



Estd. 1884

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**Lokmanya Tilak
National Appellate
Moot Court Competition**

(8th Edition)

26th and 27th February, 2016

Paper Book for Criminal Appeal

DISCLAIMER

The problem is based on real life case and it's a close adaptation of the same. Due care has been taken to maintain the privacy and secrecy of the parties. The case is taken purely for academic purposes. The organizers shall not be liable or responsible for any unintended or accidental error in formulation of the case.

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, PUMBE AT PUMBE

SESSIONS CASE NO. 968/2011

STATE OF BADARASHTRA

.... COMPLAINANT

v/s.

SOMNATH RAJIV SATPUTE

.....

ACCUSED

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Note : -

1. As some papers in the original compilation are illegible, its photocopies are also illegible.
2. Exhibit 55 is seizer Panchanama of one plastic can in which there was small quantity of kerosene, one match box and halfly burnt blouse and the pieces of saree from the spot of incident.

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, PUMBE AT PUMBE

Exhibit No. 2

SESSIONS CASE NO. 968/2011

STATE OF BADARASHTRA

. . . . COMPLAINANT

V/s.

SOMNATH RAJIV SATPUTE

. . . . ACCUSED

CHARGE

I, P.L. Jivan, Additional Sessions Judge, Pumbe do hereby charge you accused :

Somnath Rajiv Satpute

Age 27 years, Occ. : Agriculturist

R/at : Khatkali Vasti Katyachi wadi

Tal. Mhadur, Dist. Pumbe

. . . . Accused

as follows :

CHARGE

That you accused since your marriage till 24/09/2010 at the house of you accused, Khatkali Vasti, Katyachi wadi, Tal. Mhadur, Dist. Pumbe you accused being husband of deceased Sou. Manju Somnath Satpute , subjected her to cruelty by harassing and ill-treating her physically and mentally with your willful conduct on account of illegal demand of money for the purpose of construction of house, and for the said count abusing threatening said Manju Satpute which was of such a nature as was likely to drive the said deceased Sou. Sou. Manju Somnath Satpute to commit suicide or to cause grave injury or danger to life, limb or death, and you thereby committed an offence punishable under section 498(A) of the Indian Penal Code and within my cognizance.

AND

2) That, you accused on 24/9/2010 at about 8 a.m. or thereabout in the house of you accused at Khatkali Vasti, did commit murder by intentionally or knowingly causing death of Manju Satpute by setting ablaze said Manju and you thereby committed an offence punishable under section 302 of the Indian Penal Code and within my cognizance.

And I hereby direct that you are tried by me on the aforesaid charges.

Pumbe.
Date : 28/2/2011

Sd/-
(P.L. Jivan)
Additional Sessions Judge,
Pumbe

That the contents of the above said charges are read over and explained to the accused in vernacular language today by me in the open court.

Pumbe.
Date : 28/2/2011

Sd/-
(P.L. Jivan)
Additional Sessions Judge,
Pumbe

[Round seal of District Court]

STATEMENT OF ACCUSED

Sessions Case No. 968/2011

Exhibit No. 3

I state as follows

1. My Name is : Somnath
2. My fathers name is : Rajiv Satpute
3. My age is about : 27 years
4. My occupation is :

I am inhabitant of

Q. 1 : Have you received the copies of Police papers ?

Ans. : Yes.

Q. 2 : Have you understood the contents of the charge read over and explained to you ?

Ans. : Yes.

Q. 3 : Do you plead guilty ?

Ans. : No.

Q. 4 : Have you appointed advocate ?

Ans. : Yes.

Sd/-

(P.L. Jivan)

District Judge – 10 and

Asst. Sessions Judge, Pumbe

Sd/-

Accused Signature

Pumbe

Date : 28/2/11

No. P. (T) /5640 of 2011
M.L. Case No. MP-398/10
**REGIONAL FORENSIC SCIENCE LABORATORY,
STATE OF BADARASHTRA, PUMBE – 411007
Exhibit No. 15 (C.A. Report)**

Date : 25/3/2011

To,
The Police Inspector,
Mhadur Police Station,
Dist. Pumbe (R).

Your letter No. 5870/10 dated 03-10-10 regarding Five parcels in connection with C.R. No. 309/10 under I.P. Section 498 (A), 302 stated by you to have been dispatched on per P.C. No. 2193 was duly received in this office on 07-10-10.

Description of parcel/s

-- One sealed plastic can and four sealed parcels, seals intact and as per copy sent --

Description of articles contained in parcel/s

- Exh. 1) Bluish liquid in a plastic can with lid labeled – A
2) Match box containing match sticks wrapped in paper labeled – B
3) Partly burn saree and blouse adhered together wrapped in paper labeled – C
4) T-shirt wrapped in paper labeled – D
5) Full pant wrapped in paper labeled – E
Exts. Nos. (1) to (5) are also labeled – C.R. No. 309/10 Mhadur P.S.

RESULTS OF ANALYSIS

-- Liquid at exhibit no. (1) is a sample of kerosene. Result of the tests for the detection of kerosene ---
-- residues in/on exhibit nos. (3), (4) and (5) are positive. ---
-- Exhibit No. (2) is unsuitable for analysis ---

No. P(T)/15066/12
Date – 05/9/2012

Attested xerox copy issued to the PI
Mhadur Pol. Stn. vide his letter No. 256/12 dt.
14/8/12.

Sd/-
(C.P. KANHORE)
Assistant Chemical Analyser to Government
Regional Forensic Science Laboratory, Pumbe.

Sd/-
(R. N. KOKARE)
Assistant Chemical Analyser to Government
Regional Forensic Science Laboratory, Pumbe.

Deposition of witness No. 1 for the prosecution

I do hereby on solemn affirmation state that –

My name is - Shri. Vijay Nemade
Age about - 40 years
Occupation - Agri.
R/at - Tal. Mhadur, Dist. Pumbe

Examination in chief by APP – Shri. Wankhede

1. I know the accused and deceased Manju Satpute. They are my neighbours. The accused Somnath was residing near to my house alongwith his deceased wife Manju and his daughter Pratiksha. The matrimonial life of Somnath was going on smoothly. On 24.9.2010 at about 8 am I was unloading the sand from the trolley of tractor near my house. I heard shouts of Manju hence, my attention was drawn towards her and found that she was coming out of the house and her body was on fire. Hence, myself, Ketan, Kashinath, Amol Jyotiram Nemade, Suhas Nemade rushed towards her to extinguish fire. Kashinath Nemade brought the water pot from the house of Rukmini Nemade. When he was trying to pour the water on the body of Manju, Manju tried to catch hold of him, hence, by leaving the water pot he ran away. Noticing the above fact, I also did not make attempt to reach near Manju. Accused Somnath tried to extinguish fire by his hand. Thereafter Suhas Nemade and Ketan Nemade wrapped Manju in a blanket. Thereafter we sent Kashinath Nemade to the parental house of Manju to call her mother. Thereafter, we took injured Manju to Ambikapur Hospital where she was admitted. After extinguishing fire, Manju had not stated anything to me.

(At this stage the APP requested for permission to cross examine the witness as he has completely resiled from the contents of statement. Permission granted.

Cross examination by APP

2. It is not true to say that after extinguishing the fire Manju stated to us that she was not feeling well from 4-5 days and she asked her husband to take her to a hospital, but instead of taking her to hospital her husband uttered the words, “Tu meli tarhi Chalel’, on getting annoyed she poured kerosene on her body and her husband Somnath set her on fire by using match box. Police recorded my statement.

The portion marked 'A' now read over to me from my statement is not correct, I have not stated so before police. I cannot assign any reason as to why the same is appearing in my statement. It is not true to say that I am deposing false to save the accused.

Cross examination by Adv. Kulkarni for the accused

3. The place where I am residing there are 200 to 250 people residing there. There are about 20 houses. All the houses are adjacent to each other. When the work of unloading the sand from trolley of tractor was going on, at that time accused was present near the tractor alongwith his one year old daughter. I know about the relatives of the accused. The mother of deceased Manju was residing in the house of accused prior to 4-5 days of the incident and on the date of incident just about one hour of the incident, she had gone to her house. After arrival of mother of deceased Manju we took Manju to hospital. By the vehicle of Amol Nemade we removed Manju to hospital. On front seat of the said vehicle myself, Suhas Nemade was sitting and Amol Jyotiram Nemade was driving the said Sumo jeep. On the rear seat of the said vehicle Manju and her mother were there. After extinguishing fire till upto reaching to hospital, Manju was talking. Two hours time was spent to reach deceased Manju to hospital. Ambikapur hospital was approximately 90 kms away from the house of accused. Manju was telling me to take care of her daughter Pratiksha. She had also stated to me that in the incident her husband has no fault. She also stated that in case her husband is arrested then her daughter would be shelter less. In the jeep in our presence mother of deceased Manju was instigating Manju against the accused. After admitting Manju in the hospital I stayed there. At that time police approached Manju for making inquiry about the incident. Police had not made inquiry in our presence with Manju and we were asked to vacate the room. While making inquiry by police, Manju was accompanied with her mother.
- No re examination.

R.O. & A.C.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date : 15.1.2013

Deposition of witness No. 2 for the prosecution

I do hereby on solemn affirmation state that –

My name is - Shri. Sharad Walunj
Age about - 38 years
Occupation - Police Head Constable, B. No. 656.
R/at - Chavannagar, Pashan, Pumbe

Examination in chief by GDP Ms. Lahoti

1. On 24.9.2010 I was attached to Haveli Police Station and was posted to Ambikapur Chowky. On that day at about 13.20 hrs. Ambikapur OPD police constable Munde B. No. 1028 attached to Bundgarden police station gave information to me that patient viz. Manju Somnath Satpute, aged 22 years, resident of Katyachi wadi, Tal. Mhadur, Dist. Pumbe is admitted in Ward No. 25 due to burn injuries and to take necessary steps. After receipt of this information I immediately rushed to ward No. 25 of Ambikapur Hospital. I met with duty medical officer. I disclosed to the medical officer on duty that I want to record the statement of patient Manju Satpute and whether she is in a position to give statement. Accordingly, the medical officer on duty examined the patient Manju Satpute and thereafter informed me that the patient is in a position to give the statement. Accordingly I went near to the patient. At that time medical officer on duty accompanied me. I asked the patient her name, on which she disclosed her name as Manju Somnath Satpute. She had also disclosed her age as 22 years, r/o Katyachi wadi, Tal. Mhadur, Dist. Pumbe. From the above answers given by the patient, it was confirmed to me that the patient is in fully conscious condition and hence, I started to record her statement. Patient Manju stated to me that she is residing at above place alongwith her husband and 14 months old daughter Pratiksha. She disclosed name of her husband as Somnath Rajiv Satpute. She disclosed that her marriage has been performed with Somnath prior to five years. She further disclosed to me that since their marriage her husband is harassing and ill treating her by abusing, threatening and assaulting by saying to bring the amount from her mother.
2. With regard to incident dated 24.9.2010 she stated that on that day in the morning at about 7 am she was present in the house alongwith her husband and she was not feeling well since last five to six days and therefore, she asked

her husband to take her to hospital for medical treatment. On this her husband told her why you are troubling me and I will not take you to hospital and you should die. She further disclosed to me that she being annoyed, she poured kerosene on her body. At that time her husband Somnath ignited the fire by using a match box. On burning sensation she raised hue and cry and hence the neighbours came and extinguished fire and admitted her in Ambikapur Hospital. She disclosed to me that she has complaint against her husband Somnath Satpute. I recorded her statement as per her say. After recording her statement it was read over to her. She understood the same and then she put her left toe. Thereafter I put my signature on it and I obtained endorsement of medical officer on duty. The medical officer on duty put his signature below his endorsement. The statement of patient (dying declaration) now shown to me is same. It bears my signature as well as impression of left toe of patient and the endorsement of the medical officer on duty alongwith his signature. Contents therein are correct. It is at Exh. 22. On 28.9.2010, at about 8.20 am patient died in the hospital while taking treatment.

3. Myself drew inquest panchanama of deceased Manju Satpute in present of Panchas viz. Saraswati Lokhande and Digvijay Patil. The inquest Panchanama now shown to me is same, it bears my signature and signature of panch Digvijay Patil and thumb impression of panch Saraswati Lokhande. Contents therein are correct. It is at Exh. 23. After inquest panchanama, I sent the dead body to dead house alongwith dead form for postmortem.

Cross examination by Adv. Kulkarni for the accused

4. At this stage Advocate Kulkarni informed to the court that he has not received the indoor case papers of the patient and unable to cross examine the witness. Since the prosecution has not produced the indoor case papers, matter is adjd. for cross examination till tomorrow.

R.O. & A.C.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date : 29.1.2013

Resumed on SA

Cross examination by Adv. Kulkarni for accused.

5. During period from 2007 to 2010 I was attached to Haveli police station. Prior to 24.9.2010, one to two and half months I was continuously attached to Ambikapur chowky. We used to resume our duty by directly going to Ambikapur police chowky. I was on duty for 24 hours on 24.9.2010. When I was posted at Ambikapur Chowky on every alternate day I was on duty for 24 hours. There is no muster register maintained in Ambikapur Chowky. It is not true to say that I have no proof to show that on 24.9.2010 I was attached to Ambikapur chowky. Witness volunteers that we used to maintain note book and whenever the OPD gives call to us our name is written in OPD register. I have not produced my note book as well as copy of extract of OPD register. I have not noted down the information regarding admission of patient Manju in ward No. 25 given to me by Ambikapur OPD police constable Munde. I am aware that whenever such information is received then the person to whom the information is given has to note down the information. I have not received written requisition from Ambikapur OPD police chowky. I do not know whether CMO had given written requisition to police constable Munde. I received information from Munde over my mobile phone.

6. Tue to say that ward No. 25 (burn ward) is situated on ground floor of *Dagdi* building. There are three separate sub-wards for burn patients with reference to male, female and children. Approximately each sub ward there are 10 to 12 beds. There is no partition between two beds and the beds are adjacent to each other. The entry door of the sub-ward is always open. The distance between sub-ward and the place of sitting of duty medical officer is approximately 30 to 35 fts. No entry of my arrival in burn ward is taken in any of the register. When I reached to ward No. 25 near the patient I cannot tell how many doctors were working there at that time. Within 5 minutes from the moment of admission of Manju Inward No. 25, I reached there. At about 1.25 pm, I reached near to patient Manju. When I reached near the patient Manju at that time her treatment was going on. From the medical officer I came to know actually on which bed Manju was taking treatment. I have not issued written report to doctor regarding recording of statement of Manju. When I reached near the patient she was yelling and screaming due to pain. At that time nobody was present near her. I have not made inquiry who brought her and how. I cannot tell the distance between Ambikapur Hospital and Katyachi wadi. The

village Katyachi wadi is situated at a long distance from Pumbe. It was not felt necessary by me to make inquiry as to how Manju was brought in hospital. Within one minute from the moment I met doctor I went to bed of Manju for recording her statement. I have not noted down anything regarding the doctor examined Manju and name and designation of doctor prior to recording her statement. At the time of recording her statement her treatment was going. Before recording her statement I have not obtained endorsement of doctor in respect of physical and mental condition of Manju. True to say that as Manju was burn patient, she was kept under the iron cage and only her head and toes were visible. I have not produced any documentary evidence to show that before recording the statement I obtained the endorsement of the doctor that Manju was in a position to give statement. Before recording statement of Manju, it was possible for me to obtain certificate from doctor, but I have not obtained such certificate. I asked Manju firstly about her name and asked her about incident. True to say that when I reached near Manju MLC papers were already prepared. Before recording statement of Manju entry was not made on MLC papers. Witness volunteers that after recording the statement of patient Manju I made entry to that effect in MLC papers. Before recording statement I made inquiry with doctor regarding condition of patient to give statement. At that time it was not felt necessary by me to call Magistrate to record statement of Manju. At that time it was possible for me to call Magistrate to record statement of Manju. Till today I have recorded about 200 to 250 dying declarations. On dying declarations Exh. 22 I have not written that I myself written the dying declaration. I have not written in the statement when the work of recording of statement was started and when it was finished. There is no reason for not recording the timing in the dying declaration Exh. 22. I have not made attestation to the toe impression of the patient Manju. At that time it was possible for me to attest the toe impression of Manju. Except my oral evidence there is no evidence to show that the toe impression appeared on dying declaration Exh. 22 is of deceased Manju. As a police officer I was the first person who reached near Manju for first time. True to say that firstly I recorded dying declaration of Manju and then police papers were prepared. After recording dying declaration myself sent the report to Haveli police station. The report shown to the witness and he admitted the same, it is at Exh. 27. In the report Exh. 27, I have written that Manju poured kerosene on her person and set herself on fire. On 28.9.2010 I had submitted report to Haveli police station. It bears my signature. The report shown to the witness and he admitted the same, it is at Exh. 28. In report Exh. 28, I have mentioned that Manju Satpute poured

kerosene on her body and set herself on fire. I do not know what happened about report Exh. 27 and 28. In inquest Panchanma Exh. 23 dated 28.9.2010 I have mentioned that Manju Satpute poured kerosene on her body and set herself on fire. The dead form forwarded alongwith dead body for postmortem now shown to me is same, it bears my signature. Contents therein are correct, it is at Exh. 29. On the day when I recorded dying declaration of Manju I had no occasion to meet the relatives of deceased Manju. In ward No. 25 I was there for a period of ½ hour. While recording statement no relatives of deceased Manju met me. Not true to say that I am deposing falsely that Ambikapur OPD constable Munde gave information to me regarding admission of Manju in ward No. 25. It is not true to say that I am deposing falsely that I verified from doctor regarding the condition of Manju to give statement. it is not true to say that I have not verified regarding the condition of Manju to give statement and hence, I am unable to produce any documentary evidence. In the statement Exh. 22 there is no reference of the name of the doctor who examined Manju before recording her dying declaration. Below the endorsement on Exh. 22 no name of the doctor is mentioned. It is not true to say that no doctor was present there and that is why the name of the doctor is written below the endorsement. It is not true to say that Manju has not disclosed to me entire contents mentioned in Exh. 22. Alongwith the dying declaration I have not issued any report to the police station for registration of offence. Issuing such report is necessary. It is not true to say that on account of burn injuries Manju was yelling and screaming and as per say of her mother I took impression of her toe on blank paper and hence, I have not issued a report to police station. It is not true to say that I have made false entry in MLC papers. Not true to say that as per the say of mother and other relatives of deceased Manju I have recorded false dying declaration and even today I am deposing falsely.

No re examination.

R.O. & A.C.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date : 1.2.2013

Exhibit No. 22 (Dying Declaration - 1)

Statement Dt. 24/9/10

My name is Mrs. Manju Somnath Satpute, Age 22 years, Occupation : Household, R/at : Katyachi wadi, Tal. Mhadur, Dist. Pumbe.

Being asked personally giving statement in writing in full conscious while admitted in ward No. 25 at Ambikapur Hospital, Pumbe that, I am residing at the aforementioned place alongwith husband and daughter Pratiksha age 14 months. My marriage was solemnized 5 years ago and my wedded husband Somnath Rajiv Satpute always used to tell me to get money from my mother and used to abuse, threaten and beat me.

On 24/9/10 about 7 am, when I was with my husband in the dwelling house, as I was ill since last five to six days I asked my husband Somnath to take me to the clinic for treatment. However, my husband said, why are you shrieking, I will not take you to clinic. You should die” and being annoyed with this, I poured kerosene available in home on my body and at that time husband Somnath took match box and set me on fire. As it was burning, I started shouting and the neighbours extinguished the fire and other persons in my home admitted me in Ambikapur Hospital for treatment. I sustained burn injuries on my chest, abdomen, hands and legs. Therefore, I have a legal complaint against my husband Somnath.

My aforementioned statement has been read over to me and the same is correct as per my instructions .

This statement is given in writing.

Before

[Thumb impression]

Sd/-

Of thumb of right toe of Mrs.
Manju Somnath Satpute

Po. Const.
Haveli Po.St.

Inquest Panchanama dated 28/9/2010

Panchas

- 1) Mrs. Saraswati Lokhande, Age 45, Occ. : Household,
R/at : Limbgaon Dude, Tal. Mhadur, Dist. Pumbe
- 2) Digvijay Patil, Age 45 years, Occ. : Service,
R/at : Dharampuri, Katoli, Pumbe – 44.

I, the undersigned, Police Officer, Ambikapur Police Chowky, Pumbe called the aforementioned panchas near Dead House, Ambikapur Hospital, Pumbe and informed that, when I was present on duty today on 28/9/2010 at 10.30 am at Ambikapur Police Chowky, the informer/Rakesh Mahajan came alongwith case papers and informed to the informer Police Constable 3710 Bhalerao, Ambikapur O.P.D. that, on 24/9/10 at about 10.00 am, patient viz. Mrs. Manju Somnath Satpute, Age 23 years, R/at : Katyachi wadi, Tal. Mhadur, Dist. Pumbe poured kerosene on her body and set herself on fire causing 63% burn injuries to her and was admitted for treatment in ward No. 25 at Ambikapur Hospital at 13.15. She expired on 28/9/10 at 08.20 MLC 43586/10 and as we received information like this, we informed to the said panchas that we have to carry out panchanama of the deceased and while carrying out the same you have to be present there being panchas and as the panchas have agreed to give their signatures being panchas, we have carried out panchanama of the dead body in their presence as under:-

Alongwith the aforementioned panchas we went to Ambikapur Dead House and saw the corpse. It is a female corpse lying in nude reverse state on the cement platform in the Ambikapur Dead House. In view of condition of the deceased it appears that the head of the deceased was towards eastern side, legs were towards western side, eyes were closed and mouth was open. There are black hairs on the head of the deceased. It appears that there is a tattoo on the forehead of the deceased. As the deceased sustained burn injuries, skin of her throat, neck, chest, and abdomen became reddish, black and whitish. As the right hand of the deceased was burned, its skin became reddish, black and whitish. As the left hand of the deceased was burned, its skin became reddish, black and whitish. As the right leg of the deceased was burned, its skin turned reddish, black and whitish. As the left leg of the deceased was burned, its skin turned reddish, black and whitish. It appears that there is ink mark on the ankle of the leg of the deceased. It appears that there is ink mark on the thumb of left hand of the deceased. After reversing the body of the deceased, it appears that, the entire skin is burned and turned into reddish, black and whitish. When the lady panchas verified private part and anus of the deceased, they found them intact.

There is a yellow label of Ambikapur tagged to the right leg of the deceased and it contains name of the deceased viz. Mrs. Manju Somnath Satpute, Age 23 years and M.L.C. No. 43586/2010. Mrs. Shruti Kokane was present while carrying out inquest panchanama and she identified the deceased and said that the deceased is her daughter.

So as to find out the exact reason of the death of the deceased, the dead body is handed into the custody of P.C. Shaikh B. No. 4986 for sending it to the Hon'ble Forensic Medical Officer, Ambikapur Hospital, Pumbe for carrying out post mortem thereof.

This Panchanama is carried out as above by us in presence of we panchas right from the beginning till end. This panchanama was started at 11.30 and finished on 12.00 in writing.

This panchanama is given in writing.

Before :

Sd/-

(S. R. Walunj)
Po. Consta.
Haveli P.S.
(Ambikapur Police
Chowky, Pumbe)

Panchas :

- 1) [L.H.T.I.] Left hand thumb impression
of Mrs. Saraswati Lokhande
- 2) Sd/-

**Police report to be send by the police to the District Surgeon for postmortem
Exhibit No. 29**

- 1) Name of the person dead : Mrs. Manju Somnath Satpute, Age 23
- 2) Age of the person dead : R/at Katyachi wadi, Tal. Mhadur, Dist. Pumbe
- 3) Married/Unmarried/Widow : Married
- 4) Date and time of death : Dt. 28/9/10 at 08.20
- 5) State of dead body when found : As per the panchanama enclosed
- 6) Time, when the a person sending report verified the dead body : Dt. 28/9/10 Dt. 11.30
- 7) The Dead Body was hot or hold when checked : Cold
- 8) Whether the deceased was suffering from illness ? : No
- 9) Clothes, weapons and things lying therewith or other items are sent, if yes, how they are relevant to this case? : No
- 10) Death caused by natural reasons, accident, suicide or murder or for what reason ? : Burn injuries
- 11) Any poison feeding process taken place ? If yes, which poison ? : No
- 12) Whether the lady was pregnant ? : No. -
- 13) Whether the case of abortion or
- 14) or was tried for it ? If yes, mention conclusion thereof.

Hon'ble Forensic Officer, Ambikapur Hospital, Pumbe
Humbly submitted.

Report – S. R. Walunj, PHC B. No. 656 Haveli P.S.
(Ambikapur Police Chowky, Pumbe)

So as to confirm the exact reason of death of the deceased, the dead body of the deceased in MLC No. 43586/2010 viz. Mrs. Manju Somnath Satpute is sent with the P.C. 4986 Shaikh. Therefore, it is requested that post mortem of the same may be done and advance certificate may be issued.

Humbly submitted.
28/9/2010

Sd/-

Deposition of witness No. 3 for the prosecution

I do hereby on solemn affirmation state that –

My name is - Shri. Rohan Pravin Chandra
Age about - 57 years
Occupation - Labour
R/at - Sambhajinagar, Mhadur, Dist. Pumbe

Examination in chief by APP Shri. WANKHEDE

1. On 28.9.2010 I was called by police in Mhadur police station for panchanama. Accordingly, I went to Mhadur police station. In police station accused Somnath was present. Another panch Avinash Wagh was alongwith me. The accused has produced the clothes and same were seized by police in our presence. Those clothes were one white T-shirt and one blue coloured pant. Police wrapped the clothes in brown paper separately. Then it was sealed. Police affixed labels of our signatures on the sealed wrapper.
2. Both the clothes were smelling of kerosene. Police prepared panchanama then obtained our signatures on it. The panchanama now shown to me is same, it bears my signature at Sr. No. 1, contents therein are correct, it is at Exh. 32.

Cross examination by Adv. Kulkarni for the accused

3. I am residing at Mhadur. The distance between by house and Mhadur police station is about 1 to 1.1/2 km. Prior to this occasion I had no occasion to go to the police station. On that day, I had gone to Tahsil Office and I was called by API Gunjal. On that day I had gone to Tahsil office for taking income certificate. When I went to police station API Gunjal, accused myself and co-panch Avinash Wagh were in police station. API Gunjal disclosed to me that they want to prepare panchanama. The seized clothes were kept besides the accused. In my presence no talk was held between API Gunjal and accused. I had occasion to see the clothes by taking clothes in my hand. Not true to say I am deposing falsely that on that day I was called by police in police station for panchanama and in my presence clothes of accused were seized. Not true to say that I am

deposing falsely that the clothes smelled of kerosene. It is not true to say that my signatures were obtained by police on blank papers. Except this case I have not worked as a panch witness for Mhadur police. Not true to say that I am depositing falsely.

No re examination.

R.O. & A.C.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date : 7.2.2013

Arrest and cloth seizure panchanama Dt. 28/9/10

- Panchas (1) Mr. Rohan Pravin Chandra, Age – 55 years,
Occ. Labour, R/at : Sambhajinagar, Mhadur,
Tal.Mhadur, Dist. Pumbe
(2) Mr. Gaurav Bhujangrao Mahadik, Age – 44 years,
Occ. Driver, R/at : Opp. S. T. Stand, Mhadur, Dist. Pumbe

I, the undersigned – J. M. Gunjal, Asst. Police Inspector, Mhadur Police Station, called the aforementioned panchas at Mhadur Police Station and informed to them that, I have to arrest the accused in the crime registered with the Mhadur Police Station vide C.R. No. 309/14, I.P.C. Section 498 (A), 307 viz. Somnath Rajiv Satpute, R/at : Kharkali Vasti, Katyachi wadi, Tal. Mhadur, Dist. Pumbe and at the time of arrest I have also to seize the clothes which the accused was wearing at the time of crime taken place and you have to present at that time and after having consent from the Panchas for carrying out panchanama, I am making this panchanama as under :-

Now, we police and panchas when present at the Mhadur Police Station when asked the person in front of the Panchas about his name he replied that his name and address is Somnath Rajiv Satpute, Age – 27 years, R/at : Khatkali Vasti, Katyachi wadi, Tal. Mhadur, Dist. Pumbe. He was made understood about the reason for his arrest and he was also made aware about the legal rights he has about his arrest. He was arrested and accordingly informed to his brother in law Hanumant Visabhau Tapkire, R/at : Kanhur Mesai, Tal. Mhadur. Further, his medical examination was done before arrest and during which it is found that he sustained furuncle on his right palm. Taking search on his person, any valuable thing was not found during such search. In front of the panchas, the said accused has presented the clothes which he wore at the time of incident and description thereof is as under:-

- (1) 00=00 One white coloured T Shirt, a shirt having three buttons and three hooks, having sign of clock of political party viz. Nationalist Congress Party. Further, there is a sign of clock of Nationalist Congress Party on rare side of the shirt and the words viz. 'Aambegaon Taluka' under it in red colour print and it was having kerosene smell, dirty.
- (2) 00=00 One blue colour cotton pant, with hooks and chain and pockets at both side of the pant having one pocket at right side on back and torn on left back side having smell of kerosene and dirty.

=====

00=00

Thus, clothes of aforementioned description wore by the accused Somnath Rajiv Satpute at the time of incident were presented by the accused before the panchas and the same were seized for the sake of investigation of the crime and the seized clothes are packed in two different brown envelopes and the same were sealed, packed and labelled with our signature and signatures of panchas.

This panchanama started at 17.00 and its writing was completed by 17.45.

Before

Sd/-

Asst. Police Inspector
Mhadur Police Station

We, the panchas were present at the time of panchanama right from the beginning till the end and after confirming the correctness of the panchanama carried out by the police we put our signatures hereunder.

Panch (1) Sd/-

(2) Sd/-

Deposition of witness No. 4 for the prosecution

I do hereby on solemn affirmation state that –

My name is - Shri. Subhash Shivaji Awhad
Age about - 43 years
Occupation - Police head constable
R/at - Mhadur Police Colony, Mhadur, Pumbe

Examination in chief by APP Shri. WANKHEDE

1. Since 2009 till this day I am attached to Mhadur police station as PHC. On 24.9.2010 I was called by police in Mhadur police station on my duty. At that time, one Mr. Mehere was Sr. PI of Mhadur police station. On that day at about 3 pm Sr. PI called me. He disclosed to me that lady viz. Sou. Manju Somnath Satpute , r/o Katyachi wadi sustained burn injury and admitted in Ambikapur Hospital. He instructed me to record her statement. As per the directions of Sr. PI Mehere, I visited Ambikapur Hospital. In Ambikapur Hospital ward No. 25 I made inquiry about Sou. Manju Somnath Satpute with duty medical officer. Injured lady Manju was admitted in ward No. 25 at Ambikapur Hospital. I made inquiry with doctor whether the said lady is in a position to give statement. Doctor informed to me that the said lady is in the condition of giving statement. Thereafter, myself and doctor went near patient Manju Satpute. I inquired her name on which she disclosed her name as Manju Satpute. On inquiry said lady disclosed that her marriage has been performed prior to six years and since marriage her husband was harassing her over demand of amount to construct the house. She further disclosed to me that she had stated this fact to her parents. Her parents asked her to co-habit with her husband and there will be change in the behavior of her husband. She further disclosed to me that she was sick since 5-6 days and hence, she asked her husband to take her to hospital, but instead of taking her to hospital her husband abused and threatened her.
2. She further disclosed that on 24.9.2010 at about 8 am she asked her husband to take her to hospital, on which her husband instead of taking her to hospital told her "Tu jivant Rahili Nahi tari chalel" and assaulted her by hand. By getting annoyed she poured kerosene from the can on her person, her husband told her 'Tula Marun Takto, Tula Petun Deto' and by saying so set her on fire by igniting match stick. She further disclosed that she made hue and cry and

thereafter her brother in law Suhas Nemade extinguished her fire and admitted her in Ambikapur Hospital. I recorded her statement. it was read over to her. She understood the same. Thereafter she put her thumb impression below it in my presence and then I put my signature on it. After recoding her statement, the doctor has made endorsement on it and below endorsement doctor put his signature. The statement now shown to me is same, it is recorded as per say of Manju Satpute, contents therein are correct as per her say. It is at Exh. 34. Thereafter, I returned to police station and handed over the statement Exh. 34 to PSO, PSO registered an offence on the basis of statement vide CR No. 309/2010 under section 498A, 307 of IPC. Accordingly, station diary entry was made. Investigation was handed over to PI.

Cross examination by Adv. Kulkarni for the accused

3. On 24.9.2010, my duty hours were 9 am to 9 pm. On that day at about 2.30 pm in police station I was doing my work. Ambikapur Hospital does not fall within the territorial jurisdiction of Mhadur police station. While leaving Mhadur police station I made entry in station diary. I came to Ambikapur Hospital by my motorcycle. My writer was alongwith me. In Ambikapur Hospital, I straightway went to ward No. 25. I received information that patient is admitted in ward No. 25. I cannot tell the name of said duty medical officer. I cannot tell the exact structure of ward No. 25. I had not asked doctor as to who admitted the patient in hospital. The distance between Katyachi wadi and Ambikapur Hospital is around 70 to 75 kms. It was not felt necessary for me to inquire with the doctor as to how the patient is brought in hospital from such a long distance. There is police chowky in hospital from such a long distance. There is police chowky in Ambikapur Hospital exclusively for Ambikapur Hospital. I had not made inquiry with the doctor in respect of whether the police of Ambikapur police chowky made inquiry with patient. At that time I had not seen the medical case papers of the patient. The doctor who had prepared the case papers was present there. The doctor had not stated to me about any police officer made inquiry with the patient. In the ward there were near about 10 to 12 beds. The beds are adjacent to each other. At that time on another bed other patients were admitted. I cannot tell whether the main door of the said female ward is always open. I cannot tell how many patients were admitted in the said ward on that day. I had made inquiry with the doctor regarding presence of relatives of Manju Satpute. When I went in the ward no relative of Manju was present there. At that time medical treatment was going on Manju. I know the difference between

statement and FIR. At that time I had not made inquiry with the doctor regarding percentage of burn injury, but I made inquiry about her condition. It was not possible for me to call Magistrate to record her statement. I was not knowing the name of the Magistrate at Pumbe who is recording statement. It was possible for me to get information from Ambikapur Police chowky about Magistrate. Before recording statement, I have not obtained certificate from doctor in respect of whether patients is in a position to give statement. I have not made entry of my visit in the medical case papers of patient as well as medical papers of ward No. 25. After disclosing the incident by the injured then I came to know about the incident, prior to it I was not knowing about the incident. In my career up till now I have recorded near about 100 dying declaration. I am aware that the dying declaration is to be recorded in question answer form. We never used to record dying declarations, we used to record complaint. The moment she stated telling I used to record the same. I myself have written the statement. Before recording statement I got knowledge that the patient is going to lodge the complaint. In statement Exh. 34 there is no reference as to who has written the statement. In the statement there is no reference of name of doctor who examined the patient. It was not felt necessary for me to mention the name of doctor who has made the endorsement on statement. In the ward covering cage was kept on person of injured Manju. From that cage only face and feet of injured were visible. It is not correct to say that both the hands of Manju were burnt. At the time of recording statement Manju was lying on bed calmly. I have not attested the thumb impression of Manju. At that time, it was not possible to attest her thumb impression, because no other person was present there. After recording the statement it was possible for me to call somebody for attesting thumb impression. Not true to say that Manju had not made any kind of statement before me and hence, I could not mention of the doctor and I could not attest her thumb impression. Not true to say that I have prepared statement of Manju as per the say of her relatives and that is why the opening of statement is styled as 'Firyadi Jawab'. While submitting the statement of Manju to police station I have not submitted my report. Not true that I have prepared false statement Exh. 34 and it does not bear thumb impression of Manju. Not true that I am deposing false.

No re examination.

R.O. & A.C.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date : 7.2.2013

Exhibit No. 34 (Dying Declaration - 2)

Complaint Statement Dt. 24/9/10

My name is Mrs. Manju Somnath Satpute, Age 22 years, Occupation : Household, R/at : Khatkale Vasti, Katyachi wadi, Tal. Mhadur, Dist. Pumbe.

Being asked personally giving statement in writing in full conscious while admitted in ward No. 25 at Ambikapur Hospital, Pumbe that, I am residing at the aforementioned place alongwith my husband Somnath Satpute and daughter Pratiksha. My maternal house is at Kanhur Mesai and I got married before six years. Since the time of my marriage, my husband continuously troubles me to get money from my maternal home for construction of house. I have informed this thing to the people at my maternal home. People from my maternal home used to tell me that my husband's behavior will change and asked me to continue the marital life. From last 5-6 days I am suffering from cold and fever therefore, I said my husband, "take me to the clinic", then he replied, "Get out from the house" and used to abuse and threaten me.

Today, on 24/09/10 by 10.00 am, when I asked my husband, "take me to the clinic" then he assaulted me with hands saying, "it would be fine, if you die" and therefore being annoyed with this, I poured kerosene on my person from the kerosene can in the home and at that time my husband said "I will kill you, set you fire" and he ignited the match stick in the match box and set me fire. Thereafter, I started shouting and at that time my elder brother-in-law Suhas Nemade extinguished fire and admitted me in Ambikapur Hospital, Pumbe.

Therefore, right from the solemnization of my marriage (before 6 years) till today's i.e. 24/9/2010 by 8.00 am, my husband Somnath Rajiv Satpute, R/at : Kharkali Vasti, Katyachi wadi, Tal. Mhadur, Dist. Pumbe used to tell me to get money from my maternal home and continued harassing me physically and mentally and today on 24/09/10, by 8.00 am when I asked my husband to take me to the clinic, he assaulted me with hands and being annoyed with that when I poured kerosene on my person, he said, "I will kill you and set you fire" and then he ignited match stick in the matchbox and set me on fire and thus tried to kill me and therefore I have legal complaint against him.

My aforementioned statement read over to me and the same is true as per my instructions.

Said statement is given in writing.

Before

[Thumb impression]

Sd/-

Of thumb of left hand of
Mrs. Manju Somnath Satpute
Mhadur Police Station

Deposition of witness No. 5 for the prosecution

I do hereby on solemn affirmation state that –

My name is - Dr. Abhijeet Bala Shelke
Age about - 32 years
Occupation - Govt. Service
R/at - 93/15, Vrinda Society, Jalavihar Nagar, Pumbe.

Examination in chief by PP Ms. Lahoti

1. On 28.9.2010, I was working as Asst. Professor. In forensic Deptt. Of PK Medical college and Ambikapur General Hospital, Pumbe. On that day at about 12.10 pm dead body of deceased Manju Somnath Satpute was brought by PSI Haveli, Police Station alongwith inquest for autopsy examination. During the period from 1.10 pm to 2.10 pm I and Dr. Kumar Jain conducted post mortem on the dead body of deceased. On external surface area approximately 70% as described in col. No. 17 of pm notes. We also noticed ink mark on left thumb and right 2nd toe. These injuries were antemortem in nature. On internal examination we noticed there was about 300 cc fluid in pural cavity. After conducting postmortem we were of the opinion as to the cause of death as shock due to burns. Accordingly we prepared pm notes it is in handwriting of Dr. Jain and it bears signatures of Dr. Jain and myself. Contents therein are correct, it is at Exh. 38.

Cross examination by Adv. Kulkarni for the accused

2. I have not prepared diagram in col. No. 17. For want of diagram, it cannot be clarified on which particular portion of body burn injuries were there injection mark found on left ankle vainy section.

No re examination.

R.O. & A.C.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date : 18.2.2013

CERTIFICATE

Taken before me and signed by me in the presence of the accused to whom the deposition was explained and opportunity given to cross examine.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date: 18.2.2013

Exhibit No. 38 (Post-Mortem Report)

Sou. Manju Somnath Satpute– F/23

Memorandum of a Post-Mortem Examination held at S.G.H., Pumbe

Hospital on the dead body of _____ of Village/City Katyachi wadi

Taluka Mhadur _____, District Pumbe _____, by Dr. K. Jain.

I General particulars -

- | | | | | |
|---|---|---|-----------------------|--|
| 1 | (a) By whom was the corpse sent ? | P.S.I. Haveli Po. St. | | |
| | (b) Name of the place from which sent. | S.G.H. BL – 25 | } MLC No.
43586/10 | |
| | (c) Distance of place from which sent. | Nil | | |
| 2 | By whom was the corpse brought ? | H.C. S. R. Walunj | 656 | |
| 3 | By whom identified ? | P.C. Shaikh | 4986 | |
| 4 | The date, hour and minute of the receipt. | 12.10 hrs. | } 28/9/10 | |
| | (a) The date, hour and minute of beginning post-mortem examination. | 13.10 hrs. | | |
| | (b) The date, hour and minute of ending post-mortem examination. | 14.10 hrs. | | |
| 5 | Substance of accompanying Report from police Officer or Magistrate together with the date of death. If known, Supposed cause of death or reason, for examination. | As per police inquest to know the exact cause of death. P.M is requested. | | |
| 6 | If not examined at Dispensary or hospital | SGH, Pumbe | | |
| | (a) Name of place where examined. | DOA 24/09/2010 | | |
| | | DOA 28/09/2010 | | |
| | (b) Distance from dispensary or Hospital | MLC No. 43586 | | |
| | (C) Reason why the body was not sent to the Dispensary or Hospital | Reg. No. - | B21268 | |

Sd/-
Copy received.
2/1/13

II	External Examination –	
7.	Sex, apparent age, race or caste, Description of clothes and of ornament on the body.	Female, 23 yrs. Naked when examined.
8	Condition of the clothes – Whether wet with water stained with blood or soiled with vomit or focal matter.	Nil
9	Special marks on the skin such as scars, tattooing, etc. any malformations, peculiarities or other marks of identification. State of the teeth.	Body burn Label checked.
	In newly born infants, the length and (if possible), the weight of the body to be recorded together with the state of the hair, nails and umbilical cord, its length, whether placenta is attached or not, if present, its size and condition.	Nil

10	Condition of body – Whether well nourished, thin or emaciated, warm or cold.	Average nourished, cold body
11	Regar Mortis- Well marked, slight or absent, whether present in the whole body or part only.	Partly developed Manju Satpute 23 yrs. F. Haveli P.S.
12	Extent and signs of decomposition, presence post-mortem inlividity of buttocks, loins, back and things or any other part. Whether bullae present and the nature of their contained fluid. Condition of the cutlele.	No s/o. decomposition. PML over back except at pressure points and areas of burn injuries.
13	Features – Whether natural or swollen, state of eyes, position of tongue, nature of lluid (if any) oozing from mouth, nostrils of ears.	Natural Eyes – Close Mouth – Partly open Tongue – Inside Oozing – Absent
14	Condition of skin – Marks of blood, etc. in suspected drowning the presence or absence of cutes anserine to be noted.	Nil

15	Injuries to external genitals. Indication of purging.	Ext. genitals burnt. No purging		
16	Position of limbs – Especial of arms and of fingers in suspected drowning the presence of absence of sand or oath within the nails or on the skin of hands and feet.	_____		
17	Surface wounds and injuries – Their nature, position, dimensions (measured) and directions to be accurately stated – their probable age and causes to be noted. If bruises be present what is the condition of the subcutaneous tissues ? (N.B. – When injuries are numerous and cannot be mentioned within the space available they should be mentioned on a separate paper which should be signed.)	Ink mark – (1) () thumb (2) () great toe. Ink mark – () ankle, _____	1) _____ - 02% (Rt.) - 05% 2) UL (Lt.) - 05% 3) Ant. trunk - 15% 4) Post trunk - 10% (Rt.) - 16% 5) LL (Lt.) - 16% 6) Genitals - 01%	Total = 70%
18	Other injuries discovered by external examination or palpation as fractures etc. (a) Can you say definitely that the injuries shown against serial Nos. 17 and 18 ante-mortem injuries ?	No fracture. Yes, antemortem.		

III Internal examination

19	Head –		
	(i) Injuries under the scalp, their nature.		Intact, no injuries.
	(ii) Skull – Vault and base-describe fractures, their sites, dimensions, directions etc.		Intact, no fracture.
	(iii) Brain – The appearance of its coverings, size, weight and general condition of the organ itself and any abnormality found in its examination to be carefully noted (Weight M 3 gram F. 2.75 grams).		Intact
20	Thorax -		
	(a) Walls, ribs, cartilages ...		Intact
	(b) Pleura		about 300
	(c) Larynx, Trachea and Bronchil		Intact
	(d) Right Lung	}	Intact, consolidated.
	(e) Left Lung		
	(f) Pericardium	}	Intact, normal size and shape
	(g) Heart with weight		
	(h) Large vessels		
	(i) Additional remark		Not any

21	Abdomen -				
	Walls		Intact		
	Peritoneum		}	Intact, no free fluid/blood	
	Cavity				
	Bucal Cavity, teeth, tongue and pharynx.		}	Intact	
	Desophagus				
	Stomach and its contents		Intact,	50	bilious fluid, Mucosa pale, no smell presence.
	Small intestine and its contents		}	Partly rises	
	Large intestine and its contents				
	Liver (with weight) and gall Bladder.		}	Intact	
	Pancreas and separareals ...				
	Spleen with weight				
	Kidneys with weight				
	Bladder				
	Organs of generation		Uterus empty on cut section.		

Additional remarks with where possible, Medical Officer's deduction from the state of the contents of the stomach as to time of death and last meal.

Not any

State which viscera (if any) have been retained for chemical examination and also quote the numbers on the bottles containing the same.

Nil

Spine and spinal cord ...

Intact

Opinion as to the cause probable cause of death.

"Shock due to burns"

Sd/-
28/09/2010
(Dr. Kumar Jain.)

Sd/-
(Dr. A. B. Shelke)

(Signature)

Forwarded to the police Sub-Inspector Haveli P.S. for information
with reference to his No. of 199.

1. Visera has preserved. It may please be stated immediately whether examination by the Chemical Analyser is necessary or it is to be destroyed.

Sd/-
28/09/2010
Civil Surgeon or M.M.

Copy forwarded with compliment to the Civil Surgeon.

For information

Sd/-
28/09/2010
M.M. S. Officer

Seen and examined by the Civil Surgeon
199

on

Remarks of the Civil Surgeon (if any)

Deposition of witness No. 6 for the prosecution

I do hereby on solemn affirmation state that –

My name is - Dr. Pandit Swami
Age about - 28 years
Occupation - Resident doctor
R/at - 300, residents qtrs., CP Hospital Campus, Mumbipura

Examination in chief by APP Shri. WANKHEDE

1. I was working in Ambikapur Hospital from 2.5.2009 to 2.5.2012 as resident doctor in general surgery department. Patient Manju Somnath Satpute aged 23 years was brought in Ambikapur Hospital on 24.9.2010 at about 1.15 pm in a burnt condition. She was admitted in ward No. 25 of Ambikapur Hospital. Ward No. 25 is a burnt patient ward. On that day I was on duty as resident doctor in ward No. 25. I examined the patient immediately and found that patient had sustained 63% of superficial to deep burn. The patient was conscious and oriented to time, place and person. The history given by the patient was of homicidal burn injury. Patient was not having any other bodily injury like head injury, chest trauma or abdominal trauma. I had asked for Magistrate's statement. I have noted own the history in indoor case papers. The indoor case papers are now shown to me are in my handwriting, entries therein are correct, it bears my signature, the indoor case papers are marked at Exh. 45 collectively. On 24.9.2010 at about 2 pm the statement of patient Manju was recorded by police. At that time I was present. At the time of making statement the patient was conscious and in a state of making valid statement. After recording the statement I made endorsement on the statement regarding the state of patient. The statement Exh. 22 now shown to me is same. It bears my endorsement and below the endorsement, it bears my signature. Contents in the endorsement are correct. On same day at about 5.30 pm the statement of patient was recorded by police. At the time of recording statement of patient Exh. 34 I was present there. At that time the patient was conscious and state of making valid statement. after recording the statement I have made endorsement on statement Exh. 34. The statement Exh. 34 now shown to me bears my endorsement and below endorsement it bears my signature, the endorsement is true and correct.

2. I was treating the patient till her death and she died on 28.9.2010 at about 8.20.

Cross examination by Adv. Kulkarni for the accused

3. I was posted in general surgery department and burns ward comes under general surgery. No any doctor is given duty in burns ward and duty changes by rotation. In a week I was assigned duty of one day (24 hrs) in a burns ward. On next consecutive day another doctor who is on call duty used to see the patient. There is a big premises of Ambikapur Hospital and there is always heavy rush. I do not know whether Ambikapur police chowky is adjacent to burns ward. In burns ward there are 5 big rooms, one for children, two for female and two for male persons. In each and every room there are 15 cots for the patients. There is a mobile partition. Specific time is allotted for the relatives to see these patients in ward. Today I exactly do not know the visiting hours. At the time of admission of patient the relatives used to come near the ward. At the time of admission I started emergency management and asked the staff nurse to get the admission papers done. The first page of Exh. 45 was prepared by the staff. On first page of Exh. 45 there is no reference of my name. Dr. Hitesh Marwadi visited the patient regularly. Dr. Marwadi had not been to the patient on 24.9.2010. On each and every paper stamp of dying declaration (D/D) is to be made. History was given by patient and her relative viz. Shruti Kokane. Not true to say that I have not written history in Exh. 45. In the column of history word suicidal is struck down and instead homicidal is written. I have put my signature below the struck word. True to say that as per rules there should not be any over writing in medical case papers and if there is over writing name of the person and his signature who had made over writing has to be mentioned below it. After disclosing of the history by the patient I started noting down the same. The patient was brought by her relative Shruti. I had not seen any marks of injuries other than burns injuries on person of patient. On page No. 1 of Exh. 45 figure 80% is rounded off but nobody has put his signature below it. On page 2 and 3 of Exh. 45 have been written that patient is conscious and oriented. I do not know whether the stamp of dying declaration which is impressed on case paper is required to be filled in case D/D is recorded. I have written call of RMO on call for arrangement of Magistrate statement. That call reached to RMO. RMO had made endorsement "inform on duty police". It is the duty of police to call Magistrate. I do not know whether list of Magistrate to record D/D has been provided to hospital by

District Magistrate. The police who has recorded the statement of patient might have met me 15 minutes before recording statement. When statement was recorded at about 2 pm at that time only myself, police recording the statement and the patient were present. The door of the room where patient was admitted used to remain open. The bed of the patient who is first admission is in the corner of the room, where other patient should not disturb. The patient Manju was raising shouts. At that time we had not given sedative to her. Medical papers are in custody of nurse. It is correct to say that as per medical councils rule while preparing paper no blank space is to be left to avoid insertion by some other person. In medical papers there is no necessity to make entry regarding recording of D/D. In Exh. 45, there is no reference that D/D has been recorded. It was not necessary to make entry in case paper regarding recording of D/D. I am aware that in case Magistrate is not available for recording D/D then doctor has to record D/D. I do not know whether signature of independent witnesses has to be obtained on. D/D in case D/D is recorded by the doctor. While making endorsement of D/D to mention the name and designation of concerned doctor. But either on Exh. 22 or Exh. 34 my name is not written.

4. Adjd. Due to recess.

R.O. & A.C.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date : 28.3.2013

Resumed on SA

Cross examination by Adv. Kulkarni for the accused

5. In burns ward 15 to 20 resident doctors will daily used to visit. It is not true to say that I have not intentionally written history given by the patient in Exh. 45. It is not true to say that as per the say of police and relatives I have struck off the word suicidal and in its place I have written homicidal. I do not know whether the D/D is to be sealed by the doctor and it should be handed over to District Magistrate. Statement Exh. 22 and 34 were not sealed in my presence. Before recording D/D I have not given certificate regarding the fitness of the patient. In both the statement Exh. 22 and 34 there is no reference that the patient was conscious and oriented. If the patient is died during taking

treatment, while preparing the inquest papers police used to take help of case papers. The story written in inquest is always extracted from case papers. It is not true to say that no any D/D was recorded in my presence and that is why my name is not appearing in both the D/D. It is not true to say that police brought the papers as per routine and I simply put my signature. Below the endorsement on Exh. 22 and 34 I have not mentioned the complete date. Not true to say that I have not made any kind of endorsement. It is not true to say that the patient had disclosed story of suicidal and that is why I did not record D/D. Not true to say that I was not present at the time of recording D/D that is why police officer could disclose my full name. Not true to say that there is no evidence that I have prepared the case papers and I have made endorsement on Exh. 22 and 34. Not true to say that I am deposing falsely at the instance of police.

No re examination.

R.O.& A.C.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date : 28.3.2013

CERTIFICATE

Taken before me and signed by me in the presence of the accused to whom the deposition was explained and opportunity given to cross examine.

Sd/-

(Prafulkumar T. Bhatnagar)
Addl. Sessions Judge, Pumbe

Date : 28.3.2013

Exhibit No. 45 (Indoor Case Papers)

Of Admission
 ___ed

MLC No. 43586
 24/9/10 PCI

File No.
 MRD No.

986956

80%
63%

[Logo] PK Medical College and Ambikapur General Hospitals, Pumbe

IN CHARGE : Dr. Hitesh Marwadi DEPARTMENT : General Surgery WARD : Plastic Surgery Ward – (25)
 Referred To Time of arrival in

Dr. Dept. Ward : On :

 Dr. Dept. Ward : On :

 Dr. Dept. Ward : On :

Mrs. Manju Somnath Satpute
 (First Name)

(Husband's/Father's Name)

Satpute
 (Surname)

Address : A/p Katyachi Wadi, Tal. Madhur, Pumbe, Pumbe
 Badarashtra.

Admitted Date/Time : 24/09/2010 1.15 PM
 Registration 24/09/2010

1.13 PM

___egory : Medico Legal Case
 ___ 3 Years Sex : Female Religion : Hindu Income Rs. 0.0
 Sd/-

Discharged Date : 28/09/10
 or Time : 8.20 AM

___ation : Other

 ___nent
 ___ress

Died
 Days in Hospital

Cured/Relieved/Unrelieved/
 D.A.M.A./Absconded/**Died**

___ of Kin Vijay Nemade

Signature of H.P. Sd/-
 Signature of Registrar

___ss Same address

Relationship
 Signature of Patient

___ Particulars above have been verified.
 ___ of Representative.

Relationship

___ eliminary Diagnosis :

___ onal Diagnosis : 63% of superf to deep burns

Diagnosis	CODING
___ cations	Total pages – 08
___ ons	Sd/-
___ cations	
___ Of Death After MLC	

Signature of Consultant in charge
 ___ed Rs.

Sd/-
 on account of

Signature of Nursing Incharge

___ t No.

Signature of clerk

6/9/10

___.45 pm
permission for

My daughter is having 1 ½ years son and as her chest is smelling because of burn injuries, a
no feeding is hereby given.

Mother
[L.H.T.I.]

Mode of Admission	From O.P.D.	Emergency	Duration of Waiting List	For Observation	For Investigation
Admitting officer's Notes			Treatment given and Orders		
24 09 10 1.25 pm	__ burn 80% burn				
(25)	Pl. admit in _____		Inform _____		
				Sd/-	

Government Servant's No. E.S.I.S. No. E.P.R. No. P.C. No. M.L.C. No. to be written

The patient has been examined for cash and jewellery Receipt No.

Signature of Casualty Medical Officer
Date and Time :

I hereby give my consent for the performance of any diagnostic examination, biopsy, transfusion or operation and for the administration of any anesthetic as may be deemed advisable in the course of this hospital admission.

Signature of Patient (or) Representative

Relationship Date :

Previous Admission Details

Admission Dates :

Relatives were present/not present at the time of death

Whether POST MORTEM is required

Signature of C.M.O.

Date and Time

Remarks of C.M.O.

Signature of Casualty Clerk

Date and Time

[Seal]

Bother-in-law of patient
Suhaz Nemade

Dr. PSL	AMBIKAPUR GENERAL HOSPITALS, PUMBE	MLC – 43586 Reg. No. 321268
Name :	Manju Somnath Satpute	
Date		
24/09/10	DYING DECLARATION (Seal)	
1.30 pm	Name :	
	Reg. No. MLC No.	
	Recorded by	
	Date	
	Started Time	
	Finished Time	
	Sign,	
	History by Dr. PSL (Dr. Pandit Swami)	
	History by Self and relative (Shruti Kokane)	
24/09/10	homicidal Suicidal burn injuries - ____	
1.30 pm	24/09/10 at ____ 8 am ____ at Katyachi Wadi, Pumbe	
	No sign of Head injury	
	No sign of Vomiting, bleed	
	No sign of unconscious	
	No ____ trauma to chest	
	No ____ hemophy ____	
	No. ____ trauma to ____	
	No ____ hematamay hematoma	
	No ____ external ____ injury	
	O/E - ____ - poor	
	P-124 by -	
	BP – 110/80 mm ____	

24/09/10	To	
1.30 pm	RMO	
	Kindly arrange for	
	Magistrate Statement for the patient	
	_____ 63% superficial to deep	
	Homicidal burn injury.	
	Thanx.	
	Noted	
	Sd/-	
	Inform on duty police	
	Sd/-	
	24/9/10	
	AT 4.00 pm	
	Statement of the said patient	Statement of the said patient
	taken on 24/9/10.	taken on 24/9/10 by 17.30
	Sd/-	Sd/-
	_____	_____
	_____	Police Const. Madhur P.S.

Dr.	AMBIKAPUR GENERAL HOSPITALS, PUMBE		Reg. No.
Name :			
Date			
26/09/10	To,		
10 am	CR OBG on call		
	Kindly _____ I examine		
	from patient a/c/o 63% burn injury		
	c/o breast, engorgement & opine regulate		
	further management.		
	Thanx		
	Sd/-		
	Noted		
	Sd/-		
	S/B For _____ (JRI/TS)/Dr. Neha (CRD)		
	- MTAR		
	- History taken		
	Pt. ___ 63% burn c/o. breast engorgement		
	_____ check		
	Patient having a baby of 1 ½ yrs. Old		
	Breastfeeding _____ continued.		
	_____ burn trauma stopped since 4 days.		

Deposition of witness No. 7 for the prosecution

I do hereby on solemn affirmation state that –

My name is - Jayesh Manohar Gunjal
Age about - 45 years
Occupation - Service
R/at - Jejuri, Tal. Purandar, Dist. Pumbe

EXAMINATION IN CHIEF BY APP SHRI. WANKHEDE

1. From 22/2/2009 to February, 2012, I was attached to Mhadur Police Station as API. I received case diary of Crime No. 309/10 under Section 498-A, 307 of I.P.C. On 25/09/2010, for further investigation. I perused the papers of investigation. Spot panchanama was already prepared by PI Vasudeo Pote. On 25/09/2010 I recorded statement of witness Vijay Nemade, Kashinath Nemade, Rukmini Nemade, Kashmira Nemade, Amol Nemade, Digvijay Patil, Nimita Pore, Sarthak Giri, Shruti Kokane. On 01/10/2010, myself recorded supplementary statement of Vijay Nemade, Kashinath Nemade, Shruti Kokane, Nimita Pore. On 02/10/2010 I recorded supplementary statement of Ketan Nemade, Rukmini Nemade, Kashmira Nemade, Amol Nemade, Digvijay Patil, Sarthak Giri. On 07/10/2010 myself recorded statement of Kaustubh Deshpande. On 28/09/2010, myself arrested accused Somnath Satpute and seized his clothes under panchanama. Arrest and seizure panchanama Exh. 32 now shown to me is the same. It bears signature of panchas as well as my signature. Contents therein are correct. Myself seized the white T-shirt, on which there is election symbol of NCP and the shirt was smelling of kerosene, blue coloured pant was also seized and it was smelling of kerosene. The accused was arrested on 28/09/2010 at about 17.00 hrs. On 07/10/2010, I sent the seized articles to C.A. for analysis through Police Constable Deshpande alongwith my report. The report now shown to me is the same. It bears my signature. Contents therein are correct. It is at Exh. 49. The victim died in hospital on 28/09/2010. Hence, charge under section 302 was added and its report was sent to JMFC Mhadur. I collected postmortem notes. I recorded statement of Vijay Nemade as per his say. Portion marked –A in the statement of witness Vijay Nemade has been correctly recorded by me. The portion marked –A is at Exh. 50. On completion of investigation myself filed

charge-sheet against the accused before JMFC Mhadur. The accused before the court is the same.

Cross examination by Adv. Kulkarni for the accused

2. I have paid visit to the spot of incident. I have recorded statement of the neighbouring persons. I visited the spot of incident on 25/09/2010. The distance between the house of accused and the house opposite of the accused is 30 to 35 ft. In front of the said house which belongs to Rajesh constructions of w.c. was going on and the sand was kept in front of his house. I recorded the statements of neighbouring persons on the spot of incident. During interrogation it was not revealed to me that at the time of alleged incident the accused was standing near the sand alongwith his daughter. I received papers of investigation; it contains FIR, statement of the complaint recorded in hospital, special report, muddemal receipt. One statement of victim was recorded in Ambikapur Hospital and the statement was also included in the papers of investigation. Alongwith the statement Exh. 22, I do not find any report made to superior officer. I had not made enquiry with head constable Walunj who recorded the statement Exh. 22. I had not taken any action against Walunj. I received inquest panchanama dated 28/09/2010. The maker of the inquest panchanama used to prepare on the basis of medical papers. There were burn injuries on the hands of accused. After causing arrest of the accused, I issued yadi to Rural Hospital for getting medical examination of accused. The report filed by medical officer now shown to me is the same. It is marked at Exh. 51. During period 25/09/2010 to 28/09/2010 I had not visited Ambikapur Hospital. The witness was referred the remand report dated 29/09/2010. It is marked at Exh. 52. Contents in the report is correct. The clothes of the accused were wrapped in a brown paper and label of signatures of panchas are pasted on it. It was possible for me to send the seized clothes of accused to C.A. immediately. It is not true to say that I have intentionally not sent the clothes of accused to C.A. It is not true to say that I have not personally verified the spot of incident and not recorded the statement of any of the witnesses. I have not recorded the portion marked -50 in the statement of Vijay as per his say. I had no occasion to see the indoor case papers of Ambikapur Hospital. It was not felt necessary for me to make inquiry with the doctor of Ambikapur Hospital. It is not true to say that purposely I have not made inquiry with the doctor and called the case papers and hence, purposely I have not included those papers in charge-sheet. It is not true to say that there was no case against the accused and I have fabricated false evidence against him

and hence, I have not immediately arrested the accused. It is not true to say that I have prepared false evidence against the accused and filed false charge-sheet against the accused. It is not true to say that I am deposing falsely.

Re-examination – Nil

ROAC

Sd/-

Pumbe
Date – 12/04/2013

[P.T. Bhatnagar]
Ad-hoc Dist. Judge & Addl.
Sessions Judge, Pumbe

Statement of Vijay Nemade

Dt. 25/09/2010

Exhibit No. 50

My name is Vijay Nemade, Age 38 years, Occ. : Agriculturist, R/at : Khatkale Vasti, Katyachi wadi, Tal. Mhadur, Dist. Pumbe.

As asked in person state that, I am residing at the aforementioned address alongwith my wife Mrs. Komal and son Varun and earning my bread and butter from agriculture. Somnath Rajiv Satpute is also residing in our area alongwith his wife Mrs. Manju and daughter Pratiksha. Sometimes minor fights used to take place between the couple.

On 24/09/2010 at about 08.00 am, my bother Dagadu Nemade brought sand from the trailer for construction of W.C. in front of his home. I climb up and unloading the sand from the trailer with the help of spade. At that time, I hear shouts of Manju, the wife of Somnath Satpute and when I saw from there, I noticed that Manju was engulfed with fire and ran outside from home. Therefore, I jumped down from the trailer and rushed towards the home of Somnath. She wore yellow colour saree on her person. At that time, Somnath tried to extinguish the fire with his hand. Ladies at our vicinity gathered over there because of screams of Manju. At that time Kashinath Nemade ran and when he brought a vessel filled with water from the house of Rukmini Nemade and when he came forward trying to throw water on Manju surrounded with fire, she tried to catch him. Therefore, he throw the vessel as it was and ran away from her. I also apprehend that Manju should also try to catch me and therefore I didn't go near to her. Thereafter, Suhas Nemade came there and at the same time Ketan Nemade ran into the house of Rukmini Nemade and brought a blanket and both of them covered the body of Manju engulfed with fire. After extinguished the fire, we took her into the home. At that time she told, I was ill from last 4 to 5 days. When I asked my husband to take me to the clinic, instead of taking me to clinic, she said "it would be fine, if you die" and therefore being annoyed with this, I poured kerosene from the kerosene can on my person. At that time, my husband Somnath ignited the match stick in the matchbox and set me on fire. Thereafter, Kashinath Nemade went to Kanhur Mesai on motorcycle and brought the mother of Manju, Shruti Kokane over there. Thereafter, from the sumo jeep of Amol Jyotiram Nemade , myself alongwith Amol Jyotiram Nemade , Suhas Nemade and Manju's mother Mrs. Shruti Kokane took Mrs. Manju to Ambikapur Hospital, Pumbe for treatment and admitted her. At present, Manju is getting treatment at Ambikapur Hospital, Pumbe.

I have gone through my aforementioned note of investigation and it is correct as per my instructions.

Thus stated.

Before
Sd/-
Asst. Police Inspector
Mhadur Police Station

Report to Medical officer for Medical Checkup of Accused

Exhibit No. 51 (Page 1)

To,
Hon'ble Medical Officer Saheb, Rural Hospital, Mhadur
Humbly submitted that,

Report : Jayesh Manohar Gunjal, A.P.I., Mhadur Police Station

Subject : In respect of obtaining certificate after medical check-up.

Sir,

With reference to captioned subject it is hereby humbly requested that, as we have to arrest the accused in in crime lodged at Shriur P.S. vide C.R. No. 309/10 u/s. 498(A), 307 of I.P.C. viz. Somnath Rajiv Satpute, Age 27 years, R/at : Khatkali Vasti, Katyachi wadi, Tal. Mhadur, Dist. Pumbe for the sake of investigation of the said crime, medical checkup of the accused prior to his arrest may be done and certificate to that effect may be issued.

Humbly submitted to Hon'ble
Dt. 28/09/10

Sd/-
Asst. Police Inspector
Mhadur P.S.

Medical examination report

This is to certify, I have examined Mr. Somnath Rajiv Satpute, Age 27 yrs., today on 28/9/10 at 4.50 pm. He is physically fit and mentally sound. (He has burn marks on his Rt. Hand.)

Sd/-

Medical Officer
Rural Hospital Mhadur
Dist. Purne

Deposition of witness No. 8 for the prosecution

I do hereby on solemn affirmation state that –

My name is - Shri. Atmaram Devidas Nemade
Age about - 43 years
Occupation - Service
R/at - Katyachi wadi, Tal. Mhadur, Dist. Pumbe

EXAMINATION IN CHIEF BY APP SHRI. WANKHEDE

1. On 25.9.2010, while I was passing in front of the house of Somnath Satpute, some police men were present there and they called me in the house of Somnath Rajiv Satpute. at that time police called one Deepak Nemade also. I know Rukmini Nemade. Today I do not remember whether said Rukmini was present at that time. I found in the house of accused, there were pieces of burnt saree. Today I do not remember whether police seized plastic can containing kerosene and match box. Police seized the articles in a plastic bag. Police affixed the labels of my signature on it. Police prepared the panchanama and obtained our signatures. The panchanama now shown to me is same, it bears my signature. The contents of the panchanama now read by me are correct, it is at Exh. 55. I can identify the muddemal articles if shown to me. The witness is shown burnt pieces of saree, match box and plastic can i.e. art No. 3, 2 and 1 respectively, but the witness has not identified these articles.

Cross examination by Adv. Kulkarni for the accused

2. True to say that nothing was seized by police in my presence and police obtained simply my signatures on blank paper.
No re-examination.

R.O. & A.C.

Sd/-

[Prafulkumar T. Bhatnagar]
Addl. Sessions Judge, Pumbe

Pumbe
Date – 16/4/2013

Deposition of witness No. 9 for the prosecution

I do hereby on solemn affirmation state that –

My name is - Shri. Vasudeo Shridhar Pote
Age about - 50 years
Occupation - Govt. Service
R/at - Pumbe

EXAMINATION IN CHIEF BY APP SHRI. WANKHEDE

1. On 24.9.2010, I was attached to Mhadur Police Station as Police Inspector. I conducted initial investigation in CR No. 309/2010. On 25.9.2010 myself visited the spot of incident. Myself called two panchas viz. Atmaram Devidas Nemade and Deepak Nemade and in their presence I prepared spot panchanama as per prevailing situation. Panchanama Exh. 55 now shown to me is same, it bears my signature and signatures of panchas, its contents are correct. From the spot of incident myself seized one plastic can in which there was small quantity of kerosene, one match box and halfly burnt blouse and the pieces of saree. I can identify the said articles if shown to me. The muddemal plastic can art. no. 1 match box art. no. 2 and harlfy burnt blouse and pieces of saree art. no. 3 now shown to me are same. Thereafter myself handed over investigation of API Gunjal.

Cross examination by Adv. Kulkarni for the accused

2. As there was night time and hence, I could not prepare the panchanama on 24.9.2010. It was not felt necessary for me to prepare panchanama during night time. When I had gone to spot of incident witness Rukmini was present there and the house was in open condition. After passing period of 25 to 26 hrs from the time of incident, I visited the spot of incident. It is not true to say that I have not sealed the seized articles from the spot. We have not sealed the articles by using lak seal. Except the spot of incident I have not inspected the surrounding premises. In that

house there was hearth. True to say that in villages kerosene is used as fuel for cooking etc. Not true to say that the muddemal articles were not found on spot and it were not seized from the spot and hence it were not sealed. Not true to say that I am deposing falsely.

No re-examination.

R.O. & A.C.

Sd/-

[Prafulkumar T. Bhatnagar]
Addl. Sessions Judge, Pumbe

Date – 15.5.2013

Statement of accused under section 313 of Cr.P.C.

Q.1 Have you heard and understood the evidence adduced by the prosecution witness ?

Ans.

Q.2 It has come in the evidence of PW 1 Vijay Nemade that you accused was residing with you wife Manju Somnath Satpute and daughter Pratiksha near to his house. What you have to say about it?

Ans. It is true.

Q.3 It has further come in his evidence that while he was unloading the sand form the trolley of tractor on 24.9.2010 at about 8 am he heard shout of Manju Somnath Satpute, he saw Manju Somnath Satpute was coming out of the house and she was caught by fire. Hence, he, Ketan Nemade Kashinath, Amol Jyotiram Nemade, Suhas Nemade rushed towards her to extinguish fire. Kashinath Nemade brought the water from the house of Rukmini Nemade. When he was trying to pour water on person of Manju Somnath Satpute, Manju Somnath Satpute tried to catch him, hence he ran away. Therefore, he also not made an attempt to reach near Manju Somnath Satpute. You accused tried to extinguish fire by your hand, thereafter Suhas Nemade and Ketan Nemade wrapped blanket on person of Manju Somnath Satpute. He sent Kashinath to the parental house of Manju Somnath Satpute and then took the injured Manju Somnath Satpute to Ambikapur Hospital, where she was admitted. What you have to say about it ?

Ans. It is true.

Q.4 It has come in evidence PW 2 PHC Sharad Walunj that on 24.9.2010, he was attached to Haveli Police station and posted to Ambikapur Chowky. What you have to say about it ?

Ans. I do not know.

Q.5 It has further come in his evidence that on that day at about 13.20 hrs. Ambikapur OPD PC Munde V.No.1928 attached to Bundgarden Police Station gave him information that patient viz. Manju Somnath Satpute ,resident of Katyachi wadi is admitted inward No. 25 due to burn injury. What you have to say about it ?

Ans. I do not know.

Q.6 It has further come in his evidence that thereafter he rushed to ward No. 25 of Ambikapur Hospital, he met with on duty medical officer and disclosed him that he wants to record the statement of patient Manju Somnath Satpute. He also inquired with the doctor whether Manju Somnath Satpute is in a position to give statement. Accordingly, Medical Officer on duty examined Manju Somnath Satpute and informed him that patient is in a position to give statement. what you have to say about it ?

Ans. I do not know.

Q.7 It has further come in his evidence that he went near to the patient. On duty medical officer was accompanied with him. On inquiry patient disclosed her name as Manju Somnath Satpute, aged 22 years, reside of Katyachi wadi, Tal. Mhadur. From the above answers given by the patient, it was confirmed to him that patient was in fully conscious condition and he recorded her statement. What you have to say about it ?

Ans. I do not know.

- Q.8 It has further come in his evidence that while recording statement Manju Somnath Satpute stated to him that she is residing at Katyachi wadi alongwith her husband and 14 years old daughter Pratiksha. She disclosed that her marriage has been performed with you prior to five years. She further disclosed to him that since marriage her husband is harassing and ill-treating by abusing, threatening and assaulting and by saying to bring amount from her mother. What you have to say about it ?
- Ans. It is false.
- Q.9 It has further come in his evidence that with regard to incident dated 24.9.2010 Manju Somnath Satpute stated that on that day in the morning at about 7 am she was present in the house alongwith her husband i.e. you accused and she was not feeling well since last 5 to 6 days therefore, she asked her husband i.e. you accused to take her hospital for medical treatment. On this her husband i.e. you accused told her why are you troubling me and I will not take you to hospital and you should die. What you have to say about it ?
- Ans. It is false.
- Q.10 It has further come in his evidence that thereafter she further disclosed that being annoyed she poured kerosene on her person and at that time you accused ignite the fire by using match box. What you have to say about it ?
- Ans. It is false.
- Q.11 It has further come in his evidence that on burning sensation Manju Somnath Satpute made hue and cry hence neighbourer extinguished fire and took her to hospital. She further disclosed that she had complaint against her husband i.e. you accused. He recorded her statement Exh. 22 as per her say. After recoding the statement it was readover to her, she understood the same and then put her left toe. Thereafter he put his signature on it and obtained endorsement of medical officer on it. The medical officer on duty put his signature below his endorsement. What you have to say about it?
- Ans. It is false.
- Q.12 It has further come in his evidence that on 28.9.2010 at about 8.20 am patient Manju Somnath Satpute died in hospital while taking treatment. What you have to say about it ?
- Ans. It is true.
- Q.13 It has further come in his evidence that thereafter he prepared the inquest panchanama Exh. 23 in presence of panchas DigvijayKumar Jain Saraswati Lokhande and thereafter he sent the dead body for postmortem. What you have to say about it ?
- Ans. I do not know.
- Q.14 It has come in the PW Rohan Pravin Chandra that on 28.9.2010 he was called by police in Shrirur Police Station. Another panch Avinash Wagh was accompanied with him. You accused produced the clothes i.e. white T-shirt and blue coloured pant and police wrapped the clothes in brown paper separately and sealed. Both the clothes were smelling of alcohol. Accordingly police seized clothes and prepared the panchanama Exh. 32. What you have to say about it ?
- Ans. It is false.

Q.15 It has come in the evidence of PW 4 PHC Subhash Shivaji Awhad, that on 24.9.2010 he was present in Mhadur police station on his duty. At that time Mehere was Sr. PI of Shriur police station. On that day at about 3 pm Sr. PI called him and disclosed that on lady viz. Manju Somnath Satpute r/o Katyachi wadi, sustained burn injuries and admitted in Ambikapur Hospital. He instructed him to record her statement. As per the instruction of Sr. PI he visited Ambikapur Hospital. What you have to say about it ?

Ans. I do not know.

Q.16 It has further come in his evidence that in Ambikapur Hospital ward No. 25 lady viz. Manju Somnath Satpute was admitted. He made inquiry with doctor whether the said lady i.e. Manju Somnath Satpute is in a position to give statement. Doctor disclosed to him that Manju Somnath Satpute is in a condition to give statement. Hence he and doctor went near patient Manju Somnath Satpute. What you have to say about it ?

Ans. I do not know.

Q.17 It has further come in his evidence that on inquiry she disclosed her name as Manju Somnath Satpute. She further disclosed that her marriage has been performed prior to six years and since marriage her husband i.e. you accused harassing her over the demand of money to construct the house. She further disclosed that she has stated this fact to her parents. Her parents asked her to co-habit with you accused and there will be change in the behavior of her husband i.e. you accused. What you have to say about it?

Ans. It is false.

Q.18 It has further come in his evidence that she has further disclosed to him that she was sick since 5 to 6 days and hence asked her husband i.e. you accused to take her to hospital, but instead of taking her to hospital, her husband i.e. you accused abused and threatened her. What you have to say about it ?

Ans. It is false.

Q.17 It has further come in his evidence that Manju Somnath Satpute further disclosed that on 24.9.2010 at about 8 am she asked her husband i.e. you accused to take her to hospital to which you instead of taking her to hospital, told her "Tu Jivant Rahili Nahi Tari Chalel" and assaulted her by hand. By getting annoyed she poured kerosene from the can on her person. Her husband i.e. you told her "Tula Maroon Takto, Tula Petoon Deto" by saying so set her on fire by igniting match stick. She further disclosed that she made hue and cry thereafter her brother in law Suhas Nemade extinguished fire and admitted her in Ambikapur Hospital. What you have to say about it?

Ans. It is false.

Q.20 It has further come in his evidence that he recorded her statement Exh. 34, it was readover to her. She understood the same and thereafter put her thumb impression on it, in his presence. Thereafter he put his signature. After recording her statement the doctor made endorsement on it and below endorsement doctor put his signature. What you have to say about it ?

Ans. It is false.

Q.21 It has further come in his evidence that thereafter he returned to police station and handed over the statement Exh. 34 to PSO. PSO registered an offence on the basis of her statement vide CR No. 209/10 under section 498A, 307 of IPC. Accordingly, station diary was made and then investigation was handed over to PI. What you have to say about it ?

Ans. I do not know.

- Q.22 It has come in the evidence of PW 5 Dr. Abhijeet Bala Shelke that on 28.9.2010 he was working as Asst. Professor in Forensic Dept. of PK Medical college and Ambikapur Hospital. What you have to say about it ?
- Ans. I do not know.
- Q.23 It has further come in his evidence that on 28.9.2010 at about 12.10 pm dead body of Manju Somnath Satpute was brought by PSI Haveli police station for PM. During period from 1.10 to 2.10 pm he himself and Dr.Kumar Jain conducted postmortem on the death body of deceased. On external examination they noticed superficial to deep burn over body surface are approximately 70%. They also noticed ink mark on left thumb and right second toe. The injuries were antemortem in nature. On internal examination they noticed that there was about 300 ml cavity in plural cavity. He opined that the cause of death due to burns and accordingly he issued PM Notes Exh. 38 which bears his signature and signature of Dr.Kumar Jain. What you have to say about it ?
- Ans. I do not know.
- Q.24 It has come in the evidence of PW 6 Dr. Pandit Swami that during period 2.5.2009 to 2.5.2012 he was working in Ambikapur Hospital as a resident doctor in general surgery department. What you have to say about it ?
- Ans. I do not know.
- Q.25 It has further come in his evidence that on 24.9.2010 at about 1.15 pm patient Manju Somnath Satpute was brought in Ambikapur Hospital in burn condition. She was admitted in burn patient ward No. 25. On that day he was on duty as a resident doctor in ward No. 25. He examined patient and found that patient had sustained 63% superficial deep burn injuries. The patient was conscious and oriented to time, place and person. The history given by the patient was homicidal burn injury and the patient was not having any bodily injury like head injury, chest trauma or abdominal trauma. He has asked for Magistrate's statement. He had noted down history of indoor case paper Exh. 45, which bears his signature. What you have to say about it ?
- Ans. I do not know.
- Q.26 It has further come in his evidence that on 24.9.2010 at about 2 pm statement of Manju Somnath Satpute was recorded by police. At that time he was present there and while giving statement, the patient was conscious and fit state of mind and in a fit state of making valid statement. After recording the statement Exh. 22, he made endorsement on it regarding the state of patient. What you have to say about it ?
- Ans. I do not know.
- Q.27 It has further come in his evidence that on same day at about 5.30 pm the statement was recorded by police. At the time of recording statement Exh. 34 of patient he was present there. At that time patient was conscious and in a state of making valid statement. After recording statement Exh. 34, he made endorsement over it and below endorsement he put his signature. What you have to say about it?
- Ans. I do not know.
- Q.28 It has further come in his evidence that he was treating the patient till her death i.e. 28.9.2010. What you have to say about it?
- Ans. I do not know.
- Q.29 It has further come in his evidence that on 28.9.2010 at about 8.20 am Manju Somnath Satpute died. What you have to say about it?
- Ans. It is true.

- Q.30 It has come in the evidence of PW 7 API Jayesh Manohar Gunjal that on 25.9.2010 he received case diary of CR No. 309/10 for further investigation. Spot panchanama was already prepared by PI Mehere. On 25.9.2010 he recorded statement of witnesses viz. Vijay Nemade, Kashinath Nemade, Rukmini Nemade, Kashinath Nemade, Bhaskar, Nimita Pore, Sarthak Giri, Shruti Kokane. On 1.10.2010 he recorded supplementary statement of Vijay, Kashinath, Shruti Kokane and Nimita. On 2.10.2010 he recorded statement of Ketan Nemade, Rukmini Nemade, Kashmira Nemade, Amol Jyotiram Nemade, Bhaskar, Sarthak Giri. On 7.10.10 he recorded statement of Kaustubh Deshpande. What you have to say about it?
- Ans. I do not know.
- Q.31 It has further come in his evidence that on 28.9.2010 he arrested you accused. What you have to say about it?
- Ans. It is true.
- Q.32 It has further come in his evidence that he seized your clothes under panchanama Exh. 32 in presence of panchas. The clothes i.e. white T-shirt having symbol of Nationalist Congress Party and blue coloured pant, both were smelling of kerosene. What you have to say about it?
- Ans. It is false.
- Q.33 It has further come in his evidence that on 7.10.2010 he sent the seized articles to CA alongwith police constable Kaustubh Deshpande and his report Exh. 49. After death of victim in hospital charge under section 302 of IPC was added and he submitted the report to JMFC Mhadur. What you have to say about it?
- Ans. I do not know.
- Q.34 It has further come in his evidence that he recorded portion marked A Exh. 50 in the statement of Vijay Nemade as per his say. What you have to say about it?
- Ans. I do not know.
- Q.35 It has further come in his evidence that on completion of investigation he filed charge sheet against you accused in the court of JMFC Mhadur. What you have to say about it ?
- Ans. It is true.
- Q.36 It has come in evidence of PW 8 Atmaram that he was called by police in the house of Somnath Rajiv Satpute on 25.9.2010, he found that there were pieces of burn saree. Police seized the articles and then affixed labels of the signatures of panchas on it and prepared panchanama Exh. 55. What you have to say about it ?
- Ans. It is false.
- Q.37 It has PW 9 PI that on 25.9.2010 he visited the spot of incident called 2 panchas viz. Atmaram and Deepak and in their presence he prepared spot panchanama Exh. 55 as per prevailing situation. From the spot of incident he seized one plastic can in which there was small quantity of kerosene one match box and halfy burnt blouse and pieces of saree. What you have to say about it ?
- Ans. It is false.
- Q.38 It has further come in his evidence that during trial he identified the plastic art. No. 1, match box art. No. 2 and halfy burnt blouse and piece of saree art. No. 3. What you have to say about it?
- Ans. It is false.

Q.39 Why the witnesses are deposing against you ?

Ans. I cannot assign any reason.

Q.10 Do you want to examine yourself on oath or any witness in your defence ?

Ans. Yes, I want to examine defence witness.

Q.11 Do you want to say anything more about this case ?

Ans. I have not committed any offence. False case has been filed against me.

Sd/-

(Prafulkumar T. Bhatnagar)

Addl. Sessions Judge, Pumbe

Date : 29.6.2013

Certified that the above examination of accused has been taken in my presence and in my hearing and contains a full and true account of the statement made by him.

Date :29.6.2013

Sd/-

Addl. Sessions Judge, Pumbe

Deposition of witness No. 1 for the defence

I do hereby on solemn affirmation state that –

My name is - Shri. Ketan Nemade Age about - 43 years

Occupation - Agri.

R/at - Village Katyachi Wadi, Tal. Mhadur, Dist. Pumbe

EXAMINATION IN CHIEF BY ADV. KULKARNI

1. On 24.9.2010, I was sitting on platform (Ota) in front of my house. At that time work of unloading sand from the tractor near the house of Dagadu Nemade was going on. At that time Vijay Nemade and Kashinath Nemade were actually unloading the sand and accused Somnath Satpute was standing beside them alongwith his daughter. At that time shouting was heard from the house of accused Somnath. When I saw, I found that Manju Somnath Satpute i.e. wife of Somnath was coming out of the house engulfed fire. Vijay and Kashinath Nemade tried to extinguish fire by pouring water on person of Manju Somnath Satpute and accsued Somnath tried to extinguish fire by hand. Due to pains Manju Somnath Satpute tried to embarrass Kashinath Nemade hence Kashinath Nemade ran away. Thereafter, I entered into the house of Rukmini Nemade and brought bed sheet and wrapped it around the person of Manju Somnath Satpute. At that time Manju Somnath Satpute was telling she herself set her on fire and her husband has not at fault. Thereafter Kashinath Nemade went to house of mother of Manju Somnath Satpute to inform her. Within 30 to 45 mintues Manju Somnath Satpute's mother came there, to whom also Manju Somnath Satpute stated that she herself set herself on fire and for which her husband is not at fault. Thereafter, Manju Somnath Satpute was taken to Hospital by Sumo jeep of Amol Jyotiram Nemade. At that time Suhas Nemade, Vijay Nemade, Amol Jyotiram Nemade and Manju Somnath Satpute's mother Shruti Kokane accompanied with Manju Somnath Satpute.

Cross examination by DGP Smt.Lahoti

2. Adjd. On oral request of APP.

R.O. & A.C.

Sd/-

[Prafulkumar T. Bhatnagar]
Addl. Sessions Judge, Pumbe

Date – 8.7.2013

Resumed on SA

Cross examination by DGP Smt. Lahoti

3. At Khatkale vasti persons having surnames Satpute and Nemade are residing. I am having visiting terms to the house of accused. In this case there is allegation against the accused that he committed murder of his wife by setting her on fire. Suhas Nemade is brother of accused Somnath. The distance between the house of Suhas Nemade and house of accused is of 10 fts. At the time of incident Suhas Nemade was present there. I do not know whether any talk was held between accused Somnath and Suhas Nemade. Suhas Nemade took Manju Somnath Satpute to hospital. Suhas Nemade called Sumo jeep and by that jeep Manju Somnath Satpute was taken to hospital by Suhas Nemade. After the incident Suhas Nemade did not meet me. In the vehicle alongwith Suhas Nemade, Shruti Kokane, Amol Jyotiram Nemade, Vijay Nemade were there. Dagadu and Kashinath had not gone to hospital. Suhas Nemade admitted Manju Somnath Satpute in hospital. When I saw Manju Somnath Satpute in burnt condition at that time she was shouting 'Vachva, Vachva". Thereafter attempt to pour water on her person was made. Myself wrapped blanket around Manju Somnath Satpute. Thereafter she was taken to hospital.

4. I had an occasion to visit house of accused Somnath very often. Rukmini Nemade is adjacent to house of Somnath. After the incident I had not gone to the house of accused. I do not know whether plastic can of kerosene was lying in the house of accused. I do not know actual what happened in that house on that day. I saw outside the house of accused pieces of burnt saree were lying. I had not attended the funeral of Manju Somnath Satpute. After the incident on that day I was present in my house throughout day. At about 10 am I came to know about the fact of death of Manju Somnath Satpute, but I cannot say actually from whom I came to know this fact. I have close relations with accused Somnath. It is not true to say that I am

deposing falsely to save accused Somnath as he is closely related to me. It is not true to say that as per say of accused I am deposing falsely that Manju Somnath Satpute set herself on fire by pouring kerosene on her person. For the first time I am deposing before the court that Manju Somnath Satpute stated before me that there was no fault of accused and she herself set on fire. It is not true to say that I am deposing falsely that tried to extinguish fire by wrapping blanket to Manju Somnath Satpute. It is not true to say that I am deposing falsely that Somnath was standing alongwith his daughter near the tractor. It is not true to say that I am deposing falsely at the instance of accused.

No re-examination.

R.O. & A.C.

Sd/-

[Prafulkumar T. Bhatnagar]
Addl. Sessions Judge, Pumbe

Date – 9.7.2013

Exhibit No. 63 (Judgment)

Received on : 17.02.2011
Registered on : 17.02.2011
Decided on : 26.08.2013
Duration : Y M D
 2 6 9

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, PUMBE
(PRESIDED OVER BY PRAFULKUMAR T. BHATNAGAR)**

SESSIONS CASE NO. 968/2011

State of Badarashtra
Through Mhadur Police
Station (at the instance
Of Sou. Manju Somnath Satpute,
R/at : Village Khatkali
Katyachi wadi, Tal.
Mhadur, Dist. Pumbe)
Complainant

....

Vs.

Somnath Rajiv Satpute,
Age : 27 years, Occ. : Agri.,
R/at : Khatkali Vasti katyachi
wadi, Tal. Mhadur,
Dist. Pumbe

.... **Accused**

**Offences punishable under sections
498A, 302 of Indian Penal Code.**

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APPEARANCES :

Ms. Lahoti, District Government Pleader
Shri. Kulkarni, Advocate for accused.

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ORAL JUDGMENT
(Delivered on 26.09.2013)

1. Accused Somnath Rajiv Satpute stands prosecuted for the offence punishable under section 302, 498A of Indian Penal Code.
2. The brief facts of the prosecution case are as follows :
Accused Somnath Rajiv Satpute is the resident of Katyachi wadi, Tal. Mhadur, Dist. Pumbe. He is husband of Manju Somnath Satpute, (now deceased). Their marriage was solemnized prior to eight years. Out of the said wedlock they have been blessed with one daughter viz. Pratiksha. At the time of incident the accused was residing alongwith his deceased wife Manju Somnath Satpute and daughter Pratiksha aged about 14 months at Katyachi wadi.
3. Deceased Manju Somnath Satpute was not feeling well prior to 5 to 6 days from 24.9.2010. On the day of incident i.e. on 24.9.2010 at about 7 pm victim Manju Somnath Satpute asked the accused to take her to hospital for medical treatment. The accused told her why she is troubling him and he will not take her to hospital and she should die. (Kay Tujhi Katkat Aahe, me tula Devakhanyat Gheoon Jaat Nahi, tu maroon Jaa.). Being annoyed by the act of the accused, Manju Somnath Satpute poured kerosene on her person. The accused ignite the match stick and set her on fire. On account burns, he raised shouts and came out of the house. On hearing her shouts the neighboring persons came there and extinguished her.
4. It is further case of prosecution, that the maternal home of deceased Manju Somnath Satpute is village Kanhur Mesai. One Kashinath Nemade was went to the maternal home of deceased Manju Somnath Satpute to call her mother. After arrival of her mother injured Manju Somnath Satpute was shifted to Ambikapur Hospital and admitted there in burn was No. 25 at about 1.30 pm. Manju Somnath Satpute sustained 63% burn injuries. After her admission in hospital, intimation was given to police by hospital authority. At the relevant time PHC Sharad Walunj, a police head constable was attached to Haveli police station and posted at Ambikapur Chowky. On intimation he rushed toward No.

25 of Ambikapur Hospital. He inquired with the doctor about the health condition of Manju Somnath Satpute. The doctor on duty, examined Manju Somnath Satpute and informed him that patient is in a position to give statement. Thereafter, PHC Sharad Walunj recorded the statement of injured Manju Somnath Satpute at Exh. 22. While recording statement, deceased Manju Somnath Satpute has stated that she poured kerosene and accused set her on fire by igniting match stick.

5. Police head constable Subhash Shivaji Awhad at the relevant time was attached to Mhadur police station. On 24.09.2010 at about 3 pm, Sr. Police Inspector Mehere of Mhadur Police Station informed him that Manju Somnath Satpute resident of Katyachi wadi sustained burn injury and admitted in Ambikapur Hospital. Police Inspector Mehere instructed him to record the statement of said Manju Somnath Satpute. Thereafter, PHC Subhash Shivaji Awhad rushed to Ambikapur Hospital. Injured Manju Somnath Satpute was admitted there in Ward No. 25. He made inquiry with the doctor on duty regarding the condition of patient. Thereafter he recorded statement of Manju Somnath Satpute at Exh. 34. (Dying Declaration). While recording statement patient Manju Somnath Satpute disclosed to him that accused set her on fire.
6. On the basis of statement of Manju Somnath Satpute Exh. 34, Police station officer Mhadur police station registered Crime vide CR No. 309/2010 under Section 498A, 307 of IPC. Thereafter, the investigation followed. Initial investigation was conducted by Police Inspector Mehere. On 25.09.2010, he visited the spot of incident and in presence of panchas drew the spot panchanama.
7. The case being exclusively triable by court of Sessions, the learned Magistrate committed the case to the court of Sessions. Charge was framed against the accused for the above mentioned offences by my learned predecessors vide Exh. 2. Contents thereof were explained to accused in vernacular. The accused pleaded not guilty and claimed to be tried. The defense of the accused as revealed from the cross examination of prosecution witnesses and his statement recorded under section 313 of Cr.P.C. was of total denial and falsely implication. The accused comes with a specific defence that Manju Somnath Satpute committed suicide by setting herself on fire. He has been falsely implicated at the instant of mother of deceased Manju Somnath Satpute. In support of his defence, he examined one Ketan Nemade at Exh. 61 as defence witness.

8. The prosecution story and the defence give rise to followings points for determination. My findings thereon are recorded for the reasons that follow :

POINTS	FINDINGS
(1) Does the prosecution prove that since marriage till 24.9.2010, at village Katyachi wadi, Tal. Mhadur, the accused being husband of deceased Manju Somnath Satpute subjected her to cruelty by harassing and ill-treating her physically and mentally over the unlawful demand of money for construction of house ? No
(2) Does the prosecution prove that victim Manju Somnath Satpute met with homicidal death ? Yes
(3) Does the prosecution prove that the accused committed murder of deceased Manju Somnath Satpute? Yes
(4) What order ? As per final order

REASONS

9. In order to bring home guilt of the accused, prosecution has examined in all nine witnesses viz. Vijay Nemade (PW1) at Exh. 17, Police Head Constable Sharad Walunj (PW2), who recorded dying declaration of Manju Somnath Satpute and deposed at Exh. 21, Rohan Pravin Chandra (PW3), a panch witness on arrest and seizure of clothes of accused deposed at Exh. 31, Police Head Constable Subhash Shivaji Awhad (PW4), who also recorded statement of deceased Manju Somnath Satpute and deposed at Exh. 33, Dr. Abhijeet Bala Shelke (PW5), an autopsy surgeon and deposed at Exh. 37, Dr. Pandit Swami (PW6), who has given treatment to Manju Somnath Satpute while she was admitted in Ambikapur Hospital, and deposed at Exh. 44, API JoytiramJayesh Manohar Gunjal, investigating officer at Exh. 48, Atmaram Devidas Nemade (PW8) Panch witness at Exh. 51, Sr. P. I. Mehere (PW9), investigating officer at Exh. 58.

10. Besides the ocular testimony of above witnesses, the prosecution is placing reliance upon the documentary evidence i.e. CA Report Exh. 15, first dying declaration Exh. 22, inquest panchanama Exh. 23, report forwarded by PHC Sharad Walunj to Haveli police station dated 24.9.2010 is at Exh. 27A, report by PHC Sharad Walunj to Haveli police station dated 28.9.2010 is at Exh. 28, report by PHC Sharad Walunj for postmortem Exh. 29, arrest and seizure panchanama of seizure of clothes of accused Exh. 32, second dying declaration which is treated at FIR is at Exh. 34, PM Notes Exh. 38, indoor case papers of deceased Manju Somnath Satpute of Ambikapur Hospital at Exh. 45, report forwarded by API Jayesh Manohar Gunjal for forensic laboratory dated 3.10.2010 Exh. 49, portion mark 'A' in the statement of PW 1 Vijay Nemade is at Exh. 50, report of API Jayesh Manohar Gunjal seeking police custody of accused is at Exh. 52, spot panchanama Exh. 55. The evidence of prosecution came to be closed by filing pursis Exh. 59.

11. As to Point Nos. 1 to 3

Precisely it is the case of prosecution that on 24.9.2010 around 7 am, the accused committed murder of his wife deceased Manju Somnath Satpute by setting her on fire. Thus the prosecution has endeavored to establish that the accused has committed homicidal death amounting to murder of deceased Manju Somnath Satpute. Naturally the first question issue falls for my consideration is about the cause of death. In some cases, it is quite impossible to decide the cause of death unless the entire evidence on record is considered. However, in some cases the court would be in the position to independently decide cause of death particularly by referring the medical evidence. In such cases, without considering the evidence of eye witnesses for a moment cause of death can be ascertained through medical evidence. In the case in hand, the defence has seriously challenged homicidal death of deceased Manju Somnath Satpute. Therefore, to decide homicidal death of deceased Manju Somnath Satpute, it is necessary to examine the entire evidence on record.

12. Before advertising the evidence of prosecution, first of all I would like to deal with submissions advanced by learned DGP Ms. Lahoti and Advocate Pramod Kulkarni, learned counsel for accused. The learned DGP Ms. Lahoti vehemently submitted that entire prosecution case rests upon dying declarations made by deceased Manju Somnath Satpute. On two different occasions dying declarations of deceased Manju Somnath Satpute were recorded by police officers. However, both dying declarations are consistent and they are

true and voluntary. She further submitted that law does not require that dying declaration should be recorded by Magistrate only. So also in law no specific format of dying declaration has been prescribed. Obtaining certificate of doctor is also not necessary. Only it is relevant that the declarant at the time of making statement was conscious and in fit state of mind to make the statement. According to her first dying declaration was recorded on 24.9.2010 at about 1.30 pm by PHC Sharad Walunj (PW 2). Before recording the statement/dying declaration the police officer satisfied about the capacity of declarant to make statement. The dying declaration Exh. 22 bears the endorsement of Dr. Pandit Swami which again confirms that the deceased Manju Somnath Satpute was conscious and was in a position to give valid statement. According to learned DGP on same day PHC Subhash Shivaji Awhad (PW 4) recorded dying declaration Exh. 34. The second dying declaration also bears endorsement of Dr. Pandit Swami (PW 6). She further submitted that the patient Manju Somnath Satpute was in a fit state of mind to make valid statement. The evidence of PHC Sharad Walunj and PHC Subhash Shivaji Awhad has been well corroborated by the evidence of Dr. Pandit Swami. According to learned DGP the prosecution by adducing trustworthy and cogent has been established that the dying declarations made by deceased Manju Somnath Satpute are true and voluntary and it does not suffer from any infirmity. The learned DGP submitted that there is nothing on record which indicates that the dying declarations Exh. 22 and 34 are the outcome of any kind of tutoring, prompting and imagination. As such conviction can safely be based upon dying declarations Exh. 22 and 34. According to her, by adducing the evidence of API Jayesh Manohar Gunjal and panch witness Avinash Wagh, the prosecution has proved the seizure of clothes of accused. She has invited my attention to the CA Report Exh. 15 which shows test for detection of kerosene residues on the T-shirt and full pant of the accused and the burnt saree found positive, which establishes the presence of accused at the spot. The accused has not explained as to how kerosene appeared on his clothes. According to learned DGP the accused has taken false defence of suicidal death of Manju Somnath Satpute. In short as according to her the prosecution has proved beyond reasonable doubt that accused committed murder of deceased Manju Somnath Satpute.

13. Per contra, the learned counsel for accused Adv. Kulkarni vehemently submitted that there is no evidence of ill-treatment as contemplated under Section 498A of IPC. As such charge under section 498-A of IPC cannot sustain. According to him, whether dying declarations are truthful is the only core

question involved in this case. He made an attempt to suggest that both the dying declarations are the result of tutoring and prompting deceased by her mother Shruti Kokane. The prosecution story has been engineered at the instance of mother of deceased Manju Somnath Satpute. Both the dying declarations Exh. 22 and 34 were recorded on 24.9.2010, whereas deceased Manju Somnath Satpute breathed last on 28.9.2010, thereby means Manju Somnath Satpute was alive in hospital for four days. However, the investigation agency has not made an attempt to record the dying declaration through Magistrate. Mr. Kulkarni questioned the dying declarations mainly on the ground that police officers who had recorded the dying declarations had not obtained the medical certificate of doctor showing the fitness of declarant Manju Somnath Satpute. The dying declarations are not in question and answer form. So also time is not mentioned on both the dying declarations in order to show at what time these dying declarations were recorded. Thumb and toe impressions on the dying declarations have not been attested by the police officers. There is no explanation by the prosecution as to why toe impression was obtained on dying declaration Exh. 22 and why thumb impression was obtained on dying declarations Exh. 34. Absolutely there is no evidence which shows that the patient was conscious at the time of making the statements. According to him the doctor who made endorsement on both the dying declarations does not know the name of the police officer who recorded the dying declaration. At the same time both the police officers do not know the name of the doctor who made endorsement on dying declaration. According to him, this aspect casts doubt on the credibility of the dying declaration. Mr. Kulkarni has taken me through the evidence of defence witness Ketan Nemade. According to him, from the evidence of defence witness, Ketan Nemade, the accused has brought on record that both the dying declarations are the result of tutoring and prompting the declarant Manju Somnath Satpute by her mother Shruti Kokane. Therefore, both the dying declaration loses its significance and on the basis of such dying declarations conviction cannot be sustained.

Advocate Mr. Kulkarni has emphasized on inquest panchanama Exh. 23 and report Exh. 27A. Both the documents indicate theory of committing suicide by deceased Manju Somnath Satpute. He submitted that PHC Sharad Walunj claimed that he obtained toe impression of left leg of Manju Somnath Satpute on dying declaration Exh. 22. But the inquest panchanama Exh. 23 does not reflect ink on any of the toe of deceased Manju Somnath Satpute. According to him, his aspect itself is sufficient to create doubt about the case of prosecution.

He further submitted that PHC Sharad Walunj (PW 2) recorded dying declaration Exh. 22 on 24.9.2010 and he is the same person who prepared inquest Panchanama Exh. 23 on 28.9.2010, still theory of suicide appeared in inquest panchanama Exh. 23. According to him, inquest panchanama Exh. 23, report Exh. 27A and the evidence of defence witness Ketan Nemade is sufficient to conclude that the death of deceased Manju Somnath Satpute is suicidal. Mr. Kulkarni much harped upon striking out the word suicide in case paper Exh. 45. According to him, in case paper Exh. 45, word "suicidal" is struck out and in its place word "homicidal" is written. The concerned doctor has not made his initial below the striking word. Again this aspect goes to show that the defence put forth by the accused is probable. The learned counsel for accused as well as learned DGP in support of their respective submissions relied upon the citations. I will deal with the citations at the proper place in my judgment.

14. On the background of rival submissions of both the parties, I would like to take turn to the evidence of prosecution. The prosecution is basically required to establish the factum of death of deceased Manju Somnath Satpute. In the instant case to prove the factum of death and its cause, the prosecution is mainly relying upon the evidence of Dr. Abhijeet Bala Shelke (PW 5), an autopsy surgeon and Dr. Pandit Swami (PW 6), the doctor who has given treatment to deceased Manju Somnath Satpute. In evidence of Dr. Pandit Swami (PW6) has stated that patient Manju Somnath Satpute was brought in Ambikapur Hospital on 24.9.2010 at about 1.15 pm in a burnt condition and she was admitted in ward No. 25. He further stated that the patient Manju Somnath Satpute has sustained 63% superficial to deep bur injury. He was treating her till her death and she died on 28.9.2010 at about 8.20 am. This particular evidence of Dr. Pandit Swami finds corroboration from the indoor case papers Exh. 45. His evidence on point of deceased Manju Somnath Satpute sustained 63% burn injuries and she was admitted in ward No. 25 of Ambikapur Hospital and she died on 28.9.2010 has not been challenged by defence during cross examination. Moreover, the defence has also not challenged the factum of burn injuries sustained by Manju Somnath Satpute and her death. In the instant case, the defence has only challenged the homicidal death of the deceased Manju Somnath Satpute. Thus from the evidence of Dr. Pandit Swami, it is proved that Manju Somnath Satpute sustained 63% burn injuries and was admitted in Ambikapur Hospital on 24.9.2010 at about 1.15 pm.

15. In order to prove cause of death of deceased Manju Somnath Satpute, the prosecution is mainly relying upon the testimony of Dr. Abhijeet Bala Shelke, an autopsy surgeon and inquest panchanama Exh. 23. Dr. Abhijeet Bala Shelke has stated that he is working as Asst. Professor in Forensic Department of PK Medical College and Ambikapur Hospital, Pumbe. It is his further evidence that on 28.9.2010 at about 12.10 pm corpse of deceased Manju Somnath Satpute was brought for autopsy examination. On that day in between 1.10 pm to 2.10 pm he and his colleague Dr. Kumar Jain conducted postmortem of the corpse of deceased Manju Somnath Satpute. On external examination he found superficial to deep burn injuries over body surface area approximately 70%. He has mentioned these injuries in column No. 17 of PM Notes Exh. 38. According to him, the injuries mentioned in column No. 17 of PM Notes were antemortem in nature. He opined as to cause of death as shock due to burns. By adducing the evidence of Dr. Abhijeet Bala Shelke the prosecution has proved PM Notes Exh. 38. The oral evidence of Dr. Abhijeet Bala Shelke has been well corroborated by the PM Notes Exh. 38. In cross examination the defence has not brought anything on record which would be sufficient to falsify the version of Dr. Abhijeet Bala Shelke. Moreover, the defence has not challenged the factum of death of deceased Manju Somnath Satpute due to burn injuries. Thus considering the evidence of Dr. Abhijeet Bala Shelke and postmortem notes Exh. 38, it is proved that the death of deceased Manju Somnath Satpute was caused due to burn injuries.

16. Now the next question falls for my consideration is about the authorship of the death of the deceased. In this regard the entire prosecution case rests upon the dying declarations Exh. 22 and 34. As per prosecution case first dying declaration Exh. 22 was recorded by PHC Sharad Walunj on 24.9.2010. Second dying declaration Exh. 34 was recorded by PHC Subhash Shivaji Awhad on same day. Now, I would like to deal with the evidence of PHC Sharad Walunj. PHC Sharad Walunj at the relevant time was attached to Haveli police station and was posted at Ambikapur chowky. It is his evidence that on 24.9.2010 at about 13.20 pm Ambikapur OPD police constable Munde V. attached to Bundgarden police station gave information to him, that the patient Manju Somnath Satpute has been admitted in ward No. 25 due to burn injuries. Thereafter he visited the ward No. 25 of Ambikapur Hospital. He inquired with the medical officer about whether Manju Somnath Satpute is in a position to give statement. He further stated that the duty medical officer examined patient Manju Somnath Satpute and informed him that she is in position to give statement. Thereafter, he

inquired the patient Manju Somnath Satpute about her name, address and residence and he confirmed that patient is in fully conscious condition. Thereafter, he recorded her statement. While recording statement, Manju Somnath Satpute disclosed to him that accused is her husband and her marriage has been performed with accused prior to five years. She further disclosed that since the marriage accused is harassing and ill-treating her over demand of money. With regard to incident she disclosed that on 24.9.2010 in the morning at about 7 am she and her husband were present in the house and she was not feeling well since last 5 to 6 days therefore, she asked her husband i.e. accused to take her to hospital. On this her husband told her why she is troubling him and he will not take her to hospital and she should die. She further disclosed that being annoyed by it, she poured kerosene on her person. Thereafter her husband set her on fire by igniting match stick. On account of burns she raised shouts and hence, neighbourer came there and extinguished her and admitted her in Ambikapur Hospital. PHC Sharad Walunj further stated that he recorded her statement as per her say. After recording statement it was read over to her. She understood the same and put her left toe on it and thereafter he put his signature and obtained endorsement with signature of medical officer on the statement Exh. 22. This is what is the evidence of PHC Sharad Walunj regarding dying declaration Exh. 22.

17. As like stated earlier the second dying declaration was recorded by PHC Subhash Shivaji Awhad. It is his evidence that on 24.9.2010, PI Gurudas Sanghvi instructed him to record the statement of injured Manju Somnath Satpute who was admitted in Ambikapur Hospital. Accordingly, he visited ward No. 25 of Ambikapur Hospital. He made inquiry with doctor regarding whether the patient is in a position to give statement. The doctor informed him that the patient is in a position to give statement. Thereafter, he recorded the statement of Manju Somnath Satpute. He further stated that while recording statement, Manju Somnath Satpute disclosed that her marriage has been performed prior to six years and since her marriage her husband is harassing her over the demand of money to construct the house. She further disclosed that she was not feeling well since five to six days and hence, she asked her husband to take her to hospital. With regards to incident she further disclosed that on 24.9.2010 at about 8 am she asked her husband to take her to hospital on which her husband told her 'tu jivant rahili nahi tari chalele' and assaulted her by hand. By getting annoyed she poured kerosene on her person, at that time her husband told her 'tula maroon takto tula petoon deto'. By saying so, her husband set her on fire

by igniting match stick. She further disclosed she raised shouts and thereafter her brother in law Suhas Nemade extinguished fire and admitted her in Ambikapur Hospital. PHC Subhash Shivaji Awhad further stated that after recording the statement he read over the same to Manju Samnath Satpute. After having understood the same she put her thumb impression below it. Therefore, he put his signature and Doctor made endorsement on it with his signature. This is what is the evidence of PHC Subhash Shivaji Awhad with regards to second dying declaration Exh. 34.

18. The defence criticized the evidence of both the witnesses mainly on the ground that PHC Sharad Walunj and PHC Subhash Shivaji Awhad both are police officers. Their evidence is also criticized on the ground that both the witnesses do not know the name of the doctor who put endorsement on both the dying declarations. Their evidence is also criticized on the ground that the time when the dying declaration was recorded is not written on both the dying declarations. So also toe impression and thumb impression of the declarant has not been attested by the police officers. No doubt both the witnesses are police officers, but they are attached to two different police stations. At the relevant time PHC Sharad Walunj was attached to Haveli police station whereas PHC Subhash Shivaji Awhad was attached to Mhadur police station in whose jurisdiction the village Katyachi wadi falls. Before scrutinizing the evidence of these two witnesses, it would be useful to make reference of judgment of Hon'ble Apex Court in the case of Aitbar Vs. Government 2010 All MR (Cri) 3998 (SC), wherein after an elaborate consideration of several decisions the Hon'ble Apex Court laid down following propositions with regard to admissibility of dying declaration.

- (i) Dying declaration can be the sole basis of conviction if it inspires the full confidence of court.
- (ii) The court should be satisfied that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination.
- (iii) Where the court is satisfied that the declaration is true and voluntary it can base its conviction without any further corroboration.
- (iv) It cannot be laid down as an absolute rule of law that dying declaration cannot form a sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence.
- (v) Where the dying declaration is suspicious it should not be acted upon without corroborative evidence.

- (vi) A dying declaration which suffers from infirmity such as the deceased was unconscious and could never make any statement, cannot form the basis for conviction.
 - (vii) Merely because dying declaration does not contain all the details as to the occurrence it is not to be rejected.
 - (viii) Even if it is brief statement, it is not to be discarded.
 - (ix) When the witness affirms that the deceased was not in a fit and conscious state to make the dying declaration medical opinion cannot prevail.
 - (x) It after careful scrutiny the court is satisfy that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and consistent there shall be no legal impediment to make it basis of conviction even if there is no corroboration.
19. On the basis of above propositions in respect of admissibility of dying declaration, I would like to scrutinize the evidence of above two witnesses. As like stated earlier, the defence firstly harped upon the dying declarations that both the witnesses are police officers. An attempt was made by the defence that it was possible for investigation agency to record the dying declaration through Magistrate, but no efforts were taken by the prosecution to record the dying declarations through Magistrate. In cross examination both the witnesses stated that it was possible to call the Magistrate. Thus from this evidence of it appears that it was possible for these witnesses to call the Magistrate, but Magistrate was not called to record the evidence. Now, it is to be seen whether is there any requirement of law that dying declaration should be recorded by Magistrate. Answer to this question was found in judgment cited by the prosecution. The learned DGP relied upon ***Balbirsing Vs. State of Punjab, 2006 All MR (Cri) 3242***, wherein the Hon'ble Apex Court held that a dying declaration would not lose its efficiency merely because it is recorded by a police officer and not by a Magistrate. The Hon'ble Apex Court in ***Kulwantsingh Vs. State of Punjab AIR 2004 SC 3875*** held that section 32 of Evidence Act nowhere states that the dying declaration must be recorded in the presence of Magistrate or in other words no statement which has not been recorded before the Magistrate cannot be treated to be a dying declaration. In view of the ratio laid down in the above rulings, it is clear that there is no requirement of law that the dying declaration should be recorded by Magistrate. At the same time, police officers are not prevented by law from recording the dying declaration.

20. The person who is making dying declaration is on the death bed and recording of dying declaration is an act of necessity. Merely the dying declaration is recorded by police officer is not a ground to discard the dying declaration. While scrutinizing the evidence of dying declaration the court is required to take great care because there was no opportunity for the accused to cross examine the declarant, because when the dying declaration is sought to produce and proved before the court by that time the declarant has already left for heaven. Thus, court is only required to see whether the dying declaration is true and voluntary statement of the declarations. The court is also required to see whether the dying declaration is free from any efforts to induce the deceased to make false statement. I have carefully scrutinized the evidence of PHC Sharad Walunj and PHC Subhash Shivaji Awhad.
21. PHC Sharad Walunjhas specifically stated that before recording statement he verified from the doctor about the actual condition of the patient Manju Somnath Satpute, where she is in a position to give valid statement and after confirming it he recorded the statement Exh. 22. His evidence has been corroborated by the evidence of Dr. Pandit Swami, who has categorically stated that at the time of recording statement patient Manju Somnath Satpute was in a fit state of mind to make the statement. The evidence of PHC Sharad Walunj and Dr. Pandit Swami is in one volume. In cross examination also PHC Sharad Walunj has categorically stated the situation of ward No. 25 as well as he stated that nobody was present beside deceased Manju Somnath Satpute. In cross examination he stated that before recording her statement he had not obtained the endorsement of Doctor in respect of physical and mental condition of Manju Somnath Satpute. He has fairly stated that he has not written that he himself written the dying declaration he has not mentioned the time when it was started and finished. He fairly stated that he has not attested the toe impression of Manju Somnath Satpute. From this version the evidence of PHC Sharad Walunj cannot be discarded. PHC Sharad Walunj properly stood in cross examination. His evidence has not been shattered in cross examination. The learned counsel for defence submitted that on account of above version, the PHC Sharad Walunjis liable to be discarded and relied upon **2008 CrLJ 1592 (SC) Shaikh Rafique Vs. State of Badarashtra**, wherein it is held that special Executive Magistrate though available not summoned. Certificate from medical officer as to the fitness and consciousness of the declarant not taken. Time of recording of declaration also not recorded. Declaration cannot be relied upon. No doubt before recording the statement PHC Sharad Walunj ought to have obtained

certificate of doctor, but not obtaining the certificate is of no consequence because the doctor who was treating the patient has categorically stated that he was present and the patient was conscious and fit condition to give statement. The facts of the present case and the reported case are altogether are different, therefore, the case law cited by the defence is not helpful for the defence.

22. So far as the evidence of PHC Subhash Shivaji Awhad is concerned he has also properly stood in cross examination. As far as the overt act of the accused in crime is concerned, both the dying declarations are consistent. PHC Subhash Shivaji Awhad has also specifically stated that before recording statement he has confirmed that deceased Manju Somnath Satpute was in fit condition to give statement. He has categorically stated about the words uttered by the declarant Manju Somnath Satpute. A faint attempt was made by the defence that this witness could not tell the situation of the ward No. 25. However, to my mind not giving details about the situation of ward No. 25 by the witness is of no consequence. He has specifically stated that the deceased made declaration that accused set her on fire by igniting match stick. So also, Dr. Pandit Swami has confirmed that at the time of recording dying declaration Exh. 34, deceased Manju Somnath Satpute was in fit state of mind to make the statement. In both the dying declarations Exh. 22 and 34 declarant Manju Somnath Satpute made statement that she poured kerosene on her person and thereafter accused set her on fire by igniting match stick.

23. In the instant case the defence has harped upon the dying declarations on the ground that the toe and thumb impression of the deceased are not attested by police officer. No doubt in the present case PHC Sharad Walunj and PHC Subhash Shivaji Awhad have obtained toe impression and thumb impression of deceased on dying declarations Exh. 22 and 34 respectively. In this regard the learned counsel for defence has relied upon **1981 SCC (Cri) 638 Moharsingh Vs. State of Punjab** where in it is held that though the deceased wife stated to be present in hospital her attestation on declaration was not obtained by the police officers. Medical and ocular evidence regarding nature of weapon used were discrepant. In the circumstances it is unsafe to rely upon the dying declaration. In the present case there is no inconsistency in between the medical and ocular evidence regarding the injuries sustained by injured Manju Somnath Satpute. From the evidence of police officers and Dr. Pandit Swami it has come on record that at the time of recording statement of mother of Manju Somnath Satpute

was not beside her therefore, the facts of present case and reported case are altogether different and not helpful for defence.

24. At the cost of repetition, I would like to mention there that both the dying declarations are consistent. From the evidence of PHC Sharad Walunj it appears that the first dying declaration Exh. 22 was recorded around 1.30 pm. From the evidence of Dr. Pandit Swami second dying declaration was recorded at about 5.30 pm. PHC Sharad Walunj and PHC Subhash Shivaji Awhad categorically stated that except doctor, no other person was present at the time of recording of dying declaration. I do not find any serious infirmity in the dying declarations. It is pertinent to note that the defence has not brought on record that these two witnesses had some inclination towards the relatives of the deceased Manju Somnath Satputeor they had any grudge against the accused. In absence of any grudge against the accused and in absence of special reason for inclination of police officers towards deceased, I do not find their evidence to be untrustworthy.

25. The defence comes with a specific defence that deceased Manju Somnath Satpute committed suicide. To sustain it, the accused examined D.W. 1 Ketan Nemade. This witness hails from village Katyachi wadi. He claimed that while taking Manju Somnath Satputeto hospital Manju Somnath Satputewas telling that she herself set herself on fire and her husband was not on fault. The defence has not also taken the help of evidence of PW 1 Vijay Nemade. As per prosecution case, Vijay Nemade was the person, who was present near the spot of incident. He was one of the person, who took injured Manju Somnath Satputeto Ambikapur Hospital. However, this witness has turned hostile and not supported the prosecution on the material aspect regarding oral dying declaration of Manju Somnath Satpute. Defence witness Ketan Nemade in his cross examination admitted that he has close relations with accused Somanth Rajiv Satpute. Merely a witness being closely related with the accused is not a ground to discard his testimony outrightly. On the contrary evidence of such a witness requires to be scrutinized with a great care and caution. On careful analysis of the evidence of Vijay Nemade with reference to the dying declarations made by the deceased Manju Somnath Satpute, it appears that though he turned hostile it is not fatal for prosecution.

26. As like discussed earlier the Dying Declarations Exh. 22 and 34 are free from any effort to induce the deceased to make a false statement. The PW 1

turned hostile and during cross examination by defence has stated that the mother of Manju Somnath Satpute was instigating her to make grievance against the accused. Had it been the case then definitely this fact would have appeared in the evidence of defence witness. Thus just for favouring the defence he had given such admissions. However, since it has been established that the dying declarations are truthful therefore, not supporting the prosecution case by Vijay Nemade is not fatal for prosecution.

27. The defence witness attempted to suggest that while taking Manju Somnath Satputeto hospital she was telling that she herself set her on fire in which her husband had no fault. In both dying declarations it has been clearly stated that the accused set Manju Somnath Satputeon fire by igniting match stick. When there was no overt act on the part of the accused, then there was no reason for the deceased to make statement against her own husband. When Manju Somnath Satpute was at the verge of death, there was no reason for her to tell falsely against her husband. It is pertinent to note that deceased Manju Somnath Satputehas a fourteen months old daughter. Every mother is worried about her child. When she sustained 63% burn injuries, she was knowing that there are no chances of her survival. She being mother definitely she might be worried about the future of her daughter. Still she was specifically stated the overt act of the accused. Again on this count also there was no reason to tell falsely against her husband. From the evidence it is established that the dying declarations are true and voluntary. Defence witness is closely related with accused therefore, in order to extend help to the accused he has adduced his evidence. From the above discussion, the evidence of defence witness is not trustworthy.

28. The defence has much harped upon the inquest panchanama Exh. 23 and the report submitted by PHC Sharad Walunj Exh. 27A. I have gone through the inquest Panchanama Exh. 23, it has been prepared by PW 2 PHC Sharad Walunj. It shows that deceased Manju Somnath Satputeset herself on fire and she died on 28.9.2010. In report Exh. 27A same contents are written. According to Mr. Kulkarni had the deceased died due to setting fire by the accused then definitely the story which appears in the inquest panchanama Exh. 23 and report Exh. 27A would not have appeared, on careful reading of both the documents it appears that the submissions advanced by the defence counsel has no force. A document has to be read as a whole. Taking one sentence here and there is not justified. If we read the document i.e. inquest panchanama Exh. 23 it would reveal that the

information that patient Manju Somnath Satputeset herself on fire by pouring kerosene was given to PHC Sharad Walunj by PHC Bhalerao. One Rakesh Mahajan had given the said information to PHC Bhalerao. Thereby means Manju Somnath Satputeset herself on fire is not the version of PHC Sharad Walunj. Therefore, from the inquest panchanama Exh. 23 and report Exh. 27A and Exh. 28 according to me it does not afford any assistance/help to the defence. The defence has criticized the inquest panchanama Exh. 23 on the ground that no ink found on any of the toe of the deceased. I have gone through the inquest panchanama. In inquest panchanama ink was found on the thumb impression of deceased Manju Somnath Satpute. As per version of PHC Sharad Walunj, after recording dying declaration Exh. 22 he obtained toe impression on it. When such is the case of the prosecution naturally in inquest panchanama Exh. 23 ink should be found on any of the toe of the deceased. However, not finding ink on the toe does not falsify the dying declaration Exh. 22 because perhaps the panchas on the inquest panchanama might have not paid attention to the toe of the deceased.

29. The defence has criticized upon the word 'suicidal' has been struck down in case papers Exh. 45 and in its place word 'homicidal' is written. According to defence the word 'homicidal' has been subsequently added by striking the word suicidal just to implicate the accused. As such the prosecution case comes under the shadow of doubt. In this regard, it is pertinent to note that the examination in chief of PHC Sharad Walunj was recorded on 29.1.2013. On that day the indoor papers Exh. 45 were not placed on record and defence insisted for calling the papers from Ambikapur Hospital. The indoor case papers Exh. 45 were in the custody of Ambikapur Hospital. Dr. Pandit Swami now attached to CP Hospital, Mumbipura. The indoor case papers Exh. 45 were not in the custody of either Dr. Pandit Swami or with police of Mhadur Police Station. Therefore, there is no question of any tampering with the documents. The learned counsel for accused relied upon unreported judgment in Cri. Appeal No. 467/2008 Bhanudas Thete V/s. State of Badarashtra. In that case, the patient was first admitted in hospital and history was given suicidal burn. The word homicidal was written in different ink by scoring out suicidal. In the instant case, Dr. Pandit Swami in cross examination candidly stated that the column of history in Exh. 45 word suicidal is struck down and its place homicidal is written. He further stated that he put his initial below it. Dr. Pandit Swami is an independent person, there is no reason for him either to tell falsely against the accused or to favour the prosecution. From this evidence it appears that perhaps due to workload firstly he might have

written the word suicidal and thereafter he struck down the word suicidal. From his evidence it appears that after striking out the word suicidal he put his initial. There is nothing on record that Dr. Pandit Swami has grudge against the accused and therefore, the instance of striking down the word suicidal and in its place writing the word homicidal has no consequence.

30. Now I am again reverting back to the core issue whether the dying declarations recorded by PHC Sharad Walunj and PHC Subhash Shivaji Awhad suffer from any serious infirmity. If we scan the evidence of prosecution in this regard minutely on major aspect, more particularly on the aspect of actual occurrence of incident, it appears that both the dying declarations are consistent with each other. Had it been the case that earlier dying declaration was favouring the accused and subsequent dying declaration was against the accused, in those circumstances there would be scope to cast doubt on the credibility of dying declarations.

31. It has been established from the evidence of PHC Sharad Walunj that within five minutes he visited Ambikapur Hospital and immediately recorded the dying declaration. The dying declaration recorded by him is first time i.e. immediately after admission of deceased Manju Somnath Satpute in hospital. At the time of admission of Manju Somnath Satpute in hospital, it is not the case of prosecution that only mother of deceased Manju Somnath Satputewas present. It has come on record that at the time of admission of Manju Somnath Satpute in Ambikapur Hospital elder brother of accused viz. Suhas Nemade was also present. The evidence of PHC Sharad Walunj and PHC Subhash Shivaji Awhad clearly shows that they have taken every precaution before recording dying declarations. They have taken precaution to verify whether Manju Somnath Satputewas in a conscious state of condition and in a position to give statement. From the evidence of Dr. Pandit Swami, it is proved that Manju Somnath Satputewas conscious and fit mind to give statement. It has been established from their evidence that at the time of recording statement to relative of Manju Somnath Satputewas present beside her. PHC Sharad Walunj and Subhash Shivaji Awhad had obtained the endorsement of the doctor on the dying declarations Exh. 22 and 34. The learned DGP relied upon **AIR 2002 SC 2973 (1) Laxman Vs. State of Badarashtra** wherein Hon'ble Apex Court held that absence of certification of doctor as to the fitness of mind of declarant is not rendered dying declaration not acceptable. What is essentially required is that person who record it must be satisfied that the deceased was in a fit state of mind.

Certification by doctor is a rule of caution. In the instant case Dr. Pandit Swami has not only made verbal statement that at the time of recording dying declaration Manju Somnath Satputewas in a fit state of mind, but also he has made endorsement to that effect. In the instant case, the police officers, who had recorded the dying declarations had not obtained certificate of doctor independently and from this hyper technical view the dying declaration cannot be discarded. At the cost of repetition both the police officers have specifically stated that they have confirmed before recording of statement about the condition of deceased Manju Somnath Satputeto give statement. After satisfying themselves they recorded the statement. As such in view of the principle laid down in aforesaid ruling the dying declarations cannot be discarded.

32. Once it is established that the dying declaration is truthful and voluntary statement of declarant and it is free from any attempt of tutoring, prompting then conviction can be based solely on the basis of such dying declaration. The learned defence counsel also placed reliance upon **1999 SCC (Cri) 1361 Paparambak Rosamma Vs. State of A.P.** In the said judgment, the Hon'ble Apex Court ruled out that where conviction is solely based on dying declaration, court has to consider carefully the dying declaration and the evidence of witnesses supporting it. I have carefully considered the evidence of witnesses supporting the dying declarations i.e. the police officers and doctor. The learned counsel for defence relied upon 2013 All MR (Cri) 1766 Manik Gawali Vs. State of Badarashtra, I have gone through the case of law cited by the defence, but the fact of the present case and the facts of the reported case, are altogether different, as such the case law is not helpful for the defence. After considering the parameters which are required to make the dying declarations admissible I am of the view that dying declarations Exh. 22 and 34 are truthful and voluntary statements of declarant Manju Somnath Satpute.

33. From the dying declarations Exh. 22 and 34 it appears that the matrimonial life of accused and deceased Manju Somnath Satputewas not going smoothly and there was some sort of bickering and that is why she became annoyed when the accused refused her to take her to hospital. Out of the anger she poured kerosene on her person. From her dying declarations it has been proved that the accused set her on fire by igniting match stick. The accused being the husband of deceased Manju Somnath Satpute, it was his duty to

prevent her from taking extreme step, but instead of doing so he himself lighted the deceased Manju Somnath Satpute.

34. Now I would like to turn towards the evidence spot panchanama and the seizure of clothes of accused. The accused has not challenged the incident of burning of his wife. He simply challenged his complicity. It has been proved that on account of burn injuries the deceased Manju Somnath Satputedied. By adducing the evidence by PW and Atmram Devidas Nemade, the prosecution has proved the spot panchanama Exh. 55. In cross examination this witness admitted that nothing was seized by police in his presence. Though he admitted so, it has no consequences because the defence has not disputed the incident of burning of deceased Manju Somnath Satputein the house due to pouring kerosene. Therefore, even though the recovery of plastic can, match box and halfly burn blouse piece is proved or not proved it has no consequences on the case of prosecution.

35. The prosecution has examined PW 3 Rohan Pravin Chandra in whose presence the clothes of the accused were seized by police. He has specifically stated that both the clothes i.e. pant and T-shirt of accused were smelling of kerosene. The witness was testified during cross examination, but nothing has been brought on record by defence which would sufficient to disbelieve this version. API Gunjal has forwarded the seized articles of CA. The CA report Exh. 15 is on record. The learned defence counsel submitted that there is no evidence that the articles seized were properly sealed before sending them to CA. In support of his contention he relied upon **2005 ALL MR (Cri) 1707 Babu Shinde Vs. State of Badarashtra**. If we go through the evidence of API Gunjal, it shows that he forwarded the seized clothes to Chemical Analyser. A perusal of CA report it appears that result of the test for detection of kerosene residue on Exh. 4 T Shirt and 5 full pant are positive. Thus from the CA report it proved that the kerosene residues were found on the person of accused. This evidence is little bit important for prosecution because it is not the case of prosecution that accused poured kerosene on person of deceased. On the contrary it is the case of prosecution that on getting refusal to take deceased Manju Somnath Satputeto hospital she became annoyed and she herself poured kerosene on her person. Therefore, this aspect is only relevant to establish the presence of accused at the time of incident. Except this, this aspect does not have any much more importance.

36. In totality of above discussions, the evidence adduced by the prosecution is trustworthy and it has been proved beyond reasonable doubt that the accused is the person who set the deceased Manju Somnath Satpute on fire. It is proved that Manju Somnath Satpute died due to burn injuries. The evidence of prosecution witnesses is consistent and there is nothing on record to discard the case of prosecution. It is proved that Manju Somnath Satpute died due to burn injuries. Ultimately, the prosecution proved that the death of deceased Manju Somnath Satpute is homicidal and accused is the author of homicidal death.

37. Now the next question arises for consideration is as to what offence the accused has committed. In order to establish offence of culpable homicide amounting to murder it is incumbent on the prosecution to establish that the act of the accused of causing death was done with adequate knowledge and intention as contemplated under section 300 of IPC. Whether a particular act of accused amounts to culpable homicide not amounting to murder or a murder is totality factual aspect. Reverting to the facts of the present case as per the evidence on record the deceased Manju Somnath Satpute complained ill health, she asked accused to take her to hospital. The accused refused by saying why you are troubling and you should die. By getting annoyed by this fact she poured kerosene. Thereafter, the accused set her on fire by using match box. After careful scrutiny of the evidence on record it does not reflect that the accused did not act by sudden provocation. There is nothing on record that the deceased or somebody provoked the accused. The accused is young youth, he is not a small child and when in his presence his wife poured kerosene definitely he was knowing that if he ignites the match stick, his wife would catch by fire and sustain burn injuries and she may die. He being the husband it was his duty to prevent his wife from taking extreme step, but he had not done so and instead of doing so he set deceased Manju Somnath Satpute on fire. This evidence clearly shows the requisite intention and knowledge on part of accused which is required by section 300 of IPC. On careful analysis of evidence I do not find the case of accused falls within any of the exception to section 300 of IPC. Therefore, I have no hesitation to hold that the accused has committed offence of murder of deceased Manju Somnath Satpute. As regards offence under section 498A of IPC is concerned though in both the dying declarations the declarant made declaration that the accused was ill-treating her, but this evidence is vague one and from this evidence, the factum of cruelty under section 498A of IPC cannot be established. Except this the prosecution has not adduced any other evidence

in this regard. Hence I have no hesitation to hold that the prosecution has failed to prove the charge under section 498A of IPC.

38. In totality of above discussion, I hold that the prosecution has successfully established by adducing cogent evidence that accused committed murder of his wife punishable under section 302 of IPC. However, the prosecution had failed to prove the charge under section 498A of IPC. In the result I answer all the points accordingly. Therefore, due as per the mandate of section 235(2) of Cr.P.C. I stopped my judgment to hear the accused on point of sentence.

Date : 22.8.2013

Sd/-
(Prafulkumar T. Bhatnagar)
Additional Sessions Judge, Pumbe

39. As to the sentence to be awarded I have heard the accused in person. He submitted that he has responsibility of his minor daughter and this aspect may be considered while awarding sentence. I also heard Advocate Mr. Kulkarni for accused. He submitted that by any manner the case of the accused does not fall within the purview of rarest of the rare case. I also heard learned DGP Ms. Lahoti. She is also fairly submitted that this is not the rarest of the rare case to award death penalty and submitted that necessary punishment prescribed under law may be awarded. I hold the accused guilty for the offence punishable under section 302 of IPC. For the said offence punishment of death penalty and imprisonment for life has been prescribed. In absence of death penalty as the case does not fall within the category of rarest of the rare case, only option before me is to impose imprisonment for life. In the result, I proceed to pass the following order :-

ORDER

1. The accused Somnath Rajiv Satpute is hereby convicted as per Section 235 (2) of Cr.P.C. for the offence punishable under section 302 of IPC and he is sentenced to suffer R/I for life and to pay a fine of Rs. 5,000/- i/d to suffer R/I for three months.
2. The accused is acquitted for the offence punishable under section 498A of IPC.
3. The period of detention undergone in jail by the accused be given to him as set off as per section 428 of Cr.P.C.
4. The muddemal property being worthless be destroyed after appeal period is over or as per the directions of appellate court.
5. Certified copy of this judgment be given to the accused forthwith.
6. Dictated and pronounced in open court.

Date : 26.8.2013

Sd/-
(Prafulkumar T. Bhatnagar)
Additional Sessions Judge, Pumbe