



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 1358 of
2015**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA

and

HONOURABLE MR. JUSTICE R. T. VACHHANI

Approved for Reporting		
Yes		No

PARESHBHAI SHANKERBHAI TAVIYAD

Versus

STATE OF GUJARAT

Appearance:

MR MAHARSHI V PATEL(6548) for the Appellant(s) No. 1

MS. KRUTI M SHAH(2428) for the Appellant(s) No. 1

MR RONAK RAVAL, APP for the Opponent(s)/Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA

and

HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 25/03/2026

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

1. The present case arises from Sessions Case No. 19/2015, decided by the learned 4th Additional Sessions Judge, Godhra, whereby the appellant-accused Pareshbhai Shankarbhai Taviyad was convicted for the offence punishable under Section 302 of the Indian Penal Code and also under Section 182 IPC. The 4th Additional Sessions Judge sentenced the accused to undergo imprisonment for life and to pay a fine, in default to further undergo rigorous imprisonment for the offence under Section 302



IPC. The substantive sentence was ordered to run as per law.

2. The case of the prosecution, in brief, is that on 20/09/2014 around 6:00 PM in the evening, at the Forest Quarters near G.E.B. office in Santarampur, the deceased Rekhaben wife of Pareshbhai Shankarbhai Taviyad was residing with her husband, who is employed in the Forest Department. There were frequent quarrels between the husband and wife over domestic issues, which the deceased used to confide in her parents and others. On the fateful day, in the course of such a quarrel, the accused allegedly strangled his wife Rekhaben with a cotton dori/string/rope, causing asphyxia and death. To screen himself from punishment and mislead the authorities, the accused staged the scene as suicide by hanging, tied the dori/string/rope in a manner suggesting self-hanging, and immediately went to Santarampur Police Station to lodge a false report that his wife had committed suicide by hanging after 6:00 PM. This false information was recorded as Accidental Death No. 31/2014. The next day, the father of the deceased, Hirabhai Ramabhai Sangada-complainant, who is a retired police personnel, lodged a complaint before the Deputy Superintendent of Police at Santarampur Police Station, alleging that the death was homicidal, that the accused had quarreled with Rekha, strangled her, and falsely reported it as suicide to evade law. It is the case of the prosecution that the accused, with the intention and knowledge that strangulation with a dori/string/rope on the neck was sufficient in the ordinary course of nature to cause death, intentionally caused the death of Rekhaben and gave false information to the police, thereby committing offences punishable under Sections 302 and 182 of the Indian Penal Code.

3. Upon registration of the FIR at Santarampur Police Station



under Sections 302 and 182 IPC, the investigation was carried out by the concerned police officer. The scene of offence was visited, panchnama was prepared in presence of panch witnesses, inquest was conducted, postmortem was arranged at Santarampur State Hospital where medical officers opined homicidal death due to strangulation by dori/string/rope, statements of material witnesses including family members, neighbors, Forest Colony employees, and medical officer were recorded, the dori/string/rope-muddamal was recovered and seized at the instance of the accused, articles were sent to F.S.L. for examination. After receipt of F.S.L. report and finding sufficient evidence, the accused was arrested. On completion of investigation, charge-sheet was filed before the learned Judicial Magistrate First Class, Santarampur, where it was registered and thereafter committed to the Court of Sessions, Godhra under Section 209 CrPC, and registered as Sessions Case No. 19/2015 transferred to Lunawada Camp Court as the offence pertains to Mahisagar District.

4. The 4th Additional learned Sessions Judge, framed charges against the accused under Sections 302 and 182 of the Indian Penal Code and proceeded with the trial. In order to establish the charges levelled against the accused, the prosecution examined in all 26 witnesses and produced and relied upon 20 documentary evidences. After completion of the prosecution evidence, the further statement of the accused was recorded under Section 313 of the Cr.P.C., wherein the accused denied all incriminating circumstances appearing against him and pleaded innocence, asserting that he had been falsely implicated in the case.

5. In order to prove the charge, the prosecution examined as many as 26 witnesses and exhibited 20 documents.

**Oral Evidences:**

Sr. No.	Witness Name	Exh.
1	Dr. Ravindrakumar Lakhanprasad Nirala	06
2	Prabhatasinh Sardarbhai Damor	08
3	Sikandarkhan Nasirkhan Pathan	10
4	Kalpesh Arvindbhai Dindor	15
5	Ajaykumar Arvindbhai Khant	16
6	Rukhiben Hirabhai	17
7	Somabhai Ramabhai Sangada	18
8	Vechatbhai Motibhai Khokhar	19
9	Pravinbhai Hirabhai Sangada	20
10	Vijaybhai Hirabhai Sangada	21
11	Nileshkumar Lakshmichand Sheth	22
12	Hirabhai Ramabhai Sangada	23
13	Bhagwatsinh Mohansinh	25
14	Narvatsinh Shivabhai	26
15	Sushilaben Pravinbhai Sangada	28
16	Rekhaben Vijaykumar Sangada	29
17	Nanabhai Hirabhai Didor	30
18	Bhimsingh Galabhai Bariya	31
19	Hitesh Arvindbhai Damor	32
20	Ranchhodbhai Kanaiyalal Dindor	33
21	Talibkhan Zarifkhan Pathan	35
22	Laxmanbhai Hirabhai Bariya	36
23	Vijay Harishbhai Shukal	38
24	Savjibhai Jarambhai Vaghasiya	42
25	Hemant Balwantray Chaudhary	55



Sr. No.	Witness Name	Exh.
26	Vijay Nanabhai Dindor	56

Documentary Evidences:

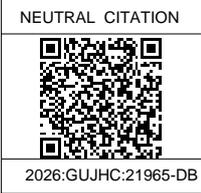
Sr. No.	Particulars	Exh. No.
1	Registering the offence	39
2	Forwarding letter of the said offence	40
3	Original complaint	24
4	Forwarding letter of Accidental Death No. 31/14	43
5	Report given by the accused	44
6	Inquest panchnama under Section 174 CrPC	09
7	Police report sent along with the body to the Medical Officer	45
8	Panchnama of the scene of offence	11
9	Panchnama of the accused's physical condition and clothes	12
10	Panchnama of clothes on the body	13
11	Preliminary report of FSL	46
12	Muddamal dispatch note	41
13	Acknowledgment slip for sending muddamal to FSL	47
14	Postmortem note	07
15	FSL letter after examination of muddamal	48
16	FSL examination report	49



Sr. No.	Particulars	Exh. No.
17	FSL letter after examination of muddamal	50
18	FSL opinion report on forensic science	51
19	Serology examination report	52
20	Closing Pursis	—

6. After the closure of the prosecution evidence, the statement of the appellant-accused was recorded under Section 313 of the Code of Criminal Procedure, 1973. In his statement, the appellant denied the entire incriminating material placed against him and pleaded complete innocence. He specifically asserted that the death of his wife Rekhaben was a case of suicide committed by her in a fit of emotional distress, that he had no role whatsoever in causing her death, that the prosecution evidence was circumstantial and riddled with gaps, that no motive for murder had been established on the date of the incident, that there was no eyewitness to any act of strangulation, and that he was entitled to the benefit of reasonable doubt.

7. The learned advocates for the appellant submitted that even assuming the prosecution has succeeded in proving that the death was homicidal, the facts and circumstances of the case do not disclose the requisite intention to cause death or the knowledge that the act was so imminently likely to cause death. It was strenuously urged that the entire incident arose out of a sudden and heated domestic quarrel between the spouses inside the privacy of their Quarters, triggered by a trivial day-to-day issue, the deceased's insistence on going to the fair which the appellant was unwilling to permit. There was no prior planning or premeditation



whatsoever no weapon was brought from outside the dori/string/rope used was an ordinary household article readily available in the quarters. The quarrel escalated suddenly in the heat of passion during an ongoing verbal altercation, and the act, if at all attributable to the appellant, was committed in the spur of the moment without any deliberate intention to kill but merely to silence, restrain or overpower the deceased in the course of the heated exchange.

7.1 The learned advocates further submitted that the absence of any premeditation, the domestic nature of the dispute between husband and wife, the lack of any external weapon, the short duration of the marriage marked by frequent but not extreme quarrels, the absence of multiple or grievous injuries on vital parts other than the ligature marks, and the appellant's immediate act of cutting the dori/string/rope and rushing the deceased to hospital even according to the prosecution version are all consistent with an impulsive act committed in the heat of a sudden quarrel rather than a cold-blooded, intentional murder.

7.2 It was also contended that the medical evidence itself leaves room for the possibility of a struggle or an accidental/partial hanging scenario, and the total absence of defence wounds, nail abrasions or resistance marks on the body supports the defence that if the death was caused by the appellant the act was not carried out with the clear intention to cause death but was the unfortunate and impulsive result of a momentary loss of control during a domestic dispute.

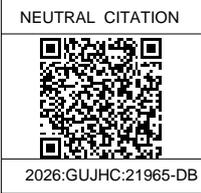
8. The learned APP, appearing for the State, supported the judgment of the learned Sessions court. He submitted that the



medical evidence postmortem report at Exh. 07, the FSL opinion on the dori/string/rope at Exh. 49 and 51, the scene panchnama showing the dori/string/rope not pulled taut and inconsistencies with self-hanging, the prior history of quarrels spoken to by multiple witnesses, the accused's presence alone with the deceased in the quarters, his quick return from outside within minutes, and his evasive and inconsistent behaviour at the hospital when questioned by the deceased's father, form a complete and unbroken chain of circumstances pointing only to the guilt of the appellant for intentional murder under Section 302 IPC. He argued that the defence plea of suicide is an afterthought and not supported by the forensic and ocular evidence on record.

9. Having heard the learned counsels for the appellant and the learned APP for the State at length, and upon careful re-appreciation of the entire oral and documentary evidence on record including the postmortem findings at Exh.7, FSL reports and scene of offence observations at Exh.49 & Exh.51, inquest panchnama at Exh.9, scene panchnama at Exh.11, statements of family members at Exh.17, 23, 28, neighbours and Forest Colony witnesses at Exh.15, 16, 30, 32, the Investigating Officer's deposition at Exh.42, and the conduct of the accused before, during and after the incident.

9.1 This Court is of the considered view that the core question for determination is whether the act committed by the appellant amounts to murder punishable under Section 302 IPC or whether, having regard to the suddenness of the quarrel, absence of premeditation, lack of intention to cause death, the domestic nature of the dispute between husband and wife, the impulsive character of the act in the heat of a verbal altercation over a trivial



issue, and the overall circumstances emerging from the evidence, the case falls within the ambit of culpable homicide not amounting to murder punishable under Section 304 IPC.

9.2 This Court has therefore re-examined the evidence with the specific object of ascertaining whether the prosecution has proved beyond reasonable doubt the requisite mens rea for murder namely, intention to cause death or whether the circumstances more appropriately point to an impulsive, heat-of-the-moment act during a sudden domestic quarrel, devoid of premeditation and without the clear design to kill, thereby warranting a re-classification of the offence and a reconsideration of the sentence imposed by the learned sessions Court.

PM Note followed by the Opinion of the Doctor:-

10. As per the deposition of Dr. Ravindrakumar Lakhanprasad Nirala examined at Exh. 06, Medical Officer at Santarampur State Hospital, conducted the post-mortem examination of the deceased Rekhaben on 21/09/2014 along with panel doctor Dr. Vijay Damor. On external examination, he recorded horizontal ligature marks of red-brown colour situated above the thyroid cartilage, measuring 7 cm on the right side and 11 cm on the left side with a width of 0.6-0.8 cm. These marks were associated with underlying ecchymosis bruising in the subcutaneous tissue, congestion in the underlying muscles and blood vessels, and a transverse fracture of the thyroid cartilage. No external defence wounds, nail abrasions, or resistance marks were found on the hands, forearms, legs, soles of the feet, or any other part of the body. Other findings included facial congestion, petechial haemorrhages in the conjunctiva, frothy bubbles from the nose on chest compression, half-open mouth with upper teeth visible, tongue inside, cyanosis on lips,



gums, nails, and approximately 200 ml of semi-digested food in the stomach. The body was cold, rigor mortis was present in limbs but not in the neck, and post-mortem lividity was noted on dependent parts. He preserved vaginal swab, vulval swab, pubic hair, blood, anti-coagulated blood, head hair, and nail clippings for chemical analysis at F.S.L. In his expert opinion, the cause of **death was asphyxia due to strangulation**, and the injuries detailed in column 17 of the post-mortem note at Exh. 07 were fully consistent with homicidal strangulation by another person using a dori/string/rope such as the muddamal.

10.1 In cross-examination, he candidly admitted that he had not recorded the colour of post-mortem lividity or specified whether rigor mortis was in ascending or descending phase, but maintained that these omissions did not undermine the conclusion of homicidal strangulation, as a sudden attack from behind could prevent any effective defensive struggle, and thyroid cartilage fracture could also occur in cases of partial hanging.

11. As per the deposition of Kalpesh Arvindbhai Dindor at Exh. 15, a college student studying at Adivasi Arts and Commerce College, Santarampur, who was practising running for the Mahakumbh sports event at J.S. Mehta High School ground along with Ajaykumar Arvindbhai Khant and other boys, deposed that on the evening of 20/09/2014 around 6:00 p.m., the accused Pareshbhai Shankarbhai Taviyad arrived at the ground on a motorcycle accompanied by a 15-year-old boy. Pareshbhai gave information regarding forest department recruitment and beat guard vacancies, engaged in normal conversation with the witness, Ajay, and others present, appeared calm and showed no visible signs of physical injury, agitation, distress, or bloodstains on his



person or clothing. He remained at the ground for only 10-15 minutes before leaving with the boy. The witness came to know about the death the next day when police visited the ground for inquiry, and subsequently heard from others that Pareshbhai had allegedly strangled his wife. In cross-examination, he confirmed that Pareshbhai's demeanour during the brief interaction was normal and composed, with no outward indication of any recent physical altercation.

12. As per the deposition of Rukhiben Hirabhai at Exh. 17, mother of the deceased Rekhaben, deposed that after the marriage of her daughter with the accused in May 2013, the couple frequently quarrelled over domestic and day-to-day issues, and Rekha regularly confided these marital disputes to her and her husband. On the evening of 20/09/2014, upon receiving information from her nephew Dhulabhai that Rekha was in serious condition and admitted to the government hospital, she along with her husband Hirabhai reached Santarampur hospital around 7:00 p.m. They observed the body laid on a bench, noticed prominent dori/string/rope marks around the neck, and found the accused Paresh present at the hospital but completely evasive, unresponsive, and unwilling to answer any questions when they inquired about the circumstances of the incident. Later, they visited the couple's quarters in the Forest Colony and saw pieces of dori/string/rope hanging from the beam of the room. She expressed her firm belief that Paresh had killed her daughter by strangulation during a quarrel. In cross-examination, she admitted that despite the ongoing quarrels no formal police complaint had been lodged earlier, that Rekha had an emotional and sensitive temperament, and that she had not personally seen the body suspended or hanging from the beam.



13. As per the deposition of Hirabhai Ramabhai Sangada at Exh. 23, retired Assistant Sub-Inspector of Police and father of the deceased, stated that following Rekha's marriage to the accused in May 2013, frequent quarrels took place between the spouses over domestic matters Rekha regularly informed him of these disputes, and he in turn conveyed the same to Paresh's parents in an effort to resolve them. On the evening of 20/09/2014, his nephew Dhulabhai informed him that Rekha was in serious condition he reached Santarampur government hospital around 7:15 p.m., observed clear dori/string/rope marks on the neck of the body, and found Paresh present but entirely evasive and silent when questioned about what had happened. Together with family members, they inspected the quarters and noticed short pieces of dori/string/rope hanging from the beam in a manner inconsistent with self-hanging, the pieces were not taut, the wooden cot placed against the wall had items undisturbed, and the overall scene appeared physically difficult for self-suspension. The next day, after the post-mortem confirmed death by strangulation, he lodged the FIR at Exh. 24 at Santarampur Police Station, alleging that Paresh had falsely reported the death as suicide by hanging to mislead the authorities. In cross-examination, he acknowledged his long police service retiring as ASI, his familiarity with distinguishing suicide from homicide cases, the absence of any prior formal complaint despite knowledge of the quarrels, his arrival at the hospital after Paresh had already lodged the accidental death report, and that he initially suspected suicide but altered his view only after the medical opinion was received.

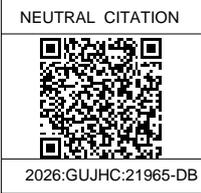
14. After the perusal of deposition of Hitesh Arvindbhai Damor at Exh. 32, who operated a tea (kachori-samosa) stall situated opposite the Forest Colony near the G.E.B. office, deposed that on



the evening of the incident he heard loud shouting and commotion coming from Pareshbhai's room in the quarters. He proceeded towards the room along with his brother Ranchhodbhai - who ran a tea hotel in the vicinity. Upon reaching, he saw Pareshbhai crying loudly and repeatedly with his head placed in the lap of his wife Rekhaben. Ranchhodbhai immediately arranged a rickshaw and sent Rekhaben to the hospital. The witness stated that even up to the date of his deposition he had no knowledge of the precise cause of death and had not been informed of the exact circumstances.

15. After the perusal of deposition of Savjibhai Jarambhai Vaghasiya at Exh. 42, the Investigating Officer posted at Santarampur Police Station, deposed that on 20/09/2014 evening he was on duty when the accused Pareshbhai Shankarbhai Taviyad appeared at the police station and lodged an accidental death report, claiming that his wife Rekhaben had committed suicide by hanging from the beam in their quarters. He immediately initiated preliminary inquiry, prepared the inquest panchnama at Exh. 09 in presence of panch witnesses, forwarded the body to Santarampur State Hospital for post-mortem examination, visited the scene of offence along with the Deputy Superintendent of Police, summoned the Forensic Science Laboratory officer for assistance, seized the cotton dori/string/rope and other relevant articles, recorded statements of material witnesses, and ultimately arrested the accused upon sufficient prima facie evidence emerging during investigation. He forwarded the seized muddamal to FSL Vadodara for scientific examination and produced before the trial court various panchnamas, FSL correspondence and reports, forwarding letters, and related investigation documents.

16. The learned Sessions Court convicted the accused Pareshbhai



Shankarbhai Taviyad under Section 302 of the Indian Penal Code for the murder of Rekhaben by strangulation using a cotton dori, based on the evidence including the scene of offence inspection, recovery of articles, and forensic findings. The prosecution relied heavily on the FSL report to establish the manner of commission of the offence and to corroborate the allegations of ligature strangulation. This report, prepared by the investigating officer in conjunction with forensic experts following a meticulous on-site examination, provided irrefutable scientific validation to the prosecution's narrative, ruling out alternative theories such as suicide or accidental death. By detailing the physical layout and evidentiary artifacts at the crime scene, the FSL report not only reconstructed the sequence of events but also demonstrated the feasibility of the accused's alleged actions, thereby strengthening the chain of circumstantial evidence and fulfilling the prosecution's burden under Section 106 of the Indian Evidence Act, 1872, to explain the circumstances of the death occurring in the exclusive knowledge of the accused.

Analysis of Scientific Evidence :-

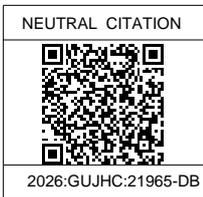
16.1 The FSL report, prepared after inspection of the crime scene in Forest Colony, Santrampur, detailed the layout of the house, including the main room with an iron cot, LCD TV, and scattered items suggesting a struggle or search the presence of a two-stranded dark bluish dori/string/rope piece (1.6 feet long) with one end knotted and entangled with head hair, and the other end showing fresh sharp cuts another room with a wooden beam to which a similar dori/string/rope was tied, hanging ends freshly cut, with measurements indicating feasibility of access via a wooden horse (5.5 feet high) and plastic chair (top surface 1.4 feet from floor), allowing someone to tie or manipulate the dori/string/rope at



a total height of about 11.1 feet from beam to floor.

16.2 No forced entry signs were found on doors, which appeared open before and after the incident. Additional dori/string/rope pieces were noted tied to nails outside the southern wall, cut sharply. The report suggested seizing the dori/string/rope pieces and the blade for further examination, and forwarded items to the Regional FSL, Vadodara, for weight-bearing and other tests. These observations were pivotal, as they painted a vivid picture of a staged or hasty attempt to simulate suicide by hanging, with the knotted dori/string/rope bearing victim's hair fibers as direct biological linkage to the strangulation. The absence of forced entry corroborated witness statements of domestic familiarity, while the precise measurements such as the 6.6-foot drop from the chair to the dori/string/rope ends and the 1.9-foot horizontal reach to the shelf illustrated how the accused could have easily accessed and affixed the ligature without external aid, aligning with the timeline of the quarrel at 18:00 hours on 20/09/2014. Furthermore, the scattered items (e.g., remote control, power plug, and hair bunch) indicated a post-strangulation disarray consistent with the accused's panicked efforts to arrange the scene, thereby negating any defense plea of an intruder or mutual altercation. The recommendation for seizure and forwarding to Vadodara underscored the report's procedural integrity, ensuring that subsequent chemical and metallurgical analyses could further link the dori/string/rope's composition to household materials under the accused's control, thus fortifying the prosecution's case beyond reasonable doubt.

17. In the opinion of Scientific Officer S.N. Prajapati, the seized dori/string/rope pieces (Samples C, E, and F) were physically



similar in type and could be cut by a sharp-edged weapon like the chhapu (Sample D). However, no dori/string/rope residues were detected on the chhapu. The dori/string/rope demonstrated substantial load bearing capacity (over 60 kg for a single strand and over 100 kg for double strands), supporting the possibility of their use in strangulation without snapping. No signs of external force or struggle were observed on the clothing items (Samples G to L). Certain parcels were sent to the Biology Division for further examination (e.g., possible biological traces), with the report to follow.

17.1 These forensic conclusions materially corroborated the prosecution's case regarding the weapon of offence (dori/string/rope) and the absence of defensive injuries on clothing, consistent with homicidal strangulation rather than suicide or accident.

17.2 The officer's findings on the dori/string/rope uniformity and tensile strength were particularly damning, as they established the ligature's suitability for sustained pressure application during the altercation, capable of causing asphyxia without breakage even under the victim's reflexive movements directly countering any defense argument of a fragile or improvised tool indicative of self-harm.

17.3 The lack of residues on the chhapu, while neutral, did not undermine the cuts' freshness, which matched the incident's recency, implying a deliberate post-crime severance to discard evidence. Critically, the unmarred clothing samples debunked claims of a violent scuffle, suggesting the victim was subdued swiftly and passively, perhaps through surprise or coercion during the ongoing domestic dispute, and aligning with medical autopsy



reports of ligature marks without accompanying bruises or tears.

18. Even as per the consideration of the inquest panchnama produced at Exh.9, clear ligature marks were found around the neck of the deceased Rekhaben.

18.1 The core issue that falls for determination is whether the death was suicidal hanging or homicidal throttling/strangulation by ligature.

18.2 The muddamal dori/string/rope was shown to PW-1 Dr. Ravindrakumar Lakhanprasad Nirala at Exh.6 during his evidence. The doctor categorically confirmed that the width, pattern and location of the ligature marks horizontal, above the thyroid cartilage, with underlying ecchymosis, muscle congestion and transverse fracture of the thyroid cartilage were consistent with throttling/strangulation by another person using a dori/string/rope similar to the muddamal and were incompatible with suicidal hanging.

18.3 In cross-examination the doctor fairly conceded that in cases of partial hanging the thyroid cartilage can fracture and that certain symptoms overlap, yet he firmly maintained that the absence of any oblique upward mark towards the knot typical of hanging, the horizontal nature of the ligature, the presence of petechial haemorrhages, frothy bubbles from the nose, and the fracture without any salivary dribbling down the chin clearly pointed to homicidal ligature strangulation rather than hanging. He further explained that a sudden attack from behind could explain the total absence of defence wounds or nail abrasions on the body, forearms or legs.



19. Though, the learned advocate for the appellant while making over the submissions contended that even assuming the death was caused by asphyxia due to strangulation, the medical evidence does not rule out suicidal hanging. She invited the Court's attention to the cross-examination of Dr. Nirala wherein the doctor admitted that depth of ligature marks is an important factor in medical jurisprudence in manual strangulation or throttling by hands the marks are usually shallower, whereas in hanging the marks are deeper due to the weight of the body. She pointed out that Column-7 of the post-mortem note at Exh.7 is silent on the depth of the ligature marks and therefore the expert opinion cannot be relied upon as conclusive. She further submitted that in strangulation the victim would normally struggle to save herself, yet no external injuries of resistance were found on the body, which according to her creates a strong probability of suicidal hanging.

19.1 It is further submitted by the learned advocate for the appellant while relying upon the well-settled principle that the opinion of an expert under Section 45 of the Indian Evidence Act is only advisory in nature and must be received with great caution, the learned advocate placed reliance on the decisions of the Hon'ble Supreme Court in **Chetanbhai Natwarlal Shrimadi v. State of Gujarat 2019 HC 240580** laying down that conviction cannot be based solely on expert opinion without substantial corroboration from other independent evidence. She urged that the entire prosecution case rests on the medical opinion and the FSL scene report and, since both are inconclusive on the question of hanging versus strangulation, the benefit of doubt must go to the appellant.

20. In continuation, she had further developed the theory which has been emphasized on the aforesaid judgment of partial hanging.

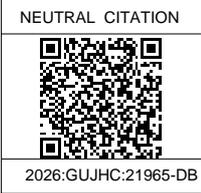


She submitted that the FSL scene of offence report at Exh.49 and Exh.51 itself supports the possibility of suicide. The report notes a wooden beam at a height of approximately 11.1 feet from the floor, a wooden cot, a plastic chair top surface 1.4 feet from floor, and a wooden shelf with four partitions. According to her, the deceased could have easily climbed onto the chair or the shelf, tied the dori/string/rope around her neck and the beam, and then stepped off, resulting in partial hanging. When the body became partially suspended, she might have instinctively tried to support herself on the shelf, causing the dori/string/rope to slacken.

20.1 Though the learned advocate for the appellant to buttress the arguments as submitted that on reaching the spot, the appellant, in a state of panic, cut the dori/string/rope in three different pieces with a sharp instrument to bring the body down and then rushed her to the hospital. She emphasized that the FSL report and opinion of Scientific Officer S.N. Prajapati found that the seized dori/string/rope pieces i.e. Samples C, E and F were cut by a sharp-edged weapon but no dori/string/rope residues were detected on the recovered chhapu (Sample D), which, according to the prosecution, is consistent with the dori/string/rope having been cut by some other household instrument not seized.

20.2 Thus, the defence urged that the entire prosecution story of deliberate strangulation followed by staging is demolished by the very FSL measurements and the possibility of partial hanging.

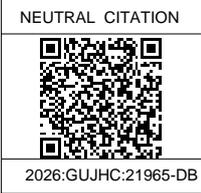
21. The sum and substance of the arguments advanced by the learned advocate for the appellant, even the symptoms of hanging and strangulation are largely common the post-mortem does not mention salivary dribbling a sign of hanging in Medical Jurisprudence and Toxicology, where in hanging saliva dribbles



down the mouth onto the chin and due to continued glandular secretion under asphyxia, whereas in strangulation it is absent, yet the doctor himself conceded that in partial hanging such dribbling may not occur. The learned advocate therefore submitted that the prosecution has failed to prove beyond reasonable doubt that the death was homicidal and that the appellant is entitled to acquittal.

21.1 This Court is also of considered opinion as observed by the court in the aforesaid decision. The learned advocate for the appellant has placed strong reliance on the decision of this Court in ***Chetanbhai Natwarlal Shrimadi (supra)***, wherein the evidentiary value of expert medical opinion in cases involving distinction between homicidal strangulation and suicidal hanging was elaborately discussed. In that case, the Gujarat High Court held that a doctor deposing as an expert witness is not a witness of fact, and his evidence is more in the nature of advice or opinion. Expert opinion must always be received with great caution, and it is unsafe to base a conviction solely on such opinion without substantial corroboration from other direct or circumstantial evidence. The Court emphasized that expert evidence, being opinion evidence, cannot be treated as conclusive before acting upon it, the Court must consider whether it is corroborated, and the reasons for the opinion must be carefully scrutinized and examined.

21.2 Further considering the facts of the case and the decisions referred to so also the conclusion arrived at by the learned Sessions Judge as submitted by the learned APP that the case on hand and the material appended thereto is not confined to the opinion of the expert as such there are other material apprehended thereto is not confined to the opinion of the expert, only on this aspect the aforesaid decision does not come to the rescue qua the



aforesaid aspect.

21.3 The learned APP has placed heavy reliance on the decision of the Hon'ble Apex Court in ***Javed Abdul Rajjaq Shaikh v. State of Maharashtra (2019) 3 SCC 572***. He has contended that there are clear distinctions between hanging and ligature strangulation. In hanging, the ligature mark is typically oblique and non-continuous. It is placed high in the neck above the thyroid cartilage and is directed upward following the mandible. It is often interrupted at the back with a knot impression and is parchment-like at the base. In strangulation by ligature, the mark is usually horizontal or transverse. It is continuous around the neck and situated low below the thyroid cartilage. The base of the mark is soft and reddish.

21.4 The Court noted that photographs showing a "V"-shaped, incomplete, oblique mark in the sub-mandibular region (below chin), absence of complete encirclement, lack of scuffle signs, presence of Le Facie Sympathique (one eye open, one closed), less evident cyanosis, and absence of emphysematous bullae on lungs pointed strongly towards suicidal hanging rather than homicidal strangulation. The Court cautioned that strangulation per se does not imply homicide, as suicidal strangulation is medically possible, and unless the medical report and expert deposition conclusively rule out suicide in favour of homicide, it would be unsafe to convict on such opinion alone. The sessions Court in that case erred by treating the doctor's opinion as gospel truth without adequate corroboration, and the appeal was allowed, holding the death suicidal rather than homicidal.

21.5 It is submitted by the learned APP that the submissions advanced by the learned advocate for the appellant that similar



caution is warranted here does not find prudence as reliance was placed by the learned advocate for the appellant while submitting that the postmortem opinion of Dr. Nirala at Exh. 6 & 7 opines asphyxia due to strangulation, with horizontal ligature marks above the thyroid cartilage and transverse fracture, but the report is silent on critical differentiators like the exact depth of marks, salivary dribbling absent in strangulation but often present in hanging, precise obliquity or continuity of the mark, and other signs like Le Facie Sympathique or lung bullae. The doctor in cross-examination conceded overlaps in symptoms between hanging including partial hanging and strangulation, the possibility of fracture in partial hanging, and that a sudden rear attack could explain absence of defence injuries.

Discussion of the Legal Propositions:-

22. The learned advocate for the appellant has placed strong reliance on a series of authoritative decisions of the Hon'ble Supreme Court and this Court to contend that conviction cannot rest solely on the postmortem opinion of the Medical Officer, as expert evidence is advisory/correlative in nature and not substantive, and that Section 106 of the Indian Evidence Act, 1872 cannot be invoked to relieve the prosecution of its primary burden or to fill evidentiary gaps. The following judgments were cited in support theory which have been dealt with the propositions relied upon:-

(i) In ***Shambhunath Mehra v. State of Ajmer, AIR 1956 SC 404***, the Supreme Court held that the general burden under Section 101 remains on the prosecution Section 106 (Illustration (b)) applies only where facts are "especially within the knowledge" of the accused and not equally accessible to others. It does not



absolve the prosecution from proving foundational facts.

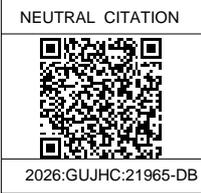
(ii) In ***Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681***, the Supreme Court applied the “last seen together” doctrine in a unnatural death case but clarified that Section 106 shifts the explanatory burden only after the prosecution proves basic facts establishing the offence beyond reasonable doubt.

(iii) In ***Tulshiram Sahadu Suryavanshi & Anr. v. State of Maharashtra, (2012) 10 SCC 373***, the Supreme Court reiterated that Section 106 does not relieve the prosecution of its initial onus it applies only where foundational facts are proved and the accused fails to explain facts within his special knowledge, leading to a complete chain excluding innocence.

(iv) In ***Nagendra Saha v. State of Bihar, (2021) 10 SCC 725***, the Supreme Court set aside a Section 302 conviction resting solely on postmortem evidence, holding that medical report alone cannot sustain conviction without other substantive proof linking the accused.

(v) In ***Satyesingh v. State of Uttarakhand, (2022) 5 SCC 438***, the Supreme Court held that Section 106 cannot be pressed when prosecution fails to prove basic facts it is not meant to shift the initial burden or cure deficiencies.

(vi) In ***Anees v. State Govt. of NCT of Delhi, AIR 2024 SC 2297***, the Supreme Court emphasized cautious application of Section 106: it cannot compensate for prosecution’s failure to prove essential elements, nor support conviction unless prosecution first discharges its onus. It has no application where facts are knowable to others present.



(vii) In ***Bhavsingbhai Chhotiyabhai Rathwa v. State of Gujarat (Criminal Appeal No. 1737 of 2017)***, this Court dealt with conviction under Section 302 IPC in a wife-murder case based on circumstantial/custodial death evidence, underscoring that Section 106 shifts burden only after prosecution proves foundational facts.

(viii) In ***Sujata @ Babita Suresh Ganpatrav Abhang v. State of Gujarat (Criminal Appeal No. 813 of 2024)***, this Court held that reliance on Section 106 is inappropriate unless prosecution first proves essential facts within accused's special knowledge.

(ix) Additionally, reliance was placed on ***Madangopal Kakkad v. Naval Dubey & Anr., (1992) 3 SCC 204***, wherein the Supreme Court held that a medical expert's evidence is advisory in character, corroborative and not substantive conviction cannot rest solely thereon without independent corroboration.

22.1 The learned Advocate submits that in the instant case, there is no direct evidence of the act of strangulation no eyewitness exists recovery evidence does not unequivocally link the appellant to homicide and the medical opinion, though opining strangulation, leaves scope for partial hanging/suicide due to symptom overlaps and recording omissions. The case rests predominantly on circumstantial evidence and expert opinion. In these circumstances, Section 106 cannot be invoked to shift the burden or cure gaps, as foundational facts establishing homicide beyond reasonable doubt are not proved. The appellant is entitled to benefit of doubt, warranting acquittal.

23. Per contra, the learned APP has placed strong reliance on the decision of the Hon'ble Supreme Court in ***Javed Abdul Rajjaq***



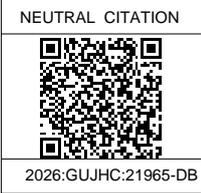
Shaikh (Supra), wherein the Court closely examined the distinction between homicidal throttling/strangulation and suicidal hanging in a custodial death case, with detailed reference to medical jurisprudence (Modi's Medical Jurisprudence and Toxicology, 25th Edition) and the evidentiary value of postmortem findings.

23.1 In that case, the Supreme Court upheld conviction under Section 302 IPC after scrutinizing the medical evidence against the defence plea of suicide. The Court highlighted critical differentiating features between hanging and strangulation/throttling, as summarized in the following table from Modi's text (as extracted and applied in the judgment):

Sr. No.	Hanging	Strangulation
1	Mostly suicidal.	Mostly homicidal.
2	Face: Usually pale petechiae are rare.	Face: Congested, livid, and marked with petechiae.
3	Saliva: Dribbling out of the mouth down the chin and chest.	Saliva: No such dribbling.
4	Neck: Stretched and elongated in fresh bodies.	Neck: Not stretched or elongated.
5	External signs of asphyxia: Usually not well marked.	External signs of asphyxia: Very well marked (minimal if death due to vasovagal or carotid sinus effect).
6	Ligature mark: Oblique, non-continuous, placed high up in the neck between the chin	Ligature mark: Horizontal or transverse, continuous, round the neck, low down below the



Sr. No.	Hanging	Strangulation
	and the larynx base of groove hard, yellow, and parchment-like.	thyroid cartilage base of groove soft and reddish.
7	Abrasions and ecchymoses around ligature mark: Rare.	Abrasions and ecchymoses around ligature mark: Common.
8	Subcutaneous tissues under the mark: White, hard, and glistening.	Subcutaneous tissues under the mark: Ecchymosed.
9	Injury to neck muscles: Rare.	Injury to neck muscles: Common.
10	Carotid arteries (internal coats): May be ruptured.	Carotid arteries (internal coats): Ordinarily not ruptured.
11	Fracture of larynx and trachea: Very rare may occur in judicial hanging.	Fracture of larynx, trachea, and hyoid bone: Common.
12	Fracture/dislocation of cervical vertebrae: Common in judicial hanging.	Fracture/dislocation of cervical vertebrae: Rare.
13	Scratches, abrasions, bruises on face, neck, body: Usually not present.	Scratches, abrasions, fingernail marks, bruises: Usually present.
14	Evidence of sexual assault: Usually absent.	Evidence of sexual assault: Usually absent.
15	Emphysematous bullae on lungs: Not present.	Emphysematous bullae on lungs: May be present.



23.2 In the aforesaid decision the Hon'ble Apex Court noted that postmortem injuries (crushed sternomastoid muscles with severe haemorrhage, crushed thyroid/cricoid cartilage laterally marks of violence seen only in homicidal throttling, not hanging), absence of cervical vertebrae fracture/dislocation (consistent with non-judicial strangulation), and other violence signs (broken front teeth, thigh/ankle impressions suggesting pinning down) clearly pointed to throttling. The doctor deposed that such injuries (sternomastoid crush and thyroid cartilage crush) were indicative of homicidal death and absent in hanging/suicidal cases. Absence of nail scratches was not fatal, as they are not always present (especially if resistance overcome quickly or from behind). The room height (5 ft. 10 in.) made hanging improbable for a normal-height person, further ruling out suicide.

23.3 In the present appeal, the learned APP submits that analogous caution applies. The postmortem at Exh.7 records horizontal ligature marks above thyroid cartilage with transverse fracture and muscle congestion, but lacks detail on depth, salivary dribbling (absent in strangulation, often present in hanging), precise continuity, sternomastoid crush specifics, or emphysematous bullae. The doctor conceded symptom overlaps, fracture in partial hanging, and no defence injuries possible in sudden rear attack. FSL/scene evidence (11.1 ft. beam, 1.6 ft. rope, unstable chair, undisturbed items) arguably raises doubt on homicidal staging versus suicide/partial hanging.

24. This Court has carefully considered the ratio of **Javed Abdul Rajjaq Shaikh (supra)** and the submissions based thereon. While the principles of strict scrutiny of medical distinctions, need for corroboration of expert opinion, and Section 106 burden in



custodial death are well-settled, the facts here materially differ and decisively support homicidal strangulation. The postmortem records horizontal/transverse marks (not oblique), underlying ecchymosis/muscle congestion, thyroid cartilage fracture consistent with sustained external pressure by another person (doctor confirmed with muddamal rope), petechial haemorrhages, froth without salivary dribbling, and no contradictory evidence suggesting hanging.

24.1 The FSL and scene panchnama (fresh cuts inconsistent with self-cutting while suspended, rope entangled with hair, non-taut ends, unstable chair, undisturbed items, insufficient drop height) rules out suicide and supports staging after strangulation.

24.2 It is further submitted by the learned APP that the prior quarrels, exclusive presence, quick return, loud commotion, evasive conduct, and immediate false hanging report form a complete chain. The act of taking to hospital aligns with staging, not innocence. The custodial death in matrimonial quarters invokes Section 106, which the appellant failed to discharge plausibly.

Analysis on Invocation of Section 106 of the Indian Evidence

Act:-

25. This Court has carefully considered the cited decisions and submissions thereon. The principles are well-settled the primary burden under Section 101 lies on the prosecution Section 106 applies only after foundational facts are proved expert medical evidence is advisory and correlative, requiring corroboration and the complete chain must exclude every reasonable hypothesis of innocence.

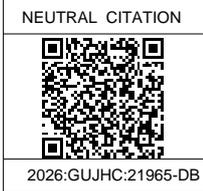


25.1 However, the facts of the present case clearly distinguish it from those decisions. The prosecution has proved the foundational facts beyond reasonable doubt. There were prior quarrels between the parties, as established by family and neighbour evidence. The accused was in the exclusive presence of the deceased and returned quickly. There was a loud commotion. The postmortem report revealed horizontal marks on the neck, fracture of the thyroid cartilage, ecchymosis, petechiae, and froth in the trachea without dribbling, all of which are consistent with homicidal strangulation.

25.2 The doctor confirmed that the injuries could have been caused by the muddamal dori/string/rope. The FSL and scene of offence report showed fresh cuts inconsistent with self-cutting, hair entangled in the ligature material, non-taut ends of the ligature, an unstable chair, undisturbed household items, and insufficient height for hanging.

25.3 All these findings completely rule out the possibility of suicide or staging. The evasive conduct and false report made by the accused further complete the chain of circumstances. Section 106 of the Evidence Act legitimately shifts the explanatory burden upon the accused in this custodial and matrimonial setting. The appellant's plea of suicide stands falsified. The cited judgments do not assist the appellant.

26. This Court finds that Section 106 of the Indian Evidence Act, 1872 operates only after the prosecution has first discharged its primary burden under Section 101 by establishing a prima facie case proving the guilt of the accused beyond reasonable doubt on the basis of the facts and circumstances proved on record. The provision does not relieve the prosecution of its fundamental duty,



nor can it be invoked to fill gaps in the evidence. It is only when the prosecution proves foundational facts from which guilt can reasonably be inferred, and the accused then asserts or relies upon any specific fact or circumstance (such as suicide or any exculpatory explanation) especially within his knowledge, that the explanatory burden shifts to him to prove or satisfactorily explain that fact.

26.1 The Supreme Court held that custodial death in the matrimonial home invoked Section 106 Evidence Act burden on the accused to explain how death occurred vague denial/failure to explain strengthened prosecution case. Taking the body to hospital was not inconsistent with guilt, as it was part of staging suicide/hanging to mislead authorities. Motive (dowry demands/threat to kill) and complete circumstantial chain (custodial death, non-disclosure to father-in-law, false hanging story, medical violence marks) were upheld.

26.2 In the present case, the prosecution having duly proved the homicidal nature of the death, the exclusive presence of the appellant with the deceased, prior matrimonial discord, and the surrounding incriminating circumstances, the explanatory burden under Section 106 was legitimately attracted and was correctly appreciated by the learned sessions Court. The appellant's failure to offer any plausible explanation for the occurrence within his special knowledge further strengthens the prosecution case.

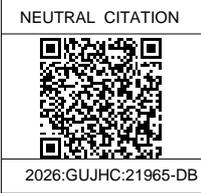
Conclusion:-

27. In nutshell, this Court has carefully considered the aforesaid submissions in the light of the entire evidence on record, including



the detailed appreciation by the learned sessions Court in its judgment. The findings of the learned sessions court that the death was homicidal and that the appellant had falsely projected it as suicide are fully borne out by the material on record. The matrimonial disputes between the spouses are proved by the consistent evidence of the mother Rukhiben at Exh.17, father Hirabhai at Exh.23, sister Sushilaben at Exh.28) and other family members. All of them deposed that Rekhaben regularly complained of frequent quarrels over domestic issues and that she was emotionally distressed. The neighbour Hitesh Damor at Exh.32 heard loud shouting from the quarters on the fateful evening, which establishes that a quarrel was in progress immediately before the death. Further, Nanabhai Hirabhai Dindor at Exh.30, a Forest labourer residing nearby, deposed that upon returning home he heard commotion from the accused's room, inquired from Ranchhodbhai nearby stall owner, who confirmed a quarrel between Paresh and his wife, and that she had been taken to hospital his son Vijay had gone near the room to fetch bidis. Though declared hostile, this witness corroborates the loud quarrel and proximity of activity around the quarters.

28. The appellant was the only person present in the quarters at the relevant time he had returned from the school ground within 10-15 minutes after leaving on his motorcycle, giving him ample opportunity and exclusive knowledge of the occurrence inside the house. The conduct of the appellant before, during and after the incident is highly incriminating. Prior to the incident there were repeated quarrels over domestic matters including going to the fair (Mela) during the incident he was the sole person present with the deceased immediately thereafter, instead of informing the neighbours, the father-in-law or calling for help, he rushed to the

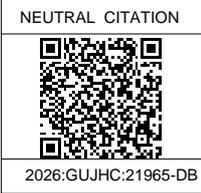


police station and lodged a false report of suicidal hanging at Exh.44, which was registered as Accidental Death No. 31/2014. At the hospital he remained evasive and silent when questioned by the deceased's father (a retired ASI) and other family members as noted by Investigating Officer Savjibhai Vaghasiya at Exh.42 and Dy.SP Vijay Shukal at Exh.38.

28.1 The scene panchnama at Exh.11 and the FSL report at Exh.49 show that the dori/string/rope was cut into three separate pieces, one end entangled with the deceased's head hair, the other ends showing fresh sharp cuts, and the hanging ends from the beam were not taut a situation physically inconsistent with self-hanging from a 11.1 feet beam even with the aid of the chair and shelf.

28.2 The FSL officer's opinion that the dori/string/rope possessed load-bearing capacity of more than 60-100 kg and that the cuts were fresh further corroborates that the dori/string/rope was deliberately severed after the act to stage the scene. Doors showed no forced entry signs and were open, consistent with domestic occurrence.

29. The prosecution has independently proved the homicidal nature of the death through the medical evidence horizontal ligature mark with fracture of thyroid cartilage, petechial haemorrhages, absence of salivary dribbling, absence of oblique upward mark corroborated by the scene of offence panchnama and FSL findings, as appreciated by the learned sessions Court. The learned sessions Court rightly held that the ligature mark being transverse/horizontal and continuous low in neck in strangulation vs. oblique/upward in hanging, the thyroid fracture, ecchymosis and muscle congestion, and froth from nose without dribbling align



with homicidal strangulation per standard texts in Medical Jurisprudence.

29.1 The doctor confirmed such injuries can result from dori/string/rope strangulation by another person.

29.2 Once the fundamental fact of homicidal death is established beyond reasonable doubt, the burden to explain the circumstances inside the house, which were within the exclusive knowledge of the appellant, shifts to him under Section 106 of the Indian Evidence Act, 1872. The appellant having come forward with the theory of suicide, it was incumbent upon him to substantiate the same. The plea of partial hanging and self-cutting of the dori/string/rope by the deceased is not only improbable but is falsified by the FSL report which shows that the knife recovered from the appellant (chhapu) bore no dori/string/rope residues and the cuts were inconsistent with a single person cutting while suspended items on wooden horse undisturbed plastic chair unstable for balancing body weight while cutting beam height and dori/string/rope length insufficient for effective suspension no disarrangement suggesting struggle or support taken. The appellant's failure to offer any plausible explanation in his Section 313 statement further strengthens the chain of circumstances.

30. This Court is in complete agreement with the proposition of law laid down by the Hon'ble Supreme Court that the initial burden always lies on the prosecution to prove the case beyond reasonable doubt and that Section 106 cannot be invoked to fill gaps in the prosecution case. However, in the present matter the prosecution has successfully discharged its initial burden by leading cogent medical, forensic and ocular evidence establishing homicidal



strangulation and staging of suicide. The defence of suicide is an afterthought and is not supported by any evidence. The appellant's conduct of immediately lodging a false report and his evasive behaviour at the hospital are consistent only with guilt and the desire to screen himself from punishment. The learned sessions court has therefore rightly convicted the appellant under Section 302 IPC for intentional murder during the quarrel, with full knowledge that dori/string/rope strangulation was likely to cause death. The sessions Court acquitted on Section 182 IPC, holding the accidental death report was in self-defence without proved mens rea to mislead, which finding is not challenged by the State.

31. In view of the foregoing discussion, this Court finds no merit in the appeal. The conviction and sentence recorded by the learned 4th Additional Sessions Judge, Godhra, in Sessions Case No. 19/2015 under Section 302 IPC are confirmed. The acquittal on Section 182 IPC is not interfered with.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

Kaushal Rathod