Chapter 6

JUDICIAL DECISION MAKING IN INDIA IN CRIMINAL CASES USING FORENSIC TOXICOLOGY AND CHEMICAL ANALYSIS

OVERVIEW

In this chapter ‘Judicial Decision Making in India in Criminal Cases Using Forensic Toxicology and Chemical Analysis’, 100 cases has been studied and analyzed, from 1995 to 2015, for a period of 20 years and the rate of conviction and acquittal has been calculated, where chemical analysis has been conducted. The cases are broadly categorized as “CRIMINAL CASES IN WHICH TOXICOLOGY EVIDENCE WAS USED FOR RECORDING CONVICTION OR ACQUITTAL”. After which, the legal provisions has been studied under which the Toxicology Evidence has been referred. The cases has been tabulated to record the number of acquittal and conviction. Findings have been made along with reasons for acquittal followed by revelations. Under revelation the rate of conviction and acquittal has been calculated.

This chapter has been categorized under the following broad topics:

6.1 Introduction

6.2 Legal Provisions Under Which Toxicology Evidence was Used/Referred

6.3 Criminal Cases in which Toxicology Evidence Was Used/Referred For Recording Conviction and Acquittal

6.4 Table of Criminal Cases in which Toxicology Evidence Was Used/Referred For Recording Conviction and Acquittal

6.5 Findings/ Critical Analysis of the Cases in which Toxicology Evidence was Used to Record Conviction or Acquittal
6.1 INTRODUCTION

There is no precise definition of poison in India but under the Indian Penal Code, the law describing the word poison are ‘any poison or any stupefying, intoxicating, or any wholesome drug, or other thing’ or any corrosive substance or any substance which is deleterious to the human body to inhale, to swallow, or to receive into the blood. With regard to ‘any poisonous substance’ used in section 284 of IPC, all the law requires that the substance is such as, if taken, is likely to endanger human life, or will cause hurt or injury to any person. Again the law takes cognizance of the malicious intention of the individual who administers the drug or other substances, with a view to cause injury or death, irrespective of the quantity or quality of the substance.

The science of poisons is known as toxicology. It can be divided into two types:

i) Clinical Toxicology: the recognition of the symptoms of poisoning and the application of the proper remedial measures;

ii) Chemical Toxicology: the detection of the poison in stomach washings, blood samples, etc. (if the patient or the victim recovers), or in post-mortem material (if he dies).

The business of the forensic toxicologists is to investigate all fatal cases of poisoning. The investigation of a poisoning case involves:

i) the separation of the poison or sometimes its metabolite from the material submitted;

ii) the identification of the poison extracted;

iii) the estimation of the total amount present and comparison of this with the known lethal dose.

A study has revealed that in 2006 in United States, 20.8% of the deaths were caused by poisoning, surpassing the death caused by firearms which amounted to 17.3%.

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1 Sections 324, 326 and 328 of IPC and also section 299, 304A IPC
According to Paracelsus, a sixteenth century scientist, a certain amount of every substance, even water and air, can be toxic and those amounts can differ from person to person and substance to substance. Forensic toxicology applies analytical toxicology to the purposes of the law, and includes the analysis of a variety of fluids and tissue samples to determine the absence or presence of drugs and poisons. After the completion of the analytical component, the toxicologist interprets the finding. Forensic toxicology is used in cases of suspected drug overdoses. Toxicology testing can determine, whether levels of toxic substances may have contributed to the death of any person, irrespective of how he died.

The specimens sent for toxicology testing are usually collected by pathologist who might be a medical examiner or might be called a ‘coroner’ in some jurisdiction. During an autopsy, he is also called ‘mortuary technician’. The specimens might me blood, urine, liver, vitreous humour\(^4\), gastric contents, lung fluid, hair, kidney etc. Specimens must be properly identified, labeled and sealed as soon as practicable after collection. All specimens pertaining to a case, must be collected and bagged separately in tamper-proof containers. Unique number seals are used to track all evidence for each case. Like any other evidence, the chain of custody must be preserved in all times, from the mortuary through the laboratory testing, reporting and storage, for court purposes.

The testing of biological fluids is a complex process requiring sophisticated instrumentation and specially trained analyst. Different types of analytical techniques are used by forensic toxicologist to determine drugs or poisons relevant to a case under investigation. The capacity of a laboratory to conduct routine toxicological analysis will vary dependent upon equipment, technical capability and analyst experience. There are also specialty toxicology labs that can test for virtually any potential toxin or metabolite in almost every kind of post mortem sample. A laboratory should be accredited to perform the analytical work and must be subject to regular inspections by approved accreditation personnel. All laboratory tests should be validated, fully documented and fit for purpose, which ensures that laboratory can produce accurate and reliable results for medicolegal investigations. All laboratory test should conform standard operating

\(^4\) It is the clear, gel like substance that fills the eye. It can be a useful fluid to screen for a range of drugs.
procedures, results are confirmed to meet standards and reported results are peer reviewed by a second toxicologists before being released. The American Toxicology Community recently completed a two tear effort to improve these standards, under the name of “Scientific Working Group on Toxicology” (SWGTOX), in order to meet more stringent legal and scientific challenges.

A commonly used technique for a drug screening test is known as ‘immunoassay technique’. Immunoassays are laboratory tests that use antibodies to detect a reaction with specific substances. Immunoassays screening test are designed to detect whether a sample is positive or negative for the targeted drug. Four interpretations of a screening drug test are possible.

A true positive result occurs when the test correctly detects the presence of a drug. A false-positive result is one where the test incorrectly detects presence of a drug where no drug is present. A true-negative result occurs when the test correctly confirms the absence of a drug. A false negative result is one where the test fails to detect the presence of a drug when it is present.

6.2 LEGAL PROVISIONS UNDER WHICH TOXICOLOGY EVIDENCE WAS USED/REFERRED

There is no precise definition of poison in India but under the Indian Penal Code, the law describing the word poison are ‘any poison or any stupefying, intoxicating, or any wholesome drug, or other thing’ or any corrosive substance or any substance which is deleterious to the human body to inhale, to swallow, or to receive into the blood. With regard to ‘any poisonous substance’ used in section 284 of IPC, all the law requires that the substance is such as, if taken, is likely to endanger human life, or will cause hurt or injury to any person. Again the law takes cognizance of the malicious intention of the individual who administers the drug or other substances, with a view to cause injury or death, irrespective of the quantity or quality of the substance.

6 Sections 324, 326 and 328 of IPC and also section 299, 304A IPC
Sale of Poisons Act (12 of 1919) which was passed in 1919, extends to the whole of India. Under this the Central Government may, by notification in the Gazette of India, prohibit except under a licence, the import of any specified poison and may by rule regulate the grant of licences. Subject to the control of the Central Government, the appropriate Government, may by rule, regulate within the whole or any part of the territories under its administration, the possession for the sale and sale, whether wholesale or retail, of any specified poison.

The Narcotic Drugs and Psychotropic Substances Act, 1985

The Act which was promulgated in September, 1985, consolidates and amends the existing law relating to narcotic drugs, strengthens the existing control over drugs of abuse, considerably enhances the penalties, particularly for trafficking offences, makes provisions for exercising effective control over the psychotropic substances and for the implementation of international conventions relating to narcotic drugs and psychotropic substances, to which India is a party. A narcotic drug refers to cocoa leaf, cannabi (hemp), opium, poppy straw and includes all manufactured drugs.

The types of cases and legislations in which toxicology evidence played a significant role in solving the crime:

The Indian Penal Code, 1860: Murder, rape, unnatural offences, Of Cruelty By Husband Or Relatives Of Husband, Dowry death, Causing hurt by means of poison etc. with intent to commit an offence, Abetment of suicide, Common intention, Voluntarily causing grievous hurt by dangerous weapons or means, Causing disappearance of evidence of offence, or giving false information to screen offender, Wrongful restraint, Voluntarily causing hurt in committing robbery, Unlawful assembly, Punishment for criminal intimidation, Culpable homicide not amounting to murder etc.

The Dowry Prohibition Act, 1961: Section 3 – Penalty for giving or taking dowry, Section 4 – Penalty for demanding dowry

The Narcotic Drugs and Psychotropic Substances Act, 1985: Section 8 – Prohibition of certain operations, Section 15 – Punishment for contravention in relation to poppy straw, Section 17 – Punishment for contravention in relation to coca plant and coca
leaves, Section 18 – Punishment for contravention in relation to opium poppy and opium, Section 19 – Punishment for embezzlement of opium by cultivator, Section 20 – Punishment for contravention in relation to cannabis plant and cannabis Section 21 – Punishment for contravention in relation to manufactured drugs and preparations, Section 22- Punishment for contravention in relation to psychotropic substances.

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**The Juvenile Justice (Care and Protection of Children) Act, 2000:** Section 23 – Punishment for cruelty to juvenile or child

**Ranbir Penal Code, 1989:** Section 363- Punishment for kidnapping, Section 376 – Punishment for rape, Section 302 – Punishment for murder, Section 34 – Acts done by several persons in furtherance of common intention

**The Arms Act, 1959:** Section 25 – Punishment for certain offences, Section 27 – Punishment for using arms, etc.

**The Explosive Substances Act, 1908:** Section 3- Punishment for causing explosion likely to endanger life or property

**The Bombay Children Act, 1948:** Section 57 – Seduction or outrage of modesty

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territories under its administration, the possession for the sale and sale, whether
wholesale or retail, of any specified poison.

6.3 CRIMINAL CASES IN WHICH TOXICOLOGY OR CHEMICAL
ANALYSIS WAS USED/REFERRED FOR RECORDING CONVICTION OR
ACQUITTAL

MANU/MH/0099/1995

Appellants and three others were charged and convicted for allegedly committing rape
of insane lady and murdering her under sections 376, 302 and 34 of IPC. Hence this
appeal was filed against order of conviction passed by trial court. The seized articles
were sent for chemical analysis and the chemical analyzer’s report regarding blood
group of the accused/appellant and other accused persons were obtained and were
brought on record. The semen, blood and pubic hair of the accused appellant were
collected by PW6 and were sent for chemical analysis. As regards the semen and blood
of the accused/appellant, the C.A. showed that the blood group of the accused/appellant
was ‘A’ group. Chemical analyzer’s report further showed that neither semen nor
spermatozoa was detected on the pubic hair of the accused/appellant. Clothes of the
accused/appellant were seized and the analysis of all the items revealed that no blood
was detected on any of these articles nor any semen was found. On the other hand, the
clothes of the deceased which were seized revealed that they were stained with blood of
group ‘O’ as well as blood group ‘B’. Undisputedly, the blood group of
accused/appellant was ‘A’ but the victim’s clothes had blood stains of group ‘O’ and
semen of blood group ‘O’ and ‘B’. These facts created doubt about the involvement of
the accused/appellant in the crime. Vital links of chain to bring home guilt of appellant
under section 376(g) beyond reasonable doubt was missing. There benefit of doubt was
given to the appellant and the appellant was acquitted.\(^8\) Motive is an essential
ingredient of the crime, the absence of which results in acquittal of the accused. In

Babu v. State of Kerala,\textsuperscript{9} although by chemical analysis it was revealed that the deceased died due to cyanide poisoning but since the motive of the accused could not be proved, it resulted in acquittal.


The accused was convicted under section 302 IPC for the commission of murder. Hence this appeal was filed. The opinion of the doctors was hesitant about the cause of death which was stated to be due to cyanide poison. The doctor further wanted the chemical analyzer to clarify as to what was the quantitative estimation of the two poisons detected by the Chemical Analyzer. It seemed that the chemical analyzer had replied to his query without giving the quantity of both the poisons and thereafter what the doctor observed was “Cause of death to the best of my knowledge was due to cyanide poisoning”. It was observed that the symptoms from the body of the deceased did not corroborate with the symptoms stated in the medical jurisprudence. Hence, it was ruled that the death was not homicidal and the conviction was set aside and acquittal was recorded.\textsuperscript{10}


The accused persons were convicted under sections 302/34 IPC. The dead body was sent to the hospital for post-mortem. The house of A-1 was searched and MO’s 5 to 7 were taken into custody and he was arrested. Thereafter the second accused was also arrested. The material objects which were seized during investigation were sent to the Chemical Examiner and the Chemical Report was obtained which was marked as Ex. P-16. The post-mortem examination revealed that undigested rice particles were found out in the stomach of the deceased. The trial court acquitted the accused persons on one of the grounds that since the deceased had not taken any food after 3.30 p.m., such

\textsuperscript{9} Babu v State of Kerala (2010) 9 SCC 189
\textsuperscript{10} Sher Singh v. State (11.01.1995 – DELHC) MANU/DE/0136/1995
undigested rice particles could not have been found if the deceased had died at 9.30 p.m. The High Court did not accept the opinion of the trial court and convicted the accused persons. The Supreme Court also supported the view of the High Court that presence of undigested food particles did not raise any serious doubt about the time of the incident and also the presence of PW1. Moreover the absence of any bloodstain on the knife of A-2 could be reasonably explained. It was on evidence that the knife was thrown away by A-2. It was not unlikely that the bloodstain of the knife had been wiped off when the knife was thrown in the field. Therefore, according to the court the evidence adduced in the case had clearly established the complicity of both the accused in causing the murder of the deceased. Thus, the appeal was dismissed and the conviction was upheld.\footnote{Krishnan v. State of Kerala (1996) 10 SCC 508}


The accused was convicted under section 302/34 IPC. The accused was convicted on the evidence of solitary eye witness that the murder was caused by poisoning. Her evidence corroborated by CFSL reports of the Chemical Analyzer that the tablets and water given to the deceased by the appellant gave positive test for cyanide. It was further proved that the appellant was a goldsmith and was likely to use such water treated by cyanide in their profession for cleaning ornaments. The conviction was based on sole testimony of lady who was of easy virtue. It was held that evidence of a witness was not liable to be thrown out simply because the lady witness was of easy virtue. Hence the conviction of the trial court was upheld and the appeal was dismissed.\footnote{Shyam Sunder v. The State (18.04.1996 – DELHC) MANU/DE/0622/1996}


This appeal was filed against the acquittal of respondents for offences under section 376 and section 392 read with section 34 IPC. Statement of prosecutrix was implicitly reliable. Statement of prosecutrix was corroborated by recordings in recovery panchnama. Prosecutrix was medically examined after 72 hours. The underwear of the prosecutrix and clothes of the respondents along with sample of their blood and semen
were sent to the Chemical Analyst. The report of the chemical analysis was marked as Exhibit 29 and 30. Absence of serious injuries on her private parts would not rule out her being subjected to rape. Delay of 60 hours in lodging FIR was plausibly explained. Hence both respondents were convicted under section 376 and second respondent was also convicted for offence under section 379 IPC.  

6. **Nagen Bharali and Ors. v. State of Assam (24.03.1998 – GUHC)**  
MANU/GH/0195/1998

Trial court convicted appellants under section 376(2) of IPC for committing the offence of rape. Hence, this appeal. Held, evidence of prosecutrix and other prosecution witnesses were trustworthy and there was no contradiction in their testimonies. The seized wearing apparels were sent for chemical examination by the process of which spermatozoa was detected on it. PW11 was categorical in his statement that he had found semen in vaginal canal and perineum which clearly showed that PW3, the prosecutrix was ravished and raped. Further, teeth mark injuries on her cheek and breast which by no stretch of imagination could be self-inflicted was by itself good evidence. Evidence of PW3 could be accepted even without seeking for any corroboration. Rustic girl, who was raped by appellants had given very natural version of whole incident, fully supported by her younger brother. Thus, prosecution had proved offence of rape against appellant beyond reasonable doubt. Appeal was dismissed and the conviction was upheld.  

MANU/KA/0721/2000

The appellant was convicted under section 302 IPC. Held, merely because there were discrepancies and contradictions in the evidence of some or all of the witnesses, it did

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not mean that the entire evidence of the prosecution had to be discarded. The report of the chemical examiner received from the FSL as per exhibit P.19 showed that the blood stained earth collected from the spot was found to be stained with human blood. Further the doctor PW5, found that the post mortem lividity was well established all over the dead body of the deceased. Under the cross-examination, the defence had elicited from the Doctor P.W.5 that the Post Mortem Lividity would not appear in general on a dead body, if it was moved from one position to another position after the death. Thus, it was clear from the above material placed on record that the incident in question took place in the land of the complainant P.W.1. Even the defence did not dispute the fact that the incident in question took place in the land in question. It is only if, after exercising caution and care and sifting the evidence to separate the truth from untruth, exaggeration, embellishments and improvement, the court came to the conclusion that what could be accepted implicated the accused. Hence the appeal was dismissed and the conviction upheld.\footnote{15}


Appellants were convicted under section 302 and 394 of IPC by Trial Court which was challenged by the appellant in this appeal. Post mortem report confirmed death by smothering and strangulation. Pillow was used for strangulating two ladies. Viscera of the deceased were sent for chemical examination and it was found that there was no poison in the viscera. The contention of suicidal death by both the deceased simultaneously was ruled out by the report of the chemical analysis. Ornaments which belonged to deceased were recovered from appellants. Witnesses were found consistent with facts. Fingerprints matched with the fingerprints of appellants. Sufficient facts were found to prove offence beyond reasonable doubt. \textbf{Conviction} was upheld.\footnote{16}


\footnote{16 Krishnamurthy v. State by Ashok Nagar Police, Bangalore (29.05.2000 – KARHC) MANU/KA/0448/2000}
The accused was convicted under sections 342 and 376 IPC for wrongfully confining and raping. Held, had victim really protested and raised alarm for help, neighbours certainly would have come to her rescue. It was evidence of victim that she did not resist sexual assault. Nor she caused any injury to accused with teeth and nails. According to victim, blood oozed from her vagina and stained the chaddar on bed when she was subjected to sexual intercourse. The chaddar was taken into possession from room of accused vide recovery memo and same was sent to Chemical Examiner. Chemical Examiner vide his report did not find any blood on the chaddar though semen stains were found on it. This also showed that the version of prosecutrix was not correct. From the facts and circumstances of the case, conviction of the accused (A-1) under section 376 was liable to be maintained. However, they were entitled to be acquitted for the offences under section 342 IPC. Another accused (A-2) was acquitted as it was admitted that he was not present when the sexual activity took place.17

MANU/BH/0184/2000

Death reference arose out of judgment of conviction and sentence of capital punishment awarded by Additional Sessions Judge against convict appellant for murdering his wife and two children under section 302 IPC. Motive, mens rea, conduct and behavior, handwriting in diary of accused/appellant and all circumstances were proved from the side of prosecution. Circumstances were in chain and there was no missing link in circumstances proved by prosecution. Medical evidence, chemical examination and viscera report totally corroborated and proved circumstances. Accused was disturbed with a fear psychosis completely demurring all his fine and pleasing normal instincts which made him a cruel murderer. Held, case did not come within purview of rarest of rare cases. Therefore same was converted to rigorous imprisonment for life. Upholding conviction, the sentence was converted.18


Conviction of the appellant under sections **302 and 326 read with section 34** was challenged on ground of insufficient evidence. Testimony of eye witnesses and all other material witnesses stood test of cross-examination. Seized articles were sent to chemical analyzer. The report of the chemical analyzer showed that Articles 1 and 2 which belonged to accused were having human blood stains of “B” group. The blood group of PW2 was also found to be of “B” group. The presence of the blood stains of the “B” group which were of PW2’s therefore linked the accused with the assault on her which further supported the oral evidence of PW2, PW6 and PW7. Injuries were sufficient in ordinary course of nature to cause death. Existence of common intention depended upon facts and circumstances. Conviction and sentence of appellant nos. 1 and 2 were maintained. Conviction of other accused was set aside in view of absence of proper ground to establish common intention.  


The accused duo were convicted by the trial court under sections **376(2)(g) and 323 of IPC**. Prosecutrix who was a widow aged about 55 years and having two grown-up children, alleged that respondents grappled with her and made her lie down on the earth and then committed rape and that in that process she received injuries. Allegations were corroborated by medical evidence and the chemical analyzer’s report. The FIR was submitted by her on the next date after the date of occurrence against the respondents. She was medically examined and her torn salwar was sent for chemical analysis. On medical examination various injuries were found on her person. The doctor was of the opinion that they reflected signs of a struggle. It was also not denied by the respondents that the seized salwar had stains of blood and semen on it. The mere fact that some different marks were noted on the sealed packet was by itself no ground to discard the otherwise reliable evidence of the prosecutrix. Under the circumstances, the appeal was

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allowed by setting aside the judgment of the High Court as it had acquitted the respondents. The conviction and sentence of the trial court was thus upheld.\(^\text{20}\)


Present appeal was filed against order of conviction of appellant under section 376 IPC. Held, evidence of prosecutrix regarding commission of rape upon her by appellant was found reliable and trustworthy. From the evidence of the child witness it was proved that he deposed what he had seen and he was not tutored or asked to state something in Court by those persons who accompanied him. Pubic hair of the prosecutrix was cut and sent for chemical examination. Two slides from (vaginal smears) were taken from vagina. The report of the Chemical Examiner was received and as per the report no human blood was found on the Salwar, but semen was found on it. The chemical analyst opined that possibility of rape could not be ruled out. Further, there was no delay in filing of FIR. All these circumstances proved commission of offence by appellant. Accordingly appeal was dismissed and impugned order of conviction was upheld.\(^\text{21}\)


The respondent was charge-sheeted by the police for the offence under section 9 of the Opium Act, 1878. He was found in possession of 4.5 kg of opium wrapped in glazed paper, the sample of which was forwarded to the Chemical Examiner, who after testing the same, reported that it was opium. Two police personnel produced affidavits regarding the role played by them in forwarding the sample to the Chemical Examiner. The trial Magistrate found that the evidence of the prosecution was enough to convict him of the offence under section 9 of the Opium Act. The Sessions Court upheld the conviction and sentence passed by the trial court. In revision, the High Court quashed the conviction and sentence by rejecting the evidence of policemen tendered by means of affidavit. The prosecution challenged the said verdict of the High Court in the instant appeal. Setting aside the impugned judgment, the Supreme Court held that in

\(^{20}\) State of H.P. v. Lekh Raj And Another (2000) 1 SCC 247

the present case, the facts stated in the affidavit were purely of a formal character. At any rate, even the defence could not dispute that aspect because no request or motion was made on behalf of the accused to summon the deponents of the affidavits to be examined in court. In such a situation, it was quite improper that the High Court used such a premise for setting aside the conviction and sentence passed on the respondent. The appeal was thus allowed and the revision filed by the respondent accused was again remitted to the High Court to be disposed of afresh after affording reasonable opportunity to both sides for hearing. Therefore the Supreme Court accepted the Chemical Examiner’s Report and allowed the appeal of the State by upholding conviction.22


The accused persons were convicted under section 302 IPC. Prosecution established that A-1 and A-2 caused bodily injuries on deceased with stick on left upper limb and lower limb. Both A-1 and A-2 kicked deceased on his back and chest when he fell down after being untied. Deceased was confined in kudil without being provided with food or water on instructions of A-1 and A-2 who also kept the key of the kudil with them. Deceased was starved to death. **Chemical analysis** of the soil was conducted which was collected from and around the various bones of the deceased and human blood was detected on them. Prior and subsequent conduct of A-1 and A-2 and circumstances of case including motive and intention to commit the murder of deceased was established. Appeal was dismissed and **conviction** upheld.23


The accused was convicted under section 302 for causing death of his wife by administering poison. Post-mortem of the dead body was performed and the doctors

22 State of Punjab v. Naib Din (2001) 8 SCC 578
opined it was a suspected case of celphos poisoning. The stomach as a whole was preserved. Parts of the small and large intestines and parts of the liver, spleen and kidneys were preserved. All these samples duly sealed, were handed over to the police for being sent to the Chemical Examiner. All the samples which were collected and preserved for chemical examination were forwarded to the FSL, whereby the Deputy Director-cum Assistant Chemical Examiner of FSL opined that the samples had presence of aluminium phosphide (celphos). On receipt of the report from FSL the same was shown to Dr. S.N. Sharma who initially sought for some clarification from FSL. After receipt of the clarification from FSL, the Medical Board opined that it was a case of suspected aluminium poisoning. Although the courts below convicted the appellant relying on the incriminating circumstances. The Supreme Court did not support the view of the courts below as there was no evidence that the accused/appellant had poison in his possession prior to the time of the incident. In all probability the tablet administered by J, the accused to P, the deceased was not celphos. There was also doubt about the genuineness of samples of vomit seized from inside and outside the house of J. Held, it could not be doubtlessly conclude to be a case of celphos poisoning. Further, J had neither any opportunity nor clear motive for administering poison. Thus in all probability the deceased had consumed something before coming to meet the accused or may be she had suffered food poisoning or virus infection. On facts, prosecution failed in proving such chain of circumstantial evidence as would fasten the guilt of the accused leaving no room for doubt. Therefore, the accused appellant was acquitted.\footnote{Jaipal v. State of Haryana (2003) 1 SCC 169}

17. **State of Maharashtra v. Manoharsingh**

Manoharsingh v. State of Maharashtra(11.08.2003 – BOMHC)

This is a death reference case by the State along with an appeal against conviction. Accused was convicted and sentenced to death under section 302 and 201 IPC. Exact cause of quarrel not found due to want of evidence. Illicit relationship between accused
and deceased was disclosed. Deceased used to maintain illicit relationship with other person and put hurdle in marriage of accused. The viscera of the deceased were sent for chemical analysis. In the chemical analysis report, no poison was detected. Hence the doctor opined that the cause of death was head injury. Accused had no criminal antecedent. Held, appellant had been given an opportunity to reform considering peculiar facts of the circumstances. Appeal was dismissed and the conviction and sentence under section 302 was converted to life imprisonment.25

MANU/MH/1626/2003

The accused was convicted under section 376 and 302 IPC for raping and murder of a child of tender years and awarded with death penalty. In the instant case, legality and correctness of the Chemical Analyzer’s Reports had not at all been disputed by the defence. As per C.A. Report, the nail clippings of the deceased were found stained with blood. C.A. Report revealed that earth, half manila under frock, frock, and handkerchief were stained with human blood. Similarly, C.A. Report revealed that the stone was stained with human blood. These factors did corroborate the material particulars of the prosecution case and cannot be ignored altogether from the arena of consideration. The crime committed by the accused did not only shock the judicial mind, but also the mind of the society and therefore, the crime in question was not only against the individual but a crime against the entire society. The ambit of crime committed by the accused was so enormous that lesser punishment would not only amount to miscarriage of justice, but shall also change the public perception in the criminal justice system. Therefore, after proper evaluation in this regard, the case in hand was undoubtedly within the rarest of rare kind and thus, the capital punishment was affirmed. Thus appeal of the State was allowed by confirming the conviction.26


The appellant/accused were convicted under sections 302, 304 and 34 IPC. Dying declaration was made in fit state of mind. The viscera of the deceased was subjected to **chemical analysis**. The CFSL report proved on record that sulphuric acid was found in viscera which established that acid was mixed with whisky and was forcibly poured down the throat of the deceased. Post-mortem report also supported the prosecution case. There was no material to indicate deliberate delay on part of police officers in dispatching report. No prejudice was found on part of police. Accused had no intention to cause death but had knowledge that inflicted injury was likely to cause death. There accused was **convicted** under section 304.\(^\text{27}\)


Trial court convicted appellant/accused for offence charged under section **302, 498A of IPC**. On Held, the circumstance from which the conclusion of the guilt of the accused was to be inferred, were not of conclusive nature and was inconsistent with the hypothesis of his guilt. Circumstances relied upon by the prosecution and accepted by the learned trial court cumulatively taken together were not sufficient to conclusively establish guilt of the accused. From the evidence available on record the prosecution failed to establish the offences against the accused beyond reasonable doubt. Although on the receipt of the report of the **chemical examiner**, it was found that the deceased had not committed suicide but she was killed by accused persons by dipping her face in a bucket and strangulating her, but this view of the chemical analyst was contradictory to the other available evidence. Hence appeal was allowed and the appellant/accused was **acquitted and the report of the chemical examiner was not accepted**.\(^\text{28}\)

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The appellant was convicted under sections 34, 147, 148, 149, 302, 325, 341 and 506 IPC. Held prosecution proved the case beyond reasonable doubt. Eye witnesses supported prosecution case. Medical evidence and circumstantial evidence also corroborated prosecution case that appellants with their common intention had committed murder of deceased. At the instance of respective accused, blood stained clothes and weapons were recovered. The blood samples of the accused, as well as, of the deceased were also sent for the chemical analyser's report. All the reports had been part of the record. Appeal was dismissed and conviction sustained.29


The appellant was convicted for an offence of murder and dowry death under sections 302 and 304B. Hence this appeal. Held, in circumstantial evidence, one of the incriminating materials to be considered was motive and that was totally absent in the matter. Swabs from the vagina were taken and preserved for chemical analysis. The report of chemical analysis indicated that semen and spermatozoa were not detected in vaginal swabs. Thus, circumstances from which inference of guilt of accused was drawn had to be proved beyond reasonable doubt. However, prosecution suffered from inherent improbabilities and evidence adduced was intrinsically incredible. Hence prosecution had miserably failed to bring home guilt of accused under section 302 IPC. Therefore, appellant was entitled for benefit of doubt. Appeal was allowed and appellant was acquitted.30


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The appellant was convicted under section 302 and 498A IPC. Hence, this appeal. Appellant was married to deceased and started ill-treating her on the ground that she should bring money from her parents and one day appellant threw kerosene lamp on deceased and her sari stated burning resulting which she died subsequently. The learned APP, referred to the fact that there were quarrels between the parties in the past one year. She further referred to the Chemical Analyzer’s Report to point out that in spite of throwing the kerosene lamp on to the deceased; some kerosene had still remained therein. The lamp was meant for lighting the room since there was no power. It was obviously a sufficiently big lamp and it was thrown from such a near position that there was no question of missing the target. Held, in the instant case the wife of accused had died within less than 48 hours from the time when she suffered burn injuries. Hence, the present case, clearly fell in defining murder and the thus the conviction and sentence of the trail court was upheld and the appeal was dismissed.31


a) Background of the case: The accused was convicted for the offence punishable under the NDPS Act by the trial court. He challenged the conviction before the High Court. The Division Bench of High Court acquitted him on the ground that the person who analyzed the narcotic drug was not an examiner as defined in Rule 2(c) read with Section 17 to 22 of the NDPS Act.

b) Facts of the case: A superior officer of police being informed that a man who was sitting near the bus stand is suspected to be a dealer of ‘charas’ went to the spot along with PW5 and PW12 to the spot. PW1 also joined them. When they reached the spot and interrogated the accused, the accused revealed his name as Jaswant Kumar. PW12 told he appellant that he was suspected of having in possession of charas and whether he would like to be examined in the presence of a gazette officer or a Magistrate. The SHO recorded the same in writing and obtained his signatures thereon from the accused. The accused replied that he

would like to be searched in presence of a Magistrate. Accordingly, he was taken to PW2 Sub-Divisional Magistrate, Banjar. The accused was holding a greenish-coloured polythene packet and this polythene packet was unwrapped and 750 grams of charas was found. The ASI took samples and the appellant was taken into custody. The sample taken was sent to the Composite Testing Laboratory, through constable, PW4.

c) **Typology of Forensic Evidence Used in the Case: Chemical Examination** of the sample was performed by the Chemical Analyst.

d) **Report Of The Experts Regarding The Case:** The substance recovered from the accused was found to be a narcotic drug from the chemical examination. A certificate was furnished by the Testing Laboratory after the chemical examination of the recovered article.

e) **Ground For Accepting The Forensic Evidence:** Although the appellant raised the contention that the article recovered from him was sent for chemical analysis to the testing laboratory, the same was not an authorized laboratory and therefore the certificate produced by the prosecution was not reliable. Although this contention of the accused was accepted by the High Court but the Supreme Court held that chemical examination carried out by the Testing Laboratory was valid in law relying on the decision of State of *H.P. v. Pawan Kumar*\(^\text{32}\) and therefore the finding of the court is not sustainable.

f) **Impact of Forensic Evidence (Conviction):** The appeal of the State of H.P. was thus allowed setting aside the finding of the High Court and the finding of the Sessions Judge was upheld. The accused was directed to surrender to serve out the remaining period of sentence\(^\text{33}\).

\(^{32}\) *H.P. v. Pawan Kumar* (2004) 7 SCC 735

Additional Sessions Judge convicted appellant/accused under sections **302 and 149 IPC** and acquitted rest of the accused persons from charges on ground that prosecution had failed to prove allegations against rest of the accused persons. Hence, this appeal by the State and the appellant. Held, in cross-examination. Held, in cross examination PW5 head constable had admitted that son of village chowkidar had informed about murder in village but he had not shown names of assailants. Thus trial court had found that prosecution had failed to prove that all accused persons formed an unlawful assembly with view to participate in commission of crime with common object within meaning of section 149 IPC. From medical evidence no Farsa or lathi injuries were found on the body of the deceased and therefore it could not be said that except appellant other accused persons participated in the commission of crime with common object and had caused any injury to deceased. Further evidence of eyewitnesses was supported by medical evidence. This clearly showed that nature of injury was gunshot injury and that was caused by appellant. From the clarification of the doctor, revealed in the cross-examination of the defence lawyer, appellant was not entitled to the benefit of doubt. Also held, that it was clear that delay in sending empty cartridges for chemical examination and non-examination of the Malkhana Incharge in trial to prove keeping of sealed articles and non-mentioning of name of son of village Chowkidar before proceeding to spot and also not examining son of village chowkidar in trial would not be fatal to prosecution. Hence trial court had rightly convicted the appellant for commission of murder of deceased. Appeal was dismissed and conviction was upheld. Appeal of the State was also dismissed.\(^\text{34}\)

The accused persons were convicted under sections 302/149, 147 and 148 IPC by the trial court. Post mortem of the deceased persons were conducted. In the opinion of the doctor, the injuries caused to the three deceased persons were sufficient to cause death in the ordinary course of nature. Apart from the medical evidence, the prosecution case was supported by the objective findings of the police. PW5, the IO, when visited the place of occurrence found bloodstained earth inside the bhusaura (a storeroom of cattle fodder) where all the three deceased persons were working on the fodder-cutting machine at the time of the alleged occurrence. He further found cut fodder in the said room with stains of blood thereon, seized the same and sent it to the chemical examiner. The serologist reported that the same contained human blood. Apart from that, the IO recovered four empty cartridges and three pellets from the place of occurrence and prepared seizure memos thereafter. Thus the objective findings of the IO fitted in with the prosecution case that the occurrence had taken place where the three deceased persons were working on fodder-cutting machine at the time of the alleged occurrence. Hence, the order of acquittal rendered by the High Court in the favour of the respondents was set aside and convictions and sentence recorded by the trial court was restored.35


a) Background of the case: In the instant appeal by special leave, the appellant had challenged his conviction under section 307 of IPC. The trial court sentenced him to undergo 4 years rigorous imprisonment and to pay a fine of Rs. 500 and in default to undergo two months rigorous imprisonment. The High Court by its impugned judgment upheld the conviction but reduced the sentence to two years rigorous imprisonment maintaining the sentence of fine.

b) **Facts of the case:** An altercation took place between PW2 and PW3 on the one hand and the appellant on the other hand. The altercation was followed by PW2 slapping the appellant. This occurrence took place at 4 p.m. Later at 9 p.m. when PW2 and PW3 closed their shop and left for their house on a scooter driven by PW2, the appellant along with one Ravindra Swamy confronted them on the way. Ravindra Swamy hit the scooter with an iron rod as a result of which both PW2 and PW3 fell down, whereafter the appellant was said to have stabbed PW2 with knife in his abdomen. PW2 was taken to the hospital. On the basis of the report lodged by PW3, the case was investigated and ultimately the appellant along with Ravindra Swamy was put up for trial before the Additional Sessions Judge, Pune. Later, the bloodstained knife was recovered at the instance of the appellant. The trial court however acquitted the co-accused Ravindra Swamy as his name did not appear in the FIR and the court had doubt regarding his involvement in the said offence.

c) **Typology of Forensic Evidence Used in the Case:** Chemical examination of the blood found on the knife was conducted to determine the commission of the offence.

d) **Report Of The Experts Regarding The Case:** On chemical examination of the knife, it was found that the knife had human blood on it of ‘AB’ blood group which was also the blood group of the injured.

e) **Ground For Accepting The Forensic Evidence:** The court held that the arguments of the appellant were not supported by any evidence on record, therefore it could not be accepted. Submission of the appellant that he had also received injuries in the course of the said occurrence remained unexplained by the prosecution, is not an excuse. According to the court although the burden on the prosecution is heavy while the defence only needed to probabilise the defence taken, yet there must be at least some materials on record to support the defence plea and probabilise its case. The court found it was completely lacking in this case. Moreover, PW2 was the injured witness who was the victim of the
assault and PW3 was accompanying him. The two courts below, have concurrently found, the evidence of the prosecution as acceptable and the Supreme Court did not find any reason to take a separate view.

f) **Impact of Forensic Evidence (Conviction):** The appeal was dismissed. Since the appellant was released on bail during the pendency of the present appeal, the bail bonds were cancelled and it was directed to take the appellant into custody forthwith to serve out the remainder of the sentence, having regard to the provisions of section 428 of the Code of Criminal Procedure\textsuperscript{36}.

28. **Sree Vijayakumar & Another v State (2005) 10 SCC 737**

a) **Background of the case:** The appellants were convicted by the trial court for the offences under sections 302, 324, 34 of IPC for murder of one Rajeswaran and causing injury to PW1. Both of them were sentenced to life imprisonment. The High Court of Madras also confirmed the conviction imposed by the trial court. Hence the present appeal had been preferred.

b) **Facts of the case:** The two accused were prosecuted for the murder of the deceased Rameswaram by setting him on fire. The victim was admitted to Government Hospital with 90% burn injuries and he died in the hospital within a span of three days from the incident. The appellants were also charged for attempting to murder PW1, the brother of the deceased by stabbing him. It is noteworthy that the accused and the deceased were related to each other. A dispute arose between the two families regarding passing of electricity line. A civil suit was also filed which was ended in favour of the family of the deceased. On the day of the incident when the deceased was passing by the shop of the second appellant to purchase some articles from a nearby shop, the first appellant came out of the shop of the second appellant started abusing him and then took out a bollte and hit him on the head as a result of which the bottle

\textsuperscript{36} Nasir Sikander Shaik v State of Maharashtra (2005) 10 SCC 585
broke and the liquid had spread over his body. At that moment A-2 picked up a lighted kerosene lamp from his shop and threw it on the deceased which caught fire on the deceased body. When PW1 the brother of the deceased tried to go near his brother to save him he was caught hold of the acquitted accused (The Conviction of A3 & A4 were set aside by the High Court) and A2 stabbed him.

c) **Typology of Forensic Evidence Used in the Case: Chemical Examination** was conducted from the skin taken by the doctor from body of deceased which was preserved in sodium chloride.

d) **Report Of The Experts Regarding The Case:** Post mortem was conducted by PW9, the Civil Surgeon of the Government Hospital. He took out the skin from the body and preserved it in sodium chloride solution for chemical analysis. Ext. P12 was the post mortem report and Ext. P-13 was the opinion given by him after the receipt of skin test from the chemical examiner according to which Rajeshwaram died on account of shock resulting from deep burn injuries. The chemical examiner’s report was Ext.P-27. According to the report petrol was detected on the pieces of black lumps received from the Judicial Magistrate.

e) **Ground For Rejecting The Forensic Evidence:** Although the chemical analyzer detected petrol from the black lumps, PW9, the doctor who conducted post mortem could not find the smell of kerosene or petrol or any other inflammable liquid on the body of the deceased. The skin which was taken from the body of the deceased was sent for chemical examination about three months after post mortem examination. Surprisingly, there was no evidence to the effect that the items sent to the Magistrate for onward transmission to the chemical examiner were the same that were handed over to him by PW9, the doctor, and whether they were sealed by the hospital authorities. Though PW9 stated that the skin taken from the leg was preserved in sodium chloride solution for chemical analysis, he did not state that any seal was affixed thereon and handed over to the inspector. PW14 the IO, did not state that he received the preserved sample of skin from hospital with the seal of the hospital. Even if the sample was collected from the hospital, the possibility of interfering with it in the
absence of seals cannot be ruled out especially when there was a time lag of nearly three months in sending the article to the Magistrate. There was no doubt that a suggestion on these lines was not put to the IO but the question of giving suggestion would arise only if the IO had deposed to the factum of collecting the sample from the hospital and sending it to the Magistrate in the same form. It was, therefore, not safe to rely on the chemical examiner’s report to reach a conclusion that petrol was splashed on the deceased by A-1 before the burning lamp was thrown at him by A-2.

f) **Impact of Forensic Evidence (Conviction):** The discussion lead to the inference that the appellants did not share the common intention though the common intention could spring up at the spot. One accused hitting the deceased with a bottle on the head which did not cause even a visible injury and the other accused throwing a burning kerosene lamp from a distance cannot be said to be acts done in furtherance of common intention to cause the death of the victim. Those were random acts done without meeting of minds. They could only be held guilty for the individual over acts. A-2 was therefore convicted under section 304 (Part II). Accordingly, he was convicted and sentenced to undergo imprisonment for 7 years and tp pay a fine of Rs. 500. Therefore his conviction under section 302 of IPC was set aside and A-1 was only convicted under section 323 for causing hurt to the deceased by hitting him with a bottle. He was sentenced to undergo imprisonment for six months. Hence, the appeal was allowed.


The appellant was convicted under sections 366, 376(2), 302 and 201 IPC. The appellant filed an appeal against the conviction whereas the State filed a reference for

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37 *Sree Vijayakumar & Another v State* (2005) 10 SCC 737
the confirmation of the death sentence. The sealed seized articles were sent for chemical examination in intact condition. This fact was evident from the testimony of the IO, PW16 and the head constable, PW13 who deposed that nine sealed packets kept intact in Malkhana were sent through PW12 to FSL. As per the FSL report dried blood of the deceased woman was of Group ‘A’ and blood found on pubic hair of the accused/appellant was also of Group ‘A’. Held, court would have re-appreciated entire evidence on record to make decision of appeal on merit. Appellant on date of offence was major, as was evident from his medical examination report. Therefore, looking to young age of appellant court did not think that present case was to be one of rarest of rare cases warranting death sentence. Hence, even though Trial court commuted death penalty, Court was of view that punishment should have deterrent effect as well as no further chance to appellant for relapsing into crime and becoming danger to society. Therefore court upheld conviction of appellant under section 302 IPC but commuted death sentence imposed to imprisonment for life. Court also confirmed the conviction of appellant under sections 376, 363 and 201 IPC and sentence awarded by the trial judge. Therefore, the appeal was disposed of accordingly. The appeal of the State was dismissed.38

MANU/UP/1434/2005

The trial court acquitted the accused from the charges under sections 304 Part II and 324 and section 25 of Arms Act, 1959. Held, prosecution version and testimony of eyewitnesses were well corroborated by medical evidence, chemical examiner’s report and F.I.R. A perusal of the report of the Chemical Examiner showed that blood stained shirt taken off from the person of injured contained human blood of Group ‘A’. All eye witnesses appeared to be truthful and straight forward giving honest account of occurrence witnesses by them. Accused respondent was arrested on spot. Being under influence of father of accused being M.L.A. and prominent person of city, S.D.M. did

not record dying declaration correctly and honestly, just to spoil case. Since accused was known to injured and apprehended on spot it was difficult to believe that injured would not name assailants in their statements to S.D.M. Dying declaration was wrapped in suspicion and thus was ignored. Hence, the acquittal recorded by the trial court was set aside and accused respondent was convicted and sentenced under the aforesaid provisions. Thus, the appeal of the state was allowed.\textsuperscript{39}


Trial Judge acquitted accused of all offences under sections 498A IPC and section 4 of Dowry Prohibition Act. Hence, this appeal. Held, demand of dowry at time of marriage and after marriage and subjecting deceased to cruelty in context of dowry demand, stood disclosed in complaint. Evidence of parents of deceased and mediators did not inspire confidence of court. Finding rendered by Trial Judge in respect of offences under section 498A IPC and section 4 of Dowry Act were not perverse or opposed to legal evidence on record. But evidence in sum and substance showed that there was a strained relationship between accused and his wife. Therefore, accused had a motive in his mind. Prosecution could not show, besides establishing motive, any other circumstance in this case, other than one that death had occurred in house of accused himself. Accuse had a duty to explain under what circumstances his wife died. He only pleaded that he was not in house at that time when his wife died. He failed to give any explanation about circumstance under which his wife had lost her life. Therefore prosecution had established that, it was accused and accused alone, who was responsible for murder of his wife. Medical evidence established that cause of death was due to asphyxia by smothering. Viscera were preserved for chemical analysis. The viscera report showed that no poison was detected in the viscera of the deceased. PW10, the doctor, gave the final opinion on receipt of the viscera report as death due to asphyxia by smothering. Therefore, finding given by Trial Court, in acquitting accused

of offence under section 302 IPC was unreasonable and was not based on evidence on record and thus set aside. Instead the accused was convicted under section 302 IPC and sentenced to undergo imprisonment for life. Appeal of the State was thus disposed of.⁴⁰


Principal Sessions Judge convicted accused for offence of murder under section 302 IPC. Hence this appeal. Held, it was clear from evidence of witnesses that accused had a grudge against deceased because deceased had illicit intimacy with wife of accused which had been established by evidence of witnesses. However, witnesses saw deceased with accused immediately before occurrence and within half hour. They again saw deceased running, shouting that accused gave him a drink and he drank same and his stomach was burning. Toxicology report made it clear that monocrotophos with ethyl alcohol was found in the brandy bottle. It was thus clear that the deceased consumed poisonous drink given by accused as was evident from the medical report and prosecution witnesses. Therefore prosecution had brought home guilt of accused beyond all reasonable doubts. Therefore conviction upheld and appeal was dismissed.⁴¹


Trial court convicted appellant for offence of murder under section 302 IPC. Hence this appeal. Held, it was found that accused did not kill victim immediately after she rejected his proposal. However, accused started hurting himself with intention to die, so that at least at that stage, deceased would be soft and turn towards him. Even victim tried to save accused but she failed. Accused started bleeding profusely and victim

shouted and at that stage, accused lost all his self-control and committed crime resulting in death of the victim. Further, in no time, he made attempt on his life by not only cutting his right hand wrist but also his neck, in which attempt he failed. All the recovered articles were sent for chemical examination. Hence, Exception-1 to section 300 of Act was attracted. Therefore court set aside conviction of accused under section 302 and instead brought his act under section 304 Part-I of Act. Appeal was thus disposed of by modifying conviction.⁴²


The accused appellant committed rape on the prosecutrix and was convicted under section 376(2)(g) of IPC. The prosecutrix was sent for medical examination where the doctor, PW3 examined her and prepared a medical examination report. One sealed packet containing two slides of vaginal smear, another sealed packet containing clothes and one sealed vial containing cut pubic hair were advised to send for chemical examination. No injuries were found on the private parts of the body but injuries were found on front portion of her body and hands. The doctor had deposed that no definite opinion could be given regarding rape till the report of vaginal smear was received. It was noted by the High Court that till the conclusion of the Sessions Trial, the report of chemical examination had not been received. The question which arose for consideration before the Supreme Court was whether the proved facts established the offence of rape. Testimony of the prosecutrix corroborated the testimonies of two constables (PW’s) who were on patrolling duty near the bus stand. Moreover there was no reason for the prosecutrix to falsely implicate the accused as they were strangers. Held, mere fact that no injuries were found on the private parts, cannot be a ground to hold that no rape was committed or that the entire prosecution story was false. Prosecutrix was a married grown-up-lady and absence of injuries on her private parts

was not of much significance. Conviction upheld and appeal dismissed although there was no report of chemical examination.\textsuperscript{43}


Trial court convicted accused under section 302/201 IPC. Hence the present appeal. Held, where some circumstances were not proved, the proved circumstances could not be thrown overboard, if they form chain pointing to guilt of accused. Illicit relationship between accused and deceased, finding of dead body of deceased in suspicious circumstances in house of accused, finding of keys of house with accused, extra judicial confession, scratch injuries suffered by accused and blood found in nail clippings of deceased and motive were all proved circumstances, which could not be over seen. Nail clippings of the deceased were sent to chemical analyser. The chemical analyzer’s report stated that “the nail clippings were stained with blood and appeared to be decomposed species”. The chemical analyzer’s report further corroborated the case. Thus accused was rightly convicted. Conviction and sentence was upheld and the appeal was dismissed.\textsuperscript{44}


Sessions Judge acquitted respondents for offence of murder committed by them under sections 302 along with section 341 IPC. Held, medical evidence of doctor showed that cause of death of deceased was vagal inhibition. The doctor gave his report basing on the chemical examiners report. However, accused had neither intention nor knowledge that kicking could result into death of deceased; hence, it was termed as accidental death and not homicidal death. Hence no case under section 302 of IPC could be made out. Moreover, prosecution had proved allegations made in complaint by PW4 regarding assault of deceased by accused/respondent in manner spoken by PW4 and 5. Evidence of PW4 was materially corroborated by PW5, hence it was relied. Thus trial

\textsuperscript{43} Santosh Kumar v. State of M.P. (2006) 10 SCC 595
\textsuperscript{44} Shri Dayaneshwar v. State of Maharashtra (05.05.2006 – BOMHC) MANU/MH/0169/2006
court had committed error in rejecting testimony of PW4 and 5; therefore finding of trial court was unreasonable. So, accused persons were made liable for offence punishable under section 341 IPC. Conviction was modified by partly allowing the appeal.45


The appellants were convicted under section 304B r/w section 34 IPC by the Sessions Court and High Court. Demand was made by accused-appellants from parents of deceased to meet domestic expenses and for purchasing manure. Thereafter the deceased was found dead. Post-mortem examination on the body of the deceased was conducted by a team of two doctors who opined that the cause of death was insecticide poisoning. The viscera were preserved for chemical analysis. The appeal before the Supreme Court had been preferred by the appellants challenging their conviction under section 304-B read with section 34 IPC. Held, demand made by accused cannot be said to be a demand for dowry since correlation between giving or taking of property or valuable security with the marriage of the parties was essential. But, demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry. Hence, since an essential ingredient of section 304-B IPC viz. demand for dowry was not established, the conviction of the appellants could not be sustained. Thus the appeal was allowed and the appellants were acquitted. Although it was a case of suspected dowry death but since the demand for dowry could not be proved the appellants were acquitted.46

46 Appasaheb And Another v. State of Maharashtra (2007) 9 SCC 721

MANU/CG/0252/2007

Present appeals were filed against conviction of the appellant under sections 302 and 34 of IPC. Held, in cross-examination of concerned witnesses, defence had not been able to elicit any circumstance, which discredited evidence of these witnesses. They were independent witnesses of same village before whom accused persons made extra judicial confession regarding their involvement in crime in question. Extrajudicial confession was corroborated by other circumstantial evidence. It appeared that deceased person was objecting illicit relationship of appellants. Thereafter appellants planned to administer poison to deceased person. As per *Medical Jurisprudence and Toxicology*, on account of consumption of powder of root of yellow oleander, a young man died in 2 to 3 hours after taking his meal mixed with powdered root. Therefore there was motive to eliminate deceased and there was motive behind causing their death. Hence **conviction** upheld.\(^\text{47}\)


Additional Sessions Judge convicted appellant for offence of murder under section 302 IPC, cruelty by husband under section 498A and causing disappearance of evidence of offence under section 201 IPC. Hence, this appeal. Held, evidence of PW6 who was medical officer was that death was caused by cardio respiratory failure due to asphyxia by strangulation. Evidence and findings of post mortem report of PW6 mentioned that death in the case was due to strangulation by ligature as opposed to hanging. The Appellant had not explained the blood stain on his shirt, which was seized and sent for **chemical analysis**. The false plea of alibi set up by the appellant coupled with failure to explain the circumstances of the death of the deceased, who was his wife and with whom the appellant resided alone in the flat and with whom he was last seen together becomes an additional link in the chain of circumstances to make it complete

and unerringly pointing to the guilt of the appellant. Thus there was circumstantial evidence to hold appellant guilty of murder of deceased and death of deceased was homicidal. Hence appeal was dismissed by upholding conviction.\footnote{Deepak Revachand Talreja v. State of Maharashtra (08.08.2007 – BOMHC) MANU/MH/0579/2007}


The appellant was convicted under section 376(2)(f) IPC. Hence, the present appeal was filed. Held, on account of medical evidence and evidence of mother of prosecutrix, version of prosecutrix did not appear to be true. There was injury on private parts of the appellant but there was no injury on the private parts of prosecutrix. Therefore possibility of blood stains on loongi and underwear could be attributed to appellant alone but their presence did not support the prosecution version. No semen or spermatozoa was found on slides prepared from the vaginal material on chemical examination. Version of prosecutrix was not corroborated by her mother who admitted that prosecutrix had only told her that appellant had laid down over her. Therefore, it was not case of rape and offence under section 376(2)(f) IPC instead it would fall under section 376(2)(f) read with section 511. The conviction of the appellant was based upon the testimony of the prosecutrix, her mother and chemical examiner’s report. Appeal was partly allowed by modifying the conviction.\footnote{Dhanesh alias Konda Banjare v. State of Chhattisgarh (24.05.2007 – CGHC) MANU/CG/0075/2007}


Trial Court convicted A-3 and A-4 under sections 147, 148, 302 and 149 IPC but acquitted them under section 324 and 325 read with section 149 and section 4 and 25 of Arms Act. However, it acquitted A-1, 2, 5 and 6 of all charges leveled against them under code. Hence this appeal. Held, presence of eye witnesses at scene of occurrence was duly proved. The articles attached during the investigation and blood samples were sent to FSL and the reports of the Chemical Analyzer were received. Report of the Chemical Analyzer disclosed that clothes of deceased, sword, knives and dagger were
stained with blood. Clothes of deceased, dagger and knife were stained with blood of ‘O’ group. On the basis of the evidence collected during investigation the accused were chargesheeted. Further, evidence of eye witnesses was corroborated by medical evidence and evidence of constable. Named of A- 2, 5 and 6 were not mentioned in the FIR. Hence they were entitled to benefit of doubt. Hence conviction of A-3 and A-4 were upheld and the appeal was dismissed.\(^{50}\)

42. **Sasi Kumar v. The State represented by The Inspector of Police**  
(09.03.2007 – MADHC) MANU/TN/8268/2007

The appellant was convicted under section **302** IPC for offence of murder. Hence, this appeal. Held it was clear from evidence of prosecution witnesses that accused consciously and deliberately, purposely and intentionally inflicted injuries by way of wrecking vengeance and to satiate and gratify his motive. The prosecution witnesses stated that after commission of the crime, accused fled away from scene of occurrence with M.O.1. Ex.P.4 and P.5 clearly established that weapon of offence was recovered only at instance of accused. The police caused the material objects to be sent to FSL through the Magistrate Court for obtaining experts opinion and accordingly, Exs. P.13 Chemical Examiner’s report, P.14 Serologist’s report and expert’s reports were received by the Court. Thus, analysis of evidence transpire that prosecution clearly proved motive as well as conduct of accused before, at and after perpetration of crime. Appeal was dismissed and conviction affirmed.\(^{51}\)


The appellant was convicted under section **302/328** IPC for committing murder of her husband by administering poison. In a case of murder by poisoning, it was necessary to prove that death was caused by poison, that poison in question was in possession of

\(^{51}\) Sasi Kumar v. The State represented by The Inspector of Police (09.03.2007 – MADHC) MANU/TN/8268/2007
accused and the poison was administered by the accused to the deceased. The reason for the murder as contended by the prosecution that there was illicit relationship of appellant wife with acquitted co-accused was not proved. Conviction by trial court was based primarily on the evidence of child witness. Deceased died in course of treatment at hospital. Only chemical examination report disclosed presence of celphos poison. Celphos has a pungent smell and characteristics and such poison cannot be administered deceitfully or openly. No direct evidence was found to show that any of the accused administered poison to deceased. Thus conviction and sentence was set aside and acquittal was recorded.\textsuperscript{52}


\texttt{MANU/UP/1327/2007}

The appellants were convicted under section \texttt{302/34 IPC}. Hence, this appeal was preferred. The IO, PW4, took possession of a blood stained stone from the place of occurrence. He had then sent the same stone for chemical examination. As the blood spots on the stone were found disintegrated, no opinion about the blood could be given. Held, no error was committed by trial court in placing reliance on testimony of three eye witnesses supported by medical evidence. However, only role of exhortation was assigned to appellant C. Therefore not safe to uphold conviction of C. Conviction and sentence of appellants were upheld but those of appellant C was set aside.\textsuperscript{53}


The appellant herein was tried and convicted for the murder of his niece, M, under section \texttt{302} and was awarded the death penalty. In addition he was convicted for an offence punishable under section \texttt{376} IPC and sentenced to undergo rigorous imprisonment for 10 years and a fine of Rs. 5000. The story of unknown assailants

\textsuperscript{52} \textit{Smt. Ranju Devi v. The State of Bihar (08.11.2007 – PATNAHC) MANU/BH/0388/2007}

entering the house and causing M’s murder etc. as contended by the appellant was ruled out and the prosecution story that it was the appellant who first shot M and then attempted to commit suicide, stood proved. The learned State counsel emphasized that the prosecution case stood proved from various factors including medical evidence, the reports of the FSL, the chemical examiner’s report, from the post-mortem reports and the recovery of the gun and cartridges. The court after hearing the learned counsel for the parties and going through the record, first took up for consideration the question of the conviction under section 376 IPC. From the medical evidence and from the chemical examiner’s report the court found that the vaginal swab and clothes taken from the dead body indicated the presence of semen. There was however absolutely no evidence to suggest (even assuming that the intercourse had been committed by the appellant) that he had done so without M’s consent or against her will. Some suspicions of rape could perhaps been raised had some injuries been detected on M’s person but no injuries except gunshot injuries were found on her person which indicated attempt to rape or the commission of rape. The investigators had also made no attempt to medically examine the appellant to ascertain his capacity to perform sexual intercourse. Thus, the conviction of the appellant under section 376 could not be sustained. Accordingly, the Supreme Court acquitted the appellant of the charge under section 376 IPC but maintained his conviction for the other offences but commuted his death sentence to life imprisonment. With such modification, the appeal was dismissed.\footnote{Ujjagar Singh v. State of Punjab (2007) 13 SCC 90}


a) Background of the case: The trial court after consideration of the evidence on record held that the offences under sections 498A, 302 and 201 IPC had been sufficiently substantiated and proved against Accused 1, the sole appellant herein for murdering his wife and causing the disappearance of evidence. The remaining accused were acquitted as evidence on record.
could not sufficiently prove the charges against them. Aggrieved, the appellant perused the matter before the High Court but the court affirmed the judgment of the trial court where the appellant was sentenced to life imprisonment and fine with two years rigorous imprisonment with fine and another two years for the respective offences noticed. Thus the present appeal was filed against the judgment of the Division Bench of the High Court of Bombay.

b) **Facts of the case:** Deceased wife was married to appellant husband for ten years and had no children. Relationship between the two, except the initial few years was not cordial. The deceased were also subjected to such acts as would sufficiently constitute cruelty to pressurize her to concede to divorce to facilitate a second marriage. Deceased died an unnatural death and was found lying with her body covered with a quilt upto her face. Door of the room was locked from inside but there was recess of 4 inches between two planks of the door so that one could put chain inside standing from outside or one could remove the chain put from inside by putting a hand inside the door through the recess while standing outside. Two small containers of insecticide and two cups found near the body.

c) **Typology of Forensic Evidence Used in the Case:** The viscera of the deceased were sent for **chemical analysis** in order to ascertain the cause of death.

d) **Report Of The Experts Regarding The Case:** The post mortem report indicated that the death was due to strangulation and resultant asphyxia. All the injuries were ante-mortem in nature. Some injuries on the body were found and according to the doctor, the injuries mentioned in the post-mortem report could be caused by fingers of the hands, by pressure. Kinds
of strangulations are throttling, hanging and garroting. The doctor opined in the case there could be possibility of throttling. The examination of the viscera sent for chemical analysis also ruled out death by poison, thereby strengthening the opinion of the doctor who conducted the post-mortem.

e) **Ground For Accepting The Forensic Evidence:** The court held that the present case was an illustrative case to justify the usual saying that though witness might lie, the circumstances would not. Although the accused tried to mislead the court through clear maneuverings by manipulating the presence of some insecticides and cups on the spot to divert the attention of the investigating agencies, through the medical examination his guilt and cunningness was totally exposed. The court reasoned that a person who consumed such kind of poison could not have died, in the manner the body of the deceased was found inside the room, but the deceased should have suffered severe convulsions in the process and the quilt could not have remained on the body so perfectly laid and neatly covering her body upto the face.

f) **Impact of Forensic Evidence (Conviction):** The court was wholly satisfied by overall consideration of the circumstances of the case as the motive part of the crime also got reinforced and the concurrent findings recorded by the courts below were merited and were shown not to suffer from any infirmity as to call for the interference in an appeal under Article 136 of the Constitution of India. The appeal therefore failed and was dismissed\(^\text{55}\).


a) **Background of the case:** The present appeal is directed against the judgment and order of the High Court of Punjab and Haryana whereby the High Court dismissed the appeal filed by Hardip Singh and upheld the conviction and

sentence passed against him under the provisions of section **18 of the NDPS Act, 1985** inflicting a rigorous imprisonment for a period of ten years with rupees one lakh as fine.

b) **Facts of the case:** The police party conducted a search of a truck where Hardip Singh, the present appellant was sitting beside the driver. Before the search was conducted the police party prepared consent memos marked as Exts. PB and PC to show compliance with section 50 of the NDPS Act, which were signed/thumb marked by the appellant and attested by the witnesses including PW4. On the instruction of PW4, the DPS, inspector Jarnail Singh conducted search of the appellant and upon such search one bag was found in the right hand of the appellant and on search of the said bag, it was found to contain opium wrapped in a glazed paper. The aforesaid opium was thereafter weighed and it was found that there was 7 kg of opium out of which 250 gm was taken as a sample in one parcel and the remaining quantity was put in another parcel. After preparing two separate parcels, the same were sealed. The sealed parcels were taken into possession vide recovery memo, Ext. PD, attested by the witnesses. After that the two samples were sent to the office of the Chemical Examiner, Amritsar through ASI Surinder Singh (PW3). The learned senior counsel appearing on behalf of the appellant submitted that mandatory provisions of section 55 of the Act, were not complied with after the effective recovery of the accused. He also strongly urged that since the sample had been sent to the analyst for chemical examination after a lapse of 40 days the appellant should have been acquitted on the ground that the entire case of the prosecution was doubtful.

c) **Typology of Forensic Evidence Used in the Case:** *Chemical Examination* was conducted to determine the nature of the two samples seized from the appellant.

d) **Report Of The Experts Regarding The Case:** As per the report of the chemical analyst, the contents of the sample parcels were found to be of opium.
e) **Ground For Accepting The Forensic Evidence:** The court forwarded its view that the question regarding delay in sending the samples of the opium to the Forensic Science Laboratory (FSL) had no relevance as the fact that the recovery of the said sample from the possession of the appellant stood proved and established by cogent and reliable evidence led in the trial, that opium was seized from the appellant and seals put on the sample were intact till it was handed over to chemical examiner. That itself proves and establishes that there was no tampering with the aforesaid seal in the sample at any stage and the sample received by the analyst for chemical examination contained the same opium which was recovered from the possession of the appellant. Therefore, the delay was not fatal to prosecution case and could not have caused prejudice to the appellant. Furthermore, PW5 had categorically stated and asserted about the recovery of opium from the possession of the appellant, which fact was also corroborated by a higher officer, who was also examined at length during the trial. The said recovery was effected in the presence of the said officer, who had also put his seal on the said parcels of opium. The court also held that the contention of the defence counsel that section 55 of the Act, which was a mandatory provision, was violated was also found to be without merit in the light of a previous decision of the court.\(^56\)

f) **Impact of Forensic Evidence (Conviction):** In view of the observations and findings recorder by the court, no merit was found in the appeal as the version of the defence was nothing more than a got-up story sought to be made out only during the trial by which time investigation was complete. The appeal was thus dismissed and the appellant who was in custody was ordered to serve the remaining sentence in accordance with law.\(^57\)

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The appellant was convicted for the commission of murder of his wife under sections 302 and 201 of IPC. On the confessions made by appellant accused the dead body was recovered from a canal. The dead body was identified on the basis of the mangalsutra, saree and also the silver ring on the toe of the deceased which was not disputed. The dead body was also sent for opinion of a chemical examiner who opined that skull, could very well have belonged to the female individual seen in photograph. The said report was also roved and its veracity was not disputed. Therefore, the court had no reason to differ with the findings of the learned trial judge and also the High Court that the extra-judicial confession was voluntary or truthful. Consequently, the appeal was dismissed and the conviction was upheld.\(^5\)


The petitioner was convicted under section 376(1) IPC for committing the offence of rape. The prosecutrix mentioned in the categorical manner how the offence of rape had been committed on her. Defence had put no specific suggestion to prosecutrix in cross-examination that accused did not indulge himself in such obnoxious act. The OC PW12 during the course of investigation visited the place of occurrence prepared hand sketch map with index, arranged medical examination of the victim and also arranged chemical examination of the vaginal swab of the prosecutrix. Held, it was not material whether the penetration was full or partial. It is not even material whether marks of injury were present in the body or not. It was evident from the medical report and reading of evidence of victim, that there was no vaginal penetration. Medical evidence proved that victim was in state of virginity having found her hymen intact. Inexperienced in sex and terrified by violent sexual assault by accused, victim took vulval penetration for vaginal one and stated so in a little exaggeration which must not

be branded as false evidence so as to treat it as untrustworthy or unreliable. Therefore the court dismissed the petition and upheld the conviction.\textsuperscript{59}


Appellant was convicted for commission of offence under section \textit{376(f)} of IPC. Hence, the present appeal was preferred. Prosecutrix was 7 years old and she consistently stated that she was raped by appellant. Statement of prosecutrix was also corroborated by medical evidence. Salwar and kameez were taken from the victim and handed over to the police. Duration could not be ascertained and the opinion was reserved to be given after \textit{chemical examination} of the vagina swabs. Further, no allegation of bias was made against the investigating agency. Thus, prosecution case was established beyond reasonable doubt. Accordingly, \textit{conviction} of appellant was affirmed. However, sentence imposed upon appellant was modified and reduced. Thus, appeal was dismissed.\textsuperscript{60}


The appellant was convicted under section \textit{376} and \textit{354} IPC. Hence, this petition for bail was made. Held, the bare statement by a child, aged 16 years, that she was “raped” alone may not be sufficient for the court to come to a finding that an offence under section 376 IPC was committed. The investigation was not complete in this case. In the nature of allegations made by the victim that she was raped and in the light of the medical evidence that there were findings to suggest evidence of penetration, it would be premature for the court to arrive at a reasonable belief that the accused was not guilty of rape, merely because of a seemingly inadvertent omission on the part of the investigating


agency to ascertain the required details by questioning the relevant witnesses. Though the certificate given by the doctor there were “findings suggestive of evidence of penetration” but the final opinion was reserved by the expert, pending the chemical analysis report on the sample of vaginal swab, smear etc. Hence, it was not proper to release petitioner on bail, holding that the offence was only under section 354 IPC. If he was released on bail at that stage it was likely that he might influence or intimidate witness or tamper with evidence. Therefore the bail petition was thus dismissed.61


Accused 1 to 5 alleged to have murdered deceased. A-4 and A-5 were acquitted of all charges framed against them, while appellant-accused (A-1 to A-3) were convicted under section 302/34 by the trial court which was affirmed by the impugned judgment of the High Court. Hence the present appeal was preferred. The case of the prosecution rested on circumstantial evidence. The prosecution relied upon the following circumstances. Illicit relations of the deceased G with S (A-1), the dead body of G was found in the courtyard of the house of A-1, A-2 and A-3, A-1, A-2 and A-3 were not present in their house on the day of occurrence, PW-5 had seen A-1, A-2, A-3, A-4 and A-5 going towards the bus-stand in the evening, medical evidence, recovery of clothes of A-1, A-2 and A-3 from their house and the clothes which were recovered by the police at the instance of A-1 from their house were found bloodstained with human blood of Group ‘O’ in the chemical analyzer’s report. Regarding illicit relationship the Supreme Court held, had there been any such illicit relations, entire village would come to know about such fact. Besides, parents of the deceased and some other village people were not examined in support of this circumstance. Secondly, merely because dead body of deceased was found in open space in front of their house which was a public road, it would not be safe to connect the accused persons with the death of

deceased. Thirdly and fourthly, the absence of the accused from their house and their movement towards the bus stand on the relevant day was not proved by the prosecution beyond reasonable doubt. Fifthly, no evidence was led to prove that axe, alleged weapon of offence, found on spot in open place that belonged to the accused persons. Sixthly and seventhly, the prosecution failed to prove that the clothes, which were allegedly seized by police at instance of A-1 and was lying in the open space, were stained with blood group ‘O’ of deceased found on deceased clothes and on articles which were seized by IO from place of occurrence. Hence, held prosecution failed to complete chain of circumstances to prove, A-1, A-2 and A-3 guilty beyond reasonable doubt and the High Court was not justified in upholding their conviction on surmises and hypothesis. Hence, the conviction was set aside and acquittal was recorded.\textsuperscript{62}


\textbf{a) Background of the case:} This appeal had been directed against the judgment and order passed by the High Court of Punjab and Haryana whereby the High Court upheld the order of conviction passed against the appellant for the offence punishable under section 15 of the NDPS Act, 1985 and sentenced her to undergo rigorous imprisonment for ten years and to pay a fine of Rs. 1 lakh, for having found in possession of two bags containing 61 kg of poppy husk, without any permit or licence.

\textbf{b) Facts of the case:} The appellant, a lady aged about 70 years was found sitting on two bags containing 61 kg of poppy husk without any licence or permit by the police party. The sub-inspector present gave an option to the accused whether she wanted to be searched before a gazette officer or Magistrate to which she replied that she wanted to be searched before a gazette officer and by

a lady. Then the search was conducted and both the bags were found to contain poppy husk and therefore two samples of 250gm each from both the bags were taken out as samples. Sample parcels and the bags were then sealed and after completing the necessary formalities. The SI thereafter deposited the case property with MHC.

c) **Typology of Forensic Evidence Used in the Case:** The samples were sent for Chemical Examination.

d) **Report Of The Experts Regarding The Case:** The chemical examiner after examination reported it as poppy husk.

e) **Ground For Accepting The Forensic Evidence:** Although the counsel for the appellant raised the issue that there was a delay in sending the samples to the chemical examiner, the court held the contention as untenable in the eye of law. It cited the case of Hardip Singh\(^\text{63}\) in support of its view, wherein there was a gap of 40 days between seizure and sending the sample to the chemical examiner. Despite the said fact the Court held that in view of cogent evidence that opium was seized from the appellant and the seals put on the sample were intact till it was handed over to the chemical examiner, delay itself was not fatal to the prosecution case. In the present case, the contraband goods were recovered from the possession of the appellant on 19.02.1998 and the same were sent to the chemical examiner for chemical examination on 23.02.1998. In the present premises, the delay had no consequence for the fact that the recovery of the said sample from the possession of the appellant stands proved and established by cogent and reliable evidence led in the trial. Therefore, according to the court, it could not be said that there was any delay in sending the said sample for examination.

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f) **Impact of Forensic Evidence (Conviction):** The appeal was accordingly dismissed and the Apex Court upheld the sentence of the courts below.\(^6^4\)


Appellants filed present appeal against order by which they had been convicted of offences punishable under sections **342, 376 and 34 IPC.** Held, it was proved on record that rape was committed in bus. Evidence of prosecutrix was trustworthy and reliable, same having been corroborated by evidence of cleaner of bus, who was an independent witness. Also taking into consideration report of FSL (chemical examiner’s report) as well as evidence of doctor, which showed that semen was found on underwear of appellants and that there were injuries on person of prosecutrix, there was no infirmity in judgement and order of sentence of the Additional Sessions Judge. Appeals were accordingly dismissed and **conviction** sustained.\(^6^5\)


The appeal was preferred against judgment of the Additional Sessions Judge whereby appellant was convicted for offence punishable under section **302 and 498A IPC.** Held, death of deceased was not homicidal. Viscera were preserved for **chemical analysis.** From the medical opinion with other evidence of prosecution case which established beyond doubt and weighed only conclusion that deceased committed suicide by self-strangulation which was probable and possible. Accused was rightly held guilty for offence punishable under section 498A IPC. It was proved that deceased met with mental and physical harassment by husband. Death of deceased was unnatural.

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and in such circumstances of case, said suicidal death of the deceased had been abetted by her husband i.e. accused/appellant. Therefore accused appellant was also guilty for offence under section 306 IPC. Thus, though prosecution failed to prove charge against accused under section 302 of IPC for murdering his wife, but accused was guilty for abetting suicide committed by his wife because cruelty as defined under section 498A was proved beyond doubt. Conviction of accused under section 302 IPC was set aside and accused was convicted for offence punishable under section 306 IPC. Appeal was partly allowed.  


Present appeal had been filed by appellant challenging order of conviction for offence punishable under section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Held, quantity of resin in recovered stuff was found to be less than prescribed limit for offence. Possibility of stuff recovered from appellant being only bhang, possession of which was no offence, could not be ruled out. Chemical Report did not prove that stuff recovered was charas within meaning of Act. Accordingly, conviction and sentence of appellant passed by trial court was unsustainable and was therefore set aside. Consequently the appellant was acquitted and the appeal was allowed.  


Sessions Judge convicted appellant for commission of offences of murder and rape under section 302, 376, 377, 201 IPC. Hence, this appeal. Held, post mortem report revealed that there was not only attempt to rape but also sodomy committed on girl. Materials which were collected were sent for chemical analysis. The chemical analysis

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report and the medical report also corroborated the prosecution version. Circumstances established on record according to law was consistent only with guilt of accused and wholly inconsistent with his innocence. Thus, prosecution was able to establish its case beyond all reasonable doubt that appellant had committed rape and murder of deceased punishable under section 302, 376, 377 and 201. Thus conviction was sustained and appeal was dismissed.  

MANU/DE/0872/2009

Present appeal had been filed against order by which appellant had been convicted for offence punishable under sections 302 and 307 IPC. Held, no witness had come forward to prove CFSL report and it also appeared that CFSL report had not been made available to appellant/accused. In context of present case, prosecution had to establish as to whether deceased died due to kaner poisoning and not on account of any other poisoning. For determining the question CFSL report was of significant importance. If such report was not given to accused, it would certainly cause serious prejudice to her. Cause of death was not indicated in the post-mortem report and it was noted therein that cause of death in this case will be given after receipt of chemical analysis report. CFSL report merely indicated that stomach, intestine with contents and liver, spleen and kidneys and also 5 ml blood sample tested positive for active constituents of kaner. Such a condition may or may not be caused by poisoning and there might be other reasons. Thus, CFSL report did not enable the court to conclude that deceased died of poisoning or to any specific conclusion with regard to kind of poison which caused his death. This circumstance i.e inconclusiveness with regard to poison was in itself sufficient to lead to benefit of doubt being given to appellant and her consequent acquittal. Thus, the appellant was acquitted of all the charges against her and the appeal was allowed.  

The State had filed an appeal against acquittal of the appellant from the charges under section 498A, 302, 201 read with section 149 and sections 3, 4 and 6 of the Dowry Prohibition Act, 1961. Death of a married woman inside her matrimonial home in suspicious circumstances. The doctor who conducted the post mortem preserved the viscera for chemical examination and after receipt of the report of such examination furnished his opinion as to the cause of death as asphyxia as a result of throttling. Held, in case where the death of a married woman takes place in secrecy inside her matrimonial home, the inmates of that house are under a legal obligation to explain how the death occurred as it will be within their personal knowledge and if they fail to come out without any explanation, an inference should be drawn against such persons that they were responsible for the death of such woman. None of the accused have come out with any explanation either during examination of prosecution witness or during their examination under section 313 CrPC. However, having regard to the fact that in the portion where the death of the deceased occurred, only deceased and her husband were living and other accused persons were residing in other portions and since the death occurred during midnight, it is reasonable to infer that accused No. 1 being her husband, was the only other person present inside the house when the death occurred. It was not the defence of A1 that during that night he was not in the house. Therefore A1 alone had the personal knowledge about the cause of the death of the deceased and a duty to explain it, which he failed to do. Therefore an adverse inference was drawn against him. The appeal was partly allowed by modifying the conviction.\(^{70}\)

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a) **Background of the case:** This appeal had been filed in order to challenge the order of the Learned Single Judge of Rajasthan High Court at Jodhpur directing acquittal of the respondent who was tried for allegedly committing the offences under sections 8 read with section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). The learned Special Judge, NDPS found him guilty and sentenced him to undergo imprisonment for 10 years and to pay a fine of Rs. 1 lakh and on account of non-payment of fine, additional rigorous imprisonment for one year was awarded.

b) **Facts of the case:** The SHO, PW5, was conducting a routine checking of the vehicles on the road, near village Ramseen. In the evening, Bhiya Pam the accused along with another came riding on a motorcycle, which had no number plate and when they were asked to stop they did not stop. They were chased by the police jeep and ultimately the motorcycle was stopped. According to the prosecution, the motorcycle was searched and large quantity of opium was seized. Both were arrested and a case under the abovementioned section of NDPS Act, was registered. The trial court acquitted the other accused but not the present appellant. Hence, the present appellant preferred an appeal to the High Court on the ground that the samples which were allegedly collected at the time of recovery did not reach the Forensic Science Laboratory, Jaipur intact and on that ground alone the accused was entitled to acquittal. The High Court however held that there was non-compliance with respect to section 55 of NDPS Act and the evidence of PW1 and PW11 clearly shows that the requisite procedures under section 55 were not followed.
c) **Typology of Forensic Evidence Used in the Case:** The samples which were collected from the spot were sent for chemical examination to determine the nature of the chemical.

d) **Report Of The Experts Regarding The Case:** As per the chemical examination report which was marked as Ext. P-27 the material sent for examination was found to be opium containing morphine.

e) **Ground For Accepting The Forensic Evidence:** The Supreme Court held that the effect of samples reaching with the intact seals had been considered by it in a large number of cases\(^71\), therefore, on the basis of such experience the impugned judgment of the High Court was set aside.

f) **Impact of Forensic Evidence (Remission For consideration):** The impugned judgment was set aside and the matter was remitted to the High Court to reconsider it according to law. This course had been taken by the Supreme Court as the impugned order was a debatable and was not subject to discussion and reasoning. Hence the appeal of the State was allowed\(^72\).

61. **State of Rajasthan v Daul (2009) 14 SCC 387**

a) **Background of the case:** This appeal was directed by the State of Rajasthan against the judgment of the Rajasthan High Court acquitting the respondent who was convicted under sections 8 and 18 of the NDPS Act, 1985 and was convicted by the Sessions Judge and sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs. 1 lakh with default stipulation.

\(71\) *State of Rajasthan v. Daul* (2009) 14 SCC 387  
\(72\) *State of Rajasthan v. Bhiya Ram* (2009) 14 SCC 390
b) **Facts of the case:** The police party on getting information that the accused having opium in possession would pass through a place on foot from the village, proceeded towards the spot in a government vehicle and caught hold of the person who was carrying gunny bag on his head. Thereafter, the accused was informed about the secret information and that he was to be searched. Before making the search, the respondent-accused was given a notice Ext. P-3 under the provisions of section 50 of the NDPS Act, asking him whether he wanted to be searched before the Magistrate or a gazetted officer upon which the accused consented for being searched by PW1. Thereafter the accused was searched in presence of two witnesses namely PW6 and PW 13. During search, from the gunny bag, a plastic bag containing black-brown substance was recovered and it was assessed as nothing but contraband opium and on being asked the accused told he had no valid licence to keep the opium. On weighing, it was found to be 6 kg out of which two samples of 30gm each were taken for the purposes of chemical analysis. Thereafter one sample was handed to PW8 for the purpose of depositing it in FSL. PW5 took the sample to SP Office and after obtaining a forwarding letter Ext. P-12 from the SP deposited the sample in FSL and obtained receipt, Ext. P-13.

c) **Typology of Forensic Evidence Used in the Case: Chemical examination** of the substance was conducted as it was assessed to be contraband opium.

d) **Report Of The Experts Regarding The Case:** The FSL Report was marked as Ext-P-16, in which it was reported that the sample contained in the packet marked A-1 gave positive tests for the chief constituents of the coagulated juice of opium poppy having 3.6% morphine.
e) **Ground For Accepting The Forensic Evidence**: In appeal the only stand of the respondent was the samples were in the custody of one Jamnalal, who was not examined which rendered the prosecution version unacceptable. On the basis of this point only, the High Court had set aside the conviction passed by the trial court. The learned counsel for the appellant State pointed out that non-examination of Jamnalal could not be fatal to the credibility of the prosecution version. The entire scenario, starting from the seizure of the sample till their receipt at the FSL and the report thereafter clearly proves that the samples were not only sealed but were also kept in proper and safe custody. According to him if the seal was intact, there was no question of possibility of any tampering. The Supreme Court also justified the version of the learned counsel for the State and held that the conclusion attempted by the High Court was unsustainable in the view of the FSL Report which clearly stated that the seals were intact and matched with the specimen seals. Hence the issue raised by the learned counsel for the respondent accused that if Jamnalal was not examined, there was possibility of the sample being tampered is baseless. Again the court relied on the case of Hardip Singh, to explain the circumstances of the case and held that the present case was on a much better footing.

f) **Impact of Forensic Evidence (Convicted)**: The judgment of the High Court was set aside and the judgment of the trial court was restored. The respondent was directed to surrender to the custody to serve out the remainder of sentence.

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74 State of Rajasthan v Daul (2009) 14 SCC 387
The appellant was charged under sections 302 and 498A. The trial court recorded acquittal. The High Court, while affirming acquittal under section 498A IPC and section 4 of Dowry Prohibition Act, however convicted him under section **302 IPC**. Post mortem of the deceased was conducted and the viscera were preserved for chemical analysis. Held, opinion of doctor regarding death due to asphyxia did not satisfy the test laid down in Modi’s Medical Jurisprudence. No mark of violence was present. Conclusion that husband alone was responsible for death of deceased was difficult to accept. The prosecution story, suggesting strong motive on part of appellant to commit murder, thus ruled out. Conclusion that because of plastic bottle, which at some point of time contained **poison**, was found near cot of deceased did not imply that the appellant husband deliberately kept it to raise a false plea, which might lead to surmise and conjecture. Therefore, the appellant husband was **acquitted** and the appeal was allowed.  


Present appeal had been remanded by Apex Court wherein accuser’s special leave appeal was admitted and order of conviction under section 376 and 511 IPC and section 57 of Bombay Children Act, 1948, passed in State appeal by this court was set aside and directed to decide afresh. Held, there was no doubt that other witnesses including report of **Chemical Analyzer** had fully corroborated statement of victim in its entirety. Merely because there were some small discrepancies or improvement in statements would be no ground to disbelieve statement of victim and give advantage of acquittal to accused. Doctor’s statement was not ultimate test to prove case of rape. Doctor, had nowhere stated that upon examination, he was of opinion that there was no penetration of any nature whatsoever in relation to victim. Merely because hymen was not torn and

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75 Subramanium v. State of Tamil Nadu And Another (2009) 14 SCC 415
there was no bodily injury by itself, would be no ground to reject case of prosecution particularly in view of unequivocal and trustworthy statement of victim and other witnesses and more particularly in view of statement of panchas and Chemical Analyzer’s report. As found accused was guilty of offence under section 376 of IPC and section 57 of Bombay Children Act, 1948. Therefore previous conviction upheld.\textsuperscript{76}

64. Union of India v. Bal Mukund & Others (2009) 12 SCC 161

a) **Background of the case:** Aggrieved and dissatisfied with the decision of the High Court, of Madhya Pradesh for recording acquittal of the respondent, the Union of India filed this appeal before the Supreme Court. The trial court charged the respondents 1 and 2 under section 8 and 18 of the NDPS Act.

b) **Facts of the case:** Secret information was received by a sub-inspector that two people would be carrying about 20 kg of opium. A preventive party was formed and it reached the place where it found the two respondents were carrying cement gunny bags. On their search, 10 kg of opium packed in five polythene bags of 2kg each from each of them were said to have been recovered

c) **Typology of Forensic Evidence Used in the Case:** The contraband recovered from the respondents 1 and 2 was sent for chemical analysis.

d) **Report Of The Experts Regarding The Case:** The report of the Assistant Chemical Examiner, Government Opium and Alkaloid Works showed presence of 01.68% and 02.05% of morphine by B.P. extraction from the first sample and the second sample respectively.

e) **Ground For Rejecting The Forensic Evidence:** The High Court acquitted the accused on many grounds, among which one of the grounds was that the sample of the narcotics were not taken in terms of the Standing Instruction and by

\textsuperscript{76} The State of Maharashtra v. Suresh Shankar Jadhav (07.05.2009 – BOMHC) MANU/MH/0356/2009
complying section 55 of the NDPS Act. The explain the question regarding the non-compliance while taking the samples and section 55, the Supreme Court explained that the Standing Instruction 1/88 which had been issued under the Act, lays the procedure for taking samples. The High Court has noticed that PW7 had taken samples of 25 gm each from all the five bags and then mixed them and then sent them to the laboratory but there was nothing to show that adequate quantity from each bag had been taken. Regarding compliance to section 55 the court reasoned that PW7 did not testify as to which of the bags seized had been sent for analysis, neither any statement was made by him that the bags produced were the bags in question which were seized or the contraband was found in them. The court was of the view that High Court had arrived at proper finding in respect of all the points of issue including seizure and taking of samples for the purpose of chemical examination which were doubted.

f) Impact of Forensic Evidence (Acquittal): On the basis of the aforementioned reasons the court did not see any reason to interfere with the judgment of acquittal. Hence the appeal was dismissed accordingly.


The appellant had been convicted under sections 302 and 328 IPC. Held, Aluminium Phosphide poisoning cannot be administered by deceit. Two persons cannot commit suicide at the same time and in the same manner. The recovery effected from the house of the appellant on the same day containing the remaining tea and the utensils showed the poison to be Organophosphorus. Therefore the chain of circumstances was complete, which proved the prosecution case without any reasonable doubt. Report of the scientific experts may be used as evidence in any enquiry, trial or other proceedings of the court in terms of section 293 CrPC but the chemical examiner does not, as a rule, give an opinion as to cause of death, but merely gives report of chemical examination of the substance sent to him. FSL report could not be relied upon so as to cast a doubt on the prosecution story. Thus in view of the eye witness account and the medical

77 Union of India v. Bal Mukund & Others (2009) 12 SCC 161
evidence, reliance on the FSL report was not tenable. Appeal was thus dismissed. Conviction upheld.\(^7\)


a) Background of the case: The appeal had been preferred against the judgment and order passed by the High Court of Kerala, reversing the judgment of acquittal recorded by the Sessions Court wherein the appellant was charge-sheeted for murdering his wife under section 302 IPC, Sweety, by giving her sodium cyanide.

b) Facts of the case: The deceased, Sweety died under mysterious circumstances within fifteen days of her marriage in her parent’s house. The appellant Babu, had been employed in the Gulf in a firm dealing with golden jewellery. The couple after marriage stayed for two days with the brother of the appellant at Ollur and they came back to Chalakudy as the parents of Sweety arranged a reception for them at their house. After that, the appellant left Sweety at her parent’s house and went to see his mother as she had undergone a surgery. On returning back to Sweety’s place at 10.30 p.m. he found that the door of her room was bolted from inside and there was no response on calling to her. When the door was broken by the appellant and her father, Sweety was found unconscious lying on the floor. She was taken to Government Hospital where she was declared dead by the doctors. PW1, the father of the deceased lodged an FIR. The inquest was conducted and then a post-mortem was conducted and the deceased was buried thereafter. The Deputy Superintendent of Police while conducting the investigation of the case received information that just few days prior to the incident the appellant had procured cyanide, thus he was arrested.

\(^7\) Anita v. State of Haryana (22.03.2010 – PHHC) MANU/PH/0118/2010
c) **Typology of Forensic Evidence Used in the Case: Chemical analysis** was conducted during post mortem as the post mortem report revealed that Sweety died of cyanide poisoning.

d) **Report Of The Experts Regarding The Case:** In the opinion of Dr. V.K. Ramankutty, Professor of Forensic Medicine (PW 17), Sweety died of hydrocyanic acid. The said witness also opined that ante-mortem injuries found on the body of Sweety could be caused on contact with the rough surface on falling after consumption of poison and peeling of cuticle might have been due to fall of vomitus containing cyanide as cyanide is a corrosive substance.

e) **Ground For Accepting The Forensic Evidence:** It was clear from the evidence of the doctor, PW 17, that sodium cyanide is a highly corrosive substance and even the fall of vomitus containing the same it was sufficient to cause the peeling of a person’s cuticles. The court also believed the statement of the doctor that that death from cyanide poisoning generally occurs within 10 to 20 minutes of consumption of the poison.

f) **Impact of Forensic Evidence (Acquittal):** This case was based on circumstantial evidence, and according to the court in cases of circumstantial evidence, motive of the accused must be established at least to a certain extent. But motive could not be established in this case as if the appellant intended to murder Sweety he could have administered the poison much before as he procured the poison many days before the death of Sweety. Moreover according to the court the High Court also erred in emphasizing that onus of prove innocence lies on the accused. In fact the prosecution had to prove its case beyond reasonable doubts because in case of circumstantial evidence, the burden on prosecution is always greater. Therefore the judgment and order of the High Court was set aside and judgment and order of the trial court was restored. Therefore in this case the evidence of the expert helped in the acquittal
of the appellant as the prosecution evidence was contradictory to the expert evidence.\textsuperscript{79}


Present appeal was filed against conviction of appellant under sections \textbf{304B and 498A}. Held, medical report stated that cause of death was poisoning. The viscera of the deceased were subjected to chemical analysis. But, the chemical analysis report regarding viscera did not disclose any poison regarding which the court opined that merely because the C.A. report regarding viscera did not disclose any poison, it will not cast any doubt on the evidence of PW2, the doctor, who substantiated his findings regarding death due to poisoning by cogent reasons. The deceased did not hang herself as alleged by the appellant. It meant that she was hanged after giving poison to her, to make murder case as case of suicide. Before death of deceased she was subjected to cruelty and harassment by appellant and other family members. All ingredients of dowry death punishable under section 304B was fully established beyond doubt. Hence the appeal was dismissed and the conviction upheld.\textsuperscript{80}


Present appeal was filed against order of conviction under sections \textbf{201, 304B and 498A IPC} and section 4 of the Act. Held, considering evidence available on record such as room of deceased was closed from inside, prosecution had failed to adduce any positive evidence regarding presence of appellants at time of incident in room where the dead body of deceased was found in burnt condition. Blood samples of the deceased along with other articles were sent for chemical examination. The report regarding

\textsuperscript{79} Babu v State of Kerala (2010) 9 SCC 189

\textsuperscript{80} Ganesh v. The State of Maharashtra (09.03.2010 – BOMHC) MANU/MH/0274/2010
articles was not available on record. Categorical opinion of surgeon that cause of death could not be ascertained, absence of FSL report with respect to blood samples of deceased collected during postmortem and other articles failed to point towards the guilt of the accused. Therefore appeal was allowed, conviction was set aside and appellants were acquitted.\footnote{Jitendra Kumar and Ors. v. State of C.G. (10.09.2010 – CGHC) MANU/CG/0262/2010}


The Additional Sessions Judge Fast Track Court convicted A-1 to A-4 under the under sections \textbf{341 and 302 read with section 34 IPC} for wrongful restraint and murder. Hence this appeal. Evidence of PW1 had clearly narrated incident and made mention of name of A-1 in the FIR. Therefore his evidence was accepted since it was trustworthy. Moreover criminal jurisprudence did not require quantity of evidence but only quality of evidence. Other piece of evidence was medical evidence and recovery which stood fully corroborated with ocular testimony. All the material objects were sent for \textbf{chemical analysis}. \textbf{Chemical analysis} report, serology report and Toxicology report were received. Hence A-1 was found guilty under section 302 read with section 34 IPC. Insofar as other persons who were present at time of occurrence were concerned they were not known to PW1. Thus, prosecution had failed to prove its case insofar as charge leveled against A-2 to A-4 was concerned and that part of judgment had got to be set aside. Therefore Criminal Appeal was allowed in respect of A-2 to A-4 and the same were dismissed in respect of A-1 and A-1 was \textbf{convicted}.\footnote{Killer Thiayagu v. State (15.12.2010 – MADHC) MANU/TN/3660/2010}


The appellant was convicted under section \textbf{376(2)(f) of IPC}. Present appeal was filed challenging the order on ground that medical evidence and medical certificate showed that there was no signs of recent penetration. Held, evidence revealed that the act could not be completed as grand mother came to the scene while accused withdrew from the act. Sufficient material was on record to show that medical evidence was clearly
supported by prosecution witness. Chemical analysis report did not detect any semen or sperm. Prosecution had established their case beyond reasonable doubt. Therefore the conviction was justified and the appeal was dismissed.\textsuperscript{83}

71. Nanhar & Others Vs State Of Haryana (2010) 11 Scc 423

\textbf{a) Background of the case:} Aggrieved by the judgment and order of conviction passed by the Division Bench of High Court of Punjab and Haryana, affirming the judgment and order of conviction of the Additional Sessions Judge, Bhiwani imposing rigorous imprisonment for life together with fine of Rs. 2000, the present appeal had been presented to the Supreme Court.

\textbf{b) Facts of the case:} Kartar Singh was the elder brother of Vijay deceased who had filed the application before the Superintendent of Police Bhiwani, who was a resident of village Malkosh Tehsil Charkhi Dadri, District Bhivani. His younger brother Vijay, the deceased, was residing in Malkosh and was looking after the agricultural land owned by them. One Bhajani wife of Roop Ram, of the same village was on visiting terms to the house of Vijay as he was having small flour mill in his house. She used to come for grinding of wheat and a rumour had spread in the village that she had forced her own daughter-in-law Kamlesh, wife of Rampat, one of the accused herein, to have illicit relations with deceased Vijay. In lieu whereof it was said that she had received a sum of Rs. 1,000/- from Vijay. It was also the case of the prosecution that Vijay and Kamlesh were seen in the field by many villagers and they had a doubt about their relationship. Rampat, the accused, came to know about the said relationship. Therefore, he along with other co-accused Nanhar Virender and Rajbir decided to finish Vijay. On coming to know about the motive of the accused, Vijay had left village Malkosh for some time. It was further mentioned that aforesaid four accused had told PW.11 Dalip, uncle of deceased Vijay, about their intention. They wanted to take revenge on Vijay on account of his relationship with Kamlesh. They further informed that this illicit relationship will not be tolerated by them and therefore they are planning to kill Vijay. On 24/2/2004 PW.7 Sudesh, cousin of deceased Vijay informed PW.9 Kartar Singh, on

\textsuperscript{83} Kunjumon v. State of Kerala (11.11.2010 – KERHC) MANU/KE/2895/2010
telephone that Vijay has been murdered and his dead body was lying in his field. It was further informed that some poisonous substance was administered to Vijay by accused Nanhar, Virender and Rajvir and Rampat. He was asked to reach Malkosh from Rewari immediately. On the same night, Kartar Singh reached village Malkosh and found his brother dead. On enquiries being made by him it was found from the villagers that he has been killed by administering poisonous substance by aforesaid persons. This fact stood fortified from a small note said to be Vijay's dying declaration, written on the inside paper of the match box, recovered from the pocket of the deceased pants where he had mentioned the names of the accused as they were mixing sulphas in the liquor offered to him for drinking. Thereafter a written complaint dated 27.2.2004 was submitted by Kartar Singh to Superintendent of Police, Bhiwani. On the report of the death of the deceased ASI Raj Kumar reached the spot and prepared the inquest report where he reported that the victim appears to have taken poisonous substance.

c) **Typology of Forensic Evidence used in this case:** In the FSL report marked as (Ext. P-1) a **poisonous substance** was found in the body of the deceased. **Chemical analysis** was conducted to determine the chemical present from the materials recovered from the crime scene.

d) **Report of the experts regarding the case:** Post-mortem on the dead body of the deceased Vijay was performed by PW.4 Dr. Kuldeep Singh. Post-Mortem Report is marked as Ext.PD. Doctor has opined that deceased was aged about 32 years, well built, having a height of about 5' 6 He has further categorically recorded that on the dead body no bruises or wounds were found. Bladder and stomach both were found to be empty. The time of death was shown to be 36 hours prior to performing of post mortem. The cause of death was shown to be excessive drinking of alcohol with poisonous substance. The poisonous substance was found to be aluminium phosphide according to the FSL report. According to the doctor, consumption of excessive alcohol coupled with poisonous substance was sufficient to cause death in ordinary course of nature. From the post-mortem report Exh. PE and also from the deposition of Dr. Kuldeep Singh-PW.4, either deceased had met with homicidal death or committed
suicide. Report of the Chemical Examiner dated 6.10.2004 shows that the packets were received by him only on 10.3.2004 but no remnants of poisonous substance were found either in the two bottles or in the steel glass that were recovered from the place of occurrence. But poisonous substance was found only in the earth so collected from the place of occurrence and it had been described as aluminium phosphide by the chemical examiner.

e) Ground For Accepting The Forensic Evidence: The court considered the view of doctor Kuldeep Singh, PW4 that the death of the victim was caused from drinking of excessive alcohol with poisonous substance and also the report of the chemical examiner. The court also confirmed the view from HWV Cox Medical Jurisprudence and Toxicology. In the book while coming to the general behavior after excessive drinking, apart from other things it has been specifically mentioned under the heading “Character of Handwriting” that there is often difficulty with letters, N, M and W when a person writes with excessive drinking. In the same book, it is further described that after drinking excessively the blood with alcohol reaches all the organs, mainly the brain and interferes with normal brain functions like judgment and coordination of muscular movements. The blood of alcohol level influences the behavior of the person. The amount of alcohol present in the stomach and intestine has no effect but only indicates the ingestion. From the explanation of the text which proved the view of the doctor, the court concluded that after going through the handwriting of the dying declaration Ext. PG, it would be extremely difficult for the victim to write it as it was not possible for him after the drinking of excessive alcohol to be in a fit mental condition to have written the same. Therefore, the part of dying declaration had not believed by the court and it was a matter of suspicion to the court that without considering this matter how the trial court and Division Bench of the High Court found the appellant guilty for the commission of the offence of murder of the deceased.

84 HWV Cox, Medical Jurisprudence and Toxicology 936( 7th edn), under title ‘Alcohols’
Impact of Forensic Evidence (Acquittal): The decision of the Supreme Court in this judgment resulted in acquittal of the accused. The Supreme Court considered the judgment and order of conviction under section 302 IPC passed by the Trial Court and the High Court and it considered that they cannot be sustained in the eye of law. They were accordingly set aside and quashed. As a necessary consequence thereof, the appellants were set at liberty forthwith, if not required in connection with any other criminal case. In this case on the basis of the forensic evidence, which was contradictory to the prosecution evidence, the Supreme Court acquitted the accused persons\textsuperscript{85}.


The accused was convicted under section 302 IPC and sentenced to RI for life. The doctor who conducted autopsy on the dead body opined that R died due to gunshot injuries. The pant, shirt, baniyan and earth which were stained with blood were sent for chemical examination. The chemical examiner gave report which was marked as Ext. Ka-24. Entire incident of shooting was graphically described by PWs 2 and 3. They narrated the previous incident of disharmony between the appellant and the deceased. They also adverted to previous attempts by appellant to harm deceased. Eyewitnesses version corroborated by medical evidence, chemical examiner’s report and dying declaration. Trial court as well as the High Court, upon consideration of entire ocular evidence had concluded that both PW2 and PW3 had given a consistent version of various incidents and enmity between deceased and appellant. Held, the conviction of the courts below was upheld and the appeal was dismissed.\textsuperscript{86}


Whether conviction of appellant under section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 was justified. Held, Court found when sample was redeposited with MHC, as stated by Constable then it was not understood as to why there was delay of more than two months for sending it for analysis to C.F.S.L.

\textsuperscript{85} Nanhar & Others v. State Of Haryana (2010) 11 SCC 423
This doubt was required to be removed by prosecution by adducing reliable evidence on that behalf, more specifically when there was contradiction with respect to samples having resealed at three or four places as aforesaid and seal used by Police at time of recovery and re-sealing remained with police and NCB forms, which allegedly contained facsimile of seal, were withheld. Thus report of analysis of sample could not be connected with recovery of alleged contraband from appellant. Also Court found that report issued by Director of Forensic Science Laboratory, fell short of requisite particulars. Chemical Report stood not connected with recovered stuff and it also did not prove that stuff recovered were charas within meaning of the Act. Accordingly, conviction and sentence of appellant passed by trial court was unsustainable and was therefore set aside. Thus appeal was allowed and acquittal given.\textsuperscript{87}

\textbf{74. Sanjay Kumar v. State and Others (10.02.2010 – JKHC)}

MANU/JK/0001/2010

This appeal was preferred against the judgment whereby appellant was convicted for offence punishable under section 363 and 376 of Ranbir Penal Code, 1989. Held, the testimony of the prosecutrix was trustworthy and did not require corroboration. Although chemical examination was performed there was no trace of semen on the vaginal swabs. Defence could not take advantage of bad investigation where there was clinching evidence available to the prosecution. Hence, the prosecution had been able to prove its case beyond reasonable doubt. Appeal was dismissed and conviction upheld.\textsuperscript{88}

\textbf{75. Sri Halappa @ Harthal Halappa s/o Hiriya Nayaka v. The State of Karnataka, DSP rep. by Public Prosecutor, High Court of Karnataka (27.05.2010 – KARHC) MANU/KA/0622/2010}

The accused was convicted for rape under section 376 IPC. Hence this appeal. Though in the instant case, there is a delay in lodging the complaint, but the statement of the

\textsuperscript{87} Renu Gogar v. State of H.P. (08.01.2010 – HPHC) MANU/HP/1258/2010

\textsuperscript{88} Sanjay Kumar v. State and Others (10.02.2010 – JKHC) MANU/JK/0001/2010
victim clearly indicated that without consent, accused had forcible sexual intercourse with her. Even the apparels of the accused as well as the victim have been seized under the seizure panchnamas which were subjected to chemical examination for discovering the traces of blood, semen etc. Held, drawing of blood sample for detection of offence of rape wherein investigating agency has to establish its case beyond reasonable doubt cannot be termed as violative of Article 20(3). Offence of rape is a very serious offence and it is an offence against society at large. Order of the trial court was upheld and the appeal was dismissed upholding the conviction.89

76. State of H.P. v. Neeta Ram and Ors. (27.08.2010 – HPHC)

MANU/HP/0549/2010

Present appeal was filed against order whereby the respondents were acquitted from charge under sections 34, 363, 366 and 376 of IPC. Held, it appeared that certainly victim was above 16 years of age. Therefore conduct and act of victim showed that she stayed with respondent by her own sweet will. Conduct of victim showed that there was consent on her part to be in company of respondent. Therefore question of kidnapping or abducting her would not arise. Two sealed parcels were deposited with the Chemical Examiner. Therefore, prosecution had failed to establish its case. Hence, appeal was dismissed and the respondents acquittal was upheld.90

77. State of Orissa v. Ardhu Chendreya (05.10.2010 – ORIHC)

MANU/OR/0525/2010

The accused was convicted under section 302 and 376(2)(f) of IPC and sentenced to death by the Sessions Judge. The Scientific Officer, PW14, proceeded to the spot and collected blood-stained earth, sample earth, straw stained with blood, a half pant and printed lungi of the deceased. These material objects were sent for chemical examination. The chemical examination revealed that the sample earth and the blood

89 Sri Halappa @ Harthal Halappa s/o Hiriya Nayaka v. The State of Karnataka, DSP rep. by Public Prosecutor, High Court of Karnataka (27.05.2010 – KARHC) MANU/KA/0622/2010
90 State of H.P. v. Neeta Ram and Ors. (27.08.2010 – HPHC) MANU/HP/0549/2010
stained earth taken from the spot were similar with respect to their physical characteristics. Further human blood was found on the blood-stained earth, the blood-stained straw and other articles. The scientific finding very objectively determined the spot of occurrence. Held, a death reference was made by the state and the accused filed an appeal against the conviction. In view of mitigating circumstances, namely, convict had no criminal background, during his detention no adverse report had been submitted by Jail Authority, accused had a family to support and had small children and there appears to be no premeditation or previous planning to commit offence and giving maximum weightage to mitigating circumstance, the Court held that the severest of punishment i.e death penalty was not proper in this case. Thus, the accused was convicted under section 302 and 376(2)(f) IPC but the conviction of death penalty imposed on him was modified to punishment of imprisonment for life, with further condition that in this case remission of sentence should not be considered before completion of 25 years of incarceration. Reference made by Sessions Judge was accordingly discharged and Criminal Appeal filed by appellant was partly allowed.  


a) **Background of the case:** The High Court of Delhi confirmed the judgment passed by Learned Additional Sessions Judge convicting the appellant under section 302 and sentencing him to rigorous imprisonment for life and a fine of Rs. 2000. The appeal by special leave, was preferred before the Supreme Court to question the legality of the judgment of the said High Court.

b) **Facts of the case:** The marriage of deceased Shashi was solemnized with the appellant, after which the deceased started living with the appellant at his place of residence in Chandigarh. Thereafter the deceased gave birth to a girl child after which the deceased went to Chandigarh to reside with the appellant. After a few months the appellant with his wife and child came to Delhi from Chandigarh, where they visited the parents of both. After taking dinner in the

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house of the parents of the deceased, all of them returned to the house of the parents of the appellant and retired to bed at about 11.30 p.m. At 2.30 a.m. shrieks of the deceased were heard and she was found engulfed in the flames. At about 2.45 p.m. deceased was admitted to the hospital at New Delhi by her husband where the duty constable posted informed the ASI. The ASI along with one constable went to the hospital and collected MLC of injured Shashi wherein it was mentioned that the injured got admitted at 2.45 a.m. by her husband and Dr. S. K. Bindal. It was also mentioned therein that the accident occurred due to the exploding if the stove. It was further mentioned in the said certificate that her clothes smelled of kerosene oil and she had received extensive burns all over the body and face. The deceased ultimately succumbed to her burn injuries after which the father of the deceased submitted a written complaint against the appellant and his family members for burning his daughter to death. On the basis of the complaint the appellant and his mother were chargesheeted under sections 302 and 34 of IPC and investigation commenced.

c) **Typology of Forensic Evidence Used in the Case: Medical evidence** on record confirmed that soot particles were present in the stomach of the deceased. According to Dr. Bernard Knight who had authored Medical Jurisprudence and Toxicology, if soot particles are found in the body parts it is regarded as a common case of conflagration.

d) **Report of the Experts Regarding the Case:** Dr. G.K. Sharma, who conducted the post-mortem examination found superficial burns all over the body except some parts. According to the doctor, the approximate area of burn was about 90%. On internal examination, it was found that all the organs were congested. According to the doctor, the death of the deceased was due to shock and toxaemia due to burns by fire.
e) **Ground For Accepting The Forensic Evidence:** The presence of soot particles in the stomach indicates that the injuries could have been sustained by the deceased only in a conflagration and that too in a closed area. The instinct of survival would have made the deceased to run in an open place but in this case, the record does not indicate such attempts were made by the deceased to run towards any open space and positively establishes that she was found at the end of the passage which hardly measures 12’ x 3’.

f) **Impact of Forensic Evidence (Conviction):** From the facts and circumstances of the case, the court was of the opinion that no error was committed either by the trial court or the High Court in **convicting** the appellant under section 302 IPC for committing murder of his wife. Therefore, the appeal was dismissed as it lacked merit\(^\text{92}\).


The appellant accused were convicted under sections **302, 364-A, 120B and 201 IPC** for the offence of kidnapping for ransom and murder of a young boy aged about 16 years. Testimonies of PW’s were found credible and corroborating each other. PW’s had no animosity against appellant accused. The post mortem of the dead body was carried out by a team of two doctors but no conclusive report as to the cause of death was given but after the report (Ext. PZZ) of the **chemical examiner** the doctors opined that the cause of death was chloroform and pentazocine poisoning. Purchase of chloroform by accused from his shop was proved by PW4, while PW5 proved purchase of fortwin injections. Factum of overdose of chloroform and pentazocine, which was a lethal combination administered to deceased was proved. Death penalty of V and J was

\(^{92}\text{Vijay Kumar Arora v. State (2010) 2 SCC 353}\)
upheld. Sentence of S was reduced to life. Therefore the accused were convicted and their appeals were dismissed.  93


Appellants challenged the order whereby, they were convicted for offence under section 302/34 of Ranbir Penal Code, 1989. Held, prosecution failed to prove that deceased had died because of the Stone injury inflicted by the appellants. Viscera were preserved, labelled, sealed and handed over to IO for chemical analysis. Medical examination revealed death was caused due to asphyxia. Evidence produced by the prosecution to indicate that appellants were last seen with the deceased before his death could not be said to be sufficient to hold the appellants responsible for the death. Therefore, conviction and sentence was set aside and appeal was allowed. Appellants were thus acquitted.  94


a) **Background of the case:** The appellant along with four others was tried for the charges punishable under sections 498A and 304B and sections 3 and 4 of the Dowry Prohibition Act, 1961. All of them were acquitted of the said charges by the trial court. The State preferred appeal against acquittal in the High Court at Allahabad, The High Court confirmed the order of acquittal of all the other accused except the appellant herein. The High Court accordingly convicted the appellant herein under section 498A and sentenced him to undergo rigorous imprisonment with a fine of Rs. 5000 and he was sentenced to rigorous imprisonment for ten years under section 304B of IPC. The High Court also convicted the appellant for the offence punishable under section 3 of the Dowry Prohibition Act, 1961 and sentenced him to undergo rigorous imprisonment for five years and to pay a fine of Rs. 15000/ and sentenced him to a rigorous

imprisonment for six months and to pay a fine of Rs. 1000. The substantive sentences of imprisonment were directed to run concurrently. Hence this appeal have been preferred.

b) Facts of the case: The deceased Poonam was married to the appellant. Soon after the marriage, the appellant and the other accused allegedly started harassing and torturing the deceased to bring more dowry. She was subjected to mental and physical cruelty repeatedly. The deceased gave birth to a male child about four months before the occurrence and the same constituted another occasion for the appellant and the other accused to demand cash and other valuable articles. One day, the victim called her near relation PW2 that she was subjected to torture and requested him to see her. When PW2 reached her house he heard shrieks of the deceased Poonam, coming out of the house. The appellant and the other respondents were shouting inside the house loudly and they did not allow the victim to meet PW2. PW2 then informed PW1 about the incident. On the next day when the complainant PW1 reached the house along with his sons and PW2, the neighbours informed that the deceased had been taken by the appellant and others to the hospital in a serious condition and the deceased was crying that she had been given poison by the appellant and others. When PW1 and others reached the hospital they came to know that the deceased had expired and her body was lying in the hospital. No accused were present in the hospital. PW1 therefore lodged an FIR.

c) Typology of Forensic Evidence Used in the Case: Chemical examination of the viscera was conducted after post-mortem of the body.

d) Report Of The Experts Regarding The Case: The serologist reported that the viscera contained insecticide poison.

e) Ground For Rejecting The Forensic Evidence: In this case the report of the serologist was not considered by the Supreme Court, although it was considered
by the High Court as according to the court although the High Court concluded
that the deceased died an unnatural death by poisoning within 14 months of her
marriage with the appellant and there was consistent demand of dowry by him
after the marriage, but the court did not discuss that portion of the evidence
which was taken into consideration by the trial court. Moreover, the High Court
did not record any findings that the trial court has misread the evidence or its
findings were perverse. Therefore, the Supreme Court was satisfied that the trial
court, for good and cogent reasons, acquitted all the accused including the
appellant and it is the High Court which committed error in reversing the well
considered judgment of the trial court. It was also noted by the court that on the
same evidence the High Court agreed with the trial court to acquit the other
accused by refusing to rely on the prosecution story but a different yardstick had
been applied so far as the appellant was concerned solely on the ground of the
appellant’s proximity with the victim on the fateful night.

f) Impact of Forensic Evidence (Acquittal): The appeal was therefore allowed
by the Supreme Court setting aside the impugned judgment of the High Court
and acquitting the appellant from all the charges restoring the judgment of the
trial court\textsuperscript{95}.

82. Chadran & Others v State of Kerala (2011) 5 SCC 161

a) Background of the case: The accused and other appellants were tried and
convicted by the Sessions Judge under several sections like 120B, 302, 307,
326, 328 and 201 read with section 34 of IPC and also under section 55(a), (g),
(h), (i), 57-A and 58 of the Kerala Abkari Act, 1077 ME. The accused persons
were sentenced to suffer rigorous imprisonment for life, and also have been
slapped with fines. Some were also subjected to lesser punishments and

\textsuperscript{95} Anil Kumar Gupta v. State of Uttar Pradesh (2011) 11 SCC 24
subjected to heavy fines. They appealed against this verdict to Kerala High Court. The High Court acquitted many appellants leaving behind the present appellants. Hence this appeal has been preferred to the Supreme Court.

b) Facts of the case: Illicit and spurious liquor consumption had taken the lives of 31 persons, 6 persons became blind and 500 people suffered serious injuries due to the said incident. After receiving information the sub-inspector of police reached the hospital and recorded the first information statement. Later he registered a case under section 302, 307 read with section 34 of IPC and under section 57-A of the Abkari Act. Similar cases were also registered in different police stations. Similar cases were registered and consolidated. The investigation machinery quickly responded to the happenings and a Special Investigation Team (SIT) was constituted as per the directions of Director General of Police, Kerala. The prosecution alleged that methyl alcohol which is a poisonous substance used to be brought from Karnataka and mixed with ethyl alcohol. At times, this concoction was mixed with toddy and other essences resulting in a drink called “kalapani”

c) Typology of Forensic Evidence Used in the Case: Chemical analysis was conducted to confirm the chemicals that were present in the spurious liquor.

d) Report Of The Experts Regarding The Case: PW 233, Sindhu, Assistant Director, Forensic Science, clearly deposed that even if there is evaporation, even after 10 days, it is possible to detect the absorbed molecules of the liquid.

e) Ground For Accepting The Forensic Evidence: It was therefore clear from the chemical analyzer’s evidence that scientific evidence collected by the prosecution was rightly relied upon by the courts below and the Supreme Court therefore found no reason to reject the said evidence. So, it was crystal clear that methyl alcohol which was the main culprit, was not only dangerously poisonous substance but was also used in mixing the liquor which was under the control of
A-7, the kingpin of business, who had been helped by his brothers, servants and relatives.

f) Impact of Forensic Evidence (Conviction): The court dismissed the appeals of A-7, A-8 and A-4 subject to modification of the sentences of some of the accused who had already undergone ten years of imprisonment.\(^\text{96}\)


a) Background of the case: The present appeal is directed against the final order of the High Court of Punjab and Haryana at Chandigarh, whereby the High Court upheld the order of conviction of the trial court passed against the appellant under section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and sentenced him to undergo a rigorous imprisonment for ten years and to pay a fine of rupees one lakh and in default of payment of the same, to undergo rigorous imprisonment for another two years, for having being found in possession of 1 Kg and 750 gm of opium without any permit of license.

b) Facts of the case: On 23.09.1994 at around 2.30 p.m., when PW4 Inspector Ram Pal Singh along with SI Gurdeep Singh, ASI Satpal Singh (PW5) and other officials were on duty and coming from Village Hassanpur to Village Mirzapur near the bridge of canal, the police party noticed the appellant coming from the bank of canal. On seeing the police part, the appellant tried to run away but he was apprehended on suspicion. On enquiry, he informed his whereabouts. On search conducted on him revealed incriminating articles like opium in the bag which the police party recovered. Ten grams of opium was put into a tin container as a sample, duly sealed and marked as Ext. P-1 which was

\(^{96}\) Chadran & Others v State of Kerala (2011) 5 SCC 161
also duly signed by the appellant. The appellant also could not produce any license for the possession of the opium.

e) **Typology of Forensic Evidence Used in the Case:** Sample which was recovered from the appellant was sent to the **chemical examiner for chemical examination** and determination of the same.

d) **Report Of The Experts Regarding The Case:** The report of the **chemical examiner** marked as Ext. PJ indicated the sample as opium whose seals were intact when the it was received and tallied with the sample impression of the seal. The report of the chemical examiner was admissible under section 293 of CrPC.

e) **Ground For Accepting The Forensic Evidence:** Although it was pointed out by the learned counsel for the appellant that there was a delay of twelve days in sending the sample of narcotic for chemical examination, the court held the submission as baseless or without factual basis. According to the court, the trial court as well as the High Court, on examination of the entire material, concluded that there was sufficient independent evidence produced by the prosecution regarding the completion of link evidence. Therefore, the delay in sending the sample parcel to the office of the chemical examiner becomes not worth mentioning. The court was of considered the considered view that mere delay in sending the sample of the narcotic to the office of the chemical examiner would not be sufficient to conclude that the sample had been tampered with. There was sufficient evidence to indicate that the delay, if any, was totally unintentional. Moreover, after considering the clear evidence of the chemical examiner, the Supreme Court held that there could not be any infirmity in the link evidence merely because there was a delay of few days in sending the sample to the chemical examiner’s office.

f) **Impact of Forensic Evidence (Conviction):** The court was unable to find any perversity or any miscarriage of justice in the findings of the courts below. So,
the appeal was dismissed on the basis of no merit and the conviction was upheld considering the entire material on record and on the basis of the concurrent findings of the said two courts.


Accused was acquitted of offences punishable under sections 363, 366 and 376 IPC. Hence, the present appeal was filed. Held, medical opinion corroborated the commission of sexual intercourse by R-1. Opinion of the doctor, PW4 was based on the physical examination of prosecutrix and also on the basis of the chemical report. Prosecution had proved its case to the hilt that prosecutrix was raped by R-1. Statements of PW2 and PW3 did not inspire confidence as to the manner they had deposed about the kidnapping and abduction of prosecutrix. Judgment of the trial court, acquitting R-1 was set aside. Acquittal of R-2 and R-3 were upheld. Thus appeal was partly accepted by recording conviction of R-1 under section 376 IPC.

85. Sunil Atmaram v. The State and Ms. X (06.05.2011 – BOMHC) MANU/MH/0673/2011

The appellant was convicted under sections 342, 506(II), 376(2)(a) & (b) of IPC. Hence present appeal. Held, medical evidence of the prosecutrix conducted by PW16, revealed that she might have been subjected to incomplete sexual intercourse. Medical evidence supported version of the prosecutrix that she was raped by the accused. Although chemical examination was conducted, but due to the negative report of the chemical analyzer it was opined by PW16, the doctor that there might be possibility of incomplete sexual intercourse. Testimony of PW3 supported version of prosecutrix. Deposition of PW5, a friend of prosecutrix was also considered and though he was a

97 Jairnail Singh v. State of Punjab (2011) 3 SCC 521

chance witness, his presence at spot was proved by his testimony as well as testimony of police officers. Accused was under influence of liquor at the time he committed the offence as liquor was found in the blood sample of the accused. Prosecution had proved guilt of the accused beyond reasonable doubt. Hence, the appeal was dismissed and conviction sustained.\textsuperscript{99}

86. Surjit Singh v. State of Punjab (02.06.2011 – PHHC)

Present appeal had been preferred by appellant/accused against judgment passed by Sessions Judge, vide which he was convicted under section 302 IPC. The prosecution proved on record that the viscera of the dead body of the deceased was sent to the Chemical Examiner, who reported that Aluminium phosphide was detected therein. After the receipt of that report, Ex. PH, it was opined by Dr. A.K. Aggarwal, PW-8, who conducted post mortem on the dead body of the deceased that in his opinion the cause of death was aluminum phosphide poison. It is in the statement of the deceased, Ex. PI, that when her husband came to the house, she asked him to bring drinking water for her and after she took the water, so offered by the accused, she developed headache and started vomiting and, thereafter, came to know that she had been administered something in the water. Dying declaration so made by deceased, was corroborated by other evidence produced by prosecution. It was stated by PW6 and PW7, that accused used to beat and maltreat deceased. That showed motive on part of accused to commit present crime. On basis of cogent and convincing evidence produced by prosecution, correct findings were recorded by trial court for convicting him for offence under section 302 IPC. Hence, the appeal was dismissed and the conviction was upheld.\textsuperscript{100}

\textsuperscript{99} Sunil Atmaram v. The State and Ms. X (06.05.2011 – BOMHC) MANU/MH/0673/2011

\textsuperscript{100} Surjit Singh v. State of Punjab (02.06.2011 – PHHC) MANU/PH/1917/2011
87. The State of Maharashtra v. Mohammad Ajmal Mohammad Amir Kasab

The present reference came for confirmation of death sentence and appeal was filed against order of death sentence. Held it appeared that appellant used places for prohibited arms. Prosecution proved that appellant had taken part in and committed unlawful activities. It was proved that appellant maliciously caused explosion. It was established that appellant had imported, possessed, used and transported explosives. It was established that appellant committed terrorist act that resulted in death of 166 persons. During the post mortem, the bullets from the bodies of the deceased persons were recovered and sent for chemical analysis. The Chemical Analyzer had stated that the bullets (Articles 306, 308 etc.) which was recovered was a deformed copper jacketed bullet fired from 7.62 mm short rifle. Appellant along with other co-accused who were acquitted, smuggled prohibited arms, pistols and ammunitions and possessed said contrabands which they knew or had reason to believe to be liable to be confiscated. With regard to other accused persons prosecution failed to establish its case beyond reasonable doubt against them. Therefore conviction of appellant was confirmed and for all offence appellant was sentenced to death. Therefore appeal against conviction was dismissed and the death sentence reference was allowed.101

88. Jeyaraj v. State represented by The Inspector of Police,
Thalavaipuram Police Station, Thalavaipuram, Virudhunagar District (15.02.2012 – MADHC) MANU/TN/0695/2012

The appellant was convicted under section 302 IPC. Hence this appeal. Held, evidence of PW2 revealed that accused was not happy about PW2 having given birth to female children only and was interested in begetting male children and decided to have them through another wife. It was found that accused made oral confession to PW7 about killing of his two girl children by giving poisonous substance. The viscera’s of the two dead children contained phosphide which was revealed by the postmortem report.

Further it was evidence of PW17 that accused gave him Exhibit P-6 confessional statement that if he was taken to his house he would produce powder packets and silver vessel. Said powder packets and silver vessels were seized under Exhibit P-7 from house of accused and were sent for chemical analysis. On chemical examination of the said articles phosphide was found. Therefore there was no material contradiction between PW7 and PW 17 and there was nothing significant to discard recovery of MO’s 1, 8 and 9. Moreover in the house of accused his two children were found dead with symptoms of poisoning. However, after cumulative consideration of all incriminating circumstances forms a complete chain without any missing link which unerringly proceeded towards accused as killer of children. Appeal was thus dismissed. Conviction upheld.102


a) **Background of the case:** The appellant, O.M. Baby, had been convicted by the Learned Sessions Judge under sections 376, 506 Part II and 342 of IPC. He was sentenced to undergo rigorous imprisonment for seven years for the offence under section 376, two years imprisonment under section 506 Part II and one year for the offence under section 342 IPC. Additionally, a fine of Rs. 50,000 was also imposed under section 376. Aggrieved by the judgment the appellant appealed before the High Court of Kerala, which was dismissed by reducing the sentence under section 376 to three years. The sentences under section 506 Part II and 342 IPC were maintained but were directed to run concurrently. The present appeal was preferred dissatisfied with the judgment of the High Court. During the pendency of the appeal the appellant died, hence the wife of the appellant was allowed to pursue the appeal.

b) **Facts of the case:** The prosecution had alleged that when PW2, the victim aged about twelve years went to the shop of the accused to buy some things as it happened to be Christmas Day. As the shop was closed from the front the accused, asked PW2 to go inside the shop. Thereafter, the accused supplied the articles as demanded but subsequently came from behind, had put a cloth on the

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face of PW2, took her to the adjacent room and closed the door. He then committed rape on her after putting her into fear of death. Consequently, according to the prosecution, PW2 did not offer any resistance and also did not raise any alarm. PW2 informed about the incident to her mother and she in furtherance informed it to her brother i.e. the maternal uncle of PW2. Then they took the victim to PW1, in the District Hospital at about midnight for medical examination. PW1 issued the report of the medical examination and also informed the gynaecologist (PW18) who came to the hospital and took the vaginal swab and smear of the victim which was sent for chemical analysis. The mother also filed a petition in the Court of the Judicial Magistrate, First Class as according to her the District Hospital might not be fair. On the basis of the said petition the investigating officer of the case got the victim examined by another gynaecologist (PW8) in the Medical Hospital at Calicut. PW8 took the vaginal swab and smear of the victim and sent the same for chemical analysis.

c) **Typology of Forensic Evidence Used in the Case:** Chemical analysis was conducted from the vaginal swab and smear of the victim to determine the presence of semen as it was an alleged rape case.

d) **Report Of The Experts Regarding The Case:** The report of the medical examination of the victim by PW8 marked as Ext. P-8 as well as the chemical analysis of PW18 marked as Ext. P-9 were submitted and received in due course. It was noticed that the first chemical analysis revealed that the sample did not contain spermatozoa whereas the second report analysis revealed that the sample contained spermatozoa which was totally contradictory to each other.

e) **Ground For Rejecting The Forensic Evidence:** The court was of the view that although the two reports of the analysis of vaginal swab and the smear were contradictory to each other but the present case clearly proved and established the circumstances which necessitated the second medical examination of the victim and so a second set of sample of vaginal swab and smear had been taken.
and sent for chemical analysis. The second analysis was conducted on the basis of the application filed by the mother of the victim before the court as she had serious doubts with regard to the fairness of the doctors in the District Hospital who had carried out the first medical examination and had taken the samples of the vaginal swab and smear on the date of the occurrence. The application by PW4, the mother was filed without delay i.e. on 04.01.1994 and the second round of the medical examination and taking of the samples was completed on 06.01.1994. No motive and interest could be attributed to PW8 who had conducted the second round of medical examination and had taken the second set of sample for chemical analysis. From the evidence of PW8, it was also clear that after sexual intercourse, though active spermatozoa would be present for 36 hours, the same would remain in the vaginal canal for as long as 17 days. There was also no evidence to the contrary. In the aforesaid circumstances, the court did not get any reason as to how could the second report of the analysis, Ext. P-9 be ignored. Moreover, the first medical examination also revealed that the victim was suffering from pain, there were bite marks on the private parts of the body and laceration on the lower lip.

f) **Impact of Forensic Evidence (Conviction):** The court did not find any merit in the appeal, accordingly it was dismissed and the judgment of the High Court was affirmed\(^{103}\).


a) **Background of the case:** The trial court found the accused guilty under section 302/34 of IPC and awarded them life imprisonment and a fine of Rs. 5000. Challenging the legality and correctness of the judgment of the trial court, the accused persons preferred an appeal before the High Court. The High Court has

\(^{103}\) O. M. Baby v. State of Kerala (2012) 11 SCC 362
also dismissed the appeal. Therefore this appeal was preferred before the Supreme Court.

b) **Facts of the case:** The accused was married to the deceased and they were staying together. Deceased was three months pregnant. During her last visit to her parental home, she wailed and was not willing to go back to her husband’s house stating that her husband and her brother-in-law would kill her if their demands of dowry were not met. However, the wishes of her parents prevailed and she was sent back to her matrimonial home. After four months of her marriage, the elder brother-in-law of the deceased informed PW7, her uncle that she fell down in the kitchen due to dizziness. After few minutes the elder brother-in-law of the deceased came back and informed that the deceased fell down and froth was coming out of her mouth and thereafter she died. PW7 along with the mother of the deceased reached the place of occurrence and found their daughter was lying dead. Suspecting it was not a natural death and that there had been some foul play on the part of the accused persons i.e. the husband and the brother-in-law of the deceased, PW 3 lodged an FIR. Although the FIR was lodged under section 304B of IPC but the trial court on the basis of the police report and upon hearing both the parties found a prima facie case under sections 302/34 of IPC against the accused.

c) **Typology of Forensic Evidence Used in the Case:** The viscera of the deceased were preserved to be sent to the FSL, forensic and for **chemical analysis**.

d) **Report Of The Experts Regarding The Case:** PW1, the doctor who conducted post mortem stated that the injuries in the body were ante-mortem and there were multiple bruises on the lower abdomen. The neck was swollen and the face was congested and swollen. Although the cause of the death could not be ascertained, the viscera were preserved to be sent to the FSL. The doctor
also deposed that the bruises resemble to black spots. Usually black spots are not noticeable on a dead person but it might cause due to poisoning or suffocation. Bruises and swollen face being congested might be due to some physical assault.

e) **Ground For Accepting/Rejecting The Forensic Evidence:** The doctor could not give a concrete opinion as to the cause of the death. The report of the chemical analyst and the report of the forensic science laboratory were not placed on record so that the court could at least come to a definite conclusion on the basis of scientific analysis. FSL report was not sent, no report was obtained and according to PW11, the viscera could not be examined by the laboratory as it was not sent in time. The court was of the view that the investigation conducted by PW11, the investigating officer and the post-mortem examination by the doctor were improper in their very nature. The court after examining the present case in light of the circumstances held that there was a clear defect in the investigation or omission on the part of the investigating officer, as well as the doctor but that could prove to be of any disadvantage to the accused. The court noted in this regard that the doctor is expected to perform a socialized job. His evidence is of great concern and is normally relied upon by the courts. In the considered view of the court, the doctor had failed to discharge his professional obligations in terms of the professional standards expected of him. In this case his evidence was vague, uncertain and indefinite by which he attempted to misdirect the evidence before the court and had intentionally made it so vague that instead of aiding the ends of justice, he had attempted to help the accused. For the aforerecorded reasons, the DGP was directed to take disciplinary actions against the investigating officer PW1 and the Director General of Health Services were directed to take action against the doctor PW11.
f) **Impact of Forensic Evidence (Conviction):** The appeal was dismissed and the conviction of the courts below was upheld\(^{104}\).


a) **Background of the case:** The Division Bench of Kerala High Court confirmed the judgment and order of sentence of the learned trial judge under sections 323 and 302 of IPC and gave him life imprisonment. No separate sentence was awarded under section 323. Against the said order of the High Court the appeal have been preferred to the Supreme Court.

b) **Facts of the case:** On the fateful day, the victim Raji was sleeping in the bedroom with her husband. Suddenly at 2 a.m. on hearing a scream from the victim, the inmates rushed to the bedroom to find the victim dead. The victim had a love marriage about fourteen years prior to the incident, and bore three children from the said marriage. There was evidence of maltreatment of the deceased by the appellant. Their son PW5 deposed that there were some quarrels between the appellant father and deceased mother which were settled by the intervention of the neighbours and thereby the deceased was sent to her parental home. The incident occurred a couple of weeks prior to the death of the deceased. The appellant also developed suspicion about the character of the deceased and tortured her in the past. There was also evidence of the deceased suffering from burn injuries from cigarette butts inflicted by the appellant. Therefore the relationship between the couple was strained. The body was sent for post-mortem.

\(^{104}\) *Sahabuddin And Another v. State of Assam* (2012) 13 SCC 213
c) **Typology of Forensic Evidence Used in the Case:** The post-mortem report itself revealed signs of **poisoning.** The case of the prosecution was that the death of the victim was caused by cyanide poison which was highly corrosive poison and is obtained by distilling potassium cyanide or potassium ferrocyanide with dilute sulphuric acid\textsuperscript{105}. The administration of corrosive poison was bound to produce local and chemical action of corroding and destroying all tissues which comes in contact with it\textsuperscript{106}.

d) **Report Of The Experts Regarding The Case:** PW7, Dr. N. Rajaram, Lecturer in Forensic Medicine, Medical College Trissur, who conducted the post-mortem examination on the body of the deceased found several injuries on the body of the deceased victim. According to PW7, the post-mortem examination in cases of death by administering corrosive poison, would show that the mouth, lips, skin and mucous membranes are corroded in patches and in acute cases, the same may be charred which had happened in the present case. PW7 also clarified that all the injuries were fresh and could not be sustained by fall on a hard substance. PW7 also deposed that the injuries could be because of forcible administration of poison.

e) **Ground For Accepting The Forensic Evidence:** Only the dispute was whether it was a case of suicidal poisoning or homicidal poisoning. The court held that the injuries found by PW7 showed lacerated wounds on the lips, contusions in the ear and abrasions in the chest which clearly indicate that some force was used while administering the poison. So, according to the court the injuries would not be there in case of suicidal poisoning. Moreover, apart from the appellant no one else was there in the bedroom to apply force on the victim. Court also relied on the statements of PW7 where he revealed that the injuries

\textsuperscript{105} Modi’s *Medical Jurisprudence and Toxicology* 260 (LexisNexis ButterworthsWadhwa, Nagpur, 24\textsuperscript{th} Edn, Year 2011)

\textsuperscript{106} Supra , pg.31
were fresh in nature and could be due to the forcible administration of poison. Therefore, the court concluded that the prosecution had rightly proved that it was a clear case of murder and so there was no reason for interference by the court. Above all the appellant also failed to answer the causes for the injuries when enquired by the trial court.

f) **Impact of Forensic Evidence (Conviction):** The appeal was dismissed and the appellant was ordered to serve out the remaining sentence considering all the facts and concurrent findings of the two courts\(^\text{107}\).


The appellant was convicted under section **302, 376, 394 and 397 and 511 of IPC.** PW26 took over investigation. He procured the assistance of the Scientific Assistant and had blood samples collected along with the samples of soil from the spot. PW26 also seized M.O.’s 5, 6, 7 etc. The statements of the witnesses were recorded. Meanwhile, the accused was arrested. On the basis of the confession statement of the accused MO 16 was recovered. The materials that were collected during investigation were sent for **chemical examination** to the Forensic Science Laboratory and the report Ext. P27 was obtained. The court held that expert opinion does not require corroboration in all cases to form the basis of conviction. Courts have to assess the value of the evidence given by experts, but it will not be proper for any Court to sideline the expert’s evidence as opinion evidence carrying a little value unless there are reasons to suspect the opinion on other grounds to show that the same cannot be accepted. Appeal was thus dismissed and the **conviction** was upheld.\(^\text{108}\)

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\(^\text{107}\) *Shanmughan v State of Kerala* (2012) 2 SCC 788

The accused appellant was convicted under section 302 IPC for the murder of his wife on suspicion of illicit relationship. Accused contended that burn injuries on his wife were caused by an accident, by a burning kerosene lamp, kept by her side. The accused has purchased petrol from the petrol pump belonging to PW5 in a bottle. The chemical analysis report (Ext. PW-15), had clearly mentioned that kerosene was not detected in any of the material objects sent for chemical analysis. In the dying declaration the deceased had suspected that her husband might have set her ablaze. Although in his statement under section 313 CrPC, the accused stated that it was an accidental fire and he tried to save his wife but no burn injuries were found on his body and it had also been clearly established by the medical evidence that the possibility of causing burn injuries from a small kerosene lamp was impossible. Therefore, it was evident that the accused had given a false statement. Consequently the appeal was dismissed and the conviction was confirmed. Court accepted the chemical analysis report.\textsuperscript{109}


a) **Background of the case:** The trial court convicted the appellant, under sections 304B and 498A of IPC, and sentenced him and his parents to seven years rigorous imprisonment which was upheld by the High Court. Hence the appeal is preferred before the Supreme Court. Appellants prayed for sympathetic view regarding sentence as appellant G, father-in-law was about 80 years old and his legs were amputated for severe diabetes and that appellant H, mother-in-law was about 78 years of age and she needed to look after G.

b) **Facts of the case:** Rachhpal Kaur, the deceased married the appellant Kulwant Singh. Although she brought sufficient dowry she had been subjected to harassment and maltreatment by her husband and in-laws for bringing

\textsuperscript{109} Jose v. State of Kerala (2013) 14 SCC 172
insufficient dowry. This resulted in the intervention of the panchayat so that the couple could lead a normal married life, which ultimately did not yield any positive result as after a month later the deceased was found lying dead in suspicious circumstances. The deceased had been taken to the hospital after rigor mortis had set in and froth was coming out from her mouth and nose. The post-mortem conducted on the deceased also revealed that she was carrying a 26-week foetus. Some parts of her body were then removed, sealed and sent for chemical examination to the chemical examiner to the Government of Punjab, Patiala.

c) **Typology of Forensic Evidence Used in the Case: Chemical Examination** was conducted to reveal the cause of the deceased death.

d) **Report Of The Experts Regarding The Case:** The report of the chemical examiner received much later indicated the presence of aluminium phosphide (a pesticide) in the stomach of the deceased and phosphine, a constituent of aluminium phosphide, detected in her liver, spleen, right kidney and right lung. According to PW1, Dr. Asha Kiran, Medical Officer, Civil Hospital, Mandi Gobindgarh, the contents that were found in the body were sufficient to cause the death of deceased.

e) **Ground For Accepting The Forensic Evidence:** The view of the court was that as far as the present case was concerned, the deceased was harassed by her husband and in-laws for dowry and that she died under abnormal circumstances due to aluminium phosphide poisoning. So, according to the court there were sufficient evidence to hold the appellants guilty of offences punishable under the aforesaid sections of IPC. Therefore the court found no reasons to disturb the conclusions concurrently arrived at by both the courts below.

f) **Impact of Forensic Evidence (Conviction):** The court dismissed the appeal as there was no merit in it and upheld the decision of the courts below by noting that law prescribes a minimum seven years imprisonment under section 304B.
There is no provision for reducing the sentence for any reason whatsoever, nor has any exception been carved out in law. The court held, that the fact could not be overlooked that appellant G and H were responsible for the death of the deceased through aluminium phosphide poisoning. The deceased was a young lady when she died and the court could guess the trauma that her unnatural death would have caused to her parents, therefore sympathizing with an accused person or a convict does not entitle the court to ignore the feelings of the victim or their immediate family members. 110


The Principal Sessions Judge convicted appellants/accused for offence punishable under section 302 IPC. Hence, this Criminal Appeal. Held, no reliable evidence was available to show that A-1 and A-2 were having pre-meditation or criminal intention to kill deceased. Dying Declaration of deceased had been corroborated with medical evidence as well as by evidence given by PW8 which had been supported by PW16 who had certified mental fitness of deceased to give such a declaration. Ex. P11, the chemical analysis report had disclosed the fact that kerosene was detected in M.O.2, Blouse, M.O.3 Coconut Shell and M.O.5 Saree.PW9 who had conducted postmortem examination on dead body of deceased had stated in the post-mortem certificate that deceased appeared to have died of complications of superficial burns. PW9 did not say as to whether burn injuries sustained by deceased was sufficient in ordinary course of nature to cause death. Therefore act of appellants was taken out from the ambit of section 302 IPC; instead it was brought under the purview of section 304 of Part I, IPC. Hence, conviction and sentence imposed on A-1 and A-2 under section 302 was set aside. Consequently appellants were convicted under section 304 Part I IPC. Thus appeal was partly allowed.111


Whether impugned order passed by Additional Sessions Court convicting accused-appellant, under section 302 IPC was valid or not. Though the chemical examination clearly revealed that the food, consumed by the deceased gave positive test for organo chlorine insecticide and it was contended that the accused/appellant had put organo chlorine insecticide into curry, fact remained that assumption that accused/appellant had put organo chlorine insecticide into curry, could not be made basis for conviction of the accused/appellant unless court reaches conclusion beyond reasonable doubt that accused appellant was one, who had put organo chlorine insecticide into curry. Order was set aside and the appellant/accused was acquitted.112


The accused appellant was convicted under sections 302, 377 and 201 of IPC. The case was based on circumstantial evidence and the accused committed pederasty (unnatural intercourse between a man and a boy) and murder of a 10 year old boy in most barbaric manner. The accused was referred for medical examination and the blood sample was taken from him. Samples of blood, semen and nail clippings were taken under Ext. 17. On the disclosure of the accused, the shirt worn by him, was recovered. The seized articles were referred for chemical analysis at Nagpur. The reports of the analyzer were marked as Exts. 91 and 92. DNA test was conducted by PW5 who was having an experience of 14 years as a chemical analyst and she had examined thousands of samples including DNA tests. The prosecution was able to prove its case beyond reasonable doubt. The Supreme Court partly allowed the appeal and applied the R-R test and as the accused submitted that he had no previous criminal history and would not be a menace to society, the court commuted the death sentence to life imprisonment.113

113 Anil v. State of Maharashtra (2014) 4 SCC 69

Present appeal was filed against order whereby appellants were convicted under sections 143, 146, 147, 148, 149, 201, 302 and 452 of IPC. Held, material contradictions pertaining to place of finding of right leg slipper created strong doubt about its real presence at spot of offence. Prosecution had not ruled out possibility of articles, could have been tampered with, on account of absence of any evidence regarding sealing of articles. But the seized articles were sent for chemical examination. Evidence adduced by prosecution was not cogent, convincing and sufficient to hold that accused were only persons who were responsible for commission of crime. Therefore setting aside the conviction, acquittal was given and the appeal was allowed in the process.\textsuperscript{114}


The accused appellant was convicted for the murder of his wife under section 302 IPC. The viscera were preserved for chemical examination. The post-mortem was conducted by PW6, the doctor. PW6 directed that the viscera be preserved for Arsenic, Rodenticide, Aluminium Phospide or any other poison. At the time of conducting post-mortem, the opinion regarding the cause of death was withheld which could be given after the receipt of chemical analysis report of viscera which was sent to CFSL. PW4, the Senior Scientific Officer of CFSL in his report opined that it was not a case due to poisoning. The said report and the testimony of PW4 remained unchallenged. The post mortem report indicated that that the deceased had died as a result of asphyxia as a result of compression of neck by hard and blunt object. There were also physical injuries on the body. Accidental or suicidal was death ruled out. Thus, there is clear and affirmative evidence of physical violence and injuries suffered by the deceased. The circumstances completed the chain implicating and proving beyond doubt that the

\textsuperscript{114} Manoj Mahadev Gawade v. The State of Maharashtra (27.08.2014 – BOMHC) MANU/MH/1360/2014
appellant was the perpetrator of the offence. Thus the appeal was dismissed and the conviction was upheld.\textsuperscript{115}

\textbf{100. State of Himachal Pradesh v. Varun Kumar \& Ors. (18.03.2015 – HPHC) MANU/HP/0125/2015}

Present appeal was filed challenging the order whereby, respondents were acquitted for offences punishable under sections \textbf{363, 366, 376 and 377 IPC}. Held, prosecutrix specifically stated that she was raped by one respondent. Medical evidence could not have said to render prosecution version to be false or incorrect. The clothes, vaginal swabs etc. were sent for \textit{chemical analysis}. On the basis of the report of the chemical examiner, the doctor, who medically examined the prosecutrix, finally did not rule out the possibility of prosecutrix being subjected to rape. Prosecutrix was minor at time of incident. Prosecutrix stated that she did not resist acts of respondents. Statement of prosecutrix was not false, untrue or unbelievable and it was fully inspiring confidence. The version of the prosecutrix was fully supported by the \textit{chemical analysis} report as well as the medical evidence. Charges framed against respondent was fully proved on record by prosecution. As regards other respondent, prosecutrix had not levelled any such offence against other respondent. Therefore one respondent was convicted under sections 363, 366, 376 and 377 of IPC and other respondent was acquitted. Appeal was thus partly accepted and disposed of.\textsuperscript{116}

\subsection*{6.4 TABLE OF CRIMINAL CASES IN WHICH TOXICOLOGY OR CHEMICAL ANALYSIS WAS USED/REFERRED FOR RECORDING CONVICTION OR ACQUITTAL}

\textbf{TABLE 6.1}

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Case No. &amp; Year</th>
<th>Offence under</th>
<th>Fate of forensic report</th>
<th>Result of the case</th>
</tr>
</thead>
</table>

\textsuperscript{115} \textit{Pawan Singh v. State and Ors. (04.02.2015 – DELHC) MANU/DE/0302/2015}

\textsuperscript{116} \textit{State of Himachal Pradesh v. Varun Kumar \& Ors. (18.03.2015 – HPHC) MANU/HP/0125/2015}
<p>|   | legislations |  |
|---|-------------|---|---|
| 1. | Anil Motibaba Barokar v. State of Maharashtra (14.09.1995 – BOMHC) MANU/MH/0099/1995 | 376, 302 and 34 IPC | The chemical analysis revealed that the blood group of accused was A but the victim’s clothes had blood stains of Group-O as well as blood group B. Neither semen nor spermatozoa was detected on the pubic hair of the accused/appellant | Acquittal |
| 2. | Sher Singh v. State (11.01.1995 – DELHC) MANU/DE/0136/1995 | 302 IPC | The doctor wanted the chemical analyzer to clarify as to what was the quantitative estimation of the two poisons detected by the Chemical Analyzer. It seemed that the chemical analyzer had replied to his query without giving the quantity of both the poisons and thereafter what the doctor observed was “Cause of death to the best of my knowledge was due to | Acquittal |</p>
<table>
<thead>
<tr>
<th></th>
<th>Case Reference</th>
<th>Relevant Code(s)</th>
<th>Details</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.</td>
<td>Krishnan v. State of Kerala (1996) 10 SCC 508</td>
<td>302/34 IPC</td>
<td>The material objects which were seized during investigation were sent to the Chemical Examiner and the Chemical Report was obtained</td>
<td>Conviction</td>
</tr>
<tr>
<td>4.</td>
<td>Shyam Sunder v. The State (18.04.1996 – DELHC) MANU/DE/0622/1996</td>
<td>302/34 IPC</td>
<td>The solitary eye witness’s evidence corroborated by CFSL reports of the Chemical Aalyzer that the tablets and water given to the deceased by the appellant gave positive test for cyanide</td>
<td>Conviction</td>
</tr>
<tr>
<td>5.</td>
<td>The State of Maharashtra v. Savala Sagu Kokare and Another (12.12.1996 – BOMHC) MANU/MH/0189/1996</td>
<td>376 and section 392 read with section 34 IPC</td>
<td>The underwear of the prosecutrix and clothes of the respondents along with sample of their blood and semen were sent to the Chemical Analyst. The report of the chemical analysis was marked as Exhibit 29 and 30.Absence of serious injuries on her</td>
<td>Conviction</td>
</tr>
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<td></td>
<td>Case</td>
<td>Section</td>
<td>Description</td>
<td>Verdict</td>
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<tr>
<td>6.</td>
<td>Nagen Bharali and Ors. v. State of Assam (24.03.1998 – GUHC)</td>
<td>376(2) of IPC</td>
<td>The seized wearing apparels were sent for chemical examination by the process of which spermatozoa was detected on it</td>
<td>Conviction</td>
</tr>
<tr>
<td>7.</td>
<td>Jyotiba Laxman Patel v. State of Karnataka (18.09.2000 – KARHC)</td>
<td>302 IPC</td>
<td>The report of the chemical examiner received from the FSL as per exhibit P.19 showed that the blood stained earth collected from the spot was found to be stained with human blood</td>
<td>Conviction</td>
</tr>
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<td>8.</td>
<td>Krishnamurthy v. State by Ashok Nagar Police, Bangalore (29.05.2000 – KARHC)</td>
<td>302, 394 IPC</td>
<td>Viscera of the deceased were sent for chemical examination and it was found that there was no poison in the viscera. The contention of suicidal death by both the deceased simultaneously was ruled out by the report of the chemical</td>
<td>Conviction</td>
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<td></td>
<td>Case Details</td>
<td>Section(s)</td>
<td>Analysis</td>
<td>Judgement</td>
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<td>9</td>
<td>Mani Ram and Anr. v. State of Himachal Pradesh (10.11.2000 – HPHC)</td>
<td>376 IPC</td>
<td>Chemical Examiner vide his report did not find any blood on the chaddar (bed cover) though semen stains were found on it</td>
<td>Conviction</td>
</tr>
<tr>
<td>10</td>
<td>Manik Mukherjee v. State of Bihar (04.04.2000 – PATNAHC)</td>
<td>302 IPC</td>
<td>Medical evidence, chemical examination and viscera report totally corroborated and proved circumstances</td>
<td>Conviction</td>
</tr>
<tr>
<td>11</td>
<td>Onkar Moatiram Kale and Ors. v. State of Maharashtra (07.09.2000 – BOMHC)</td>
<td>302, 326 read with section 34 IPC</td>
<td>The report of the chemical analyzer showed that Articles 1 and 2 which belonged to accused were having human blood stains of “B” group. The blood group of PW2 was also found to be of “B” group</td>
<td>Conviction</td>
</tr>
<tr>
<td>12</td>
<td>State of H.P. v. Lekh Raj And Another (2000) 1 SCC 247</td>
<td>376(2)(g), 323 IPC</td>
<td>Prosecutrix was medically examined and her torn salwar was sent for chemical analysis. Allegations were corroborated by medical evidence and the chemical</td>
<td>Conviction</td>
</tr>
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<td>13.</td>
<td>Bal Kishan v. State of Himachal Pradesh (16.11.2001 – HPHC) MANU/HP/0066/2001</td>
<td>376 IPC</td>
<td>As per the report of the Chemical Analysis no human blood was found on the Salwar of the prosecutrix, but semen was found on it</td>
<td>Conviction</td>
</tr>
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<td>14.</td>
<td>State of Punjab v. Naib Din (2001) 8 SCC 578</td>
<td>9 of the Opium Act 1878</td>
<td>The Chemical Examiner, after testing the sample, reported that it was opium</td>
<td>Conviction</td>
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<td>15.</td>
<td>Chandradevi v. State of Tamil Nadu by Inspector of Police (12.12.2002 – MADHC) MANU/TN/2335/2002</td>
<td>302 IPC</td>
<td>Chemical analysis of the soil was conducted which was collected from and around the various bones of the deceased and human blood was detected on them</td>
<td>Conviction</td>
</tr>
<tr>
<td>16.</td>
<td>Jaipal v. State of Haryana (2003) 1 SCC 169</td>
<td>302 IPC</td>
<td>On chemical examination, the Assistant Chemical Examiner of FSL opined that the samples had presence of aluminium phosphide (celphos). The Supreme Court did not support the view of the courts</td>
<td>Acquittal</td>
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<td>Case</td>
<td>Party</td>
<td>Fact</td>
<td>Legal Analysis</td>
<td>Judgment</td>
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<td>17.</td>
<td>State of Maharashtra v. Manoharsingh (11.08.2003 – BOMHC) MANU/MH/0902/2003</td>
<td>302, 201 IPC</td>
<td>The viscera of the deceased were sent for chemical analysis. In the chemical analysis report, no poison was detected. Hence the doctor opined that the cause of death was head injury</td>
<td>Conviction</td>
</tr>
<tr>
<td>18.</td>
<td>The State of Maharashtra v. Amit (04.02.2003 – BOMHC) MANU/MH/1626/2003</td>
<td>376, 302 IPC</td>
<td>The legality and correctness of the Chemical Analyser’s Reports had not at all been disputed by the defence. As per C.A. Report, the nail clippings of the deceased were found stained with blood</td>
<td>Conviction</td>
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<td>No.</td>
<td>Case Details</td>
<td>Relevant Laws</td>
<td>Summary</td>
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<td>20.</td>
<td>Jai Chand v. State of H.P. (16.11.2004 – HPHC)</td>
<td>302, 498A of IPC</td>
<td>Although on the receipt of the report of the chemical examiner, it was found that the deceased had not committed suicide but she was killed by accused persons by dipping her face in a bucket and strangulating her, but this view of the chemical analyst was contradictory to the other available evidence.</td>
<td>Acquittal</td>
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<td>MANU/HP/0185/2004</td>
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<td>21.</td>
<td>Prakash Rama Dalvi v. The State of Maharashtra (18.10.2004 – BOMHC)</td>
<td>34, 147, 148, 149, 302, 325, 341, 506 IPC</td>
<td>The blood samples of the accused, as well as, of the deceased were also sent for the chemical analyser's report. All</td>
<td>Conviction</td>
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<td>Case Title</td>
<td>Paragraph</td>
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<td>22.</td>
<td>Rachaputi Nageswara Rao @ Nagaraju v. State of A.P. (12.10.2004 – APHC) MANU/AP/1243/2004</td>
<td>the reports had been part of the record</td>
<td>Acquittal</td>
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<td></td>
<td>302, 304B IPC</td>
<td>The report of chemical analysis indicated that semen and spermatozoa were not detected in vaginal swabs</td>
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<td>23.</td>
<td>Sayaji Hanmant Bankar v. The State of Maharashtra (11.08.2004 – BOMHC) MANU/MH/0466/2004</td>
<td>302, 498A IPC</td>
<td>Chemical Analyzer’s Report revealed presence of kerosene on the materials sent for the analysis which proved that a kerosene lamp was thrown on the deceased due to which the deceased suffered burn injuries and died</td>
<td>Conviction</td>
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<td>The substance recovered from the accused was found to be a narcotic drug from the chemical examination</td>
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<td>25.</td>
<td>State of M.P. v. Brij &amp; Ors. (07.10.2004 – MPHC) MANU/MP/0888/2004</td>
<td>302 and 149 IPC</td>
<td>Delay in sending empty cartridges for chemical examination and non-examination of the Malkhana Incharge in trial was</td>
<td>Conviction</td>
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<td>No.</td>
<td>Case</td>
<td>Sections</td>
<td>Findings</td>
<td>Outcome</td>
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<td>26.</td>
<td>State of U.P. v. Sheo Sanehi And Others (2004) 12 SCC 347</td>
<td>302/149, 147, 148 IPC</td>
<td>The IO found cut fodder in the said room with stains of blood thereon, seized the same and sent it to the chemical examiner. The serologist reported that the same contained human blood</td>
<td>Conviction</td>
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<tr>
<td>27.</td>
<td>Nasir Sikander Shaik v State of Maharashtra (2005) 10 SCC 585</td>
<td>307 IPC</td>
<td>On chemical examination of the knife, it was found that the knife had human blood on it of ‘AB’ blood group which was also the blood group of the injured</td>
<td>Conviction</td>
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<td>28.</td>
<td>Sree Vijayakumar &amp; Another v State (2005) 10 SCC 737</td>
<td>304 (Part II), 323 IPC</td>
<td>According to the report of the chemical analyzer petrol was detected on the pieces of black lumps received from the Judicial Magistrate</td>
<td>Conviction</td>
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<td>29.</td>
<td>State of Rajasthan and Anr. v. Gopal and Anr. (16.11.2005 – 366, 376(2), 302 and 201 IPC</td>
<td>As per the chemical analyzer’s report dried blood of the</td>
<td>Conviction</td>
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<td>No.</td>
<td>Case Details</td>
<td>Relevant Statutes</td>
<td>Summary of Key Evidence</td>
<td>Verdict</td>
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<td>31.</td>
<td>State rep. by DSP v. Subramaniam (15.12.2005 – MADHC) MANU/TN/2600/2005</td>
<td>302 IPC</td>
<td>Viscera were preserved for chemical analysis. The viscera report showed that no poison was detected in the viscera of the deceased. PW10, the doctor, gave the final opinion on receipt of the viscera report as</td>
<td>Conviction</td>
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<td>Case Description</td>
<td>Code</td>
<td>Details</td>
<td>Result</td>
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<td>death due to asphyxia by smothering</td>
<td>Kuppusamy v. Inspector of Police (18.09.2006 – MADHC) MANU/TN/9752/2006</td>
<td>302 IPC</td>
<td>Toxicology report made it clear that monocrotophos with ethyl alcohol was found in the brandy bottle. It was thus clear that the deceased consumed poisonous drink given by accused as was evident from the medical report and prosecution witnesses</td>
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<td>Mohd. Fazluddin v. State represented by Inspector of Police (08.12.2006 – MADHC) MANU/TN/7613/2006</td>
<td>304 Part-I</td>
<td>All the recovered articles were sent for chemical examination</td>
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<td>Santosh Kumar v. State of M.P. (2006) 10 SCC 595</td>
<td>376(2)(g) IPC</td>
<td>One sealed packet containing two slides of vaginal smear, another sealed packet containing clothes and one sealed vial containing cut pubic hair were advised to send for chemical examination</td>
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<td>Shri Dayaneshwar v.</td>
<td>302/201 IPC</td>
<td>Nail clippings of the Conviction</td>
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<td>Medical Evidence</td>
<td>Decision</td>
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<td>State of Maharashtra (05.05.2006 – BOMHC) MANU/MH/0169/2006</td>
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<td>deceased were sent to chemical analyser. The chemical analyzer’s report stated “the nail clippings were stained with blood and appeared to be decomposed species”. The chemical analyzer’s report further corroborated the case</td>
<td>Conviction</td>
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<td>State of Karnataka by the Police Inspector v. R. Raju (15.09.2006 – KARHC) MANU/KA/8395/2006</td>
<td>341 IPC</td>
<td>Medical evidence of doctor showed that cause of death of deceased was vagal inhibition. The doctor gave his report basing on the chemical examiners report</td>
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<td>Appasaheb And Another v. State of Maharashtra (2007) 9 SCC 721</td>
<td>304B/34 IPC</td>
<td>As the doctors who conducted post-mortem opined the cause of death was insecticide poisoning the viscera was preserved for chemical analysis but the demand for dowry could not be proved</td>
<td>Acquittal</td>
<td></td>
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<tr>
<td>Case Number</td>
<td>Applicant v. Respondent</td>
<td>Date of Judgement</td>
<td>Reference</td>
<td>Relevant Sections of IPC</td>
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<td>38.</td>
<td>Deepak Revachand Talreja v. State of Maharashtra (08.08.2007 – BOMHC)</td>
<td>08.08.2007</td>
<td>MANU/MH/0579/2007</td>
<td>302, 498A IPC</td>
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<td>40.</td>
<td>Dhanesh alias Konda Banjare v. State of Chhattisgarh (24.05.2007 – CGHC)</td>
<td>24.05.2007</td>
<td>MANU/CG/0075/2007</td>
<td>376(2)(f) &amp; 511 IPC</td>
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<td>42.</td>
<td>Sasi Kumar v. The</td>
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<td>302 IPC</td>
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<td>Case Number</td>
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<td>Description</td>
<td>Decision</td>
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<td>43.</td>
<td>Smt. Ranju Devi v. The State of Bihar (08.11.2007 – PATNAHC) MANU/BH/0388/2007</td>
<td>The material objects to be sent to FSL and accordingly the Chemical Examiner’s report was received by the court, the analysis of which transpire the conduct of the accused which was proved by the prosecution. Only chemical examination report disclosed presence of celphos poison. Celphos has a pungent smell and characteristics and such poison cannot be administered deceitfully or openly. No direct evidence was found to show that any of the accused administered poison to deceased.</td>
<td>Acquittal</td>
<td></td>
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<td>44.</td>
<td>Sripal and Chhotey Lal v. State of U.P. (16.07.2007 – ALLHC) MANU/UP/1327/2007</td>
<td>The IO had sent the same stone for chemical examination. As the blood spots on the stone were found</td>
<td>Conviction</td>
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<td>Case</td>
<td>Citation</td>
<td>Section</td>
<td>Summary</td>
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<td>45.</td>
<td>Ujjagar Singh v. State of Punjab (2007) 13 SCC 90</td>
<td>302 IPC</td>
<td>From the medical evidence and from the chemical examiner’s report the court found that the vaginal swab and clothes taken from the dead body indicated the presence of semen. There was however absolutely no evidence to suggest (even assuming that the intercourse had been committed by the appellant) that he had done so without M’s consent or against her will</td>
<td>Conviction</td>
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<td>46.</td>
<td>Vithal v. State of Maharashtra (2007) 15 SCC 699</td>
<td>498A, 302 and 201 IPC</td>
<td>The examination of the viscera sent for chemical analysis also ruled out death by poison, thereby strengthening the opinion of the doctor who conducted the post-mortem</td>
<td>Conviction</td>
</tr>
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<td>47.</td>
<td>Hardip Singh v. State</td>
<td>18 of the</td>
<td>As per the report of</td>
<td>Conviction</td>
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<td>No.</td>
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<td>48.</td>
<td>Ponnusamy v. State of Tamil Nadu (2008) 5 SCC 587</td>
<td>NDPS Act, 1985</td>
<td>the chemical analyst, the contents of the sample parcels were found to be of opium</td>
<td>Conviction</td>
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<td>302, 201 IPC</td>
<td>The dead body was also sent for opinion of a chemical examiner who opined that skull, could very well have belonged to the female individual seen in photograph. The said report was also roved and its veracity was not disputed</td>
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<td>49.</td>
<td>Ratan Acharjee v. State of Tripura (04.04.2008 – GUHC)</td>
<td>376(1) IPC</td>
<td>Chemical examination of the vaginal swab of the prosecutrix was arranged by PW12, OC</td>
<td>Conviction</td>
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<tr>
<td></td>
<td>MANU/GH/0120/2008</td>
<td></td>
<td>Duration of rape could not be ascertained and the opinion was reserved to be given after chemical examination of the vagina swabs</td>
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<td>50.</td>
<td>Sahun v. State of Haryana (19.11.2008 – PHHC)</td>
<td>376(f) of IPC</td>
<td>Though the certificate given by the doctor there were “findings</td>
<td>Conviction</td>
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<td>MANU/PH/1235/2008</td>
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<td>52.</td>
<td>Shantabai v. State of Maharashtra (2008) 16 SCC 354</td>
<td>suggestive of evidence of penetration” but the final opinion was reserved by the expert, pending the chemical analysis report on the sample of vaginal swab, smear etc. Hence, it was not proper to release petitioner on bail, holding that the offence was only under section 354 IPC</td>
<td>Acquittal</td>
<td></td>
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<td>53.</td>
<td>Balbir Kaur v. State of Punjab (2009) 15 SCC 795</td>
<td>On chemical analysis of the recovered clothes from the house of the accused persons revealed they were stained with blood of Group O but the prosecution failed to prove that they were stained with the blood group O of deceased</td>
<td>Conviction</td>
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<td>No.</td>
<td>Case Details</td>
<td>Statutory Basis</td>
<td>Findings</td>
<td>Outcome</td>
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<td>54.</td>
<td>Mahesh Chander and Ors. v. State (NCT of Delhi) (02.03.2009 – DELHC) MANU/DE/0462/2009</td>
<td>Chemical Examiner’s Report and evidence of doctor, showed that semen was found on underwear of appellants and that there were injuries on the person of the prosecutrix</td>
<td>Conviction</td>
<td></td>
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<tr>
<td>55.</td>
<td>Mohammed Ashif Gulamkadar Shaikh v. State of Gujraj and Anr. (04.02.2009 – GUJHC) MANU/GJ/0527/2009</td>
<td>Viscera were preserved for chemical analysis</td>
<td>Convicted</td>
<td></td>
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<td>56.</td>
<td>Ram Bahadur v. State of H.P. (22.12.2009 – HPHC) MANU/HP/0463/2009</td>
<td>Possibility of stuff recovered from appellant being only bhang, possession of which was no offence, could not be ruled out. Chemical Report did not prove that stuff recovered was charas within meaning of Act</td>
<td>Acquittal</td>
<td></td>
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<td>57.</td>
<td>Satgun Paswan v. State of Orissa (22.07.2009 – ORIHC) MANU/OR/0318/2009</td>
<td>Materials which were collected were sent for chemical analysis. The chemical analysis report and the medical report also</td>
<td>Conviction</td>
<td></td>
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<tr>
<td>Case</td>
<td>Description</td>
<td>Law</td>
<td>Corollary</td>
<td>Outcome</td>
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<td>58.</td>
<td>Smt. Karpai v. State (Delhi Admn) (03.07.2009 – DELHC) MANU/DE/0872/2009</td>
<td>302, 307 IPC</td>
<td>CFSL report merely indicated that stomach, intestine with contents and liver, spleen and kidneys and also 5 ml blood sample tested positive for active constituents of kaner. Such a condition may or may not be caused by poisoning and there might be other reasons. Thus, CFSL report did not enable the court to conclude that deceased died of poisoning</td>
<td>Acquittal</td>
</tr>
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<td>59.</td>
<td>State of Karnataka by Zhalaki Police v. Kabir Imamsab and Ors. (22.04.2009 – KARHC) MANU/KA/1114/2009</td>
<td>498A, 302, 201 read with section 149 and sections 3, 4 and 6 of the Dowry Prohibition Act, 1961</td>
<td>After receipt of the chemical analyzer’s report the doctor opined that cause of death was asphyxia as a result of throttling</td>
<td>Conviction</td>
</tr>
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<td>60.</td>
<td>State of Rajasthan v. Bhiya Ram (2009) 14 SCC 390</td>
<td>As per the chemical examination report which was marked as</td>
<td>Conviction</td>
<td></td>
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<td>No.</td>
<td>Case Details</td>
<td>Relevant Sections</td>
<td>Summary</td>
<td>Outcome</td>
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<td>61.</td>
<td>State of Rajasthan v Daul (2009) 14 SCC 387</td>
<td>8 and 18 of the NDPS Act, 1985</td>
<td>Ext. P-27 the material sent for examination was found to be opium containing morphine</td>
<td>Conviction</td>
</tr>
<tr>
<td>62.</td>
<td>Subramanium v. State of Tamil Nadu And Another (2009) 14 SCC 415</td>
<td>302 IPC</td>
<td>Chemical examination of the substance was conducted as it was assessed to be contraband opium</td>
<td>Acquittal</td>
</tr>
<tr>
<td>63.</td>
<td>The State of Maharashtra v. Suresh Shankar Jadhav (07.05.2009 – BOMHC) MANU/MH/0356/2009</td>
<td>376 of IPC and section 57 of Bombay Children Act, 1948</td>
<td>There was no doubt that other witnesses including report of Chemical Analyzer had fully corroborated statement of victim in</td>
<td>Conviction</td>
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<td></td>
<td>Case Name</td>
<td>Provisions/Codes</td>
<td>Details</td>
<td>Verdict</td>
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<td>64.</td>
<td>Union of India v. Bal Mukund &amp; Others (2009) 12 SCC 161</td>
<td>Section 8 and 18 of the NDPS Act</td>
<td>The report of the Assistant Chemical Examiner, Government Opium and Alkaloid Works showed presence of 01.68% and 02.05% of morphine by B.P. extraction from the first sample and the second sample respectively. The HC acquitted the accused on many grounds, among which one of the grounds was that the sample of the narcotics were not taken in terms of the Standing Instruction and by complying section 55 of the NDPS Act which was supported by the SC.</td>
<td>Acquittal</td>
</tr>
<tr>
<td>65.</td>
<td>Anita v. State of Haryana (22.03.2010 – PHHC) MANU/PH/0118/2010</td>
<td>302, 328 IPC</td>
<td>The recovery effected from the house of the appellant on the same day containing the remaining tea and the utensils, on analysis showed the poison to</td>
<td>Conviction</td>
</tr>
<tr>
<td>No.</td>
<td>Case Details</td>
<td>Relevant Statutes</td>
<td>Summary</td>
<td>Outcome</td>
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<td>66.</td>
<td>Babu v State of Kerala (2010) 9 SCC 189</td>
<td>302 IPC</td>
<td>Chemical analysis was conducted during post mortem as the post mortem report revealed that deceased died of cyanide poisoning but the motive of accused could not be proved</td>
<td>Acquittal</td>
</tr>
<tr>
<td>67.</td>
<td>Ganesh v. The State of Maharashtra (09.03.2010 – BOMHC) MANU/MH/0274/2010</td>
<td>304B, 498A</td>
<td>The chemical analysis report regarding viscera did not disclose any poison regarding which the court opined that merely because the C.A. report regarding viscera did not disclose any poison, it will not cast any doubt on the evidence of PW2, the doctor, who substantiated his findings regarding death due to poisoning by cogent reasons</td>
<td>Conviction</td>
</tr>
<tr>
<td>68.</td>
<td>Jitendra Kumar and Ors. v. State of C.G. (10.09.2010 – CGHC)</td>
<td>201, 304B 498A IPC</td>
<td>Blood samples of the deceased along with other articles were</td>
<td>Acquittal</td>
</tr>
<tr>
<td>No.</td>
<td>Case Details</td>
<td>Statute/Citation</td>
<td>Summary</td>
<td>Outcome</td>
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<td>69.</td>
<td>Killer Thiayagu v. State (15.12.2010 – MADHC) MANU/TN/3660/2010</td>
<td>341, 302 read with section 34 IPC</td>
<td>All the material objects were sent for chemical analysis. Chemical analysis report, serology report and Toxicology report were received which corroborated each other.</td>
<td>A-1 was convicted</td>
</tr>
<tr>
<td>70.</td>
<td>Kunjumon v. State of Kerala (11.11.2010 – KERHC) MANU/KE/2895/2010</td>
<td>376(2)(f) IPC</td>
<td>Chemical analysis report did not detect any semen or sperm as the act could not be completed due to the arrival of the grandmother at the scene of offence</td>
<td>Conviction</td>
</tr>
<tr>
<td>71.</td>
<td>Nanhar &amp; Others Vs State Of Haryana (2010) 11 SCC 423</td>
<td>302 IPC</td>
<td>On chemical analysis a poisonous substance was found in the body of the deceased and on the earth so collected from the place of occurrence but the report of CA was contradictory to</td>
<td>Acquittal</td>
</tr>
<tr>
<td>72.</td>
<td>Om Pal Singh v. State of U.P. (2010) 14 SCC</td>
<td>302 IPC</td>
<td>The pant, shirt, baniyan and earth which were stained with blood were sent for chemical examination and the report was obtained. Eyewitnesses version corroborated by medical evidence, chemical examiner’s report and dying declaration</td>
<td>Conviction</td>
</tr>
<tr>
<td>73.</td>
<td>Renu Gogar v. State of H.P. (08.01.2010 – HPHC) MANU/HP/1258/2010</td>
<td>20 of Narcotic Drugs and Psychotropic Substances Act, 1985</td>
<td>Court found that report issued by Director of FSL, fell short of requisite particulars. Chemical Report stood not connected with recovered stuff and it also did not prove that stuff recovered were charas within meaning of the Act</td>
<td>Acquittal</td>
</tr>
<tr>
<td>74.</td>
<td>Sanjay Kumar v. State and Others (10.02.2010 – JKHC) MANU/JK/0001/2010</td>
<td>363 and 376 Ranbir Penal Code, 1989</td>
<td>Although chemical examination was performed there was no trace of semen on the vaginal swabs. Defence could not</td>
<td>Conviction</td>
</tr>
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<td>75.</td>
<td><em>Sri Halappa @ Harthal Halappa s/o Hiriya Nayaka v. The State of Karnataka, DSP rep. by Public Prosecutor, High Court of Karnataka (27.05.2010 – KARHC)</em>&lt;br&gt;MANU/KA/0622/2010</td>
<td>376 IPC</td>
<td>take advantage of bad investigation where there was clinching evidence available to the prosecution</td>
<td>Conviction</td>
</tr>
<tr>
<td>76.</td>
<td><em>State of H.P. v. Neeta Ram and Ors. (27.08.2010 – HPHC)</em>&lt;br&gt;MANU/HP/0549/2010</td>
<td>34, 363, 366 and 376 of IPC</td>
<td>Even the apparels of the accused as well as the victim have been seized under the seizure panchnama which were subjected to chemical examination for discovering the traces of blood, semen etc.</td>
<td>Acquittal</td>
</tr>
<tr>
<td>77.</td>
<td><em>State of Orissa v. Ardhu Chendreya (05.10.2010 – ORIHC)</em>&lt;br&gt;MANU/OR/0525/2010</td>
<td>302 and 376(2)(f) of IPC</td>
<td>The chemical examination revealed that the sample earth and the blood stained earth taken from the spot were similar with respect to their physical characteristics. Further human blood</td>
<td>Conviction</td>
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</tbody>
</table>
was found on the blood-stained earth, the blood-stained straw and other articles. The scientific finding very objectively determined the spot of occurrence.


302 IPC

Dr. G.K. Sharma, who conducted the post-mortem examination found superficial burns all over the body except some parts. According to the doctor, the approximate area of burn was about 90%. On internal examination, it was found that all the organs were congested. According to the doctor, the death of the deceased was due to shock and toxaemia due to burns by fire

79. Vikram Singh & Others v. State of 302, 364-A, 120B and The post mortem of the dead body was Conviction
<table>
<thead>
<tr>
<th>Case</th>
<th>Law</th>
<th>Fact</th>
<th>Result</th>
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</thead>
<tbody>
<tr>
<td>80.</td>
<td>Punjab (2010) 3 SCC 56</td>
<td>201 IPC carried out by a team of two doctors but no conclusive report as to the cause of death was given but after the report (Ext. PZZ) of the chemical examiner the doctors opined that the cause of death was chloroform and pentazocine poisoning.</td>
<td>Acquittal</td>
</tr>
<tr>
<td>81.</td>
<td>Vinod Kumar and Anr. v. State of Jammu and Kashmir (20.08.2010 – JKHC) MANU/JK/0085/2010</td>
<td>302/34 of Ranbir Penal Code, 1989 Viscera were preserved, labelled, sealed and handed over to IO for chemical analysis. Evidence produced by the prosecution to indicate that appellants were last seen with the deceased before his death could not be said to be sufficient to hold the appellants responsible for the death.</td>
<td>Acquittal</td>
</tr>
<tr>
<td></td>
<td>Anil Kumar Gupta v. State of Uttar Pradesh (2011) 11 SCC 24</td>
<td>498A, 304B IPC 3 Dowry Prohibition Chemical examination of the viscera was conducted after post-</td>
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<tr>
<td>Case</td>
<td>Act, 1961</td>
<td>Information</td>
<td>Conclusions</td>
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<td>Chadran &amp; Others v State of Kerala (2011) 5 SCC 161</td>
<td>Act, 1961</td>
<td>The serologist reported that the viscera contained insecticide poison but the report of the serologist was not considered by SC as the HC only considered the CA report but failed to consider other evidences while recording conviction.</td>
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<tr>
<td>Jairnail Singh v. State of Punjab, (2011) 3 SCC 521</td>
<td>Chemical analysis was conducted to confirm the chemicals that were present in the spurious liquor. So, it was crystal clear that methyl alcohol which was the main culprit, was not only dangerously poisonous substance but was also used in mixing the liquor.</td>
<td>Conviction</td>
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<td>Case</td>
<td>IPC</td>
<td>Decision</td>
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<tr>
<td><strong>84. State of Himachal Pradesh v. Joginder Kumar and Ors.</strong></td>
<td>376 IPC</td>
<td>Opinion of the doctor, PW4 was based on the physical examination of the prosecutrix and also on the basis of the chemical report</td>
<td></td>
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<tr>
<td>(06.04.2011 – HPHC) MANU/HP/0879/2011</td>
<td></td>
<td>Conviction</td>
<td></td>
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<tr>
<td><strong>85. Sunil Atmaram v. The State and Ms. X</strong></td>
<td>342, 506(2), 376(2)(a) &amp; (b) of IPC</td>
<td>Although chemical examination was conducted, but due to the negative report of the chemical analyzer it was opined by PW16, the doctor that there might be possibility of incomplete sexual intercourse</td>
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<tr>
<td>(06.05.2011 – BOMHC) MANU/MH/0673/2011</td>
<td></td>
<td>Conviction</td>
<td></td>
</tr>
<tr>
<td><strong>86. Surjit Singh v. State of Punjab</strong></td>
<td>302 IPC</td>
<td>The prosecution proved on record that the viscera of the dead body of the deceased was sent to the Chemical Examiner, who reported that Aluminium</td>
<td></td>
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<tr>
<td>(02.06.2011 – PHHC) MANU/PH/1917/2011</td>
<td></td>
<td>Conviction</td>
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<td>No.</td>
<td>Case</td>
<td>Statute(s)</td>
<td>Facts</td>
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<td>87.</td>
<td>The State of Maharashtra v. Mohammad Ajmal Mohammad Amir Kasab (21.02.2011 – BOMHC)</td>
<td>302, 326, 506 IPC and sections 25 and 27 of Arms Act</td>
<td>During the post mortem, the bullets from the bodies of the deceased persons were recovered and sent for chemical analysis. The Chemical Analyzer had stated that the bullets (Articles 306, 308 etc.) which was recovered was a deformed copper jacketed bullet fired from 7.62 mm short rifle</td>
</tr>
<tr>
<td>88.</td>
<td>Jeyaraj v. State (15.02.2012 – MADHC)</td>
<td>302 IPC</td>
<td>On chemical examination of the articles phosphide was found</td>
</tr>
<tr>
<td>89.</td>
<td>O. M. Baby v. State of Kerala (2012) 11 SCC 362</td>
<td>376, 506 Part II and 342 IPC</td>
<td>Chemical analysis revealed that the sample did not contain spermatozoa whereas the second report analysis revealed that the sample contained spermatozoa which was totally</td>
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<tr>
<td></td>
<td>Case</td>
<td>Section(s) of IPC</td>
<td>Summary</td>
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<td>90.</td>
<td>Sahabuddin And Another v. State of Assam (2012) 13 SCC 213</td>
<td>302/34 of IPC</td>
<td>The viscera of the deceased were preserved to be sent to the FSL, forensic and for chemical analysis. The report of the chemical analyst and the report of the forensic science laboratory were not placed on record so that the court could at least come to a definite conclusion on the basis of scientific analysis</td>
</tr>
<tr>
<td>91.</td>
<td>Shanmughan v State of Kerala (2012) 2 SCC 788</td>
<td>323, 302 IPC</td>
<td>The post-mortem report revealed signs of poisoning. Moreover the doctor also found several injuries on the body of the deceased victim</td>
</tr>
<tr>
<td>92.</td>
<td>Chellappan v. State of Kerala (13.09.2012 – KERHC) MANU/KE/2361/2012</td>
<td>302, 376, 394 and 397 and 511 of IPC</td>
<td>The materials that were collected during investigation were sent for chemical examination to the</td>
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<td>Case Number</td>
<td>Case Description</td>
<td>IPC Codes</td>
<td>Description</td>
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<td>93.</td>
<td><em>Jose v. State of Kerala (2013) 14 SCC 172</em></td>
<td>302 IPC</td>
<td>The chemical analysis report (Ext. PW-15), had clearly mentioned that kerosene was not detected in any of the material objects sent for chemical analysis although the accused contended that burn injuries on his wife were caused by an accident, by a burning kerosene lamp.</td>
</tr>
<tr>
<td>94.</td>
<td><em>Kulwant Singh v. State of Punjab (2013) 4 SCC 177</em></td>
<td>304B, 498A IPC</td>
<td>The report of the chemical examiner received much later indicated the presence of aluminium phosphide (a pesticide) in the stomach of the deceased and phosphine, a constituent of aluminium phosphide, detected.</td>
</tr>
<tr>
<td>Case</td>
<td>Judgment</td>
<td>IPC</td>
<td>Analysis Report</td>
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<td>95.</td>
<td>Pitchmmal and Mayandi v. State (03.07.2013 – MADHC) MANU/TN/1098/2013</td>
<td>304 Part I IPC</td>
<td>Chemical Analysis report had disclosed the fact that kerosene was detected in M.O.2, Blouse, M.O.3 Coconut Shell and M.O.5 Saree</td>
</tr>
<tr>
<td>96.</td>
<td>Saraswati Barman v. State of Assam (30.01.2013 – GUHC) MANU/GH/0015/2013</td>
<td>302 IPC</td>
<td>Chemical Examination clearly revealed that the food, consumed by the deceased gave positive test for organo chlorine insecticide but that does not prove that the accused had put the same in the curry</td>
</tr>
<tr>
<td>97.</td>
<td>Anil v. State of Maharashtra (2014) 4 SCC 69</td>
<td>302, 377, 201 IPC</td>
<td>The seized articles were referred for chemical analysis. The reports of the analyzer were marked as Exts. 91 and 92</td>
</tr>
<tr>
<td>98.</td>
<td>Manoj Mahadev Gawade v. The State of Maharashtra (27.08.2014 –)</td>
<td>143, 146, 147, 148, 149, 201, 302 452</td>
<td>Although seized articles were sent for chemical analysis, prosecution had not</td>
</tr>
<tr>
<td>Case</td>
<td>IPC</td>
<td>Reason</td>
<td>Conviction</td>
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<tr>
<td>99. Pawan Singh v. State and Ors. (04.02.2015 – DELHC)</td>
<td>302 IPC</td>
<td>The Senior Scientific Officer of CFSL in his report opined that it was not a case due to poisoning. The post mortem report indicated that that the deceased had died as a result of asphyxia as a result of compression of neck by hard and blunt object</td>
<td>Conviction</td>
</tr>
<tr>
<td>100. State of Himachal Pradesh v. Varun Kumar &amp; Ors. (18.03.2015 – HPHC)</td>
<td>363, 366, 376, 377 IPC</td>
<td>On the basis of the report of the chemical examiner, the doctor, who medically examined the prosecutrix, finally did not rule out the possibility of prosecutrix being subjected to rape</td>
<td>Conviction</td>
</tr>
</tbody>
</table>
6.5 CRITICAL ANALYSIS OF THE CASES IN WHICH TOXICOLOGY EVIDENCE WAS USED TO RECORD CONVICTION AND ACQUITTAL

100 cases on toxicology are dealt with under this chapter from 1995 to 2015. In 79 cases using toxicology, conviction was recorded and 21 cases using toxicology, acquittal was recorded.

Cases of poisoning are common in India. Poison can be administered not only orally but also hypodermically or intravascularly with the help of a syringe. In many cases where the death of the deceased results from poisoning, it is difficult to successfully isolate the poison and recognize it. Several poisons particularly of the synthetic hypnotics and vegetable alkaloid groups do not leave any characteristic signs which can be noticed on post-mortem examinations.\(^{117}\) Sometimes due to insecticide poisoning, death may result from asphyxia.

In a certain case the Supreme Court held that chemical examination of viscera was not mandatory in every case of a dowry death arising out of homicidal or suicidal death\(^ {118}\). If the homicidal death of the deceased in her matrimonial home had been sufficiently proved by very strong evidence, then the failure of the prosecution to conduct chemical examination may be overlooked.\(^ {119}\)

### 6.5.1 Reasons For Acquittal

When chemical analysis was conducted, it revealed that the blood group of the accused was different than the blood group which was found from the articles collected from the deceased. Further, on chemical analysis no semen or spermatozoa was detected on the private parts of the accused. Since, vital links of chain to bring home guilt of appellant was missing under section 376(g), benefit of doubt was given to the appellant and the appellant was acquitted\(^ {120}\). In a case of cyanide poisoning, it is important to clarify the quantitative estimation of the two poisons detected by the Chemical Analyzer. If the chemical analyzer, fails to determine such quantity, for which the report of the doctor


\(^{118}\) Bhupendra v. State of Madhya Pradesh (2014) 2 SCC 106


might be uncertain or unclear, in such case acquittal was recorded\textsuperscript{121}. Mens rea or motive is very much important in deciding criminal cases. In a case where the accused was convicted under section 302 for causing death of his wife by administering poison, post-mortem of the dead body was performed and the doctors opined it was a suspected case of celphos poisoning. The stomach as a whole was preserved. Parts of the small and large intestines and parts of the liver, spleen and kidneys were preserved. All these samples duly sealed, were handed over to the police for being sent to the Chemical Examiner. All the samples which were collected and preserved for chemical examination were forwarded to the FSL, whereby the Deputy Director-cum Assistant Chemical Examiner of FSL opined that the samples had presence of aluminium phosphide (celphos). On receipt of the report from FSL the same was shown to the doctor who initially sought for some clarification from FSL. After receipt of the clarification from FSL, the Medical Board opined that it was a case of suspected aluminium poisoning. Although the courts below convicted the appellant relying on the incriminating circumstances, the Supreme Court did not support the view of the courts below as there was no evidence that the accused/appellant had poison in his possession prior to the time of the incident. There was also doubt about the genuineness of samples of vomit seized from inside and outside the house of the accused. Therefore it could not be doubtlessly concluded to be a case of celphos poisoning. Further, when the accused had neither any opportunity nor clear motive for administering poison, probability might be there that the deceased had consumed something before coming to meet the accused or may be she was suffering from food poisoning or virus infection. On facts, prosecution failed in proving such chain of circumstantial evidence as would fasten the guilt of the accused leaving no room for doubt. Therefore, the accused appellant was acquitted.\textsuperscript{122} Like the other forensic evidences, toxicology evidences are also corroborative evidence. In a certain case, although the receipt of the report of the chemical examiner, pointed out that the deceased had not committed suicide but was killed by accused persons by dipping her face in a bucket and strangulating her but since this view of the chemical analyst was contradictory to other available evidence, the accused was acquitted.\textsuperscript{123} In a case of murder, when the prosecution had miserably

\textsuperscript{121} Sher Singh v. State of Kerala (1996) 10 SCC 508
\textsuperscript{122} Jaipal v. State of Haryana (2003) 1 SCC 169
failed to bring home guilt of accused, acquittal was recorded. Moreover, chemical analysis, also indicated that the deceased was not raped before murder, which strengthened the case of the accused and he was acquitted.\footnote{124} In a case of dowry death under section 304B/34 of IPC, although the doctors opined that the cause of death was insecticide poisoning, the appellants were acquitted since, one of the essential ingredients of dowry death i.e. “demand for dowry” could not be proved.\footnote{125} In a case of murder by poisoning, it was necessary to prove that i) death was caused by poison ii) that poison in question was in possession of accused and iii) the poison was administered by the accused to the deceased. The reason for the murder as contended by the prosecution that there was illicit relationship of appellant wife with acquitted co-accused was not proved. Conviction by trial court was based primarily on the evidence of child witness. Deceased died in course of treatment at hospital. Only chemical examination report disclosed presence of celphos poison. Celphos has a pungent smell and characteristics and such poison cannot be administered deceitfully or openly. No direct evidence was found to show that any of the accused administered poison to deceased. Thus conviction and sentence was set aside and acquittal was recorded.\footnote{126} When, on the chemical analysis of the recovered clothes from the house of the accused revealed that they were stained with blood group O but the prosecution failed to prove that they were stained with blood group O of deceased, acquittal was recorded.\footnote{127} According to the Narcotic Drugs and Psychotropic Substances Act, 1985, even possession of certain chemicals is an offence. In a certain case when, when, the recovered stuff from the appellant was only bhang, which does not fall within the purview of section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985, acquittal was recorded. Moreover Chemical Report did not prove that stuff recovered was charas within meaning of Act.\footnote{128} When the CFSL report did not enable the court to conclude that deceased died of poisoning or even failed to determine the kind of poison which caused the death, such inconclusiveness with regard to poison was sufficient to forward the benefit of doubt to the appellant, which resulted in his

\footnote{125} Appasaheb And Another v. State of Maharashtra (2007) 9 SCC 721  
acquittal. When a bottle of poison was found near the cot of deceased, it cannot be concluded that the husband deliberately kept it to raise a false plea that the deceased committed suicide. As no conclusive evidence was found against the appellant husband, acquittal was recorded. The High Court acquitted the accused on many grounds, among which one of the grounds was that the sample of the narcotics were not taken in terms of the Standing Instruction and by complying section 55 of the NDPS Act. The explain the question regarding the non-compliance while taking the samples and section 55, the Supreme Court explained that the Standing Instruction 1/88 which had been issued under the Act, lays the procedure for taking samples. In the instant case, the High Court had noticed that one of the prosecution witnesses had taken samples of 25 gm each from all the five bags which contained the opium and then mixed and sent them to the laboratory but there was nothing to show that adequate quantity from each bag had been taken. Regarding compliance to section 55 the court reasoned that said prosecution witness did not testify as to which of the bags seized had been sent for analysis, neither any statement was made by him that the bags produced were the bags in question which were seized or the contraband was found in them. The court was of the view that High Court had arrived at proper finding in respect of all the points of issue including seizure and taking of samples for the purpose of chemical examination which were doubted. On the basis of the aforementioned reasons the court recorded an acquittal. When it is clear from the evidence of the doctor the symptoms found on the body of the deceased is due to sodium cyanide poisoning which was also responsible for causing the death of the deceased within 10 to 20 minutes of consumption of such poison, acquittal was recorded as the motive of the accused could not be proved. When blood samples of the deceased along with other articles were sent for chemical examination but the report regarding articles was not available on record, acquittal was recorded. Even, the cause of the death could not be ascertained from the report of the surgeon, who conducted the post mortem along with other articles which failed to point towards the guilt of the accused. Although on chemical analysis a poisonous substance was found in the body of the deceased and on the earth

130 Subramanium v. State of Tamil Nadu And Another (2009) 14 SCC 415
so collected from the place of occurrence but since this report of the chemical analyzer was contradictory to the dying declaration, it could not be relied upon.\textsuperscript{134} When there was contradiction with respect to samples having resealed at three or four places which allegedly contained facsimile of seal, were withheld. Thus report of analysis of sample could not be connected with recovery of alleged contraband from appellant. Also Court found that report issued by Director of Forensic Science Laboratory, fell short of requisite particulars. \textbf{Chemical Report} stood not connected with recovered stuff and it also did not prove that stuff recovered were charas within meaning of the Act. Accordingly, conviction and sentence of appellant passed by trial court was unsustainable and was therefore set aside.\textsuperscript{135} Chemical examination of the viscera was conducted after post-mortem of the body. The serologist reported that the viscera contained insecticide poison but the report of the serologist was not considered by SC as the HC only considered his report but failed to consider other evidences while recording conviction\textsuperscript{136}

Although chemical examination of the viscera was accepted but it was not considered by the Supreme Court as the High Court failed to appreciate the other evidences while awarding conviction.\textsuperscript{137} In some cases chemical analysis helped in acquittal of the case in the rape case the blood group of accused did not match with the blood group detected on the victim’s cloth. Moreover no spermatozoa were detected in the pubic hair of the accused/appellant.\textsuperscript{138} No spermatozoa detected in the vaginal swabs.\textsuperscript{139} Prosecution failed to prove the revealed blood group was same with that of the deceased.\textsuperscript{140} The report of the chemical analysis was accepted but the motive could not be proved\textsuperscript{141}. Hence acquittal was recorded.\textsuperscript{142} The view of the chemical analyst was contradictory to other evidences.\textsuperscript{143} In one case it was contradictory to dying declaration.\textsuperscript{144} Although the report of chemical analysis was accepted but there was no evidence that the accused

\begin{footnotesize}
\begin{enumerate}
\item Renu Gogar v. State of H.P. (08.01.2010 – HPHC) MANU/HP/1258/2010
\item Anil Kumar Gupta v. State of Uttar Pradesh (2011) 11 SCC 24
\item Anil Kumar Gupta v. State of Uttar Pradesh (2011) 11 SCC 24
\item Babu v State of Kerala (2010) 9 SCC 189
\item Appasaheb And Another v. State of Maharashtra (2007) 9 SCC 721
\item Nanhar & Others Vs State Of Haryana (2010) 11 Sec 423
\end{enumerate}
\end{footnotesize}
had poison in his possession prior to the time of incident.\textsuperscript{145} Chemical analysis proved poison was present in food but it did not prove the accused had put it in the food.\textsuperscript{146} The blood samples along with other articles were sent for chemical examination but the report was not available on record.\textsuperscript{147} Seized articles were sent for chemical analysis but prosecution failed to prove that they were properly sealed.\textsuperscript{148} Sealed parcels were deposited with chemical examiner but prosecution failed to prove the case.\textsuperscript{149} Chemical report proved that the stuff recovered from appellant was bhang, whose possession is not an offence.\textsuperscript{150} Chemical report did not connect with recovered stuff which were not charas within the meaning of NDPS Act, 1985.\textsuperscript{151} The report of the chemical examiner was not specific.\textsuperscript{152} Chemical examination revealed presence of celphos poison which cannot be administered deceitfully as it has a pungent smell.\textsuperscript{153} CFSL report did not enable the court to conclude that deceased died of poisoning.\textsuperscript{154} Chemical examination report and doctor’s report were contradictory to each other.\textsuperscript{155} The samples of the narcotics were not taken in terms of the Standing Instructions and by complying section 55 of the NDPS Act.\textsuperscript{156}

\textbf{6.5.2 Reasons For Conviction}

From the discussion of cases in which the determination of poison through chemical analysis or toxicology has been used the court gave various explanations on the use of toxicology. As, it was studied earlier that toxicology evidence is a corroborative evidence, as such it can also corroborate the testimony of a sole eye witness, in a case of murder by poison. In the present case, her evidence was corroborated by CFSL reports of the Chemical Analyzer that the tablets and water given to the deceased by the appellant gave positive test for cyanide. It was further

\begin{footnotesize}
\begin{enumerate}
\item[146] Saraswati Barman v. State of Assam (30.01.2013 – GUHC) MANU/GH/0015/2013
\item[148] Manoj Mahadev Gawade v. The State of Maharashtra (27.08.2014 – BOMHC) MANU/MH/1360/2014
\item[149] State of H.P. v. Neeta Ram and Ors. (27.08.2010 – HPHC) MANU/HP/0549/2010
\item[151] Renu Gogar v. State of H.P. (08.01.2010 – HPHC) MANU/HP/1258/2010
\item[152] Sher Singh v. State (11.01.1995 – DELHC) MANU/DE/0136/1995
\item[155] Subramanium v. State of Tamil Nadu And Another (2009) 14 SCC 415
\item[156] Union of India v. Bal Mukund & Others (2009) 12 SCC 161
\end{enumerate}
\end{footnotesize}
proved that the appellant was a goldsmith and was likely to use such water treated by cyanide in their profession for cleaning ornaments.\footnote{554} In cases relating to rape, it is very important to conduct the chemical analysis of the materials collected from the prosecutrix and the respondent along with their blood samples, especially when there is absence of serious injuries on the body of the prosecutrix to uphold the conviction of the accused.\footnote{157} In case of death, although the post mortem report confirmed death by smothering and strangulation but such report was confirmed by the chemical examiner’s report, which confirmed that no poison was found in the viscera. The report of the chemical analysis ruled out the contention of the appellants that the death of both the deceased was suicidal in nature which upheld the conviction of the appellants.\footnote{158} In case of possession of Narcotic Drug and Psychotropic Substances, chemical test is a must to determine the nature of the drug or substance.\footnote{159} Chemical analysis also helps to determine, the exact chemical used for committing the offence. In a certain case, the CFSL report proved that sulphuric acid was found in viscera which established that the said acid was mixed with whisky and was forcibly poured down the throat of the deceased which led to the conviction of the accused.\footnote{160} In a certain matter, a question was raised as to the authority of the testing laboratory, which conducted the chemical analysis.\footnote{161} But, the Supreme Court, relying on the decision of another case held that chemical examination carried out by the testing laboratory was valid in law on the basis of which the accused was convicted.\footnote{162} According to Rule 2(c) of the NDPS Rules, has to be read in conjunction with Chapter III of the said rules including rules 17 and 22. These rules lay that no provision in the NDPS Act or Rules debars chemical analysis of opium by chemical analyzer of any other laboratory authorized to analyze the sample. Moreover, the collection and performance of chemical analysis of the substance must be conducted complying the provisions of the NDPS Act.

\footnote{159}{Krishnamurthy v. State by Ashok Nagar Police, Bangalore (29.05.2000 – KARHC) MANU/KA/0448/2000}
\footnote{160}{State of Punjab v. Naib Din (2001) 8 SCC 578}
\footnote{162}{State of H.P. v. Jaswant Kumar (2004) 13 SCC 516}
\footnote{163}{H.P. v. Pawan Kumar (2004) 7 SCC 735}
Section 50 of the said Act, lays down the conditions under which search of persons shall be conducted. In exercise of the powers conferred by section 9 read with section 76 of the NDPS Act, The Central Government has made NDPS Rules, 1985. Rule 2(c) defines the expression “Chemical Examiner” to mean the Chemical Examiner or Deputy Chief Chemist or Shift Chemist or Assistant Chemical Examiner, Government Opium & Alkaloid Works. Chapter III of the NDPS Rules relates to opium, poppy cultivation and production of opium and Poppy straw. Rule 17 of Chapter III provides the procedure for sending opium suspected to be adulterated to the Government Opium Factory. The Supreme Court in *Union of India v. Bal Mukund and Others* supported the view of the High Court and confirmed the acquittal of the accused as the sample of the narcotics were not taken in terms of the Standing Instructions and by complying section 55 of the NDPS Act. If, the materials are collected from the body after long time of conduction of the post mortem and no evidence is found that the items sent to the Magistrate for onward transmission to the chemical examiner were the same and there is a doubt whether the items were properly sealed by the hospital authorities, the court was of the view that, the possibility of interfering with it in the absence of seals cannot be ruled out especially when there was a time lag of nearly three months in sending the article to the Magistrate. Therefore, the court did not find it safe to rely on the chemical examiner’s report to reach a conclusion, but the accused persons were convicted on other evidences. When there is delay in sending the samples of opium to the Forensic Science Laboratory, it has no relevance as the fact that the recovery of the said sample from the possession of the appellant stood proved and established by cogent and reliable evidence led in the trial, that opium was seized from the appellant and seals put on the sample were intact till it was handed over to chemical examiner. That itself proves and establishes that there was no tampering with the aforesaid seal in the sample at any stage and the sample received by the analyst for chemical examination contained the same opium which was recovered from the possession of the appellant.

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166 *Sree Vijayakumar & Another v State* (2005) 10 SCC 737
Therefore, the delay was not fatal to prosecution case and could not have caused prejudice to the appellant.\textsuperscript{167}

6.5.3 The Table On The Question Of Recording Conviction Or Acquittal Relating To Cases Where Toxicology Evidences Were Used Reveals The Following:

i. Out of 100 criminal cases in 79 cases conviction was recorded, which amounts to 79\%. In other words in 79\% criminal cases in which toxicology evidence was referred to, conviction was recorded.

ii. Out of 100 criminal cases in 21 cases acquittal was recorded, which amounts to 21\%. Therefore in 21\% criminal cases in which fingerprint evidence was referred to, acquittal was recorded.

\textsuperscript{167} Hardip Singh v. State of Punjab (2008) 8 SCC 557