

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 3

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Sharad Birdhichand Sarda V. State of Maharashtra

ANUBHAV SHUKLA¹ AND MOHD SHABAZ²

ABSTRACT

We have tried in the present case to analyze and to summarize the facts and judgments pertaining to the case and law applied in the case. Also the law of evidence of case is studied along with the judgment of the case in order to better understand and to critically analysis of the relevant portion of the original judgment in light of the decisions relied upon while delivering it and the decisions which relied upon the original judgment is done to evaluate the impact of the judgment. Researchers in this case have tried to present the case in a short and summarized manner.

Keywords: *Evidenve, Criminal, confirmations, court, conviction.*

I. FACTS OF THE CASE

Deceased Manju Shree a woman who was very simple woman and was very keen to marry a very good man alos shed did a graduation in Pharmacy. On 12 June 1982 she was married with Sharad who lives in Takshila Apartment at Pune. But very soon she realized that shard was not a good man and he even did not treat Manju Shree well . She was broked after realizing that he married a guy who was not at all a good person One day Sharad made Manju meet to her friend Ujawala and make a taunt that she is my real wife. After this manju was hurt ver badly. She was not treated well by her in laws and her husband as a result she was depressed. Also she was a very sensitive person. She wanted to marry a person with idols but after marriage her all dreams broke and it leads her in to depression.

Broken manju went to her fathers house but on one day her father in law requested her to attend her sister in law marriage. She agreed and went back to Pune on 2nd of June to attend wedding. On 11th of June they all returned from the function. On next day i.e on 12th of June Manju Shree was found dead. According to the prosecution story the last person who met deceased was her husband. And in the PM it was observed that there are no single marks on her body and dead was caused by the poison called Potassium Cyanide. Also some letters was recoverd which she had wrote to her sister and her friend in which she mentioned that how badly her husband was

¹ Author is a student, India.

² Author is a student, India.

treating her but there is no mentioning of that her husband wanted to kill her.

II. ISSUE OF THE CASE

After the death of the deceased the prosecution charged Sharad , his brother and a uncle for killing manju under section 302 and 120 B i.e Murder and with criminal conspiracy But as there is no direct evidence available so the matter have to go with circumstantial evidence .So the main issue in the case was

1. whether this was a murder or a Manju has taken her life by eating Potassium Cyanide
2. If sharad and his brother wanted to save Manjushree why they did not call Dr who was living in his apartment but called his family Dr Lodha who was living 1.5 km away from her apartment.
3. Weather letter written by Manjushree would consider as dying declaration.

III. TRIAL OF CASE

After the preliminary court and the High Court of Bombay administered against the blamed for the situation, the matter preceded the Hon'ble Supreme Court through a SLP under Article 136 of the Constitution of India against the judgment of a division seat of the Bombay High Court. The case relates to the passing of one Manju who was the spouse of the accused (Sharad Birdichand Sarda). The realities encompassing her demise and confirmations set forth paint an unpleasant sketch of the occasions paving the way to the terrible passing.

The deceased was in a despondent marriage. She was discouraged and tragic about the evil treatment she got by her parents in law and her better half. Indeed, even the court saw that she was a delicate individual and was discouraged.

The conviction granted by the lower courts depended freely on liking conditional proof and by moving the weight of evidence on the charged.

IV. LAW REFERRED

Criminal procedures arrive at an equitable and reasonable end through the different realities set forth by means of the assessment of witnesses and enthusiasm for proof. The onus to demonstrate coerce for the most part is on the indictment, and to do as such, the blame should be set up convincingly, and demonstrated past sensible doubt.

In the momentum case two ideas relating to Law of Evidence are managed, both of them will be talked about in a word by the analyst before basically dissecting the case considering the two ideas.

1. Burden Of Proof
2. Conditional Evidence

The Criminal Justice framework in India accommodates a proof to be demonstrated under the steady gaze of an official courtroom to discover the blame of the charged. Demonstrating according to the Indian Evidence Act, 1872 as deciphered by a few legal declarations, the standard set gives the proof to significantly demonstrate the case past sensible uncertainty. The weight of confirmation in a criminal case lays on the indictment and not the guard.

(A) Conditional Evidence

In specific cases, it turns out to be hard to track down direct confirmations and current realities and confirmations set forth without straightforwardly related confirmations help the courts to choose the matter definitively. While these confirmations are typically presented in situations where there is a deficiency of essential proof, conditional proof is likewise put alongside the overall proof to fortify the case when all is said in done. The incidental confirmations endeavor to demonstrate the center realities which proceed to demonstrate the disputes needed for the fulfillment of an offense.

The tolerability of conditional proof is regularly bantered in the lawful local area at lengths. Incidental confirmations like biting the dust announcements, last seen appearances and so on are viewed as confirmations after all other options have run out, or powerless confirmations. These confirmations are allowable just on the off chance that they indisputably build up the line on which they continue. The conditional confirmations should assist likewise preclude some other likelihood of the chain of occasions that it sets up or tries to set up.

V. JUDGEMENT

Constitution of India, 1950, Article 136-Interference by the Supreme Court with the simultaneous discoveries of actuality of the courts beneath, regularly not passable Special condition like blunders of law, infringement of grounded standards of criminal statute and so forth would be important for impedance.

Proof Circumstantial proof, nature and verification of-Conditions point of reference for conviction-Evidence Act Section 3 (Act 1 of 1972).

Proof Circumstantial proof Onus of confirmation Prosecution should demonstrate each connection of the chain and complete chain-Infirmity or lacuna in the arraignment can't be restored by bogus guard or supplication An individual can't be sentenced on unadulterated

good conviction-False clarification can be utilized as extra connect to strengthen the indictment case, subject to fulfillment of specific conditions.

Precept of Proximity, idea of, nature and cutoff points clarified Admissibility of proclamations and kicking the bucket presentations under sections 8, 32 of the Evidence Act.

Murder by organization of toxic substance Circumstances that ought to be investigated before a conviction-Penal Code (Act XLV of 1860) Section 300.

Proof, enthusiasm for Evidence of intrigued observers, particularly that of close family members of the perished Duty of the Court-Evidence (Act I of 1872) Section 3.

Advantage of uncertainty When two perspectives are conceivable, one prompting the blame of the denounced and the other prompting his guiltlessness, the advantage of uncertainty should go to the charged entitling his quittance Evidence (Act I of 1872) Sections 101-104.

Assessment of the blamed under Section 313 for CrI.

P.C.- Circumstances not put to the charged to clarify, can't be considered for conviction-Code of Criminal Procedure, 1973 (Act II of 1974) Section 313.

VI. HEADNOTE

The appealing party, Rameshwarr, Birdhichand Sarrda, Ramvilas Rambagas Sarrda, were charged 1, 2 and 3 separately in Sessions Case No. 203 of 1982 on the document of the Additional Sessions Judge, Pune. The appealing party and the subsequent blamed are the children for one Birdhichand of Pune whose family has a material business. What's more, the appealing party, an alumni in Chemical Engineering had begun a compound plant at Bhosari, a suburb of Pune. The third blamed is uncle for the litigant and the subsequent denounced. The appealing party is the spouse of Manjushree assumed name Manju while the subsequent blamed is the husband for Anuradha (P.W. 35). Birdhichand's family has its private house at Ravivar Peth in Pune and claims a level in a structure known as Takshasheela Apartments in Mukund Nagar space of Pune. All the three denounced were charged for the supposed offense of homicide by harming the evening of 11/12.6.1982 of Manju the recently hitched spouse of the initially blamed and the litigant in this under section 302 I.P.C. peruse with section 120B. Denounced No, 3 was likewise charged under section 201 read with Section 120B I.P.C. The entire case vested on the fortuitous proof dependent on specific letters asserted to have been composed by the expired to a portion of the observers and different articulations of the perished to them and the clinical report. On an enthusiasm for the proof the preliminary court saw all the three denounced as liable as charged, indicted them in like

manner and condemned the litigant to death under s.302 I.P.C. and all the three blamed to thorough detainment for a very long time and a fine of Rs. 2,000 each under s.120B I.P.C. however, didn't grant any sentence under s.201 read with s.120B.

The litigant and the other two denounced document Criminal Appeal No. 265/83 against their conviction and the sentences granted to them. The State documented a Criminal Revision application for improvement of the sentence granted to denounced 2 and 3. The allure just as Criminal Revision application was heard alongside affirmation case No. 3 of 1983 together by the Division Bench of the Bombay High Court which permitted the appellants bid partially with respect to his conviction and sentence under s.120B I.P.C. be that as it may, affirmed his conviction and sentence of death granted under section 302 I.P.C., permitted the allure of blamed 2 and 3 in full and vindicated them and excused the Criminal Revision Application. Consequently the litigant alone has come up under the steady gaze of the Supreme Court subsequent to getting Special Leave.

(1) This is fairly a disastrous situation where a marriage orchestrated and achieved through the intercession of regular companions of the groups of the lady and husband however made a decent beginning yet ran into unpleasant climate before long. The lady of the hour; Manju, engaged high expectations and goals and was trusting as well as was tensely anticipating a day to day existence brimming with jollity and joy, shared love and commitment between the two life partners. She has all the earmarks of being an incredibly enthusiastic and delicate young lady and at the very command loved ideal dreams to be accomplished after her marriage, which was solemnized, on February 11, 1982 among her and the litigant, Sharrad Birdhichand Sarrda. Not long after the marriage, Manju left for her new conjugal home and began dwelling with the appealing party in Takshila Apartments at Pune. Tragically, in any case, to her absolute consternation and frustration she tracked down that the treatment of her significant other and his folks towards her was savage and brutal and her valued dreams appear to have been broken to pieces. In spite of this stunning situation she didn't surrender and continued daring to dream and being of an exceptionally honorable and generous nature she was continually able to forgive and never look back. As days cruised by, notwithstanding her most excellent disposition she found that "things were not what they appear and to cite her own words "she was treated in her better half's home as a worker or as a neglected house keeper worker" She was made to do a wide range of unspecialized temp jobs and in spite of her fights to her significant other nothing appears to have occurred. All things being equal, Manju had a delicate and delicate mood as never to whine to her folks in-law, not even to her significant other aside from now and then. On discovering things terrible, she did dissent and

communicated her sentiments in most clear potential terms, in an attack of absolute urgency and dissatisfaction, that he despised her. Not just this, when she portrayed her sad story to her sister Anju in the letters kept in touch with her (which would be managed in a later piece of the judgment), she took the plentiful consideration and alert of mentioning Anju not to uncover her said predicament to her folks in case they may get incredibly vexed, stressed and troubled.

(2) Ultimately, things came to such a pass that Manju was totally nauseated and debilitated and she felt that final turning point had reached. Finally, on the critical morning of June 12, 1982, i.e., almost four months after her marriage, she was discovered dead in her bed. (3.) As to the reason for death, there has all the earmarks of being an intense dissimilarity between the arraignment form and the safeguarded case. The positive instance of the arraignment was that as the appealing party was not in the least intrigued by her and had illegal closeness with another young lady, Ujvala, he basically disposed of his significant other and when he discovered things to be unendurable he killed her between the evening of June 11 and 12, 1982, and made a worthless endeavor to incinerate the dead body. At last, the matter was accounted for to the police. Then again, the request of the protection was that while there was a solid chance of Manju having been abused and neglected by her better half or her parents in law, being an exceptionally delicate and impassionate lady she ended it all out of sheer sadness and dissatisfaction emerging from a donational upsurge. This is the predominant issue which succumbs to choice by this Court.:In these circumstances, therefore, it is futile to refer to English cases on the subject.

Accordingly, from an audit of the specialists referenced above and the reasonable language of s.32 (1) of the Evidence Act, the accompanying suggestions arise:-

(1) Section 32 is a special case for the standard of prattle and offers allowable the expression of an individual who kicks the bucket, regardless of whether the demise is a crime or a self destruction, given the proclamation identifies with the reason for death, or shows conditions prompting passing. In this regard, as demonstrated over, the Indian Evidence Act, considering the exceptional states of our general public and the different nature and character of our kin, has figured it important to broaden the circle of s.32 to stay away from bad form.

(2) The trial of closeness can't be excessively in a real sense interpreted and basically decreased to a straightforward recipe of widespread application in order to be limited in a restraint. Distance of time would depend or change with the conditions of each case. For example, where demise is a consistent zenith of a nonstop show long in measure and is, in a manner of speaking, a finale of the story, the assertion in regards to each progression straightforwardly

associated with the finish of the dramatization would be allowable in light of the fact that the whole assertion would need to be perused as a natural entire and not torn from the specific circumstance.

Once in a while explanations pertinent to or outfitting a quick intention may likewise be acceptable just like a piece of the exchange of death. It is show that every one of these assertions become exposed solely after the demise of the perished who talks from death. For example, where the demise happens inside an exceptionally brief timeframe of the marriage or the distance of time isn't spread over more than 3-4 months the assertion might be allowable under s.32.

(3) The second piece of cl.1 of s.32 is one more special case for the standarrd that in criminal law the proof of an individual who was not being exposed to or given a chance of being interrogated by the denounced, would be useless in light of the fact that the spot of questioning is taken by the gravity and sacredness of pledge for the straightforwarrd explanation that an individual very nearrly passing isn't probably going to offer a bogus expression except if there is solid proof to show that the assertion was gotten either by provoking or mentoring.

(4) It might be critical to take note of that s.32 doesn't talk about crime alone however incorporates self destruction likewise, henceforth every one of the conditions which might be applicable to demonstrate an instance of murder would be similarrly pertinent to demonstrate an instance of self destruction.

(5) Where the primary proof comprises of arrticulations and letters composed by the perished which arre straightforwarrdly associated with or identified with her passing and which uncover an obvious story, the said proclamation would unmistakably fall inside the four corners of s.32 and, along these lines, acceptable. The distance of 110 time alone in such cases would not offer the expression insignificant.

VII. CONCLUSION

The laws of evidence specifically, and the appropriateness of the weight of verification to conditional confirmations gives an expansive comprehension of the nature and capacity of the criminal equity arrangement of the country. The flow practice assisted the specialist with breaking down not simply the current situation yet in addition the critical hypothesizes whereupon the Law of Evidence depends. The case had Mr. Jethmalani contend his way through one of his first huge situations where he deciphered Laws of Evidence in a way good for the denounced. The verifiable network of the case was all around connected by both the promoters and the adjudicators and the specialists refered to gave a concise history exercise on

the advancement of Laws of Evidence.
