



CHHATTISGARH

Judicial Services Exam

CIVIL JUDGE CADRE

High Court of Chhattisgarh

Judgement

Volume - 3



CHHATTISGARH JUDICIAL SERVICES

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IPC

S.No.	Case Name	Related to
1.	Devidas Lok Rathod us. State of Maharashtra	Section 84
2.	Kavita Chandrakant Lakhani us State of Maharashtra	Section 366
3.	Rani @ Sahayarant us. The State of Tamil Nadu	Section 306
4.	Section 306	Honour killings inflicted by Khap Panchayats
5.	JOSEPH SHINE us. Union of India	Constitutionality of Section 497 IPC Challenged
6.	Dinesh Kumar Kalidas Patel vs. State of Gujarat, (2018) 3 SCC 313	Indian Penal Code, 1860 201 - Charge under - When can be independently laid and conviction maintained:
7.	Laughanbhai Devjibhai Vasava vs. State of Gujarat, (2018) 4 SCC 329	Indian Penal Code, 1860 - S. 302 or S. 304 - Parameters to be taken into consideration whith deciding question as to whether a case falls under S. 302 or S.304.
8.	Dashrath vs, State of Chhattisgarh, (2018) 4 SCC 428	Indian Penal Code, 1860- 302/149 - Formation of unlawful assembly armed with deadly weapons, with common object to commit murder- Appreciation of evidence:
9.	Dev Kanya Tiwari vs U.P., (2018) 5 SCC 734	Indian Penal Code, 1860 302/34 -Murder trial- antial evidence: Circumstantial evidence:

10.	Ganapathi us. State of T.N., (2018) SCC 549	Penal Code, 1860-S. 302 or S. Murder trial:
11.	State of M.P. vs. Abdul Latif, (2018) 5 SCC 456	Indian Penal Code, 1860 - S. 302 or S. 304 Pt. L[S. 300 Exception 4:]
12.	State of Uttarakhand v. jairnail	Indian Penal Code, 1860- S. 307:
13.	State of U.P vs. Tribhuwan,(2018)1 SCC 90	Indian Penal Code, 1860 - Ss. 325/149 - Accused when held guilty under S. 325 - Imposition of jail sentence and fine on accused:
14.	Naresh Chaubey v. CBI, (2018) 1 SCC 142	Indian Penal Code, 1860 - Ss. 420, 465, 467, 468 and 471 - Wrongful withdrawal and misappropriation of money from treasury on basis of forged bills:
15.	Lalit Yadav vs.State of Chhattisgarh, (2018) 7 SCC 499	Indian Penal Code, 1860- Ss. 228-A, 376 and 342, Rape case
16	Shella Sebastian vs R Jawaharaj, (2018) 7 SCC 581	Indian Penal Code, 1860 -Ss. 463, 465 & 464 and Expln. 2 to S. 464 - Conviction for making of false document - When sustainable:
17.	Kumar v. State,(2018) 7 SCC 327	Indian Penal code, 1860- Ss. 302/149-Muder trial:
18.	Prabhu Dayal v. State of Rajasthan,(2018) 8 SCC 127 Rajasthan, (2018) 8 SCC 127	Indian Penal Code, 1860 - Ss. 302/149 - Murder trial Unlawful assembly:

19.	Manoj Kumar v. State of H.P., (2018) 7 SCC 327	Indian Penal Code, 1860 - S. 302 or S. 304 Pt. II and Ss. 341, 323 and 34 [S. 300 Exception 4) - Ingredients and applicability of Exception 4 to S. 300:
20.	Suresh Singh v. State of M.P., (2018) 7 SCC 381	Indian Penal Code, 1860- Ss. 307, 323, 149 and 148:
21..	Tularam v. State Of M.P., (2018) 7 SCC 777	Indian Penal Code, 1860 - S. 302 or S. 304 Pt. II (S, 300 Exception 4)
22.	Vaifnath Kondiba Khandke v. State of Maharashtra, (2018) 7 SCC 781	Indian Penal Code, 1860 - S, 306 -Abetment of suicide - Ingredients for invoking of S. 306 - Not made out:
23.	Nitin Balkisan Gaikwad v. State Maharashtra, (2018) 7 SCC 685	Indian Penal Code, 1860- Ss. 302/149-Murder trial:
24.	State of A.P. v. Pullagummi Kasi Reddy Krishna Reddy, (2018) 7 SCC 623	Indian Penal Code, 1860 302/149 - Murder trial:
25.	Devidas Loka Rathod v. State of Maharashtra, (2018) 7 SCC 718	Indian Penal Code, 1860 - Ss. 84 302 and 324 - Murder trial- Applicability of S, 84:
26.	Khurshid Ahmed State J&K, (2018) 7 SCC 429	Ranbir Penal Code, 1989 (2 of 1989 Smvt.) (1932 AD) - Ss. 302/341 - Murder trial:
27.	Deepak v. State of U.P., (2018) 8 SCC 228	Indian Penal Code, 1860 - S. 302 or S. 304 Pt. II - Appellant- accused caused used death of deceased

		by a single sword-blow in the rib- cage area of deceased - Offence committed - Determination of:
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Limitation ACT, 1963

S.No.	Case Name	Related to
1.	Mohinder Singh us. Paramjit Singh, (2018) 5 SCC 698	Limitation Act, 1963 - S. 14 - Purpose stated:
2.	Hetal Chirag Patel v. State of Gujarat, (2018) 7 SCC 703	Limitation Act, 1963 - S. 5 - Sufficient cause for condonation of delay in filing appeal - What is:

Indian Evidence Act, 1872

S.No.	Case Name	Facts	Date
1.	Jagdish Chand and anr, versus state of Haryana	Presumption Under Section 113-B, Evidence Act Is A Presumption Of Law.	January 7, 2019
2.	Devi Lal Babula Versus state of Rajasthan	Circumstantial evidences and Extra Judicial Confession in Indian Evidence Act, 1872	Feb 8, 2019
3.	Sukhpal Singh Versus State of Punjab	Circumstantial Evidence of Indian Evidence Act, 1873 The credibility of	Febuary,12 2019

		witnesses is ordinarily not re-visited by the Supreme Court in an appeal by special leave.	
4.	Kripal singh Versus State of Rajasthan	Evidence of Police Official Cannot Be Disregarded Merely Because It was Not Supported By Independent Witnesses	February 15, 2019
5.	Laltu ghosh Versus State of west Bengal	A Related Witness Cannot Be Said To Be An 'Interested' Witness Merely By Virtue Of Being A Relative Of the Victim	February 19, 2019
6.	Mahendran Versus State of tamil Nadu With Ravi gopu and Ors. Versus State Represented by the deputy Superintendent Of police	Entire Testimony of Witnesses Cannot Be Discarded Merely Because Part Of It Was Found To Be False	February 21, 2019
7.	Digamber Vaishnav & anr	The Onus Of The Prosecution	March 5, 2019

	Versus State of Chhattisgarh	Cannot Be Discharged By Referring To Very Strong Suspicion And Existence Of Highly Suspicious Factors Nor Falsity Of Defence Could Take The Place Of Proof.	
8.	Pattu rajan Versus The state of Tamil nadu	Circumstantial evidence- Second FIR Registered Not Barred Merely Because Motive In Both Offences Are The Same.	March 29, 2019
9.	State of mp and ors. Versus Bunty	Section 54 Indian Evidence Act, 1872- Criminal antecedent of candidate cannot said to be clear when acquittal is by granting benefit to doubt.	March 14, 2019
10.	Sampat babso Kale & anr Versus The state of Maharashtra	Section 32(1) of Indian Evidence Act, 1872- Corroborative Evidence required if it is doubtful Whether	April 9, 2019

		Deceased was in fit state of mind while making dying Declaration	
11.	Sadayappan @ Ganesan Versus State, Represented by inspector of police	Witness Can be Called Interested` Only When He/ She Derives Some Benefit Seeing An Accused Person Punished	April 26, 2019
12.	Poonam bai Versus The state of Chhattisgarh	A Dying Declaration Is Not Invalid Merely Because It Was Not Certified By A Doctor	April 30, 2019
13.	State of karnataka lokayukta police station, bengaluru versus m.r hirematha	Electronic Evidence: Failure To Produce Certificate Under Section 65-B of the Indian Evidence Act, Along with the Charge-Sheet Not Fatal To Prosecution	May 01,2019
14	Kamlakar Versus State of Maharashtra	Eyewitness in IEA- Testimony Of The Eyewitnesses Cannot	May 31, 2019

		<p>Be Questioned Merely Because They Were Present At A Place Nearby But Not On The Spot Where The Incident Took Place.</p>	
15.	<p>Ramesh dasu Chauhan and Another Versus The state of Maharashtra</p>	<p>Circumstantial Evidence</p>	<p>July 4, 2019</p>
16.	<p>Shaym @ shyamu & anr. Versus State of delhi and Gyan chand @ sethi Versus State</p>	<p>Non-Joining Public Witnesses the Time of Recovery Not Enough Reason to Doubt the Police Witnesses</p>	<p>July 19, 2019</p>

Presumption Under Section 113.B, Evidence Act Is A Presumption Of Law.

Jagdish Chand and anr.

Versus

State of haryana

(Supreme Court)

Judgement: Hon'ble CJI Ranjan Gogoi, Hon'ble J.R Banumathi, Hon'ble J. Navin Singh

Delivered by: Hon'ble Ranjan Gogoi, CJI.

Delivered on: 7.1.2019

Law points

The necessary ingredients of Section 304B, IPC are as follows

1. The death of the woman was caused due to burns, bodily injuries or due to abnormal circumstances.
2. The death should be within seven years of marriage.
3. It is shown that soon before death victim was subjected to cruelty or harassment by her husband or any relative of the husband.
4. The cruelty or harassment was for as in connection with any demand for dowry.

Facts

The marriage of Shanti Devi (deceased) and Raj Kumar was solemnised on 19.04.1988. Immediately after marriage and despite giving sufficient gifts to the accused party, there were demand for further dowry including demands for a scooter and television. The father of the deceased (Shanti Devi) was unable to fulfil the demands and therefore, deceased was turned out of the matrimonial home. This had happened on several occasions. Finally, in the night intervening 6th and 7th Dec, 1994, Shanti Devi died on account of burn injuries. FIR was lodged by Kalu Ram (Father of the deceased, PW).

Decision of Trial Court

The father-in-law and the mother-in-law of the deceased had been convicted by the trial Court under Section 304B and 498A of the IPC. They sentenced to undergo rigorous imprisonment for 10 years for the offence under Section

304B, IPC and for a period of one year for the offence under Section 498A IPC.

Decision of High Court

The High Court, while affirming the conviction of the accused appellants reduced the sentence to a period of 7 years. Thereafter, the appellants filed appeal before the Supreme Court.

Decision of Supreme Court

The Hon'ble bench observed that the evidence of PW₁ (Doctor), transpires that the death was on account of shock due ante mortem burns which were sufficient to cause death in the ordinary course and the extent of burns on the dead body was 100 percent and were caused by Kerosene. PW₆ (father of deceased, the Complainant] reiterated the version stated by him in the FIR with regard to her ill treatment on account of dowry demand and on several occasions the deceased had been turned out from the matrimonial house.

The Hon'ble bench further observed that death took place within 7 years of the marriage which was solemnised on 19.04.1988 and the incident of death had occurred in the night intervening 6th and 7th Dec, 1994. In light of the aforesaid evidence, all the ingredients necessary to draw the presumption of the commission of an offence under Section 304B IPC have been proved by the prosecution. Consequently, the presumption under Section 113B IEA has to be drawn against the accused. On the basis of same consideration, the offence under Section 498A IPC must also be held to be proved against the accused persons.

Hence, appeal dismissed.

[Circumstantial evidences and Extra Judicial Confession in Indian Evidence Act, 1872]

Devi Lal, Babulal

Versus

State of Rajasthan (2019 SC)

3 Judges Bench of Hon'ble Supreme Court

Hon'ble Ranjan Gogoi CJI, K.M. Joseph and Ajay Rastogi JJ.

Dated: 8th Feb 2019

In this case a three Judges bench of Hon'ble Supreme Court enunciated the principles as regard to Circumstantial Evidence and Extra Judicial Confession."

Law Point

1. Circumstances must establish conclusive nature consistent only with the hypothesis of guilt of accused [Section 302, 120B IPC]
2. Extra judicial confession is weak evidence and the Court is reluctant in absence of a chain of cogent circumstances, to rely on it, for the purpose of recording conviction

Observation by Supreme Court

A. On Circumstantial Evidences

In *Sharad Birdhichand Sarada v. State of Maharashtra (1984 SC)* it was held that the given conditions must be fulfilled before a case against accused is established.

1. Circumstances from which the conclusion of guilt is drawn should be fully established.
 2. Prosecution should elevate its case from the realm of 'maybe true' to the plane of "must be true". (*Shivaji Sahabrao Babade and Anr. v. State of Maharashtra (1973 SC)*)
 3. Facts so established should be consistent only with the hypothesis of the guilt of the accused i.e., they should not be explainable on any other hypothesis except that the accused is guilty.
 4. They should exclude every possible hypothesis except the one to be proved.
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5. There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

In *Sujit Biswa v. state of Assam (2013 SC)* & *Raja Alias Rajinder v. State of Haryana (2015 SC)*, the Apex Court propounded that while scrutinising the circumstantial evidence a court has to evaluate it to ensure the chain of events is established clearly and completely to rule out any reasonable likelihood of innocence of the accused.

B. On Extrajudicial Confession

Hon'ble bench observed that Court while dealing with extra judicial confession should be very cautious as it is weak evidence and in the absence of chain of cogent circumstances court should be reluctant to rely on it.

Evidentiary value of extra judicial confession is very weak and as it is used against the maker, as a matter of caution it is advisable for court to look for the corroboration with other evidence on record.

[Circumstantial Evidence of Indian Evidence Act, 1872]

The credibility of witnesses is ordinarily not re-visited by the Supreme Court in an appeal by special leave.

Sukhpal Singh
Versus
State of Punjab

Division Bench of Hon'ble Supreme Court

Hon'ble A.M. Khanwilkar and K. M. Joseph, J.

Delivered By: K. M. Joseph, J.

Dated: February 12, 2019

Law point

1. The question of motive may assume significance in a prosecution case based on circumstantial evidence. But the question is whether in a case of circumstantial evidence inability on the part of the prosecution to establish a motive is fatal to the prosecution case or not.
2. The credibility of witnesses is ordinarily not re-visited by the Supreme Court on an appeal by special leave.

Brief facts

On 27/06/1998 upon discovery of an unidentified body near a canal and the case being registered and upon investigation being conducted the appellant along with another came to be charge sheeted and charged with the commission of offences under Section 30 read with Section 34 of the IPC. They were also charged with the offence under Section 20 of the IPC.

The prosecution case was made as per the depositions made by the three prosecution witnesses as below:

1. P.W.7, brother in law of the deceased deposed that the deceased was having a taxi and on 26.6.1993 he along with the deceased was present at the taxi stand. Then both the accused came there. They asked the deceased to take them in his taxi and he left with them. No doubt, in cross examination he does say that 4 or 5 taxis in addition to their two taxis

were present at the taxi stand. He is not able to give the names of other taxi drivers or the registered numbers of their vehicles. He had a separate taxi. There is nothing vital in his cross examination which could be said to demolish his examination. In-chief.

2. P.W.8 stated that 21/2 years or 3 years ago when he reached village Thandewala, he found on the canal bank the van of the deceased where both the accused were sitting in the van. He was to go to Amritsar so he stopped the van. He stated that the registration number of the van was 3332. He stated he knew the deceased and both the accused. He further stated that the deceased was not present in the van. He asked the accused as to where the deceased was as he wanted to hire his taxi, thereupon the accused told him that they had some secret work so they did not bring the deceased with them. He would say after 6 or 7 days he learnt that dead body of the deceased was recovered. He made a statement to the police.
3. In cross examination of P.W.8 he also says that he did not, say before the police that he stopped the van as he wanted to engage the van to go for holy dip at Amritsar nor did he stated to the police that he was to hire the van of the deceased.
4. PW9 is an employee of the cooperative Bank as a gunman. He submitted that on 26/06/1993 he came on a scooter and when he reached bus adda of village Jabelwali it started raining, ne stopped there The deceased came there in his van from Muktsar side. Both the accused were sitting in the van. On seeing him deceased brought the van near him as he was his brother-in-law, He asked him to accompany but PW9 told him that he has scooter. However, it is deposed that the appellant asked the deceased to hurry up as he was getting late. Then the van left towards he saw the van of the deceased turning downstream of the canal water of Rajasthan Canal
5. In the cross examination of PW9 he deposed that the canal was at a distance of half kilometer from Jabelwali bus stand. Bus stand Jabelwali is at a distance of 8 or 10 kilometers from Muktsar. He also stated that his duty hours in the Bank are from 10.00 a.in. to 9.00 p.m. as gunman. The van of the deceased, according to him, came to him at the bus stand at about 9 a.m.or 10 a.m. He was at a distance of 10 to 15 killas from Jabelwalt bus stand when it started raining. He stood at the bus stand for about 15-20 minutes. He left the bus stand on scooter 5 to 7 minutes after the van left towards Kakapura. He also deposed that he did not know

the relation except the appellant's wife. It would be noticed that there is no suggestion in the cross examination however that he does not know the appellant or that he has never seen him before.

6. The appellant admittedly was working as a police officer. The next circumstance which has been relied upon by the prosecution is the recovery of service revolver of appellant accused - the gun along with empty cartridges and live cartridges, The evidence of PW 15- officer would show that on 09.7.1993, the appellant was arrested along with co-accused.
7. The Maruti van belonging to the deceased was also produced and the same was taken into possession in the presence of Gurdev Singh and Head Constable Surinder Singh. PW15 stated that the appellant was interrogated. He disclosed that the appellant accused concealed .38 bore revolver along with 3 live cartridges and 2 empty cartridges and Rs.20,000/- cash in an iron box lying in his house and same was hidden. The statement was attested by Gurdev Singh (Sarpanch) and Surinder Singh. A 38 bore revolver, 2 empty cartridges and 3 live cartridges were recovered as per the statement from an iron box from the store of his house. The key was taken out by him from the almirah of the appellant. The revolver and cartridges were sealed after making into parcels. They were taken into possession. A seal was prepared which was handed over after use to Gurdev Singh.
8. It was also established from the statement of PW15, the investigating officer, that after the post-mortem, a bullet was produced before him which was recovered at the time of post-mortem on 26.7.1993. The revolver was recovered on 11.7.1993. In cross examination P.W.15 has spoken about sending the revolver and bullet for forensic examination.
9. The report of the Forensic Science Laboratory is to the effect that the bullet which was marked as BI was fired from .38 bore revolver No.673. The report of the forensic laboratory reads as follows; "One point .38 inch jacketed bullet marked B/ 1 contained in parcel 'A' has been fired from 38 inch revolver No.A673.
10. Also, the appellant accused pleaded in statement given under Section 313 Cr.P.C. as:
"I am innocent. I have been falsely implicated. I was suspended by S.S.P. "Faridkot on 3.5.1993 and was sent to Police Lines, Faridkot, where I remained present in the months of May and June 1993 throughout. In May