SUPREME COURT OF INDIA

Godabarish Mishra

Vs.

Kuntala Mishra

Crl.A.No.343 of 1991

(G.N.Ray and B.L.Hansaria JJ.)

24.10.1996

JUDGEMENT

G. N. RAY, J.:-

1. In this appeal the order of acquittal in favour of the accused Kuntala Mishra, by the Judgment dated October 1, 1986 passed by the High Court of Orissa in Criminal Appeal No. 276 of 1984 (reported in 1986 Cri LJ 1917). setting aside the conviction of the said accused under Section 302, I.P.C. by the Judgment dated December 17, 1984 passed by the learned Sessions Judge, Sambalpur in Sessions trial No. 46 of 1984 and consequential sentence of life imprisonment imposed on the accused in under challenge.

2. The prosecution case in short is that the deceased Geeta was the daughter-in-law of the accused Kuntala Mishra. The accused was a midwife (Dhai) in the Maternity Hospital at Sambalpur. When negotiation of marriage of the deceased with Subhas, son of the accused had taken place, a sum of Rs. 8000/- was demanded as dowry by the accused and her brother Satyaprasad. Though the father and brother of Getta initially did not agree to pay the said sum because of their financial hardship,

they, however, agreed to pay the said amount on the date of marriage i.e. on May 24, 1981. The parents, however, could not pay the said sum at the time of marriage and the party accompanying the bridegroom i.e. husband of Geeta on protest did not participate in the dinner hosted on the occasion of marriage and they returned unhappy. For such non-payment of the said dowry, Geeta was harassed by the accused and her son and was physically assaulted. The accused did not allow Geeta to come to her parents place despite repeated requests by the parents to send their daughter. The father of Geeta ultimately borrowed a sum Rs. 6,000/- and came to Sambalpur where Geeta was living in the quarter allotted to the accused close to the Maternity Hospital with her husband and the mother-in-law and paid the sum of Rs. 6,000/- to the accused in the presence of the husband of the deceased Geeta. The accused had accepted such part payment with reluctance but even then she did not accede to the request of the father of Geeta to sent her daughter with him and the father had to go back alone.

3. During the temporary absence of Subhas, the accused on January 11, 1983 took Geeta to the said Maternity Hospital for D and C operation as Geeta was not having conception. After the operation, Geeta was brought to the quarter of the accused at about 11.30 A.M. on the said day, it is the prosecution that while the deceased was still in drowsy condition because of high sedation, she was strangulated to death by the accused with the help of the string of a petticoat of the deceased. The accused, however, pleaded innocence and in her statement under Section 313, Criminal Procedure Code. She stated that Geeta had committed suicide with the string of her petticoat (saya). It may be stated here that the accused herself lodged a diary at 3.30 p.m. on the date of occurrence in the Sambalpur Town Police Station that after the said D and C operation, both Geeta and the accused had been taking rest in the quarter of the accused and when the accused woke up for sleep at 2.30 p.m., she noticed that Geeta had committed suicide by self-strangulation with the aid of the string of her petticoat.

4. The Office-in-charge of Sambalpur Town Police Station registered a case and directed police Sub-Inspector (PW. 12) to enquire into the said incident of death. Later on, PW. 13 Circle Inspector of Police took charge of the investigation and finding that it was a case of murder, an F.I.R. under Section 302, I.P.C. was drawn up (Ext. 27). After completing the investigation, charge sheet was submitted and the accused faced trial for the offence under Section 302, I.P.C. in the said Sessions Trial No. 46 of 1984 before the learned Sessions Judge, Sambalpur.

5. The Sub-Inspector of Police who first conducted investigation came to the place of occurrence at 3.55 p.m. and prepared a site plan (Ext. 9) and seized the string of petticoat (M.O.1) and a silver necklace (M.O.11) lying on the floor near a leg of the cot below the head of the deceased. The bed head ticket (Ext. 15) and temperature chart (Ex. 16) of the deceased were siezed from the hospital. The medical prescriptions Ext. 10 to 10/5, the pathological reports (Exts. 11 to 11/4 and other medical reports of the deceased (Exs. 12 to 14) were also seized. P.W. 11 the Demonstrator in Forensic Medicine and toxicology of the Medical College Burla, held post mortem examination on the dead body of Geeta on January 12, 1983 at 1.35 P.M. In the said report of the said doctor, five external injuries as indicated were found on the person of the deceased which were ante mortem and the third ligature mark indicated in the report could be caused by encircling the neck by means of

the string of a petticoat (M.O.1) by pulling the ends. The doctor also opined that injuries Nos. IV and V could be caused by finger nails and first blows. On dissection found the skin contused. The doctor opined that death was due to cerebral anoxia as a result of strangulation of neck. The doctor categorically opined that the death was not due to hanging.

6. It may be stated here that on alarm being raised by the accused at about 2.30 p.m., two lady doctors of the Maternity Hospital (PWs .6 and 7) reached the place of occurrence in the quarter of the accused. P.W.7 was first to reach. She has stated that while she was working in the hospital, she hear some noise coming from the quarter. She then rushed and found Geeta lying on the cot in the bed room with a chadar (sheet) on. She examined and found her dated. She has deposed that she had noticed some marks on the front side of the neck of Geeta. The other doctor PW. 6 who also came on hearing noise, found Geeta lying dead on the cot and her body was covered from neck to toe by a sheet. She had also noticed two marks of bruise on the front side of the neck of Geeta and P.W. 6 has deposed that when the said sheet was removed, it was found that Geeta was wearing petticoat (saya), blouse and saree which were intact and not disorganised.

7. P.W. 4 the Pharmacist of the hospital has deposed to the effect that he had given 50 mg. phenargan intra muscular injection to Geeta at about 8.00 A.M. for the purpose of D and C operation and, after such operation, Geeta was discharged from the hospital at 11.30 A.M. on the same day. The lady doctor (PW. 7) has also deposed that the accused wanted to take Geeta after the operation to the quarter but she was advised to take Geeta after some time. The Doctor (PW. 11) has deposed that the effect of 50 mg. phenargan intra muscular injection which was given to Geeta would keep a patient drowsy for 6 to 7 hours and such patient could be overpowered very easily. PW. 11 has also deposed that a patient under the influence of phenargan could not commit suicide be self-strangulation. He has also deposed that D and C operation is conducted at a point of time when the patient completely loses her senses. It has come out in the evidence that the operation had been performed at 10-30 A.M. on the deceased. The lady doctor PW 7 has also deposed that the accused had taken Geeta to her quarter at about 11.30 A.M. and after five minutes she came to the hospital and took some medicine and went away. There is, however, no evidence as to what medicine was taken away by the accused. It may also be indicated here that both the lady doctors P.Ws. 6 and 7 have deposed that when after hearing the noise they came to the room in the quarter of the accused where the deceased was found lying dead on the cot. Both of them had noticed that the door at the back of the room was found closed from inside.

8. It was, however, contended before the learned Sessions Judge of behalf of the accused that as the blood vessels of the artery of the trachea and larynx and the trachea was not found affected by the doctor holding pose-mortem examination, it could not be held with any certainty that suicide by self-strangulation had not been committed. Such contention was made be referring to some observations in Mode's Medical Jurisprudence and Toxicology. It was also urged that the conduct of the accused only suggested of her innocence and not suffering from any guilty complex. The accused did not make any attempt to suppress the unnatural death. On the contrary, immediately on noticing the daughter-in-law lying strangulated, she raised alarm and the doctors cam to her quarter and examined the deceased. She also rushed to the police station and gave a diary containing the

information of suicidal death of her daughter-in-law at 3.30 p.m.

9. The learned Sessions Judge, however, held that although it was a case of circumstantial evidence, the circumstances clearly proved by convincing evidence, established the guilt of the accused in committing the murder of the deceased Geeta by strangulating her. The learned Sessions Judge has indicated that the deceased was harassed on account of non-payment of dowry as demanded and she was not allowed to visit her parents' house for non-payment of dowry amount for which she had written a number of letters to her parents disclosing such facts. On the date of incident, the deceased had undergone D and C operation at about 10.30 a.m. for which 50 mg. phenargan intra-muscular injection was given. The effect of such amount of phenargan in the intra-muscular injection was to last for 5 to 6 hoursy and according to doctor's deposition, a patient on being given intra-muscular injection of 50 mg. of phenargan, would not be in a position to commit suicide by self-strangulation after 5-6 hours by applying sufficient force necessary for committing suicide. There was no one present in the room excepting the accused when Geeta met her death and if the case of self strangulation was ruled out, it was the accused and no one else who could strangulate the deceased. The learned Sessions Judge also pointed out that it came out in evidence that immediately after the operation, the accused wanted to take the deceased to her quarter, but on doctor's advice not to take her immediately from the hospital, she had taken the deceased to her quarter at 11.30 a.m. When the lady doctors PWs. 6 and 7 on hearing alarm raised by the accused went to her quarter, they had noticed the deceased lying on a cot inside the room with a sheet covering her body. One of the lady doctor deposed that on removing the sheet, she found the deceased wearing petticoat, saree and blouse without being disarrayed and disorganised.

10. The learned Sessions Judge also pointed out that according to Modi's Medical Jurisprudence and Toxicology, suicide by self-strangulation is very rare and without a contrivance, with which sufficient pressure required to bring about death can be generated, suicide by self strangulation, cannot be performed because after application of some force, there would be insensitivity thereby loosening the grip on the neck. As in this case, no contrivance with which such self-strangulation could have been committed was found, the case of suicide by self-strangulation was ruled out. Accordingly, the homicidal death of the deceased by strangulation by the accused was the only possibility in the facts of the case. The learned Sessions Judge, therefore, convicted the accused for the offence of murder and sentenced her to imprisonment for life.

11. The Criminal Appeal No. 276 of 1984 was preferred by the accused against her conviction and sentence before the High Court. By the impugned judgment, the High Court has set aside the conviction and sentence passed against the accused by the learned Sessions Judge and acquitted her by giving benefit of doubt. In setting aside the conviction and sentence of the accused, the High Court has indicated the following aspects of the case:-

(a) P.W. 11 holding post-mortem examination of the deceased did not notice the larynx and trachea affected as well as injury in the neck muscle. He also did not find hyoid bone fractured but found

congestion in the deep structure of throat. If suicide be self-strangulation with the help of some contrivance committed, then according to Mode's Medical Jurisprudence and Toxicology, injuries on deep structure of the neck muscles are, as a rule, absent.

(b) The deceased was administered phenargan intra-muscular injection at about 8.00 to 8.30 a.m. According to P.W. 6 the doctor who conducted D and C orporation, the effect of phenargan injection remains for 3 to 4 hours. Other doctor P.W. 11 who held post-mortem examination also stated that with 50 mg phenargan injection, the effect of such injection would be maximum after three hours and would vanish after six hours and the, patient would remain drowsy for 4 to 6 hours.

(c) From the evidence of P. W. 11, the approximate time of death of Geeta was 1.30 to 2.00 p. m. on January 11, 1983.

(d) There is no convincing evidence that the deceased was oppressed or tortured in her inlaw's house. From the letters written by the deceased, since exhibited in the case, though it was revealed that Geeta remained unhappy for not paying dowry amount but the letters did not disclose any extraordinary ill-feeling between Geeta and her mother-in-law.

(e) The conduct of the accused vis-a-vis the deceased showed her anxiety for the well being of the deceased. It was revealed from the evidence both oral and documentary that the accused was getting the deceased regularly treated for gynaecological problems.

(f) The fact that the accused was alone with the deceased at time of her death has not been convincingly proved. Although the doctor (P. W. 7) who came to the quarter of the accused after hearing noise from the quarter has deposed that the door of the room having entry in the back side was closed from inside. Such fact was not stated by her to the police in her examination under Section 161, Criminal Procedure Code. The other doctor (P. W. 6) reached after P. W. 7 and she also did not state to the police that the said door was closed from inside. The Investigation Officer also did not enquire from the doctors as to whether the door was closed from inside. If the said door was not closed from inside, possibility of entry by a third person through such back door cannot be ruled out. Hence, there is no conclusive proof that the accused was alone with the deceased in the house.

(g) The theory of last seen to together is not of universal application and may not always be sufficient to sustain a conviction unless supported by other links in the chain of circumstances.

(h) The conduct of the accused as being restless and perplexed at the time of the incident was quite

natural because it is not unusual to be restless perplexed if the daughter-in-law suddenly dies.

(i) It was not a fact that deceased was covered by a sheet from head to toe by the accused. P. W. 7 the doctor who first saw the deceased did not say that the deceased was so covered from head to toe. P. W. 6 is even more specific and said the deceased was covered with a sheet from neck to toe. It was unusual for a patient who had undergone an operation to be covered by a sheet from neck to toe.

(j) There was nothing unusual or improper for the accused to take the deceased to her quarter at 11.30 a. m. when the operation which was a minor operation and was completed at 10.30 a. m. After waiting up to 11.30. a. m., the deceased was taken to the quarter which was only 20 to 30 cubits away from the hospital.

(k) There was nothing improper in reporting by the accused to the police that the deceased had committed suicide because she entertained the belief that the deceased had committed suicide and P. Ws. 6 and 7 did not contradict the accused that the deceased had not committed suicide.

12. The High Court having held that from the facts and circumstances proved in the case, it was not possible to hold that the accused had committed the murder of the deceased. Hence, she was acquitted by giving her benefit of doubt.

13. At the hearing of the appeal, Mr. Ranjit Kumar, appearing for the accused-respondent, had forcefully contended that conviction on the basis of circumstantial evidence cannot be based unless the circumstances clearly proved and established by reliable and convincing evidence adduced in the case, make a complete chain of events from which no other inference, except the inference about the complicity of the accused in committing the offence, is possible.

14. Mr. Kumar has submitted that it has been clearly established from the material on record that love between the accused and her daughter-in-law, namely, the deceased was not lost. On the contrary, the accused was taking care to get her daughter-in-law regularly checked up and treated for gynaecological problems. There was some bitterness for non-payment of agreed amount of dowry but for such non-payment, the deceased was not harassed or tortured. The High Court after considering the letters written by the deceased to her parents has held that despite unhappiness of the accused for not paying the agreed amount of dowry, there is nothing in the letter to suggest that the deceased was tortured or assaulted or not allowed to go to her parents' house.

15. Mr. Kumar has submitted that the motive of the accused for murdering the deceased has not been established in this case. In a case of direct evidence, absence of motive on the face of clinching evidences against the accused, may lose its impontence but in a case of circumstantial evidence it has great importance. Even if it is assumed that the accused was not satisfied on receipt of the substantial part of the dowry amount and had insisted for further payment, it cannot be safely presumed that she had been harbouring ill-feeling to such an extent which had impelled her to murder the daughter-in-law.

16. Mr. Kumar has also submitted that the intra-muscular injection of 50 mg. phenargan was given to the deceased at 8.00 to 8.30 a. m. According to the doctor holding post-mortem, the approximate time of death was 1.30 p. m. The accused has stated that at 2.30 p. m. when she got up from sleep she had noticed her daughter-in-law lying dead. From the evidences adduced, it is quite evident that about 5 to 5 1/2 hours elapsed between the time when injection was given to the deceased and time of her death. The effect of such phenargan injection completely vanishes within 5 to 6 hours. Hence, there is no difficulty in holding that at the time of committing suicide, the deceased was free from the effect of phenargan injection and was physically capable of committing suicide by self-strangulation.

17. Mr. Kumar has submitted that even though suicide by self-strangulation is uncommon, there are instances of such suicide. Mr. Kumar has further submitted that P. W. 11 the doctor holding post-mortem examination has deposed that he had noticed injuries on the deep structure of the neck Muscles. Such injury, according to Modi's Medical Jurisprudence and Toxicology, will be absent as a rule in the case of suicide by self-strangulation. The opinion contained in Modi's Medical Jurisprudence and Toxicology is always regarded as of high authoritative value. At least, such presence, of injuries on deep structure of neck muscle raises reasonable doubt as to whether death was due to homicidal strangulation by some-one or suicide by self-strangulation and the benefit of doubt should go to the accused. The High Court has, therefore, rightly given such benefit of doubt in favour of the accused.

18. Mr. Kumar has contended that unless the possibility of suicide by self-strangulation is ruled out and possibility of someone entering the house through the back door is ruled out, the accused cannot be held guilty, even if it is held that the death was not on account of suicide by self-strangulation but it was a case of murder by strangulation. Mr. Kumar has contended that whether the back door was closed from inside or not ought to have been investigated by the police. Such important fact about the actual position of the back door could not have been missed to be stated by the doctors, P. Ws. 6 and 7, to the police. At least, the police should have put questions to ascertain the position of the back door to the said witnesses at the time of their examination under Section 161, Criminal Procedure Code. Absence of such investigation by the police, coupled with the fact that no such statement about the position of the back door was made by P. Ws. 6 and 7 to the police, raises serious doubt as to the actual position of the back door. It is not unlikely that the doctors failed to notice such fact and at a later date when they deposed in the case, a wrong statement was made by the doctors because of lapse of memory with the passage of time. Precisely for such reason, the High Court has entertained doubt about the actual position of the back door at the time of

commission of the offence.

19. Mr. Kumar has submitted that the accused had not suppressed the factum of death even for some time and to attempt to conceal proof of the incident of murder. On the contrary, being impelled by the normal reaction of a loving mother-in-law, she raised alarm immediately, on noticing her daughter-in-law dead, and the doctors in the hospital rushed to her quarter and had occasions to examine the deceased. The accused also promptly brought to the notice of the Sambalpur Town Police about the said death of her daughter-in-law. As the cause of death was not known and the accused reasonably believed that her daughter-in-law had committed suicide, such fact was fairly stated to the police. Such conduct of the appellant has been rightly held by the High Court as normal and cannot even raise any suspicion about the guilty complex of the accused. Mr. Kumar has submitted that by indicating very cogent reasons by analysing the evidences of the case, the High Court has acquitted the accused. Such order of acquittal, therefore, should not be interfered with by this Court.

20. We are, however, unable to accept the submission of Mr. Kumar. We are also unable to agree that the impugned order of acquittal passed by the High Court was justified in the facts of the case. The letters written by the deceased, since exhibited at the time of trial of the Sessions case, clearly reveal that the deceased had suffered sufficient mental trauma for non-payment of dowry amount of Rs. 8,000/-. In her letter (Ext. 17) written to the father, the deceased clearly indicated that for non-payment of the said demand for a sum of Rs. 8,000/- at the time of marriage, she had to face many things in her in-law's place and she would be happy if the amount was sent quickly. In another letter dated 28-11-1982 written by the deceased to her brother Buda, she expressed that nobody was knowing her misery and she did not know what to do. She only knew now to suffer by getting pain in her hands and legs. In letter dated 5-9-1982 (Ext. 17/4) written by the deceased to her mother, she stated that she was trying to go to home but that was not welcome and effective. The mother must have already heard about the mother-in-law how angry she was then. Her husband had advised her to wait two to three months for going to her parents' house. The elder brother when came to her, assured that the rest of amount would be paid within 2 to 3 months, but she was not aware as to what had happened to such payment. The mother was requested to tell the father about such payment, otherwise she would be treated, badly. In another letter written shortly before the death, on 26-12-1982 to her sister-in-law (Ext. 17/6), the deceased wrote that nobody should blame anybody about the marriage affairs. What had been written in her fate that had happened. She had to hear so many irony (presumably meaning words of taunts) in her in-law's place. The sister-in-law would have known all these from mother, second brother and sister. She also wrote that sister-in-law would not worry for the deceased but one ought to try how the problem could be solved. Such letters, to our view, clearly indicate that the deceased had suffered humiliations in the in-law's house for non-payment of dowry amount and it was made clear that unless the mother-in-law would be with the deceased, nobody could help her and she would be treated badly.

21. From the evidence it has been clearly established that on the date of death, the deceased had undergone D and C operation in the Maternity Hospital at 10.30 a. m. For such purpose between 8.00 to 8.30 a. m. she was given 50 mg. phenargan injection (intra-muscular). The C and D

operation was performed at about 10.30 a. m. Although the accused intended to take away the deceased after the operation to her quarter, she was advised not to take her immediately. Within an hour after the operation, the accused had taken the deceased to her quarter. There is evidence that shortly after taking the deceased to her quarter, the accused came to hospital and took some medicine but there is nothing on record to indicate what medicine had been taken by the accused. The trial Court has indicated that it was not unlikely that some sedatives had been taken by the accused. Be that as it may, it has been clearly proved that at about 2.30 p. m. the accused raised alarm from her quarter. On hearing such alarm, the lady doctor of the hospital (P. W. 7) had been to the quarter of the accused and found the deceased lying on a cot in the room with a sheet placed on her body. She examined the deceased and found her dead. Thereafter, P. W. 6 another doctor also came and found the deceased lying on the cot with a sheet covering the body from neck to foot. By removing the sheet, P. W. 6 found that the deceased was wearing a blouse, saree and petticoat without the string. None of the doctors noticed the wearing apparel of the deceased disarranged or disorganised. Both the said doctors categorically deposed that the back door of the room was closed from inside. The High Court, in our view, has, without any basis, entertained doubt as to whether at the time of death, the said back door was closed from inside or not simply because the Investigating Officer did not cause enquiry about the position of the back door and the doctors (P. Ws. 6 and 7) had not stated in their statements to the police under Section 161, Crl. Procedure Code that the door was closed from inside. The omission to make statement to the police about the position of the back door, when no enquiry about the same was made to the doctors, is quite natural. Both the doctors are respectable and disinterested witnesses. There is nothing on record to indicate that they had any animus against the accused for which they deposed falsely by stating that the back door was closed from inside. Such evidence, in our view, should not have been discarded by the High Court on an unacceptable reasoning.

22. It has been clearly established that if the quarter was closed from inside, there was no possibility of any person entering the quarter. It was only the accused who was staying in the quarter with the deceased who had undergone an operation shortly before her death, because admittedly the husband was out of station for a few days. Even if it is assumed that the effect of phenargan injection had gone by 1.00 to. 30 p. m., which according to the opinion of P. W. 11, the doctor holding post-mortem examination, was the possible time of death, it can be reasonably held that the deceased by that time was likely to be down and not quite normal in view of the fact that she had been under deep sedation and had also underwent an operation even if such operation was a minor one.

23. In our view, the case of committing suicide by self-strangulation by the deceased must be ruled out. Both in Modi's Medical Jurisprudence and Toxicology and in Taylor's Principles and Practice of Medical Jurisprudence, to which our attention was drawn by Mr. Ranjit Kumar, it has been clearly indicated that suicide by self-strangulation is very rare. For committing suicide by self-strangulation, the person committing suicide must take aid of a contrivance so as to ensure application of sufficient force until death by strangulation. Without such contrivance, sufficient force cannot be applied because initially with the application of force, insensitivity will develop for which the hands pulling the ends of the string must get loosened. In the instant case, no contrivance was noticed either by P. Ws. 6 and 7 who had come to examine the deceased by hearing the alarm. The accused has also not seen any contrivance at the place of incident and in her statement under Section 313, Criminal Procedure Code, she has not disclosed any fact, which was within her special

knowledge. In support of a case of suicide by self-strangulation.

24. It has been deposed by the lady doctors (P. Ws. 6 and 7) that the deceased was lying on a cot with a sheet covering her. P. W. 6 has categorically stated that the sheet was covering the body of the deceased from head to toe. On removing the sheet, she had noticed that the deceased was wearing saree, blouse and petticoat and she did not notice that such wearing apparel was disarrayed or disorganised. It is not the case of the accused that after finding her daughter-in-law dead, she had organised the dress of the deceased and then covered the dead body with a sheet. If a person had committed suicide, she would not be found lying properly dressed in a normal composure. There would be some movement of the body with consequential change in the matter of placement of various limbs of the body on the bed.

25. In the instant case, it has been clearly established that the death occurred on account of strangulation. Simply because the doctor (P. W. 11) noticed injuries on the deep muscle of the neck of the deceased at the time of holding post-mortem, it cannot be held that such injuries noticed by the doctor had convincingly established that it was a case of death by self strangulation, because of what has been opined by Modi. We may indicate here that suicide by self-strangulation, according to the learned author, is a rare incident. Such view has also been expressed in Taylor's Principle and Practice of Medical Jurisprudence. It is not unlikely that for want of large number of cases of suicide by strangulation to be studied carefully, various features associated with such suicide could not be indicated more precisely. That apart, opinions expressed in the said treatise are at best, opinions of expert, which though deserve due consideration with respect, cannot be held absolutely conclusive particularly, when other evidences clearly established give a contra indication.

26. It may also be indicated here that both in Modi's book on Medical Jurisprudence and Taylor's book on Medical Jurisprudence, it has been categorically stated that for committing suicide by self-strangulation, the aid of a contrivance to maintain force till death is got to be taken, otherwise, it is not possible to maintain the force required. The absence of such contrivance clearly rules out any possibility of suicide by self-strangulation. In the aforesaid fact, excepting the accused no other person had any opportunity whatsoever to cause the murder of the deceased. The circumstantial evidence in this case are absolutely clinching in establishing the complicity of the accused in committing the murder of the deceased. The view taken by the High Court is clearly against the weight of the evidence and cannot be held to be a possible view which could have been taken.

27. We, therefore, find no hesitation in setting aside the impugned order of acquittal passed by the High Court and upholding the conviction and sentence passed against the accused by the learned Sessions Judge, Sambalpur. The bail bonds of the accused, would stand cancelled. She would be taken to custody forthwith to serve out the sentence of imprisonment for life. The appeal is accordingly allowed.

28. Before we part, we place on record our appreciation for the valuable assistance given to the Court by Mr. Ranjit Kumar, the learned Counsel for the accused-respondent appointed as amicus curaie. He fairly placed all relevant facts and depositions adduced in the case for our consideration.

Appeal allowed.