



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on: 16th May, 2023
Decided on: 26th June, 2023

+ **CRL.A. 1089/2018**

PARVEEN RANA Appellant

Represented by: Mr.B.Badrinath, Advocate
(DHCLSC) with Mr. Dhruv
Bhardwaj, Advocates.

versus

STATE Respondent

Represented by: Ms.Shubhi Gupta, APP for the State.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MS. JUSTICE POONAM A. BAMBA

MUKTA GUPTA, J.

1. By this appeal, the appellant challenges the judgment of the learned Trial Court dated 6th June, 2018 by which the appellant was held guilty for murder of one Neha (deceased) who was the wife of the appellant. The appellant also impugns the order on sentence dated 8th June, 2018 whereby the appellant was directed to undergo rigorous imprisonment for life along with fine of ₹50,000/- in default whereof simple imprisonment for two years for offence punishable under Section 302 of the Indian Penal Code, 1860 ("IPC").

2. Brief facts of the case are that the appellant was the husband of the deceased and that the appellant used to fight with the deceased and on 2nd March, 2017, the appellant made a call to his brother Manjeet Rana and confessed his crime and told him "100 par phone kar de, maar di maine uppar padi hai va theek hai". On hearing this, Manjeet Rana (PW-2) woke



up his mother Sushila and asked her to come with him upstairs to see if the appellant and the deceased have fought again. On the second floor, he saw the deceased lying on a double bed in her room with a blanket on her face and after removing the blanket he saw her throat cut and that she was covered with blood. Manjeet and Sushila came downstairs and told everything to his father Satbir Singh Rana who made a call at number 100 from his mobile No.9811773332, which was recorded vide DD No.11A and was marked to SI Suresh Chand (PW-36). The deceased was taken to the hospital by the PCR van and in the meanwhile, SI Suresh Chand along with HC Rajender reached H. No.200, 2nd Floor, where there was one room and in the said room one double bed was lying and blood was found on the bedding of the double bed. Statement of Manjeet Rana (Ex.PW-36/A) was also recorded. The deceased was declared dead at the hospital at 9.42 AM and the dead body was preserved at the mortuary at the BSA Hospital and was sent for post-mortem examination.

3. Dr.Mukesh Kumar (PW-37), along with Dr.Vijay Dhankar and Dr.Brijesh Naraian Singh conducted the post-mortem examination on the body of the deceased on 2nd March, 2016 and prepared his report Ex.PW-37/A. He opined:

“IX. EXTERNAL EXAMINATION

Injuries:

1. *Clean cut incised wound, transversely placed, of size 18cm x 3cm x vertebra deep present over the anterior aspect of neck, 6cm below the tip of the chin, 5cm above sternal notch. Trachea and esophagus were cut through and through along with surrounding muscles, vessels and nerves with cut present over the front of vertebral*



column. Multiple tailings present on the two ends of the injury.

2. Incised wound 2.5 cm x 0.2 cm x skin deep present over the front of neck about 0.5 cm below the injury no. 1.

X. INTERNAL EXAMINATION

a. Head

On reflection of the Scalp, no extravasation of blood was present. Skull was intact. No epidural hemorrhage was present. No Subdural hemorrhage was present over the brain. The pia arachnoid was congested. No Subarachnoid hemorrhage was present over the brain. Brain parenchyma was pale. Brain weighed 1164 grams.

b. Neck

No extravasation of blood was seen in the soft tissues of neck. The Larynx, pharynx and tracheal mucosa were pale. Thyroid gland, strap muscles of neck and vessels of neck were unremarkable. Hyoid Bone and Thyroid Cartilage were intact.

c. Chest

No effusion of blood was present on reflection of chest wall. Pleural cavities were unremarkable. Collar bone, sternum and ribs were intact. Both lungs were pale and weighed 254 grams and 268 grams on the left and right side respectively. Cut section was unremarkable except for pallor.

Pericardium and Pericardial cavity were unremarkable. Heart weighed 236 grams. Great vessels were unremarkable. Valves were patent and competent. Coronary ostia were patent. Patency present in the various segments of the coronary tree. No congenital anomalies were present. Diaphragm was intact.

X X X X X X

XI. OPINION:

Death is due to hemorrhagic shock consequent upon injury to the neck. All injuries are ante-mortem, fresh in duration prior to death and caused by sharp edged weapon. Injury no.1 along with the corresponding



internal injuries is sufficient to cause death in the ordinary course of nature. However, viscera has been preserved to rule out any intoxication at the time of death.”

4. On 2nd March, 2017 secret information about movement of appellant's presence at Panipat/Karnal was received on which SI Suresh Kaushik along with SI Deepak and HC Goverdhan left out of station vide DD No.30A (Ex.PW-36/C). On reaching Village Balla, District Karnal, Haryana, they met one Somvir who produced appellant and SI Suresh and his team brought the appellant to PS S.P. Badli. IO/Insp. Ramesh Kumar interrogated the appellant, arrested him vide memo Ex.PW-25/A and recorded his disclosure statement (Ex.PW-25/C). On completion of investigation, charge-sheet was filed and the appellant was charged for offence punishable under Section 302 IPC. To prove its case, prosecution examined 45 witnesses.

5. Learned counsel appearing on behalf of the appellant assails the impugned judgment on the ground that extra judicial confession is a weak piece of evidence and is insufficient to sustain the conviction of the appellant for which reliance was placed on the decision reported as 2023 SCC OnLine SC 225 Nikhil Chandra Mondal vs. State of West Bengal. It was submitted that even otherwise the prosecution failed to prove the extra judicial confession and also that the voice sample was unreliable and the extraction of original conversation recovered from the phone of PW-2 was also not proved during trial. It was further pointed out that although as per the prosecution case, the dead body was discovered by PW-2 and his mother



pursuant to a call at 8.32 AM, however, the mother was never examined by the prosecution to corroborate the version of PW-2. It was contended that non-examination of material witness i.e. Sushila, was fatal to the case of the prosecution and in support reliance was placed on the decisions reported as (2012) 4 SCC 722 Govindaraju @ Govinda vs. State and (2000) 3 SCC 70 State of U.P. vs. Ashok Dixit & Anr. It was further contended that evidence of PW-12 is doubtful and deserves to be rejected. It was pointed out that PW-12 was not acquainted with the appellant and had seen him for the first time on 2nd March, 2017, when the appellant allegedly borrowed his phone for making call to Manjeet. It was contended that the IO did not make any effort to get the appellant identified by PW-12 by way of judicial TIP rather PW-12 identified the appellant for the first time in Court after five months of the incident. Learned counsel also places reliance on the observation of the learned Trial Court that the witness was sitting in the Court room while the evidence of other witnesses was being recorded in the same case to contend that this renders the identification of the appellant by PW-12 suspicious and unreliable for which reliance was also placed on the decisions reported as (1997) 1 SCC 510 Jaspal Singh @ Pali vs. State of Punjab, (1979) 3 SCC 319 Kanan & Ors. vs. State of Kerala, (1971) 2 SCC 715 Rameshwar Singh vs. State of J & K and (2022) 9 SCC 402 Amrik Singh vs. State of Punjab. It was further contended that the prosecution has not proved the alleged disclosure statement and subsequent recovery of weapon in terms of the law laid down by the Hon'ble Supreme in 2022 SCC OnLine SC 1396 Ramanand @ Nandlal Bharti vs. State of Uttar Pradesh. Prosecution even failed to prove the presence of the appellant at the place of



incident on 1st/2nd March, 2017. It was submitted that the prosecution examined four witnesses from the household i.e. PW-2, PW-3, PW-4 and PW-10 and none of these witnesses deposed about the presence of the appellant in the house on 1st/2nd March, 2017. Furthermore, the incriminating circumstances and other relevant circumstances used against the appellant were not put to him while recording his statement under Section 313 of Code of Criminal Procedure, 1973 (“Cr.P.C”). In this regard reliance was placed on the decision in 2023 SCC OnLine SC 538 Santosh @ Bhure vs. State (GNCTD). Furthermore, the version put forth by PW-6, PW-7 and PW-15 regarding the appellant mercilessly beating the deceased on 1st March, 2017 is not corroborated by the post-mortem report (Ex.PW-37/A) which records only the incised wound on the neck and no other injury on the body of the deceased. Even otherwise, the conduct of these witnesses in not reaching the house of the appellant immediately on becoming aware about the ‘merciless beatings’ coupled with delay in reporting the same to the police i.e. on 14th March, 2017, renders their evidence as an afterthought. It was further contended by learned counsel for the appellant that the apprehension of appellant from Karnal is also doubtful because as per the arrest memo, the place of arrest of the appellant was Delhi which means that if the prosecution version is to be believed the appellant was picked up from Karnal without any formal arrest. Further, no assistance of local police was sought by the police, and all of which is contrary to the procedure and law. In this regard, reliance was placed on the decision in 2019 SCC OnLine Del 11901 Sandeep Kumar vs. State (GNCTD). It was thus submitted, that the chain of circumstances was not proved in the



present case and therefore, the present appeal be allowed and the appellant be acquitted.

6. On the other hand, learned APP for the State submitted that the prosecution has successfully established the chain of circumstance, which points towards the guilt of the accused, and thus, the present appeal be dismissed and the impugned judgment and order on sentence be upheld. To buttress her submission, learned APP relied upon the following circumstances:

- i. That PW-2, PW-3, PW-4, PW-6 and PW-7 duly proved that the appellant used to quarrel with his wife/deceased on the issue of money and food. Mother of the deceased i.e. PW-7 also stated that her daughter/deceased had filed a complaint with the police (Ex.PW-7/A) regarding the harassment faced by the deceased at the hands of her husband/appellant.
- ii. That the appellant had confessed his crime to his brother i.e. PW-2 over a phone call. PW-2 categorically proved the said confession and stated that the appellant had called him at 8.23 AM from mobile No.9871827742 and informed him that he had killed the deceased. PW-14 stated that he was the owner of mobile phone No.9871827742 and that PW-12 was the user of this mobile. PW-12 stated that the appellant came to him on 2nd March, 2017 and asked for his phone at about 8.30 AM for making a call.
- iii. That the FSL report who had matched the voice sample in the audio recording found in the phone of PW-2, had opined that the



voice of appellant tallied with the voice of the speaker who had spoken the word “*kitt hai.... Saw... par call karde*”.

- iv. That Satbir Rana on becoming aware of the incident, immediately made a call to the police at No.100 which was recorded vide PCR form Ex.PW-23/A at 8.39.33 AM.
 - v. That as per the doctor who conducted the post mortem examination (Ex.PW-37/A), the cause of death was injury No.1 caused by sharp edged weapon, which was opined to be sufficient to cause death in ordinary course of nature. Further, as per the subsequent opinion (Ex.PW-37/B), the doctor opined, that the injury mentioned in the post-mortem report can be caused by the knife recovered from the appellant.
 - vi. That the appellant had taken a false plea of *alibi* in his statement under Section 313 Cr.P.C. No defence witness or no documentary evidence was brought by the appellant to prove his plea, rather PW-2, PW-3 and PW-4 had stated that the appellant was residing with the deceased and his two children on the 2nd floor of his house. Further, Sombir (PW-41) who was appellant's cousin stated that the appellant had come to his house at Karnal in the evening hours of 2nd March, 2017 and denied the suggestion that the appellant came 2-3 days prior to 2nd March.
7. Having heard both the parties at length and perusing the record, the following evidence emerges.
8. Manjeet Rana (PW-2) deposed that he along with his wife, his daughter, his mother Sushila and father Sabir used to reside at the ground



floor of his H.No.200, V&PO Khera Kalan, and that the appellant along with his wife/deceased and two children used to reside at the second floor of the house. He further stated that the appellant was unemployed and was in the habit of consuming liquor and that the appellant used to quarrel with the deceased on the issue of money and for not cooking food of his liking. On 2nd March, 2017, at about 8.23 AM, he received a call on his mobile phone No.9711119874 from a mobile No.9871827742 and the appellant asked “*kitt hai*” to which he replied “*main ghara*” and then the appellant asked him to make a call at No.100 and stated “*maar dee hai maine, upar padi hai woh, thik hai*”. He stated that he did not take his brother seriously and that there was a call recorder application on his mobile phone. He informed his mother that a quarrel took place between the appellant and the deceased on which he along with his mother went to the second floor. On opening the room occupied by his brother/appellant he saw his *Bhabhi*/deceased lying on the bed covered with blanket. He removed the blanket and found the deceased’s neck cut. He along with his mother came down and informed his father about the same and his father made a call to the police at No.100. PCR Van reached his house and police removed the deceased to the hospital and police from PS S.P. Badli also reached the spot. He tried finding his brother, but could not find him. His sister Preeti informed about the incident to Nisha who was the sister of the deceased. Police recorded his statement (Ex.PW-36/A), seized the exhibits from the room and on 3rd March, 2017, he handed over his handset of make Le Tv Golden color having No.9711119874 which was seized vide memo Ex.PW-2/C. On 3rd April, 2017, he was taken to the FSL, Rohini, where his and the appellant’s voice



samples were taken, one after the other. In his cross-examination, on being asked as to why he did not take the call of his brother seriously, he replied “*wo kabhi kabhar nashe me aisa kehta rehta tha*”. He further stated that the deceased was working as a nurse in a dispensary and used to leave home at about 7.15-7.30 AM and boarded train from Khera Kalan Station. The children of the appellant used to leave for school at about 7.15 AM and on 2nd March, 2017, children of the appellant had left for school at the usual time. The deceased woke up at about 6.00 AM on 2nd March, 2017 and he saw the deceased preparing meals and he further stated that he left his house at about 6.30 AM for the purpose of milking his buffalo. He stated that he did not see the appellant running from the house. He denied the suggestion that as the deceased did not leave for her job at 7.30 AM, due to suspicion, he went upstairs and found the deceased lying dead.

9. Satbir Singh (PW-13) deposed that on 2nd March, 2017, at about 8.30 AM, he was present at his house and after Manjeet told him, he went to the second floor of his house and found the deceased lying in the pool of blood on the bed on which he made a call at No.100 from his mobile phone No.9811773332 and informed “*mere ladke Praveen ne apni patni ka gala kaat diya aur wo yahan se chala gaya*”. After about twenty minutes, the PCR van reached the spot and the dead body was removed to BSA Hospital. In his cross-examination, he admitted that there was a dispute between him and the appellant for the last many years as the appellant had manhandled him and had spoiled his money. He further stated that he had disowned the appellant in the year 2014 but denied the suggestion that he and his family members had falsely implicated the appellant in this case.



10. Nisha Malik (PW-6) stated that on 2nd March, 2017 at about 9.00-9.30 AM she received phone call from her sister/deceased's sister-in-law Preeti Rana that the appellant had cut Neha's neck. She stated that the marriage between the appellant and the deceased took place on 20th January, 2007. Few days after the marriage the appellant started demanding car from her parents and used to harass the deceased and her parents for dowry. She stated that the appellant was a habitual drinker and used to snatch money from her sister's purse as also the ATM card. She further stated that on 1st March, 2017, at about 8.30-8.45 PM the deceased made a call from her mobile No.9891635231 on her mobile No.9999505951 and informed her that the appellant was beating her mercilessly. She further stated that her sister/deceased was worried about the admission of her children on which the appellant threatened her that he would cut Kartik and Chirag with axe by stating "*na rahega baans na bajegi bansuri*".

11. Amit (PW-15) deposed that he purchased the SIM No.9891635231 which was used by his sister/deceased. He stated that his mother was using mobile No.8130337251 which was issued on the ID of Neha. The deceased got married to the appellant on 20th January, 2002. He stated that the appellant used to harass and beat her sister for demand of vehicle. The appellant also used to drink liquor, snatch money from his sister/deceased and gamble. He stated that at the time of the first child born to his sister/deceased they had given an Alto car to the appellant. On 1st March, 2017, when he reached his house, his mother informed that she had received a call from the deceased that she was beaten by the appellant and that the appellant had threatened to kill the deceased and her children with axe. On



2nd March, 2017, he went to the BSA Hospital to identify the dead body of his sister/deceased (Ex.PW-15/A).

12. Sombir (PW-41) deposed that on 2nd March, 2017, in the evening hours of about 6.00-7.00 PM, his cousin/appellant came to his house. The appellant told him that he had murdered his wife on which he made a call to his maternal uncle Prem r/o Village Murthal, Sonipat. On the same night, police reached his house and apprehended the appellant and took him to Delhi. On 4th March, 2017, the police again came back to his house along with the appellant and the appellant got recovered one bag from which two pants, two shirts and one knife were recovered, which were seized vide memo Ex.PW-34/C and Ex.PW-34/D.

13. Suresh (PW-12) deposed that on 2nd March, 2017 at about 8.30 AM, he was standing outside the *taal* situated on Palla Road, near PS Alipur and the appellant came to him and asked for his mobile phone for making a call on which he handed over his mobile phone No.9871827742. In his cross-examination, he stated that he went to the police station to identify the appellant. During his examination, as per the Court observation, the witness i.e. PW-12 was sitting in the Court at the time when PW-9, PW-10 and PW-11 were examined in the Court.

14. SI Suresh Chand (PW-36) deposed that on 2nd March, 2017, at about 8.40 AM, he received DD No.11A (Ex.PW-20/A) on which he along with HC Rajender reached H.No.200, 2nd Floor, where there was one room and inside the room there was one double bed. Blood was found on the bed and also on the wall. In the meanwhile, SHO and IO/Insp.Ramesh Kumar also reached the spot. He inspected the scene of crime and recorded the



statement of Manjeet Rana (Ex.PW-36/A). Thereafter, he went to the BSA Hospital, collected the MLC and the body was sent to the mortuary at BSA Hospital. At about 11.00 AM, he handed over the *rukka* for registration of the FIR and thereafter, further investigation was carried out by Insp.Ramesh Kumar. On 2nd March, 2017 itself, he again joined the investigation pursuant to a secret information regarding movement of the appellant in District Panipat, Karnal and accordingly, he along with SI Deepak and HC Goverdhan left out of station vide DD No.30A (Ex.PW-36/C). On reaching Village Balla, District Karnal, they met Somvir near *Padha Wali Chopal* who produced the appellant and after interrogation the appellant was taken to PS S.P. Badli. On 3rd March, 2017, the appellant was interrogated and was thereafter arrested vide memo Ex.PW-25/A. Thereafter, on the directions of the IO, he along with HC Ashok and Ct. Mukesh left for village Balla and reached there on 4th March, 2017. Appellant led his team to the house of his *mausa* where he again met Somvir. The appellant led them to the left side room where in the left side corner one bag with the word 'Teacher' written was found. On checking the said bag, one vegetable knife was found in the inner side pocket. Sketch of the knife (Ex.PW-34/B) was prepared and bloodstains were observed on the blade of the knife which was thereafter seized vide memo Ex.PW-34/C along with the bag and other exhibits.

15. Insp. Ramesh Kumar (PW-43) was the Investigating Officer in the present case, who deposed that on 2nd March, 2017, he received an information that one person had cut the neck of his wife on which he reached H.No.200, in *Balle Pradhan wali gali*. He left the PS vide DD



No.12A (Ex.PW-27/A) and reached the spot where blood was found on the bedding of the double bed along with the wall. SI Suresh recorded the statement of Manjeet Rana and crime team reached the spot and inspected the scene of crime. He prepared the site plan (Ex.PW-2/A) at the instance of Manjeet. The FIR (Ex.PW-20/B) along with the original *rukka* was handed over to him for further investigation. He seized the exhibits and thereafter went to the BSA Hospital. He requested Manjeet to hand over his mobile phone, however, Manjeet expressed his inability to hand over the same as he was receiving calls after the death of the deceased. Thereafter, the dead body was sent for post-mortem examination. On the same day he received a secret information regarding movement of the appellant at District Panipat in Karnal on which he directed SI Suresh Kaushik to leave for Panipat. On 3rd March, 2017, the appellant was produced by SI Suresh before him and pursuant to the interrogation of the appellant, the appellant was arrested vide arrest memo Ex.PW-25/A and his disclosure statement Ex.PW-25/C was recorded. On 3rd March, 2017, Manjeet Rana came to the police station and handed over his mobile phone make Le Tv of golden colour having mobile No.9711119874 which was seized vide memo Ex.PW-2/C. Supplementary disclosure statement of the appellant (Ex.PW-34/A) pursuant to which, the clothes worn by the appellant i.e. black colour T shirt and blue colour trouser were seized vide memo Ex.PW-34/F. Thereafter, on his direction SI Suresh again left for Village Balla, District Karnal for effecting recovery. On 7th March, 2017, he moved an application for voice examination test of the appellant and for taking the voice samples of the appellant and Manjeet Rana, and accordingly, on 3rd April, 2017, the



appellant and Manjeet Rana were produced and their voice samples were got recorded. Thereafter upon completion of investigation charge-sheet was filed.

16. V. Laxmi Narsimhan (PW-40) was the FSL (Physics) expert who compared and analyzed the call recording and the sample voice recording of the appellant and Manjeet Rana and tendered his report (Ex.PW-40/A). It was found that the voice of the speaker in the call recording (Ex.Q1) and the voice sample (Ex.S1) are of the same person i.e. Praveen Rana/appellant.

17. In his statement under Section 313 Cr.P.C., the appellant stated that he used to reside with his wife/deceased along with two children at second floor, H.No.200, VPO, Khera Kalan, Delhi-110082 and that his brother and wife and his mother used to reside on the first floor and his father was residing on the ground floor of the said house. He also stated that the deceased was working as a nurse in a dispensary at Kirti Nagar. He denied having made any disclosure statement and stated that false case was registered against him. He stated that he was falsely implicated and that on the intervening night of 1st/2nd March, 2017 he was not at his house and went to Karnal. On 2nd March, 2017, after receiving the information about the death of his wife, he came to Delhi and was falsely implicated in the present case. He stated that his father was a heavy drinker and that he was having litigation with 90% of the villagers regarding property. He further stated that about three-four days prior to the incident, he had an altercation with his father in the presence of his mother and at that time his father said “*adha kaam to tera kar diya he, adha tera 2-4 din me kar doonga*”.



18. Case of the prosecution rests on circumstantial evidence as the two children of the deceased and the appellant though claimed that their father inflicted the knife injury on their mother, however, it was elicited that at the time of incident, they had left for the school and thus, were not the eye witnesses.

19. The prosecution has proved the motive to commit the offence by the depositions of Manjeet Rana (PW-2), the two children of the deceased Master Kartik and Master Chirag, PW-3 and PW-4 respectively, sister of the deceased Nisha Malik (PW-6) and mother of the deceased Smt. Pushpa Choudhary (PW-7). Manjeet Rana, in his deposition clearly stated that the appellant was unemployed and in the habit of drinking liquor whereas the deceased was working as a Nurse in dispensary and the appellant used to fight with the deceased on the issue of money and also that the deceased did not cook food to his liking. Even Master Kartik and Master Chirag stated that their parents used to quarrel though they did not give the reasons. Nisha Malik, sister of the deceased stated that her sister got married to the appellant on 20th January 2007 and few days after the marriage, appellant started demanding car and harassing her sister and parents for the said demand. To fulfill the demand of the appellant, her parents gave Alto car to the appellant at the time of birth of the elder son of the appellant and deceased namely Kartik. She also stated that the appellant was habitual drinker and was involved in gambling etc. He used to snatch the money from the purse of her sister as also her ATM card. Her parents and relatives had complained to the parents of the appellant and his relatives number of times but the appellant continued harassing her sister. According to Nisha



Malik, even on 1st March 2017, her sister had called up her saying that he was beating her mercilessly and she was weeping. Her deceased sister also informed Nisha that two days prior, appellant removed money from her bag and asked Nisha if she could get the admission of her children done. The appellant also threatened to kill Kartik and Chirag with Axe stating that '*Narahega bans naa bajegi bansuri*'. This version of Nisha Malik was reiterated by Smt. Pushpa Choudhary, mother of the deceased who appeared as PW-7 in the witness box and she also stated that at the time of birth of elder son of the deceased and appellant, Alto car was given whereas at the time of Chuchak of younger son, gold chain, bracelet to appellant and gold items to the other family members of the appellant were given but still, the appellant used to come late night under the influence of liquor and harass her daughter by beating her. She also exhibited the complaint Ex.PW-7/A made by the deceased to the police in regard to the harassment caused to her, however, on the request of the family members of the appellant to save her matrimonial home, she went back with the appellant and Neha gave in writing the same in the police station vide Ex.PW-7/B. In the complaint Ex.PW-7/A dated 16th December 2014, the deceased clearly stated about atrocities meted out by the appellant and that he used to beat her with shoes or anything which was easily available, used abusive language and compelled her to give all her earnings which she got from her service. She also alleged that he had taken away her ATM card and original school certificates. Thus, from the evidence of witnesses as also complaint Ex.PW-7/A, it is evident that the appellant used to often beat the deceased, harass her and leave her with no money.



20. Further, soon after the incident, the appellant made a telephonic call from mobile number 9871827742 asking his brother Manjeet Rana to make a call to 100 number saying 'maar di hai maine. uppar padi hai. theek hai'. Since there was a voice recording facility available on the mobile phone of Manjeet Rana (PW-2), the voice was recorded which was later analyzed by the expert V.Laxmi Narsimhan (PW-40) who tendered the report stating that on analyzing the voice sample recordings of the appellant and Manjeet Rana and the call recordings, the voice recording in question was that of the appellant. The only challenge laid to this voice recording is that the mobile phone of Manjeet Rana was not seized immediately. The report Ex.PW-40/A reads as under:-

"1. DESCRIPTION OF PARCEL (S)/EXHIBIT (S):

Sealed cloth parcels : 03 (Three)
Total : 03 (Three)

Three sealed parcels; seals were intact and tallied with the specimen seal as per internal forwarding letter.

2.DESCRPTION OF ARTICLES CONTAINED IN THE PARCEL (S)/EXHIBIT (S)

*Parcel-1: One parcel sealed with the seal of "FSL*YBD* DELHI at three places stated to be containing a CD; on opening, one CD found marked "Annexure CD-A" and it was marked as "Exhibit-1" in the laboratory.*

Exhibit-1" One CD of "Moserbaer" make, containing one relevant audio file as shown in first column of following table. The speaker start with the text in the second column of the table is marked as given in the table below:-

<i>Folder</i>	<i>The Speaker Starts</i>	<i>Speaker</i>
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Name/File Name	with	marked as
+91987182 7742_0823 06_201703 02.amr	"...kith hai...sau...par col kar de..."	"Exhibit -Q1"
	"..mai ghara"	"Exhibit -Q2"

Parcel-2: One parcel sealed with the seal of "RS" at two places stated to be containing one audio cassette; on opening, one audio cassette was found and it was marked as "Exhibit-2" in the laboratory.

Exhibit-2: One audio cassette of "maxell" make containing specimen voice sample. The speaker (i.e. Mr. Parveen Rana) of the specimen voice sample was marked as "Exhibit-S1" in the laboratory.

Parcel -3: One parcel sealed with the seal of "RS" at three places stated to be containing one audio cassette, on opening, one audio cassette was found and it was marked as "Exhibit-3" in the laboratory.

Exhibit-3: One audio cassette of "maxell" make containing specimen voice sample. The speaker (i.e Mr. Manjeet Rana) of the specimen voice sample was marked as "Exhibit-S2" in the laboratory.

3. RESULTS OF EXAMINATION

- *On auditory analysis of recorded speech samples of speakers marked "Exhibit-Q1" and "Exhibit-S1" and subsequent acoustic analysis of speech samples by using CSL (Computerized Speech Lab) revealed that the voice exhibits of speaker marked "Exhibit -Q1" is similar to the voice exhibits of the speaker marked "Exhibit-S1" in respect of their acoustic cues and other linguistic and phonetic features.*

OPINION:



1. Hence, the voice exhibit of speaker marked “Exhibit-Q1 and Exhibit-S1” are the possible voice of the same person (i.e. Mr. Parveen Rana)

NOTE:

- (ii) No sufficient voice exemplars were found available for the speaker marked “Exhibit-S2* (i.e. Mr. Manjeet Rana). Hence the speaker identification test could not be carried out for the same.
- (i) Case exhibits sent to this laboratory for examination have been sealed with the seal of “FSL-V.L.N.-DELHI”.

21. Undoubtedly this report opines about the voice in conversation recorded in the mobile phone Number 9711119874 tallies with that of the appellant. Further the extraction of the voice was done by PW-43 who exhibited his report Ex.PW-43/E as under:

**“DESCRIPTION OF ARTICLES CONTAINED IN THE PARCEL
(S)/EXHIBIT(S)”**

PARCEL No.	Seal Impression	Description of Exhibit(s) contained in parcel(s)
1	03 RS	One sealed cloth parcel containing one Letv make mobile Phone with model No. Le.X507 bearing IMEI No.869087020596240 marked as Ex. “MPI” containing two SIM Cards, one Vodafone make SIM Card bearing SIM No.89911100181025229724 H2SY marked as Ex. “SC1”, one Jio make SIM Card bearing SIM No.89918720400016106849 marked as Ex. “SC2” in the laboratory.

LABORATORY EXAMINATION

The exhibit Mobile Phone marked as Ext. “MPI” and exhibit SIM Cards marked as Ext. “SC1”, Ex. “SC2” were analyzed by



using Universal Forensic Extraction Device (UFED) of M/s CelleBrite Mobile synchronization Ltd. The data extracted from Ext. "MP1" containing the requisite audio call recording file of mobile No. "9871827742" dated 02/03/2017, other audio files, call logs, phonebook contacts and data extracted from Ex. "SC1", Ext. "SC2" are herewith provided in Compact Disc marked Annexure "CD-A"

Encls: 1. One Mobile Phone Ext. "MP1" with two SIM Cards Ext. "SC1" and Ext. "SC2"

2. One Compact Disc marked Annexure "CD-A"

NOTE: 1. The above mentioned Annexure "CD-A" (sealed with the seal of FSL YBD DELHI) has been internally forwarded to physics division for further examination as desired by the forwarding authority.

2. Two sealed cloth parcels, mentioned as S.No.2 and S.No.3 as per forwarding letter 9Parcels with its original seals) has been internally forwarded to physics division for examination as desired by the forwarding authority.

3. Exhibits sent to this laboratory for examination and case report have been sealed with the seal of FSL YBD DELHI."

22. In none of these two reports, do the expert witness opine that the any tampering or manipulation in the recording in the mobile phone is ruled out. Thus, this Court is not inclined to rely on the recorded conversation in the mobile. However, this does not belie the version of PW-2 who received the phone call from the appellant, which stands proved also by the CDR analysis. Relevant CDR in this regard reads as under:

S. No.	Name	CAF	Ph.No.	Call Date	Call Time	CDR exhibit and page no.	To/From	Certificate under Section 65B IEA
2.	MANJEET RANA (PW2) (Brother of accused)	Manjeet EX PW 5/E	9711119874	02.03.17	08:23	EX PW 5/G	9871827742	EX PW5/H
5	SURESH	Naresh	9871827742	02.03.17	08:23	EX PW	9711119874	EX PW



	(PW12) Appellant used this no. to call the complainant	EX PW 14/A				35/F		35/G
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23. Manjeet Rana (PW-2), brother of the appellant clearly deposed that on 2nd March 2017 at about 8.23 am, he received a telephonic call on his mobile phone number 9711119874 from mobile number 9871827742. Appellant asked Manjeet Rana '*Kit Hai*', to which, Manjeet Rana replied '*Mein Ghara*'. It is only thereafter that Manjeet Rana along with his mother went upstairs and found the deceased lying on the bed with the blanket cover. On removing the blanket, he found that the neck of the deceased was cut and blood was oozing out. He also informed the same to his father and his father made a call to PCR, which is corroborated by the PCR call records. Thus, even in the absence of the recording on the mobile phone set being relied upon, version of Manjeet Rana to the extent that the appellant made an extra-judicial confession is reliable and is an important piece of evidence in the chain of circumstances.

24. After the incident, the appellant left the home and was apprehended from Karnal from where, he was brought to Delhi. In his disclosure statement, he stated about leaving a bag at Karnal which was recovered and from the same, besides the cloth, knife was also recovered. This version of the Investigating Officer stands corroborated by the testimony of Sombir (PW-41), cousin of the appellant to whom also, the appellant made an extra-judicial confession about the murdered his wife. Sombir clearly deposed that on 2nd March 2017 in the evening hours at about 6/7 pm, appellant came



to his house and told him that he has murdered his wife. He then made a call to his maternal uncle and on the same night, police reached at his house, apprehended the appellant and took him to Delhi. On 4th March 2017, police again came to his house along with the appellant who had got recovered one bag which contained two pants, two shirts and one knife. He identified the recoveries made. He also stated that the police seized the motorcycle on which appellant came to his house which belonged to one Paramjeet. Subsequent opinion on the knife has been rendered by the post-mortem Doctor vide Ex.PW-37/B, who opined that the injury to the deceased was possible by the said weapon of offence, hence, connecting the recovery of weapon of offence to the offence committed.

25. Though learned counsel for the appellant has challenged the arrest of the appellant stating that no police officer at Karnal was present at the time of his arrest and the appellant was illegally apprehended and his arrest was shown at Delhi at Samaypur Badli Police Station. Undoubtedly, the appellant though apprehended at Karnal was formally arrested only after bringing to Delhi. The presence of local Police officer is essential to ensure that there is no manipulation in the arrest of an accused, and in the present case, even though the local police was not informed, the apprehension of the appellant took place in the presence of one of his family members Sombir who appeared in the witness box and deposed about the sequence of events leading to the apprehension of the appellant from Karnal.

26. The appellant in his statement under Section 313 CrPC, in reply to Question No. 81 has taken the plea that he was not present in the intervening night of 1st/2nd March 2017, thereby taking the plea of alibi. However, in



view of the deposition of Sombir (PW-41), it is evident that the appellant had reached Karnal only in the evening of 2nd March 2017 and from the deposition of PW-2, it was evident that he was at home in the morning of 2nd March 2017 and hence, this plea of alibi is false which is an additional link in the chain of circumstances.

27. In view of the discussion aforesaid, this Court finds no error in the impugned judgment of conviction. As regards the order on sentence is concerned, though the substantive sentence of rigorous imprisonment for life for offence punishable under Section 302 IPC is upheld, however, this Court finds that the appellant has been directed to pay a fine of ₹50,000/- in default whereof to undergo simple imprisonment for two years. Maintaining the fine amount of ₹50,000/-, the sentence in default of payment of fine is modified and it is directed that in case the appellant defaults in paying the fine, he would undergo simple imprisonment for a period of six months.

28. Appeal is accordingly disposed of.

29. Copy of the judgment be uploaded on the website of this Court and be also sent to the Superintendent Jail for intimation to the appellant and updation of records.

(MUKTA GUPTA)
JUDGE

(POONAM A. BAMBA)
JUDGE

JUNE 26, 2023/‘vn’