

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THURSDAY, THE TWELFTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE K.LAKSHMAN
AND
THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO**

CRIMINAL APPEAL NO: 3336 OF 2018

Criminal Appeal U/s 374 (2) of Cr.P.C against the Judgment made in S.C.No. 563 of 2017 dated 11.07.2018 on the file of the Court IX Additional Metropolitan Sessions Judge, FAC VII Additional Metropolitan Sessions Judge, Hyderabad.

Between:

Gangipalli Satyanarayana, S/o.Late G.Yellaiah, Age 52 years, R/o. H.No.18-2-60/2/19, Ambedkar Nagar, Nagulabanda, Falaknuma, Hyderabad.

...Apellant/Accused

AND

State of Telangana, represented by Public Prosecutor, High Court at Hyderabad

...Respondent/Complainant

I.A. NO: 1 OF 2024

Petition under Section 389(1) Cr.P.C. praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to enlarge the Petitioner herein on bail by suspending the sentence imposed in S.C.No. 563 of 2017 dated 11/07/2018 on the file of the court of the VII Addl. Metropolitan Sessions Judge, Hyderabad, pending disposal of CrI.A.No. 3336 of 2018.

Counsel for the Appellant : Sri P Prabhakar Reddy

**Counsel for the Respondent : Sri Syesd Yasar Mamoon,
Additional Public Prosecutor**

The Court delivered the following: JUDGMENT

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT: HYDERABAD**

HON'BLE SRI JUSTICE K. LAKSHMAN

AND

HON'BLE JUSTICE B.R. MADHUSUDHAN RAO

CRIMINAL APPEAL No.3336 OF 2018

DATE:12-03-2026

Between:

Mr. Gangipalli Satyanarayana

.. Appellant - Accused

Vs.

The State of Telangana, rep.by its
Public Prosecutor, High Court at Hyd.

.. Responce nt - Complainant

This Court made the following:

JUDGMENT:(Per Hon'ble Sri Justice K. Lakshman)

1. Heard Mr. P. Prabhakar Reddy, learned counsel for the appellant - accused and Mr. Syed. Yasar Mamoon, learned Additional Public Prosecutor appearing on behalf of the responce nt- State.

2. This appeal is filed by the appellant - accused challenging the judgment dated 11.07.2018 in S.C. No.563 of 2017 passed by learned VII Additional Metropolitan Sessions Judge, Hyderabad.

3. *Vide* the aforesaid judgment, learned trial Court convicted the appellant - accused for the offence under Section - 302 of IPC, and

accordingly sentenced him to undergo life imprisonment and to pay fine of Rs.1,000 (Rupees One Thousand Only) and in default to undergo simple imprisonment for a period of two (02) months.

4. The case of the prosecution is as under:

i) The accused, a labourer, stopped working and was staying at his house situated at Ambedkar Nagar, Nagulabanda, Falaknuma, Hyderabad. His first wife had deserted him long back. Out of their wedlock, he has one son, namely G. Mahesh (PW.3). He was married and residing along with accused.

ii) Thereafter, the accused married Susheela (deceased), who was working as an *Aaya* in Osmania General Hospital, Hyderabad. Out of their wedlock, the accused was blessed with one son, namely Sai Kiran (PW.1) and one daughter, namely Deepika. Second wife, Susheela also brought up PW.3, son of the accused with his first wife, along with her children.

iii) The accused was addicted to alcohol and was not doing any work. His second wife, Susheela, used to go to work on daily basis. For the past few months, the accused started suspecting the character of deceased, quarrelling with her and beating her daily in an inebriated condition. The accused became more suspicious when the deceased

refused to have sexual intercourse with him and presumed that she might have illegal affairs with some other person.

iv) On 01.01.2017, PW.3 along with LW.7 and his sister, Deepika went to Karimnagar to attend a function. On 02.01.2017, PW.1 along with LW.9 also went to Karimnagar, to bring his sister, Deepika.

v) On 02.01.2017 in the evening hours, the accused took money from the deceased and consumed alcohol. He also brought one bottle of toddy and gave it to the deceased, who also consumed the same. Thereafter, the deceased slept in the first room. The accused went near the deceased and asked her sexual favour, but she refused, on that, he started beating her. Then, the deceased went out of the house and brought their neighbour (PW.2), who chided the accused and asked him to sleep. Then, the accused informed PW.2 that he would watch TV and sleep. Later, PW.2 left the house.

vi) After few minutes, the accused noticed that the deceased was in deep sleep, he went near her and removed her *langa* and *saree*, and tried to participate in sex with her, but she did not allow him to do, and thereby he became furious and took the *langa* in his hand and smothered her with the *langa* and strangulated her with the thread of

the *langa*. After a few minutes, he found the deceased motionless. Immediately he came out of the house and slept in front of the house. In the early morning at about 6.30 hours, he went to the house of PW.2 and informed her that the deceased is not waking up and requested her to come. On that, PW.2 and her husband went to the house of the accused and saw the deceased motionless. Then, PW.2 asked her husband to call neighbours. Meanwhile, all the neighbours gathered near the house of the deceased. PW.2 with the help of others wore the *langa* and *saree* to the deceased and they all suspected the accused. On that the accused fled away from the spot. Thus, the accused committed the aforesaid offence.

5. On 03.01.2017 at 09.30 hours, PW.1 gave Ex.P1 - Telugu written report with PW.9, Inspector of Police of Chatrinaka, Hyderabad, who in turn registered a case in Crime No.04 of 2017 and issued Ex.P8 - FIR and thereafter handed over the case to PW.10, Inspector of Police, for further investigation.

6. PW.10 examined the witnesses and recorded their statements. He had also taken steps for conducting autopsy over the dead body of the deceased and drawing of scene of offence etc.

7. On receipt of the post-mortem examination report from PW.5, PW.11 altered the Section from Section 174 of Cr.P.C. to 304 of IPC. Thereafter, he laid charge sheet against the accused for the offence under Section - 302 of IPC. The same was committed to the trial Court and the same was taken on file as S.C. No 150 of 2015 for the offence under Section - 302 of IPC.

8. The trial Court framed charge for the aforesaid offence against the accused and then proceeded with the trial.

9. During trial, prosecution examined PWs.1 to 11 and marked Exs.P1 to P10 and MO.1 to prove its case. On behalf of the accused, his legal aid counsel got marked contradiction portion in the statement of PW.2 as Ex.D1.

10. After completion of evidence on behalf of the prosecution, the accused was examined under Section - 313 of Cr.P.C. Thereafter, upon hearing both sides, the trial Court recorded conviction against the appellant herein for the aforesaid offence and accordingly imposed life imprisonment. Challenging the said conviction and sentence of life imprisonment, the appellant preferred the present appeal.

11. Learned counsel for the appellant - accused contended:

- i. There is no direct evidence in this case.
- ii. The entire case rests on circumstantial evidence.
- iii. There are omissions and contradictions in the evidence of PWs.1, 2 and 7.
- iv. No motive was proved by the prosecution.
- v. Prosecution failed to prove the case beyond reasonable doubt.
- vi. Entire burden lies on the prosecution to prove its case. In this case, the prosecution did not discharge its primary burden.
- vii. Without considering the aforesaid aspects, the trial Court recorded conviction.

With the aforesaid submissions, he sought to set aside the conviction and sentence of life imprisonment recorded against the appellant herein.

12. On the other hand, learned Additional Public Prosecutor would submit as under:

- i. Last seen theory was proved through the evidence of PW.2.
- ii. Though there is no direct evidence, there is ample circumstantial evidence which proves the case of prosecution beyond reasonable doubt.

- iii. The prosecution proved motive on the part of the accused in commission of offence.
- iv. The medical evidence significantly proves the cause of death was due to strangulation associated with smothering.
- v. There is no rebuttal evidence from the side of accused.
- vi. All the circumstances form a complete chain to connect the accused in commission of offence.
- vii. The trial Court relying on the evidence both oral and documentary, recorded conviction against the appellant herein. There is no error in it warranting interference by this Court.

With the aforesaid submissions, he sought to dismiss the present appeal.

13. In view above rival submissions, the point that falls for consideration by this Court is:

Whether the conviction and sentence of imprisonment recorded by the trial Court for the offence under Section - 302 of IPC against the appellant herein - accused are sustainable, both on facts and in law?

14. In view of the aforesaid rival submissions, before delving into the factual matrix, it is necessary to briefly advert to the purport

of the offence alleged. Section - 300 of IPC contemplates the gravest form of culpable homicide amounting to murder, requiring proof of an act done with the intention or knowledge that it would cause death.

15. PW.1 is not only the complainant, but also the son of the deceased and the accused. He has been working as a Constable in City Army Reserve Head Quarters, Hyderabad. He deposed that his deceased mother was an employee in Osmania General Hospital. He along with his parents, brother (PW.3) and his wife and sister were residing in one house. On 25th or 26th December, 2016, his brother (PW.3) along with his wife and sister went to Karimnagar to attend a function. On 02.01.2017 in between 10.00 and 11.00 P.M., he went to Karimnagar to bring his sister since she was having examination on the next day. On 03.01.2017 at about 3.00 hours, he and his sister started their return journey by Car. When they reached Pragnapur, his maternal uncle (PW.4) made a call and informed that his mother died. They returned home and found the dead body of his mother on the bed. He found an injury on the head of his mother. Thereafter, he gave Ex.P1 report with the police.

i) During cross-examination except posing one question, there was no much cross-examination. For the said question, this witness

answered that at the time of giving the report, he had no suspicion on any one. On the same day of his report in the afternoon, the police had examined him.

16. PW.2 is the neighbour of the accused and deceased. She deposed that on 02.01.2017 at about 11.30 P.M., while she was sleeping in her house, the deceased came and informed her that the accused was quarreling with her and asked her to come to their house. When she accompanied with the deceased to her house, the accused was found in drunken state. She told him not to create any *galata* and advised him to sleep in the *verandah* and told that talks would be made next morning. On the next morning at 6.30 A.M., the accused came to her house and informed her that his wife was not waking up. Then, she along with her husband went to the house of accused and found the deceased died lying in her bed facing towards sky with swollen belly. She found her petticoat and only jacket in pell-mell condition, but she did not find her *saree*. She sent her husband to call neighbours and relatives of the deceased. The neighbours, LW.4, LW.5, LW.8, LW.12 and Lavanya came there. With their help, she tied the petticoat to the body of the deceased and wrapped the *saree*. Sometime thereafter, the police came and the body was shifted to the

hospital. She further deposed that the accused was suspecting the character of the deceased.

i) During cross-examination, PW.2 admitted that she did not state to the police that the deceased was also in drunken state as in Ex.D1.

17. PW.3 is the son of the accused through first wife - Shobha. He deposed that the accused was in the habit of consuming alcohol and not attending to any work. The accused used to suspect his step-mother (deceased) and abuse her. On 03.01.2017 while he was in Karimnagar, his maternal uncle (PW.4) made a call and informed that the deceased died. Immediately, he along with his wife returned home by 9.00 A.M. and found the dead body of deceased on the bed. His father was not found at the home.

18. PW.4, maternal uncle of PW.1 and PW.3, deposed that on 02.01.2017, he went to the house of PW.1 and met him and the deceased and spent for some time there. Half-an-hour later, PW.1 went to Karimnagar. The accused was scolding his wife suspecting her character. When he questioned the accused why he was scolding his wife, the accused remained silent. Then he left their house. On the

next day at about 6.00 A.M., he went to their house to meet PW.1 since he told him that he would come by next morning. By the time he reached the house of the accused, he found PW.2 and her husband and two or three other ladies. They told him that the deceased died. He found an injury on the back of the deceased head. Then, he immediately informed the same to PW.1 over phone. He did not find the accused at the time of his visit.

i) During cross-examination, PW.4 admitted that the deceased had the habit of consuming toddy which the accused habituated to her.

19. PW.5 is the doctor, who conducted autopsy over the dead body of the deceased. He deposed that on 03.01.2017 he received a requisition from the police to conduct autopsy over the dead body of the deceased. Accordingly, he conducted the autopsy on the same day from 2.40 P.M. to 3.40 P.M. He found the following ante-mortem injuries:

1. (a) A contusion on the scalp of size 15X10 cms., over the left Parieto Temporal and left occipital regions which were red in colour.
- (b) Another contusion over the Scalp of size 4x3 cms., over the right parieto region red in colour.
- (c) Another contusion over the scalp of size 2x2 cms., over the right frontal region red in colour.

- (d) A contusion on the left Temporal muscle region red in colour.
2. Contusions 5 in number each of size 1x0.75 cms., over Mucosal surface of the lower lip red in colour with teeth tightly clenched.
3. (a) A contusion of 3x2 cms., over the right side upper part of the neck. 3cms.. below the right angle of Mandible, reddish.
- (b) A contusion in the internal surface of the neck diffused over right and left side, upper and mid part of the neck with contusion around tips of superior horns of thyroid cartilage.
- (c) Gross congestion with sub-mucosal haemorrhages over Epiglottis, Glottis and Trachea.
- (d) Fracture in tips of superior horns of both thyroid cartilages.

i) He further deposed that the cause of death was due to strangulation associated with smothering. He gave his final opinion *vide* Ex.P2 and final opinion *vide* Ex.P3.

ii) During cross-examination, he admitted that skull was not having any injury. The spinal column and spinal cord were intact.

20. PW.6, a *panch* witness for inquest, deposed that he is the resident of same locality where the accused and deceased reside. As per the instructions of police, he visited Mortuary, Osmania General Hospital and was present at the time of inquest on 03.01.2017 at 1.00 P.M. LW.13, another *panch* was also present. They found an injury

on the neck of the deceased, but he did not express any opinion how she died. Ex.P4-inquest *panchanama* bears his signature.

i) During cross-examination nothing useful was elicited from this witness.

21. PW.7, *panch* witness for confession and seizure *panchanama*, deposed that he was working as Village Revenue Officer, Office of Bandlaguda Tahsildar. On the instructions of his Tahsildar, he went to the police station along with his office colleague, Mr. Sampath Kumar (LW.14), who is Special Revenue Inspector. They found the accused in the custody of police. On their questioning, the accused confessed that he was addicted to alcohol, developed suspicion against his wife and while committing sexual assault, she resisted him. Then he smothered her and killed her. The accused further confessed that on the night he had taken liquor and made his wife to consume toddy. The accused further confessed that he killed his wife with petty coat and thread. Ex.P5 is the *panchanama* and MO.1 is the yellow colour petty coat with thread.

i) During cross-examination nothing useful was elicited from this witness.

22. PW.8 is the *panch* witness for scene of offence and rough sketch. He deposed that on 03.10.2017 as per instructions of police, he went to the house of the accused, where he saw a dead body of woman. The police observed surroundings in their presence. The police prepared a *panchanama* and drawn a rough sketch in their presence. He signed on both of them which are Exs.P6 and P7.

i) During cross-examination nothing useful was elicited from this witness.

23. PW.9 is the Sub-Inspector of Police. He deposed with regard to PW.1 giving Ex.P1 - report with him on 03.01.2017 at 9.30 hours with regard to death of his mother (deceased) and pursuant thereof, his registering a case in Crime No.04 of 2017 (Ex.P8) under Section - 174 of Cr.P.C. and handing over the same to PW.10.

i) During cross-examination, PW.9 admitted that though it was mentioned in the report that there is no suspicion against anybody, to ascertain whether it is natural death or unnatural, FIR was registered.

24. PW.10, Inspector of Police, deposed that on receipt of case file from PW.9, he visited the house of the accused, found the dead body of the deceased. He took steps for conducting autopsy over the

dead body of the deceased. He secured *panch* witnesses and drawn scene of offence and rough sketch as in Exs.P6 and P7. He examined and recorded statements of relevant witnesses. On receipt of post-mortem examination report, he handed over the case to PW.11 for further investigation.

25. PW.11, Inspector of Police, deposed that basing on statement of PW.3, he altered section from 174 of Cr P.C., to Section 302 of IPC. The accused confessed the offence in the presence of *panch* witnesses and the same was recorded. After receipt of final opinion from the doctor, he filed charge sheet against the accused.

26. On an overall examination of prosecution witnesses, it is clear that there is no direct evidence with regard to commission of offence by the accused. The entire evidence rests on circumstantial evidence. To consider with regard to any motive on the part of accused in commission of offence, the evidence of PWs.2, 3 and 4 is crystal and clear. PW.2, neighbor of the accused and the deceased, deposed that the accused and his wife were always quarrelling. The accused was suspecting her character. PW.3, son of the accused through his first wife, deposed that the accused used to suspect his

step mother (deceased) and abuse her. PW.4, maternal uncle of PWs.1 and 3, also deposed that previous day of incident when he went to the house of accused, the accused was scolding the deceased suspecting her character. Thus, by virtue of the evidence of aforesaid witnesses, it can be presumed that there was motive on the part of the accused prior to commission of offence. The accused failed to elicit anything useful from the above witnesses during cross-examination to disprove the same.

27. Now, it has to be seen whether there was motive on the part of the accused at the time of commission of offence in the present case. According to PW.7 before whom the accused confessed that he was addicted to alcohol, developed suspicion against the deceased and when he intended to have sex, she resisted him, then he smothered her and killed her. The accused further confessed that on that night he had consumed liquor and made the deceased to consume toddy. Thus, the evidence on record does not establish that the accused had the intention to cause death or to cause such bodily injury as was sufficient in the ordinary course of nature to cause death. The incident appears to have occurred in the heat of passion during a sudden quarrel between the husband and wife inside their house.

28. With regard to last seen theory, as per the evidence of prosecution witnesses, it is clear that before the death of the deceased, the accused and the deceased were in their house. In this regard, the evidence of PW.2 is relevant. PW.2 has specifically deposed that on 02.01.2027 at about 11.30 P.M., while she was sleeping in her house, the deceased came and informed her that her husband (accused) was quarrelling with her and asked her to come to her (deceased) house. She accompanied the deceased to her house. By that time, the accused was also present at that house. The accused was found in drunken state. She told him not to create any *galata* and advised him to sleep in the *verandah* and told that talks would be made next morning. On the next morning at 6.30 a.m., the accused came to her house and informed her that the deceased was not waking up. Then, she along with her husband went to the house of the accused and found the deceased died lying on her bed facing towards sky with swollen belly. In view of the evidence of PW.2, it is clear that on the date of incident, the deceased and the accused were in their house only. Even PWs.3 and 4 deposed that the accused was not found at the scene of offence on the date of incident. Therefore, the facts relating to how the incident occurred are especially within the

knowledge of the accused. In such circumstances, the burden shifts upon the accused under Section - 106 of the Indian Evidence Act, 1872, to offer a reasonable explanation regarding the occurrence. There is no explanation from him.

29. With regard to the injuries found on the dead body of the deceased, the evidence of PWs.1, 4, 5 and 6 is relevant. PW.1 - complainant and son of the accused and the deceased deposed that he found an injury on the head of his mother (deceased). PW.4, maternal uncle of PW.1 and PW.3 also deposed that he found an injury on the back of her head. PW.5, the doctor, who conducted autopsy over the dead body of the deceased, specifically deposed that he found ante- mortem injuries on the dead body of the deceased, the details of which have been extracted above. According to him, the cause of death was due to strangulation associated with smothering. PW.6, *panch* for the autopsy also deposed that he found an injury on the neck of the deceased. Thus, testimonies of PW.1, the complainant, PW.4, maternal uncle of PWs.1 and 3, PW.5, the doctor, who conducted the post-mortem examination, and PW.6, *panch* witness, conclusively establish that the deceased had sustained ante-mortem injuries, thereby indicating a homicidal death.

30. With regard to confession leading to discovery, as already discussed above, according to PW.7, when he questioned the accused as to why he was with the police, he confessed that he was addicted to alcohol, developed suspicion against his wife and while intending to have sex, she resisted him, then he smothered her and killed her. He further confessed that on that night, he had consumed liquor and made his wife to consume toddy. The police have shown him a petty coat and its thread and asked whether he killed his wife with the same. On that, the accused confessed that he killed his wife with the petty coat and thread. The same was seized by the police as in MO.1. Thus, the said disclosure statement, to the extent that it led to the discovery of material objects, is admissible in evidence under Section - 27 of the Indian Evidence Act, 1872. The recovery of the incriminating articles at the instance of the accused is a strong circumstance connecting the accused with the commission of the offence.

31. Though there is no direct evidence with regard to the commission of offence by the accused, the prosecution has successfully established the chain of circumstantial evidence. The circumstance of "last seen together" has been duly proved. The medical evidence establishes that the deceased sustained injuries

which resulted in death. The prior motive on the part of the accused has also been proved, i.e., the accused used to suspect the character of the deceased. All these circumstances form a complete chain pointing unerringly towards the guilt of the accused and are inconsistent with any hypothesis of innocence. Hence, it can be safely concluded that it is the accused who committed the offence.

32. It is contended by learned counsel for the appellant that PW.1 deposed in his evidence that he found an injury on the head of his mother, whereas in Ex.P1 - report given by him to the police, there is no such mention of finding injury and, therefore, such discrepancy would cut to the root of the prosecution. It is apt to note that the complaint (FIR) is not expected to be an encyclopedia of facts. It contains the basic version of the occurrence. Minor omissions or improvements made during deposition do not automatically render the witness unreliable unless they amount to a material contradiction affecting the core of the prosecution case. Therefore, the said contention of learned counsel for the appellant is unsustainable.

33. In view of the aforesaid discussion, it is clear though the prosecution has alleged motive on the ground that the accused

suspected the character of the deceased, the evidence on record does not establish that the accused had the intention to cause death or to cause such bodily injury as was sufficient in the ordinary course of nature to cause death. The incident appears to have occurred in the heat of passion during a sudden quarrel between the husband and wife inside their house and that too both of them were under the influence of alcohol and toddy respectively. Because, as per the evidence of PW.7 before whom the accused confessed that he was addicted to alcohol, developed suspicion against his wife (deceased) and when he intended to have sex, the deceased resisted him, then he smothered her and killed her. In view of the same, the accused was under the influence of alcohol and committed the offence. But however, there is no evidence of premeditation, prior planning, or preparation to commit such offence and must have committed on the spur of moment. At the highest, it can be said that the accused had the knowledge that his act was likely to cause death, but there is no material to establish the requisite intention as contemplated under Section - 300 of IPC. Therefore, the case would fall within the ambit of culpable homicide not amounting to murder. In these circumstances, the offence would be punishable under Section - 304

Part II of IPC, as the act was done with the knowledge that it was likely to cause death, but without an intention to cause death or such bodily injury as is likely to cause death.

34. "*Culpable Homicide*" is a genus and "murder" is its species and all "murders" are "culpable homicides, but all "culpable homicides" are not "murders" as held by the Apex Court in **Rampal Singh v. State of Uttar Pradesh**¹. The intention of the accused must be judged not in the light of actual circumstances, but in the light of what is supposed to be the circumstances. There is nothing on record to suggest that the accused had come and prepared to commit the offence or there was premeditation for commission of offence.

35. Section - 302 of IPC is important in many ways. Persons accused of murder are tried under this section only. Further, if in case, an accused of murder is found guilty of an offence, Section - 302 provides for punishment to such offenders. It states that whoever commits murder shall be punished with either life imprisonment or death (depending on the gravity of the murder) along with fine. The primary point of consideration for the Court in matters relating to murder is the intent and purpose of the accused. That is why, it is

¹. (2012) 8 SCC 289

necessary that the object and intention of the accused is proved in cases under this section. The required materials for murder include intention (must be intended to cause death), cause of death (the act has to be done with the knowledge that the act may cause the death of another and bodily injury (there must be intent to cause such bodily injury as is likely to cause death).

36. In **Basdev v. State of Pepsu**² the Apex Court held as under:

“Of course, we have to distinguish between motive, intention and knowledge. Motive is something which prompts a man to form an intention and knowledge is an awareness of the consequences of the act. In many cases intention and knowledge merge into each other and mean the same thing more or less and intention can be presumed from knowledge. The demarcating line between knowledge and intention is no doubt thin but it is not difficult to perceive that they connote different things. Even in some English decisions, the three ideas are used interchangeably and this has led to a certain amount of confusion.”

². AIR 1956 SC 488

37. It requires to be borne in mind that the test suggested in the aforesaid decision and the fact that the legislature has used two different terminologies, 'intent' and 'knowledge' and separate punishments are provided for an act committed with an intent to cause bodily injury which is likely to cause death and for an act committed with a knowledge that his act is likely to cause death without intent to cause such bodily injury as is likely to cause death, it would be unsafe to treat 'intent' and 'knowledge' in equal terms. They are not different things. Knowledge would be one of the circumstances to be taken into consideration while determining or inferring the requisite intent. Where the evidence would not disclose that there was any intention to cause death of the deceased but it was clear that the accused had knowledge that his acts were likely to cause death, the accused can be held guilty under Section - 304 Part-II of IPC. It is in this background that the expression used in IPC namely "intention" and "knowledge" has to be seen as there being a thin line of distinction between these two expressions. The act to constitute murder, if in given facts and circumstances, would disclose that the ingredients of Section - 300 are not satisfied and such act is one of extreme recklessness, it would not attract the said Section. In order to bring a case within Part III of

Section - 300 of IPC, it must be proved that there was an intention to inflict that particular bodily injury which in the ordinary course of nature was sufficient to cause death. In other words, that the injury found to be present was the injury that was intended to be inflicted.

38. The Apex Court in **Pulicherla Nagara u @ Nagaraja Reddy v. State of Andhra Pradesh**³, held as under:

“Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters - plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under

³. AIR 2006 SC 3010

Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances: (i) nature of the weapon used; (ii) whether the weapon was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident occurs by chance or whether there was any premeditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may.”

39. The Apex Court in **Anbazhagan v. The State represented by the Inspector of Police**⁴, held as under:

“60. Few important principles of law discernible from the aforesaid discussion may be summed up thus:

(1) When the court is confronted with the question, what offence the accused could be said to have committed, the true test is to find out the intention or knowledge of the accused in doing the act. If the intention or knowledge was such as is described in Clauses (1) to (4) of Section 300 of the IPC, the act will be murder even though only a single injury was caused. To illustrate: ‘A’ is bound hand and foot. ‘B’ comes and placing his revolver against the head of ‘A’, shoots ‘A’ in his head killing him instantaneously. Here, there will be no difficulty in holding that the intention of ‘B’ in shooting ‘A’ was to kill him, though only single injury was caused. The case would, therefore, be of murder falling within Clause (1) of Section 300 of the IPC. Taking another instance, ‘B’ sneaks into the bed room of his enemy ‘A’ while the latter is asleep on his bed. Taking aim at the left chest of ‘A’, ‘B’ forcibly plunges a sword in the left chest of ‘A’ and runs away. ‘A’ dies shortly thereafter. The injury to ‘A’ was found to be sufficient in 21

⁴. 2023 SCC OnLine SC 857

ordinary course of nature to cause death. There may be no difficulty in holding that 'B' intentionally inflicted the particular injury found to be caused and that the said injury was objectively sufficient in the ordinary course of nature to cause death. This would bring the act of 'B' within Clause (3) of Section 300 of the IPC and render him guilty of the offence of murder although only single injury was caused.

(2) Even when the intention or knowledge of the accused may fall within Clauses (1) to (4) of Section 300 of the IPC, the act of the accused which would otherwise be murder, will be taken out of the purview of murder, if the accused's case attracts any one of the five exceptions enumerated in that section. In the event of the case falling within any of those exceptions, the offence would be culpable homicide not amounting to murder, falling within Part I of Section 304 of the IPC, if the case of the accused is such as to fall within Clauses (1) to (3) of Section 300 of the IPC. It would be offence under Part II of Section 304 if the case is such as to fall within Clause (4) of Section 300 of the IPC. Again, the intention or knowledge of the accused may be such that only 2nd or 3rd part of Section 299 of the IPC, may be attracted but not any of the clauses of Section 300 of the IPC. In that situation also, the offence would

be culpable homicide not amounting to murder under Section 304 of the IPC. It would be an offence under Part I of that section, if the case fall within 2nd part of Section 299, while it would be an offence under Part II of Section 304 if the case fall within 3rd part of Section 299 of the IPC

(3) To put it in other words, if the act of an accused person falls within the first two clauses of cases of culpable homicide as described in Section 299 of the IPC it is punishable under the first part of Section 304. If, however, it falls within the third clause, it is punishable under the second part of Section 304. In effect, therefore, the first part of this section would apply when there is 'guilty intention,' whereas the second part would apply when there is no such intention, but there is 'guilty knowledge'.

(4) Even if single injury is inflicted, if that particular injury was intended, and objectively that injury was sufficient in the ordinary course of nature to cause death, the requirements of Clause 3rdly to Section 300 of the IPC, are fulfilled and the offence would be murder.

(5) Section 304 of the IPC will apply to the following classes of cases : (i) when the case falls under one or the other of the clauses of Section 300, but it is covered by one of the exceptions to that Section, (ii) when the injury caused is not of

the higher degree of likelihood which is covered by the expression 'sufficient in the ordinary course of nature to cause death' but is of a lower degree of likelihood which is generally spoken of as an injury 'likely to cause death' and the case does not fall under Clause (2) of Section 300 of the IPC, (iii) when the act is done with the knowledge that death is likely to ensue but without intention to cause death or an injury likely to cause death.

To put it more succinctly, the difference between the two parts of Section 304 of the IPC is that under the first part, the crime of murder is first established and the accused is then given the benefit of one of the exceptions to Section 300 of the IPC, while under the second part, the crime of murder is never established at all. Therefore, for the purpose of holding an accused guilty of 23 the offence punishable under the second part of Section 304 of the IPC, the accused need not bring his case within one of the exceptions to Section 300 of the IPC.

(6) The word 'likely' means probably and it is distinguished from more 'possibly'. When chances of happening are even or greater than its not happening, we may say that the thing will 'probably happen'. In reaching the conclusion, the court has to place itself in the situation of the accused and then judge whether the accused had

the knowledge that by the act he was likely to cause death.

(7) The distinction between culpable homicide (Section 299 of the IPC) and murder (Section 300 of the IPC) has always to be carefully borne in mind while dealing with a charge under Section 302 of the IPC. Under the category of unlawful homicides, both, the cases of culpable homicide amounting to murder and those not amounting to murder would fall. Culpable homicide is not murder when the case is brought within the five exceptions to Section 300 of the IPC. But, even though none of the said five exceptions are 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 of Section 300 of the IPC to sustain the charge of murder. If the prosecution fails to discharge this onus in establishing any one of the four clauses of Section 300 of the IPC, namely, 1stly to 4thly, the charge of murder would not be made out and the case may be one of culpable homicide not amounting to murder as described under Section 299 of the IPC.

(8) The court must address itself to the question of mens rea. If Clause thirdly of Section 300 is to be applied, the assailant must intend the particular injury inflicted on the deceased. This ingredient

could rarely be proved by direct evidence. Inevitably, it is a matter of inference to be drawn from the proved circumstances of the case. The court must necessarily have regard to the nature of the weapon used, part of the body injured, extent of the injury, degree of force used in causing the injury, the manner of attack, the circumstances preceding and attendant on the attack.

(9) Intention to kill is not the only intention that makes a culpable homicide a murder. The intention to cause injury or injuries sufficient in the ordinary course of nature to cause death also makes a culpable homicide a murder if death has actually been caused and intention to cause such injury or injuries is to be inferred from the act or acts resulting in the injury or injuries.

(10) When single injury inflicted by the accused results in the death of the victim, no inference, as a general principle, can be drawn that the accused did not have the intention to cause the death or that particular injury which resulted in the death of the victim. Whether an accused had the required guilty intention or not, is a question of fact which has to be determined on the facts of each case.

(11) Where the prosecution proves that the accused had the intention to cause death of any person or to cause bodily injury to him and the intended injury is sufficient in the ordinary course of nature to

cause death, then, even if he inflicts a single injury which results in the death of the victim, the offence squarely falls under Clause thirdly of Section 300 of the IPC unless one of the exceptions applies.

(12) In determining the question, whether an accused had guilty intention or guilty knowledge in a case where only a single injury is inflicted by him and that injury is sufficient in the ordinary course of nature to cause death, the fact that the act is done without premeditation in a sudden fight or quarrel, or that the circumstances justify that the injury was accidental or unintentional, or that he only intended a simple injury, would lead to the inference of guilty knowledge, and the offence would be one under Section 304 Part II of the IPC.”

40. The Apex Court in a recent judgment in **N. Ramkumar v. The State, rep.by Inspector**⁵ also reiterated the aforesaid principle.

41. In **State of Madhya Pradesh v. Udham**⁶ the Apex Court held as under:

“12. Sentencing for crimes has to be analyzed on the touch stone of three tests viz., crime test, criminal test and comparative proportionality test. Crime test involves factors like extent of planning, choice of

⁵ Crl.A. No.2006 of 2023, decided on 06.09.2023

⁶ 2019 SCC OnLine SC 1378

weapon, modus of crime, disposal modus (if any), role of the accused, anti-social or abhorrent character of the crime, state of victim. Criminal test involves assessment of factors such as age of the criminal, gender of the criminal, economic conditions or social background of the criminal, motivation for crime, availability of defense, state of mind, instigation by the deceased or any one from the deceased group, adequately represented in the trial, disagreement by a judge in the appeal process, repentance, possibility of reformation, prior criminal record (not to take pending cases) and any other relevant factor (not an exhaustive list)."

42. In the light of the aforesaid discussion and the principle laid down in the above decisions, coming to the case on hand, there is no evidence of prior planning or preparation. The incident appears to have occurred in a sudden quarrel arising out of suspicion regarding the wife's rejection to have sexual intercourse with the accused. Further, both of them were under the influence of alcohol and toddy. No material shows prior procurement of weapon or calculated conduct prior to the incident. In such circumstances, we are of the opinion that it was a case where an act was committed by the accused with knowledge but without intention. When the offence is committed on the spur of the moment, it indicates the absence of premeditation and

lack of intention to commit murder, which is a crucial factor in converting the offence from Section - 302 of IPC to Section - 304 Part II of IPC. The trial Court did not consider all the aforesaid aspects while imposing life imprisonment on the appellant - accused. Accordingly, this Court while upholding the finding of guilt against the accused, converted the conviction from Section - 302 of IPC to Section - 304 Part-II of IPC and he is sentenced to life imprisonment for the period already undergone. The appellant herein - accused has been in jail from 06.01.2017. Therefore, the Superintendent, Central Prison, Chanchalguda, Hyderabad, is directed to release him, if he is not required in any other case.

43. The present Criminal Appeal is accordingly allowed in part in the above terms.

As a sequel thereto, miscellaneous applications if any, pending in this appeal shall stand closed.

SD/- A V.S.S.C.S.M.SARMA
JOINT REGISTRAR

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SECTION OFFICER

To,

1. The VII Additional Metropolitan Sessions Judge, Hyderabad. (with records, if any)
2. The Chief Metropolitan Magistrate, Hyderabad.
3. The Superintendent, Central Prison, Chanchalguda.(by **special messenger**)
4. The Station House Officer, Chatrinaka Police Station, Hyderabad.

5. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad. [OUT]
6. One CC to Sri P Prabhakar Reddy, Advocate [OPUC]
7. The Secretary, High Court Legal Services Committee, Hyderabad (By Special Messenger)
8. Two CD Copies

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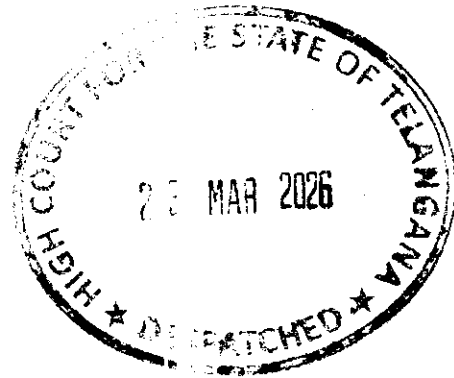
SA/psl

HIGH COURT

DATED: 12/03/2026

JUDGMENT

CRLA.No.3336 of 2018



ALLOWING THE APPEAL IN PART

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