

**IN THE COURT OF THE SESSIONS JUDGE, KHURDA
AT BHUBANESWAR.**

Present:

Dr. D.P. Choudhury,
Sessions Judge, Khurda
at Bhubaneswar.

Dated, Bhubaneswar the 26th Aug. '14.

Crl. Tr. No. 263 of 2013.

(Arising out of C.T. Case No.1378 of 2013, corresponding to Saheed Nagar P.S. Case No.150 dated 12.04.2013, committed by the learned S.D.J.M., Bhubaneswar.)

S T A T E

-V e r s u s-

Sukanti Singh, aged about 26 years, W/o. Bapi Singh of Vill. – Kulkutha, P.S. – Baisinga, Dist. – Mayurbhanj. At present : At – Patharabandha, P.S. – Saheed Nagar, Dist. – Khurda.

... **Accused.**

Counsel :

For prosecution -- Shri B.B. Mohanty (P.P. in charge).

For defence -- Shri S.P. Rout (SDC).

Under Section 302, IPC.

Date of conclusion of argument : 25.08.2014.

Date of judgment : 26.08.2014.

J U D G M E N T

Accused stands charged under section 302 of the Indian Penal Code for causing murder of deceased Sebati

Singh.

2. The factual matrix leading to the case of the prosecution is that Bapi Singh has two wives, namely, deceased Sebati Singh and accused Sukanti Singh. It is alleged, inter alia, that on 12.04.2013, while Bapi Singh was absent, there was a quarrel between the deceased and the accused. As a result, the accused hacked her sister, who is the deceased, by means of a Katari causing bleeding injury on her neck and other parts of her body and she succumbed to her injuries. Then, the accused ran to Mahila Police Station and confessed her guilt. In the meantime, FIR was lodged with Saheed Nagar Police Station by Bapi Singh, basing on which investigation commenced. During investigation, police visited the spot and sent the dead body of the deceased for post mortem examination after making inquest thereover. Police also arrested the accused, who, during custody, confessed to have killed the deceased by means of a Katari and also made disclosure that she had kept the Katari in a bush behind Tiger Club and, accordingly, gave discovery of the same. Police seized the said Katari, the weapon of offence. During investigation, police also seized the Station Diary Entry made by the police in Mahila Police Station. In course of investigation, scientific team of police visited the spot and took

snaps of the deceased and also took sample of blood stains. Police seized the wearing apparels of the deceased and the accused during investigation, which were sent to the SFSL for examination and report. After completion of investigation, charge-sheet was submitted against the accused. Hence the prosecution case.

3. Plea of the accused is squarely denial to the charge levelled against her and she pleads innocence.

4. The main point for consideration is :

Whether on 12.04.2013 at about 1 P.M. at Patharabandha, the accused committed murder of deceased Sebatl Singh ?

5. Prosecution, in order to bring home the charge against the accused, has examined altogether twelve witnesses, out of whom P.W.2 is the informant, who is the husband of deceased and accused; P.Ws.5, 6, 7 & 8 are post-occurrence witnesses; P.Ws.10 & 12 are doctors; P.Ws.1 & 11 are Investigating Officers; P.Ws.3 & 4 are seizure witnesses; and P.W.9 is the Scientific Officer. Defence has examined none.

6. It is well settled law that a conviction can lie even basing on the evidence of a single witness, if his evidence is cogent, clear and above reproach. It is also well settled law that Court should separate the grain from the chaff. There is

no eye witness to this occurrence for which the case rests on circumstantial evidence. The principles on circumstantial evidence is no more *res integra*. In the case of circumstantial evidence, certain facts are to be proved from which the existence of a given fact can be inferred i.e. (a) chain of evidence must be so far complete as not to leave the reasonable ground consistent with the innocence of the accused; and (b) as to show that within all human probability, the act must have been done by the accused. Their Lordships of the Hon'ble Supreme Court in the case of ***Govinda Reddy Vs. State of Mysore (AIR 1960 SC 29)*** and in the case of ***Swami Shraddhananda Vs. State of Karnatak (AIR 2007 SC 253)*** have observed that facts or circumstances alleged must be proved by satisfactory evidence.

7. With due respect to the above decision, I find that each and every circumstance connecting the link has to be established and proved so that they can form the chain of circumstance pointing out unerringly to the guilt of the accused. That apart, the chain of circumstances must be proved and there should not be missing link in the case. It is not essential that everyone of the link must appear on the surface of evidence, as some of the links must be inferred from the proved facts. Bearing in mind about appreciation of

evidence based on circumstantial evidence, let me find out if at all the prosecution has been able to establish the charge against the accused.

8. It is revealed from the evidence of P.W.2 that police made inquest over the dead body of deceased Sebati in his presence vide Ext.5 and, thereafter, the dead body was sent for post mortem examination. Although this witness has been cross-examined by the prosecution, but on this aspect, there is no cross-examination. So, a portion of the evidence of P.W.2 can be safely relied on to the effect that he is a witness to the inquest over the dead body of the deceased. Of course, P.W.4 has proved his signature on the inquest report; but he explained that police took his signature on a blank paper. During cross-examination by prosecution, he denied to have stated before police that he was present when police held inquest over the dead body of the deceased and obtained his signature on the said inquest report. This part was not asked to the I.O. (P.W.11). Of course, no statement under section 161 of the Cr. P.C. is necessary to be recorded for a witness to the inquest report. It appears that he has signed on the inquest report vide Ext.5/2. It is revealed from the evidence of P.W.7 that police made inquest in her presence and Ext.5/3 is her signature. She has been cross-examined by prosecution in

other aspect, but not on this aspect. So, her evidence confirms that she is also a witness to the inquest over the dead body of the deceased. It is revealed from the evidence of P.W.9 that he has visited the spot and found the dead body of the deceased lying on the floor with deep cut injury on the right neck and two minor injuries on her left finger and elbow and another injury on her right finger. There is no cross-examination to this witness on this aspect. So, the unrebutted evidence of P.W.9 shows that he had seen the dead body of the deceased with cut injury on her person. P.W.11 has stated to have held inquest over the dead body of the deceased and she has proved the inquest report vide Ext.5 and her signature vide Ext.5/4. There is no cross-examination to this witness on this aspect. Ext.5 shows that there was inquest over the dead body of the deceased and she sustained cut injury on her neck and other parts of her body. Thus, the prosecution has proved by cogent, clear and consistent evidence that there was inquest over the dead body of the deceased and it shows that she had sustained cut injury on her neck and other parts of her body.

9. It is revealed from the evidence of P.W.11 that she has sent the dead body of the deceased to Capital Hospital for post mortem examination. He has proved the dead body challan vide Ext.11/1 and requisition vide Ext.11/2. It is

revealed from the evidence of P.W.10 that on the requisition of the Superintendent of Capital Hospital, she along with Dr. Jatan Kumar Sarangi conducted post mortem examination over the dead body of deceased Sebati Singh, wife of Bapi Singh, and found the following injuries :

- (a) Incised injury on left side neck of size 4" x 2" x 1". It also involves underlying muscles, vessels and nerves.
- (b) Incised injury on left wrist of size 2" x ½" x ½".
- (c) Incised injury on right scapula of size 1" x ½" x ½".
- (d) Incised injury on right side neck of size 4" x 2" x 1" involving underlying muscles, nerves and vessels.
- (e) Incised injury on left scapula of size 2" x 1".
- (f) Incised injury on left posterior aspect of sacral area i.e. back of the hip.

She has further stated that on dissection of the dead body, they found the following injuries :

- (a) Both the lungs were intact, pale in colour with plura.
- (b) All the chambers of the heart were empty.
- (c) Stomach contained dissolved food particles having no smell.
- (d) Urinary bladder was empty.
- (e) Uterus was non-gravid and pale with adenaxa.
- (f) All abdominal viscera were intact and pale.

According to P.W.10, all the above injuries were ante-mortem in nature and caused by sharp and hard object. She has further stated that the cause of death was haemorrhagic shock due to

multiple injuries. She has opined that time since death is within 24 hours of post mortem examination. According to her, Dr. Jatan Kumar Sarangi is dead and as per her instructions in consultation with Dr. Sarangi, post mortem examination report was scribed by Dr. Sarangi. She has proved the post mortem report vide Ext.9, her signature vide Ext.9/1 and the signature of Dr. Sarangi vide Ext.9/2. There is no fruitful cross-examination to this witness. Only she has stated in cross-examination that she is not a Specialist in FMT. Even if she is not an expert in Forensic Medicine & Toxicology, but forensic medicines & toxicology and anatomy are curriculum in normal MBBS course. So, the evidence of P.W.10 is consistent and above reproach to prove that she and Dr. Jatan Kumar Sarangi conducted post mortem examination over the dead body of deceased Sebati Singh and found the injuries on her neck and other parts of the body, those injuries are ante-mortem in nature, and the cause of death is haemorrhagic shock due to multiple injuries. So, the evidence of P.W.10 read with Ext.9 amply proved that there was culpable homicide of deceased Sebati Singh. Such observation also finds support from the evidence of inquest witnesses and the inquest report vide Ext.5.

10. It is revealed from the evidence of P.W.1 that on

12.04.2013, while she was on duty, the accused informed her that she and her younger sister Sebatl got married to Bapi Singh and were living jointly at Patharbandh. The accused further disclosed that she and her sister quarreled in the house when her husband was absent and, during quarrel, she hacked her sister by means of a Katari following which her sister died. So, P.W.1 made Station Diary Entry and informed the matter to the IIC, Mahila Police Station, who, in turn, communicated the same to Saheed Nagar Police Station. Later, extract of Station Diary Entry was seized by P.W.11 and P.W.11 also confirms the same. P.W.1 has proved the extract of the Station Diary Entry vide Ext.3. During cross-examination, denying the suggestion of defence, she has stated that the accused made some disclosure before her. I went through Ext.3. This is not the original Station Diary Entry, nor it is the xerox copy of the Station Diary Entry. It is only the extract of the Station Diary Entry duly certified by the IIC, Mahila Police Station. But, this Station Diary Entry shows that by the time of statement, the case was already registered in Saheed Nagar Police Station and investigation was undertaken. The evidence of P.W.11 also shows that on being informed by the informant, FIR was registered and she took up investigation and on that day at 2.45 P.M. she received phone call from P.W.1 that the accused

has confessed her guilt for which she left the spot for Mahila Police Station. Thus, the evidence of P.W.1 read with the evidence of P.W.11 about the confession made by the accused before police is not admissible being hit by section 25 of the Evidence Act, since the confession has been made before a Police Officer after registration of the case. So, the confession of the accused is inadmissible in evidence and hence it is not proved as a link to the circumstances.

11. It is revealed from the evidence of P.W.2 that the accused is his wife and the deceased is her sister, but she was also living with him as a wife. He has further stated that he had been to labour work and after his return at 2 P.M., he found Sebati lying dead with a bleeding cut injury on her neck. Then, he lodged FIR. During cross-examination, he has stated to have not stated before police and in FIR that he received information that in a domestic quarrel, his wife Sukanti caused hurt to Sebati to death by giving a blow to her neck by means of a Katari. This statement was also confronted to the I.O. (P.W.11), who admitted about such statement of P.W.2 before her. Not only this, but also the FIR vide Ext.4 shows that on the date of occurrence, he got information that due to domestic quarrel between his two wives, the accused assaulted Sebati by a Katari and caused her death. So, it is found that

P.W.2 has contradicted his earlier statement and also the FIR lodged by him as to the involvement of the accused in causing murder of Sebati. Even if such part of the evidence of P.W.2 is taken into consideration for argument's sake, the same will not be admissible being hearsay because he has not disclosed from whom he got information and there is no witness examined by prosecution to lend corroboration to P.W.2 so that such fact can be admissible. During cross-examination by defence, he has admitted that he was not aware of the contents of the FIR vide Ext.4. So, the evidence of P.W.2 even if hostile to the prosecution to the extent of proving the contents of the FIR and disclosing the cause of death of Sebati, his evidence can be relied on to prove that he has got two wives, namely, Sebati (deceased) and Sukanti (accused) and both were staying with him. It is well settled law that the evidence of hostile witness cannot be discarded in toto, but can be relied on to the extent it corroborates the prosecution case. On further scrutiny of the evidence of P.W.2, it appears that after he returned from work, he found Sebati lying dead with cut injury on her neck; but he did not disclose the whereabouts of the accused by then. On the other hand, he has not proved the presence of the accused while he returned to his house. So, the evidence of P.W.2 can be relied on about his relationship with the accused

and the fact that he found Sebati lying dead with cut injuries on her person.

12. P.W.4 has expressed his ignorance about the occurrence. He has been cross-examined by the prosecution. According to him, he has not stated before police that Bapi Singh was living with his mother, sister and two wives, namely, Sukanti & Sebati and their children; that Bapi had married Sebati five years ago since there was no issue after his marriage with Sukanti in spite of waiting for ten years; and that on 12.04.2013, Sukanti hacked Sebati to death by means of a Katari. Such statement was confronted to the I.O. (P.W.11), who admitted about the statement of P.W.4 before her relating to maintenance of two wives, namely, Sukanti and Sebati by Bapi Singh; that due to quarrel between Sukanti and Sebati, accused Sukanti hacked Sebati causing her death. There is no confrontation about the fact that the accused had no issue through Bapi and Bapi married the deceased five years back. However, it is found that there is material omission by P.W.4 by resiling from his earlier statement. So, the evidence of P.W.4 is found to be hostile to the prosecution. There is nothing found from his evidence to utilise it for any purpose.

13. It is revealed from the evidence of P.W.5 that after returning from labour work, she found huge crowd in front of

the house of Bapi Singh and Sebati was lying dead with a cut injury on her neck. She expressed her ignorance about other occurrence. She has been cross-examined by learned Addl. P.P. She denied to have stated before police that on 12.04.2013 at around 1 P.M., she saw Sukanti coming out of the house concealing something under her saree; that when she enquired as to where she was proceeding, Sukanti replied that Sebati is dead; and that when P.W.5 went inside the house, found Sebati lying dead with bleeding hacked injuries on her neck. When such statement was confronted to the I.O. (P.W.11), she admitted about the same made before her by P.W.5. Thus, P.W.5 has omitted to say the said material facts in the Court. On the other hand, she is found hostile to the prosecution by not supporting its case on such aspect. During cross-examination by prosecution, she has denied to have stated that Sukanti was not pulling on well with Sebati, as Bapi was spending most of his time with Sebati; that Sukanti was having grudge on Sebati as she (Sebati) was the root cause for her matrimonial discord with Bapi. Such statement was not confronted to the I.O. So, she must not be said to have stated such fact to the police. On the other hand, in cross-examination by defence, she has stated that Bapi has two wives, namely, Sukanti and Sebati, who are two sisters, and

they were having good relationship. So, the evidence of P.W.5 can be relied on to the extent that Bapi has two wives Sukanti and Sebati and they were pulling on well with each other.

14. P.W.6 has stated that Sukanti and Sebati are two wives of Bapi Singh and one day after returning from work, he found that Sebati has been murdered by some. He has expressed his ignorance about the occurrence. During cross-examination by prosecution, he denied to have stated before police that accused Sukanti was quarrelling with deceased Sebati and on 12.04.2003, he went to the house of Bapi and found Sebati lying dead with bleeding injury on her neck. P.W.11, the I.O., has stated that P.W.6 has stated before her that after the occurrence, he rushed to the spot and found the deceased lying dead with bleeding injury on her neck. But, the prosecution did not confront other part of the evidence of P.W.6 about quarrelling of the accused with the deceased. So, P.W.6 is found to have contradicted his earlier statement by not stating that he has seen the deceased lying dead with cut bleeding injury on her neck. On the other hand, the evidence of P.W.6 about quarrelling between the accused and the deceased cannot be said to have been stated by P.W.6 before the police. During cross-examination, nothing has been brought out about his presence on the spot after the

occurrence. On the whole, P.W.6 is hostile to the prosecution by not proving that after the occurrence, he saw Sebati lying dead with cut injury on her person.

15. P.W.7, who is the sister of P.W.2, has stated that the accused is her sister-in-law (Bhauja), the deceased is younger sister of the accused and both were staying with Bapi in his house at Patharabandha having married to her brother. But, she has expressed her ignorance about the occurrence. During cross-examination by prosecution, P.W.7 has denied to have stated before police that due to ill-feeling between her two sisters-in-law Sukanti and Sebati for the fact that Sukanti had no issue; on the date of incident, Sukanti and Sebati were in the house and she had been to her neighbour's house Ganga Singh; that when Ganga Singh asked her to bring a bucket from their house, she refused and asked Ganga Singh to bring the same from her sister-in-law; that on being informed by Ganga Singh that Sebati was lying dead with pool of blood, she immediately informed her brother to rush to their house. Such statement of P.W.7 has not been confronted to the I.O. So, P.W.7 cannot be said to have contradicted her earlier statement. On the other hand, P.W.7 has not supported the prosecution on such facts. In cross-examination, she has stated that Sukanti is the legally married wife of her brother

and she is the only Bhauja and Sebati being the younger sister of Sukanti was staying with them. Thus, in cross-examination, she has contradicted her evidence in examination-in-chief as to the relationship of Sebati with Bapi. So, the evidence of P.W.7, after proper scrutiny, is found to have proved only that accused is the legally married wife of Bapi and the deceased being her sister was staying with them.

16. P.W.8, who is the mother of P.W.2, has only stated that the accused is her daughter-in-law and she married to Bapi. She did not disclose about the occurrence. In cross-examination by prosecution, she has denied to have stated before police that while she rushed to the house found Sebati lying dead in a pool of blood and Sukanti had left the house. Such evidence of P.W.8 was not confronted to the I.O.(P.W.11). So, P.W.8 cannot be said to be hostile to the prosecution. On the other hand, in cross-examination by defence, she has stated that the accused was the only legally married wife of her son and Bapi has not married to Sebati and deceased Sebati was not staying in their house. Thus, P.W.8 has acknowledged that the accused is the wife of her son Bapi; but she has denied the presence of Sebati in her house. The evidence of P.W.8 contradicts the evidence of P.W.7 as to staying of Sukanti and Sebati in their house. From the above

discussion, it is only proved by prosecution that deceased Sebati is the sister of accused Sukanti and this fact is also admitted by the accused in her statement and it is also proved from the above consistent evidence that the accused is the wife of Bapi. But, the prosecution has not proved by consistent, clear and cogent evidence, as per the above discussion, that accused Sukanti was present in the house when Sebati was hacked to death by cut injury on her neck. But, it is proved by evidence that Sebati was found dead with cut injury on her neck.

17. It is revealed from the evidence of P.W.11 that she arrested the accused and while in custody, the accused voluntarily confessed before her and other witnesses that she has caused the murder of Sebati by means of a Katari and kept concealed the same in a bush behind Tiger Club situated at Patharabandha and she further disclosed that she would give recovery of the weapon of offence from that spot. P.W.11 has stated to have recorded the statement of the accused under section 27 of the Indian Evidence Act in presence of witnesses and has proved such statement vide Ext.6/1. She has also proved her signature vide Ext.6/2 and the signature of the accused vide Ext.6/3. Further, she has stated that the accused led them to the place of concealment of the weapon of

offence and gave recovery of the Katari and produced the same before her to which she seized by observing all formalities in presence of witnesses. P.W.11 has proved the said seizure list vide Ext.7/1, her signature vide Ext.7/2, signature of the accused vide Ext.7/3 and the signature of witness Babaji vide Ext.7/4. She identified the said Katari vide M.O.V. In cross-examination, she could not say the names of persons who have their houses in between the house of Sukanti and Tiger Club. She has also admitted to have not visited the Tiger Club house. She has also admitted that the place of recovery is an open place being accessible to public. On going through Ext.6/1, it appears that while in custody, the accused stated to have assaulted Sebati by Katari and concealed the blood stained Katari inside a bush near Tiger Club and would give recovery of the same. Ext.7/1 shows that the accused led the police to the bush behind the Tiger Club and gave recovery of 33 ½” long blood stained Katari and police seized the same. But, in para-20 of her cross-examination, P.W.11 has admitted that M.O.V is about 15” with the handle. Thus, the size of the weapon of offence recovered at the instance of the accused does not tally with the actual weapon of offence produced in the Court. The evidence of P.W.11 as to the recovery of the weapon of offence, after making disclosure statement by the

accused, is not credit-worthy and requires corroboration. One Babaji, who is stated to be a witness to the confessional statement recorded under section 27 of the Indian Evidence Act and recovery of the weapon of offence at the instance of the accused has not been examined in this case by the prosecution to lend corroboration to the evidence of P.W.11. Apart from this, P.W.6, during cross-examination by the prosecution, denied about any statement of the accused before police towards leading to discovery and seizure of Katari at her instance although he has admitted his signatures in the confessional statement vide Ext.6 and the seizure list vide Ext.7. He also denied to have made any statement before police in this regard. But, P.W.11 has stated that P.W.6 stated before her that the accused confessed to have committed the murder of Sebati by means of a Katari and disclosed that she had concealed the Katari in a bush near Tiger Club and, accordingly, she led the police to the place of concealment and brought out the Katari from the bush, which was seized. Thus, P.W.6 has contradicted his earlier statement while admitting only his signatures in Exts.6/1 & 7/1. On the other hand, P.W.6 turned hostile to the prosecution by not supporting P.W.11 as to the confessional statement of the accused before police, towards leading to discovery of the weapon of offence,

recovery of the same from the bush near the Tiger Club at the instance of the accused and seizure of the same vide Ext.7/1. On the whole, I find that the prosecution has utterly failed to prove that the accused, while in custody, made confessional statement before police to have caused the murder of Sebati by means of Katari and gave discovery of the said Katari, which has been seized by the police. On the other hand, prosecution has failed to establish the confessional statement of the accused, as relevant under section 27 of the Indian Evidence Act, and the conduct of the accused, as relevant under section 8 of the said Act, to prove circumstance to link the same with the chain of circumstances.

18. P.W.11 has stated to have sent the seized Katari to doctor for opinion vide Ext.10/2 and she also identified the same as M.O.V. P.W.10, who is the doctor, has stated that Dr. Jatan Kumar Sarangi, who is no more, has examined the said Katari and gave opinion vide Ext.10. In fact, she is acquainted with the handwriting and signature of Dr. Sarangi. Accordingly, she has proved the report submitted by Dr. Sarangi vide Ext.10. Since P.W.10 has not examined the said Katari, her evidence does not strengthen such evidence; but there is no challenge to such report vide Ext.10 by the defence. Ext.10 shows that the Katari, which was produced

before the doctor, can cause such injuries on the person of deceased Sebatu. It is also found from Ext.10 that the Katari has got total length, including its handle, of 13 ½". So, the length of the Katari, as mentioned in the seizure list, does not tally with the length of the weapon of offence sent to the doctor. Also, the evidence of P.W.11 shows that M.O.V, which is the weapon of offence, is 15" in length with handle, whereas the doctor has examined the weapon of offence having length of 13 ½". So, the prosecution has failed to establish that the actual weapon of offence has been examined by the doctor to opine that ante-mortem injuries on the person of the deceased have been caused by such M.O.V. Another circumstance against the accused is not proved by the prosecution by cogent, clear and trustworthy evidence.

19. P.W.11 has stated to have seized the wearing apparels of the accused vide Ext.14 and the wearing apparels of the deceased vide Ext.16. She has also stated to have sent the seized Katari to the SFSL for opinion. She has also stated to have sent all the seized properties for chemical examination. She has proved the report of the Chemical Examiner vide Ext.18. On going through Ext.18, it appears that blood stained Katari has human blood; but no grouping was conducted as it was deteriorated. It also appears from the evidence of P.W.11

that M.O.I is the blue coloured saya of the deceased, M.O.II is the black coloured blouse of the deceased and M.O.VI is the wearing apparel of the deceased and all these items contain human blood of AB group. She has also proved that M.O.IV is the wearing saree of the accused. On going through the seizure list (Ext.14), it appears that blood stained wearing saree of the accused was seized. The C.E. Report vide Ext.18 shows that one maroon coloured printed saree has human blood with AB group. It is further found from Ext.18 that saline extract of blood being collected from the right hand of the accused was sent for opinion, but no grouping could be conducted. Unless there is grouping of blood of the accused, and the fact that the accused is the sister of the deceased having probability of the same blood group, the blood stains of AB group on the wearing saree of the accused cannot be said to have been proved an incriminating circumstance against her. Even if assuming for argument's sake that the seized wearing apparels of the accused bear the same blood group of the deceased, that alone cannot be a circumstance against her while other circumstantial evidence, as discussed above, have not been proved to form a chain of circumstances.

20. It is revealed from the evidence of P.Ws.9 and 11 that P.W.9 visited the spot, took sample of blood from the

floor in sample gauge and those were sent for chemical examination. Ext.18, the C.E. Report, shows that they contain AB blood group. So, the only conclusion arrived at from this part of evidence of the prosecution is that the deceased was lying with pool of blood on the floor. In the absence of proof of any blood group of the accused, such examination of the blood collected from the spot with the blood group of the deceased will not be an incriminating circumstance against the accused. So, another circumstantial evidence is also not proved to the hilt.

21. In view of the aforesaid analysis, I find that the prosecution has not been able to establish every link of circumstances against the accused. Motive being one of the circumstances, there is no ocular evidence in that regard. In this case, prosecution has not been able to prove the motive of the accused by proved facts. Hence, the motive being a link to the chain of circumstances has also remained far from proof. On the whole, I find that the prosecution has not proved the chain of circumstances unerringly to point out the guilt of the accused and inconsistent to her innocence. So, benefit of doubt accrued to the accused.

22. In the long run, I arrive at an irresistible conclusion that the prosecution has failed to establish the

charge under section 302 of the I.P.C. against the accused beyond all shadow of doubts and I find her not guilty thereunder. Accordingly, the accused is acquitted of the offence under section 302 of the I.P.C. under section 235(1) of the Cr. P.C. She be set at liberty forthwith.

The seized Station Diary be returned from whom it was seized; other seized articles, including M.Os.I to VII, be destroyed four months after expiry of the appeal period if no appeal is preferred; in the event of appeal, the same be disposed of in accordance with the direction of the Appellate Court.

**Sessions Judge, Khurda
at Bhubaneswar.
26.08.2014.**

Dictated, corrected by me and pronounced this day the 26th August, 2014.

**Sessions Judge, Khurda
at Bhubaneswar.
26.08.2014.**

List of witnesses examined for prosecution.

P.W.1	--	Subhasini Mohapatra,
P.W.2	--	Bapi Singh,
P.W.3	--	Sagarika Kar,
P.W.4	--	Budhiram Singh,
P.W.5	--	Manju Singh,

P.W.6	--	Mangal Singh,
P.W.7	--	Gouri Singh,
P.W.8	--	Golapi Singh,
P.W.9	--	Prasanna Kumar Senapati,
P.W.10	--	Dr. Arati Jena,
P.W.11	--	Banita Moharana, &
P.W.12	--	Dr. Susila Rita Prabha Kujur.

List of witnesses examined for defence.

Nil.

List of documents admitted in evidence for prosecution.

Ext.1	--	Seizure list,
Ext.1/1	--	Signature of P.W.1 in Ext.1,
Ext.2	--	Zimanama,
Ext.2/1	--	Signature of P.W.1 in Ext.2,
Ext.3	--	Extract of Station Diary Entry,
Ext.4	--	F.I.R.,
Ext.4/1	--	Signature of P.W.2 in Ext.4,
Ext.5	--	Inquest Report,
Ext.5/1	--	Signature of P.W.2 in Ext.5,
Ext.1/2	--	Signature of P.W.3 in Ext.1,
Ext.5/2	--	Signature of P.W.4 in Ext.5,
Ext.6	--	Signature of P.W.6 in confessional statement,
Ext.7	--	Signature of P.W.6 in seizure list,
Ext.5/3	--	Signature of P.W.7 in Ext.5,
Ext.4/2	--	Signature of P.W.7 in Ext.4,
Ext.8	--	Spot Visit Report,
Ext.8/1	--	Signature of P.W.9 in Ext.8,
Ext.9	--	Post Mortem Report,
Ext.9/1	--	Signature of P.W.10 in Ext.9,
Ext.10	--	Report of Dr. J.K. Sarangi,
Ext.10/1	--	Signature of P.W.10 in Ext.10,
Ext.11	--	Signature and endorsement of Dr. J.K. Sarangi,
Ext.4/3	--	Signature and endorsement of IIC in Ext.4,

Ext.12	--	Command Certificate,
Ext.12/1	--	Signature of P.W.11 in Ext.12,
Ext.13	--	Spot Map,
Ext.13/1	--	Signature of P.W.11 in Ext.13,
Ext.1/3	--	Signature of P.W.11 in Ext.1,
Ext.2/2	--	Signature of P.W.11 in Ext.2,
Ext.5/4	--	Signature of P.W.11 in Ext.5,
Ext.11/1	--	Dead body challan,
Ext.11/2	--	Requisition,
Ext.11/3	--	Signature of P.W.11 in Ext.11/2,
Ext.6/1	--	Statement under section 27, Evidence Act,
Ext.6/2	--	Signature of P.W.11 in Ext.6/1,
Ext.6/3	--	Signature of accused in Ext.6/1,
Ext.6/4	--	Signature of witness Babaji in Ext.6/1,
Ext.7/1	--	Seizure list,
Ext.7/2	--	Signature of P.W.11 in Ext.7/1,
Ext.7/3	--	Signature of accused in Ext.7/1,
Ext.7/4	--	Signature of witness Babaji in Ext.7/1,
Ext.14	--	Seizure list,
Ext.14/1	--	Signature of P.W.11 in Ext.14,
Ext.14/2	--	Signature of accused in Ext.14,
Exts.14/3 & 14/4	--	Signatures of witnesses in Ext.14,
Ext.15	--	Seizure list,
Ext.15/1	--	Signature of P.W.11 in Ext.15,
Ext.16	--	Seizure list,
Ext.16/1	--	Signature of P.W.11 in Ext.16,
Ext.16/2	--	Signature of Constable in Ext.16,
Ext.10/2	--	Requisition for opinion,
Ext.10/3	--	Signature of P.W.11 in Ext.10,
Ext.17	--	Forwarding report of SDJM,
Ext.17/1	--	Signature of P.W.11 in Ext.17,
Ext.18	--	C.E. Report,
Ext.19	--	Injury report, &
Ext.19/1	--	Signature of P.W.12 in Ext.19.

List of documents admitted in evidence for defence.

Nil.

List of M.Os. marked for prosecution.

- M.O.I -- Blue coloured saya,
M.O.II -- Black coloured blouse,
M.O.III -- Sample gauge,
M.O.IV -- Saree,
M.O.V -- Katari,
M.O.VI -- Signature of accused in M.O.V, &
M.O.VII -- Wearing apparel of accused.

List of M.Os. marked for defence.

Nil.

**Sessions Judge, Khurda
at Bhubaneswar.**

26.08.2014.

