

Subedar Tewari vs State Of U.P. And Ors. on 3 November, 1988

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Bench: B.C. Ray, M.P. Thakkar

JUDGMENT

M.P. Thakkar, J.

1. 'Suicide' is excluded concludes the trial court. 'Suicide' is not excluded says the High Court. This is in the context of the tragic, unnatural death of a wife (Veena : A First Class First M.Sc. in Botony from Patna) by burning on the night between 11-12th September, 1984, within barely nine months of her marriage with a doctor husband. The husband and his sister viz. Dr. Narendra and Meera respectively were convicted by the trial court for the murder of the wife under Section 302 read with Section 34 of Indian Penal Code. The husband was sentenced to death. The sister-in-law was sentenced to imprisonment for life. They appealed. The High Court has set aside the order of conviction and sentence as against both holding that 'suicide cannot be excluded'. These companion appeals, by the father of the wife and by the State, arise from the said order of acquittal. The death of Veena occurred in the kitchen of the two bed room flat of the husband of which he with his wife and his sister Meera were the only occupants at about 4.00 A.M. At 7.00 A.M. the milkman repeatedly knocked as the ringing of the call bell did not evoke any response. Meera opened the door. Smoke was seen coming out and the dead body of Veena was found in the kitchen. That is how the occurrence came to light.

2. According to the prosecution the root cause was the licentious conduct of the husband (Dr. Tewari) who indulged in extra marital relations with other women. It was alleged that Dr. Tewari had illicit, incestuous relations with his 22 year old niece, Ms. Sunanda Chaturvedi a medical student who was admittedly nominated by him as beneficiary on the death of the insured in a 25 years' life policy of Rs. 50,000/- taken out by Dr. Tewari on his own life on 28.3.1984 within less than 1 1/2 months of his marriage with deceased Veena (a marriage which fetched him a dowry of Rs. 50,000/-). It was also alleged that Dr. Tewari had illicit, incestuous relationship with his sister Meera. The trial court accepted the prosecution version regarding promiscuous conduct of the husband. The High Court was of the opinion that it was not established.

3 The trial court concluded that 'accident' and 'suicide' were excluded, and that the unnatural death by burning was homicidal. The High Court on the other hand was of the view that 'suicide cannot be excluded'. That is why the trial court convicted the husband and his sister whereas the High Court acquitted them.

4. The matrimonial life of deceased Veena and accused Narendra was of a very short duration for about 7 months. The marriage took place on 17th February, 1984. Veena died an unnatural death by burning on 12th September, 1984. Even during the short span of 7 months they lived together for a very short time. After the bridal party returned with the bride on February 18, 1984 Veena was not brought to her husband's flat (Flat No. 37 in the Teachers' Flats) in the campus of Banaras Hindu University (BHU) in Banaras. She was taken to the house of her husband's parents at Dildarnagar where she remained for about four days. On February 22, 1984 she returned to Patna. The husband's explanation in his statement under Section 313 Cr. P.C. is that he had left his wife at Dildarnagar because of the illness of his brother-in-law Dr. Gorakh Nath Chaturvedi (father of Sunanda with whom it was alleged that the husband of the deceased had illicit, incestuous relationship). Dr. Chaturvedi died on February 27, 1984. Veena however was not brought to Banaras from Patna. It was only on April 9, 1984 that she was brought back to Banaras. For about a week or so she remained at Dildarnagar and then she was brought to her husband's flat at Banaras. The flat was occupied by Veena's husband and her sister-in-law Meera (sister of Dr. Narendra). These three were the only occupants of the flat. Veena remained at the flat for nearly two months. On June 9, 1984 she went to Dildarnagar with her belongings to her in laws' place and from there to Kudasaha, the place of Devendra, the step-brother of her husband. She had left half of her luggage at Dildarnagar and the remaining half at Kudasaha. The letter written by her on June 14, 1984 mentions that her connections with Banaras were virtually severed. She remained at Kudasaha for sometime. In the first week of July, 1984 she returned to her parental house at Patna. She remained at Patna till August 23, 1984. On that day she was brought back to her husband's flat at Banaras. Within 20 days thereafter she died of burns on the night between September 11 and 12, 1984, between midnight and 7.00 a.m. (accepting the Doctor's opinion the High Court formed the opinion that the death occurred at about 4.00 a.m.).

5. She remained with her husband for only 2 months from 9th April 1984 to 9th June, 1984 and later on for about 23 days from 23rd August, 1984 till her death on September 12, 1984. Thus, though the matrimonial life stretched for 7 months, in reality they stayed together for less than three months. There is ample evidence to show that there was discord between the husband and the wife and that she was unhappy and that the relations between the husband and the wife were extremely strained. It is unnecessary to examine the cause of the discord at this juncture. It is sufficient for the present purpose to briefly indicate that according to Prosecution it was the conduct of the husband who indulged in extra marital relations with other women which was the cause of this discord. Be that as it may the fact that she was brought back only in August, 1984 and that there was discord between the husband and wife has been sufficiently established. The real question is as to whether she committed suicide because her matrimonial life was disturbed or whether she was physically eliminated by her husband who was not happy with the matrimonial life.

6. It will be convenient at this juncture to advert to the evidence as to how the occurrence came to light. PW 2 Ram Prasad was a milkman who was supplying milk to accused Narendra. He started supplying milk from September 2, 1984 that is to say some ten days prior to the occurrence. On the day of the occurrence he had gone to deliver milk to the flat of accused Narendra, at 7.00 a.m. He pressed the call-bell as was his usual practice. The bell did not evoke any response and the door was not opened. He knocked at the door. Still the door was not opened. He waited for some time and again he knocked at the door. A short while thereafter accused Meera opened the door. When the door was opened he found that smoke was coming out from inside of the house. He asked Meera as to what was the matter. Meera looked back and called her brother. Accused Narendra, then came out. He started weeping. PW 2 told accused Narendra that the fire should be extinguished first. When he took two steps inside he saw that a dead body was burning in the kitchen. He came out and shouted. The people living in the adjoining flats started coming out and somebody gave him a bucket of water. The dining room and the adjoining kitchen were filled with smoke. The door of the kitchen was opened. He splashed water from the bucket on the burning body. He categorically stated that he did not see any stove in the kitchen. In cross-examination it has been stated by PW 2 that when he enquired from Meera as to how the smoke was coming, she looked towards the kitchen and shouted. Then she had gone to fetch Narendra. After two minutes Narendra had come out. Meera was weeping. Narendra appeared to be in a perplexed condition and started consoling Meera. It was suggested to him that the people who had collected there had prevented accused Narendra from going near the dead body but he denied this. That is how the occurrence came to light.

7. According to the evidence PW 5 Dr. Qamar Jahan, who was occupying flat No. 45 in the same block, at about 7.00 a.m. someone shouted that a woman was burning. She went running to the flat of accused Narendra. She found that a large number of persons had collected there. When she entered the flat, she found that a dead body was burning. It appeared that her legs were burning. Some water had already been thrown over the body by the people present there. A neighbour was bringing water from the adjoining flat. All the windows and ventilators of the flat were closed. These were opened by the people who had collected there. She found smoke and blackening in verandah, kitchen and bathroom. Accused Narendra and accused Meera were present in the flat and were weeping and hugging each other but they did not try to extinguish the fire. There was no light in the kitchen and all the articles in the kitchen were kept properly arranged. One stove was on the platform of the kitchen but it was not burning. It was elicited in her cross-examination that she joined the demonstrations and strike from the next day as she felt that it was not a case of accident and the Police were not taking proper action. To a further question whether there was a rumour on the next day that Veena had been murdered she stated that such a rumour was spreading on the very same day, but nobody was willing to say it openly and the matter came to be discussed openly only on the next day.

8. The dead body was sent for post mortem, and the flat was looked up. The post mortem examination revealed that there were three ante mortem injuries which have been described as under :

1. Derombedermal burn all over the body including palm and soles, left lower extremity part of the back are deeply burnt and muscles charred. Right foot is

disarticulated at ankle joint because of charring of bones. Scalp, hair are also sigged and scalp on left side of head completely burnt and charred

2. Contusion 5 cm x 2 cm on the right parietal area of the head.

3. Extramural hemorrhage in area of 8 cm x 11 cm on left parietal region of brain.

It was also revealed that scalp, skull and bones were burnt. Brain was congested and 'cooked'. The stomach contained semi digested food, rice and vegetables. The opinion of the Doctor who performed the post mortem was that the death had been occasioned by shock as a result of burn injuries. The body was found in a pugilistic attitude.

9. The evidence of the two witnesses mentioned above viz. PW 2 and PW 5 has been accepted by the trial court which convicted both the accused. The High Court has also accepted the evidence of two witnesses in toto. The prosecution case which was accepted by the trial court was that it was not accident or suicide but it was a case of murder. The High Court on the other hand proceeded on the footing that it was not a case of accident. It has reached the conclusion that suicide can not be excluded. The trial court has relied on the medical evidence and the relevant circumstances in forming the opinion that the unnatural death of Veena was not suicidal but was homicidal. Having reached this conclusion the trial court has found the husband of Veena and the sister in law of Veena. who were the only inmates in occupation of the flat at the time of the occurrence, guilt of committing her murder.

10. One of the circumstances on which reliance has been placed by the trial court is that the husband was not traceable for about a month. The incident occurred in the early morning of 12th September, 1984. Only after proceedings under Sections 82 and 83 of the Cr. P.C. had been taken on September 19, 1984 and photographs of the accused were obtained and published in newspapers on 26th September, 1984 that both the accused surrendered in the Court on October 12, 1984.

11. It may be mentioned that the panchnama was made before the dead body of Veena was removed, as per Ex. Ka. 13. No articles were however seized on that day. On 19th September, 1984, after obtaining orders from the competent authority the lock of flat No. 37 was broken open in the presence of Proctor of the University Dr. Hanuman Ram and other witnesses. In their presence a panchnama of the articles found from the kitchen and other parts of the flat were < seized under Panchnama Ex. Ka. 33. The panchnama reveals that all the articles in the kitchen were properly arranged on the racks. No cooked food or tea was found in the kitchen. The stove was not burning. The stove was in the upper rack of the kitchen. It was empty. There was no kerosene in it. (Stove is article 14 in the panchnama). The evidence of PW 16 Veer Bahadur Singh, Deputy Security Officer BHU, Banaras who had accompanied Dr. Hanuman Ram, Proctor of BHU shows that on September 12, 1984 all the articles in the kitchen were properly arranged in almirahs and he has not found any burnt tin or utensils on the floor of the kitchen. There was no candle or any other source of light in the kitchen. There was a ^socket for electric bulb, but the electric bulb was missing. The panchnama further shows that the list of articles found from the kitchen does not contain any match box or match stick. The panchnama also reveals that a towel with black stain and a hand-kerchief with

black stains had been recovered from the bed-room.

12. Now, the medical evidence deserves a look :

There are three ante-mortem injuries noted by Dr. Kacher. Firstly there is demo epidermal burn all over body including palm and soles, left lower extremity and part of the back are deeply burnt and muscles are charred. Right foot is disarticulated at ankle joint because of charring of bones. Scalp hair are also singed and scalp on the left side of head completely burnt and charred. Secondly there is a confusion 5 cm x 2 cm on the right parietal area of the head, and thirdly there is extradural anchorage in an area of 8 cm x 11 cm on the left parietal region of brain. Dr. A.K. Kocher has fixed the time of death between 11 p.m. to 4 a.m. on the night in between 11th and 12th September, 1984. Dr. Kocher has given this time as the time of 'death' and not as the time of start of burning of deceased Veena. It is his opinion that after sustaining ante mortem injuries Nos. 2 and 3 the injured must have become unconscious immediately. He has also opined in his examination-in chief that these two injuries Nos. 2 and 3 can be caused by blunt object. He has explained that pugilistic attitude is arrived after getting extensive heat for a long period and after the coagulations of muscle portions due to burn. He has clarified that if the deceased must have been burning for a period of at least half an hour to one and a period must have been getting extensive heat '. and in that case the pugilistic attitude of the body will be visible. In cross-examination Dr. Kocher has stated that ante-mortem injury No. 2 is probable by fall and in ante-mortem injury No. 3 he did not find any symptom of external injury because its upper portion was completely burnt. Dr. Kocher has deposed under cross- examination that injury like injury No. 3 is generally found in burn cases. He has opined that the condition of stomach goes to how that the deceased must have died within five hours from the time of taking food. It is stated by him that if in the fire Ghee or oil is put, the temperature of the fire becomes excessive.

The body of deceased was found in pugilistic attitude. According to Modi when a body is exposed to great heat, it gets cooked and becomes so rigid that the lips fixed, arms fixed and fingers booked like clews that it assumes an attitude of defence called the listic or fencing posture. According to Taylor all muscles portion in the body is coagulated at temperature above 65 C. When a body is subjected to a temperature above the coagulation point, of the muscle protein, rigidity is produced which, if complete, is for more intense than that found in rigor mortis. So it can be conclusively inferred by the pugilistic attitude of the body of deceased Veena that the body was exposed to great heat and it was cooked. Dr Kocher has also noted in the post-mortem report that the brain was cooked. It is also established by the pugilistic attitude of the body that the heat above 65 C. was given to the body.

At this juncture it will be appropriate to advert to the defence of the accused as reflected in the statement in writing filed by them in the course of their examination under Section 313 Cr.P.C. These statements deserve to be quoted verbatim :

Statement made by husband of deceased sister-in-law of Veena deceased Veena 1. I had stated to 1. My brother-in-law give the statement in Dr. Gorakh Nath writing which is as Chaturvedi was Prof, under. in Ayurvedic department in B.H.U. 2. That since July, and he died in S.S. 82 I am Medical Hospital, B.H.U. on Officer in Health 27/28th February, center of B.H.U. 1984 of heart Previously I was attack. His funeral living in A-3, New was done on 28.2.84. Medical Enclave and He was admitted in subsequently I was the hospital on living in 37, 11.2.84 for Teachers' flat. treatment. By mistake I had 3. That my brother - admitted in reply to in - law Dr. Gorakh question No. 4 that Nath Chaturvedi who he died in March, was Professor in 1984. In fact he Ayurvedic Department died in midnight of in B.H.U. died of 27/28th February, heart attack in S.S. 1984. Hospital and his funeral took place on 2. The funeral of 28.2.84. He was Veena was done by my admitted in Hospital brother Narendra on 11.2.84 for the Nath Tiwari on treatment. By mistake 12.9.84 upto in the reply to 8.30p.m. As such a question No. 4th I sad incident had had admitted that he occurred in the flat died in March 1984. it was though not It is correct that he proper to live there died in midnight and as other between 27th and, religious rights had 28th February, 1984. to be performed alongwith my parents 4. That Sunanda in Dildarnagar, we daughter of Gorakh all went to Nath Chaturvedi was Dildarnagar, with studying in Patna necessary apprels. Medical College and after the death of 3. I was a student her father she was of M.A. final transferred to this sociology in 1983-84 Medical College of in B.H.U. and my B.H.U. as student, in examinations were student admission held from 21.2.1984 quota. to 28.2. 84 and for this reason I could 5. That Sh. Gorakh not attend the Nath Chaturvedi in marriage of brother. life time during his I passed the illness has asked me examination in first to take care of division. I was Sunanda and to look living in the hostel after her education. after the death of Therefore after his my brother-in-law I death there is nobody went and sometimes I to take care of use to come to stay Sananda. with Veena. 6. That as per the 4 . Veena died of last wishes of accident or committing suicide. Gorakh Nath I nominated Sunanda in 5. The witnesses are my L.I.C. policy, deposing falsely with the idea that if after being I died Sunanda may sentimental and in get the money which revenge. may be useful for her and I may be able to 6. All the doors of fulfill the last Teachers Flat are wishes of my brother- Air tight. in-law Gorakh Nathji. If I remain alive 7. I am innocent till the life period of policy then this sd/- amount will be saved. It is wrong as deposed by witnesses that I was having illicit relationship with Sunanda and it also proves that to what extent those people have fallen, and what they can falsely depose to take revenge that I have illicit relationship with my real niece and real sister Meera, which I cannot even think of. 7. That in 1981 in the month of August, I suffered from apolloxy and for the treatment my diagnosis was done in the laboratory of Banaras University and I was treated there from 8.9.81 to 1.2.82 as outdoor patient. During this period in December, 1981 Dr. Katiyar has referred me to the department of Radio diagnosis of All India Medical Institute, New Delhi where my brain scanning was done and X-Ray was also taken. I am filing the documents in this connection. I had to continue this treatment for 5 years. Therefore the medicines given were very strong,

sedative and patient becomes deep slumber after taking the dose in the night. At the time of incident I was taking the medicine and because of that I was sleeping until I was awoken. 8. I was married with Veena. I do not want early child and using contraceptives. If any contraceptives are recovered it should have been from the box of Veena or mine. 9. The last funeral of Veena took place upto 8.30 p.m. on 12.9. 84. As the said incident occurred in my flat I did not like to stay there, and I went to Dildar Nagar as some rights to be performed alongwith my parents, so alongwith necessary apprels. 10. When the information of this incident was given to me while sleeping I was surprised and started weeping and the neighbour took me and Meera to their flat consoling us. I sent the information to my parents and in- laws, of this incident. 11. Before I could have thought to inform the police the police had reached my flat as somebody had informed the police. Police met us and after completing the Panchnama and post- mortem the dead body of Veena was given to me for funeral. 12. My sister Meera is a student of M.A. final sociology of B.H.U. in 1983-84 session and her examination were conducted from 11.2.84 to 28.2.84 so, she could not attend my marriage. She passed her examination in first division. She was living in hostel. After the examination and death of my brother-in-law she went home and sometimes she use to come to stay with us for spending some days. 13. The nature of Veena was strange. She wanted to continue her education or service. She treated the house- hold as incomplete life. She wanted to do Ph. D. and I had no objection. I always inspired her. 14. It is wrong that I had asked for dowry at the time of marriage or after it. 15. I went home on leave after the death of Veena and when I came to know that the case has been registered against me falsely I became terrified and then I surrendered in the Court. 16. Veena died of accident of committed suicide. 17. The witnesses are deposing falsely after being sentimental and in revenge. 18. All the doors of Teachers flat are Air tight. 19. I am innocent.

13. Some significant features which emerge on an analysis of the statement of the husband Narendra and the sister-in-law Meera deserve to be placed in focus :

1. Neither the husband nor his sister say one word about what happened on the night of the tragedy,
2. None of them say as to when they took their meals and when they went to bed.
3. None of them say that any altercation, quarrel or unpleasant incident had occurred on that day or in the evening or on the night of the occurrence which might have caused any emotional disturbance to the wife so as to drive her to commit suicide.
4. The husband did not offer any explanation when he was orally interrogated by the Court in regard to taking out of the Insurance Policy on 28th March, 1984, just one-and-a-half months of his marriage with Veena nominating Sunanda as the beneficiary of the Policy in the event of his death. In the written statement however he has come forward with an explanation that during the life-time of Sunanda's

father Shri Chaturvedi he had requested Dr. Narendra to take care of Sunanda, and to look after her education and as per his wishes, Sunanda had been nominated as the beneficiary in the LIC policy, so that she may get the money which would be useful for her and he may be able to fulfil the last wishes of Shri Chaturvedi.

5. While the husband did not say a word about Apoplexy problem and he did not say that he had taken any sedative, in his statement in writing he has mentioned that he was taking some strong medicines with sedative effect which would result in the patient going in deep slumber after taking the dose in the night. It is however significant that he did not name the medicine notwithstanding the fact that he himself was a Doctor.

6. The husband has maintained silence as to whether there was discord with deceased Veena. In his written statement he has stated that Veena was strange and she wanted to continue her education or services. She treated the household as incomplete life. She wanted to do Ph. D. and he had no objection and that he has always inspired her. It is to be noted that this does not provide any cause for matrimonial discord between the two spouses. Why did Veena commit suicide ? He does not even suggest or hint at any reason.

14. The husband has adduced defence evidence of five witnesses. DW 1 Shri Kanhaiya Lal Chaturvedi, Medical Research Technician, Sir Sunder Lal Hospital, BHU, Varanasi has given evidence to the effect that Shri Chaturvedi, brother-in-law of accused Dr. Narendra was admitted to the Hospital on 11th February, 1984 and that he died on 27th February, 1984. DW 2 Dr. Devindra Nath Tewari, Reader in Botony, center for Advance Studies in Botony, BHU, Varanasi has given evidence that in July, 1984 the husband (Dr. Narendra) had : contacted him (DW 2) for admission of his wife Veena in Ph. D. in Botony and that he had forwarded the form to the Selection Committee which had approved her application for admission and that the witness had been appointed as her Guide-Supervisor. He has further stated that Veena could not be informed about the fact that she had been granted permission, till her death The next witness examined by accused Dr. Narendra was Dr. Surendra Mishra, Reader and Head of the Department of Neurology, Institute of Medical Science, BHU, Varanasi (DW 4). He has deposed that Dr. Narendra had come to his Department for his own treatment in 1981 and Dr. Narendra was studying for MS and had written the case history himself. FEG and several other tests which he had taken were found to be normal. In the original records there was no noting of any abnormality, though in the Outer Record somebody had referred to abnormality at two places before EEG. In the original record which he had with him, it was mentioned that the EEG was normal. When Dr. Tiwari was seen his diagnosis was written as Hysteria virus appoloxo, but in the outer records the diagnosis was shown as temporal lobe apolloxy. He has however stated that after the tests everything was found normal. He stated that the tests were not conclusive one way or the other. Other patients suffering from such disease work normally on heavy dose of medication. In the examination in chief he stated that after taking the medicine for a year or so the extra ordinary sleep of a patient does not arise. The diagnosis of temporal lobe apolloxy was made on 8.9.81. According to records Dr. Tiwari was taking the prescribed medicines since 1979. The certificate issued by Dr. Katiyar on 19.10.84 was to the effect that Dr. Tiwari had

become fit for his job though he did not mention whether he was free from the disease. The witness said that it was not possible for him to say on the basis of the records with him whether the patient was not suffering from Hysteria after 1982 as there was no record concerning his decease after 1982 available with him. The last defence evidence was that of D.W. 5 Ranjan Mitra, Administrator-Worden, Women College Hostel, B H U., Varanasi. She stated that accused Meera Tiwari had left the Hostel in 1982 and thereafter she never again joined the Hostel.

15. It may be mentioned that the father of deceased Veena was examined as PW 1, her mother was examined as PW 7 and her sister Prem Lata (wife of step-brother of Dr. Tiwari) was examined as PW 9. Their evidence to the extent necessary will be briefly referred to in the course of the discussion hereinafter.

16. The three letters Exs. Ka. 2, Ka. 3 and Ka. 4 written by deceased Veena after her marriage and before her death on 12th September, 1984, addressed to her father, mother and sister have been introduced in evidence. The hand writing of deceased Veena has been proved.

17. Some facts which have emerged from the letters written by deceased Veena to her mother and sister require to be noticed:

1. Humiliating treatment was meted out to Veena and her parents:

The following extracts from the letter of Veena addressed to her mother (Ex. Ka. 3) will support this conclusion :

"...Babooji had come here, but I would not ask him to stay, because when my own life here is difficult then what I can do for you people...."

"None of you should come here because I cannot tolerate your insult. Love to Neera, Nisha and Munna, Parnam to Father."

2. Veena had resolved to break with her husband and return to her parents' place in Patna and to secure a job as a Lecturer or some other job and start a new life of her own at Patna :

The following extracts from Exs. Ka. 2, Ka. 3 and Ka. 4 will go to prove the above :

Ex. Ka. 2 : "It is possible that I may reach Patna any day. If possible please ask Babooji to apply for me for research, or if in any way I may get any service there I am ready to join. Please write to me."

Ex. Ka. 3 : "If possible please tell Babooji that he should try for my appointment as Lecturer in Patna at Panna Lal Mahila College through the grandfather of Summan."

Ex. Ka. 4 : "I have brought with me almost my entire articles from Banaras out of which I had kept half of the goods in Dildarnagar. I cannot write you the reason for doing so in my letter."

18. In her letter to her sister Prem Lata, she has written :

"If possible you ask the brother-in-law to arrange a job for me and if there is any chance of getting the job you inform me as I want to join the service as early as possible."

Ex. Ka. 4 : (letter to father) :

"If you can do, then please try for my service at any place. Now I have very much tired from fighting with myself. 21st June is the last date for the form of UGC but I could not obtain the form as yet. If you can get this form at Patna through some one, then fill it up. I feel that my coming to Banaras has almost broken. If possible, please drop a letter to Parmotendra Jeejaji about my job...."

3. Veena was reassuring her father and was anxious to relieve the distress of her parents :

Ex. Ka. 4 : "Do not worry for me. By getting a job anywhere my life would become regular. According to mother you do not sleep in the night. I request you to give up all worries and take care of yourself."

4. Veena was afraid that her letters might be intercepted and had made a request not to write to her regard to her problem :

Ex. Ka. 3 : "Please do not write anything in the letter."

5. Veena had found something so abhorrent in regard to her matrimonial home which she could not incorporate in the letter for the sake of decency :

Ex. Ka. 3 : "I do not want to write anything clearly in the letter, because there is something reason in it, which cannot be written in the letter."

Ex. Ka. 4 : "I cannot write the reason in the letter."

19. In the light of this evidence the most crucial question in regard to the unnatural death of Veena which requires to be resolved is as to whether 'accident' and 'suicide' can be excluded. Both the trial court as well as the High Court have concluded that accident is ruled out. There is conclusive and unimpeachable evidence to show that the stove was on the rack and that it was not burning. So also no cooked food or tea was found. The stove was empty. Therefore, the possibility of accident must be altogether excluded unhesitatingly. What is more, whether it was accident or she set

herself on fire or someone else set her on fire, the incident must have occurred between midnight and early hours of the morning. There was no conceivable reason at this hour to go to the kitchen in order to light the stove or to prepare any article of food or drink. Everything was neatly arranged in the kitchen as is disclosed by the evidence of PW 2, the milkman, who was the first to enter the flat at 7.00 a.m. He has clearly stated that no stove was burning. The evidence of PW 5 Dr. Qamar Jahan who was a lecturer in the Urdu Department is to the effect that the stove was on the platform but it was not burning, that there was no light in the kitchen, and all the articles in the kitchen were properly arranged. The evidence of these two witnesses has been accepted in toto by the trial court and the High Court. And in view of this evidence which has not been assailed on behalf of the accused, even before this Court, the conclusion is inevitable that it was not a case of accident. As a matter of fact even the learned Counsel for the accused has not contended that it was a case of accident.

20. The debate has centered round the question as to whether suicide can be excluded. The trial court and the High Court have differed on this point. The former has taken the view that suicide is excluded whereas the latter has taken the view that suicide is not excluded. Thus, this is the most vital issue which calls for close scrutiny. The relevant factors therefore need to be carefully analyzed :

(1) She was not in the frame of mind to commit suicide---She was in fact looking forward to sever her marital tie and to start a fresh life on her own.

21. In the first place, deceased Veena was a person with high academic qualifications. She stood first in first-class in M. Sc. Examination in Botany, And in fact DW 2, a Reader in Botany, has deposed that her application for admission had already been granted though Veena could not be informed about this fact till her death. It is extremely unlikely that an educated woman of this academic distinction who was prepared to face her problems and was optimistically looking forward to the future beyond her marital home would be inclined to commit suicide by burning herself when as disclosed by the extracts from the letters which she had written to her parents she was not cowed down by her marital problem. She did not think that she had reached a dead end or that she had nothing to live for. She was not depressed or frustrated. As a matter of fact she had resolved to break with her husband and return to her parents' house at Patna in order to prosecute further studies and obtain a job and launch upon a new life as is disclosed by the relevant extract quoted in the earlier part of this judgment. She was indeed optimistically looking forward to taking up a job and to start a new life on her own. In letters Ex. Ka. 2 and Ex. Ka. 3 she had requested her parents to apply for some research job or a job as a lecturer in the Mahila College or any other job. In her letter to her sister Prem Lata also she had made such a request. She had also written in her letter (Ex. Ka. 4) to her father to fill up the form of UGC. Thus she was not a woman who had broken down on account of marital discord or lost interest in life. She was a woman who had resolved to break herself from her husband and to start her life afresh. This discloses a strong character and a strong will to live.

2. She was very much attached to her parents and very much anxious not to cause any distress or misery to them.

22. We have also discussed the point which emerges from her letter viz. that she had strong emotional attachment for her parents and she was so concerned for them that she did not want to cause any anxiety to them on her account. On learning from her mother that her father was passing sleepless nights on account of anxiety for her she had pleaded with her not to worry for her and had reassured her parents that her life would become normal by getting a job anywhere. She had in her letter entreated her father not to worry on her account and to take care of himself. Would such a person commit suicide which was bound to cause immense distress and life-long misery to her own beloved parents? And these letters were written only about 2 or 2 1/2 months before the occurrence.

3. The prospect of separation from her husband did not bother her.

23. So far as her matrimonial life was concerned, far from being distressed at the prospect of separation from her husband, she had evinced keen desire to leave her husband as she had a feeling of revulsion for her husband. The relevant portion from her letters shows her resentment at the humiliating treatment meted out to herself and her parents. She had asked her parents not to come to Banaras as she did not want them to be insulted. She had also shown her great affection for her sisters in letter Ex. Ka. 3 and Ex. Ka. 4. In Ex. Ka. 3 she had hinted at something which was so revolting and abhorrent about her matrimonial home which she stated that she could not write in a letter. Surely with this attitude of hers she would have been happy to part from her husband and start a new life at Patna. There was no question of her being broken-hearted and frustrated so as to resolve to commit suicide. Her husband was attached to the Hospital and her sister-in-law was also a student of BHU. It was not as if her movements were restricted or she was not in a position to leave her matrimonial home. Or as if she had nowhere else to go. She was very much welcome at her parents' house. In fact as indicated by the evidence of her father, PW 1, and by the internal evidence provided by the contents of her letter (Ex. Ka. 4) she had left Banaras with her belongings in June, 1984 and had gone to Kodsaha to the house of her brother-in-law. As disclosed by the contents of the letter dated June 14, 1984 (Ex. Ka. 4) she had virtually severed her connections with Banaras. She had gone to Patna in the first week of July, 1984 and it was only on August 23, 1984, some 20 days before the occurrence, that she had been brought back to Banaras by her husband who had gone to Patna to fetch her. Thus she was free to leave her husband's house on any day and free to return to Patna as she had done two months before her death. Instead of doing so why should she commit suicide ?

4. There was no cause or occasion to make her suddenly opt for suicide late at night on the fateful day. She already knew the worse and nothing worse could have or is known to have happened.

24. As pointed out earlier even in the statement in writing submitted by Dr. Narendra he does not say that any unpleasant incident, altercation, or quarrel had taken place on the eve of the day of occurrence. There was no nagging mother-in-law or harassment by her in-laws. She was not living in a joint family. The flat was occupied by only herself, her husband and her sister-in-law. The only reason for the discord was the obnoxious atmosphere (so revolting that she as a decent person could not pen it) and the humiliating treatment meted out to her. In one of her letters (Ex. Ka. 2) she stated that she was being looked upon as an uncultured and uneducated person. Possibly she was hinting at the promiscuous or permissive life-style of her husband who considered her life view as

conservative. This factor of unhappiness was not a new factor. She had refused be buckled down thereunder and had already overcome this fact. She had resolved to leave her marital home for good. Thereafter she had visited her parental home and had returned only twenty days back. Why should she commit suicide suddenly at 1.00 a.m. on the morning of 12th September, 1984 ? As per the medical evidence she must have died within 5 hours of her last meal (the post mortem disclosed that the stomach contained some undigested rice and vegetables). After taking her meals she must have gone to sleep and what could have happened which would make her suddenly leave her bed and resort to self-immolation by setting herself a flame at about 1'O clock in the night? Two situations can be visualized in the context of the suicide theory. First, that she was contemplating suicide since long and on that night she effectuated her resolve. Second, that something happened on that night after she partook of her dinner which so upset her that she yielded to an irrepressible impulse to snap her life. The first theory cannot stand scrutiny even for a fleeting moment. She could have left for her parental home on any day if the considered life at her marital home to be beyond the limit of endurance. Again, she could not have been toying with the idea for many days (she had returned from Patna only 20 days back upon her husband fetching her). She could have, if she was minded, committed suicide on any day (during day time when both her husband and sister-in-law were away). The accused maintain understandable silence in their statements as to how the evening was spent and whether she had behaved in an abnormal manner or appeared to be depressed or whether anything had happened till they went to bed. It is inconceivable why all of a sudden she effectuated her suicidal design on that particular night four or five hours after taking her dinner, going to bed, getting up after midnight and stealthily going to the dark kitchen (there was no bulb) to set herself aflame ? The first theory is thus preposterous and thoroughly improbable. So far as the second theory is concerned, neither of the two accused say that anything had happened on that night which could have upset her and triggered or sparked off the idea of suicide. Besides, even if there was any altercation, quarrel, or unpleasantness, of any magnitude, she would have reacted impulsively in the presence of the accused or before they had gone to bed soon after the incident occurred when she was overheated. If there was cooling time she could have waited till the morning, bid farewell to her marital home (as she had done in July) and returned to Patna to join her parents. After cooling down would she wait till past midnight, stealthily get up and set herself aflame ? Neither of these theories seems to be even remotely possible. Nor does it stand to reason.

5. Even the defence does not suggest that she had any motive or reason to commit suicide.

25. All that the husband in his written statement has stated is that she did not like to remain a house-wife and she wanted to engage herself in seeking further education or service. It has been stated by him that she wanted to do Ph.D. and he had no objection. According to him, he had in fact inspired her to study for Ph.D. He has also adduced evidence to show that he himself contacted DW 2 and submitted the application for Veena for admission to the Ph.D. course. Under the circumstances, even according to the accused, there was no reason for Veena to commit suicide.

6. She was most unlikely to have opted for this mode of committing suicide :

26. So also it is not possible to believe that such a highly educated person who stood first in first class in M.Sc. in Botony would resort to such a crude and painful mode of

escape from life as a semi-literate or rustic woman might have done. She was the wife of a Doctor and a person who had studied science. Surely, she could have thought of taking an overdose of sleeping pills. It is not probable that she would have opted for such a crude and painful mode of escape from life.

7. Apart from the aforesaid factors, the other circumstances pertaining to her death also point to the conclusion that it was not a case of suicide.

27. The kitchen in which she was found lying was approximately 3 metres in length and 1.80 metres in breadth as recorded in Ex. Ka. 35. In other words, the kitchen which had its door on the East was less than 10 feet in length and about 5.88 feet in width (north-south). She was lying prostrate on the floor in a space of less than six feet. The electric bulb in the kitchen was missing. As the panchnama shows, an empty container of kerosene was found in the kitchen. No match box was found inside the kitchen. The stove was neatly arranged on the shelf. Every other article and everything else was neatly arranged in the kitchen. This is not suggestive of suicide. She must have poured on herself kerosenes. How much kerosene she would get from the stove? It is not possible to believe that she would pour the kerosene from the stove, light her clothes with a "match stick, replace the stove on the shelf and get rid of the match box after setting herself in flames. And all this she must have accomplished in a dark kitchen with the window closed and the electric bulb missing. One has to be too credulous to believe such a theory which does not accord with probabilities even in a small measure. The medical evidence shows that the body was found in a pugilistic attitude and in a fencing posture. It means that the body must have got coagulated to about 65 C, For generating heat of this order, she must have drenched herself with a large quantity of kerosene or some other catalyst agent. How could such intense heat have been generated? The heat was so intense that her brain was cooked. If some large quantity of catalyst had been poured on herself and fire had been applied by herself she would have been in intolerable and intense pain. She would have shouted and screamed. She would have run about. How did it happen that in the dark kitchen where she set herself on fire she neatly slumped down on the ground in a prostrate position. That too in a dark kitchen with less than 6 feet width? If she had shouted and screamed in the stillness of night, it would have aroused the occupants of the adjoining flats as also the two accused who were sleeping undisturbed in the adjoining rooms. The submission urged on behalf of the accused, which has been accepted by the High Court is that she must have fallen down, sustained an injury on the parietal area of the head and must have become instantly unconscious. An explanation too neat and convenient to gulp down without closing the eyes to the probabilities factor. If she was enveloped by flames and was in terrible pain, she must have screamed and woken up the accused and the neighbourhood before falling down. Accused Narendra has stated that he had taken some sedative (curiously enough he does not name the drug). But why did accused Meera not hear any noise? Veena could not have fallen down in the small six feet wide kitchen so as to be found lying prostrate in an almost neatly arranged posture.

8. What about the ante-mortem injury (5 cm. x 2 cm.) on the right parietal area of the head ?

28. In the opinion of the Doctor this injury could have been caused by a blunt object. Of course under cross-examination he acceded to the suggestion that it could have also been caused by a fall.

But then, after setting herself on fire, when she was in intense pain, one could have expected the victim to run about, which could not have been possible in a small kitchen of less than 10' x 6' dimension. She had not fallen down from any height. She had slumped down from a standing position on the floor. Even if she had fallen down like a trunk of a tree or a log of wood whilst standing on the ground she could not have sustained an injury so serious that it made her unconscious instantaneously before she could scream or shout on account of intense pain. The suggested theory that the injury must have been sustained by a fall is more in the realm of a theory of convenience but it does not pass the test of probabilities. This injury is consistent only with the theory that she must have been struck with a blunt object. The injury is indicative of violence used by some one before she was set on fire. It is consistent with homicide and not suicide. There was also an extradural haemorrhage in an area of 8 cm. x 11 cm. on the left parietal region of the brain. Since the area in question was completely burnt no marks of violence were apparent by the very nature of things. Taylor in his treatise explains subdural haemorrhage thus :

Subdural haemorrhage is one which takes place between the arachnoid and the tough membrane which lines the inner surface of the skull--the dura mater. Haemorrhages in this situation are usually traumatic in origin and due to the rupture of small veins which cross the subdural space. They may accumulate rapidly but not infrequently, especially in the aged, develop slowly into a chronic subdural haematoma. The original haemorrhage gets rapidly sealed off and, as the original clot becomes absorbed, chemical changes occurring in the original clot may cause a further haemorrhage to occur spontaneously without additional trauma, although further trauma often triggers off another haemorrhage. This second haemorrhage then becomes sealed off and may in time be followed by successive haemorrhages until finally the accumulated fresh and old blood reaches such a volume as to cause loss of consciousness or death. This type of chronic haemorrhage, sometimes known as pachymeningitis haemorrhagic (and originally believed to be a manifestation of late syphilis), is usually found in old people. In old age the brain atrophies and there is correspondingly more space in the cranium for blood to accumulate. Very minor impacts to the head may initiate such a haemorrhage and the fatal outcome may not occur for months or even years after the original injury. The original traumatic episode may have been forgotten or may have been so slight as to pass unnoticed. It may be difficult or impossible to give an accurate estimate of the date of the original injury. When a final assessment is made all available clinical data must be considered. It is not infrequent for some acute mental and physical deterioration to occur following a minor head injury. As the deterioration is often relatively minor it may be interpreted at the time to be an acceleration of the natural degenerative processes and it is only in retrospect after death and autopsy examination that the true significance of the deterioration is appreciated.

Subdural haemorrhage is also seen in some cases of child abuse. . It may occur if the child is violently shaken. In these cases there may be no external marks of violence upon the child. Subdural haemorrhage is rarely unassociated with trauma but may occur spontaneously in blood dyscrasias or infection.

This factor does arouse serious suspicion of foul play. However, we do not consider it safe to take this factor into account having regard to the note of caution sounded by H.M.V. Cox in his treatise, which has been brought to our notice by the learned defense counsel :

8. Injuries upon a Burned Body --

A particular post-mortem artifact which must be interpreted with great caution in the presence of skull fractures and intracranial haemorrhage. Where great heat is applied to the head, the contents may boil, expand and burst the skull out words there may also be direct erosion of the skull by flames, causing brittle cracks to appear. These must be carefully distinguished from true fractures, inflicted by direct violence.

Where heat is applied to the outside of the skull, blood may be boiled out of the skull bones and the intra-cranial venous sinuses and accumulate as an extradural haemorrhage. This is usually brown in colour and often foamy due to the effect of heat, but many of these have been misinterpreted by inexperienced pathologists as being "extradural haemorrhage due to head injury" before death and thus raising the suspicion of the disposal of a homicide by burning. Such "heat hecatombs" are common in burns and although there is some dispute as to whether they can occur ante-mortem or postmortem, in either case, they are certainly not indicative of a criminal assault. Naturally, other factors must be taken into account and a search made for a genuinely fractured skull or damage to the scalp. Unfortunately in the case of many heat haematomas the overlying skin of the scalp and indeed the bone of the skull may be badly charred and impossible to examine properly.

9. The significance of the find of a towel and a handkerchief with black stains and other circumstances :

29. There is also another circumstance of considerable importance. The panchnama made on 19th September, 1984 (Ex. Ka. 33) shows that a towel with black stains and a handkerchief with black stains were found from the bedroom. The accused have not explained how the towel and handkerchief were found from the bed-room and as to how there were black stains on the same. The learned Counsel for the accused was not able to offer any satisfactory explanation with regard to the find of these two articles. Nor was he able to explain the absence of match box in the kitchen or elsewhere in the flat as recorded in the panchnama. These are suggestive of an attempt made by some one to obliterate evidence. This would be indicative of a homicidal factor and not a suicidal factor. The evidence shows that an empty tin of kerosene was found. It is difficult to believe that Veena could have lifted the tin of kerosene and emptied it on herself in the dark kitchen for the purpose of drenching herself with kerosene. The medical evidence shows that intense heat of about 65C must have been generated, otherwise the brain would not have been cooked and the body would not have been found in a pugilistic attitude. This is indicative of a large quantity of Kerosene or oil having been poured after she was set aflame in order to consume the body by way of a cover up operation. It is indicative of a homicidal

factor. Taking an overall holistic view therefore, we are satisfied beyond reasonable doubt that suicide is excluded in the circumstances of the case.

10. Subsequent Conduct :

30. The subsequent conduct of the accused also lends assurance to the homicide theory. The evidence of the milkman (P.W. 2) has been accepted by both the Courts and which is not challenged even by the learned Counsel for the accused shows that at 7,00 a.m. PW 2 had pressed the call-bell button, but it did not evoke any response. He there upon knocked at the door, but yet there was no response. After a while he again knocked at the door. It was only then that the door was opened by accused Meera who usually used to open the door to collect the milk bottles. Why did she not open the door at once if she was unaware of what had transpired? Accused Meera has not offered any explanation. When the door was at last opened the milkman noticed that smoke was coming out from inside. Surely accused Meera must have noticed the smoke when she came from her room to open the door even if she had overslept (she does not say so). But she did not show any awareness of the burning body or the smoke which had filled the room. The natural conduct of anyone else would have been to run to the place from where smoke was emanating especially when the kitchen was on the left side of the drawing room as one enters inside and one has to pass through the drawing room in order to come to the entrance door. Any inmate of the house who noticed so much smoke emanating from the kitchen, the door of which was open, would have seen the body of Veena burning. One would have expected such a person to rush to the kitchen and shout for help. But strangely enough even though the door was opened after considerable ringing of the bell and repeated knocking at the door Meera just did not show awareness of the tragedy. When the milkman drew here attention to the fact that smoke was coming out and enquired as to what was the matter, accused Meera looked back and called her brother. It was then that accused Narendra came out. When he came out he must have also noticed the smoke. The room was full of smoke as all the windows and shutters were closed. He must have felt the suffocation. He evinced no curiosity as to the source from which the smoke was emanating. Surely he must have realised that when there is smoke there must be fire. He also had to pass through the drawing room in which the door leading to the kitchen was open. The door was open and his wife Veena was burning. Did he go to the kitchen and try to extinguish the fire or show any concern for his recently wedded wife? No.

31. He did not show as much concern as the milkman, a stranger, who shouted for help and tried to extinguish the fire. Whilst the milkman was there none of the accused went towards the kitchen. The evidence of Dr. Qamar Jahan, PW 5, who arrived soon after also reveals that none of them had gone near the kitchen where the body of Veena was burning. The evidence of PW 2 (milkman) shows that when both of them came to the door accused Narendra appeared to be in a perplexed condition (the expression used is surprised, but what is perhaps meant is perplexed). Accused

Meera started weeping and accused Narendra console her. Surely, this was not the normal conduct of the husband who did not even care to go to his wife who was burning in the house and did not even shout for help or show any emotion. The fact that accused Narendra had not gone to the kitchen in order to find out for himself what had happened is sought to be explained away by making a suggestion to PW 2 that the people who had collected there had prevented accused Narendra from going near the dead body. PW 2 unhesitatingly and shoutly denied this suggestion. This conduct of the accused is thoroughly unnatural. One would have expected both the accused to have rushed to the kitchen and come out shouting for help and show some concern. In fact all this should have happened even before the door was opened. This points at the conclusion that the accused were not taken by surprise and they were aware of the fact that Veena was burning in the kitchen. Then accused Narendra quietly made himself scarce for about a month. The evidence pertaining to absconding on the part of accused Narendra has not been dealt with by the High Court, but it has been summarized by the trial court in the following passage :

The conduct of absconding of accused is also a factor which can be used for cementing the prosecution evidence. Both the accused Narendra Nath and Meera were found absconding after the lodging of the F.I.R. P.W. 10 Hridaynarain, Sub Inspector of Police has given statement that he had gone to Dildarnagar on 19.9.1984 in search of accused Meera but she was not available there and, therefore, the goods of the house of Dildarnagar were attached to execute the processes of attachment under Section 82 and 83 Cr.P.C. P.W. 12 Shri Sheshnath Pandey, G.O. Police has given statement that the accused of this case were absconding and on receiving information about the availability of accused in Kodarma and Bardha. He had deputed Sri Sabru Yadava S.I. of Police of P.S. Adampur on 22.9.1984 for the search of accused in Kodarma. He has further stated that on 24.9.1984 he deputed Shri Rajesh Kumar Sub-Inspector of police of P.S. Lanka for the search of accused in Bardha. But even then the accused were not traceable upto 25.9.1984 and therefore, he got published the photo of accused Narendra Nath in the daily news-papers through the incharge D.C.R.S. The statement of Shri Sheshnath Pandey (P.W. 13) is supported by the Documents Ex. Ka. 19 and Ka. 20. On 12.10. 1984 the accused had surrendered in the court. The accused have given explanation that they had gone to Dildarnagar in order to perform all the death ceremonies of deceased Veena but this statement is found false in view of the prosecution evidence that the accused were not traceable even in Dildarnagar.

If Veena had committed suicide accused Narendra did not have to keep himself away for as long as a month. Even when a person loses his own father or his son, he ordinarily does not withdraw himself from the society for as long as a month in connection with the obsequies ceremonies. And what obsequies ceremonies were to be performed by the husband, Narendra who did not show any affection towards Veena in her life time as narrated in the earlier part of the judgment? The matrimonial life was of a short duration of seven months though they lived together

for less than 3 months only. The explanation is thoroughly unconvincing. Besides, his photograph had been published in the newspapers and he was declared as an absconder. It was only when matters became uncomfortable for him that he surrendered himself one month after the occurrence. This is also a factor which buttresses the theory of homicide rather than the theory of suicide.

31. It is not necessary to discuss the evidence relating to the accusations made against accused Narendra in regard to his extra marital relations and aberrations. The evidence regarding his alleged incestuous relations with his sister Meera mainly consists of the evidence of PW 9 Premlata the sister of the deceased. The High Court has not felt it safe to rely on her evidence that when she entered the flat she had seen such behaviour of Narendra, Meera and Sunanda which created an impression of improper relationship. We are not inclined to reappreciate the evidence on this point. So far as the relationship of accused Narendra with Sunanda is concerned we cannot help saying that it is extremely strange that Narendra nominated Sunanda, his 22 year old niece, who was also a Medical student and who had sought a transfer from Patna Medical College to the Banaras Medical College, on the death of her father. Why was Sunanda nominated in the Life Insurance Policy of Rs. 50,000/- which amount was payable to Sunanda on his death, within less than one-and-a-half months of the marriage of deceased Veena with him ? Surely a newly married husband would nominate his wife and not a niece (sister's daughter). When accused Narendra was interrogated in this behalf under Section 313 Cr. P.C. he did not offer any explanation. In his statement in writing which we have reproduced in extenso in the earlier part of the judgment, it has been stated by him that he had nominated Sunanda with the idea that if he died, Sunanda may get the money and it would be useful for her and that he would be able to fulfil the last wishes of his brother-in-law Shri Chaturvedi, who had during his last illness asked him to take care of Sunanda and to look after her education. Why did he not think of Veena's future if he died ? It would be difficult for a roan of the world to believe this explanation at its face value. Even this explanation was offered after deliberation in selected words subsequent to his oral interrogation by the Court at which interrogation he did not offer any explanation. He himself was young. He was about 30 years old when the insurance policy was taken out and Sunanda was nominated. Even if he was an extremely sensitive and considerate person (that he was not such a person is revealed by his conduct towards his newly wedded wife Veena). it was enough for him to help Sunanda in her studies or extra financial assistance to her if it was necessary (it was not the case that the financial circumstances of his brother in law or Sunanda were in bad shape). It is difficult to comprehend why he should think of his death and as to what would happen to Sunanda after his death rather than think of what would happen to his newly wedded wife in case of his demise. It would be difficult for the most credulous person to accept the explanation offered by Narendra having regard to the attendant circumstances. We refuse to do so. Beyond this we do not consider it necessary to say for the purpose of the present appeals. It has been argued that the prosecution had failed to establish any motive on the part of accused Narendra. The

evidence regarding existence of motive which operates in the mind of an assassin is very often than not within the reach of others. The motive may not even be known to the victim of the crime. The motive may be known to the assassin and no one else may know what gave birth to the evil thought in the mind of the assassin. A crime can take place even without pre-meditation or pre-planning in the context of a particular situation, on the spur of the moment. In any case the evidence on record is sufficient to show that the two spouses disliked each other. It has been suggested on behalf of the Prosecution that she must have been struck on the temporal region with some hard, blunt object and she must have become unconscious thereupon. Then after her body must have been placed in the kitchen, a large quantity of catalyst such as kerosene, vegetable oil or ghee must have been poured and she must have been set aflame. It is not possible to pronounce on the question as to what exactly was the motive and what exactly triggered or sparked off the incident resulting in the death of Veena. Taking an overall view of the circumstances outlined in the discussion hereinbefore, we are satisfied beyond reasonable doubt that the death of Veena was not suicidal but homicidal.

32. Once the conclusion is reached that accident and suicide both are excluded beyond reasonable doubt and that the death of Veena is established to be homicidal beyond reasonable doubt the identity of the assassin does not present much difficulty. The evidence is conclusive on the point that there was no other inmate in the flat and this was not disputed even by the defence. If therefore Veena has died a homicidal death none but her husband could have been the assassin. In so far as he is concerned, the crime is established beyond reasonable doubt. In so far as Meera is concerned, the possibility of her not having been a party to the crime proper but having associated with her brother after the crime was committed, cannot be excluded beyond reasonable doubt. Since the High Court has acquitted Meera, in the light of the aforesaid consideration we are not inclined to interfere with the finding acquittal recorded as far as accused Meera is concerned.

34. In so far as accused Narendra is concerned, in the light of the findings recorded hereinabove, the finding of acquittal rendered by the High Court is set aside and we convict him for an offence under Section 302 IPC. So far as the sentence is concerned, taking into account all the relevant circumstances, we are of the opinion that a sentence of imprisonment for life will meet the ends of justice. We, therefore, dispose of all the four appeals as follows. The Appeals preferred against accused Narendra by Subedar Tewari, father of deceased Veena (Crl. Appeal Nos. 370-71/87), which are earlier in point of time have been treated as the main appeals and are allowed. The Appeals preferred by the State arise out of the same judgment and no separate orders are necessary in regard to these appeals as appropriate orders are being passed in the appeals preferred by Subedar Tewari. The order of acquittal rendered by the High Court in so far as Accused Narendra is concerned is, set aside. He is convicted under Section 302 of Indian Penal Code. He is sentenced to suffer imprisonment for life. He is granted time till November 15, 1988 to surrender. A

warrant of arrest shall issue against him to take him into custody in order to serve the remaining part of the sentence. The appeals against original Accused No. 2 Meera Tewari are dismissed. Her acquittal is confirmed.