

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE, BHUBANESWAR.

Present:-

Shri M. K. Mishra, LL. B,  
Addl. Sessions Judge, Bhubaneswar.

CRIMINAL TRIAL NO.50 OF 2014

(Arising out of Mahila P.S Case No.465, 2012,  
corresponding to G.R case No.4217/ 2012(A), committed by the  
SDJM,Bhubaneswar)

Date of argument- 16. 05. 2014

Date of Judgment- 17. 05. 2014

- S t a t e -

- V e r s u s -

1. Sabitri Rout, aged about – 70 years, W/o- Late Bhagaban Rout,

2. Pranati Rout, aged about – 41 years,  
D/o- Late Bhagaban Rout,

3. Bhabanikant Rout @ Juku, aged about 43 years, S/o- Late Bhagaban  
Rout,

All are of Plot No. 331/1947,

Aurobindanagar, P.S- Chandrasekharpur,  
Bhubaneswar, Dist – Khurda.

.....Accused persons.

Counsel for the

prosecution : Sri R.R. Brahma, Addl. P. P

Counsels for the defence : Sri Sidhartha Das & assts.

Offence U/ss.: 498-A/34, IPC / U/s.302,IPC.

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J U D G M E N T

The accused persons in this case have faced their trial being charged U/s. 498-A/34/ & U/s 302 of Indian Penal Code ( hereinafter referred as IPC).

2. The case of the prosecution in short is that the Nalinikanta Rout was the husband of the deceased Anjali Rout and both of them married together 12 years back. After their marriage the victim lady resided with the accused persons in the house of her in laws. It is alleged in the F.I.R that during night of 18.11.12, Nalini kanta Rout, his parent, sister and brother who used to torture the victim lady committed the murder by throttling her neck. The informant when came to know about the incident and who is the brother of the victim lady had lodged a written report before the IIC, Mahila P.S, Bhubaneswar on the next day i. e. on 19.11.12. On getting such information, the IIC had registered the case and the investigation was taken up. During course of investigation, the I.O visited the spot, examined the witnesses, conducted the inquest in respect of the dead body of the victim lady, issued requisition for medical examination of the dead body of the deceased lady, received the post mortem report, recorded the statement of the informant and other witnesses U/s.161, Cr. P.

C, visited the spot, prepared the spot map, issued requisition for the deputation of scientific team to visit the spot, who had come to the spot, examined the inquest witnesses made seizure of 8 number of thin nylon plastic strings which were wind up into one single rope two in pieces, prepared the seizure list vide Ext.5, send the seized the nylon ropes for examination by doctor and opinion, sent the seized materials collected by the medical officer during post moretem examination to the SFSL, Bhubaneswar through the SDJM, Bhubaneswar. After completion of investigation submitted charge sheet against the accused persons U/s.498-A/302/120-B/34, IPC. During course of trial, the above accused persons got absconded for which the case record was splited up against them and after their surrender in the court of SDJM, Bhubaneswar and the case is committed to the Court of sessions, and transferred to this Court for trial. Hence, this case.

3. Plea of the defence is one of complete denial to the prosecution story.

4. Points for determination in this case are :

i) Whether since 28.02.2000 till 18.11.12, the accused persons in-furtherance of their common intention being the relation of the husband of the deceased lady subjected the deceased lady, with physical and mental cruelty ?

ii) Whether during the night of 18.11.12 the accused persons had committed murder of the victim lady Anjali Bhol @ Rout ?

5. In order to prove it's case, the prosecution has examined as many as 14 witnesses. Out of them, P.W.1, P.W. 2, P.W.4 are the police constables of Mahila P.S., P.W.

3 is the Home Guard Mahila P.S. P.W. 5 & P.W. 6 are the independent witnesses of this case. P.W. 7 is the daughter of the deceased lady. P.W. 8, P.W. 10, P.W. 11, P.W.12, & P.W. 13 are the relations of the informant. P.W. 9 is the informant and brother of the deceased lady. P.W.14 is the I.O of this case. None has been examined on behalf of the defence. Ext.1 to Ext. 12 series have been marked as per the list of exhibit, which includes the seizure list, F.I.R, spot map, P.M report etc. But no documentary evidence is adduced on behalf of the accused.

6. P.W. 1 ( Jayanti Rout ) has stated during her evidence that on 19.11.12 at 11.15 P.M, the I.O of this case had seized command certificate from Sagarika Kar, police constable, a sealed packet containing materials collected by the M.O Capital Hospital, Bhubaneswar, wearing apparels of the deceased Anajli Rout, and prepared the seizure list vide Ext.1.

The P.W.2 (Sagarika Kar ) has also reiterate the same evidence during her cross-examination.

But P.W. 3 who happens to be a home guard has deposed that on 19.11.12 at 11.15 P.M, the I.O had seized the wearing apparels of the deceased lady and prepared the seizure list Ext.1, where he has signed.

P.W. 4 ( Meherban Khan ), police constable attached to Chandrasekharpur P.S has deposed that on the same day during morning hour, the IIC, Chandrasekharpur P.S deputed him to Aurobindanagar area to guard the dead body of the deceased lady at the spot and after arrival of police personnel Mahila P.S, he left the spot.

P.W. 5 has deposed that at the relevant time of occurrence, she found gathering of persons located in front of the house of the accused persons and they were shouting by saying that the deceased Anjali had died. Hearing this she went there and found that the deceased lady was lying dead. The Nalinikanta Rout, the husband of the deceased had informed her that the deceased had committed suicide by hanging herself at the staircase of the house. He also informed her that no untoward incident had taken place in the house. But prior to the occurrence there was domestic quarrel between the Nalinikanta and the victim lady. The cross-examination of P.W. 5 discloses that Nalinikanta Rout and the deceased were residing as husband and wife in a normal conjugal cordial atmosphere. The present accused persons had never assaulted the deceased lady at any point of time nor they made quarrel with her.

7. P.W.6, who is the brother of the victim lady has deposed that about one year back, the informant made him a phone call, and informed that the deceased lady had expired. He then went to the spot house at Bhubaneswar and found the victim lady was lying dead on her bed. Thereafter, he became nervous. The inquest was conducted wherein he has signed on the inquest report. Cross-examination of P.W.11 indicates that the victim lady was residing with the present accused persons along with her husband Nalinikanta and maintaining an amicable relationship with them and the deceased lady had never complained against the accused persons at any point of time. The accused persons never demanded any dowry nor they had pressed for getting further dowry from the victim lady to purchase any land.

8. P.W.7 is the daughter of the victim lady who is aged about 13 years but I had

examined her veracity, and I was satisfied that she is a competent witness to depose in spite of her tender age. The witness has deposed that on 19.11.12 during morning while they were sleeping, all of a sudden her father screamed and they all got up. She then went near her father who had gone to up-stair, and found that her mother was hanging by her neck using a rope from iron angle of the roof of the stair case. All the family members had rushed to the spot and her father who is the accused of this case had cut that rope, and the ligature was unfastened and the mother was laid on the stair case. The accused massaged her foot and different parts of the body and poured water into her mouth but the body of her mother did not permit the water in side and it came out and they were satisfied that the victim lady had passed away. She then cried and her sister in law tried to pacify her. The matter was informed to her maternal uncle over phone. But she has stated that police has not examined her. Her cross-examination indicates that the present accused was treating the victim lady well, and there was no ill feeling in the family, and that her mother was residing in a peaceful and cordial atmosphere and there was no quarrel between the deceased and the accused persons.

9 P.W. 8 is a resident of the locality of the informant who deposed that on the occurrence day, during morning time, he was informed by the informant and requested him to come to the spot as his sister had died. He reached at the spot and found a gathering of persons including some police staff. He also found that the deceased lady had already died, and inquest was conducted in his presence wherein he has signed. His cross-examination indicates that at the instruction of police he has put his signature on the inquest report.

10. P.W. 9 who is the informant of this case has deposed that on 19.11.12 at about 6 A.M to 6.30 A.M the the husband of the deceased had informed him over telephone that deceased lady had died. On getting such information, he immediately rushed to the spot, and to Capital Hospital and out of grudge and anger made opinion in col. No.9 of the inquest report that the husband of the deceased lady and her mother in law, sister in law, and brother in law had throttled her neck by means of a rope resulting her death. Police had shown him the dead body of the deceased at the time of inquest, wherein he had signed under Ext.3. He also deposed that police had seized a rope and seizure list was prepared under Ext.5. He has also admitted U/s.154, IE Act to have stated before the I.O that the victim lady was being subjected to cruelty and torture by the accused persons but his cross-examination however indicates that on getting the news regarding the death of the deceased lady he was shocked and was unable to perform his ordinary pursuit of life. Being shocked he and his parents were seriously affected and lost their mental balance. He has further admitted that due to shock and due to lost of mental balance, she could not remember as to what he had stated before the I.O and what narration has been made by him in the FIR. But at the instance of the police, FIR was lodged wherein he has signed. He made an endorsement in the col. No. 9 of the inquest report. Towards last part of the cross-examination, he has categorically deposed that the deceased lady was residing with her husband in his house in a normal cordial atmosphere and leading a happy conjugal life.

11. P.W.10 has deposed that she had no acquaintance with the deceased

lady. According to her she has got no knowledge about the facts of the case but one year back some persons had congregated in her locality and she also found the presence of police. Police had collected her signature on some papers. This witness was examined U/s.154, I.E. Act by the prosecution. But nothing fruitful could be obtained from her mouth in support of the prosecution case.

12. P.W. 11 deposed that on 19.11.12 at about 2 P.M he was informed by the informant over phone informing that the deceased lady had expired and requested him to come to him. He then went to Capital Hospital and found the dead body of the victim lady. In his presence police had conducted the inquest in respect of the dead body and inquest report was prepared which contains his signature. The cross-examination of the P.W. 9 indicates that he is the cousin brother of the informant. According to him the deceased and the accused were residing in a normal cordial atmosphere. He has also admitted to have not found any mark of injury on the body of the deceased lady.

P.W.12, who is the nephew of the informant has deposed that on the relevant date, the accused had made him a phone call, and informed that an incident had taken place, and requested him to go to his house. Accordingly, he went to the spot house and found the deceased lady was lying dead on a cot and her body was covered by a cloth. But he could not remember as to what he had stated before the I.O.

P.W. 13 has deposed that on 19.11.12, he heard that the deceased had died for which he went to the house of the accused and, at that time the informant was already present there, and in his presence police has seized one rope and prepared the seizure list



under Ext.5.

14. P.W.14 is the I.O of this case who has deposed to have taken up the investigation of the case, visited the spot, examined the witnesses, made seizure of incriminating materials, conducted inquest, issued requisition for the purpose of P. M examination of the deceased, received the P.M examination report, sent the incriminating materials to SFSL, Bhubaneswar for chemical examination and opinion, arrested the accused Nalini and forwarded him to the Court and on completion of investigation submitted charge sheet in this case against the accused Nalinikanata along with others. The case record discloses that the informant and the other related witnesses including the daughter of the deceased lady and the other independent witnesses have not supported the case of the prosecution in any manner. The informant and the other witnesses who were subjected to volley of questions by the prosecution U/s.154, I.E Act have never supported the case of the prosecution in any manner. The P.W. 5 being the informant of this case have deposed during his cross-examination that the deceased lady was residing with her husband in the house of her husband in a normal cordial atmosphere, and she was leading a happy conjugal life. He has also deposed during his cross-examination that on getting the news of death of the deceased lady, he lost his mental balance and thereafter he had lodged a F.I.R out of shock and anger. P.W. 7, P.W. 8, P.W. 9, P.W. 10, P.W.11 and P.W. 12 have not stated if the accused persons had subjected the victim lady to torture or cruelty on demand of dowry, or harassment to her at any point of time. They have not deposed any thing basing on which it can be stated that the murder of the victim lady was attributed to the act of the accused

persons or any of his family members. Rather the evidence of the P.W. 12, who is the daughter of the deceased lady indicates that there was normal relationship in the family of the deceased. That was also stated by the informant. The nearby witnesses of the victim have not have not stated if there was any quarrel in between the accused and the victim lady. Rather the evidence indicates that the victim lady had died by hanging herself using a rope, which appears to be a case of suicide but it is not clear if she was driven by any act of the accused persons to commit suicide by hanging herself. There is absolutely nothing in the case record either oral or documentary evidence which can indicate that the accused persons have committed the murder of the victim lady. Hence, in absence of any direct, cogent and trustworthy evidence on record, I am of the opinion that the accused persons are entitled to get an order of acquittal as the case of the prosecution against the accused persons appears to be extremely vulnerable. On going through the materials on record, I am of the opinion that prosecution has miserably failed to prove it's case against the accused persons beyond all reasonable doubt.

11. In the result, the accused persons are found not guilty for committing the offence punishable U/s.498-A/34, IPC & U/s. 302, IPC beyond all reasonable doubt, and they are acquitted from the said offences as per provision U/s.235 (1),Cr. P. C. They be set at liberty forthwith being discharged from their bail bonds.

The seized articles, if any be destroyed, four months after the appeal period is over, if no appeal is preferred, if preferred subject to the order of the appellate court.

Addl. Sessions Judge, Bhubaneswar.

Typed to my dictation, corrected by me and pronounced in the open Court today this the 17th day of May, 2014 given under my signature and seal of this Court.

Addl. Sessions Judge, Bhubaneswar.

List of witnesses examined for the prosecution

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|--------|---------------------------|
| P.W.1  | Jayanti Rout              |
| P.W.2  | Sagarika Kar              |
| P.W.3  | Prasanta Ku. Nayak        |
| P.W.4  | Mehrban Khan              |
| P.W.5  | Smt. Laxmi Debata         |
| P.W.6  | Ashok Bhol                |
| P.W.7  | Subhashree Rout           |
| P.W.8  | Aswini Ku. Rath           |
| P.W.9. | Alok Bhol                 |
| P.W.10 | Mamali Barik              |
| P.W.11 | Sapan Ku. Senapati        |
| P.W.12 | Angad Ch. Swain           |
| P.W.13 | Umakanta Swain            |
| P.W.14 | Smt. Subhasini Mohapatra. |

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1	Seizure list		
Ext.1/1	Signature of P.W. 1 on Ext.1		
Ext.1/2	Signature of Sagarika Kar on Ext.1		
Ext.1/3	Signature of Prasanta Ku. Nayak on Ext.1		
Ext.2	Command certificate		
Ext.2/1	Signature of P.W. 3 along with the	endorsement	on
Ext.2			
Ext.3	Inquest report		
Ext.3/1	Signature of P.W.6		
Ext.3/2	Signature of P.W.8		
Ext.3/3	Endorsement with signature of P.W.8		
Ext.4	FIR		
Ext.4/1	Signature of P.W.9		
Ext.5	Seizure list		
Ext.5/1	Signature of P.W. 9		
Ext.6	Seizure list		
Ext.6/1	Signature of P.W. 9 on Ext.6		
Ext.5/2	Signature of Umakanta Swain		
Ext.3/4	Signature of P.W. 11 on Ext.4		
Ext.3/5	Signature of P.W. 13 on Ext.3		
Ext.5/2	Signature of P.W. 13 on Ext.5		

Ext.6/2 Signature of P.W. 13 on Ext.6

Ext.4/2 Endorsement and signature of Smt.Anita Pradhan, IIC,  
Mahila P.S

Ext.4/3 Formal FIR

Ext.7 Spot map

Ext.7/1 Signature of P.W.14 on Ext.7

Ext.8 Crime details report

Ext.8/1 Signature of P.W. 14 on Ext.8

Ext.9 Spot map prepared by scientific team.

Ext.9/1 Signature of P.W.14

Ext.9/2 Signature of Scientific officer P. K. Senapati

Ext.9/3 Signature of finger print officer S. K. Swain

Ext.9/4 Signature of ASI B.D. Bhoi, Photographer

Ext.6/3 Signature of P.W. 14 on Ext.5.

Ext.5/3 Signature of P.W. 14 on Ext.5

Ext.1/4 Signature of P.W.14 on Ext.1

Ext.10 P.M report

Ext.10/1 Signature of Dr. Jatan Kumar Sarangi

Ext.3/6 Signature of Dr. Jatan Kumar Sarangi on Ext.3

Ext.11 Written prayer of P.W. 14 to SDJM, BBSR

Ext.11/1 Signature of P.W.14 on Ext.11

Ext.12 Forwarding letter

Ext.12/1 Signature of P.W. 14 on Ext.12.

Ext.2/2 Signature and endorsement of P.W.14 on Ext.2.

List of Exts. Marked on behalf of the defence

Nil.

List of M.Os marked on behalf of the prosecution

Nil

List of M.Os marked on behalf of the defence

Addl. Sessions Judge, Bhubaneswar.