submitted charge sheet against the accused-appellant and Smt. Ratna Deb, the mother of accused-appellant, under Sections 498(A)/302/34 of IPC.

4. Charges were framed under the aforesaid Sections to which the accused persons pleaded not guilty and claimed to be tried.

5. In order to prove the case, the prosecution examined total 27 nos. of witnesses and after closure of prosecution evidence the accused-appellant was examined under Section 313 CrPC to which he denied the allegations brought into the evidence against him by all the witnesses, and also declined to adduce any defence witness.

6. Learned trial Court after considering the materials as placed in the evidence held him guilty and finally convicted and sentenced him in the terms as stated here-in-above.

7. Being aggrieved and dissatisfied with the impugned judgment and order of conviction and sentence, the accused has preferred this appeal.

8. Mr. Ratan Datta, learned counsel for the appellant submits that there is no cogent evidence to implicate the appellant to have committed the murder of his wife. There is no eye witness of the occurrence though prosecution relied upon PW-3 who alleged to be the eye witness, she has not been corroborated with the other witnesses. There are discrepancies in the deposition of the witnesses and no solitary statement found in any of the evidence of the witnesses to implicate the accused-appellant that he had committed the murder of his wife. According to Mr. Datta, learned counsel, all the evidences are the hearsay evidence. From the depositions of witnesses mainly, the PWs 15, 16 and 19 who are the neighbouring people of the deceased victim, it appears that only just after hearing the hue and cry from the house of the deceased victim, they visited the alleged place of occurrence but did not see any incident of murder with their own eyes. They only found the dead body of the deceased was lying on the floor of the hut of the deceased. Not a single witness stated that the appellant was in the house at that time. The evidence of the medical officer is also not a conclusive one and basing on such evidence, according to learned counsel Mr. Datta, the accused-appellant cannot be implicated. Finally, learned counsel Mr. Datta emphatically submits that the entire evidence of the prosecution does not warrant trustworthiness and therefore, he urged this Court to set aside the impugned judgment and order of conviction and sentence passed by the learned Court below.

8.1 In support of his submission, learned counsel, Mr. Datta relies on the following decisions:

- i. **(2021) 10 SCC 725, Nagendra Sah vs. the State of Bihar;**
- ii. **AIR OnLine 2021 SC 97, Shivaji Chintappa Patil vs. State of Maharashtra;**
- iii. **2026 LiveLaw (SC) 959, Kartika @ Kirtan @ Kirtan Charan Jena & Anr.Etc. vs. The State of Odisha;**
- iv. **2011 (2) GLT 814: (2011) 6 GLR 775, Biplab Chakraborty & Ors. vs. State of Tripura;**
- v. **2002 Cri.L.J.,926, Inderpal vs. State of M.P.;**
- vi. **AIR 2013 SC 264, Balaji Gunthu Dhule vs. State of Maharashtra;**
- vii. **AIR 2020 SC 1162, Malay Kumar Ganguly vs. Sukumar Mukherjee & Ors.**
- viii. **Rajib Malakar Vs. State of Tripura, (2022) 1TLR 8;**
- ix. **AIR 2012 SC 3046, Dayal Singh & Ors. vs. State of Uttaranchal;**
- x. **(2019) 2 TLR 697, Anwar Hossain Maishan vs. State of Tripura;**

8.2 During argument of the case, learned counsel Mr. Ratan Datta relying on the decision of **Nagendra Sah** (supra) refers to the paragraph nos. 19, 20, 21 and 23, wherein the Apex Court dealing with Section 106 of the Evidence Act has observed thus:

“19.....We recognise that an illustration does not exhaust the full content of the section which it illustrates but equally it can neither curtail nor expand its ambit; and if knowledge of certain facts is as much available to the prosecution, should it choose to exercise due diligence, as to the accused, the facts cannot be said to be "especially" within the knowledge of the accused. This is a section which must be considered in a commonsense way; and the balance of convenience and the disproportion of the labour that would be involved in finding out and proving certain facts balanced against the triviality of the issue at stake and the ease with which the accused could prove them, are all matters that must be taken into consideration. The section cannot be used to undermine the well established rule of law that, save in a very exceptional class of case, the burden is on the prosecution and never shifts.”
(emphasis added)

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.

23. Therefore, what survives for consideration is only an opinion of the medical practitioner who conducted autopsy and gave a report on the cause of death. As held in the case of *Balaji Gunthu Dhule* (supra), only on the basis of post-mortem report, the appellant could not have been convicted of the offence punishable under Section 302 of IPC and consequently for the offence punishable under Section 201 of IPC.”

8.3 Mr. Ratan Datta, learned counsel refers to the paragraph no.7 of the decision of ***Inderpal*** (supra) wherein the Apex Court observed thus:

“7. Unless the statement of a dead person would fall within the purview of Section 32(1) of the Indian Evidence Act there is no other provision under which the same can be admitted in evidence. In order to make the statement of a dead person admissible in law (written or verbal) the statement must be as to the cause of her death or as to any of the circumstance of the transactions which resulted in her death, in cases in which the cause of death comes into question. By no stretch of imagination can the statements of Damyanti contained in Exhibit P7 or Exhibit P8 and those quoted by the witnesses be connected with any circumstance of the transaction which resulted in her death. Even that apart, when we are dealing with an offence under Section 498A, IPC disjuncted from the offence under 306, IPC the question of her death is not an issue for consideration and on that premise also Section 32(1) of the Evidence Act will stand at bay so far as these materials are concerned.”

8.4 In ***Balaji Ghuntu Dhule*** (supra), learned counsel, Mr. Ratan Datta referred to the paragraph no.9 which reads thus-

“9. The High Court has also relied upon the post-mortem report of the Doctor. In our opinion, since the entire evidence of the eye-witnesses has not been accepted by the High Court, it could not have merely relied upon the post-mortem report to convict the appellant for an offence under Section 302 of the IPC. Further, in our view, the post-mortem report should be in corroboration with the evidence of eye-witnesses and cannot be an evidence sufficient to reach the conclusion for convicting the appellant. In view of the above, we have no other alternative but to allow this appeal and set aside the judgment and order passed by the High

Court convicting the appellant for an offence punishable under Section 302 of the IPC.”

8.5 Learned counsel, Mr. Ratan Datta further refers to the paragraph nos. 24, 31 and 32 of the decision of **Kartika alias Kirtan alias Kirtan charan Jena** (supra) wherein the Hon’ble Apex Court dealt with the issue that the circumstances from which the conclusion of guilt is to be drawn should be fully established and though there is a strong suspicion, it cannot take place of proof beyond reasonable doubt. Hon’ble Apex Court in this regard held thus--

“24. Furthermore, in Kamal v. State (NCT of Delhi) (2023 SCC Online SC 933), it was held that circumstances concerned “must or should” and not “may be” established. It held that it is settled principle that however strong a suspicion may be, it cannot take place of a proof beyond reasonable doubt.

“18. It can thus be seen that this Court has held that the circumstances from which the conclusion of guilt is to be drawn should be fully established. It has been held that the circumstances concerned “must or should” and not “may be” established. It has been held that there is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved”. It has been held that 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. It has been held that the circumstances should be of a conclusive nature and tendency and they should exclude every possible hypothesis except the one sought to be proved, and that there must be a chain of evidence so complete so 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.

19. It is a settled principle of law that however strong a suspicion may be, it cannot take place of a proof beyond reasonable doubt.

31. It is worthy to refer to the judgment of this Court in Abdul Nassar v. State of Kerala, 2025 SCC OnLine SC 111, which enunciated the principles that courts must adhere to while appreciating and evaluating evidence in cases based on circumstantial evidence. One of the principles enunciated is that each of the circumstance must be proved individually. The relevant extract is as follows:

“30. We deem it essential to enunciate the principles that courts must adhere to while appreciating and

evaluating evidence in cases based on circumstantial evidence, as follows:

....(iii). Each of the links of incriminating circumstantial evidence should be meticulously examined so as to find out if each one of the circumstances is proved individually and whether collectively taken, they forge an unbroken chain consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence.....”

32. Thus, it is a settled position of law that to convict the accused on the basis of circumstantial evidence each circumstance must be established beyond doubt and collectively point towards the guilt of the accused.

9. Learned P.P., Mr. Raju Datta on the other hand, at the very outset, vehemently contends that the evidences as adduced by the prosecution in this case cannot be ignored and the same are all against the appellant. Learned P.P. submits that from the FIR it can be seen that there were atrocities upon the victim by the appellant and his mother resulting complaints before the Women’s Commission and the Women’s Commission at one point of time, mitigated the disputes on being assured by the accused persons that they will not commit any such torture upon the victim in future. But still the torture upon the victim existed. Mr. Raju Datta, learned P.P. referring to the evidence of the medical officer i.e. PW 25 submits that it is the only and conclusive piece of evidence that the death of the deceased was homicidal in nature due to manual strangulation. He also pointed out that the defence during cross-examination of the witnesses could not make out any substantive case in their favour and most of the witnesses were declined in cross-examination.

9.1 Further, learned P.P. argues that learned trial Judge placed implicit reliance on the statements of the PWs 13,14,15,16 as well as PW 25 and arrived at a conclusion of guilt of the accused and since there is evidence on record in support of coming to the conclusion of guilt, such finding of the trial Court may not be disturbed in appeal. Accordingly, he prays for upholding the impugned judgment and order of conviction and sentence passed by the learned trial Court.

9.2 In support of his submission, learned P.P. placed reliance upon the decision in the case of **Shri Gopal Das vs. the State of Tripura, Crl.A(J) No.52 of 2025** wherein referring to the decision of a Division Bench

of this Court in **Atikul Islam alias Manir Hossain vs. the State of Tripura, Crl. A(J) No.49 of 2028** decided 23.06.2020, this Court at paragraph [11] (i), has observed the following:

“

[40] We already have observed in this judgment that the prosecution has been able to establish that the appellant and his wife were inside the same hut on that fateful night and in that circumstance, the appellant has failed to discharge his obligation to furnish even some explanation under Section 313 Cr.P.C with regard to the circumstances under which his wife met an unnatural/homicidal death inside the same hut where they slept together. His failure to offer any explanation whatsoever, therefore, leaves no doubt to fortify our conclusion of his being the assailant of his deceased wife. As argued by the learned counsel for the appellant with vehemence about the suspicious circumstances, we find no substance in the submission for the reason that there is no room left for us to suspect the circumstance that the appellant and his deceased wife were exclusively at the same hut has been proved beyond reasonable doubt. As such, we do not want to burden this judgment with the authoritative pronouncements by the Supreme Court as relied upon by the learned counsel for the appellant that suspicious howsoever grave cannot take the place of proof. Having viewed thus, we find no merit in the instant appeal filed by the accused appellant.”

9.3 Learned P.P. further relies on the decision of **Ram Gopal S/O Mansharam vs. State of Madhya Pradesh** reported in **(2023) 5 SCC 534**, which is also referred to in **Gopal Das** (supra). In that judgment, Hon'ble Supreme Court observed that- once the theory of "last seen together" was established by the prosecution, the accused was expected to offer some explanation as to when and under what circumstances he had parted the company of the deceased. Further the Hon'ble Supreme Court opined it is true that the burden to prove the guilt of the accused is always on the prosecution, however in view of Section 106 of the Evidence Act, when any fact is within the knowledge of any person, the burden of proving that fact is upon him. Of course, Section 106 is certainly not intended to relieve the prosecution of its duty to prove the guilt of the accused, nonetheless it is also equally settled legal position that if the accused does not throw any light upon the facts which are proved to be within his special knowledge, in view of Section 106 of the Evidence Act, such failure on the part of the accused may be used against the accused as it may provide an additional link in the

chain of circumstances required to be proved against him. In the case based on circumstantial evidence, furnishing or non- furnishing of the explanation by the accused would be a very crucial fact, when the theory of "last seen together" as propounded by the prosecution was proved against him. Furthermore, the Hon'ble Apex Court observed that if the accused offers no explanation or furnishes a wrong explanation, absconds, motive is established and some other corroborative evidence in the form of recovery of weapon etc. forming a chain of circumstances is established, the conviction could be based on such evidence.

9.4 In ***State of Rajasthan vs. Kashi Ram*** reported in **(2006) 12 SCC 254**, learned P.P. referred to the paragraph No.23 of this decision, and for brevity, we may gainfully reproduce the same here-under:

"23. It is not necessary to multiply with authorities. The principle is well settled. The provisions of Section 106 of the Evidence Act itself are unambiguous and categorical in laying down that when any fact is especially within the knowledge of a person, the burden of proving that fact is upon him. Thus, if a person is last seen with the deceased, he must offer an explanation as to how and when he parted company. He must furnish an explanation which appears to the court to be probable and satisfactory. If he does so he must be held to have discharged his burden. If he fails to offer an explanation on the basis of facts within his special knowledge, he fails to discharge the burden cast upon him by Section 106 of the Evidence Act. In a case resting on circumstantial evidence if the accused fails to offer a reasonable explanation in discharge of the burden placed on him, that itself provides an additional link in the chain of circumstances proved against him. Section 106 does not shift the burden of proof in a criminal trial, which is always upon the prosecution. It lays down the rule that when the accused does not throw any light upon facts which are specially within his knowledge and which could not support any theory or hypothesis compatible with his innocence, the court can consider his failure to adduce any explanation, as an additional link which completes the chain. The principle has been succinctly stated in Naina Mohd. Re. AIR 1960 Mad 218".

9.5 Finally, learned P.P. also referred to Para 30 of the decision of **Gopal Das** (supra), wherein this Division Bench held thus:

"[30] The Division Bench of this Court in Atikul Islam alias Manir Hossain (supra), in a similar nature of case, relied on another decision of Hon'ble Supreme Court in case of

Tulshiram Sahadu Suryawanshi vs. State of Maharashtra; (2012) 10 SCC 373, wherein it was observed in the circumstances of that case, the principles embodied in Section 106 of the Evidence Act can also be utilized and this Section is not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt, but it would apply to cases where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding the existence of certain other facts, unless the accused by virtue of his special knowledge regarding such facts, failed to offer any explanation which might drive the court to draw a different inference.”

10. To enter into the merit of this appeal, let us have a glimpse over the evidences adduced by the prosecution. Prosecution examined as many as 27 witnesses in this case and out of those witnesses, from our point of view, the evidence of the vital witnesses may be analysed first.

11. PW-8, Sri Maran Nama, the informant of the case in his deposition stated that Sumi Deb (Nama), since deceased, was his younger sister. She was given marriage with Prasanta Deb alias Raju of Aralia, Madhyapara about 3 years back of her death in the year 2010. Since her marriage Prasanta Deb continuously created pressure upon Sumi to take money from him on different pretext. After about four months of her marriage he paid Rs.10,000/- to her sister Sumi for her husband and thereafter also after one and half months, he again paid Rs. 5,000/- to Prasanta Deb through his sister, Sumi. Before three months of her death his sister informed him that her husband, the appellant herein, used to assault her physically time to time asking her to take money from him and as such finding no other alternative they approached the Women Commission regarding the incident. Thereafter the matter was settled with an assurance from the side of the appellant that they would not commit such assault upon his younger sister in future. But, thereafter also on different occasions his sister informed them over telephone that her husband used to assault her physically. Lastly, about 3 years back in the morning one person namely, Utpal Das informed him over telephone that his sister Sumi was killed in her matrimonial home. Accordingly, they rushed to the spot and found the dead body of Sumi Deb was lying there with bleeding injuries. I did not find the mother-in-law and husband of Sumi at that time and came to learn that they had fled away. Subsequently, he lodged complaint to that effect before the Police.

11.1 In cross-examination, except some denial, there is nothing incriminating materials brought out.

12. PW-13, Maya Rani Ghosh being a neighbour of the deceased stated that Sumi was married to Raju in the year 2010. Relationship of Raju with his wife was not good. Off and on they used to make quarrel. Raju used to torture his wife. Wife of Raju reported her in so many times that she was tortured by Raju on demand of money. She did never complaint against her mother-in-law. Within one year Sumi expired. Sumi expired in the night and in the following morning the witness PW-13 got the information and after getting such information she went to their house at about 10 a.m. and noticed the dead body of Sumi was lying in a mattress on the floor. When she went there Raju and his mother were not present. House of Raju is situated in the adjacent east of her house. Distance of the hut of Raju and her hut would be about 8 to 10 cubits. The hut of Raju is a building and thereafter boundary was there. Every sound does not come to her house. In the previous night of occurrence, she heard quarrel between Raju and his wife. 2/3 times earlier also Raju caused bleeding injury on the head of his wife after torturing her on demand of money.

12.1 In cross-examination, only denial of the examination-in-chief is there.

13. PW-14, Smt. Milan Das, another co-villager stated almost in similar tune of PW-13. She deposed that on the previous night of the occurrence, she heard quarrel between Raju and his wife. The relationship was not good between them. Off and on they used to make quarrel. Wife of Raju reported her in so many times that she was tortured by Raju on demand of money and Raju did not like her. Within one year of her marriage Sumi expired. In the following morning of the death of Sumi, she got information from one fisherman who visited the house of Sumi for money and on call he found the door was open and a female was lying in a senseless condition and there was no person in that house. PW-14 also stated that once Sumi took shelter in her house and reported about the torture upon her by Raju. During that time, she suggested her not to stay in that house and to go to her father's house. Sumi stayed in her house at about 9.00 pm. Thereafter she left for her hut. After their marriage once Raju

caused hurt to Sumi causing bleeding injuries on her head for which a criminal case was instituted.

13.1 In her cross-examination, defence only put some suggestions and nothing else.

14. PW-15, Smt. Chanchala Das (sister of PW-14) who used to reside in the same house of PW-14, stated that Raju got married about 3/4 years back from the date of her deposition to one Mayarani alias Sumi. Relationship of Raju with his wife was not good. Off and on, they used to make quarrel. Raju used to torture his wife. Within one year of the marriage Sumi Expired. She expired in the night and on the following morning after hearing hue and cry from their house, she went to their house and found the dead body already taken to an auto and there was a big crowd and so she could not notice minutely. On the previous night of occurrence, she had seen Sumi talking with her sister, Milan Das at their house. Sumi reported her that her mother-in-law has spoiled Raju by supplying money for purchasing drugs and liquor.

14.1 Except denial, there is nothing in her cross-examination.

15. PW-16, Smt. Sikha Ghosh who is also a neighbour of the deceased stated almost similar to the tune of PWs 14 and 15 that within one year of the marriage Sumi expired and many times she reported that Raju used to torture her under influence of liquor.

16. PW 17, a driver of auto rickshaw only said that about 5 years back from the date of his deposition he carried a dead body to the G.B. Hospital morgue.

17. PW-18, a neighbour of the deceased stated in her deposition that the marriage between the deceased and the appellant Raju alias Prasanta Deb took place about 5/6 years back from the date of her deposition. The relationship between the deceased and Raju was not good. Off and on they used to make quarrel. Raju used to torture his wife, the deceased. Sumi, the deceased, while used to visit nearby houses, many times she reported that Raju used to torture her under the influence of liquor. Within one year of the marriage Sumi expired. She got information about the

death of Sumi at about 9 am on the date of incident. She saw the dead body of the deceased was lying on the mattress on the floor.

17.1 In cross-examination, only some suggestions were put to the witness.

18. PW-19 is the elder sister of Sumi, i.e. the deceased. She deposed that Sumi was married to Raju and after their marriage Sumi used to visit their house and reported that she was subjected to torture by her husband and mother-in-law. She did not spend a single day in peace. In two occasions they paid Rs.30,000/- in total to her for making payment to her in-laws. Besides Rs.200/-, Rs.300/- she used to give Sumi on some occasions. On previous occasion also Raju caused bleeding head injury to her sister. On receiving information from one aunt, she came to the house of the accused and on reaching there she found mother of Raju was crying beside her sister. She found the dead body of her sister on a mattress on the floor of that house. She also stated that when she arrived at the spot she found police had already been arrived there and subsequently her brother Maran Nama lodged the FIR.

18.1 No incriminating material has been brought out from her cross-examination.

19. PW-20 is the sister-in-law of Sumi. Sumi was subjected to torture by her husband and mother-in-law. The witness stated that in two occasions, they paid Rs.30,000/- in total for making payment to her in-laws. Raju was addicted to liquor. When she visited the house of Raju on information of death of Sumi, they found the dead body of Sumi was lying on a mattress on the floor and her mother-in-law was crying.

19.1 Nothing material is there in her cross-examination.

20. PW-21 is a neighbour of the father of the deceased Sumi. He deposed that the deceased was given in marriage about 5 years ago with Raju. He does not know how she expired. Sumi reported during her visit to her father's house that her husband used to torture her. Despite of serious torture she did not leave her husband's house. She stated that she was tortured by her husband being intoxicated. Sumi also reported that her

mother in law also used to torture her on payment of money. Sumi expired after about one year of her marriage. Before arranging marriage we did not enquire about Raju. Raju had a small business. After their marriage Sumi used to visit our house and reported that she was subjected to torture by her husband and mother in law. The mother-in-law of Sumi also informed us that her mother-in-law was also tortured by her son. In two occasions the parents of Sumi paid Rs. 30,000/- in total to her for making payment to her in laws. Raju was addicted to liquor. When they visited the house of Raju on getting information of death of Sumi, they found the dead body on the mattress on the floor.

20.1 In her cross-examination, nothing is there.

21. PW 22 is also a neighbour of the father of the deceased. She deposed in similar tune of PW.21.

22. PW 23 is another neighbour of the father of the deceased. He deposed that after marriage of Sumi he once visited her matrimonial house along with her mother and elder brother as there was history of physical assault by her husband. During their discussion, they asked her husband not to torture on Mayarani alias Sumi. After about one year of her marriage she expired. He heard from her parents that her husband murdered her by throttling by means of pressure of pillow. His cross-examination was declined.

23. PW 24 is the mother of the deceased. She deposed that Sumi alias Mayarani was given in marriage with Prasanta Deb alias Raju of Aralia about two years prior to her death. She hardly could spend three months peacefully at her matrimonial house. Her mother-in-law Ratna Deb and her husband Raju both were addicted to liquor and they used to torture Sumi to bring money from our house. Even before six months of her death, Raju caused severe head injury upon the deceased by giving blow of hard substance for which a case was instituted. After one and half months of that incident Raju visited her house and took her daughter to his house by making so many persuasions. But after bringing her to his house, he and his mother continued to torture on her. After the death of Sumi, on being informed from the local people, the witness along with her son, daughter-in-law rushed to the house of the deceased and found that the dead body of

Sumi was lying on the floor. There were police and other persons. But Raju and his mother escaped. She believed that death of her daughter was intentionally caused by the accused persons by strangulation or asphyxia by means of pillow.

24. Except some denial, there is no ingredient in her cross-examination.

25. PW-25, Dr. Ranjit Kumar Das stated that on 15.03.2010 he conducted autopsy over the dead body of deceased sumi Das. On examination, he found abrasion measuring 4 cm x 1 cm over right front of the neck; and abrasion measuring 0.3 cm x 0.2 cm over the middle part of the left side of front of neck and a lacerated injury measuring 2.5 cm x 0.5 cm x 0.5 cm over the inner surface of the lower part of lower limb including femur were found present. After receiving report of SFSL, he finally opined that the cause of death was Asphyxia resulting from manual strangulation which was homicidal in nature.

25.1 The witness in his cross-examination stated that the word manual strangulation means that it was throttling. Defence only put some suggestions to the witness.

26. PW-26 is the scribe of the ejahar.

27. PW-27 is the I.O of the case who after completion of investigation, submitted charge-sheet against the appellant and his mother.

28. Having perused the entire prosecution evidence and after hearing of learned counsel of both sides, we are of the view that the entire case of the prosecution rests on circumstantial evidence.

29. PW-8 the complainant of this case stated that on being informed by one Utpal Das over telephone he rushed to the matrimonial home of the deceased and on reaching there he found the dead body of the deceased was lying there with bleeding injuries. He did not find the mother-in-law and her husband near the dead body of the deceased. From his deposition we find that there was matrimonial discord in between the deceased and her husband after the marriage and he even paid some money to Raju as per his demand. Moreover, it also transpires that before three months of her

death, the deceased was also assaulted by her husband on demand of more money and they had approached the Women Commission for redress, but in vain, and the torture continued.

30. PW-13 and PW-14 the neighbouring people of the deceased also corroborated the assertion made by PW-8 that the relation between Sumi and her husband was not good. Off and on they used to make quarrel and Sumi was being tortured on demand of money to be brought from her parental house. Even, from the deposition of PW-14 it came to light that on the previous night of occurrence she heard quarrel of the deceased and her husband, and Sumi thereafter took shelter in her house and reported her about the plight she was facing from her husband. She suggested Sumi not to stay in that house and to go to her father's house, but thereafter Sumi left for her hut. PW-14 also stated that on being informed by a fisherman, she went to the house of Sumi and found the dead body of Sumi was lying on the floor. It is also evident from her deposition that when she went to the house of the deceased, Raju was not there. Therefore, the evidences of PW-13 and PW-14 are very convincing, reliable and trustworthy because they lives within the close vicinity of the house of the deceased distance as it is revealed from their deposition that the distance between the house of the deceased and their house is only just 8 to 10 cubits and they heard quarrel of the deceased and Raju on the previous night of the alleged incident.

31. On the other hand, the mother of the deceased, i.e. PW-24, asserted in her deposition that six months prior to the death of Sumi, Raju caused severe head injury upon the deceased. From her deposition it is also seen that the matrimonial life of Sumi was not peaceful and there was turmoil all along after the marriage of Sumi and she could even spend her conjugal life hardly for three months in her matrimonial house.

32. In this case, we find that the body of the deceased was found lying on the floor and in the medical evidence, we do not find any ligature mark round the neck of the deceased. So, it may safely be presumed that the death of the deceased was not suicidal hanging. The medical evidence provided by PW-25, Dr. Ranjit Kumar Das who conducted the autopsy over the dead body of the deceased, clearly noted thus –

- an abrasion measuring 4 cm x 1 cm over right front of the neck;
- an abrasion measuring 0.3 cm x 0.2 cm over the middle part of the left front of the neck; and
- a lacerated injury measuring 2.5 cm x 0.5 cm x 0.5 cm over the inner surface of the lower part of lower limb including femur.

33. Therefore, PW-25, the doctor has unequivocally opined that the cause of death was Asphyxia resulting from manual strangulation (throttling), which is purely homicidal in nature. Opinion of an expert is obtained on an issue when neither the Court nor other ordinary people can arrive at a conclusion on the issue in ordinary course. Since here a medical expert, after examination of the dead body, has categorically and meaningfully opined that the cause of death was manual strangulation, and such opinion of the medical officer has not been destroyed in the cross-examination or otherwise by referring to any authority on the subject, we have no other option, but, to place implicit reliance on the testimony of the autopsy surgeon. Thus, it is conclusively proved beyond reasonable doubt that the deceased died a homicidal death inside her matrimonial home.

34. PW-8 (brother/informant), PW-19 (sister), PW-20 (sister-in-law), PW-21, PW-22 (neighbours of father of deceased) and PW-24 (mother) consistently deposed that accused Raju tortured the deceased demanding money. PW-8 corroborated the payment of Rs.10,000 and Rs.5,000, while PW-19, PW-20, and PW-21 testified payment of Rs.30,000 in total to Raju. PW-8, PW-14, and PW-24 further established that a prior criminal case was filed against Raju for causing severe head injuries to the deceased, and a settlement was previously mediated before the Women Commission. Therefore, it is amply establishes the event of circumstances of cruelty and financial demand upon the deceased, Sumi.

35. The homicidal death by manual strangulation occurred inside the dwelling hut of the accused-appellant during the night. Under Section 106 of the Evidence Act, the facts as to how the deceased suffered manual strangulation within the privacy of their residential home lie especially within the knowledge of the husband but he offered no explanation in defence, nor

did he explain how the fatal injuries occurred. Moreover, most of the witnesses i.e. PW-8, PW-13, PW-14, PW-15 & PW-24 corroborated the statements of each other that when they visited the house of the deceased they found the dead body of the deceased lying on the mattress on the floor of the hut, but the appellant Raju was not present there. He did never appear at the spot till the police arrived and the people gathered at the place of occurrence and enquire as to how his wife died. Nothing explanation is there from the defence. Even, in examination under Section 313, CrPC the accused completely failed to give any explanation as to how and in what manner his wife expired inside the hut where they used to live in. There is clear evidence of the neighbours that the appellant used to take alcohol frequently and under influence of liquor he used to torture the deceased, as a result of which once the deceased got severe bleeding injuries on her head which led a criminal case also against the appellant. The evidences of PW-13, PW-14 and PW-15 explicitly clear that they heard quarrel between the deceased and Raju on the previous night, and Sumi took shelter to the house of PW-14 and shared the woeful plight facing from her matrimonial home. This version is also corroborated by PW-15 with adding some vital statement that Sumi also informed her that her mother-in-law had ruined Raju by supplying money for purchasing drugs and liquor. This contention has amply corroborated the deposition of PW-7 that police seized two pillows and two bottles of foreign liquor from the hut of the appellant. On the aforesaid aggravating circumstances, we find the chain of evidence is fully complete so as to point the accused as guilty.

36. The defense put forth mere general denials and suggestions in cross-examination without bringing into light any incriminating material, major contradictions, or reasonable alternate theories.

37. Viewed in the above perspective, we are of the firm opinion that that the prosecution has successfully established an unbroken chain of circumstantial evidence, as discussed above, pointing exclusively to the guilt of the accused-appellant, Prasanta Deb @ Raju. Accordingly, this Court finds the evidence cogent, credible and conclusive beyond all reasonable doubt.

38. Keeping in view of the aforesaid observations, we find no infirmity in the impugned judgment and order of conviction and sentence passed by learned Additional Sessions Judge, Court No.2, West Tripura,

Agartala passed in ST(type-1) 20 of 2011, and accordingly, we affirm the same.

Hence, the appeal being devoid of merit is thus dismissed.

39. Send back the LC records along with a copy of this judgment.

S.DATTA PURKAYASTHA, J

DR.T. AMARNATH GOUD, J



SANJAY GHOSH Digitally signed by SANJAY GHOSH
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