

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.169 OF 2007

Shivkaran s/o Ganpati Gaikwad,
Age : 65 years, Occ. Agril.,
R/o : Dabka, Taluka : Omerga,
District : Osmanabad.

...Petitioner

Versus

1. The State of Maharashtra,
(Copy to be served on A.P.P.
Bombay High Court, Bench at
Aurangabad)
2. Tirupati s/o Srinivas Pawar,
Age : 31 years, Occ. Agril.,
R/o : Dabka, Taluka Omerga,
District : Osmanabad.
3. Srinivas s/o Krushnaji Pawar (Abated)
Age : 63 years, Occu and
R/o : As above.
4. Mahesh s/o Srinivas Pawar,
Age : 27 years, Occu: Agril.,
and education,
R/o : as above.
5. Sheshabai w/o Srinivas Pawar,
Age : 51 years, Occu: Household,
R/o : as above.

...Respondents

...
Mr. N.G. Kale, Advocate for Applicant.

Mr Parikshit S. Mantri h/f Mr. Parag V. Barde, Advocate for
Respondent Nos.2, 4 and 5.

Mr. S.B. Narwade, APP for the Respondent/State.

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CORAM : S.G. MEHARE, J.

**RESERVED ON : 18th OCTOBER, 2022
PRONOUNCED ON : 20th JANUARY, 2023**

JUDGMENT :-

1. The petitioner/father of the deceased has preferred the present revision impugning the judgment and order of acquittal of the learned Additional Sessions Judge, Omarga, in Sessions Case No.89 of 2004 dated 21.04.2007.

2. The respondents nos.2 to 5 were tried for the offences punishable under Section 302, 498-A, 306 r/w 34 of the Indian Penal Code.

3. The brief facts of the case may be summarised that the respondents and the deceased hailed from the same village. The deceased married respondent no.1. The deceased had marital disputes. She died within six months of her marriage. Due to the dispute, the respondents went to reside at Omarga. The deceased was living alone in the house of the respondents. On the day of the incident, there was the harvesting of the jowar in the field where the incident happened. The incident occurred on 27.10.2004 at about 1.30 pm. in the field.

4. Learned counsel for the applicant would vehemently argue that the learned trial court did not appreciate the oral as well as the documentary evidence correctly. Hence, the Court erroneously concluded the acquittal. The learned Additional Sessions Judge failed to appreciate the three statements of the deceased as to the cause of her death. Though the statements were consistent and free from

variations about the allegations against the accused, the learned Sessions Judge unnecessarily gave weight to the evidence of the defence witnesses without testing their credibility and veracity correctly. Their testimony was unreliable and unbelievable. Impugned judgment is without sound reasons and purely based upon assumptions and presumptions. The learned Additional Sessions Judge did not consider the proved facts which were sufficient to hold them guilty.

5. In addition to the above arguments, learned counsel for the applicant has relied upon the case of Satyajit Banerjee and Ors Vs. State of West Bengal and Ors, 2005 Cri.L.J. 648 and argued that the High Court can not direct the trial Court to hold the retrial. However, the Court has to direct the trial court to rewrite the judgment. He further relied on the case of S Sarubai Laxman Bhokare and Ors Vs. State of Maharashtra, 2008 Cri. L.J. 1866 and argued that the learned Judge disbelieved the statement as to the cause of death led by the deceased on flimsy grounds. Minor inconsistencies and discrepancies in such statements are not grounds to discard the statement. Relying on the case of Ganpat Bakaramji Lad Vs. The State of Maharashtra, 2018 ALL MR (Cri) 2249, he would argue that the absence of endorsement about the fitness of the declarant and reading over the dying declaration to the declarant does not by itself render the dying declaration unacceptable. He referred to the evidence led by the

prosecution on record and finally argued that the impugned order is erroneous, improper and incorrect. Hence, it may be set aside.

6. Learned counsel for respondent nos.2, 4 and 5 relying on the case of Bindeshwari Prasad Singh Vs. State of Bihar of the Hon'ble Supreme Court passed in Appeal (Crl.) 808 of 2002 dated 13.08.2002 argued that in exercise of revisional jurisdiction against an order of acquittal at the instance of private party, the court exercises only limited jurisdiction and should not constitute itself into an appellate court which has much wider jurisdiction to go into question of facts and law and to convert the order of acquittal into one conviction. Further, he relied on the case of Akalu Ahir Vs. Ramdeo Ram, 1973 AIR (SC) 2145 and argued that normally, the High Court should not direct the retrial unless there is some infirmity rendered in the trial defective. On revision, the High Court expressly prohibited from converting an acquittal into conviction.

7. The learned counsel raised a legal question that the statement of the deceased as to the cause of death would prevail over the ocular evidence. To answer the question, the statement of the deceased as to her cause of death and the evidence of the ocular witnesses, along with circumstances, would require scrutiny for limited purpose.

8. The first witness, PW-1, Head Constable Naim Sheikh, has proved the statement of the deceased as to her cause of death

below Exhibit-52. He admitted that when he had been to the hospital, the parents and brother of the deceased and police Patil of village Aurad were present there. However, he denied that they were present when he recorded the statement of the deceased. He further admitted that the police Patil of Aurad was present there as a witness. PW-2, Dr. Kanade endorsed that the deceased was conscious. He admitted that he did not put any endorsement that he examined the patient before and after recording her statement. He also admitted that he had administered Ampicillin, Rentac, Diclofenac to the deceased. Those injections begin to affect after one minute and last for seven hours. PW-3 Maniksing Rajput, the Police Officer, also deposed that he had confirmed the physical and mental condition of the deceased to give the statement from the doctor present in the hospital. He obtained the said endorsement on the statement of the deceased. He has proved her statement below Exhibit-56. PW-4, Mohd Shafik, Special Judicial Magistrate, deposed that on 27.10.2004, he received a message at 07.30 pm to record the statement of the deceased. He went to the Civil Hospital. The constable gave him a letter. When he went to the ward to record the statement of the deceased, he showed the letter to the nurse on duty, and then he went to the patient. Dr. Kale was present there. He confirmed the condition of the deceased about her ability to give the statement. He recorded the statement of the deceased as per her narration below Exhibit-59.

9. First statements of the deceased as to her cause of death were recorded on 27.10.2004 after the receipt of MLC. Her second statement as to the cause of death was recorded on the same day at 06.20 pm, and third one was also recorded on the same day at 08.05 pm. The statements as to the cause of death of the deceased were consistent as regards the allegations that her husband, father-in-law, and brother-in-law caught her and her mother-in-law poured kerosene over her and set her on fire.

10. The learned Additional Sessions Judge, while appreciating the evidence of the relevant witnesses on the dying declarations, has observed that the close scrutiny of three dying declarations makes it abundantly clear that these dying declarations are inconsistent with each other except for catching of accused nos.1 to 3 and setting her on fire by accused no.4. The learned Judge found the discrepancy in those statements as regards informing the incident to her mother and father by different persons. The learned Additional Sessions Judge also observed that apart from the inconsistencies in those dying declarations, it is clear that those dying declarations were motivated by animus and vindication. He also observed that in the agreement Exhibit-64, it was mentioned that if her husband did not marry her, she would get a share in the field. Therefore, the deceased and her parents were interested in the property, much less the share of accused no.1. It is also observed that even if the deceased was

presumed to be in a condition to give the statement, it was motivated with animus against the accused persons; hence, cannot take the place of evidence to hold the accused guilty.

11. Apart from doubting the statement of the deceased as to the cause of death, the learned Additional Sessions Judge relied upon the defence witnesses who have deposed that the deceased had brought kerosene with her and she herself poured kerosene on her person. This evidence has gone unchallenged. DW-3 and DW-4 deposed that the deceased went to a cattle shed, brought the bottle containing kerosene, poured it on her person and set herself on fire.

12. The learned Additional Sessions Judge disbelieved the theory of pouring kerosene on her person on the basis of no fire to the hybrid crop where the incident happened and held it a material contradiction. The learned Judge also disbelieved the prosecution case for the non-examination of eyewitnesses Shivaji Kerba and Shivaji Ganpati. He also doubted the evidence of PW-1 for the reason that why he allowed the police Patil Aurad to present there as a witness.

13. Section 164 of the Criminal Procedure Code speaks of the contradiction and omission that falsifies the evidence of the witness. However, such contradiction and omission should be significant and material. If the contradiction and omission are not significant and material and do not affect the material evidence, such minor

contradiction and omissions shall be omitted and would not affect the material evidence.

14. The law is well settled that if multiple dying declarations are consistent, those are sufficient to hold the accused guilty. The dying declaration is free from tutoring, and prompting is reliable evidence.

15. To rebut the evidence of the deceased, who was not available for cross-examination as to the cause of her death, the accused relied on the witnesses who were allegedly present in the field. They have deposed that it was the deceased had brought a kerosene can, poured it on her person and ablaze.

16. Reading the prosecution and defence witnesses together, it can safely be believed that the incident happened in the field and all the accused were present at the time of the incident. It is also not in dispute that the deceased died within four months of her marriage. The defence witnesses are also consistent that the deceased came to the field when they were plucking the hybrid crop. She brought the kerosene and ablaze herself in front of the cattle shed. Then her parents came there. They beat the deceased and took her with them in an auto rickshaw.

17. The Hon'ble Supreme Court has discussed the law on the dying declaration in many cases. It has been settled that dying declarations are admissible under section 32(1) of the Indian

Evidence Act. The person making a statement as to his cause of death must narrate the cause and circumstances of his death. Corroboration is not always necessary if the dying declaration is complete in its accusation, and there is nothing to show that the maker of the statement had anything further to add. There is no prescribed format to record the dying declaration, and it may be in question-answer form or narrative. The dying declaration stands on the same footing as many other pieces of evidence and has to be judged in the light of surrounding circumstances and with reference to the principles governing the weighing of evidence. The Hon'ble Supreme Court, in the case of Arvind Singh Vs. State of Bihar, AIR 2001 SC 2124, has observed that apart from the care and caution factors, the dying declaration ought otherwise to be treated as trustworthy. The issue thus becomes as to whether the dying declaration has been able to bring about a confidence thereon or not--- is it trustworthy or is it a mere attempt to cover up the latches of investigation; it must allure to the satisfaction of the Court that reliance ought to be placed thereon rather than a distrust. The confidence of the Court the summon bonum, and in the event of there being any affirmation thereto in the judicial mind, question of any disbelief of distrust would not arise. In the event, however, of there being some infirmity, howsoever negligible it be, the Court, unless satisfied about the credibility thereof, ought to look for some corroboration, if however, it is

otherwise, question of requirement of corroboration would not arise; dying declaration alluring piece of evidence to sustain the conviction.

18. An important requirement to believe the dying declaration is a proper mental condition to make a consciously truthful statement. However, the law has been developed that the endorsement of the medical officer as to the fitness of the mental condition of the maker of the dying declaration is not the legal requirement. The satisfaction of the person recording the dying declaration is sufficient if it inspires confidence. The Hon'ble Supreme Court (Constitution Bench), in the case of Laxman v State of Maharashtra (2002) 6 SCC 710, has laid down the law that what is essentially required is that the person who records a dying declaration must be satisfied that the deceased was in a fit state of mind. Where it is proved by the testimony of the Magistrate that the declarant was fit to make the statement even without examination by the doctor the declaration can be acted upon provided the Court ultimately holds the same to be voluntary and truthful. A certification by the doctor is essentially a rule of caution, and therefore, the voluntary and truthful nature of the declaration can be established otherwise.

19. In the case of Nallapati Sivaiah Vs. Sub-Divisional Officer, Guntur, Andhra Pradesh, (2007) 15 SCC 465 in paragraph no. 52 has observed thus;

”52. The dying declaration must inspire confidence so as to make it safe to act upon. Whether it is safe to act upon

a dying declaration depends upon not only the testimony of the person recording dying declaration be it even a Magistrate but also all the material available on record and the circumstances including the medical evidence. The evidence and the material available on record must be properly weighed in each case to arrive at a proper conclusion. The Court must satisfy itself that the person making the dying declaration was conscious and fit to make statement for which purposes not only the evidence of persons recording the dying declaration but also cumulative effect of the other evidence including the medical evidence and the circumstances must be taken into consideration.”

20. In the case at hand, as against the dying declarations of the deceased alleging that she was set to fire, the accused came with a case of suicide. To prove their case, they examined the labours working in the field at the time of the alleged incident. Before appreciating the defence, it would be appropriate to discuss the evidentiary value of the defence witness. In Munshi Prasad v state of Bihar, AIR 2001 SC 3031, the Hon'ble Supreme Court has observed that the issue of credit and trustworthiness of defence witnesses is to be tested by the standards as are applicable to prosecution witnesses. A lapse on the part of a defence witness cannot be treated differently from any such lapse on the part of prosecution witness. In the case of State of Haryana v Ram Singh 2002 Cr. LJ 987(SC), it has been

observed that a defence witness is entitled to equal treatment with a prosecution witness.

21. The investigation officer had recorded the statements of the women plucking the jowar corns in the field at the time of the incident. They were independent eyewitnesses to the incident. However, the prosecution withheld and did not call them into the witness box to state the facts they had witnessed. Withholding the material witness has a legal consequence. Section 114 Illustration (g) of the Indian Evidence Act speaks of the presumption that the Court may presume that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it. It is a cardinal rule in the law of evidence that the best available evidence should be brought before the Court. The prosecution cannot withhold the best evidence only for the reason that the testimony of a such witness is against its case. The prosecution is always supposed to be neutral. It does not investigate the crime only for the person aggrieved. It has to treat the accused, and the person aggrieved equally. Its primary job is to bring the true facts and material on record and assist the courts in arriving at the correct conclusion. Withholding the best evidence gives rise to an adverse inference against the person withholding such evidence. The prosecution has no case that the accused won over the said witnesses or failed to appear, even called on summons. If there had been an explanation for the

failure to examine the best available witnesses, the aspect of withholding such evidence would have been considered differently. In view of the facts and law, the Court concludes that an adverse inference, as discussed above, is liable to be drawn against the prosecution for withholding the best evidence.

22. Secondly, the prosecution did not explain the injuries on the person of the accused. Failure to explain such injuries gives rise to the presumption that the prosecution has suppressed the information as to the nature of the occurrence, the witnesses who have denied such injuries are deposing lie before the Court, and the self-defence of the accused becomes more plausible, shifting the burden on the prosecution.

23. The Hon'ble Supreme Court, in the case *Sharad Birdhichand Sarda Vs. State of Maharashtra, AIR 1984 SC 1622*, reviewing the authorities on the rule of dying declaration and clear language of section 32(1) of the Evidence Act, has observed that the following proposition emerges of the said provision:

(1) Section 32 of the Indian Evidence act is an exception to the rule of hearsay and makes admissible the statement of a person who dies, whether the death is homicide or suicide, provided the statement relates to the cause of death or exhibits circumstances leading to the death. In this respect, as indicated above, the Indian Evidence Act, in view of the peculiar conditions of our society and the diverse nature

and character of our people, has thought it necessary to widen the sphere of Section 32 to avoid injustice. (3) The second part of section 32 is yet another exception to the rule that in criminal law the evidence of a person who was not being subjected to or given an opportunity of being cross examined the accused, would be valueless because the place of cross examination is taken by the solemnity and sanctity of oath for the simple reason that a person on the verge of death is not likely to make a false statement unless there is a strong evidence to show that the statement was secured either by prompting or tutoring.

24. Section 32 of the Evidence Act falls under Chapter II titled as "Of the relevancy of Facts". Section 5 of the act provides for the evidence to be given of the existence or non-existence of every facts in issue and of such other facts as are declared in the said chapter to be relevant. It restricts the evidence, other than the evidence which is declared not relevant. What is the relevancy thus fully explained in SS 6 to 11. Section 6 relates to res gestae. Section 7 deals with the facts which may be given of facts in issue and relevant facts. The facts those are occasion, cause or effect, immediate or otherwise, of the relevant facts. Section 8 deals with motive, preparation and previous or subsequent conduct. Section 9 deals with the identity of anything or person whose identity is relevant. Section 10 refers to things said or done by the conspirators in reference to the

common design. Section 11 deals with the facts that are irrelevant become relevant. The statement made by such a person who cannot be called a witness shall be relevant to the facts. If any such facts have been stated, such facts are relevant.

25. In the case of Sharad Sarda (cited supra), the Hon'ble Supreme Court in paragraph no.10 referred to the book by Woodroffe and Ameer Ali (Vol.II) namely "Law of Evidence" and observed that the authors have collected all the cases at one place and indicated their conclusions thus:

"To sum up, the test of the relevancy of a statement under Section 32(1), is not what the final finding in the case is but whether the cause of the death of the person making the statement comes into question in the case. The expression 'any of the circumstances of the transaction which resulted in his death'; is wider in scope than the expression 'the cause of his death'; in other words, Clause (1) of Section 32 refers to two kinds of statements: (1) statement made by a person as to the cause of his death, and (2) the statement made by a person as to any of the circumstances of the transaction which resulted in his death.

The words, 'resulted in his death' do not mean 'caused his death', Thus it is well settled that declarations are admissible only in so far as they point directly to the fact constituting the res gestae of the homicide; that is to say, to the act of killing and to the circumstances immediately attendant thereon, like threats and difficulties acts, declarations and incidents, which constitute or accompany and explain the fact or transaction

in issue. They are admissible for or against either party, as forming parts of the res gestae."

26. The prosecution has a case that the statement of the deceased given to two policemen and a special executive magistrate proves the homicidal death. For homicide, there shall be an act of killing by the person against the person. The killing of a person by another person is homicide. Therefore, in the case at hand, the burden was on the prosecution to prove that the deceased died due to the acts of the accused. As against the homicide, the accused came with a case of suicide. Suicide is a result of the self-acts of the person that may end his or her life. It is self-killing. Here, it is not disputed that the deceased died of burn injuries. Burn injuries are possible by own acts or by the acts of another person. The witnesses examined by the prosecution are not eyewitnesses. Its case exclusively rests upon the statement of the deceased. As against this, the accused proved the presence of the ocular witnesses on the spot of the incident.

27. Suicide also requires preparation. Firstly it requires mental preparation and then selection of time, place and object, i.e. a weapon to cut the body, a poisonous substance to consume, a wire or cloth to hang, a well, river or a high place like a high floor of the building to jump, the inflammable substance to burn self with igniting material. Therefore, the past conduct of the person committing suicide is relevant. The frustration, or loss of the hopes overcoming

the adverse situations that is going on, no hopes in life, unbearable mental or physical torture and harassment are the relevant factors to ascertain whether it was a homicide or suicide because both things have relevance both cases.

28. Fact means and include, any mental condition of which person is conscious. Illustration (d) of the definition of the expression "Fact" in section 3 of the Indian Evidence act has interpreted the term "Fact" in the words that a man holds a certain opinion, has certain intention, acts in good faith or fraudulently, or uses a particular sense or is or was at a specified time conscious of a particular sensation is a 'fact'. Clause 2 of the said section speaks that any mental condition of which any person is conscious is a 'fact'. That refers to the internal facts which are the subject of consciousness. The facts and events which have occurred in the past and in the present falls under the definition of fact.

29. The existing situations before the incident are most relevant to conclude whether it is a homicide or suicide. The Hon'ble Supreme court, in the case of Sharad Sarda, cited supra, has laid down the law that the dying declaration is inadmissible if there is strong evidence to show that statement was secured either by prompting or tutoring. Section 32 does not speak of homicide alone but includes suicide also; hence all the circumstances which may be

relevant to prove the case of homicide would be equally relevant to prove a case of suicide.

30. The Court is not oblivious that under revisional jurisdiction reappraisal of evidence is exceptional but to ascertain whether it was a homicide or suicide, the relevant facts appears consideration.

31. In her first dying declaration, the deceased stated that her husband, in-laws and brother-in-law do not reside with her. Hence, she went to the field to bring the hybrid corns. In her second dying declaration, recorded after about four and half hours, she had developed a story of ill-treatment at the hands of the accused for the demand of Rs. 40,000 for securing a job for her husband. For the last two months, she has been residing alone. The accused were regularly visiting her house and abusing and beating her. On the day of the incident also they beat her in the field where the incident occurred. In her third dying declaration, recorded at about 7.30 pm., she stated that all of a sudden, the accused set her on fire. She had ill-treatment, but she tolerated and lastly, they ablaze her. She stated that she was set on fire in the standing crop of jowar. However, against the statements as to the cause of death, the defence witnesses consistently deposed that the deceased came to the field and asked the labours to stop plucking. They asked her for their wages. Then she went towards the cattle shed, poured kerosene on her person and set herself on fire.

It is also evident that the deceased had brought a kerosene can. Nothing has been extracted from their cross-examination. On the spot of the alleged incident, as per the deceased statement, there were no burning marks on the crop or any sign on the earth. The spot of occurrence as per the spot panchanama is near the said cattle shed. The facts collected through the spot panchanama also seriously affect the statement of the deceased as regards the place of the incident.

32. It is evident that the jowar corns were collected at the threshing floor. Normally, in a field, unless there is a specific reason, the agriculturists do not carry kerosene with them in the field. The inflammable are kept away from the crop because there may be a heavy risk of burning the crop. Reading the evidence of defence witnesses with the spot panchanama leads to make the prosecution story doubtful.

33. The things that happen around a man and in his life have great impact on his/her life and thoughts. Such things/events are the external aid that shapes his thoughts. Man cultivates his thought on the basis of the things he experienced and sensed in life. Experiences of various subjects in daily life also affect his reactions. The experiences arising out of marriage may have a significant impact on the life of women. If her marital expectations are seen as not accomplished, she may take an extreme and hard decision. Social background, family culture and customs play a vital role and are

responsible for unexpected steps. Constant disappointment may lead to depression, and depression may lead to feelings of revenge. A human being reacts to his emotions, feelings, passion, failures, success, and past experiences, which can be experienced by his conduct. For assessing the mental condition of a human being at a particular time, the things that happened in the recent past are the best measure. The law has recognised all these things that may change the mind of a man even on his last breath. Such incidents form a motive. There can be no action without motive. The motive of a person can only be ascertained by the inference drawn from the facts.

34. In the case at hand, what was the motive of the deceased going to the field with a kerosene can and a match stick has to be ascertained for the reason that it was her abnormal behaviour. She had no reason to go to the field with such articles. This is the relevant circumstance that may help to ascertain the mental condition of the deceased before the incident.

35. The next fact that may help assess the mental condition of the deceased was the circumstance in which she married accused no.1. The marriage of the deceased has a peculiar history. She and accused no.1 Tirupati had decided to love marriage, concealing from their parents. However, they learnt about their plan. Hence, their parents decided to perform their marriage. An agreement was

executed between their fathers. The deceased and her husband Tirupati were not a party to the said agreement. One strange term giving a right to get the income from the share of accused Tirupati, if he would refuse to marry was inserted in the agreement. She would have no right to alienate the said share was the another term. The facts and circumstances reveal that there was no good beginning to her marriage, and it was not peaceful. She was living alone in the house of the accused. The accused have proved that when they were compelled to shift to Umarga her father inducted her forcefully in their house, and she was residing alone in that house at village Dabka for two months before the incident, as the accused were shifted to Umarga. The accused have a case in which the deceased's father had an ill eye over the share of Tirupati and wished to transfer her husband's share in the name of the deceased. She was threatening to suicide. It is proved that the accused Shrinivas had filed a suit for a permanent injunction against the deceased and her father for restraining them from obstructing the cultivation. The said suit was filed on 29.09.2004.

36. Bearing the above facts in mind, the possibility of getting depressed appears high. She seems to have lost hope in her marital life. That may lead to taking a drastic step. Since it was harvesting season, she knew that the accused were in the field. When she went to the field, she asked the labour to stop plucking hybrid corns else

she would do something. When the labours asked for their wages, she went towards the cattle shed, poured the kerosene and set on fire at her own.

37. The above pre-incident events may have had a great impact on her mind; therefore, she may have prepared her mind to end her life. Her parents were with her while taking her to various hospitals. The possibility of cooking up a story of dowry demand cannot be ruled out as in her first statement; she did not allege that the accused ill-treated her for illegal demand of money. Therefore, the subsequent dying declarations alleging the demand for dowry fall under the shadow of doubt. As far as the first dying declaration is concerned, the accused have produced strong circumstances for assessing her mental condition. These relevant facts are sufficient to infer that she had no good mental condition.

38. Considering the facts and the law discussed above, it emerges that where it is proved that the mental condition of the deceased was motivated adversely due to the immediate past events, the circumstances do not support the dying declaration, and the evidence of ocular witnesses inspires the confidence, the ocular evidence would prevail over the statement of the deceased as to the cause of his death. Considering the circumstances and the evidence produced in the case, the Court comes to the conclusion that the events that happened in her marital life motivated her intellect, and

her mental condition became vindictive. Therefore, she did not give the correct statement as to her cause of death.

39. For the reasons stated above, the Court discards the statement of the deceased as to her cause of death, believes the ocular witnesses, and agrees with the findings of the learned Sessions Judge.

40. The allegations of demand for dowry are also not believable for the reasons mentioned above.

41. The reasons given by the learned Sessions Judge for acquittal appear legal, proper and correct. Hence, the impugned judgment and order do not warrant interference. There is no substance in the revision application.

42. The application stands dismissed.

43. Rule stands discharged.

44. The record and proceedings be returned to the Court of Additional Sessions Judge at Omerga.

(S.G. MEHARE, J.)

Mujaheed//