G. PARSHWANATH

*v.*

STATE OF KARNATAKA

(Criminal Appeal No. 628 of 2005)

AUGUST 18, 2010

**[HARJIT SINGH BEDI AND J.M. PANCHAL, JJ.]**

*Penal Code, 1860 – ss.302 and 201 – Punishment for murder and for causing disappearance of evidence – Prosecution case rested on circumstantial evidence – Charred bodies of accused's wife and minor son recovered from the house of accused – Accused suspected the character of his wife and that he had not fathered the child – Accused's mother-in-law testified that the accused subjected his wife to cruelty – Door of the accused's house was found locked from outside – Kerosene was found present on the dead bodies – Trial court convicted the accused u/ss.302 and 201 and sentenced him to life imprisonment – Conviction affirmed by High Court – On appeal, held: The prosecution sufficiently proved that the deaths were homicidal –More than one and totally inconsistent defences were taken by the accused – The suicide theory put forth by the defence is not only improbable but also impossible – The accused had sufficient motive to kill his wife and the child – The chain of circumstances against the accused when viewed with the false explanation given by him, with reference to the incident in question, makes it clear that the accused was the only person responsible for murders of the two deceased – Conviction upheld.*

*Evidence – Circumstantial evidence – Appreciation of – Law discussed.*

**The wife and the minor son of the appellant died of extensive burn injuries. Placing reliance upon the**

A circumstantial evidence in the facts and circumstances of the case, the Sessions Judge convicted the appellant under Sections 302 and 201 IPC and sentenced him to life imprisonment. The conviction was affirmed by the High Court.

B In the instant appeal, the appellant challenged his conviction stating that the circumstances on which the prosecution proposed to rely were not firmly established nor did they form a chain to indicate that it was the appellant and appellant alone who had committed C murders of the two deceased.

Dismissing the appeal, the Court

HELD:1. The evidence tendered in a court of law is D either direct or circumstantial. Evidence is said to be direct if it consists of an eye-witness account of the facts in issue in a criminal case. On the other hand, circumstantial evidence is evidence of relevant facts from which, one can, by process of intuitive reasoning, infer about the existence of facts in issue or *factum* E *probandum*. In cases where evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should, in the first instance, be fully established. Each fact sought to be relied upon must be proved individually. However, in F applying this principle a distinction must be made between facts called primary or basic on the one hand and inference of facts to be drawn from them on the other. In regard to proof of primary facts, the court has to judge the evidence and decide whether that evidence proves G a particular fact and if that fact is proved, the question whether that fact leads to an inference of guilt of the accused person should be considered. In deciding the sufficiency of the circumstantial evidence for the purpose

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of conviction, the court has to consider the total cumulative effect of all the proved facts, each one of which reinforces the conclusion of guilt and if the combined effect of all these facts taken together is conclusive in establishing the guilt of the accused, the conviction would be justified even though it may be that one or more of these facts by itself or themselves is/are not decisive. The facts established should be consistent only with the hypothesis of the guilt of the accused and should exclude every hypothesis except the one sought to be proved. But this does not mean that before the prosecution can succeed in a case resting upon circumstantial evidence alone, it must exclude each and every hypothesis suggested by the accused, howsoever, extravagant and fanciful it might be. 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; where various links in chain are in themselves complete, then the false plea or false defence may be called into aid only to lend assurance to the court. [Para 11] [394-H; 395-A-H; 396-A-C]

2.1. The first circumstance relied upon by the prosecution is that both the deceased were residing with the appellant and that the incident in question took place in the house of the appellant. The fact that the incident in question has taken place in the house of the appellant is not disputed by the appellant and this fact, also stands firmly proved by the evidence of PW-12 (the mother of the deceased) as well as by other evidence on the record. [Para 13] [396-E-G]

2.2.The second circumstance relied upon by the prosecution is that the wife of the appellant had telephoned her parents on the date of the incident and

A complained about harassment meted out to her by the appellant. The record of the case shows that PW-12, the mother of the deceased, was searchingly cross-examined at length by the defence on different dates; however, the assertion made by her that on the day of incident at about B 11.00 A.M. the deceased had reported cruelty meted out to her over the telephone to her father, could not be demolished at all. PW12 further stated that again at about 1.00 P.M., she herself had telephoned her daughter and as soon as the receiver was picked up by her daughter C the door bell of the house of the deceased rang and, therefore, the deceased had put down the receiver saying that her husband had come and that she would telephone her, i.e., PW-12 at 2.00 P.M. The evidence of PW-12 establishes beyond shadow of doubt that at about 1.00 D P.M. the appellant had visited his house and left the same and subsequently at about 2.00 P.M. a person had telephoned the parents of the deceased informing them about the death of the appellant's wife and her child at the residence of the appellant. Her evidence also makes clear that the incident in question had taken place E between 1.00 P.M and 2.00 P.M. [Para 14] [396-H; 397-A-E; 398-B-D]

2.3. The third circumstance relied upon by the prosecution is that the appellant who had visited his F house at about 1.00 P.M. had left the same and come back when the fire fighters were extinguishing the fire. According to the appellant himself, he had left his house in order to give instructions to the shopkeeper, at whose shop he had given a refrigerator for repair. It is neither G the case of the appellant nor there is evidence to show that any other person had visited his house between 1.00 P.M. to 2.00 P.M. Therefore, the only reasonable inference that can be drawn would be that after the appellant had left the house, no other person had entered the house of H the appellant. PW-4, fireman in the fire brigade, was asked

a crucial question as to wherefrom the door of the house was closed. In reply, it was stated by him that he was not able to say whether the door was bolted from inside or locked from outside. However, in his statement recorded under Section 161 CrPC, he had stated that the door was locked from outside and, therefore, it was broken. As he tried to plead ignorance about the fact whether door was bolted from inside or locked from outside, he was treated as hostile to the prosecution. However, it is settled law that just because a witness turns hostile his entire evidence need not be rejected by court. The trial court, which had the advantage of observing the demeanour of PW4, relied upon his testimony for the purpose of coming to the conclusion that the main door of the house of the appellant was locked from outside. This finding has been approved by the High Court on re-appreciation of the entire evidence. The appellant could have been the only person who could have locked his house from outside. This circumstance was put to the appellant when his statement under Section 313 CrPC was recorded. But no explanation worth the name could be offered by him as to how the door of the house was found locked from outside. In addition, in the proceedings initiated under Section 174 CrPC at the instance of the appellant, he had mentioned that he had locked the door from outside while going out to bring the repaired refrigerator. On the facts and in the circumstance of the case, this finding recorded by the trial court and affirmed by the High Court deserves to be accepted by this Court. Once the conclusion is reached that the door was locked from outside, unpleasant inference would have to be drawn that the door was locked only with the intention to see that the deceased, who were set on fire, were not able to come out from the house nor any outsider was in a position to enter the house and make attempt to rescue the deceased. [Para 15] [398-D-H; 399-A-H]

A B C D E F G H

A **2.4. The fourth circumstance relied upon by the prosecution is that kerosene was found by the Doctor who had conducted autopsy on the two dead bodies. The evidence of the Doctor (PW-21) makes it clear that he had found presence of kerosene on both the dead bodies.** B **Though the Doctor could not give a clear opinion as to whether the death was homicidal or suicidal, but the fact that presence of Kerosene was found on the dead bodies stands amply proved by the evidence of PW-21. [Para 16] [399-H; 400-A-B]**

C **2.5. Another circumstance sought to be relied upon by the prosecution is that the deceased wife was alive and conscious when she was set on fire and it was not probablized by the appellant that when the house caught fire the deceased inhaled carbon monoxide due to which** D **the deceased had died and subsequently they were burnt in the fire which had engulfed the house. The post-mortem reports of the deceased revealed important features regarding the position of the dead bodies and the extent of burns and make it clear that both the deceased** E **were alive when they had received the burn injuries and, therefore, the trial court as well as the High Court were justified in rejecting the contention of the appellant that both the deceased had received burn injuries after they were already dead. [Paras 17, 19] [400-C-D; 405-E-F]**

F *Medical Jurisprudence and Toxicology* by H.W.V. Cox and *Medical Jurisprudence and Toxicology* by Modi – **referred to.**

**2.6. The sixth circumstance on which the prosecution** G **has relied upon is that the deaths were homicidal and not suicidal. The fact that the wife and son of the appellant had died of extensive burn injuries stands amply proved even otherwise by the contents of the post-mortem reports produced coupled with the evidence of the** H **Doctor who had conducted autopsy on the dead bodies.**

The evidence of fire brigade personnel i.e. PW-4 and PW-5 who were the first to enter the house and the photographer PW-14 clearly establishes that both the deceased had died unnatural death due to excessive burn injuries. On perusal of the photographs produced on the record of the case, it is clear that the dead bodies were found lying inside a room next to each other. The scene of offence sketched clearly indicates that the house of the appellant is a big one, having a large courtyard behind the living rooms etc. If the deceased had tried to commit suicide after setting herself on fire she could not have slept peacefully on the floor as is indicated in the photograph because of the intensive heat. Further, the burning process would make her run around and not only in the room but in the entire house. However, the photograph Exhibit P-24 clearly indicates otherwise. The trial court and the High Court have rightly held that the suicide theory put forth by the defence is not only improbable but also impossible. [Paras 20, 21] [405-G-H; 406-A-G]

3. In a case when the motive alleged against accused is fully established, it provides foundational material to connect the chain of circumstances. However, in a case based on circumstantial evidence where proved circumstances complete the chain of evidence, it cannot be said that in absence of motive, the other proved circumstances are of no consequence. The absence of motive, however, puts the court on its guard to scrutinize the circumstances more carefully to ensure that suspicion and conjecture do not take place of legal proof. In the instant case, on the question of motive which prompted the appellant to commit the crime in question, the prosecution has alleged that the appellant had a dislike for his deceased wife as he was suspecting that he had not fathered the child and he was contemplating to marry another girl. The finding recorded by the High

A Court that from a letter relied upon by the defence i.e. Exhibit D-2 it transpires that the appellant was harassing the deceased and treating her with cruelty because he was desirous of marrying some other girl cannot be ignored. The contents of other letters produced by the B defence indicate that there was definitely something wrong between the appellant and his wife. They also indicate that the appellant was suspecting the character of the deceased and definitely causing mental cruelty to her. This constitutes sufficient motive on the part of the C appellant to kill his wife and child. The appellant had initiated divorce proceedings against deceased. Those proceedings were dismissed for default. PW-17 claimed that the appellant's wife used to write letters to her stating that the appellant was subjecting her to ill-treatment D saying that the child was not born through him. Her testimony would indicate that she had given reply to the letter of appellant's wife and one such reply was produced as Exh. P-25. Though this witness was also cross-examined searchingly, nothing could be brought on record to impeach her credibility. The evidence of PW- E 17 also establishes the motive on the part of the appellant for commission of crime in question. [Para 22] [407-B-H; 408-A-G]

4.1. If all the circumstances of the instant case are F taken together coupled with the absence of any material to indicate that the appellant's wife had committed suicide with the child, they lead to only one inference that in all human probability the murders of the deceased were committed by the appellant alone and none else. G From the evidence of PW-3 ASI, it is clear that the appellant, knowing fully well that he had committed murders of his wife and child. gave false opinion to the police on the basis of which UDR proceedings were initiated. By examining the refrigerator repairer, it was H sought to be suggested by the appellant that he was not

present in his house when the incident had taken place. Thus, the defence of the appellant was that a fire had taken place in his house and both the deceased had died because of inhaling of carbon monoxide after which their bodies were burnt because the house was engulfed in fire. However, at another stage the defence of the appellant was that his deceased wife with his child had committed suicide because her parents were pressurizing her to leave matrimonial home for their selfish purpose of having income of the deceased. Whereas, the deceased was not inclined to leave her matrimonial home. Thus, more than one and totally inconsistent defences have been taken by the appellant. All the defences were false to the knowledge of the appellant. Not a single defence was found to be probable or plausible either by the trial court or by the High Court. The appellant could not explain satisfactorily the circumstances in which his wife and child met violent deaths. Therefore, offering of false explanation by the appellant regarding death of his wife and child will have to be regarded as an additional circumstance against him strengthening the chain of circumstances already firmly found. [Para 23] [408-G-H; 409-A-F]

4.2. The evidence on record has been rightly appreciated by the trial court and the High Court. On appreciation of the evidence, the appellant is found guilty. Neither the reasons given by the trial court nor given by the High Court can be termed as perverse so as to call for interference of this Court. [Para 24] [409-G-H]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 628 of 2005.

From the Judgment & Order dated 17.12.2004 of the High Court of Karnataka at Bangalore in Criminal Appeal No. 14247 of 2003.

J.S. Attri, Dr. N.N. Ghatate, Rajesh Mahale, A. Rohan Singh, Aditya, Sanjay R. Hegde, Avijit Roy, Keshav Roy Choudhary (for Corporate Law Group), Gopal Singh, Chandan Kumar, Niraj Jha, D.K. Thakur, Subhash Kaushik, Anil Katiyar, Anis Suhrawardy, S. Mehdi Imam, Mohd. P. Dabas, T. Ahmed, G. Prakash, B. Anand, P.V. Dinesh, M.P. Singh, C.D. Singh, K.H. Nobin Singh, Kuldip Singh, K.K. Pandey, Aruna Mathur, Amarjeet Singh, S. Thanajayan, Promila, Harish Kr., R. Nedumaran, V.G. Pragasam, S.J. Aristotle, P. Ramasubramanin, Rituraj Biswas, T.C. Sharma, Neelam Sharma, A.P. Mayee, Asha G. Nair, Kamini Jaiswal, Atul Jha, D.K. Sinha, Milind Kr., R. Gopalakrishnan, Aruneshwar Gupta, Ranjan Mukherjee, Gopal Prasad, Ratan K. Chaudhary, Abhay Prakash Sahay, J. K. Bhatia, D. Bharathi Reddy, A. Subhashini, H. Wahi, K. N. Gupta, Naresh K. Sharma, Himinder Lal, Prashant, J.R. Das, G.V. Rao, Kamlendra Mishra, Praveen Swarup, D.S. Mehra, P.V. Dinesh, Ramesh Babu M.R., Subramonium Prasad, C.D. Singh, Vibha Datta Makhija, Atul Jha, Dharmendra Kumar Sinha, Manish Kumar Saran for the appearing parties.

The Judgment of the Court was delivered by

**J.M. PANCHAL, J.** 1. The instant appeal questions legality of judgment dated December 17, 2004, rendered by High Court of Karnataka at Bangalore in Criminal Appeal No. 1427 of 2003 by which judgment dated September 1, 2003 delivered by the learned Principal Sessions Judge, Bellary in S.C. No. 91/93 convicting the appellant under Sections 302 and 201 IPC and sentencing him to undergo RI for life and fine of Rs.5,000/- in default RI for six months for commission of offence punishable under Section 302 IPC as well as RI for one year and fine of Rs.2,000/- in default RI for two months for commission of offence punishable under Section 201 IPC, is confirmed.

2. The facts emerging from the record of the case are as under :-

Deceased Chethana was daughter of Jwalnaiah and Smt. Radhamma. The parents of the deceased were residents of Bangalore. Marriage of deceased Chethana took place with the appellant in the year 1987. After marriage the deceased started residing at Bellary because the appellant and his family were residents of Bellary. In the year 1988 the deceased gave birth to a male child, who was named Mahaveer. Initially the relations between the appellant and the deceased were cordial, but, after sometime bickering started taking place between the two of them. As the days passed by, this bickering grew into discordiality resulting in the harassment and cruelty to the deceased by the appellant. The deceased used to complain about harassment and cruelty meted out to her, to her father, mother and sister when she had occasion to meet them. The deceased Chethana had mentioned before her sister Ranjana Jain that the appellant was treating her cruelly and was harassing her because he was having a doubt that the male child was not born through him and that the appellant was having illicit relationship with one girl named Asha of Bangalore. The harassment meted out to the deceased reached such a peak that one day the deceased had to call her parents to Bellary and the parents had to take help of police to take back the deceased to their house at Bangalore. Obviously, the appellant was annoyed and, therefore, the appellant filed a petition for divorce. During the time when the deceased was staying with her parents at Bangalore and when the divorce petition was pending, efforts were made to settle the disputes between husband and wife amicably. The result of those efforts was that the appellant had withdrawn the divorce petition whereas the deceased had started living with the appellant at Bellary. On the surface, the differences appeared to have cooled down for some time but nevertheless ill treatment of the deceased by the appellant and ill feelings between the appellant and his family on one hand and the deceased on the other continued.

On May 13, 1993 around 1.45 P.M. the neighbours of the

A appellant noticed smoke and fumes emitting from the house of the appellant, which was situated at Ganesh Temple Street, Bellary. One of the neighbours summoned fire brigade service and also informed police. Papaiah and Neelakanat, who were then fire brigade officials, rushed to the house along with their B team. They had to break open the front door of the house. When they entered the house, they noticed two completely burnt and charred bodies of a woman and child in one of the rooms. They found that the appellant was not present in the house. They also noticed that the appellant had come back to his house only after C the information about the fire having taken place in his house was conveyed to him.

On receiving a phone call in the police station, ASI on duty went to the spot and made enquiry with the appellant, who by that time had come back to his house. On the basis of the D statement made by the appellant the ASI registered a case as UDR No. 9/93 and sent requisition to the Executive Magistrate to draw inquest proceedings. Accordingly Mr. Mahmood, who was Taluka Executive Magistrate, went to the spot and held inquest on the dead bodies of the two deceased. When the E inquest proceedings were being held, the father of the deceased, i.e., Jwalnaiah arrived at the scene along with Smt. Jayashanti, who was one of the neighbours of the appellant. The statements of the father of the deceased and Smt. Jayashanti were recorded and photographs of the dead bodies were F taken. The dead bodies were, thereafter, sent for post mortem examination.

When the Executive Magistrate was holding inquest proceedings, he suspected that the deaths of the two deceased were unnatural and seemed more to be a case of their murder. G Therefore, he sent intimation to the ASI. On receipt of the intimation the ASI registered a case as Crime No. 121/93 for the offences punishable under Sections 302 and 201 IPC against the appellant alone. After registration of the FIR, the same was sent to the jurisdictional Magistrate as well as to the H

higher officials. Because of the gravity of the incident and offences involved, the investigation was taken over by Somashekar, who was then Inspector of Police. The Police Inspector recorded statements of the neighbours, close relatives and others, who were found to be conversant with the facts of the case. The Police Inspector suspected that the appellant was responsible for the murders of the deceased and, therefore, he arrested the appellant at about 8.00 P.M. Necessary mahazars were drawn and certain incriminating articles as well as documents were seized. During the investigation, it transpired that over and above the complicity of the appellant in two murders, Radhabai, who was mother of the appellant and Jaishree, who was sister of the appellant, were also involved in the murders of the deceased. Therefore, they were also arrested. On conclusion of investigation the appellant, his mother and his sister were charge-sheeted in the court of learned Chief Judicial Magistrate, Bellary for commission of offences punishable under Sections 498A, 302 and 201 IPC.

3. After the case was committed to the Court of learned Sessions Judge, Bellary for trial, necessary charges were framed against the appellant, his mother and his sister. The charges were read over and explained to them. They pleaded not guilty to the same and claimed to be tried. Therefore, the prosecution examined 32 witnesses and produced certain documents in support of their case against the three accused. After recording of evidence of prosecution witnesses was over, the learned Judge explained to the three accused the circumstances appearing against them in the evidence of the prosecution witnesses and recorded their further statements as required by Section 313 of the Criminal Procedure Code. The appellant filed a detailed written statement inter alia mentioning that his father-in-law, who was a former MLA and influential person, had falsely implicated him and his family. It was stated by the appellant that his father-in-law had neither regular income nor properties except one house, which was given by him on rent to tenants, who were paying meager rent of Rs.1,500/- per

A month and thus he was totally dependant upon the income of his daughter – deceased Chethana – who was working as computer engineer at Bangalore before her marriage and supporting the family. What was claimed by the appellant was that because of financial crunch from which his father-in-law B was suffering, his father-in-law was insisting the appellant to come and stay at Bangalore with him as a "Ghar-Jamai", which was opposed by the appellant and since then his father-in-law was nurturing a grudge against him. According to the appellant, he was a man of an independent nature and had more C responsibilities towards his family. According to him, he had the responsibility of running the school established by his family and, in such circumstances, he had refused to accept the offer of his father-in-law and decided to stay at Bellary only. It was mentioned by the appellant that feeling let down, his father-in-D law had started pressurizing the deceased to desert the appellant and come back and stay with him at Bangalore and to continue her computer career. The appellant had claimed in his written statement that after the first Deepawali the deceased was forcibly taken from Bellary to Bangalore by his father-in-law with the help of police. It was further stated that when the E deceased was pregnant and had delivered the first child, the appellant had requested his father-in-law and mother-in-law to send the deceased to Bellary to enable him and his family to perform some religious ceremonies, but his father-in-law had refused to send the deceased and when he had gone to bring F his wife to Bellary, an attempt was made by his father-in-law to assault him through his son. It was also mentioned in the written statement that after the delivery of child Mahaveer, the deceased with the child had come back to Bellary and was living happily with him, but, again her parents had taken away G her with the child forcibly and that is why he had to file a divorce petition on the ground of desertion by his wife with a fond hope that his wife and child would be sent back. According to him, he was never serious about the divorce and that is why he had not taken any further steps to pursue the petition and that is why H the divorce petition was dismissed for non-prosecution. What

was stated by the appellant was that when the divorce proceedings were pending, his wife, i.e., the deceased used to write love letters to him and no complaints were made in those letters about the so-called harassment and cruelty by him to her. It was asserted that due to decline in the income of his father-in-law, the parents of the deceased were pestering the deceased to stay with them whereas the deceased was inclined to stay with the appellant and, therefore, out of frustration the deceased with minor son Mahaveer committed suicide. The explanation offered in his written statement further proceeded to state that on May 13, 1993, he was at home till 1.00 P.M. and as it was a summer holiday for the schools run by him and the deceased was insisting to get the refrigerator back from the repair shop, he had gone to the shop of Sattar Hussein at whose shop the refrigerator was sent for repairs and informed Sattar Hussein that the refrigerator should be sent to his home immediately. It was mentioned by him that thereafter he had proceeded to his school where someone had informed about the fire having taken place in his house and, therefore, he had rushed back on his motorcycle and found that his wife and son were dead. According to him, the PSI had arrested him, taken his signatures on blank paper and after deliberations with his father-in-law, concocted the present case falsely not only against him but also against his mother and sister, who were totally innocent and this was done only with a view to harassing him and seeking vengeance. In his written statement the appellant had made attempt to point out certain discrepancies appearing in the investigation and had ultimately prayed to acquit him of all the charges.

4. It may be mentioned that though the appellant had submitted a detailed written statement, he had not examined any witness in support of his case pleaded in the written statement. During the trial the original accused No. 2, i.e., Smt Radhabai, who was mother of the appellant, *expired and*, therefore, the appellant and his sister Jaishree were tried by the learned Sessions Judge.

A 5. On appreciation of the evidence adduced by the prosecution and certain documents brought on record by the appellant, the learned judge held that no case either against the appellant or his sister was made out by the prosecution under Section 498A IPC. The learned Judge thereafter B proceeded to consider the question whether any case was made out against the appellant and his sister for commission of the offences punishable under Sections 302 and 201 IPC. The learned judge noticed that the case against the appellant and his sister was solely based on circumstantial evidence and C that no circumstances could be brought on record to suggest that the sister of the appellant was responsible for the death of the two deceased. However, the learned Judge came to the conclusion that case against the appellant for commission of offences punishable under Sections 302 and 201 IPC was D proved beyond pale of doubt and sentenced him as noticed earlier.

6. Feeling aggrieved the appellant preferred appeal, which has been dismissed by the High Court, giving rise to the present appeal.

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7. This Court has heard the learned counsel for the parties at length and considered the documents forming part of the appeal.

8. The learned counsel for the appellant submitted that the F appellant had left his house at about 1.00 P.M. to bring back a refrigerator, which was given for repair in the shop belonging to PW-15, who has spoken about the presence of the appellant in his shop at the relevant time and, therefore, the High Court erred in holding that the appellant had left his house at about G 1.00 P.M. after committing murders of the deceased and had come back only after he was informed about the fire having taken place in his house. It was pointed out by the learned counsel for the appellant that the ASI PW-23 had recorded the statement of the appellant on the basis of which the said ASI H had registered a case as UDR 9/93 under Section 174 of the

Criminal Procedure Code regarding unnatural death of the two deceased and, therefore, the whole case built up against the appellant on the basis of some suspicion shown by the Tehsildar, should have been disbelieved by the High Court. According to the learned counsel, the inquest report was a suspicious document because as per the inquest report, which was prepared between 4.00 P.M. and 6.00 P.M. on May 13, 1993, when the inquest proceedings were being held, the father of the deceased had come to the spot and identified the two dead bodies, which was highly doubtful because the father-in-law of the appellant, who was staying at Bangalore, was informed by one PT Master at about 2.00 P.M. that the deceased were dead and distance between Bellary and Bangalore being about 300 Kms., it was not possible for the father of the deceased Chethana to be present at Bellary at the time when inquest proceedings were held and, therefore, inquest report should have been ignored by the High Court. What was argued by the learned counsel for the appellant was that in the inquest report the Tehsildar had recorded that there were 100% burn injuries on the deceased and that her clothes were also burnt and that there were no clothes on the dead body except a small piece of cloth, which was stuck between the thighs and as Tehsildar had not noticed any other clothes on the deceased, the suspicion entertained by the Tehsildar that the case was of murder should not have been acted upon by the police. The learned counsel pointed out the testimony of doctor, examined as PW-31, who had conducted autopsy on the dead bodies of the deceased Chethana and Mahaveer and contended that the report indicated at the best that the child had died a homicidal death but as far as deceased Chethana was concerned in the opinion of the doctor, he was not able to state whether the death of Chethana was suicidal or homicidal and, therefore, the High Court erred in holding that it was proved by the prosecution that the deceased Chethana and her son Mahaveer had died homicidal deaths. What was highlighted was that the trial court did not find any material against the appellant for convicting him under Section 498A IPC whereas

A the sister of the appellant came to be acquitted of all the charges levelled against her and as evidence of prosecution witnesses is not reliable at all, the appellant should have been granted benefit of doubt to which he is entitled to. The learned counsel emphasized that the circumstances on which the B prosecution proposes to rely are not firmly established nor they form a chain to indicate that it was the appellant and appellant alone who had committed murders of the two deceased and, therefore, the appeal should be accepted.

9. The learned counsel for the State argued that it was C sufficiently proved by the prosecution that death of the deceased Chethana and Mahaveer were homicidal deaths whereas motive and conduct of the appellant towards the deceased when they were alive is also proved and if the above mentioned circumstances are viewed with false explanation D given by the appellant with reference to the incident in question, it becomes at once clear that the appellant was the only person responsible for murders of the two deceased. The learned counsel emphasized that on appreciation of evidence the trial court has recorded conviction of the appellant under Sections E 302 and 201 IPC, which finding on re-appreciation of the evidence has been confirmed by the High Court and, therefore, the concurrent findings of facts should not be interfered with by this Court while exercising powers under Article 136 of the Constitution.

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10. It is not in dispute that the case against the appellant rests on circumstantial evidence and, therefore, before adverting to the prosecution evidence against the appellant it would be advantageous to recall to the memory, law relating to appreciation of evidence in a case based on circumstantial G evidence.

11. The evidence tendered in a court of law is either direct or circumstantial. Evidence is said to be direct if it consists of an eye-witness account of the facts in issue in a criminal case. H On the other hand, circumstantial evidence is evidence of

relevant facts from which, one can, by process of intuitive reasoning, infer about the existence of facts in issue or *factum probandum*. In dealing with circumstantial evidence there is always a danger that conjecture or suspicion lingering on mind may take place of proof. Suspicion, however, strong cannot be allowed to take place of proof and, therefore, the Court has to be watchful and ensure that conjectures and suspicions do not take place of legal proof. However, it is not derogation of evidence to say that it is circumstantial. Human agency may be faulty in expressing picturisation of actual incident, but the circumstances cannot fail. Therefore, many a times it is aptly said that "men may tell lies, but circumstances do not". In cases where evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should, in the first instance, be fully established. Each fact sought to be relied upon must be proved individually. However, in applying this principle a distinction must be made between facts called primary or basic on the one hand and inference of facts to be drawn from them on the other. In regard to proof of primary facts, the court has to judge the evidence and decide whether that evidence proves a particular fact and if that fact is proved, the question whether that fact leads to an inference of guilt of the accused person should be considered. In dealing with this aspect of the problem, the doctrine of benefit of doubt applies. Although there should not be any missing links in the case, yet it is not essential that each of the links must appear on the surface of the evidence adduced and some of these links may have to be inferred from the proved facts. In drawing these inferences, the court must have regard to the common course of natural events and to human conduct and their relations to the facts of the particular case. The Court thereafter has to consider the effect of proved facts. In deciding the sufficiency of the circumstantial evidence for the purpose of conviction, the court has to consider the total cumulative effect of all the proved facts, each one of which reinforces the conclusion of guilt and if the combined effect of all these facts taken together is conclusive in establishing the guilt of the accused, the conviction

A would be justified even though it may be that one or more of these facts by itself or themselves is/are not decisive. The facts established should be consistent only with the hypothesis of the guilt of the accused and should exclude every hypothesis except the one sought to be proved. But this does not mean that before B the prosecution can succeed in a case resting upon circumstantial evidence alone, it must exclude each and every hypothesis suggested by the accused, howsoever, extravagant and fanciful it might be. There must be a chain of evidence so complete as not to leave any reasonable ground for the C 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, where various links in chain are in themselves complete, then the false plea or false defence may be called into aid only to lend assurance to the court.

D 12. Having noticed the principles governing the case based on the circumstantial evidence this Court proposes to consider the circumstances relied upon by the prosecution.

13. The first circumstance relied upon by the prosecution E is that both the deceased were residing with the appellant and that the incident in question had taken place in the house of the appellant. The fact that the incident in question had taken place in the house of the appellant is not disputed by the appellant. This fact also stands proved by the inquest F panchnama prepared after holding inquest on the dead bodies of the deceased. The fact that incident in question had taken place in the house of the appellant also stands firmly proved by the evidence of PW-12 who is mother of the deceased as well as by other evidence on the record. Thus, it stands proved that at the time of the incident deceased with her child was G residing with the appellant.

14. The second circumstance relied upon by the prosecution is that deceased Chethana had telephoned her parents on the date of the incident and complained about H harassment meted out to her by the appellant. It may be

mentioned that the contention of the appellant that Chethana had not telephoned her parents on the date of the incident is not accepted either by the trial court or by the High Court. The evidence of mother of the deceased is recorded as PW-12. She has specifically stated that on the date of the incident her daughter had phoned at her residence and receiver was picked up by her husband, i.e., father of the deceased. It was asserted by PW-12 that on telephone the deceased had recounted the harassment to which she was subjected by the appellant. It was the case of PW-12 that after narrating distress and persecution the deceased had put down the receiver saying that she would again telephone later on. According to this witness no phone call from her daughter was received and, therefore, at about 1.00 P.M. she herself had telephoned her daughter, which was attended by her daughter at her residence. What was mentioned by the witness was that as soon as the receiver was picked up by her daughter the door bell of the house of the deceased rang and, therefore, the deceased had put down the receiver on the cradle saying that her husband had come and that she would telephone her, i.e., PW-12 at 2.00 P.M. The record of the case shows that PW-12 was searchingly cross-examined at length by the learned advocates for the defence on different dates. Her cross-examination had begun on April 20, 1999 and concluded on June 3, 1999. However, the assertion made by the witness that on the day of incident at about 11.00 A.M. the deceased had reported cruelty meted out to her over the telephone to her father, could not be demolished at all. Nor anything could be brought on record to doubt the version given out by her. It is relevant to mention that the appellant was son-in-law of PW-12. It was suggested by the appellant himself to PW-12 that PW-12 had told Chethana over telephone that Ranjana who is sister of the deceased and examined as PW-1 in the case would be coming to Bellary to take the deceased to Bangalore. It was also suggested that since Chethana was not willing to go to Bangalore she had told PW-12 over telephone that PW-1 should not come to her residence to take her to Bangalore. These suggestions indicate

A that indirectly it was admitted by the appellant that there was a conversation between the deceased Chethana and her mother over telephone from the house of the appellant on the date of the incident. The claim made by this witness that she had telephoned her deceased daughter at about 1.00 P.M. but as
B soon as the conversation began, the deceased had put down the receiver saying that her husband had come was not challenged at all during her cross-examination. Thus her evidence establishes beyond shadow of doubt that at about 1.00 P.M. the appellant had visited his house and left the same
C and subsequently at about 2.00 P.M. one Mr. P.T. Master had telephoned the parents of the deceased informing them about the death of Chethana and her child at the residence of the appellant. Her evidence also makes clear that the incident in question had taken place between 1.00 P.M and 2.00 P.M.

D 15. The third circumstance relied upon by the prosecution is that the appellant who had visited his house at about 1.00 P.M. had left the same and come back when the fire fighters were extinguishing the fire. As mentioned above, the appellant had visited his house at about 1 P.M. According to the
E appellant himself, he had left his house in order to give instructions to the shopkeeper Sattar Hussain, at whose shop the refrigerator was given for repair. It is neither the case of the appellant nor there is evidence to show that any other person had visited his house between 1.00 P.M. to 2.00 P.M.
F Therefore, the only reasonable inference that can be drawn would be that after the appellant had left the house, no other person had entered the house of the appellant.

PW-4 Papaiah, fireman in the fire brigade was asked a
G crucial question as to where from the door of the house was closed. In reply, it was stated by him that he was not able to say whether the door was bolted from inside or locked from outside. In his police statement recorded under Section 161 of the Code, he had stated that the door was locked from outside and, therefore, it was broken. As he tried to plead ignorance
H about the fact whether door was bolted from inside or locked

from outside, he was treated as hostile to the prosecution. It is settled law that just because a witness turns hostile his entire evidence need not be rejected by Court. The cross-examination of this witness by the prosecution shows that he had admitted that in his statement before the police, it was stated by him that the door was locked from outside. The learned Judge of the trial court who had the advantage of observing demeanour of the witnesses relied upon testimony of this witness for the purpose of coming to the conclusion that the main door of the house of the appellant was locked from outside. This finding has been approved by the High Court on re-appreciation of the entire evidence. As discussed earlier, the appellant had visited his house at 1.00 P.M. and left the same to give some instructions to the shopkeeper for repair of the refrigerator. Thus, the appellant could have been the only person who could have locked his house from outside. This circumstance was put to the appellant when his statement under Section 313 of the Criminal Procedure Code was recorded. But no explanation worth the name could be offered by him as to how the door of the house was found locked from outside. In addition to this admittedly UDR proceedings initiated on the statement of the appellant have been produced on the record of the case. Those proceedings indicate that the proceedings under Section 174 of the Criminal Procedure Code were initiated at the instance of the appellant and the appellant had mentioned therein that he had locked the door from outside while going out to bring the repaired refrigerator. On the facts and in the circumstance of the case, this finding recorded by the trial court and affirmed by the High Court deserves to be accepted by this Court. Once the conclusion is reached that the door was locked from outside unpleasant inference would have to be drawn that the door was locked only with the intention to see that the deceased, who were set on fire, were not able to come out from the house nor any outsider was in a position to enter the house and make attempt to rescue the deceased.

16. The fourth circumstance relied upon by the prosecution

A is that kerosene was found by the Doctor who had conducted autopsy on the two dead bodies. The evidence of Dr. Ravichandran PW-21 makes it clear that he had found presence of kerosene on both the dead bodies. The opinion of this Doctor had been sought as to whether the death was B homicidal or suicidal but the Doctor could not give clear opinion. However, the fact that presence of Kerosene was found on the dead bodies stands amply proved by the evidence of PW-21.

17. The another circumstance sought to be relied upon by C the prosecution is that the deceased wife was alive and conscious when she was set on fire and it was not probablized by the appellant that when the house caught fire the deceased inhaled carbon monoxide due to which the deceased had died and subsequently they were burnt in the fire which had engulfed D the house. The post-mortem report of deceased Chethana shows the following important features -

> "Body is in a *pugilistic attitude,* (ii) smell of *Kerosene emanating from the body*, (iii) swollen *tongue protruding* E out of the mouth, (iii) *blood stained find oozing from nostrils*, (iv) head hair is almost singed over the left half of the head and some short hair is left over the right half of the head and back, (v) heat *ruptures over the abdomen* at places have exposed the peritoneum, (vi) skull, F vertebrae and *brain congested*, (vii) *larynx & trachea congested with presence of soot*, (viii) pericardium & *heart contains current jelly blood clot*, (ix) Large *contains bright red blood* (x) Peritoneum congested, (xi) *stomach is empty*, (xii) Liver is congested, (xiii) 4*th degree burn present on face, back of trunk* and lower half of left leg G whereas 5th degree burn on the trunk and limbs."

It is also important to note here the statement of Taluka Magistrate made on 15.5.1993 wherein he had categorically stated that "at the time of investigation, and from the H circumstances of the spot and from the report of the medical

examination of the bodies, it is revealed that both the deceased were made to stop breathing and thereafter, kerosene was poured on them and they were burnt."

The post-mortem report of deceased child Mahaveer reveals the following important features-

A. i) Body is in a *pugilistic attitude,* (ii) smell of *kerosene emanating from the body*, (iii) intestine *protruding* out, (iii) heat ruptures present over the trunk and limbs, (iv) head hair is almost singed, (v) skull, vertebrae and *brain congested* (vii) *larynx & trachea congested with presence of soot,* (viii) pericardium & *heart contains current jelly blood clot*, (ix) Large *contains bright red blood* (x) Peritoneum congested, (xi) *stomach is empty*, (xii) Liver is congested, (xiii) *5th degree burn present on body except on back of trunk* whereas 6th degree burn on *both the knees, wrist & right ankle.*

B. Opinion in post mortem regarding death of Mahaveer is;- "...burns are homicidal in nature, precipitated by Kerosene"

In the report made under Section 174 Criminal Procedure Code following facts were noticed regarding position of the dead bodies, extent of burns and materials recovered from the scene of incident -

"(i) Re' position of bodies:-

Dead bodies were found in dressing room (first room). Child's head was resting towards Chethana. *Head of the body was resting on half filled wheat bag. Fingers of the body was burnt.*

(ii) Re' Extent of burn in the room:-

The investigation report shows that the northern, eastern and southern side of the room had the impact of flames.

A The bodies were found near the southern side of room. Western side of the room did not have any impact. *An iron bucket and steel mug were found near the bodies, which were smelling of kerosene oil.*

B (iii) Re' items seized during investigation:-

Apart from other things a bucket and mug smelling of kerosene, *a used matchstick found near the main door of house,* door planks, near the *main door outside, a brass and steel door latch on which the words Phillips/Lever is* C *written and appeared to have been broken by pressure."*

18. At this stage, it would be relevant to refer to Medical Jurisprudence and Toxicology by H.W.V. Cox wherein burns inflicted before or after death is dealt with at Page 322. The D learned author has made following pertinent comments on the said page -

"Were the Burns inflicted before or after Death? - This primary decision is of great forensic importance, because of the possibility of the disposal of a criminal death in a E fire. The differentiation between antemortem and post-mortem burns must be attempted in every examination of a fatal burning. Although this may be difficult or even impossible in some cases, it must be uppermost in the mind of the medical examiner.

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The most important criterion is the presence or absence of a vital reaction at the margin of the burns. Where part of the body surface is burnt during life, there will almost inevitably be a zone of hyperemia at the edge G of the burn area, except when death follows very soon afterwards. While the person is still alive, there may be reddening of the skin even beyond this zone, but this may fade after death leaving only the marginal zone of erythema at the edge of the burn. This may vary in width but is usually a centimetre or so unless death supervened very soon. It H

is due to oedema of the tissues and capillary dilatation and merges with the edge of the burn which may show blistering or charring. Unfortunately, where death occurs very rapidly (within a few moments) then the erythematous margin of an ante-mortem burn may be indistinct or even absent. However, wherever survival persists for more than a few moments it is almost invariably found.

The presence of a vital reaction is absolute proof that the person was alive during the fire as this cannot be simulated in a post-mortem burn. Blistering and reddening of the actual burned area can occur in a post-mortem burn but not the peripheral zone of vital reaction.

Difficulty arises where the body is completely covered with burns so that no unburnt skin remains to display a vital reaction. Where the body is actually charred or incinerated then naturally this aspect of determining the time of the burn is impossible."

"The next important matter is the presence of carbon monoxide in the body, which may be obvious even externally by the pinkness of the post-mortem hypostasis. In many fire victims, *the first incision at autopsy reveals a cherry-pink colour of the blood and muscles which can be confirmed by simple spectroscopic examination to be due to carboxyhaemoglobin.* Even in rapid fires such as in automobiles, considerable quantities of carbon monoxide may be released and be respired even though life only survives for a moment or two.

However, great caution must be used in interpreting carboxyhaemoglobin in fire victims. The following two rules are of first importance:-

(a) *If the tissues of a deceased victim contain a significant quantity of carbon monoxide (say more than 10% saturation) then the victim must have been alive during the fire.*

A (b) However, if the tissues contain no carbon monoxide, this does not mean that he must have been dead during the fire."

Again Modi in his Medical Jurisprudence and Toxicology has made following relevant observations at Page 212A -

B

(a) External

The face is either calm and pale in slow asphyxia or distorted, congested and cyanosed in cases of sudden C asphyxia. The lips and nails are livid. Cadaveric lividity is more marked and best seen within few hours of death. *The tongue is protruded in most cases and the frothy and bloody mucus comes from the mouth and nostrils.* Rigor mortis is usually slow to commence, but may be rapid in D some cases.

(b) Internal

The mucous membrane of the trachea and the larynx is cinnabar-red due to its injection and contains froth. The E lungs are dark and purple in colour and gorged with dark venous blood. On being cut, they exude frothy, dark, blood stained fluid. The air-cells are distended or even ruptured due to emphysema. *The right cavity of the heart is full containing dark coloured, imperfectly clotted blood, and* F *so are the pulmonary artery and the venae cavae.* The left cavity, the aorta and the pulmonary veins are empty. In many cases, both sides of the heart are found to be full. If examined soon after death but after rigor mortis has set in, the heart is found contracted and empty or the tension G in the abdomen presses on the inferior vena cava and drives blood up into the heart. Similarly, the lungs are found heavier with the blood collected in the dependent parts if examined sometime after death, or the tension in the abdomen or contraction of the heart muscle will drive

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more blood into the lungs, irrespective of the cause of death. A

*The brain is congested, but not so much as in death from coma. The abdominal organs are found congested.* Numerous small petechial haemorrhages or ecchymoses known as Tardieu Spots are seen under the serous membranes of various organs due to rupture of the capillaries caused by increased pressure in them. These are usually round, dark and well-defined, varying in size from a pin's head to a small lentil. They are found under the visceral pleurae, pericardium, endocardium, thymus, meninges of the brain and the cord, conjunctivae, epiglottis and even under the skin of the face, neck and eyelids. They are sometimes seen in deaths occurring from scurvy, pupura, haemophilia, bacterial endocardities or coronary thrombosis. These must be distinguished from small post-mortem haemorrhages in the conjunctivae or the skin of dependent parts due to gravity; usually they are more diffuse and even larger". B C D

19. The comments made by the learned author read with the contents of the post-mortem reports of the deceased would enable the court to conclude that both the deceased were alive when they had received the burn injuries and, therefore, the trial court as well as the High Court were justified in rejecting the contention of the appellant that both the deceased had received burn injuries after they were already dead. E F

20. The sixth circumstance on which the prosecution has relied upon is that the death of Chethana and death of her son Mahaveer were homicidal and not suicidal. There is not much dispute that the deceased and her son had died of extensive burn injuries. This fact stands amply proved even otherwise by the contents of the post-mortem reports produced at Exhibit P-10 and Exhibit P-31 coupled with the evidence of the Doctor who had conducted autopsy on the dead bodies. The evidence of fire brigade personnel i.e. PW-4 and PW-5 who were the G H

A first to enter the house and the photographer PW-14 clearly establishes that both the deceased had died unnatural death due to excessive burn injuries. On perusal of the photographs produced on the record of the case, it has been noticed that the dead bodies were found lying inside a room next to each B other. The scene of offence sketched clearly indicates that the house of the appellant is a big one, having a large courtyard behind the living rooms etc. It is to be noted that if the deceased had tried to commit suicide after setting herself on fire she could not have slept peacefully on the floor as is indicated in C the photograph because of the intensive heat. Further, the burning process would make her run around and not only in the room but in the entire house. However, the photograph Exhibit P-24 clearly indicates otherwise. The trial court and the High Court have rightly held that the suicide theory put forth by the D defence is not only improbable but also impossible.

21. The contention of the appellant that because of the mental pressure on the deceased, she had committed suicide is not supported by any material evidence on the record. It is true that the evidence shows that Jwalnaiah who was father of E the deceased was an active politician and an MLA and he used to have lots of visitors at his house everyday. It is also true that he had let out a portion of his house on rent. However, these facts would not show that he was welcoming and entertaining the visitors of his house from the income of his deceased F daughter Chethana. The evidence of witness Ranjana PW-1 who is sister of the deceased shows that Chethana had taken up the job only after her marriage and not before her marriage. To contend that the deceased committed suicide because of the mental pressure exerted on her by her parents is to ignore G the realities of life.

22. The argument that in absence of motive on the part of the appellant to kill the deceased benefit of reasonable doubt should be given, cannot be accepted. First of all every suspicion is not a doubt. Only reasonable doubt gives benefit to the H

accused and not the doubt of a vacillating judge. Very often a motive is alleged to indicate the high degree of probability that the offence was committed by the person who was prompted by the motive. In a case when the motive alleged against accused is fully established, it provides foundational material to connect the chain of circumstances. It affords a key on a pointer to scan the evidence in the case in that perspective and as a satisfactory circumstance of corroboration. However, in a case based on circumstantial evidence where proved circumstances complete the chain of evidence, it cannot be said that in absence of motive, the other proved circumstances are of no consequence. The absence of motive, however, puts the court on its guard to scrutinize the circumstances more carefully to ensure that suspicion and conjecture do not take place of legal proof. There is no absolute legal proposition of law that in the absence of any motive an accused cannot be convicted under Section 302 IPC. Effect of absence of motive would depend on the facts of each case. Therefore, this Court proposes to examine the question of motive which prompted the appellant to commit the crime in question. The prosecution has alleged that the appellant had dislike for his deceased wife as he was suspecting that he had not fathered the child and he was contemplating to marry another girl. Some of the letters produced by the prosecution would indicate that the deceased was suffering a lot because of unnatural conduct of the appellant towards her. The evidence of mother of the deceased would also show that the deceased was subjected to harassment. The finding recorded by the High Court that from a letter relied upon by the defence i.e. Exhibit D-2 it transpires that the appellant was harassing the deceased and treating her with cruelty because he was desirous of marrying some other girl cannot be ignored. The contents of other letters produced by the defence namely Exhibit D-5, D-6 and D-9 indicate that there was definitely something wrong between the appellant and his wife. They also indicate that the appellant was suspecting character of the deceased and definitely causing mental cruelty to her. This constitutes sufficient motive on the part of the

A appellant to kill his wife and child. It may be mentioned that the appellant had initiated divorce proceedings against deceased. Those proceedings were dismissed for default. No doubt, these are letters prior to divorce proceedings but they definitely give indication as to the character and conduct of the appellant
B towards deceased. The testimony of Sushila Gogi recorded as PW-17 shows that the appellant was the son of her mother through her second husband. It was claimed by her that the deceased used to write letters to her stating that the appellant was subjecting her to ill-treatment saying that the child was not
C born through him. Her testimony would indicate that she had given reply to the letter of Chethana and one such reply was produced at Exh. P-25. She informed the Court that the appellant was intending to contract second marriage and, therefore, she had written Exh. P-25 to Chethana and informed
D Chethana that she would give suggestions to her to avoid such an eventuality if she was inclined to meet her. Though this witness was also cross-examined searchingly, nothing could be brought on record to impeach her credibility. It is relevant to mention that the suggestion made by the defence that this witness had demanded money and on refusal by the accused
E she was deposing against them was emphatically denied by her. At the time of tendering evidence before the Court she was serving in Karnataka University. She was serving the University since 1982 and her husband was working as Clerk in a bank. She had four children, who were studying. There is nothing on
F record to probablize the case of defence that this witness had made any attempt to blackmail the appellant. It is well settled that suggestion made but assertively denied does not constitute evidence. Thus her evidence also establishes the motive on the part of the appellant for commission of crime in question.

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23. If all the circumstances mentioned above are taken together coupled with the absence of any material to indicate that Chethana had committed suicide with the child, they lead to only one inference that in all human probability the murders
H of the deceased were committed by the appellant alone and

none else. From the evidence of PW-3 ASI Nagaraj, it is clear that the appellant knowing fully well that he had committed murders of his wife and child gave false opinion to the police on the basis of which UDR proceedings were initiated. By examining the refrigerator repairer it was sought to be suggested by the appellant that he was not present in his house when the incident had taken place. Thus, the defence of the appellant was that a fire had taken place in his house and both the deceased had died because of inhaling of carbon monoxide after which their bodies were burnt because the house was engulfed in fire. However, at another stage the defence of the appellant was that his deceased wife with his child had committed suicide because her parents were pressurizing her to leave matrimonial home for their selfish purpose of having income of the deceased. Whereas, the deceased was not inclined to leave her matrimonial home, thus more than one and totally inconsistent defences have been taken by the appellant. All the defences were false to the knowledge of the appellant. Not a single defence was found to be probable or plausible either by the trial court or by the High Court. The appellant could not explain satisfactorily the circumstances in which his wife and child met violent deaths. Therefore, offering of false explanation by the appellant regarding death of his wife and child will have to be regarded as an additional circumstance against him strengthening the chain of circumstances already firmly found.

24. The evidence on record has been rightly appreciated by the trial court and the High Court. On appreciation of evidence, the appellant is found guilty. Neither the reasons given by the trial court nor given by the High Court can be termed as perverse so as to call for interference of this court in the instant appeal. The appeal lacks merits and is, therefore, liable to be dismissed.

25. Hence, the appeal is dismissed.

B.B.B Appeal dismissed.