NyayVidhan: the names of the deceased and of the child witness are redacted to protect their privacy.

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Appeal (DB) No. 24/2018
CNR: RJHC020426172018 | URN: CRLAD / 93U / 2018

Rajveer S/o Ramphal, R/o Ramnagar, PS Rupwas, District Bharatpur. (Presently confined in Central Jail Sewar, Bharatpur).

----Appellant-Accused

Versus

State of Rajasthan through P.P.

----Respondent

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For Appellant(s)	:	Mr. Abhimanyu Singh Sandu with Mr. Manish Barath
For Respondent(s)	:	Mr. Rhishi Raj Singh Rathore, PP

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE BHUWAN GOYAL
Judgment

Date of Conclusion of Arguments : : **02/11/2026**

Judgment Reserved On : : **02/11/2026**

Whether the full judgment or only the operative part is pronounced : : **Full Judgment**

Judgment Pronounced On : : **06/11/2026**

Per Hon'ble Mahendar Kumar Goyal, J.

This criminal appeal is directed against the judgment of conviction and the order of sentence dated 04.03.2015 passed by the learned Additional Sessions Judge No. 1, Bayana, District Bharatpur (for short, "the learned trial Court") in Sessions Case No.31/2014, whereby the accused-appellant (for short, "the appellant") has been convicted and sentenced, as under:-

> **Section 302 IPC:** Life imprisonment and fine of ₹10,000/-; in default whereof, one year's simple imprisonment.

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Briefly stated, the relevant facts are that the complainant Ramphal (PW1) submitted a written report (Ex. P1) at Camp Ramnagar, Police Station Roopwas, District Bharatpur on 05.07.2013 at 03:00 PM alleging therein that his son, Rajveer, has murdered his daughter-in-law by hanging with a rope. It was stated that they had married about 15 years ago and had two sons. Based thereon, FIR No.350 dated 05.07.2013 came to be registered for the offence under Section 302 IPC. After investigation, charge sheet under Section 302 IPC was filed against the appellant whereunder a charge was also framed. After trial, the appellant has been convicted and sentenced, as stated hereinabove.

Assailing the impugned judgment, Shri Abhimanyu Singh Sandu, learned counsel for the appellant, submitted that as per the prosecution case, the appellant hanged his wife to death with a rope. He contended that the prosecution story rests on the sole testimony of an eye-witness, namely, (PW7), the son of the appellant and of the deceased, but his testimony is self-contradictory and is not trustworthy. He further canvassed that the postmortem report of the body of the deceased does not reflect any mark of injury except the ligature mark around the neck and the cause of death opined was asphyxia due to ante mortem hanging. He submitted that it was not humanly possible for a man to hang a lady of normal build, as was noted in the postmortem report, with a rope without causing any injury to any body part. To buttress his submission, he relied upon a judgment of the Hon'ble Supreme Court of India dated 15.02.2018 in **Eswarappa @**

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Doopada Eswarappa Vs. State of Karnataka:MANU/SC/1608/2018.

Shri Abhimanyu Singh Sandu further canvassed that there is a great variance in the ocular testimony and the medical evidence and the medical evidence renders the ocular testimony highly improbable. He argued that if the ocular testimony cannot be reconciled with the medical evidence, it is not safe to rely upon the ocular evidence. In this regard, he relied upon the judgment of the Hon'ble Supreme Court of India in **Mani Ram and Ors. Vs. State of Uttar Pradesh:1994 SCC (Crl.) 1242**.

In view of the above, learned counsel for the appellant prayed that the appeal be allowed, the impugned judgment dated 04.03.2015 be quashed and set aside and he be acquitted of the charge framed against him.

Per contra, Shri Rhishi Raj Singh Rathore, learned Public Prosecutor, opposing the submissions and supporting the findings recorded by the learned trial Court, contended that the judgment is well-reasoned and is based on sound legal principles and the cogent evidence available on record which warrants no interference in the appeal. He stated that there is no occasion for this Court to disbelieve the creditworthy testimony of

(PW7), the minor son of the deceased and of the appellant, who does not appear to be a tutored witness. Shri Rhishi Raj Singh Rathore canvassed that the PW7 specifically alleged that the appellant, his father, murdered his mother by hanging her with a rope and this was medically corroborated. He, therefore, prayed for dismissal of the appeal. He relied upon the following judgments of the Hon'ble Supreme Court of India:-

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1. **Goutam Bindia & etc. Vs. State of Assam: Criminal Appeal Nos. 569-570 of 2025 dated 04.02.2025**.

2. **Manohar Keshavrao Khandate Vs. State of Maharashtra: 2025 INSC 953.**

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Heard. Considered.

The prosecution case unfolds from the written report (Ex. P1) submitted by Shri Ramphal, father of the appellant and father-in-law of the deceased, wherein it was specifically alleged that his son had murdered his wife by strangulation with a rope. However, Shri Ramphal turned hostile as PW1. But, in his examination-in-chief, he stated that he saw the deceased hanging from a noose when he went to wash the clothes, the appellant sitting by the door, the deceased was inside the house and the children were sitting beside their father. He also stated that he took the deceased down from the noose and when the villagers, who had gathered there, were questioning the appellant, he suddenly jumped into a well.

Thus, he categorically stated that he saw the deceased hanging. This averment stood corroborated by the postmortem report of the body of the deceased (Ex. P11) wherein the cause of death opined was asphyxia due to ante mortem hanging. It is thus established that the death was unnatural.

We are now required to examine whether it was a case of homicidal hanging attributable to the appellant.

In this regard, the prosecution relied upon the testimony of sole eye-witness (PW7) aged about 12 years at the time of the incident. In his examination-in-chief, recorded a year after the incident, he stated that at about 1:00 PM, his father

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murdered his mother. He further deposed that his mother was hanged by his father with a rope. He also stated that police had recorded his statement and that he told them all this. During his cross-examination, he stated that since the death of his mother, he was residing with her maternal grandparents. However, he stated that they did not ask him to make the statement in any particular fashion. He further stated that he and his brother were playing outside and at that time, they did not witness any incident. However, in the same breath, he stated that right in front of him, his father murdered his mother and ran away. He stated that they had played for 2-4 minutes outside and when they were playing, their mother was cooking the food inside. He also averred that when they returned home, they found their mother preparing food.

Thus, PW7 had stated that his mother was murdered by his father by hanging her with a rope. Though he stated that his statement was recorded by the police, conspicuously, no such police statement was made part of the record. However, the statement of PW7 recorded under Section 161 CrPC, available in the original record, discloses that it was recorded on 15.07.2013, i.e., 10 days after the date of incident. No explanation was furnished by the prosecution as to why it was not exhibited or why it was recorded 10 days after the incident as PW7 was an eyewitness. This raises a doubt as to reliability and credibility of the testimony of PW7.

Their Lordships have, in **Arun & ors. Vs. State of Madhya Pradesh: 2025 INSC 406**, held as under:-

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> "14. Notably, D.S. Parmar, the Investigating Officer, who deposed as PW-20, admitted that Abhay's statement Under Section 161 Code of Criminal Procedure was recorded only on 23.11.2009, that is, 17 days after the incident. Similarly, the statement of Madhubala (PW-4) was also recorded after 17 days and the statement of Gopal (PW-8) was recorded after 7 days. This delay on the part of the Investigating Officer in recording the statements of these so-called crucial witnesses is unfathomable, given their availability and the versions given by them. It casts a cloud on the very veracity of their testimonies. Further, the discrepancies in the timelines brought out by them demonstrates in no uncertain terms that the narratives of these witnesses are not free from suspicion and doubt."

Further, the postmortem report of the body of the deceased (Ex. P11) records following injuries:

ligature mark (pressure abrasions) around neck goes upward, backward, oblique encircle area 39 cm, breadth 2.5 cm Distance from chin 4 cm, present just above thyroid cartilage at 0.5 cm and from angle of jaw 2 cm. Knot present on left side mestoid process, size 2 cm. On dissection of neck, blood was present. Hyoid bone was normal with fracture of cranium and spinal cord. **Scalp, skull and vertebrae-**Healthy **Membranes-**Congested **Brain and Spinal Cord-**congested.

Dr. Lakhpat (PW10), a Member of Medical Board that conducted the Autopsy, stated that the cause of death was asphyxia due to ante mortem hanging. In his cross-examination, he accepted a suggestion that there was no external injury on the body of the deceased. He further admitted that cervical vertebrae, which are usually fractured on hanging from a height, were

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normal. He stated that a possibility could not be ruled out that it was suicidal hanging.

In the aforesaid factual backdrop, we are confronted with a question whether it was a case of homicidal hanging and whether it was possible for the appellant to hang his wife with a rope.

From the testimony of PW7, it is apparent that it was daytime and the deceased was cooking food for the family at the time she was allegedly hanged.

In **Eswarappa @ Doopada Eswarappa (supra)**, the issue before the Hon'ble Supreme Court of India was whether the deceased Laxmi @ Lalitha, who was found hanging from a plastic rope, died due to homicide or suicide. Two ligature marks were found on the neck of the deceased; one horizontal on the hyoid bone and the other higher up where the knot went up along the side of the ear. The ligature mark was at an angle. Their Lordships observed that there were no other injuries on the body of the deceased at all, not even bruises marks caused by forcible manhandling which occur if a person is found to be forcibly hanged unless a person is drugged. It was further observed that there were no signs of struggle near the place where the victim was hanged. It was also noted that there was no evidence that the victim was first rendered unconscious. In that backdrop, the Hon'ble Apex Court was pleased to hold precisely as under: -

> "It is not possible to infer strangulation merely because of two ligature marks. We say this due to the absence of any mark of struggle or violence on the body or in/around the place the body was found hanging. There is a serious doubt if the appellant or anyone else for that matter could have managed to strangulate an adult woman and then hang her without any struggle. Such cases normally occur with the help of a companion. There is no evidence to that effect.

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In Modi's Medical Jurisprudence and Toxicology, it is observed as follows:

> "Homicidal hanging, though rare, has been recorded. Usually, more than one person is involved in the act, unless the victim is a child or very weak and feeble, or is rendered unconscious by some intoxicating or narcotic drug. In a case, where resistance has been offered, marks of violence on the body and marks of a struggle or footprints of several persons at or near the place of the occurrence are likely to be found."

None of the well known signs referred to by the learned author are present in this case.

The question whether the appellant murdered the victim viz., Laxmi @ Lalitha, cannot be answered definitively. Therefore, the benefit of doubt that has arisen in the present case, must go to the Appellant."

We find that a similar situation obtains in the instant case as well. The postmortem report did not show any mark of injury on the body of the deceased as also admitted by Dr. Lakhpat. The site plan of the place of incident (Ex. P5) prepared at 6:30 PM on 05.07.2013, i.e., just after the incident was reported to the police, also does not show any sign of struggle.

In **Modi's Medical Jurisprudence and Toxicology**, the difference between hanging and strangulation is succinctly charted as under:-

	Hanging		**Strangulation**
1.	Mostly suicidal.	**1.**	Mostly homicidal.
2.	Face-Usually pale and petechiae rare.	**2.**	Face-Congested, livid and marked with petechiae.
3.	Saliva-Dribbling out of the mouth down on the chin and chest.	**3.**	Saliva-No such dribbling.
4.	Neck-Stretched and elongated in fresh bodies.	**4.**	Neck-Not so.

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5.	External signs of asphyxia, usually not well marked.	**5.**	External signs of asphyxia, very well marked (minimal if death due to vasovagal and carotid sinus effect).
6.	Ligature mark-Oblique, non-continuous placed high up in the neck between the chin and the larynx, the base of the groove or furrow being hard, yellow and parchment-like.	**6.**	Ligature mark-Horizontal or transverse continuous, round the neck, low down in the neck below the thyroid, the base of the groove or furrow being soft and reddish.
7.	Abrasions and ecchymoses round about the edges of the ligature mark, rare.	**7.**	Abrasions and ecchymoses round about the edges of the ligature mark, common.
8.	Subcutaneous tissues under the mark-White, hard and glistening.	**8.**	Subcutaneous tissues under the mark-Ecchymosed.
9.	Injury to the muscles of the neck-Rare.	**9.**	Injury to the muscles of the neck-Common.
10.	Carotid arteries, internal coats ruptured in violent cases of a long drop.	**10.**	Carotid arteries, internal coats ordinarily ruptured.
11.	Fracture of the larynx and trachea-Very rare and may be found that too in judicial hanging.	**11.**	Fracture of the larynx trachea and hyoid bone.
12.	Fracture-dislocation of the cervical vertebrae-Common in judicial hanging.	**12.**	Fracture-dislocation of the cervical vertebrae-Rare.
13.	Scratches, abrasions and bruises on the face, neck and other parts of the body-Usually not present.	**13.**	Scratches, abrasions fingernail marks and bruises on the face, neck and other parts of the body-Usually present.
14.	No evidence of sexual assault.	**14.**	Sometimes evidence of sexual assault.
15.	Emphysematous bullae on the surface of the lungs-May be present.	**15.**	Emphysematous bullae on the surface of the lungs-Not present.

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The major differences between hanging and strangulation, as pointed out by Modi, are that hanging is mostly suicidal while strangulation is mostly homicidal. In strangulation, abrasions and ecchymoses are commonly found around the edges of the ligature mark, subcutaneous tissues under the mark are also

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ecchymosed. The carotid arteries, internal coats are ordinarily ruptured with fracture of the larynx trachea and hyoid bone. It further noted that scratches, abrasions, fingernail marks and bruises on the face and other parts of the body are usually present. However, in the instant case, as revealed by the postmortem report, none of the aforesaid symptoms existed. Thus, a doubt arises as to whether it was a case of homicidal hanging.

We are conscious of the settled legal principle that in case of a variance between the ocular testimony and the medical evidence, the ocular evidence should ordinarily prevail. However, where the ocular testimony is such that it is not possible to relate the injuries to the circumstances in which they were said to have been inflicted, the Court would be justified in discarding the ocular testimony. Our view is fortified by the following precedents.

Their Lordships, in **Khambam Raja Reddy and Another Vs. Public Prosecutor, High Court of Andhra Pradesh: (2006) 11 SCC 239**, while appreciating the reliability of the ocular testimony vis-a-vis the medical opinion in a case of grave contradiction, held as under:-

> **"19.** The present case is an example of contradiction between the ocular evidence and the medical evidence, where the medical evidence is not borne out by the ocular evidence. In such a situation it was suggested on behalf of the appellants on the authority of a decision of this Court in the case of State of M.P. vs. Dharkole, reported in (2004) 13 SCC 308, where the medical evidence was at variance with the ocular evidence, the testimony of the eye-witness should be decided independently and if found trustworthy, the same could not be discarded merely because it is at variance

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with medical opinion. While there can be no difference of opinion with the principle explained in the aforesaid decision, the application thereof will depend on whether the story as made out by the prosecution is trustworthy and can be related to the injuries suffered by the victim in the manner as sought to be projected. If the ocular testimony is such that it is not possible to relate the injuries with the circumstances in which they were said to have been inflicted, the court has the discretion not to accept the ocular evidence. The principle enunciated in Dharkole's case (supra) may be applied in an appropriate case, but each case has to be determined having regard to its own set of facts."

In **Abdul Sayeed Vs. State of Madhya Pradesh: (2010) 10 SCC 259** and other connected appeals, the Hon'ble Supreme Court of India, after appreciating a number of precedents, held as under:-

"**39.** Thus, the position of law in cases where there is a contradiction between medical evidence and ocular evidence can be crystallised to the effect that though the ocular testimony of a witness has greater evidentiary value vis-a-vis medical evidence, when medical evidence makes the ocular testimony improbable, that becomes a relevant factor in the process of the evaluation of evidence. However, where the medical evidence goes so far that it completely rules out all possibility of the ocular evidence being true, the ocular evidence may be disbelieved."

If the findings recorded in the postmortem report of the body of the deceased in the instant case are examined in the light of law laid down by the Hon'ble Supreme Court of India in the cases of **Eswarappa @ Doopada Eswarappa,** (supra) **Khambam Raja Reddy** (supra) and **Abdul Sayeed** (supra), we find that it

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was highly improbable for the appellant to hang a grown-up lady of normal build to death with a rope. We find no reason to give primacy to the deposition of (PW7) over the medical evidence. For the aforesaid reasons, we find that the judgments of the Hon'ble Supreme Court of India in **Goutam Bindia (supra)** and **Manohar Keshavrao Khandate (supra)**, which dealt with probative value of a child deposition, are of no assistance to the prosecution case. In view thereof, we are of the considered opinion that the prosecution could not prove, beyond reasonable doubt, that death of the deceased was a case of homicidal hanging.

A perusal of the impugned judgment reveals that while holding it to be a case of homicidal hanging, the learned trial Court has relied upon the site plan (Ex. P5), wherein it was recorded that the complainant had informed that the appellant first pressed the neck of his wife with a *muffler* when she was lying on the cot and once she lost consciousness, she was hanged to death. In our considered opinion, the learned trial Court committed grave error in treating the site plan (Ex. P5) as a substantive piece of evidence. Except the aforesaid endorsement in the site plan, the prosecution did not lead any evidence to establish that the deceased was first strangulated by the appellant with a *muffler* or otherwise rendered her unconscious and thereafter, he hanged her to death with a rope. Moreover, this story is not corroborated either by the postmortem report (Ex. P11) or by the testimony of Dr. Lakhpat (PW10).

It is worth noting here that though the prosecution has seized a plastic rope vide memo (Ex. P6) which was allegedly used

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in hanging the deceased but conspicuously, the same was not subjected to the FSL examination to establish that it was, as a matter of fact, used by the appellant in commission of the offence in absence whereof, we do not find it to be a connecting evidence to show complicity of the appellant in the crime.

A perusal of the judgment reflects that the learned trial Court has considered the post incident conduct of the appellant, a relevant factor. Shri Ramphal (PW1) stated that when the villagers, who had gathered after the incident, were questioning the appellant, he jumped into a well from where he was taken out by the police. Although, the Investigating Officer (PW11) stated in cross-examination that the appellant was arrested from the Roopwas bus stand in a hotel and not from the scene of crime but in his arrest memo (Ex. P10), it is recorded that after the incident, he jumped in the well and complained of pain in chest. Out of the two motbir witnesses to the arrest memo, namely, S/Shri Rambabu and Sugna Singh, only Rambabu appeared in the witness box as PW9 but did not say that at the time of his arrest, the appellant complained of any chest pain. The Investigating Officer also did not say so during his deposition as PW11. It is trite law that an arrest memo is not a substantive piece of evidence and, therefore, we do not concur with the findings of the learned trial Court based on post incident conduct of the appellant.

It is trite law that in the cases based on reliable direct evidence, motive for the crime does not have much relevance. However, if the case is examined from that angle, we find that as per the prosecution evidence, the deceased and the appellant had been married for about 15-16 years and were blessed with two

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sons. Shri Buddhi (PW2), father of the deceased had stated that she was happily married for about 15-16 years with the appellant and had never complained of any misbehaviour with her. Shri Ramprasad (PW3), a cousin of the deceased, also corroborated the testimony of Shri Buddhi. Shri Rambabu (PW9), Sarpanch of the village and Shri Ram Singh (PW8), a neighbour of the appellant, also deposed that the couple was living happily and they never heard of any quarrel between them. In similar terms are the statement of Shri Ramphal (PW1) and Smt. Maya (PW5), the father-in-law and mother-in-law of the deceased, respectively. Even the sole eyewitness relied upon by the learned trial Court, namely, (PW7), son of the couple, did not utter a word about discord between his parents.

In view of the aforesaid, we find that the deceased and the appellant had been happily married for about 15-16 years and there was no dispute in between them.

In the conspectus of aforesaid analysis, we find that the prosecution could not prove, beyond reasonable doubt, guilt of the appellant and, therefore, the appeal deserves to be allowed.

Resultantly, the appeal is allowed. The judgment of conviction and the order of sentence dated 04.03.2015 passed by the learned Additional Sessions Judge No. 1, Bayana, District Bharatpur in Sessions Case No.31/2014 are quashed and set aside. The appellant is acquitted of the charge framed against him. Since the appellant is in Jail, he be set at liberty forthwith if not required to be detained in any other case.

In view of the provisions of Section 437-A CrPC (Section 481 Bharatiya Nagarik Suraksha Sanhita, 2023), the appellant namely

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Rajveer S/o Ramphal is directed to furnish a personal bond in the sum of Rs.25,000/- and a surety in the like amount before the Registrar (Judl.) of this Court within four weeks which shall be effective for a period of six months with the stipulation that in the event of a Special Leave Petition being filed against the judgment or on grant of leave, the appellant aforesaid, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

(BHUWAN GOYAL),J (MAHENDAR KUMAR GOYAL),J

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