



AFR



2026:AHC-LKO:40009-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 565 of 2019

ManishAppellant.

Versus

State of U.P.Respondents(s)

Counsel for Petitioners(s) : Pankaj Kumar Tripathi, Abdul Rafey Siddiqui, Ajeet Kumar Singh, Pradeep Kumar Tripathi, Punit Kumar Shukla, Rehan Ahmad Siddiqui
Counsel for Respondent(s) : Govt. Advocate

Court No. - 9

**HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE INDRAJEET SHUKLA, J.**

(Per: Indrajeet Shukla, J.)

For the sake of explication, the instant judgement is set out in the following parts:

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FACTUAL MATRIX

1. Convicted and sentenced for the one of the most depraved offences i.e., burning of his wife who was carrying pregnancy of eight months, consequently death of an unborn child in mother's womb, the appellant is before this Court.

2. Under challenge is conviction and sentence recorded under Section 302 IPC for life imprisonment and fine to the extent of Rs.20,000/-, further with default stipulation i.e. six months additional imprisonment, rendered vide impugned judgment and order dated 15.02.2019 passed by Additional Sessions Judge/Fast Track Court (New), Sitapur in Sessions Trial No.775/2011 arising out of crime no. 28/2011 Police Station- Ramkot, District Sitapur.

3. Custody certificate as well as conduct report of the appellant submitted by learned State Law Officer is taken on record and the same is marked as 'x'.

PROSECUTION CASE IN NUTSHELL

4. The prosecution story, as unfolded in the written Tehrir Exhibited as Ka-1 dated 28.01.2011, submitted by the informant, Smt. Maya Devi (mother of the deceased) is, she solemnized the marriage of her daughter, Ruchi (the deceased), with the accused-appellant, Manish (son of Gajodhar, resident of Village Adhaval Khurd, Police Station Kotwali, District Sitapur), approximately three years prior to the incident.

5. It is further stated that shortly after the marriage, the accused-appellant, Manish, began demanding ₹50,000/- as additional dowry. Owing to the first informant's poor financial background, the demand could not be fulfilled. Consequently, the appellant started physically assaulting and harassing her daughter. He used to say that if she did not bring Rs.50,000/-, he would kill her. The demand of dowry and ill treatment was informed to the first informant over the telephone. The first informant had been allotted a house under the Kashi Ram Urban Housing Scheme in Sitapur. On 27.11.2010, the appellant and the first informant's daughter came to her house and asked for the keys of the aforesaid house, stating that they wanted to stay there for a few days. The keys were handed over, and on 28.11.2010 at 11:00 A.M, the first informant came to know that her daughter had been burnt and admitted to the District Hospital. Upon receiving the information, the first informant and her son reached the Hospital, where she found her daughter in burnt condition. It is further stated that apart from her daughter, no one else was present there. During treatment at the District Hospital, her daughter died. It is further mentioned that first informant became extremely distressed due to the death of her daughter. She stated that a few days later, when she went to the house (place of occurrence) the neighbours informed her, that after severely assaulting her daughter, her son-in-law, Manish, poured kerosene oil on her and burnt her to death. The application further mentions that the above-mentioned chain of events led her to believe that due to non-fulfilment of additional dowry demand, her daughter had been killed by her son-in-law.

6. After being hospitalized, first informant's daughter battled with her injuries, but ultimately succumbed on 21.12.2010 in the hospital. Thereafter, inquest proceedings (Exhibit Ka-2) were conducted on the same day in the presence of Naib Tehsildar- Yaduveer Singh Yadav. The dead body of the deceased was sealed and sent for post-mortem examination.

7. As per the opinion of the inquest witnesses mentioned in the inquest report Exhibited as Ka-2, deceased Ruchi was set to ablaze by her husband-

Manish. It is further mentioned in the opinion that on the previous night, the deceased had delivered a baby girl found dead. The deceased died due to burn injuries; however, for certainty, an autopsy report was said to be expedient.

8. The prosecution primarily relied upon the testimonies of two witnesses of fact viz PW-1 Maya Devi (Mother of deceased), being first informant, PW-2 Dinesh (Brother of deceased) and also relied upon the dying declaration (Exhibit Ka-10), which was proved by PW-4, Yaduveer Singh Yadav (Naib Tehsildar- Sitapur) and the certificate of fitness was proved by PW-6 Dr. Pankaj Awasthi.

9. The investigating officer submitted charge-sheet (Exhibit Ka-13), under Sections 302, 498A, 304-B IPC and Section 3/4 Dowry Prohibition Act, thereafter, the case, being triable by Court of Sessions, was committed to the Sessions Court. The learned trial Court framed charge under Sections 302, 498-A, 304-B IPC, and Section 4 of DP Act. The accused person pleaded 'not guilty' and demanded for trial.

10. In order to bring home the guilt of the accused-appellant, the prosecution has examined following witnesses:

PW- 1	Maya Devi (First Informant and Mother of the deceased)
PW-2	Dinesh (Brother of the deceased)
PW-3	H.C. Inamullah Khan CBCID (Police official, PS- Ramkot)
PW-4	Yaduveer Singh Yadav (Naib Tehsildar Sadar, Sitapur) recorded and proved dying declaration.
PW-5	Dr S. Bhardwaj (Senior Consultant Surgeon, District Hospital, Sitapur)
PW-6	Dr. Pankaj Awasthi (Physician, District Hospital, Sitapur)
PW-7	Vidhya Sagar Mishra (Superintendent of Police (Rural), Saharanpur (Then C.O City, Sitapur)

PW-8	Hafizurrahman (Additional Superintendent of Police (Traffic), Directorate Lucknow, (then C.O City Sitapur)
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11. Apart from the aforesaid witnesses, the prosecution produced the following documentary evidence:-

Exhibit Ka-1	Written Report (Tehrir)
Exhibit Ka- 2	Inquest Report
Exhibit Ka-3	First Information Report
Exhibit Ka-4	GD Entry
Exhibit Ka- 5	Specimen Seal
Exhibit Ka-6	Photo of a Dead Body
Exhibit Ka-7	Police form -challan- dead body
Exhibit Ka-8	Letter to Reserve Inspector
Exhibit Ka- 9	Letter to CMO
Exhibit Ka-10	Dying Declaration report
Exhibit Ka-11	Postmortem report
Exhibit Ka-12	Site plan
Exhibit Ka-13	Charge-Sheet

12. After the closure of prosecution evidence, the appellant was examined under section 313 CrPC, wherein he outrightly denied all the charges and incriminating evidence against him and claimed himself to be innocent. Dying declaration Exhibited as Ka-10 was placed as incriminating material against the appellant at the stage of examination under Section 313 CrPC, and upon confrontation of the same, he once again disavowed it, stating that it had been wrongly proved. The appellant-convict had filed a written statement wherein he stated that his marriage with the deceased was the result of love affairs, which displeased his in-laws. The deceased used to reside at her parental house, where the unfortunate occurrence took place. It was the appellant who admitted the deceased to the hospital.

13. **No defence evidence was adduced by the appellant despite an opportunity being granted.**

SCOPE OF CRIMINAL APPEAL AGAINST CONVICTION

14. Before we thrash out the evidence adduced before the trial Court, we would like to recollect and remind ourselves of the manner in which an appeal against conviction is required to be heard by this Court, considering the scope of jurisdiction conferred by Sections 374 and 386 Cr.P.C.

15. We are privileged to have glimpse of ratio laid down in the judgement rendered by Hon'ble Supreme Court in the case of **State of Uttarakhand Versus Anil and others** reported in **2025 SCC OnLine SC 2099**, wherein the Hon'ble Supreme Court in Unequivocal terms observed that the **High Court is a first appellate Court is under mandate of law to reassess the evidence led by the parties, statement of victim including medical examination, scientific reports and the defence version with due care to arrive at a just conclusion in deciding whether the trial Court was justified in convicting the accused or not.** The relevant paragraphs of said judgement are quoted below:-

“8. We observe that while hearing appeals under Section 374(2) of the CrPC, the High Court is exercising its appellate jurisdiction. There has to be an independent application of mind in deciding the criminal appeal against conviction. It is the duty of an appellate court to independently evaluate the evidence presented and determine whether such evidence is credible. Even if the evidence is deemed reliable, the High Court must further assess whether the prosecution has established its case beyond reasonable doubt. The High Court, though being an appellate Court, is akin to a Trial Court and must be convinced beyond all reasonable doubt that the prosecution's case is substantially true and that the guilt of the accused has been conclusively proven while considering an appeal against conviction.

9. As the first appellate court, the High Court is expected to evaluate the evidence including the medical evidence, statement of the victim, statements of the witnesses and the defence version with due care. While the judgment need not be excessively lengthy, it must reflect a proper application of mind to crucial evidence. Albeit the High Court does not have the advantage to examine the witnesses directly, the High Court should, as an appellate Court, re-assess the facts, evidence on record and findings to arrive at a just conclusion in deciding whether the Trial Court was justified in convicting the accused or not. We are also cognizant of the large pendency of cases bombarding our courts. However, the same cannot come in the way of the Court's solemn duty, particularly, when a person's liberty is at stake.

10. This Court, in State of Uttar Pradesh v. Ambarish, (2021) 16 SCC 371 held that while deciding a criminal appeal on merits, the High Court is required to apply its mind to the entirety of the case, including the evidence on the record before arriving at its conclusion. In this regard, we may also refer to the orders passed by this Court in Shakuntala Shukla v. State of Uttar Pradesh, (2021) 20 SCC 818 and State Bank of India v. Ajay Kumar Sood, (2023) 7 SCC 282.”

16. The **law mandates and casts a duty upon the appellate court for reassessment of the entire evidence, so as to arrive at an independent finding regarding the guilt or innocence of a convict;** thus, the testimonies of witnesses of facts are being re-appreciated as under:

(emphasis added)

PROSECUTION EVIDENCE

17. **PW-1 Maya Devi** happens to be the first informant and the mother of the deceased, appeared in the witness box and deposed that, the deceased, Ruchi was married to the accused-Manish, approximately three years prior to the incident, and at the time of the incident, the deceased was six months pregnant. She further deposed that the deceased used to telephonically inform her that the accused demanded Rs. 50,000/- as additional dowry and subjected her to beatings due to non-fulfillment. Despite her having spoken to the accused about her financial helplessness, he continued his demand until the death of the deceased. She further deposed that prior to the incident, the accused had come to her residence on 27.11.2010 and obtained the keys of her house at Kashi Ram Colony, Sitapur, whereafter the accused and the deceased departed together. She further deposed that on the following day, she received information that the deceased had sustained burn injuries, and upon reaching the District Hospital, she found the deceased in a severely burnt condition, in the absence of the accused. She stated that the deceased, who was then conscious, disclosed to her that the accused had first beaten her, poured kerosene upon her, set her on fire, bolted the door from outside and fled. She further deposed that the deceased remained hospitalised for approximately one and a half months before succumbing to her injuries, in the meantime, the Naib Tehsildar recorded her statement as to the cause of death and obtained her thumb impression. She further stated that the child born to her daughter also subsequently died. She further stated that her complaint was not registered by the police despite repeated attempts, and it was only upon her approaching a senior officer that her report was formally registered, and the same is exhibited as Ka-3 (F.I.R.).

18. The testimony of PW-1 was subjected to lengthy cross-examination, and in her cross-examination, she stated that she had no prior animosity with the accused or his family. She deposed that at the time of the marriage of her daughter with the accused, there was no dispute with respect to the demand of dowry, and the marriage was happily celebrated. PW-1 denied the suggestion that the marriage between her daughter and the accused was against her wishes or against the wishes of her family. However, she admitted that she was not aware of the alleged court marriage, said to have taken place at the Sub-Registrar's office, Viswan, on 15.06.2006.

19. The glaring feature of the testimony of PW-1 is, that she has certified the pregnancy of her daughter and further, her statement that Manish was not found at the hospital concerned when she reached to the hospital. Apart from the aforesaid fact, the testimony of PW-1 finds corroboration with the dying declaration in question, and even the said witness unequivocally stated that her daughter had disclosed to her that after being set ablaze, the door was bolted from outside. The said witness remained intact in relation to the timing of the dying declaration as well as her daughter's conscious and lucid condition. The statement mentioned in the dying declaration that the accused Manish poured the kerosene oil and set her ablaze is also corroborated in the testimony of PW-1, though PW-1 is not an ocular account, but her statement still corroborates the dying declaration and gelled with the same.

20. The second witness of fact adduced by prosecution is **Dinesh- PW-2** who stated in his statement-in-examination that Ruchi, was his sister, who was married to the accused- Manish, approximately three years prior to the incident, though dowry was given as per the family's means, the accused remained dissatisfied and demanded an additional sum of Rs.50,000/- which the family was unable to pay owing to the death of their father, on account of which the accused used to beat and harass the deceased. PW-2 further deposed that on the day preceding the incident, the accused came to their residence at Durgapurwa along with the deceased and sought the keys

of their mother's house in Kashiram Colony, which were handed over by his mother in his presence, whereafter both the accused and the deceased departed together. Accused Manish deposed that on 28.11.2010 at around 11:00 A.M, he received information that the accused had poured kerosene on the deceased, set her on fire, locked the room from outside and fled, and that upon reaching Kashiram Colony, he learnt that the colony residents had already taken the deceased to the hospital. P.W.- 2 stated that upon reaching the District Hospital, Sitapur, he found the deceased in the emergency ward in a groaning and burnt condition, whereupon the deceased disclosed to him that the accused had beaten her and set her on fire by pouring kerosene on her on account of the non- fulfilment of his monetary demand. He further deposed that the deceased was subsequently shifted to the burn ward, where she remained for approximately 22-23 days before succumbing to her injuries, and that the accused did not visit the deceased even once during her entire period of hospitalisation. PW-2 identified his signature on the Panchnama, which was exhibited as Exhibit **Ka-2**, and stated that the demand for additional dowry had continued from after the marriage until the death of the deceased.

21. PW-2 was cross-examined by the defence, where P.W.-2 admitted that he did not know from whom the call regarding the incident had been received, and he did not know who had admitted the deceased to the hospital. He denied the suggestion that the deceased had sustained burn injuries accidentally, the accused had admitted her to the hospital and informed the family thereof, or that a false case had been instituted against the accused on account of any grudge.

22. In order to ascertain whether the deceased died, otherwise than under normal circumstances, the consideration of the testimony of **PW-5 - Dr S. Bhardwaj**, who conducted the post-mortem examination of the deceased Ruchi, is expedient. He stated that the deceased was aged about 20 years, had sustained extensive ante-mortem burn injuries of first to third degree over the head, chest, neck, abdomen, and back.

23. The said witness, qua internal examination, stated that the brain, lungs, liver, spleen and kidneys were found to be congested, with crystalline effusions present in both lungs and liver, and the uterus was found to be of approximately 24 weeks' gestation, though empty. He opined that the cause of death was septicemia resulting from ante-mortem burn injuries and proved the post-mortem report as Exhibit Ka-11.

24. In cross-examination, the witness stated that no injuries other than burn injuries were found on the body and admitted that due to severe burns, a patient may go into shock or coma, and such burns may result in death. He further stated that he could not say whether the deceased had delivered a child prior to death and denied the suggestion that the post-mortem report was prepared under any external pressure.

25. The autopsy examination report, having been juxtaposed to the testimony of medical jurist – PW5/**Dr S. Bhardwaj**, **it comes out** that the post-mortem report exhibited as Ka-11 reflects following injuries on the person of deceased Ruchi:

“I to III degree burns with sepsis and healing process on the head, chest, neck, upper portion of abdomen and back.”

26. The column of internal reproductive organs mentions ‘uterus containing an aborted 24-week foetus. The column of opinion mentions that the cause of death is septicemic shock resulting from ante-mortem burn injuries.

DYING DECLARATION

27. The vital and crucial piece of evidence led before the learned trial Court is the dying declaration of Smt. Ruchi i.e. deceased who succumbed to burn injuries. The dying declaration so recorded by the Executive Magistrate/ PW4 – Naib Tehsildar **Yaduveer Singh Yadav (Exhibit Ka-10)** reads as under:

प्रदर्शक-10

डॉइंग डिक्लरेशन D/D

श्रीमती रुचि -

पुलिस मेमो 6337 दि० 28.11.2010 समय 11-50 PM

रपट संख्या 27 समय 12.30 P.S. कोतवाली सदर सीतापुर।

भर्ती बेड संख्या-14. Burn Ward जिला अस्पताल सीतापुर।

This is certified that Ruchi W/o Manish is admitted in isolate ward in District Hospital Sitapur. I have examine, is full in conscious level and she is given him self our statement. at 16.13 PM.

Sd/- Illegible

30/11/010

बयान प्रारम्भ 30-11-2010 समय 16-14 बजे -

श्रीमती रुचि पत्नी मनीष आयु 20 वर्ष निवासी अढावल खुर्द ने बयान किया कि मेरा मैका मो दुर्गा पुरवा में है। मेरी माता को काशीराम आवास कालोनी में मकान मिला है। उसी मकान में दिन शनिवार को मैं और मेरा पति गया था। आदमी (पति) ने कहा था कि कालोनी टहल आवे तब गयी थी। रात में कालोनी में रुकी। पति भी रुका था। 11-00 बजे दिन रविवार को मेरे पति ने मेरे ऊपर मिट्टी का तेल डालकर आग लगा दी। मेरा लड़का 12 वर्ष का है व पेट में 8 माह का बच्चा है। मेरे लड़के के मुहां था। उसकी दवा के लिए मैं पैसा मांग रही थी। पति ने कहा पैसा नहीं दे पाऊंगा। पति ने कहा कि तुम मेरी मेहरूवा नहीं हो। ज्यादा मुंह लगोगी तो तेजाब डाल दूंगा। सकल दिखाने वाली नहीं रहोगी। मेरे एक लात मारी। दाल का कटोरा रखा था वह उठाकर मार दिया। फेंका कर मारा था। मैं खटिया पर बैठी थी। मुझे पकड़कर अन्दर वाला कमरा में ले गया मिट्टी का तेल रखा था वह उठाकर मेरे सिर पर डाल दिया। माचिस उठा कर जलाकर दूर से मेरे ऊपर डाल दी उससे मैं जली हूँ। दरवाजा बाहर से बन्द कर दिया। जब मैं चिल्लाने लगी तब पब्लिक इकड्डा हो गयी। खिड़की खुली थी उसी से देखा। मैं बचाने के लिए चिल्लायी थी। दस्तखत कर लेती हूँ। हाथ जले हैं इसलिए दस्तखत नहीं कर पाऊंगी। सुनकर तसदीक किया।

नि० अं० रुचि.

समाप्त - दिनांक 30.11.2010

समय 16.34 बजे ।

बयान मेरे द्वारा लिया गया।

ह० अपठनीय
30.11.2010 ना.
तहसीलदार सदर
सीतापुर

During statement she is in fully conscious and given self statement.

संलग्नक-पुलिस मेमो-

6337

2. पुलिस रपट-27

3. प्रार्थना पत्र मायादेवी

Sd/- Illegible

30/11/010

EMERGENCY MEDICAL OFFICER DISTT.
HOSPITAL SITAPUR

उपरोक्त DD डा० पंकज अवस्थी फिजीशियन जो कि वर्तमान में जिला चिक० सीतापुर में तैनात है कि द्वारा सम्पन्न किया गया है और उन्ही के हस्तलेख में है।

ह० जी० एल० रस्तोगी फार्मे

28. The dying declaration, having been recorded by **PW-4/Yaduveer Singh Yadav(Naib tehsildar Sadar, Sitapur)**, stated in his statement-in-

chief that on 30.11.2010, on the directions of the Tehsildar, he recorded the dying declaration of the deceased at District Hospital, Sitapur, after the attending doctor had certified her fit to give the statement. He further stated that the declaration was recorded between 16:14 to 16:34 hours in his own handwriting, bearing the thumb impression of the deceased, thus proving Exhibit Ka-10.

29. The prosecution has heavily relied upon the dying declaration for “bringing home the guilt of the accused”, thus, it is apt to extract Section 32(1) of the Indian Evidence Act as under:

“(1) When it relates to cause of death. -- When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that persons death comes into question. Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.”

30. We have dealt with evidentiary value of dying declaration and culled comprehensive guidelines in judgement rendered by us in another case i.e. **Criminal Appeal No.2275 of 2019 (Ramrati v. State of U.P.)**. The relevant paragraphs of said judgement read as under:-

“We have had privilege of combing through various authorities on the subject i.e. ‘Dying Declaration’ since pre independence era (time of privy council whose decision guided Indian Law pre 1950) and post independence era (after enforcement of constitution and the law declared by the Hon’ble Apex Court) such as Queen Empress v. Abdullah (1885 ILR 7 All 385), Pakala Narayana Swami v. Emperor (1939 PC 47), Dalip Singh & Others v. State of Punjab (AIR 1953 SC 364), Kushal Rao v. State of Bombay (AIR 1958 SC 22), K. Ramachandra Reddy & Another v. State of Andhra Pradesh (AIR 1976 SC 1994), Munnu Raja & Another v. State of M.P. (1976) 3 SCC 104 (AIR 1976 SC 2199), Sharad Birdhichand Sarda v. State of Maharashtra (AIR 1984 SC 1622), Smt. Paniben v. State of Gujarat (1992) 2 SCC 474 (AIR 1992 SC 1817), Kamla v. State of Punjab (AIR 1993 SC 374), Paparambaka Rosamma & Others v. State of Andhra Pradesh (1999) 7 SCC 695, Laxman v. State of Maharashtra (2002) 6 SCC 710 (AIR 2002 SC 2973), Atbir v. Government of NCT of Delhi (2010) 9 SCC 1, Bhajju alias Karan Singh v. State of M.P. ((2012) 4 SCC 327), Jayamma & Another v. State of Karnataka (AIR 2021 SC 2399), Irfan v. State of Uttar Pradesh (2023 SCC OnLine SC 1060), Naeem v. State of Uttar Pradesh (2024 SCC OnLine SC 237), Neeraj Kumar @ Neeraj Yadav Vs. State of U.P. and others, 2025 SCC Online SC 2639, State of Himanchal Pradesh Vs. Chaman Lal, 2026 SCC Online SC 85.

Thus, we are taking it an opportunity to comprehensively sum up the law on dying declarations taking into account aforesaid authoritative pronouncement as under:

- (i) 'Dying Declaration' having passed the muster of law are admissible by virtue of legal sanctity envisaged u/s 32 (1) Indian Evidence Act, such declarations being **exception to the hearsay rule** carry immense weight in criminal trials. Over the decades, the Supreme Court of India has shaped the law on dying declarations, clarifying their admissibility, the need or absence of corroboration, and the safeguards required to ensure reliability.
- (ii) The root of 'Dying Declaration' lies in the latin maxim "**nemo moriturus praesumitur mentire**" (no one at the point of death is presumed to lie). Sanctity of a dying declaration comes from the grave position of the declarant. Essentially, unless there is some concrete reason to suspect the dying declaration, the court can safely rely on it alone. The declaration must be scrutinized to ensure it was not the result of tutoring, prompting or imagination, and that the victim had a clear opportunity to identify the perpetrator and was in a fit condition to speak. If a dying declaration appears suspicious or suffers from any infirmity, the court should look for corroboration and not rely on it exclusively. For example, if evidence suggests the deceased was unconscious or physically incapable of making the statement, that declaration must be discarded.
- (iii) There cannot be an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The requirement of corroboration is merely a rule of prudence, not a mandatory legal rule. Insisting on corroboration in every case would defeat the very purpose of the statutory exception, further, lack of detail in the dying declaration is not a reason to discard it.
- (iv) If a dying declaration has been recorded in a proper manner by a competent authority and the court is satisfied of its truthfulness, it is a "substantive piece of evidence" sufficient to sustain a conviction on its own and cannot be regarded as a weak piece of evidence.
- (v) The dying declaration must pass the test of it being voluntary, coherent, and made with the declarant's faculties intact. A dying declaration should be accepted if it inspires confidence after examining all the surrounding circumstances (who recorded it, when and how it was recorded, and the condition of the victim).
- (vi) The omissions of detail do not invalidate a dying declaration, a statement cannot be rejected merely because it is brief or lacks particulars. In fact, brevity by itself is not a ground to doubt a statement; sometimes "the shortness of the statement itself guarantees truth".
- (vii) The requirement of medical fitness/certificate is pitted against eye witness testimony, the consistent law is, if an eyewitness testifies that the deceased was in a fit and conscious state to make a declaration, that can override a doctor's contrary opinion. The logic is that a person present at the scene may better observe the victim's condition in real time than a belated medical inference.
- (viii) In case of multiple dying declaration i.e. more than one dying declaration with material inconsistencies, those declarations cannot be accepted at face value without corroborative support. Specifically, if the declarations differ on essential facts or implicate different individuals, the court must examine them in light of other evidence. Further the declarations should corroborate each other; if they do not, they must at least be consistent with the overall circumstantial and medical evidence of the case. In essence, where multiple dying declarations conflict, the

benefit of doubt generally goes to the accused unless one of the versions is clearly proven true by independent evidence. This principle ensures that the prosecution cannot cherry-pick one dying statement out of several contradictory ones to secure a conviction without addressing the discrepancies.

*(ix) The absence of a doctor's certificate is not by itself a ground to discard a dying declaration if the circumstances otherwise indicate the victim was fit. The guiding principles emerges from Constitution Bench judgement rendered by Hon'ble Supreme Court in the case of **Laxman (supra)** which overruled the earlier dictum of Hon'ble Supreme Court rendered in the case of **Paparambaka Rosamma (supra)**. Thus, merely not having a doctor's signature or certificate at the foot of the statement will not render it inadmissible or untrustworthy.*

*(x) The impact of judgment rendered by five judges bench of Hon'ble Supreme Court in the case of **Laxman (supra)** on Indian jurisprudence was to settle the law on recording procedure for dying declarations. It resolved the confusion by clarifying that a doctor's certification of mental fitness is though ideal but is not a sine qua non for the acceptance of a dying declaration. What matters is that the person who recorded the statement or others present can verify the victim's consciousness and clarity.*

(xi) The law does not require the declarant to be under the "shadow of death" or expect imminent death at the time of making the statement. A statement is a valid dying declaration as long as it relates to the cause of death or circumstances leading to it regardless of whether a substantial period passed between the statement and the death.

(xii) There is no rule barring police from recording of dying declaration, however, note of caution must be observed while relying such declarations but they are not outright inadmissible."

31. **PW4/Yaduveer Singh Yadav**, in whose presence inquest proceedings had taken place, proved the inquest memo Ka-2 and stated that on 21.12.2010, while being posted at Sadar Tehsil, Sitapur, he prepared the Panchayatnama of the deceased Ruchi at the mortuary of District Hospital, Sitapur, on the directions of the SDM. He stated that in the presence of police officials and members of the deceased's family, the dead body was inspected, relevant injuries were noted, and necessary documents, including Panchayatnama, sample seal, challan, and related papers, were prepared and duly signed by him, and thereafter the sealed body was handed over for post-mortem.

32. However, in cross-examination, the witness admitted that in the Panchayatnama, no injury other than burn injuries was found, and no mention of dowry demand was recorded in the opinion of the Panchas. He further conceded that while recording the dying declaration, he did not mention that he had disclosed his identity as a Magistrate to the deceased,

nor did he independently ascertain or record her mental fitness, and that the declaration was not recorded in a question-answer format. He also admitted that the deceased had not stated anything regarding dowry demand in the said dying declaration.

33. The prosecution in order to ensure that the dying declaration may remain an unimpeachable document, produced **PW- 6/Dr. Pankaj Awasthi**, who appended the fitness certificate on the dying declaration Exhibited as Ka-10. The said witness deposed that on 30.11.2010, while posted on emergency duty, he examined the deceased Ruchi, who was admitted to the burn ward. He stated that upon examination, he found her fully conscious and fit to give her statement, and accordingly certified her fitness prior to the recording of the dying declaration and also endorsed that she remained conscious throughout the process. He proved his certification on the dying declaration (Exhibit Ka-10), stating that the statement was recorded between 16:14 to 16:34 hours.

34. However, in cross-examination, the witness admitted that he had not recorded the pulse rate, vitals, or any specific parameters of examination in the document and neither he questioned the deceased nor her answers were recorded by him.

35. The prosecution also produced certain formal witnesses to prove the conduct of the investigation and police papers, etc., such as **PW-3 H.C. Inamullah Khan**, who stated in his statement-in-chief that on 01.02.2011, he was posted at Police Station Ramkot and was performing Office Record duty. An application was received via "Dakpad" (dispatch), which had been submitted by Maya Devi, wife of Badri Prasad, resident of Durgapurwa, P.S. Kotwali, Sitapur, addressed to the Circle Officer (CO) City, Sitapur. On the basis of said application, FIR No. 28/11 was registered under Sections 498-A, 304-B of the IPC, and 3/4 of the D.P. Act against the accused Manish through Chik No. 15/11.

36. The original Chik FIR, which is in his handwriting and signature,

was identified as having been marked as Exhibit Ka-3. The General Diary (GD) entry regarding the institution of the case (GD No. 46, Time 21:30, dated 01.02.11) was made by CC359 Gokul Chandra Tiwari in his own handwriting and signature.

37. **PW- 7 Vidhya Sagar Mishra** (Superintendent of Police (Rural), Saharanpur (Then C.O City, Sitapur) in his statement-in-chief has stated that on 02.04.11, he was posted as the Circle Officer (CO) City, Sitapur. The investigation of Case Crime No. 28/11, under Sections 302, 498A, 304B of the IPC, and 3/4 of the D.P. Act (State vs. Manish, P.S. Ramkot), was conducted by the former CO, Shri Hafizur Rehman. Following his transfer, the investigation of the said case was taken over by him on 02.04.11. On 08.4.11, the Case Diary (CD) prepared by the previous Investigating Officer (IO) was perused. On the same date, the investigation was completed, and a charge sheet was submitted against the accused Manish under Sections 302, 304-B, 498-A of the IPC, and 3/4 of the D.P. Act, having found prima facie offence against the accused. The charge sheet, bearing the signature of the witness, was presented and identified; it has been marked as Exhibit Ka-12.

38. The lengthy cross-examination of the investigating officer/PW7 could not elicit anything that could dislodge the authenticity of police papers and shroud any doubt on the investigation conducted. The witness proved the police papers, including the chargesheet.

39. **PW-8 Hafizurrahman (Additional Superintendent of Police (Traffic), Directorate Lucknow, (then C.O City Sitapur)** in his statement-in-chief stated that information regarding the registration of Case Crime No. 28/11, under Sections 498-A, 304-B of the IPC, and 3/4 of the D.P. Act against Manish at P.S. Ramkot, was received by him via telephone. Upon receiving the information, an investigation was commenced after obtaining copies of the Chik FIR and the GD entry from the station office. After perusal, the details of the Chik FIR and GD were recorded in the Case Diary (CD). Subsequently, the statements of the scribe

of FIR, Head Constable Inamullah Khan, and the scribe of GD, Constable Moharrir Gokul Chandra Tiwari, were recorded. Thereafter, the complainant's statement was recorded, the spot was inspected, and a site plan was prepared, which has been proved as Exhibit Ka-12. After recording the statement of witnesses perusal of the dying declaration, the charge of Section 302 IPC was added. After his transfer, the investigation was handed over to the next person in the office.

40. However, in his cross-examination, he stated that information regarding this incident was first received via telephone. Prior to this, no knowledge of the incident was possessed by him. He further stated that he could not recall whether any prior complaint regarding this incident had been received or not. The residence of the deceased Ruchi is recorded as Mohalla Durgapurwa in the Inquest report, Post-mortem report, and the dying declaration. No mention of a demand for dowry was made anywhere in the dying declaration.

41. The chronology of events in this case is crucial for eliciting the truth i.e., separating the grain from the chaff. The unfortunate occurrence of setting the deceased ablaze took place on 28.11.2010, and the injured was hospitalized on the same day. Her statement (treated as dying declaration) was recorded on 30.11.2010 by the Executive Magistrate - Naib Tehsildar/PW-4. The injured succumbed to her injuries on 21.12.2010 in the hospital, i.e. after about 23 days. The post-mortem examination was conducted on the same day. Thereafter, FIR was registered on 28.01.2011 on the basis of the written report submitted by the first informant. The Investigating Officer filed a charge sheet on 10.04.2011 under Sections 498-A, 304-B, 302 of IPC and Section 3/4 of the Dowry Prohibition Act. The case was committed to the Court of Session on 28.09.2011, and thereafter, the charges were framed on 17.11.2011. The prosecution adduced two witnesses of facts, and their testimony has only corroborative value, coupled with a dying declaration which has been proved by Executive

Magistrate/ PW4. The medical fitness appended to the dying declaration has been certified and proved by PW6/ Dr. Pankaj Awasthi. Witnesses of facts are not ocular accounts, thus excluding dying declaration, instant case has nothing to bring home the guilt of the accused/ appellant.

SUBMISSIONS OF PARTIES

(I) CONTENTIONS RAISED ON BEHALF OF THE APPELLANT

42. Heard learned counsel for the Appellant, Mr. Punit Kumar Shukla and learned State Law Officer Mr. Bipul Kumar Singh on behalf of State and perused the record.

43. Learned counsel for the appellant, while impeaching the prosecution's evidence, including dying declaration submitted that the learned trial Court erred in convicting the appellant as the prosecution miserably failed to prove its case beyond reasonable doubt. The testimony of two witnesses of fact have been referred in extenso, where it comes out that they are not ocular account; thus, it is strenuously urged that it is not safe to rely on such sketchy witnesses. The alleged dying declaration Exhibited as Ka-10 shrouded with inherent doubts and does not inspire confidence. In the absence of any corroborative evidence, the alleged dying declaration may be discarded. The alleged dying declaration is not trustworthy; thus, the conviction recorded under Section 302 IPC is purely on surmises and conjectures.

44. Learned counsel for appellant, Mr. Shukla vehemently argued that the alleged dying declaration exhibited as Ka-10 is not worthy of reliance as its author PW-4, Yaduveer Singh Yadav (Executive Magistrate), conceded that the dying declaration was not recorded in a question-and-answer format, rather it is in the shape of a continuous narrative.

45. The dying declaration, having not been recorded in question-answer format, indicates that the executive magistrate himself did not make

himself sure that the correct narrative in relation to the cause of injury was disclosed by the declarant.

46. The further contention raised by Mr. Shukla is that though there is a certification by doctor before recording dying declaration but doctor-PW-6 admitted in his statement before trial Court that injured/patient was not objectively assessed in relation to her physical and mental condition and the medical certificate recorded by the doctor stands belied in view of extensive burn injuries including burns on the head, neck, and upper limbs, and in such a condition, her ability to make a coherent and reliable statement becomes highly questionable.

47. The counsel for appellant laid much emphasis with respect to delayed lodging of FIR by pointing out that unfortunate occurrence is alleged to be of 28.11.2010, whereas victim succumbed to her injuries on 21.12.2010 but even after said demise, the written complaint exhibited as Ka-1 which stands translated in the shape of FIR was submitted on 28.1.2011 thus, there is an unexplained delay casting doubt on genuineness of the prosecution story and suggests the possibility of false implication after due deliberation.

48. The prosecution has adduced only two witnesses of fact viz PW-1 and PW-2, who are interested and partisan witnesses and in such a background, the dying declaration being a shaky one ought not to be given any credence. It is further submitted that non-examination of independent witnesses of the locality where the unfortunate occurrence took place is the last nail in the coffin of the prosecution.

49. Mr. Shukla, lastly, submitted that learned trial Court utterly failed to appreciate the statement of the appellant-convict recorded under Section 313 Cr.P.C., qua admission of the victim to the hospital by him and the marriage being result of love affairs had no place for the demand of dowry. More so, the appellant, being fully aware of the poor financial condition of the informant's family had no occasion to demand any money. Thus,

prosecution could not attribute any motive against appellant, in such backdrop, appellant is entitled to a clean acquittal or at least he should be extended the benefit of doubt.

50. Alternatively, Mr. Shukla has also submitted that even if this Court does not interfere with respect to conviction part, the appellant deserves some leniency qua sentence as the burn injuries are the remote cause of death, in view of septicaemia developed over the period of time and death itself occurred after 23 days. The conviction needs to be altered from Section 302 IPC to 304 IPC, that is, from murder to culpable homicide not amounting to murder. Mr. Shukla relied upon a reported judgment of the coordinate bench of this Court rendered in the case of **Shushila Devi Versus State of U.P.** (Criminal Appeal No.1257 of 2020), wherein the conviction was altered.

(II) SUBMISSIONS ADVANCED ON BEHALF OF THE STATE

51. Per contra, learned State Counsel, Mr. Bipul Kumar Singh submitted that the dying declaration exhibited as Ka-10 itself has been proved by its author/Executive Magistrate-PW-4 and after lengthy cross-examination, nothing could be elicited, which could doubt the genuineness and authenticity of the statement of the victim.

52. He further submitted that law does not prescribe any format for recording dying declaration and as such, the absence of it on question answer format does not diminish its evidentiary value, particularly the statement being consistent and trustworthy to the prosecution story.

53. Mr. Singh laid great emphasis that even on the dying declaration, the medical certificate is appended and the same has been duly proved by its author/medical jurist-Dr. Pankaj Awasthi, thus, the dying declaration passes all the muster of law as required by Section 32(1) of the Indian Evidence Act.

54. Learned State Counsel further submitted that the delay in lodging

FIR is attributable to the police authorities, as per the statement of first informant, thus, the delay in lodging FIR would not prove fatal in the factual background of this case, particularly considering the socio-economic condition of the first informant, who does not appear to be vigilant for her rights. The delay in lodging FIR may be examined in the social background of the informant, particularly her being illiterate.

55. Learned trial Court has appreciated the evidence of prosecution witnesses, which corroborates the dying declaration as such the conviction recorded does not call for any interference by this Court, as the opinion formed by the learned trial Court cannot be said to be perverse in view of the unimpeached dying declaration.

56. Mr. Singh, appearing for the State, further pointed out that the deceased was carrying an eight month pregnancy, which was very well in the knowledge of appellant-convict being husband and his conduct of burning a young lady carrying pregnancy needs to be dealt with iron hands through stern punishment, and no interference/indulgence may be granted.

57. The further submission advanced by counsel for State, qua reliability of dying declaration is, there is medical certificate by the doctor concerned, and the dying declaration had been recorded by an Executive Magistrate, thus, same is worthy of reliance. In order to bolster his submission, he has relied upon the Constitution Bench judgment rendered by the Hon'ble Supreme Court in the case of **Laxman Vs. State of Maharashtra reported in (2002) supp. 1 SCR 697**. We have been taken to relevant paragraphs of **Laxman (supra)**, which reads as under:-

"3. The juristic theory regarding acceptability of a dying declaration is that such declaration is made in extremity, when the party is at the point of death and when every hope of this world is gone, when every motive to falsehood is silenced, and the man is induced by the most powerful consideration to speak only the truth. Notwithstanding the same, great caution must be exercised in considering the weight to be given to this species of evidence on account of the existence of many circumstances which may affect their truth. The situation in which a man is on the deathbed is so solemn and serene, is the reason in law to accept the veracity of his statement. It is for this reason the requirements of oath and cross-examination are dispensed with. Since the accused has no power of cross-examination, the courts insist that the dying declaration should be of such a nature as to inspire full confidence of the court in its truthfulness and correctness. The court, however, has always to be on guard to see that the statement of

the deceased was not as a result of either tutoring or prompting or a product of imagination. The court also must further decide that the deceased was in a fit state of mind and had the opportunity to observe and identify the assailant. Normally, therefore, the court in order to satisfy whether the deceased was in a fit mental condition to make the dying declaration looks up to the medical opinion. But where the eyewitnesses state that the deceased was in a fit and conscious state to make the declaration, the medical opinion will not prevail, nor can it be said that since there is no certification of the doctor as to the fitness of the mind of the declarant, the dying declaration is not acceptable. A dying declaration can be oral or in writing and any adequate method of communication whether by words or by signs or otherwise will suffice provided the indication is positive and definite. In most cases, however, such statements are made orally before death ensues and is reduced to writing by someone like a Magistrate or a doctor or a police officer. When it is recorded, no oath is necessary nor is the presence of a Magistrate absolutely necessary, although to assure authenticity it is usual to call a Magistrate, if available for recording the statement of a man about to die. There is no requirement of law that a dying declaration must necessarily be made to a Magistrate and when such statement is recorded by a Magistrate there is no specified statutory form for such recording. Consequently, what evidential value or weight has to be attached to such statement necessarily depends on the facts and circumstances of each particular case. 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.

4. Bearing in mind the aforesaid principle, let us now examine the two decisions of the Court which persuaded the Bench to make the reference to the Constitution Bench. In Paparambaka Rosamma v. State of A.P. [(1999) 7 SCC 695 : 1999 SCC (Cri) 1361] the dying declaration in question had been recorded by a Judicial Magistrate and the Magistrate had made a note that on the basis of answers elicited from the declarant to the questions put he was satisfied that the deceased is in a fit disposing state of mind to make a declaration. The doctor had appended a certificate to the effect that the patient was conscious while recording the statement, yet the Court came to the conclusion that it would not be safe to accept the dying declaration as true and genuine and was made when the injured was in a fit state of mind since the certificate of the doctor was only to the effect that the patient is conscious while recording the statement. Apart from the aforesaid conclusion in law the Court had also found serious lacunae and ultimately did not accept the dying declaration recorded by the Magistrate. In the latter decision of this Court in Koli Chunilal Savji v. State of Gujarat [(1999) 9 SCC 562 : 2000 SCC (Cri) 432] it was held that the ultimate test is whether the dying declaration can be held to be a truthful one and voluntarily given. It was further held that before recording the declaration the officer concerned must find that the declarant was in a fit condition to make the statement in question. The Court relied upon the earlier decision in Ravi Chander v. State of Punjab [(1998) 9 SCC 303 : 1998 SCC (Cri) 1004] wherein it had been observed that for not examining by the doctor the dying declaration recorded by the Executive Magistrate and the dying declaration orally made need not be doubted. The Magistrate being a disinterested witness and a responsible officer and there being no circumstances or material to suspect that the Magistrate had any animus against the accused or was in any way interested for fabricating a dying declaration, question of doubt on the declaration, recorded by the Magistrate does not arise.

5. The Court also in the aforesaid case relied upon the decision of this Court in Harjit Kaur v. State of Punjab [(1999) 6 SCC 545 : 1999 SCC (Cri) 1130] wherein the Magistrate in his evidence had stated that he had ascertained from the doctor whether she was in a fit condition to make a statement and obtained an endorsement to that effect and merely because an endorsement was made not on the declaration but on the application would not render the dying declaration suspicious in any manner. For the reasons already indicated earlier, we have no hesitation in coming to the conclusion that the observations of this Court in Paparambaka Rosamma v. State of A.P. [(1999) 7 SCC 695 : 1999 SCC (Cri) 1361] (at SCC p. 701, para 8) to the effect that “in the

absence of a medical certification that the injured was in a fit state of mind at the time of making the declaration, it would be very much risky to accept the subjective satisfaction of a Magistrate who opined that the injured was in a fit state of mind at the time of making a declaration” has been too broadly stated and is not the correct enunciation of law. It is indeed a hypertechnical view that the certification of the doctor was to the effect that the patient is conscious and there was no certification that the patient was in a fit state of mind especially when the Magistrate categorically stated in his evidence indicating the questions he had put to the patient and from the answers elicited was satisfied that the patient was in a fit state of mind whereafter he recorded the dying declaration. Therefore, the judgment of this Court in Paparambaka Rosamma v. State of A.P. [(1999) 7 SCC 695 : 1999 SCC (Cri) 1361] must be held to be not correctly decided and we affirm the law laid down by this Court in Koli Chunilal Savji v. State of Gujarat [(1999) 9 SCC 562”

58. Mr. Singh in order to further fortify his submissions relied upon another judgement of Hon’ble Supreme Court in relation to dying declaration rendered in the case of **Naeem Vs. State of U.P reported in (2024) 17 SCC 735** the relevant paragraphs of the said judgement reads as under:-

“12. Undisputedly, in the present case, the conviction is based solely on the dying declaration (Ext. Ka-6). The law with regard to conviction on the sole basis of dying declaration has been considered by this Court in a catena of judgments. After considering the earlier judgments, this Court in Atbir v. State (NCT of Delhi) [Atbir v. State (NCT of Delhi), (2010) 9 SCC 1 : (2010) 3 SCC (Cri) 1110] , has laid down certain factors to be taken into consideration while resting the conviction on the basis of dying declaration.

13. It will be apposite to refer to para 22 of the said judgment [Atbir v. State (NCT of Delhi), (2010) 9 SCC 1 : (2010) 3 SCC (Cri) 1110] , which reads thus: (Atbir case [Atbir v. State (NCT of Delhi), (2010) 9 SCC 1 : (2010) 3 SCC (Cri) 1110] , SCC pp. 8-9)

“22. The analysis of the above decisions clearly shows that:

(i) Dying declaration can be the sole basis of conviction if it inspires the full confidence of the court.

(ii) The court should be satisfied that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination.

(iii) Where the court is satisfied that the declaration is true and voluntary, it can base its conviction without any further corroboration.

(iv) It cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence.

(v) Where the dying declaration is suspicious, it should not be acted upon without corroborative evidence.

(vi) A dying declaration which suffers from infirmity such as the deceased was unconscious and could never make any statement cannot form the basis of conviction.

(vii) Merely because a dying declaration does not contain all the details as to the occurrence, it is not to be rejected.

(viii) Even if it is a brief statement, it is not to be discarded.

(ix) When the eyewitness affirms that the deceased was not in a fit and conscious state to make the dying declaration, medical opinion cannot prevail.

(x) If after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration.”

59. Though the arguments stand repeated on behalf of the State, he summarised his contentions, dying declaration can be the sole basis of the conviction if it inspires the full confidence of the court. The Court is required to satisfy itself that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination. It would be submitted that where the Court is satisfied about the dying declaration being true and voluntary, it can base its conviction without any further corroboration. Further submission is that there cannot be an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence. The Court has observed that if, after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement, and if it is coherent and consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration.

60. Since a lot of emphasis has been laid by defence with respect to cause of death as septicemia, further submitting that burn injuries are not the proximate cause of death, countering the aforesaid, Mr. Singh relied upon the judgment of Hon'ble Supreme Court rendered in **Maniklal Sahu Vs. State of Chhattisgarh** reported in **2025 Livelaw (SC) 905** the relevant paragraphs read as under:

58. Septicemia is described by the medical experts as the condition which results

where the circulation becomes flooded with bacteria, either due to the failure of local defensive reactions at the site of infection or to delayed or inadequate treatment. According to the learned author, every penetrating wound except those inflicted by the surgeon is potentially infected, though a certain period elapsed before invading organisms actually establish themselves become embedded in the tissues to multiply and form toxins. [See: The Essentials of Modern Surgery by Handfield Jones and Pokitt, V Edn]

59. In one of the recent pronouncements of this Court in *Prasad Pradhan v. State of Chhattisgarh*, (2023) 11 SCC 320, this Court stated in paragraphs 30 and 31 respectively as under:—

31. *There can be no stereotypical assumption or formula that where death occurs after a lapse of some time, the injuries (which might have caused the death), the offence is one of culpable homicide. Every case has its unique fact situation. However, what is important is the nature of injury, and whether it is sufficient in the ordinary course to lead to death. The adequacy or otherwise of medical attention is not a relevant factor in this case, because the doctor who conducted the post-mortem clearly deposed that death was caused due to cardiorespiratory failures, as a result of the injuries inflicted upon the deceased. Thus, the injuries and the death were closely and directly linked.”*

(Emphasis supplied)

61. In *Patel Hiralal Joitaram v. State of Gujarat*, (2002) 1 SCC 22, the interval between the date of the incident when the deceased sustained burns and the date of her death was a fortnight. It was argued on behalf of the appellant therein that the death of the deceased had no direct nexus with the burn injuries as during the interregnum period some other complications cropped up as a result of which the victim succumbed. While negativizing such contention, this Court observed as under:—

“16. Harping on an answer given by PW 12 in cross-examination that death of the deceased had occurred due to “septic” learned Senior Counsel made out an argument that such septic condition could have developed on account of other causes. Mere possibility of other causes supervening during her hospitalisation is not a safe premise for deciding whether she would not have died due to the burns sustained on 21-10-1988. The cause of death can be determined on broad probabilities. In this context we may refer to a passage from Modi's Medical 63. **'Culpable homicide'** according to section 299, I.P.C. has the following ingredients: Jurisprudence and Toxicology, dealing with death by burns:

“As already mentioned, death may occur within 24 to 48 hours, but usually the first week is the most fatal. In suppurative cases, death may occur after five or six weeks or even longer.”

17. In *Om Parkash v. State of Punjab [(1992) 4 SCC 212]* the victim was set ablaze on 17-03-1979 and she sustained burns with which she died only 13 days thereafter. The assailant was convicted of murder and the conviction was confirmed by this Court.

18. It is preposterous to say that the deceased in this case would have been healed of the burn injuries and that she would have contracted infection through some other causes and developed septicemia and died of that on 15-11-1988. Court of law need not countenance mere academic possibilities when the prosecution case regarding death of the deceased was established on broad probabilities as a sequel to the burns sustained

by her. Hence we repel the contention of the learned counsel on that score.”

(Emphasis supplied)

69. We may highlight few broad principles that the courts must keep in mind.

a. If it is proved that the injury was fatal and the intention was to cause death, though the death occurred after several days of septicaemia or other complications having supervened, yet it is undoubtedly a murder as it falls within the first limb of Section 300 of the IPC.

b. If it is proved that the injuries by themselves were sufficient to cause death in the ordinary course of nature, and if it is established that those injuries were the intended injuries, though the death might have occurred after septicaemia or other complications had supervened, yet the act of the accused would squarely fall under the third limb of Section 300 of the IPC and the accused is therefore liable to be punished under Section 302 of the IPC.

c. If it is proved that the injuries were imminently dangerous to life, though the death had occurred after septicaemia or other complications had supervened, yet the act of the accused would squarely fall under the fourth limb of Section 300 of the IPC, provided, the other requirements like knowledge on the part of the accused, etc. are satisfied and so the accused would be liable to be punished under Section 302 of the IPC. Here also, the primary cause of the death is the injuries and septicaemia.

d. In judging whether the injuries inflicted were sufficient in the ordinary course of nature to cause death, the possibility that skilful and efficient medical treatment might prevent the fatal result is wholly irrelevant.

e. If the supervening causes are attributable to the injuries caused, then the person inflicting the injuries is liable for causing death, even if death was not the direct result of the injuries.

f. Broadly speaking, the courts would have to undertake the exercise to distinguish between two types of cases; first, where the intervening cause of death, like peritonitis, is only a remote and a rather improbable consequence of the injury; then it can be said that the injury is one which may, in particular circumstances, result in death, but which may not in ordinary course of nature be likely to lead to it. Secondly, where the complication which is the intervening cause of death is itself a practically inevitable sequence to the injury. In that event, the probability is very high indeed, amounting to practical certainty i.e., death is a result in due course of natural events. A deep abdominal thrust with a knife followed by injury to the internal organs is practically certain to result in acute peritonitis causing death. It is clearly a case of murder under Section 302 and not merely of culpable homicide.

g. Even when the medical evidence does not say that any one of the injuries on the body of the deceased was sufficient to cause death in the ordinary course of nature, yet it is open to the Court to look into the nature of the injuries found on the body of the deceased and infer from them that the assailants intended to cause death of the deceased. If none of the injuries alone were sufficient in the ordinary course of nature to cause the death of the deceased, cumulatively, they may be sufficient in the ordinary course of nature to cause his death.

h. What the courts must see is whether the injuries were sufficient in the ordinary

course of nature to cause death, or to cause such bodily injuries as the accused knew to be likely to cause death although death was ultimately due to supervention of some other cause. An intervening cause or complication is by itself not of such significance. What is significant is whether death was only a remote possibility, or is one which would have occurred in due course.

i. To sum it up, where death is delayed due to later complications or developments, the courts should consider the nature of the injury, complications or the attending circumstances. If the complications or developments are the natural, or probable, or necessary consequence of the injury, and if it is reasonably contemplated as its result, the injury could be said to have caused death. If on the other hand, the chain of consequences is broken, or if there is unexpected complication causing new mischief, the relation of cause and effect is not established, or the causal connection is too remote then the injury cannot be said to have caused death. If the original injury itself is of a fatal nature, it makes no difference that death is actually caused by a complication naturally flowing from the injury and not the injury itself, since causal connection is proximate.”

61. Further submission advanced by Sri Singh is, to the effect, the inquest witnesses also stated at the time of inquest proceeding that deceased was put to ablaze by appellant-convict, Manish but mentioning of appellant, Manish as an author of injury in the inquest proceeding (conducted as per rigours of Section 174 Cr.P.C.) by the inquest witnesses as highlighted by counsel for State is of no significance in criminal trial as inquest proceedings are only carried out for ex-facie determining whether the death caused, is natural or unnatural. Such an inquiry does not proceed for finding the author of the crime.

STATUTORY PRESCRIPTIONS AND AUTHORITATIVE PRONOUNCEMENTS

62. Since counsel for appellant has argued that in the factual matrix of the instant case, appellant's conviction and sentence may be altered from murder to culpable homicide not amounting to murder, as such, the relevant statutory provisions contained in Chapter XVI of Indian Penal Code need to be re-glanced.

Chapter XVI

OF OFFENCES AFFECTING THE HUMAN BODY

299. Culpable homicide.—Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Explanation 1.—A person who causes bodily injury to another who is labouring under

a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—*Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.*

Explanation 3.—*The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.*

63. '**Culpable homicide**' according to section 299, I.P.C. has the following ingredients:

1. *Causing of death of a human being;*
2. *Such death must have been caused by doing an act;*
3. *The act must have been done:*
 - (i) *with the intention of causing death;*
 - (ii) *with the intention of causing such bodily injury as is likely to cause death; or*
 - (iii) *with the knowledge that the doer is likely by such act to cause death.*

300. Murder.—*Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—*

Secondly.—*If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—*

Thirdly.—*If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—*

Fourthly.—*If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.*

Exception 1.—**When culpable homicide is not murder.**—*Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident. The above exception is subject to the following provisos:—*

First.—*That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.*

Secondly.—*That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.*

Thirdly.—*That the provocation is not given by anything done in the lawful exercise of the right of private defence.*

Explanation.—*Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.*

Exception 2.—**Culpable homicide is not murder** if the offender in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Exception 3.—**Culpable homicide is not murder** if the offender, being a public servant

or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

64. The ingredients of the offence of murder as defined under Section 300 IPC may be understood in vernacular language as under:-

“(1) Section 300 begins with the words "except in the cases hereinafter excepted culpable homicide is murder." This means that culpable homicide is not murder if the case falls within any of the exceptions mentioned in section 300.

(2) Whenever there is an intention to cause death it would always be a case of murder unless the case falls within one of the exceptions to section 300.”

65. The ingredients of the offence under Section 300 IPC have been elaborately stated in judgement of **Virsa Singh Vs. State Of Punjab** reported in **1958 SCC OnLine SC 37** by the Hon’ble Supreme Court. There are four such ingredients and they are said to be:

“14. To put it shortly, the prosecution must prove the following facts before it can bring a case under Section 300 “thirdly”.

15. First, it must establish, quite objectively, that a bodily injury is present.

16. Secondly, the nature of the injury must be proved; These are purely objective investigations.

17. Thirdly, it must be proved that there was an intention to inflict that particular bodily injury, that is to say, that it was not accidental or unintentional, or that some other kind of injury was intended.

18. Once these three elements are proved to be present, the enquiry proceeds further and.

19. Fourthly, it must be proved that the injury of the type just described made up of the three elements set out above is sufficient to cause death in the ordinary course of nature. This part of the enquiry is purely objective and inferential and has nothing to do with the intention of the offender.”

66. Further in **Virsa Singh (supra)** elaborated upon the elements laid

down and involved in committal of offence of murder:

“20. Once these four elements are established by the prosecution (and, of course, the burden is on the prosecution throughout) the offence is murder under Section 300 “thirdly”. It does not matter that there was no intention to cause death. It does not matter that there was no intention even to cause an injury of a kind that is sufficient to cause death in the ordinary course of nature (not that there is any real distinction between the two). It does not even matter that there is no knowledge that an act of that kind will be likely to cause death. Once the intention to cause the bodily injury actually found to be present is proved, the rest of the enquiry is purely objective and the only question is whether, as a matter of purely objective inference, the injury is sufficient in the ordinary course of nature to cause death. No one has a licence to run around inflicting injuries that are sufficient to cause death in the ordinary course of nature and claim that they are not guilty of murder. If they inflict injuries of that kind, they must face the consequences; and they can only escape if it can be shown, or reasonably deduced, that the injury was accidental or otherwise unintentional.”

67. This court now proceeds to examine the fine distinction between culpable homicide and murder inasmuch as the maximum thrust is the offence in question, even if dying declaration is treated to be ex-facie correct, the offence would not travel beyond culpable homicide not amounting to murder and for that, the statutory prescriptions and various authorities of this court as well as Hon’ble Supreme court are looked into.

68. There exists a thin line of distinction between the offence of murder and culpable homicide not amounting to murder because the difference is merely a question of the degree of probability of death ensuing. In light of the above statement, explain the distinction between clause (2) of section 299 and clause (3) of section 300 IPC with the help of Illustrations and decided cases.

69. For the purposes of comparison and bringing out the distinction clearly, sections 299 and section 300 IPC may be put as follows:

Section 299

A person commits culpable homicide by which the death is caused.

Section 300

Except in the cases if the act hereinafter excepted is done. Culpable homicide is murder if the act by which death is caused is done.

INTENTION

- (a) With the intention of causing death; (1) With the intention of causing death;
- (b) With the intention of causing such as is likely to cause death; (2) With the intention of causing such bodily injury as the offender known to be likely to cause the death of the person to whom the harm is caused;
- (3) With the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death;

KNOWLEDGE

- (c) The knowledge that he is likely by such act to cause death. (4) With the knowledge that the Act is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death.

70. Fine distinction between murder and culpable homicide not amounting to murder has been considered in detail in the judgement rendered by the Hon'ble Supreme Court in the case of **State of Andhra Pradesh Vs. Rayavarapu Punnayya and another** reported in **1976 SCC OnLine SC 316**. The relevant paragraphs of said judgement are quoted as under :-

"12. In the scheme of the Penal Code, "culpable homicide" is genus and "murder" its specie. All "murder" is "culpable homicide" but not vice-versa. Speaking generally, "culpable homicide" sans "special characteristics of murder", is "culpable homicide not amounting to murder". For the purpose of fixing punishment, proportionate to the gravity of this generic offence, the Code practically recognises three degrees of culpable homicide. The first is, what may be called, "culpable homicide of the first degree". This is the greatest form of culpable homicide, which is defined in Section 300 as "murder". The second may be termed as "culpable homicide of the second degree". This is punishable under the first part of Section 304. Then, there is "culpable homicide of the third degree". This is the lowest type of culpable homicide and the punishment provided for it is, also, the lowest among the punishments provided for the three grades. Culpable homicide of this degree is punishable under the second part of Section 304.

13. The academic distinction between 'murder' and 'culpable homicide not amounting to murder' has vexed the courts for more than a century. The confusion is caused, if courts losing sight of the true scope and meaning of the terms used by the legislature in these sections, allow themselves to be drawn into minutae abstractions. The safest way of approach to the interpretation and application of these provisions seems to be to keep in focus the key words used in the various clauses of ss. 299 and 300. The following comparative table will be helpful in appreciating the points of distinction between the two offences.

Section 299 Section 300 A person commits culpable homicide Subject to certain if the

act by which the death exceptions culpable is caused is done homicide is murder if the act by which the death caused is done--

.....

14. Clause (b) of s. 299 corresponds with cls. (2) and (3) of s. 300. The distinguishing feature of the mens rea requisite under cl. (2) is the knowledge possessed by the offender regarding the particular victim being in such a peculiar condition or state of health that the intentional harm caused to him is likely to be fatal, notwithstanding the fact that such harm would not in the ordinary way of nature be sufficient to cause death of a person in normal health or condition. It is noteworthy that the 'intention to cause death' is not an essential requirement of el. (2). Only the intention of causing the bodily injury coupled with the offender's knowledge of the likelihood of such injury causing the death of the particular victim, is sufficient to bring the killing within the ambit of this clause. This aspect of cl. (2) is borne out by illustration (b) appended to s. 300.

15. Clause (b) of s. 299 does not postulate any such knowledge on the part of the offender. Instances of cases falling under cl. (2) of s. 300 can be where the assailant causes death by a fist blow intentionally given knowing that the victim is suffering from an enlarged liver, or enlarged spleen or diseased heart and such blow is likely to cause death of that particular person as a result of the rupture of the liver, or spleen or the failure of the heart, as the case may be. If the assailant had no such knowledge about the disease or special frailty of the victim, nor an intention to cause death or bodily injury sufficient 'in the ordinary course of nature to cause death, the offence will not be murder, even if the injury which caused the death, was intentionally given.

16. In clause (3) of s. 300, instead of the words 'likely to cause death' occurring in the corresponding el. (b) of s. 299, the words "sufficient in the ordinary course of nature" have been used. Obviously, the distinction lies between a bodily injury likely to cause death and a bodily injury sufficient in the ordinary course of nature to cause death. The distinction is fine but real, and, if overlooked, may result in miscarriage of justice. The difference between cl. (b) of s. 299 and cl. (3) of s. 300 is one of the degree of probability of death resulting from the intended bodily injury. To put it more broadly, it is the degree of probability of death which determines whether a culpable homicide is of the gravest, medium or the lowest degree. The word "likely" in cl. (b) of s. 299 conveys the sense of 'probable' as distinguished from a mere possibility. The words "bodily injury... sufficient in the ordinary course of nature to cause death" mean that death will be the "most probable" result of the injury having regard to the ordinary course of nature.

17. In cases to fall within cl. (3), it is not necessary that the offender intended to cause death, so long as death ensues from the intentional bodily injury or injuries sufficient to cause death in the ordinary course of nature. *Rajwant and anr. v. State of Kerala*(2) is an apt illustration of this point.

18. In *Virsa Singh v. The State of Punjab*, (2) Vivian Bose J. speaking for this Court, explained the meaning and scope of Clause (3), thus (at p. 1500):

"The prosecution must prove the following facts before it can bring a case under s. 300, 3rdly'. First, it must establish, quite objectively, that a bodily injury is present; secondly the nature of the injury must be proved. These are purely objective investigations. It must be proved that there was an intention to inflict that particular injury, that is to say, that it was not accidental or unintentional or that some other kind of injury was intended. Once these three elements are proved to be present, the enquiry proceeds further, and, fourthly it must be proved that the injury of the type just described made up of the three elements set out above was sufficient to cause death in the ordinary course of nature. This part of the enquiry is purely objective and inferential and has nothing to do with the intention of the offender."

19. Thus according to the rule laid down in *Virsa Singh's* case (supra) even if the intention of accused was limited to the infliction of a bodily injury sufficient to cause death in the ordinary course of nature and did not extend to the intention of causing

death, the offence would be murder. Illustration (c) appended to s. 300 clearly brings out this point.

20. Clause (c) of s. 299 and cl. (4) of s. 300 both require knowledge of the probability of the causing death. It is not necessary for the purpose of this case to dilate much on the distinction between these corresponding clauses. It will be sufficient to say that cl. (4) of s. 300 would be applicable where the knowledge of the offender as to the probability of death of a person or persons in general--as distinguished from a particular person or persons---being caused from his imminently dangerous act, approximates to a practical certainty. Such knowledge on the part of the offender must be of the highest degree of probability, the act having been committed by the offender without any excuse for incurring the risk of causing death or such injury as aforesaid.

21. From the above conspectus, it emerges that whenever a court is confronted with the question whether the offence is 'murder' or 'culpable homicide not amounting to murder,' on the facts of a case, it will' (1) A.I.R. 1966 S.C. 1874. (2) [1958] S.C.R. 1495 be convenient for it to approach the problem in three stages. The question to be considered at the first stage would be, whether the accused has done an act by doing which he has caused the death of another. Proof of such causal connection between the act of the accused and the death, leads to the second stage for considering whether that act of the accused amounts to "culpable homicide" as defined in s. 299. If the answer to this question is prima facie found in the affirmative, the stage for considering the operation of s. 300, Penal Code is reached. This is the stage at which the Court should determine whether the facts proved by the prosecution bring the case within the ambit of any of the four Clauses of the definition of murder' contained in s. 300. If the answer to this question is in the negative the offence would be 'culpable homicide not amounting to murder', punishable under the first or the second part of s. 304, depending, respectively, on whether the second or the third Clause of s. 299 is applicable. If this question is found in the positive, but the case comes, within any of the Exceptions enumerated in s. 300, the offence would still be 'culpable homicide not amounting to murder' punishable under the First Part of s. 304, Penal Code."

22. The above are only broad guidelines and not cast-iron imperatives. In most cases, their observance will facilitate the task of the court. But sometimes the facts are so inter-twined and the second and the third stages so tele- scoped into each other, that it may not be convenient, to give a separate treatment to the matters involved in the second and third stages."

ANALYSIS AND REASONING

71. Learned counsel for the appellant has claimed the benefits of the exceptions to the offence of murder as provided in the statute book, particularly Exception 1 and Exception 4 attached to Section 300 IPC, which is examined in the light of ingredients contained under Exception 1 of Section 300 IPC and the same can be split as under:-

“(1) The deceased must have given provocation to the accused.

(2) The provocation must be such as would deprive any reasonable man of his power of self-control over himself.

(3) The act of killing of the accused must have been done when he was deprived of his power of self-control by the grave and sudden provocation. It must be done under the immediate impulse of provocation.

(4) The offender must not have reflected, deliberated or cooled, between the provocation and the mortal stroke. Thus, there must not be sufficient time for the passion caused by the provocation to cool down and reason to reassert its control;

Datta Gem v. State of Maharashtra, AIR 1974 SC 387.

(5) The offender must have caused the death of the person who gave the provocation or that of any other person by mistake or accident.

The First exception is however subject to three exceptions:

(a) Where the accused courts provocation or merely uses it as an excuse for assaulting another. In other words, provocation must come to him and he must not seek to get provocation.

(b) Where the act is legal but is done in an illegal manner which offers sufficient provocation, killing in pursuant there is no murder.

(c) A person who acts in the exercise of his right of self-defence performs a legal act and may provoke another and if he retaliates on account of the provocation so received, it will not be an extenuation of this crime.”

72. In the scenario, no defence evidence has been adduced the only material for examination is prosecution evidence, including the dying declaration which does not suggest that the provocation was given at the end of deceased, thus, further inquiry for meeting other parts of Exception 1 to Section 300 IPC does not arise.

73. Now the next question that arises for consideration is whether Exception 4 to Section 300 IPC comes to the rescue of appellant or not. To attract Exception-4 following ingredients are expedient :-

- (i) There must be a **sudden fight**;*
- (ii) The act must have been committed in a **heat of passion**;*
- (iii) The act must have been committed **without pre-meditation**;*
- (iv) The accused must not have taken **undue advantage**;*
- (v) The accused should not have acted in a **cruel manner**; and*
- (vi) The **fight** must have been **with the person killed**.*

74. To attract Exception 4, four ingredients must be satisfied and all the four ingredients must cumulatively be present and even the absence of one of the ingredient would disentitle the appellant-accused from claiming the benefit of Exception 4 to Section 300 IPC. The Hon'ble Supreme Court in a recent decision rendered in case of **Surender Kumar v. State of Himachal Pradesh** reported in **2025 SCC OnLine SC 2750** has held as under:-

“8. As far as Exception 4 is concerned, an act of culpable homicide does not amount to murder if following ingredients are fulfilled (i) there is no pre-meditation; (ii) there is a sudden fight; (iii) the act is committed in the heat of passion; and (iv) the assailant has not taken any undue advantage or acted in a cruel manner. Although

the term 'fight' has not been defined in IPC, but the consistent view is that it implies mutual assault by use of criminal force and not mere verbal duel.

9. In Bhagwan Munjaji Pawade v. State of Maharashtra, (1978) 3 SCC 330 (para 6), followed and affirmed in Awadhesh Kumar v. State of U.P. & Anr., (2019) 10 SCC 323, this Court held that where the accused is armed and the deceased is unarmed, Exception 2 can have no application and Exception 4 to Section 300 would not apply if there is sudden quarrel but no fight between the deceased and the accused. It was held that 'fight' postulates a bilateral transaction in which blows are exchanged.

10. In the instant case, there is no evidence of exchange of blows. In our view, therefore, case would not fall under Exception 4 to Section 300. Moreover, infliction of 4 knife blows to an unarmed person, on vital parts of the body, is indicative of the accused acting in a cruel manner.

11. At last, the appellant's counsel argued that case may fall under Exception 1 to Section 300 because infliction of knife blows took place after a quarrel. In our view, there is not much evidence on record to disclose that provocation was so grave and sudden that the appellant was deprived of his self-control."

75. In the instant case, the judgment of **Surender Kumar (supra)** squarely applies qua sudden fight as there is no allegation of a fight in the instant case also.

76. The material on record including dying declaration is examined on the touchstone of essential elements of Exception 4 to Section 300 IPC. It comes out that there is absolutely absence of fight, what to say sudden fight, as for satisfying the term fight two individuals active involvement is needed, it cannot be unilateral as in the instant case. Neither in the dying declaration nor in the statement under Section 313 Cr.P.C. it is mentioned that there was a fight more so the appellant having locked the door after putting the deceased to ablaze, clearly indicates that he acted in a cruel manner and has taken undue advantage of his position i.e. after burning his own pregnant wife, he did not allow the deceased to go outside for help. Thus, in view of aforesaid factual matrix from no stretch of imagination Exception 4 to Section 300 IPC comes to rescue of appellant. This Court cannot lose sight of the fact that deceased was unarmed and no instigation on her part has been alleged by defence.

77. For claiming the benefit of Exception 4, the accused must establish, on a balance of probabilities, that the act was committed without premeditation, arose out of a sudden fight in the heat of passion upon an

abrupt quarrel, and that the offender neither took undue advantage nor acted cruelly or unusually. The rationale underlying this exception is that where premeditation is absent, and the offender acts under a complete loss of self-control driven by the heat of passion, the resulting act is one that a person of ordinary temperament would not ordinarily commit.

78. The submission that appellant has not taken undue advantage or acted in a cruel or unusual manner as comes out from evidence on record is tested in the light of the ratio laid down by the Hon'ble Supreme Court in the case of **Anil Kumar Vs. State of Kerala** reported in (2024) 1 SCC 327. The relevant paragraphs of the said judgement are quoted below:-

“It is on the strength of the above exception that from the side of the appellant it has been argued that the appellant is not guilty of murder as he had no premeditated mind and that the action of the appellant arose out of a sudden fight. In the first place, the fight was not sudden. The appellant and the Page 10 | 14Criminal Appeal No.2697 of 2023 deceased wife had a past history of quarrel and that they had been quarrelling on the fateful day also since before the actual incident. During their quarrel, a neighbour (Sahajan) i.e. PW 1 had visited their house and the deceased wife had shown some injuries received by her during the assault. However, realising the quarrel between the two, he left saying that he would come home later on. It was thereafter that the incident of pouring kerosene and burning took place. So, there was sufficient time in between the two acts and it cannot be said that there was a sudden quarrel and provocation leading to burning. The appellant saw the deceased wife drenched in kerosene and was conscious that if lighted, she would be burnt to death even then ignited her to fire. This shows premeditated mind to kill her. More particularly, the appellant cannot take advantage of the 4th Exception only on the pretext that it was not on account of premeditated mind or out of a Page 11, 14 Criminal Appeal No.2697 of 2023 sudden fight or that his intentions were not bad as he tried his best to douse the fire and to save the life of the deceased wife for the reason that the benefit of the above exception would have been available to him, had he not taken undue advantage of the situation.

21. The exception clearly in unequivocal term states that it would be applicable where culpable homicide is committed not only without premeditated mind in a sudden fight or quarrel but also without the offender taking “undue advantage” of the situation. In the instant case, the appellant upon seeing the deceased drenched in kerosene clearly took advantage of the situation and lighted a matchstick and threw it upon her so that she can be burnt. The appellant having taken “undue advantage” of the situation cannot be extended the benefit of Exception 4 to Section 300 IPC so as to bring the case within the ambit of Part II of 304 IPC Page 12, 14 Criminal Appeal No.2697 of 2023

22. In view of the above legal position, the ruling cited above, viz. Kalu Ram (supra) would not benefit the appellant. 23. The First Information Report and the dying declarations on record clearly contain the statement of the deceased that when she had poured kerosene upon herself to deter the appellant from fighting and assaulting, he lighted a matchstick and with the intention to kill her, threw it upon her by saying “You Die”. 24. The aforesaid evidence clinches the issue and establishes beyond doubt that the appellant is guilty of the offence of culpable homicide amounting to murder and is not entitled to benefit of the Exception 4 to Section 300 IPC.

79. In the present case, there is no fight alleged, as for fight requires two

individuals and exchange of blows is sine qua non, which is missing in the instant case and any assault at the end of appellant is found to be unilateral and cannot be construed to be a fight even if an altercation if any, was result of spur of moment. Absence of fight disentitles appellant to claim any benefit of exception 4 attached to section 300 IPC.

80. The prosecution evidence had brought the offence in question within the purview of culpable homicide in terms of section 299 of the IPC. The only further question that crops up for consideration of this Court is whether such culpable homicide is to be put under the category of murder (as envisaged under section 300 IPC) or it remains as a part of section 299 IPC to the extent of culpable homicide not amounting to murder.

81. The first part of Section 299 of the Indian Penal Code speaks of the intention of causing death. Here, in the instant case, from the evidence on record, we are satisfied that the deceased had the intention to cause the death. The Intention is always a matter of inference. Such inference should be reasoned and well founded. Motive, words uttered at the time of occurrence, weapon used, number of injuries, location of injuries, opportunity to complete the task of killing are some of the factors which would weigh in the judicial mind of the Court while deciding whether the accused had intention to kill. In this case, having considered all the above relevant facts, we hold that the accused had definite intention to kill and therefore, the act of the accused would fall under the first limb of Section 299 I.P.C. and so under the first limb of Section 300 I.P.C. It does not fall under any of the special exceptions appended to Section 300 I.P.C.

82. During the pre-Constitution era, in the case of **Doraisamy Servai Vs. Emperor**, reported in **1943 M.W.N. Cr. 185**, it was held that the real test is "whether the cause of death is directly associated with the act of the accused " That was a case where there were two accused. Out of whom the first accused cut the deceased on the back of the neck with a vettaruval and the second accused was standing by his side holding a stick. When a

witness in the case intervened, the second accused cried out, "Will you go away or shall I cut you also?" Then the first accused cut the witness with a aruval on his neck. The deceased was taken to the hospital. He underwent treatment as in-patient. The deceased died after 16 days. According to the Doctors who conducted postmortem, the death was due to septicaemia and pyaemia resulting from the multiple injuries; none of the injuries could each by itself have caused the death, but cumulatively the injuries should have proved necessarily fatal in the case of a normal man. The deceased appeared to have had a physique above the normal; he was well built; so in this case, the injuries need not have been necessarily fatal; but they were sufficient in the ordinary course of nature to cause death. Relying on the above medical opinion, it was argued before the Division Bench that since the death was due to septicaemia, the offence would fall either under Section 326 of I.P.C. or Section 304 of I.P.C. While deciding the said question, the Division Bench formulated that **the test is whether the cause of death is to be directly associated with the act of the accused. After having referred to various English cases as well as Indian cases, Justice Mockett (O.C.J), speaking for the Bench, held as follows:**

*"It would be a strange position if a man who inflicts a wound causing almost immediate death should be guilty of murder, whilst a man who inflicts a very similar wound from which pneumonia supervenes should not. On the facts of this case it is clear to me that the deceased man, in spite of his physique which is said to have been exceptionally robust, died as a direct result of the injuries inflicted upon him by the appellant; and that the appellant intended his death is evident from the facts. The result was not as immediate as he intended and not perhaps quite in the manner that he intended. But in the processes of nature, in spite of medical attention one of the well-known perils from a wound supervened, namely, blood poisoning, and the deceased died. **The chain of causation is in my view direct.**" (Emphasis added) On such view, the Division Bench held the accused guilty under Section 302 I.P.C.*

83. In one of the decisions, rendered by Hon'ble Supreme Court **State of Haryana Vs. Pala and others** reported in (1996) 8 SCC 51, Hon'ble Supreme Court had an occasion to draw a fine distinction in homicidal cases between the primary effect of the injuries and the secondary effect of the injuries. In the aforementioned case, the deceased was hit on his head three times and when the deceased had fallen, the other accused had beaten

him thrice on his chest and abdomen. The deceased was taken to the hospital. The deceased died several days later, while in the hospital. The doctor's opinion in respect of the cause of death was as follows:

"Cause of the death was due to septicaemia, which resulted as a result of the head injury and was sufficient to cause death in ordinary course of nature."

84. The contention before the Hon'ble Supreme Court was that the offence committed by the accused would not fall under any of the limbs of Section 300 I.P.C. This question was considered in the light of further information given by the doctors which is as follows:

"Septicasmie is the direct result of the head- injury. This is not a disease. In other words, head injury is the cause of death."

85. The Trial Court convicted the accused, applying clause 3 of [Section 300](#) I.P.C., under Section 302 I.P.C. On appeal, the High Court applied Exception 4 to [Section 300](#) I.P.C. and converted the offence of murder into culpable homicide not amounting to murder and convicted the accused under Section 304 Part II of [I.P.C.](#) In the further appeal to the Hon'ble Supreme Court, in paragraph 3 of the judgment, the Hon'ble Supreme Court has held as follows:

"3.....On the other hand he contended that when death was due to septicasmie, it cannot be referable to the cause of the death in the ordinary course of nature due to anti mortom injuries and that, therefore, the offence of murder has not been made out. In support thereof, he sought to place reliance on Lyon's Medical Jurisprudence for India (Tenth Edition) at page 222. It is stated therein that "Danger to life depends, primarily, on the amount of hemorrhage, on the organ wounded, and on the extent of shock; secondarily, on secondary hemorrhage, on the occurrence of septicaemia, erysipelas, tetanus, or other complications. In answering the question whether a wound is dangerous to life, the danger must be assessed on the probable primary effects of the injury : Such possibilities as the occurrence of tetanus or septicaemia, later on, are not to be taken into consideration." Though the learned counsel had not read the later part of the opinion, the medical evidence on record do clearly establish that Septicaemia is not the primary cause and the death was due to injuries caused to the deceased and they are sufficient to cause death in the ordinary course of nature. Septicaemia would, therefore, not be taken into account." (Emphasis added)

86. From the above judgement, it is crystal clear that it is not as though in every case where the death is due to Septicaemia resulting on account of the injuries, the offence would fall outside the scope of [Section 300](#) I.P.C.

On the contrary, the distinction lies as to whether the death was due to the primary effects of the injury or due to the secondary effects of the injury. If the injury caused to the deceased itself is either sufficient to cause death or likely to cause death, then depending upon the other circumstances, the offence would fall directly either under the third limb or the fourth limb of Section 300 I.P.C.

(Emphasis added)

87. It is profitable to note the ratio laid down by Supreme Court in the case of **Jagtar Singh Vs. State of Punjab** reported in (1999) 2 SCC 174, wherein the Hon'ble Supreme Court had to decide as to **whether the offence would fall within the scope of Section 302 I.P.C. when the death was due to Septicaemia**. One of the pleas taken in that case was that Septicaemia had occurred because of improper treatment given. It was further contended that had there been proper treatment, the deceased would not have died. This contention was negated by the Hon'ble Supreme Court by referring to Explanation-2 to Section 299 of I.P.C. which reads as follows:

"Explanation 2 to Section 299:- Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented."

In paragraph 7 of the Judgment, the Hon'ble Supreme Court held as follows:

"7. Having given our anxious consideration to the first contention of Mr. Gujral we do not find any substance in it. It is true that Naib Singh died 17 days after the incident due to septecemia, but Dr. M.P.Singh (P.W.1), who held the post-mortem examination, categorically stated that the septicemia was due to the head injury sustained by Naib Singh and that the injury was sufficient in the ordinary course of nature to cause death. From the impugned judgment we find that the above contention was raised on behalf of the appellants and in rejecting the same the High Court observed :-

"It is well settled that culpable homicide is not murder when the case is brought within the five exceptions to section 300 Indian Penal Code. But even though none of the said five exceptions is pleaded or prima facie established on the evidence on record, the prosecution must still be required under the law to bring the case under any of the four clauses, firstly to fourthly, of Section 300,

Indian Penal Code, to sustain the charge of murder. Injury No. 1 was the fatal injury. When this injury is judged objectively from the nature of it and other evidence including the medical opinion of Dr. M.P.Singh (P.W.1), we are of the considered view that injury was intended to be caused with the intention of causing such a bodily injury by Harbans Singh appellant on the person of Naib Singh which was sufficient in the ordinary course of nature to cause death....."

On perusal of the evidence of P.W.1 in the light of explanation 2 to Section 299 I.P.C. We are in complete agreement with the above quoted observations of the High Court." (Emphasis supplied)

88. In **Veerla Satyanarayana Vs. State of Andhra Pradesh** reported in **(2009) 16 SCC 316**, the Hon'ble Supreme Court was invited to decide a similar question where death was due to septicaemia on account of 60% burn injuries caused by acid. In paragraphs 4 and 5 the Hon'ble Supreme Court has held as follows:

"4. In our view, this submission is not tenable because of the burn injuries. By throwing of the acid on the deceased who was sleeping, septicemia was caused and he died. PW15 (doctor) has made it clear that even in the cases of proper treatment also there is possibility of septicemia. For this purpose, the High Court has rightly referred to and relied upon the decision of this Court in Sudershan Kumar v. State of Delhi . In the said case, the court confirmed the conviction under Section 302 IPC by considering the fact that there was 35% burn injuries by pouring of acid which according to doctor's evidence was due to toxemia and septicemia from absorption of toxins. The Court also considered the relevant explanation (2) to Section 299, which provides that where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

5. In the present case, the prosecution has established beyond reasonable doubt the motive of the accused of causing this injury. It is also established that the act of the appellant in pouring acid on the body of the deceased was pre-planned one; he selected night time when the deceased as well as PW1 were sleeping; he poured the acid which caused 60% burn injuries and as the injuries caused by the appellant were sufficient in ordinary course of nature to cause death, the appellant is rightly held to be guilty of offence punishable under Section 302 of IPC."

89. In **State of Rajasthan Vs. Arjun Singh and others** reported in **(2011) 9 SCC 115**, the Hon'ble Supreme Court had to deal with a similar situation where the death occurred after 35 days due to septicaemia on account of gunshot injuries. Speaking for the Bench Hon'ble Mr. Justice P.Sathasivam in paragraph 31 has held as follows:

"31. Finally, learned senior counsel for the accused pointed out that inasmuch as Himmat Raj Singh died after 35 days due to septicemia, the Courts below are not justified in convicting the accused persons for an offence under Section 302 IPC for his death. Considering the medical evidence that Himmat Raj Singh sustained 7 gun shot injuries which were sufficient to cause death in the ordinary course, we are satisfied that the death of Himmat Raj Singh undoubtedly falls within the ambit of 302 IPC. " (Emphasis supplied)

90. The judgments, thus far, we have referred to are all cases where the Hon'ble Supreme Court found the accused guilty under Section 302 I.P.C., though the death was due to septicaemia on account of the injuries.

91. Now let us examine the ratio of certain authorities /judgments of Hon'ble Supreme Court where the Hon'ble Supreme Court has convicted the accused under Section 304 I.P.C. where death was also due to septicaemia on account of the injuries.

92. In **Jharmal and others Vs. State of Haryana** reported in **1994 SCC (Cri.) 593** that the deceased sustained injuries on the head due to single blow with an iron pipe. He died after 17 days due to septicaemia. The Court below convicted the accused under Section 302 I.P.C., but the Hon'ble Supreme Court reversed the same and convicted the accused under Section 304 Part II of I.P.C. In paragraph no. 6 of the judgement, the Hon'ble Supreme Court has held as follows:

"6. We find considerable force in this submission. As stated above the occurrence took place on November 18, 1988 and the deceased died 18 days later on December 5, 1988 due to septicaemia and other complications. The Doctor found only one injury on the head and that was due to single blow inflicted with an iron pipe not with any sharp-edged weapon. Having regard to the circumstances of the case, it is difficult to hold that the appellant intended to cause death nor it can be said that he intended to cause that particular injury. In any event the medical evidence shows that the injured deceased was operated but unfortunately some complications set in and ultimately he died because of cardiac failure etc. Under these circumstances, we set aside the conviction of the appellant under Section 302 IPC and the sentence of imprisonment for life awarded thereunder. Instead we convict him under Section 304 Part II IPC and sentence him to undergo six years' RI. The sentence of fine of Rs 2000 along with default clause is confirmed. Accordingly the appeal is partly allowed."

93. The counsel for the appellant cited the coordinate bench judgment of this Court rendered in the case of **Sushila (supra)** in which the Hon'ble Supreme Court rendered a judgment in the case of **Maniben Vs. State of**

Gujarat reported in (2009) 8 SCC 796 was cited. In the case of **Maniben (supra)** the deceased died after 8 days of the incident in which the deceased had sustained burn injuries. The accused had thrown a burning wick made of rags on the deceased and thereby set fire to the terylene clothes put on by the deceased. In paragraph 20 of the judgment, it was held as follows:-

"20. There is also evidence on record to prove and establish that the action of the appellant to throw the burning wick was preceded by a quarrel between the deceased and the appellant. From the aforesaid evidence on record it cannot be said that the appellant had the intention that such action on her part would cause the death or such bodily injury to the deceased, which was sufficient in the ordinary course of nature to cause the death of the deceased. Therefore, in our considered opinion, the case cannot be said to be covered under clause (4) of Section 300 of IPC. We are, however, of the considered opinion that the case of the appellant is covered under Section 304 Part II of IPC."

94. From these judgments, one can easily perceive the difference. In these cases, the Court held there was no intention to cause death. The medical opinion was not certain as to whether the injuries, caused with intention, would have been sufficient to cause the death in the ordinary course of nature or not. But, the medical opinion was to the effect that the injury is likely to cause death. It was because of these reasons that the Hon'ble Supreme Court held that the offence would fall only under Section 304 I.P.C.

95. From the two sets of judgments which we have considered in detail, indicates **the point of difference is easily decipherable, which is thin but fine. In all these cases referred to above, one common feature is that the death was due to septicaemia on account of the injuries.** In this context we would like to mention that there is a general tendency to contend in such cases, that if once it is found that the death is due to septicaemia, the offence would fall under Section 304 of I.P.C. and not under Section 302 of I.P.C. We have seen in our experience, in many judgments of the Trial Courts, there is a slight lack of clarity on this subject. That is the reason why, we have undertaken the exercise to refer to both sets of judgments. From the above judgments and the discussions we have made supra, we may state that the point of difference is this: "whether

the death was primarily due to the injuries or due to the secondary cause namely, the supervening cause like septicaemia, tetanus etc.,"

96. If it is proved that the injury is fatal and the intention was to cause the death, though the death occurred after several days after septicaemia had supervened, it is undoubtedly a murder as it falls within the first limb of Section 300 I.P.C.

97. If it is proved that the injuries by themselves are ***sufficient to cause death in the ordinary course of nature*** and if it is established that those injuries were the intended injuries, though the death occurred after septicaemia had supervened, the act of the accused would squarely fall under the third limb of Section 300 I.P.C. and the accused is therefore liable to be punished under Section 302 of I.P.C.

98. If it is proved that the injuries are imminently dangerous to life, though the death had occurred after septicemia had supervened, then the act of the accused would squarely fall under the fourth limb of Section 300 I.P.C., provided the other requirements like knowledge on the part of the accused etc., are satisfied and so the accused will be liable to be punished under Section 302 of I.P.C. Here also, the primary cause of the death is the injuries and septicemia, tetanus etc., are only the secondary cause.

99. In the case in hand, learned trial Court recorded acquittal under Section 304-B IPC, 498-A and Section 4 Dowry Prohibition Act, and there being no challenge, this Court is bestowed with the task of only evaluating the evidence qua whether conviction under Section 302 IPC sustains in given facts and circumstance of the case, thus, proceed to analyse the evidence and material on record and test the arguments raised by the parties.

100. The first and foremost submission advanced by counsel for appellant is with respect to delay in lodging FIR, is examined and from the record it is gathered that PW-1 has stated in her statement that she attempted to register the First Information Report but she was told that she should get

her daughter treated first. The prompt recording of dying declaration reveals the author of the crime, as such the delay in lodging FIR is of no consequence, since roping of accused is not due to deliberation and consultation. Rather, in dying declaration appellant has been said to be author of crime.

101. Hon'ble Supreme Court in the case of **Hariprasad @ Kishan Sahu Vs. State of Chhatisgarh** reported in **2024 SCC Online SC 1764** has held that delay in lodging FIR is not always fatal, if cogent explanation is furnished by prosecution and the said authority is in the same line of Hon'ble Supreme Court's another judgment rendered in the case of **Ravinder Kumar Vs. State of Punjab** reported in **(2001) 7 SCC 690**. Having considered the judgments of Supreme Court qua delay in lodging FIR, in the facts of present case, it comes out that there is sufficient explanation offered by none other than first informant stating that the delay was caused on first hand due to engagement in treatment.

102. The witnesses of fact viz. PW-1 and PW-2 are not ocular accounts as emerges from their testimonies recorded before the learned trial Court. The dying declaration Exhibited as Ka 10 does not mention any demand of dowry as such acquittal under Section 304 B and 4 D.P.Act appears to be fully justified. Similarly, the evidence of cruelty could also not be led by prosecution which impelled the learned trial Court to acquit the appellant under Section 498-A IPC. We being an appellate court, need not to enter into arena of acquittal in absence of any challenge in this regard.

103. Thus, the dying declaration Exhibited as Ka-10 is the only material/evidence that has been formed basis for conviction and its authenticity and genuineness is once again reassessed. We appreciate and note that the dying declaration has been proved by PW-4 and the certificate of fitness appended on dying declaration has also been proved by the doctor i.e. Dr. Pankaj Awasthi-PW-6 but before we proceed further we put ourselves to guard to examine the veracity of dying declaration exhibited as Ka-10.

104. The truthfulness, authenticity and genuineness of dying declaration in question needs to be tested in view of proposition laid by Hon'ble Supreme Court in **Banarsi Dass and others Vs. State of Haryana (2014) 15 SCC 485** wherein essential of dying declaration to be relied as an evidence, has been set out. The relevant paragraphs read as follows:

" A bare analysis of the provision, for the purpose of the case at hand, would show that a statement by a person made before his death to be relevant, the following ingredients are to be satisfied:

(i) The statement is made by a person who is conscious and believes or apprehends that death is imminent.

(ii) The statement must pertain to what the person believes to be the cause or circumstances of death.

(iii) What is recorded must be the statement made by the person concerned, since it is an exception to the rule of hearsay evidence.

*(iv) The statement must be confidence bearing, truthful and credible as held by this Court in **Laxman v. State of Maharashtra**, (2002) 6 SCC 710 and followed in **Mallella Shayam Sunder v. State of A.P.**, (2015) 2 SCC 486.*

(v) The statement should not be one made on tutoring or prompting.

(vi) The court may also scan the statement to see whether the same is prompted by any motive of vengeance."

It was further held in **Najam Faraghi v. State of West Bengal, (1998) 2 SCC 45** that merely because a person died long after making the dying declaration, the statement does not become irrelevant.

105. In **Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1** (three judges bench), Hon'ble the Apex Court after placing reliance upon **Atbir v. State (NCT of Delhi), (2010) 9 SCC 1**, **Paniben v. State of Gujrat (1992) 2 SCC 474** and **Paneerselvam v. State of T.N., (2008) 17 SCC 190** has held in paras 176 and 177 as under:-

*"176. The legal position regarding the admissibility of a dying declaration is settled by this Court in several judgments. This Court in **Atbir v. State (NCT Of Delhi)**, taking into consideration the earlier judgment of this Court in **Paniben v. State of Gujrat** and another judgment of this Court in **Paneerselvam v. State of T.N.**, has exhaustively laid down the following guidelines with respect to the admissibility of dying declaration: (**Atbir** case, SCC pp. 8-9, para 22).*

"22. (i) Dying declaration can be the sole basis of conviction if it inspires the full confidence of the court.

(ii) The court should be satisfied that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination.

(iii) Where the court is satisfied that the declaration is true and voluntary, it can base its conviction without any further corroboration.

(iv) It cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence.

(v) Where the dying declaration is suspicious, it should not be acted upon without corroborative evidence.

(vi) A dying declaration which suffers from infirmity such as the deceased was unconscious and could never make any statement cannot form the basis of conviction.

(vii) Merely because a dying declaration does not contain all the details as to the occurrence, it is not to be rejected.

(vii) Even if it is a brief statement, it is not to be discarded.

(ix) When the eyewitness affirms that the deceased was not in a fit and conscious state to make the dying declaration, medical opinion cannot prevail.

(x) If after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration.

177. It is well settled that dying declaration can form the sole basis of conviction provided that it is free from infirmities and satisfies various other tests. In a case where there are more than one dying declaration, if some inconsistencies are noticed between one and the other, the court has to examine the nature of inconsistencies as to whether they are material or not. The court has to examine the contents of the dying declarations in the light of the various surrounding facts and circumstances."

106. Upon a close scrutiny of the dying declaration Exhibited as Ka-10, it comes out that when the victim asked for money for the treatment of her one and a half year old son having mouth sores, she was assaulted by the appellant, who threw a bowl of lentils at her and threatened that if she disclosed the incident to anyone, her face would be disfigured by pouring acid. The dying declaration exhibits the appellant did not stop and took the deceased to the inner portion of the house, poured kerosene oil over her head and body, lit a match stick and threw it upon her from a distance, as a result of which she caught fire. Even thereafter, the appellant did not stop

even here rather to ensure her death, he bolted the door from outside. On screaming of the deceased, people from the locality gathered at the stop.

107. The tenor of the dying declaration reflects a barbaric act of burning the pregnant wife and thereafter bolting the door from outside in order to ensure her death. There is not even an iota of evidence with respect to sudden fight as such even if the incident had happened in the spur of moment, the act of bolting the house from outside brings no other inference except that appellant's intention to cause death of his pregnant wife.

108. The fabric of the dying declaration, as proved by the Executive Magistrate having certification of mental fitness the authenticity of contents which does not appear to be result of tutoring, prompting or imagination. The dying declaration appears to be voluntary, thus, it is coherent and consistent. The defence failed to impeach the dying declaration as such, the reliability by the trial Court cannot be doubted by us in appellate jurisdiction.

109. The contention raised by counsel for State that the instant case is covered by first clause appended to Section 300 IPC, in view of an unimpeached dying declaration is examined on the touchstone of the requirements/parameters of law. It is profitable to note the judgment of the Bombay High Court rendered in **Irra Gonda Deesai Vs. State of Goa, Criminal Appeal No. 7 & 8 of 2006**, in relation to first clause appended to section 300 IPC. The relevant paragraphs are extracted as follows:

“13. On behalf of the respondent, the learned Public Prosecutor has placed reliance on the case of State of Andhra Pradesh v. Rayavarapu Punnayya and Anr. to support the case of the prosecution that the case is squarely covered by clause firstly to Section 300 I.P.C. In this case, the Apex Court has said that whenever a court is confronted with the question whether the offence is 'murder' or 'culpable homicide not amounting to murder', on the facts of a case, it would be convenient for it to approach the problem in three stages. The question to be considered at the first stage would be whether the accused has done an act by doing which he has caused the death of another. Proof of such causal connection between the act of the accused and the death leads to the second stage for considering whether that act of the accused amounts to culpable homicide as defined in Section 299. If the answer to this question is prima facie found in the affirmative, the stage for considering the operation of Section 300, Penal Code is reached. This is the stage at which the Court should determine

whether the facts proved by the prosecution bring the case within the ambit of any of the four clauses of the definition of 'murder' contained in Section 300. If the answer to this question is in the negative, the offence would be 'culpable homicide not amounting to murder', punishable under the first or the second part of Section 304, depending, respectively, on whether the second or third clause of Section 299 is applicable. If this question is found in the positive, but the case comes within any of the exceptions enumerated in Section 300, the offence would still be 'culpable homicide not amounting to murder', punishable under the first part of Section 304, Penal Code. The Apex Court also noted that the above are only broad guidelines and not cast iron imperatives.

15. Clause firstly of Section 300 IPC deals with death being caused by an act with intention of causing death. Once the intention to kill is proved, the offence is murder unless one of the exceptions are applied. It is well said that intention is what intention does. In deciding the question of intention Courts generally look at factors such as the nature of weapon used, the part of the body on which the blow is given, the force of the blow and its number. In this case, from the nature of injuries, the weapon used, their location on vital parts of the body and force with which they were inflicted lead only to one inference that the accused inflicted the same with the intention of killing his wife."

110. The first clause appended to Section 300 IPC talks about intention, the act done and the death caused. It does not talk about injuries or nature of injuries meaning thereby if there is an intention coupled with an overact and the death ensues the first clause of Section 300 IPC would stand attracted. In the totality of factual matrix, both the first clause and fourth clause of Section 300 IPC are attracted in the present case, on account of putting a helpless lady to ablaze by pouring kerosene oil after taking her to the inner portion of house and thereafter bolted the door from outside.

111. The alternative argument advanced on behalf of the appellant is that the offence would not escalate beyond culpable homicide not amounting to murder. This argument is being made on the premise that the burns caused to the victim did not result in her death during the initial fatal period and that her death happened on account of the setting in of some later complications termed as septicemia by the medical jurists.

112. Section 299 IPC defines 'culpable homicide' as "whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide."

113. **Explanation 2 to Section 299** has a material bearing on the said contention and hence that is extracted below:

"Explanation 2.- Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented."

114. Section 300 IPC carves out two segments, one is culpable homicide amounting to murder and the second segment consists of culpable homicide not amounting to murder. Four clauses enumerated in the Section are enveloped in the first segment. What is set apart for the second segment is compendiously described as "except in the cases hereinafter excepted" from the first segment. For the purpose of the present case, we deem it necessary to quote only the second clause in Section 300 IPC.

"secondly.-If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused."

115. In the present case, the appellant could not bring the case within the five exceptions enumerated in Section 300 IPC. Hence, the only question to be answered is whether he did the act with the intention of causing such bodily injury as he knew "to be likely to cause death of the deceased". It is inconceivable that appellant would not have known that setting a human being ablaze after soaking her clothes with inflammable liquid would cause her death, as the type of burn resulting therefrom would at least be "likely" to cause her death (if not sufficient in the ordinary course of nature to cause her death). The fact that the victim died after 23 days sustaining those burn injuries cannot exclude the act from the contours of the "secondly" clause of Section 300 IPC. Hence, the interval of twenty-three days between the attack and her death is not a cause for mitigation of the offence perpetrated by the offender. We are, therefore, not impressed by the alternative argument advanced by the learned counsel for the appellant.

116. This Court also tests whether, if intention to cause death is not established in the facts of the present case, the offence in question would meet the fourth clause appended to Section 300 IPC to bring the offence of

murder to the credit of appellant or not. The dying declaration unequivocally states that deceased was taken to inner portion of the house and was drenched with kerosene oil and thereafter was set ablaze and in order to ensure death the door was bolted the door from the outside, particularly when deceased was carrying eight months advance pregnancy. It is beyond understanding that appellant being husband could not have had knowledge and cognizance of the factum of pregnancy. Thus, setting the deceased ablaze and thereafter bolting the door brings the test of intention to cause death against appellant but even if alternatively it is assumed then it is a case where the act of the accused falls under clause "Fourthly" of section 300 IPC, i.e. the act of causing injury so imminently dangerous where it will in all probability cause death. It is profitable to note paragraph no.13 of the judgment rendered by Hon'ble Supreme Court in the case of **Nagabhushan Vs. State of Karnataka reported in AIR 2021 SC 1290**. The relevant paragraphs of the judgment are extracted as follows:

"13. Even assuming that the accused had no intention to cause the death of the deceased, the act of the accused falls under clause Fourthly of Section 300 IPC that is the act of causing injury so imminently dangerous where it will in all probability cause death. Any person of average intelligence would have the knowledge that pouring of kerosene and setting her on fire by throwing a lighted matchstick is so imminently dangerous that in all probability such an act would cause injuries causing death.

18. Upon analysis of the evidence adduced by the prosecution, the courts below recorded concurrent findings that the accused caused the death of deceased Saraswatibai and convicted the appellant. It is well settled that concurrent findings of fact cannot be interfered with unless the findings are perverse and unsupportable from the evidence on record. This view has been reiterated in Dhananjay Shanker Shetty v. State of Maharashtra [(2002) 6 SCC 596 : 2002 SCC (Cri) 1444] . In the totality of the facts and circumstances, in our view, the concurrent findings of facts recorded by the courts below are based on evidence and we see no infirmity in the impugned judgment warranting interference". Therefore, after pouring kerosene on the deceased and thereafter setting her ablaze, thereafter merely because the accused might have tried to extinguish the fire will not take the case out of the clutches of clause fourthly of Section 300 of the IPC. The act of the accused pouring kerosene on the deceased and thereafter setting her ablaze by matchstick is imminently dangerous which, in all probability, will cause death. Therefore, the High Court has rightly convicted the accused for the offence under Section 302 IPC."

117. The learned trial Court's inference that "the act of bolting the door from outside completely negates the defence of sudden and grave

provocation. As regards the defence plea that the accused was not present at the spot and had only arrived later upon receiving information and thereafter admitted the victim to the hospital, the Court is of the opinion that according to the dying declaration, accused Manish was present at the spot and it was he who committed the murder, and that thereafter people gathered, he might have admitted the victim to the hospital merely due to public pressure.” Such inference appears to be plausible.

118. Further, the cause of death of the deceased may be found due to septicaemia but there is no material to demonstrate that any medical negligence and supervening circumstance if any, etc. The proximate cause of septicaemia would be burn injuries resulting in the unfortunate death of deceased.

119. The contention raised by counsel for appellant that the dying declaration in present case may not be relied upon having lacked corroboration from other prosecution evidence is not worthy of acceptance as if a dying declaration has been recorded in a proper manner by a competent authority and the court is satisfied of its truthfulness, it is a “substantive piece of evidence” sufficient to sustain a conviction on its own and cannot be regarded as a weak piece of evidence.

120. The argument put forth by counsel for appellant that a dying declaration is not on the question answer format does not inspire confidence as Hon’ble Supreme Court unequivocally observed that there is no such requirement in law of recording dying declaration on question answer format as held in the case of **Surinder Kumar vs State Of Punjab** reported in (2012)12 SCC 120, the relevant paragraph is quoted under :

“Insofar as the case before us is concerned, we may only note that there is no format prescribed for recording a dying declaration. Indeed, no such format can be prescribed. Therefore, it is not obligatory that a dying declaration should be recorded in a question-answer form.”

121. The presence of medical certification upon dying declaration and having it formally been proved by PW-6 fortifies the authenticity of dying

declaration. It is worthy to mention that the dying declaration in question has been recorded by a competent Executive Magistrate, who has no reason to depose against appellant.

122. The argument of death due to septicemia having been developed over the period of time suggesting that burn injuries may be remote cause is tested on the touchstone of the ratio of judgement rendered in **Sushila Devi** (supra) but the said dictum as relied by appellant is not attracted in factual backdrop of this case though in both the cases the death occurred due to septicemia but in the case in hand the appellant is imputed to have taken the deceased to another room after initial altercation and poured kerosene oil from the head by putting her to ablaze and thereafter, bolted the house from outside, so the helpless victim may not save herself. Such conduct as described in the dying declaration is not only cruel but appellant had taken undue advantage of situation where deceased was carrying eight months pregnancy. The facts of the instant case are not similar to the facts of **Sushila Devi** (supra) as such the authority as relied by appellant in the case of **Sushila Devi** (supra) stands distinguished on the facts. For awarding sentence and coming to the conclusion of conviction nature of injury is not only the sole determinative factor, rather its cause and intention and knowledge of perpetrator is also to be looked into before coming to a definite conclusion, thus, the authority of **Sushila Devi** (supra) does not come to the rescue of appellant in relation to conviction of the appellant. We cannot lose sight of the fact that an authority and similarly little difference of facts as well as an addition of a single new fact, can completely alter precedential value of a past decision as held in the case of **Bhavnagar University Vs. Palitana Sugul Mill Pvt. Ltd. and others** reported in **AIR 2003 SC 511**.

123. In the instant case, after throwing the bowl of lentils, appellant took his wife to another room poured kerosene oil from head set her to ablaze and, thereafter, locked her inside the house as comes out from none other than the dying declaration. In view of overt acts of pouring kerosene oil

and setting it ablaze, thereafter, bolting the door from outside would definitely come under the injury aimed and caused. Thus, requisite intention is inferred against appellant.

124. Now turning to the instant facts of the case, the bodily injuries inflicted upon the deceased were clearly intentional, as kerosene oil was poured and match stick was lit putting the victim to ablaze, thus, the injury was aimed/intended and caused which resulted into death and in order to doubly sure the death of victim the door was bolted outside of the house, thus, the only intention could be gathered is causing death and as such, the act of appellant herein is covered by first limb of Section 300 IPC and none of the exceptions attached to Section 300 IPC are attracted. The death in the instant case was postponed for 23 days because of treatment in the district hospital as such the primary cause which is directly associated with the death of the victim is extensive burn injuries ranging from first to third degree. In view of elaborated discussions herein-above, we are left with no doubt that the offence in question would be covered by first, second and fourth limb of Section 300 IPC.

Conclusion

125. Thus, as a sequel of above, an irresistible conclusion, which, this Court reaches is, the intended burn injuries proved to be fatal. The bolting of the door from outside after putting the deceased to ablaze, though the death occurred after several days of septicemia, yet it is undoubtedly a murder punishable under Section 302 I.P.C.

126. Having reassessed the evidence led by the parties before the learned trial Court and having taken an overall view of the matter, including statutory prescriptions enshrined in the penal law and the legal requirements necessary to establish the offence to be conclusively proved, against the appellant, we are not persuaded to disturb the finding of conviction as recorded by the learned trial Court, thus, same is maintained and is hereby affirmed.

Proportionality of Sentence

127. This Court now proceeds to consider and examine the proportionality of sentence, awarded to the appellant commensurate to the offence, in view of evidence led by parties and the prayer of leniency qua sentence is again examined.

128. The question whether the sentence of imprisonment for life can be converted into a fixed term sentence, in this regard we would like to go through the ratio of law laid down by Constitution Bench of the Hon'ble Supreme Court, rendered in the case of **Union of India v. V. Sriharan**, reported in **(2016) 7 SCC 1**, where Hon'ble Supreme Court dealt with issue as to whether imprisonment for life in terms of Section 53 read with Section 45 of the I.P.C. means imprisonment for the rest of the life of the convict or the same can be reduced.

The relevant paragraph of **V. Sridharan (supra)** is extracted below:-

“Questions (i) and (ii)

(i) As to whether the imprisonment for life means till the end of convict's life with or without any scope for remission?

(ii) xxx xxx

xxx xxx

*61. Having noted the abovereferred to two Constitution Bench decisions in Godse [Gopal Vinayak Godse v. State of Maharashtra, AIR 1961 SC 600 and Maru Ram [Maru Ram v. Union of India, (1981) 1 SCC 107 which were consistently followed in the subsequent decisions in Sambha Ji Krishna Ji [Sambha Ji Krishna v. State of Maharashtra, (1974) 1 SCC 196, Ratan Singh [State of (2016) 7 SCC IM.P. v. Ratan Singh, (1976) 3 SCC 470, Ranjit Singh [Ranjit Singh v. UT of Chandigarh, (1984) 1 SCC 31, Ashok Kumar [Ashok Kumar v. Union of India, (1991) 3 SCC 498 and Subash Chander [Subash Chander v. Krishan Lal, (2001) 4 SCC 458. **The first part of the first question can be conveniently answered to the effect that imprisonment for life in terms of Section 53 read with Section 45 of the Penal Code only means imprisonment for rest of the life of the prisoner subject, however, to the right to claim remission, etc. as provided under Articles 72 and 161 of the Constitution to be exercisable by the President and the Governor of the State and also as provided under Section 432 of the Criminal Procedure Code.**”*

[Emphasis added]

129. The aforementioned Constitution Bench after referring to the various

precedents, including **Swamy Shraddananda (2) v. State of Karnataka**, reported in **(2008) 13 SCC 767**; has clarified the law in paragraph nos. 104 and 105, which reads as under:

"104. That apart, in most of such cases where death penalty or life imprisonment is the punishment imposed by the trial court and confirmed by the Division Bench of the High Court, the convict concerned will get an opportunity to get such verdict tested by filing further appeal by way of special leave to this Court. By way of abundant caution and as per the prescribed law of the Code and the criminal jurisprudence, we can assert that after the initial finding of guilt of such specified grave offences and the imposition of penalty either death or life imprisonment, when comes under the scrutiny of the Division Bench of the High Court, it is only the High Court which derives the power under the Penal Code, which prescribes the capital and alternate punishment, to alter the said punishment with one either for the entirety of the convict's life or for any specific period of more than 14 years, say 20, 30 or so on depending upon the gravity of the crime committed and the exercise of judicial conscience befitting such offence found proved to have been committed."

"105. We, therefore, reiterate that the power derived from the Penal Code for any modified punishment within the punishment provided for in the Penal Code for such specified offences can only be exercised by the High Court and in the event of further appeal only by the Supreme Court and not by any other court in this country. To put it differently, the power to impose a modified punishment providing for any specific term of incarceration or till the end of the convict's life as an alternate to death penalty, can be exercised only by the High Court and the Supreme Court and not by any other inferior court."

130. The Hon'ble Supreme Court reiterated the said principle time and again in the case of **Shiva Kumar v. State of Karnataka**, reported in **(2023) 9 SCC 817**; after considering both of the aforementioned judgments of V. Sriharan (Supra) and Swamy Shraddananda (Supra); wherein it has been held that Constitutional Courts may, even where capital punishments is not in issue, can impose a fixed term sentence of more than fourteen years in place of an ordinary life sentence, subject to the mandate of Section 433-A Cr.P.C.

The relevant excerpt of **Shiva Kumar (supra)** is reproduced as under:-

"11. What is held by the Constitution Bench in V. Sriharan, cannot be construed in a narrow perspective. The Constitution Bench has held that there is a power which can be derived from IPC to impose a fixed-term sentence or modified punishment which can only be exercised by the High Court or in the event of any further appeal, by the Supreme Court and not by any other court in this country. In addition, the Constitution Bench held that power to impose a modified punishment of providing any specific term of incarceration or till the end of

convict's life as an alternative to death penalty, can be exercised only by the High Court and the Supreme Court and not by any other inferior court.

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14. Hence, we have no manner of doubt that even in a case where capital punishment is not imposed or is not proposed, the constitutional courts can always exercise the power of imposing a modified or fixed-term sentence by directing that a life sentence, as contemplated by "secondly" in Section 53 IPC, shall be of a fixed period of more than fourteen years, for example, of twenty years, thirty years and so on. The fixed punishment cannot be for a period less than 14 years in view of the mandate of Section 433-A Cr.P.C."

[Emphasis added]

131. The Hon'ble Supreme Court's judgment in **Ravinder Singh v. State (2023 INSC 426)** is a testament to the judiciary's unwavering commitment to justice, especially in cases involving heinous crimes against the most vulnerable. By asserting the authority to impose fixed-term life sentences exceeding standard remission periods, the Court ensures that the punishment serves its intended purpose deterring future offences, delivering justice to victims, and upholding societal moral standards. This precedent not only fortifies the legal framework against severe crimes but also champions the principle that justice must be both served and seen to be served, thereby reinforcing public confidence in the judicial system. Moving forward, this precedent will guide us in crafting sentences that are commensurate with the gravity of offenses, particularly those that fracture the fundamental trust within familial relationships. It underscores the necessity for a robust legal deterrent while balancing the rights of the accused, aligning with constitutional safeguards and the overarching objectives of criminal jurisprudence.

132. We are enlightened, on the issue by the recent pronouncement of Hon'ble Supreme Court rendered in the case of **Munna Moyuddin Shaikh v. State of Gujarat (Criminal Appeal No.2686 of 2026, arising out of SLP (Crl.) Diary No.35717 of 2025)** decided on 26.05.2026 in which entire law qua awarding fixed sentence replacing life imprisonment by Constitutional Courts has been summarised. The relevant paragraph of **Munna Moyuddin (supra)** reads as under:-

"16. The underlying ratio of the above quoted judgments is that when a sentence of life imprisonment is imposed, Section 53 with Section 45 the IPC would convey the meaning that it is till the natural life subject to the right of claiming remission. Hence, modifying a sentence of life imprisonment and imposing a fixed sentence is permissible under the interpretation placed in Sriharan (supra) and followed in Shiva Kumar (supra), as long as the period imposed is more than fourteen years of imprisonment."

133. The Hon'ble Supreme Court while examining issue of remission has taken note of Philosophy of Greek Philosopher 'Plato' in the judgement rendered in the case of **Bilkis Yakub Rasool v. Union of India and others** reported in **(2024) 5 SCC 481** which reads as under:-

"1. ...punishment is to be inflicted, not for the sake of vengeance, for what is done cannot be undone, but for the sake of prevention and reformation (Thomas L. Pangle, The Laws of Plato, Basic Book Publishers, 1980). In his treatise, Plato reasons that the lawgiver, as far as he can, ought to imitate the doctor who does not apply his drug with a view to pain only, but to do the patient good. This curative theory of punishment likens penalty to medicine, administered for the good of the one who is being chastised (Trevor J. Saunders, Plato's Penal Code : Tradition, Controversy, and Reform in Greek Penology, Oxford University Press, 1991)." In Plato's rejection of punishment as retroactive vengeance lies the deep insight that the past cannot be changed. Instead, punishment is justified only insofar as it serves a future-oriented purpose, namely, prevention, reform, and the restoration of order. The comparison between the judge and the doctor is also 26 significant. A doctor may incidentally cause pain through surgery or medicine, but the pain is not the objective, healing is. Likewise, punishment may involve suffering, but suffering itself is not normatively valuable. Its legitimacy comes only from its capacity to heal the individual and protect the polis (a political/civic community)."

134. We have had the privilege of considering the ratio laid down by the Hon'ble Supreme Court in the case of **Navas @ Mulanavas v. State of Kerala**, Criminal Appeal No. 1215 of 2011 **(2024 INSC 215)**, wherein the mitigating circumstances relevant for commutation of life imprisonment for the remainder of natural life into a fixed-term sentence were considered. The relevant observations made by the Hon'ble Supreme Court are reproduced below:

"57. A journey through the cases set out hereinabove shows that the fundamental underpinning is the principle of proportionality. The aggravating and mitigating circumstances which the Court considers while deciding commutation of penalty from death to life imprisonment, have a large bearing in deciding the number of years of compulsory imprisonment without remission, too. As a judicially trained mind pores and ponders over the aggravating and mitigating circumstances and in cases where they decide to commute the death penalty they would by then have a reasonable idea as to

what would be the appropriate period of sentence to be imposed under the Swamy Shraddananda (supra) principle too. Matters are not cut and dried and nicely weighed here to formulate a uniform principle. That is where the experience of the judicially trained mind comes in as pointed out in V. Sriharan (supra). Illustratively in the process of arriving at the number of years as the most appropriate for the case at hand, which the convict will have to undergo before which the remission powers could be invoked, some of the relevant factors that the courts bear in mind are:- (a) the number of deceased who are victims of that crime and their age and gender; (b) the nature of injuries including sexual assault if any; (c) the motive for which the offence was committed; (d) whether the offence was committed when the convict was on bail in another case; (e) the premeditated nature of the offence; (f) the relationship between the offender and the victim; (g) the abuse of trust if any; (h) the criminal antecedents; and whether the convict, if released, would be a menace to the society. Some of the positive factors have been, (1) age of the convict; (2) the probability of reformation of convict; (3) he convict not being a professional killer; (4) the socioeconomic condition of the accused; (5) the composition of the family of the accused and (6) conduct expressing remorse.

These were some of the relevant factors that were kept in mind in the cases noticed above while weighing the pros and cons of the matter. The Court would be additionally justified in considering the conduct of the convict in jail; and the period already undergone to arrive at the number of years which the Court feels the convict should, serve as part of the Sentence of life imprisonment and before which he cannot apply for remission..."

135. The appellant is not reported to have any criminal past record prior to unfortunate occurrence in question. The custody certificate itself exhibits long incarceration. The jail report qua conduct of inmate/appellant has certified as good and his lodging in modern jail is said to be with a view of reformation.

136. In the instant case, the age of the convict at the time of commission of the offence was merely 21 years and, as of now, he is approximately 37 years of age. Though age by itself is not a determinative factor, it remains a relevant consideration while assessing the possibility of reformation and reintegration of the convict into society. The probability of the accused being reformed and rehabilitated, and the likelihood of his not indulging in criminal conduct again, are equally important considerations while evaluating whether continued incarceration for the remainder of natural life would serve the ends of justice.

137. The report submitted by the Jail Authorities further substantiates that

the convict has undergone a substantial positive transformation during his incarceration spanning approximately 15 years. His conduct in jail indicates a mark change in behaviour, demonstrating remorse and reflecting a genuine possibility of reformation.

138. The socio-economic condition of the accused also deserves consideration. The material on record reflects that the family of the accused belonged to a financially weak background. Even the parental family of the victim was residing in a small dwelling provided under a State welfare scheme meant for economically weaker sections, indicating the socio-economic conditions prevailing in the background from which the parties emerged.

139. Considering the totality of circumstances, namely: (i) the young age of the convict at the time of commission of the offence; (ii) the substantial period of incarceration already undergone; (iii) the positive conduct exhibited in prison; (iv) the probability of reformation, rehabilitation; and reintegration to Society (v) the reduced likelihood of reoffending; and (vi) the socio-economic background of the accused, this Court is of the considered view that the ends of justice would be adequately met by commuting the sentence of imprisonment for life to a fixed term sentence of twenty years without remission.

140. Such commutation, in the facts and circumstances of the present case, would strike an appropriate balance between the principles of proportionality, deterrence and societal interest.

141. No theory of punishment appreciates and is founded on vengeance and revenge. Prison always does not reform people. Someone has rightly said that “in jail nights are darker and days are longer”, which means nights becomes endless days becomes unbearable and lastly hope disappears. Thus, a pragmatic view is taken to give a chance of reformation to the appellant-convict with a view of re-integration with society. Hence, in

totality of circumstances, we impose fixed term sentence of 20 years rigorous imprisonment and commute the sentence of life imprisonment to aforesaid terms.

142. Hence, the instant appeal is partly allowed to the above extent.

143. The appellant shall comply with provisions enshrined under Section 437A Cr.P.C.

144. Let a copy of this judgment, along with record of trial court be certified to the trial Court for compliance.

145. Before parting with the case, we record our appreciation for the able and fair assistance rendered by Mr. Punit Kumar Shukla, learned counsel for the appellant and Mr. Bipul Kumar Singh, learned State Law Officer representing the State.

146. The Court records its appreciation for the diligent efforts and valuable assistance rendered by Ms. Shreya Shukla and Ms. Simar Preet Kaur, Research Associates. The precision and clarity reflected in the legal research and analysis submitted by them demonstrates commendable attention to details. The Court acknowledges their contribution in aiding the adjudication of this matter.

(Indrajeet Shukla, J.) (Rajesh Singh Chauhan, J.)

June 03, 2026

S.P.