

IN THE COURT OF THE ADDITIONALL SESSIONS JUDGE -IV,  
KOLLAM

Present:- S. Subash, Addl. Sessions Judge-IV, Kollam  
Monday, the 28<sup>th</sup> day of April 2025/ 8<sup>th</sup> day of Vaisakham, 1946

SESSIONS CASE No. 1062/2019

C.P. No. : 27/2019 of JFMC II, Kottarakkara  
Cr. No. : 469/2019 of Pooyappally P.S.  
Complainant : State of Kerala, represented by the  
Inspector of Police, Pooyappally Police  
Station.  
By Special Public Prosecutor,  
Adv. K.B. Mahendra

Accused : A1 Chanthulal, aged 30/2019, S/o. Lali,  
Maniyanvila Veedu, Oalikkara Vanvila,  
Kanjaveli Muri, Thrikkaruva Village  
(Now residing at Charuvila Veedu,  
Parandodu, Chenkulam Muri,  
Pooyappally Village).

A2 Geethalali, aged 55/2019, W/o. Lali,  
Maniyanvila Veedu, Oalikkara Vanvila,  
Kanjaveli Muri, Thrikkaruva Village  
(Now residing at Charuvila Veedu,  
Parandodu, Chenkulam Muri,  
Pooyappally Village).

A3 Lali, aged 60/2019. S/o. Nanu,  
Maniyanvila Veedu, Oalikkara Vanvila,  
Kanjaveli Muri, Thrikkaruva Village  
(Now residing at Charuvila Veedu,  
Parandodu, Chenkulam Muri,  
Pooyappally Village). (Abated)

By Adv. : Sijakala

Charge : U/s 344, 302, 304(B), 34 IPC

Plea of accused : Not guilty

Finding of the court : A1 and A2 are found guilty of offences  
punishable U/Ss 302, 304B and 344 r/w

34 of IPC and they are convicted thereunder. As A3 is no more the case against stands abated.

- Sentence of the court :
- i. A1 is sentenced to undergo imprisonment for life and to pay a fine of Rs.1,00,000/- u/s 302 IPC. In default of payment of fine A1 shall undergo Rigorous Imprisonment for a further period of one year.
  - ii. A2 is sentenced to undergo imprisonment for life and to pay a fine of Rs.1,00,000/- u/s 302 IPC. In default of payment of fine A2 shall undergo Rigorous Imprisonment for a further period of one year.
  - iii. A1 and A2 are sentenced to undergo Rigorous Imprisonment for 2 years and to pay a fine of Rs.5,000/- each u/s 344 of IPC. In default of payment of fine A1 and A2 shall undergo Rigorous Imprisonment for a further period of 3 months each.
  - iv. No separate sentence is awarded under S. 304B, in view of substantive sentence being awarded for the higher offence under S. 302 IPC.
  - v. The substantive sentence of imprisonment shall run concurrently.
  - vi. The fine amount, if paid or realized,

will be paid to Chancy, aged 10 years, and Chincy, aged 8 years, D/o. Thushara, Thushara Bhavanam, Ayani Thekku, S.V.M.P.O. Karunagappally, who are the children of deceased Thushara as compensation U/s 357(1) Cr.P.C.

vii. A1 is entitled to set off for a period of detention undergone by him during investigation and trial, that is from 29.03.2019 to 13.11.2019. A2 is entitled to set off for a period of detention undergone by her during investigation and trial, that is from 29.03.2019 to 01.10.2019. The accused are entitled to set off for the above said period subject to any remission or commutation of the term of life imprisonment ordered by the appropriate Government U/s. 432 or 433 Cr.P.C.

Dates of trial and hearing : 09-09-2024, 01-10-2024, 16-11-2024, 22-11-2024, 11-12-2024, 17-12-2024, 03-01-2025, 15-01-2025, 24-01-2025, 25-01-2025, 27-01-2025, 28-01-2025, 05-02-2025, 07-02-2025, 10-02-2025, 11-02-2025, 12-02-2025, 17-02-2025, 18-02-2025, 20-02-2025, 01-03-2025, 03-03-2025, 04-03-2025, 05-03-2025, 06-03-2025, 10-03-2025, 12-03-2025, 14-03-2025, 18-03-2025, 21-03-2025,

24-03-2025, 25-03-2025, 26-03-2025,  
27-03-2025, 28-03-2025, 29-03-2025,  
02-04-2025, 03-04-2025, 04-04-2025,  
05-04-2025, 08-04-2025, 11-04-2025,  
16-04-2025, 21-04-2025, 23-04-2025,  
24-04-2025, 25-04-2025.

This Sessions case having been finally heard on 28-04-2025 and the court on this day delivered the following:

### **J U D G M E N T**

Accused 1 to 3 stand charge sheeted by the Deputy Superintendent of Police, Kottarakkara for offence punishable U/ss. 344, 302 and 304B r/w S.34 of IPC.

2. Prosecution case in brief is as follows:

A1 is the husband of deceased Thushara; A2 and A3 are the mother and father of A1. The marriage of A1 and Thushara was solemnized on 09.12.2013. At the time of marriage, A1 and A2 demanded dowry and as per their demand, the parents of the deceased agreed to give her 20 sovereigns of gold ornaments at the time of marriage and Rs.2,00,000/- within a period of 3 years. It was also agreed upon by the parents of the deceased that if they fail to give the said amount within 3 years, they would give 5 cents of land. As insisted by A2, the parents of the deceased executed an agreement in a stamp paper on 15.11.2013 regarding the payment of the said amount, but as the parents failed to comply with the terms of that agreement, A1 and A2 with the knowledge of A3, constructed a compound wall with tin sheet around their house compound in an exorbitant height and put a gate in front of the

house and thereby locked the deceased in the house. When the accused go out of the house, they would lock the gate leaving the deceased alone at the said house and hence the deceased couldn't go out of the house. As Rs.2,00,000/- was not given as agreed upon, the accused subjected the deceased to mental and physical cruelty and they detained the deceased in the matrimonial home in the name of dowry. Accused brutally manhandled the deceased and with intent to cause her death, they didn't provide her with medicines, medical assistance and necessary food and thereby starved her and caused her death. Accordingly, accused have committed offences punishable under U/ss. 344, 302 and 304B r/w S.34 of IPC. With respect to the above occurrence, on 22.03.2019, PW1 who is the mother of the deceased, gave Ext.P1 statement to PW12, who was the Sub Inspector of Police, Pooyappally and on the basis of the said statement, he registered Ext.P9 FIR under S.174 of Cr.P.C. PW18, who was the inspector of Police, took over the investigation of the case on 22.03.2019 and as the commission of offence under S.304 B was revealed during his investigation he conducted investigation by adding the above offence. Thereafter, on 28.03.2019, PW22, who was the Deputy Superintendent of Police, Kottarakkara, took over the investigation of this case and as the commission of offences under S.344 and S.302 was revealed during his investigation he continued the investigation by adding S.344 and S.302 of IPC. PW20, who was the Deputy Superintendent of Police, Kottarakkara on 13.06.2019, completed the investigation and submitted final report before the Judicial First Class Magistrate Court - II, Kottarakkara.

3. As the offence alleged against the accused was exclusively triable by the Court of Sessions, the learned Magistrate

committed the case to the Court of Sessions, Kollam after complying with the provisions of S.207 Cr.P.C. The Hon'ble Sessions Court, Kollam made over the case to this Court, for trial and disposal. My predecessor in office framed charge against the accused for offence U/ss. 344, 302 and 304B r/w S.34 of IPC and the accused pleaded not guilty. Thereafter, A3 died and the case against him was abated. Then the case was posted for evidence of the prosecution. A1 and A2 were defended by their own counsel. From the side of prosecution 23 witnesses were examined as PW1 to PW23 and marked Exts. P1 to P41 documents. Even though prosecution cited 62 witnesses, 23 witnesses were examined as PW1 to PW23 and marked Exts.P1 to P41 documents. CW7 and CW27 were not examined as they were reported no more. The remaining witnesses were given up by the learned Prosecutor. During examination of PW2, A2 suffered stroke and she fell down in court and she was taken to the hospital. Thereafter, A2 filed application for exemption from personal appearance stating that she will not dispute her identity and she has no objection in conducting trial in her absence. The above application was allowed and A2 was exempted from personal appearance during trial.

4. After the close of the prosecution evidence, the accused were questioned under S.313 Cr.P.C. The accused denied all the incriminating circumstances brought out in evidence against them. They filed additional written statement under S.313(5) of Cr.P.C. Thereafter, learned public prosecutor and defence counsel were heard under S.232 Cr.P.C. Since this is not a fit case for acquittal u/s. 232 Cr.P.C, the accused were called upon to enter on their defence and the case was posted for defence evidence. From the side of the defence, DW1 and 2 were examined and Ext. D1 to D3

were marked.

5. The learned Prosecutor and the learned counsel for the accused were heard in detail.

6. The following points arise for determination in this case:

1. Whether A1 and A2 committed the murder of Thushara and thereby liable to be convicted u/s. 302 r/w S.34 of IPC?
2. Whether A1 and A2 are liable to be convicted under S. 304B r/w S.34 of IPC?
3. Whether A1 and A2 are liable to be convicted for offence under S.344 r/w S.34 of IPC?
4. In the event of conviction, what shall be the Sentence or Order?

7. **Point No. 1:** In order to establish the case of the prosecution the learned Public Prosecutor relied on the oral evidence of PW1 to PW23 and other documentary evidence.

8. PW1, Vijayalakshmi gave evidences as follows:

She is residing at Ayanivelikulangara, Karunagappally along with her husband Thulaseedharan. They have two children, Thushara is the elder daughter and Thushanth is the younger son. A1 is the husband of Thushara and A2 is the mother of A1. Marriage of her daughter and A1 was solemnized on 09.12.2013 at Puthumannel Auditorium, Karunagappally. The marriage of Thushara and A1 was an arranged marriage. When A1 along with A2 came to her house with the marriage proposal, they didn't demand any dowry. After marriage engagement, the date of

marriage was taken and when A1 along with A2 came to her house with date of marriage, they asked them as to what would be given as dowry for her daughter and they told them that they would give 20 sovereigns of gold ornaments at the time of marriage and Rs.2,00,000/ within a period of 3 years. They insisted to execute agreement regarding the payment of money and accordingly she along with her husband executed an agreement in favour of her daughter Thushara. As per the said agreement, they had to give Rs.2,00,000/- within three years and if they would fail to give the said amount within the said period, they should have transferred five cents of property in favour of Thushara. After marriage, A1 and Thushara resided at Kanjaveli. After marriage, A1 came to her house for 3 times only and they visited the house of the A1 many times in the first 3 months. On one occasion, she along with Reshma, who is the friend of Thushara, went to the house of A1 at Kanjaveli, but after they returned from there A1 called PW7 over phone and told her that the parents of Thushara have no manners and neither she nor her relatives shall come to his house. When she sustained fracture on her hand in a fall, A2 along with Thushara came to her house and at that time she insisted A2 to permit the deceased to stay there for two days, but without heeding her demand A2 left there taking the deceased. After 3 years after marriage accused shifted their residence to Charuvila house situated in Oyoor. When she came to know that Thushara was pregnant, they went to the house of the sister of A1 with snacks and at that time, on seeing the snacks Thushara asked what is this, throw it away and cried; when she asked her as to the reason for crying, she didn't give reply but continued to cry and they returned. When Thushara was pregnant for the first time, they were residing

at the house of the sister of A1. When she asked A1 over phone about bringing Thushara to her house for delivery, he told that neither she nor her relatives shall come to his house and that his wife would deliver baby at his house. When she came to know about the delivery of her daughter, she along with her husband, her son and son of her brother went to Govt. Victoria Hospital, Kollam, but at that time A2 took away the baby somewhere and after sometime she brought back the baby and laid the baby on the cot where the deceased was lying; when she tried to take the baby, 2<sup>nd</sup> accused blocked her hand away and told that don't touch, it would cause infection and at that time her daughter cried and told her that you have seen the baby, then you may go and as they knew the situation of her daughter, they returned. On their way back to their house, A1 called her over phone and told that "കൊച്ചിനെ ഉണ്ടാക്കാൻ അറിയാമെങ്കിൽ അവരുടെ കാര്യങ്ങൾ നോക്കാനും എനിക്കറിയാം. നിങ്ങൾ ആരും ഇനി എന്റെ വീട്ടിലേക്ക് വന്നു പോകരുത്". After some days, Thushara called her over phone and told her to give the dowry agreed upon, otherwise she would not get any mental peace at that house; accused didn't permit Thushara to say any other things. A1 and A2 used to call her over phone and demand dowry and ask for the share in the shop and house. Thushara told the daughter of her brother that A1 had sold the gold ornaments of Thushara. When the deceased was pregnant again, she came to know about the pregnancy after seven months and at that time, her daughter told her that she wants to eat some food items and insisted her to bring those food items. When they reached at the house with the food items, her daughter was alone there and at that time her daughter behaved lovely, but after sometime, when A1 and A2 came there, Thushara scared on seeing them and told her that why do you come, who invited you to come, do you bring

the agreed dowry. At that time, she told A1 that she was not given the opportunity to take the 1<sup>st</sup> delivery of Thushara and she asked A1 for permission to take the 2<sup>nd</sup> delivery of her daughter, whereupon, A1 scolded her and told that "കൊച്ചിനെ ഉണ്ടാക്കാൻ അറിയാമെങ്കിൽ അവരുടെ കാര്യങ്ങൾ നോക്കാനും എനിക്കറിയാം". On 07.06.2017, her daughter gave birth to second child and on getting information about the delivery of her daughter, she along with PW7 Prabha Latha went to Government Victoria Hospital, Kollam; at that time also, she sought permission of A1 to take her daughter and baby to her house, but A1 scolded her. After they returned from the hospital a complaint was lodged against PW7 at the police station alleging that they attempted to kidnap her daughter and thereafter, accused didn't call them. Her daughter had no phone. In the night on 21.03.2019, at 12. 00 AM, one person called her husband over his phone and told that Thushara has been admitted in District Hospital, Kollam and cut the phone call. When he called him back, he told that he called as instructed by A1 and Thushara is no more. Her daughter was healthy and she has no bodily infirmities. A2 had black magic and Jyothisham. As they failed to give the agreed amount, they starved her daughter and caused her death. With respect to the above incident, she gave Ext.P1 FIS to the police. Her husband's mobile number is 9846753917. 7510704991 is the mobile number of the person who called and informed about the death of Thushara. At the time of the marriage, accused had car and house at Kanjaveli. When they reached at the hospital at about 01:00 a.m, on getting information about the death of her daughter, the dead body of her daughter was in mortuary. At that time, neither the accused nor their relatives were present at the hospital. Ext.P2 is the agreement executed by them in favour of her

daughter.

9. PW2, Lincy gave evidence as follows:

Her house is at Parandodu, Pooyappalli. She knows Thushara. Thushara is her neighbour. The house where Thushara was residing was situated on the adjacent western side of her house. Thushara and her husband started to reside there after purchasing land and house. Her house is facing towards east. There is a way in east- west direction having a width of two feet on the northern side of her house. The said pathway is slanting towards west from the north -eastern boundary of her property. House of Thushara was situated on the southern side of the said way. There is a compound wall on the western boundary of her property. Accused constructed compound wall with sheet on the eastern side of their property 1 ½ feet west to the compound wall on the western side of her property. The sister of A1, Jancy is residing at the house situated on the northern side of the house situated on the north of her house. A1 and Thushara came to the house of Jancy and resided there firstly; Thushara gave birth to her elder child while she was residing at the house of Jancy. Thereafter, they purchased the land and the building situated therein lying on the western side of her house and started to reside there. After buying the said property, they constructed compound wall on all the boundaries of the said property with sheet and Thushara gave birth to younger child while she was residing at the said house. She had seen A1 and A2 manhandling Thushara and had heard the outcry of Thushara; in the night on almost all days, they would manhandle Thushara and A1 called Thushara 'അനാഥപ്രേതം'. Pooja and black magic were performed at the house of the accused. When she saw the accused

manhandling deceased Thushara, she told the ward member about it and made complaint to Maruthamonpally Health and accordingly, they came and enquired about it, but even after that they used to manhandle the deceased. When the accused go out of the house, they would lock Thushara inside the house, but the neighbours would not ask the accused about it fearing them. One day, when the accused beat Thushara she saw it through the hole in the sheet and on seeing her looking through the hole in the sheet wall, A1 and A2 uttered obscene words towards her. One day when she looked through the hole in the sheet wall hearing the outcry of Thushara and the sound of beating Thushara, Thushara was seen huddled there with hollowed cheeks, sunken eyes, shaved head and in a distorted form. On 14.01.2019, Thushara attempted to commit suicide by cutting her vein and at that time, Jancy came to the house of the accused and told Thushara that “എത്തിനാടി പുല്ലേ നീ ഞരമ്പ് മുറിച്ചത് നീ ചാകുന്നതിനുമുമ്പ് വെള്ളം തരാൻ വന്നതാണ്”. Jancy would come to the house of the accused frequently. When A1 and A2 go out of the house, they would lock the gate after retaining Thushara inside the house. The local people knew about the accused manhandling Thushara, but they would not ask the accused anything about it fearing their black magic. She gave Ext.P3 and Ext.P3(a) statement to the Magistrate.

10. PW3, K Muralidharan give evidence as follows:

He is working as mason. He is residing at Kulamada, Parippalli. He would take small work on contract basis. He knows A1. He was acquainted with A1 when he came for putting roof sheet in connection with the construction of a house at Chirakkara. A1 came for putting roof sheet 6 years ago. A1 had asked him to

construct two rooms adjacent to his house and accordingly he went to the house of the accused and erected polls for constructing the house. After 2 to 3 days, basement was constructed where the poles were erected. After constructing the basement, he didn't go to the house of the accused. She doesn't remember the date on which the basement was constructed. As PW3 didn't support the prosecution, learned special prosecutor sought permission under proviso to S.162(1) Cr.P.C and under S.154 of Indian Evidence Act and permission was granted. Ext.P4 to P4(b) were marked as contradiction. He gave statement to Magistrate as per Ext.P5 and P5(a).

11. PW4, Rajesh Sathyan gave evidence as follows:

He is residing at Myloodu near Oyoor. He has a medical shop at Oyoor Junction. A1 used to come to his shop and buy baby food such as Cerelac, Lactogen stage - 1 and stage - 2.

12. PW5, Thankamma gave evidence as follows:

Her house is situated at Kurisummoodu in Ward No. XII of Pooyappally Panchayat. She is working as Asha Worker. She knows deceased Thushara. Thushara was also residing in the said ward of Pooyappally Panchayath. While Thushara was pregnant, she could talk with her only once; thereafter, whenever she went to the house of Thushara, A1 and A2 alone talked with her and they didn't permit her to talk with deceased Thushara. When she saw the deceased for the first time, she was healthy and beautiful. When the accused and Thushara came to reside there, firstly they resided at the house of the sister of A1 and they resided there for some period. Thereafter, they resided at rented house and again they came back to the house

of the sister of A1. While so, they purchased land and building nearby the house of the sister of A1 and started to reside at the said house. When they started to reside in the said house, they constructed compound wall on all boundaries with sheet. As the height of the sheet wall was low, they increased the height of sheet wall and thereafter, when she went to the house of the deceased she could not enter inside the house. The gate of the said house would be locked. When she passes nearby the house of the accused, she would hear the hue and cry of Thushara. As the gate was locked, she could neither enter inside the house nor see Thushara. Thushara gave birth to her younger child while she was residing at the said house. Even though she went to the house of Thushara while she was pregnant for the second time, she could not talk with Thushara as A1 and A2 did not permit her to talk with her; A1 and A2 would always be with Thushara. As A1 and A2 didn't permit her to talk with deceased, she gave instructions to the sister of A1 for Thushara. After Thushara gave birth to her younger child, Thushara and her child came to Maruthamonpally PHC for taking vaccine for her younger child. At the same time another mother, who also came there along with her child for taking vaccine, on seeing the deceased asked "പ്രസവിച്ച കുട്ടിയാണോ ഇങ്ങനെ ഇരിക്കുന്നത്". At that time Jancy, who was also along with Thushara, told that "അവൾക്ക് ആഹാരം ഒന്നും കഴിച്ചുകൂടാ അതുകൊണ്ടാണ് ഇങ്ങനെ ഇരിക്കുന്നത്". She informed the ward member and the health center about the ill treatment towards Thushara and accordingly, Anganwadi teacher, Leenamma Koshy, JPHN, Anithakumary, HI and JHI went to the house of the accused. Nobody would go to the house of accused fearing the black magic and obscene utterances of the accused.

13. PW6, Thushanth gave evidence as follows:

He is residing at Ayanivelkulangara, Karunagappally. Deceased Thushara is his sister. A1 is the husband of deceased Thushara and A2 is the mother of A1. The marriage of deceased Thushara and A1 was solemnized on 09.12.2013. At the time of marriage, 20 sovereigns of gold ornaments were given to Thushara. In addition to the gold ornaments, they agreed to give Rs.2,00,000/- within three years and an agreement was executed to that effect. After marriage, A1 and deceased Thushara resided at Kanjaveli, Anchalumood, Kollam. After marriage, he along with his relatives went to the matrimonial home of his sister in connection with 'nallavathil chadangu' and when they reached there, A1 had no co-operation with them. On the 3<sup>rd</sup> day after marriage, A1 along with deceased Thushara visited his house. At that time, the gold ornaments worn by Thushara at the time of marriage were not seen. When his aunty asked Thushara about the gold ornaments, Thushara told her that as A2 didn't like the sacred chain, she gave the gold ornaments to A1. She told further that A1 brought a large chain and other ornaments which were created by him. When the deceased along with A1 came to his house on the 3<sup>rd</sup> day after marriage, she wore the said large chain and other ornaments and later it was realised that the large chain and other ornaments worn by the deceased were not gold. After some days after marriage, his mother and the friend of Thushara, Reshma went to the house of the accused at Kanjaveli and in the night on that day, his aunty was called from the house of the accused over phone and told her that don't come to their house with local people. Thushara came to his house after marriage for three times only. According to him, after some days after marriage, A1 demanded Rs.2,00,000/-, and at that

time they told him that as the gold was sold soon after the marriage, he should give document for the amount to be given, but A1 told that document cannot be given and he insisted to give the agreed amount. He testified further that thereafter, whenever Thushara was called over phone she would cry. Later, when they call over phone, A1 would not attend the phone and even if he attends the phone, he would not give the phone to deceased Thushara. After some days after marriage, A1 forcefully obtained the mobile phone of deceased Thushara. A1 threatened them that, if they come to their house, he would kill them and so, they did not go to the house of the accused thereafter. Thereafter, A1 and Thushara shifted their residence to Parandodu from Kanjaveli. When deceased Thushara was pregnant for the second time, she called her mother over phone and asked her to bring snacks and she cut the phone suddenly; she cut the phone by telling that if she spend more money by talking for more time through phone, A2 would utter obscene words towards her. He testified further that thereafter, when they went to Parandodu to see Thushara, Thushara alone was there. At 02:00 p.m. on the aforesaid day, when A1 and his mother and father came back, his mother told A1 that Thushara was not sent to her house for her first delivery and sought permission of A1 to take the deceased to their house for the 2<sup>nd</sup> delivery, but A1 got angry and told that “കൊച്ചിനെ ഉണ്ടാക്കാൻ അറിയാമെങ്കിൽ കൊച്ചിന്റെ പ്രസവം എടുത്ത് വളർത്താനും അറിയാം”. At that time Samraj, who is the brother in law of the A1 came there and told that the things will be after delivery and that can be decided after delivery and then they left there. After the second delivery of Thushara, A1 and Thushara called them over phone many times and demanded Rs.2,00,000/-; Thushara called and demanded money as

threatened by A1. A1 did not inform them about any other things. On 21.03.2019, at about 12.00 A.M, they got information regarding the death of Thushara. When they reached there, dead body of deceased Thushara was in the mortuary of District Hospital, Kollam. When they saw the dead body of the deceased, it was emaciated. On seeing the dead body of the deceased, he realized that she died due to starvation. Thushara called to his house and told that A1, A2 and the sister of A1 used to manhandle her as Rs.2,00,000/- was not given as dowry.

14. PW7, Prabhalatha P S gave evidence as follows:

She is residing at Karunagappally. Thushara is the daughter of her husband's sister. A1 is the husband Thushara. She knows Geetha Lali who is the mother of A1. The marriage of Thushara and A1 was held on 09.12.2013. She had involved in all the affairs of family of Thushara from the proposal of the marriage of Thushara till her death. After fixing the marriage of Thushara, A1 and his mother came to the house of Thushara and at that time she along with her husband was there. When the mother of A1 asked the father of Thushara as to what would be given as dowry to Thushara, he told her that they would give goodish dowry to his daughter. At that time, the mother of A1 told the father of Thushara that oral assurance is not sufficient and it should be made clear. Then the father of Thushara told her that they would give 20 sovereigns of gold ornaments at the time of marriage and Rs.2,00,000/- after three years; he would transfer 5 cents of property in the name of Thushara as a security for giving the said amount. At that time, the mother of A1 insisted to execute an agreement to that effect and accordingly the father and mother of

Thushara executed Ext.P2 agreement with the help of document writer Bhanu. She and her husband affixed their signatures in the said agreement as witnesses. She identified her signature in Ext.P2 agreement. After marriage, Thushara was taken to Kanjaveli. Thereafter, they shifted their residence to Parandodu. While the accused and Thushara were residing at Kanjaveli, she visited their house for 2 - 3 times. After they shifted their residence to Parandodu, she didn't go to their house. The accused didn't like anybody from the house of Thushara visiting their house. If they make a call to the phone of A1 in order to talk with Thushara, they would not give phone to Thushara. Whenever she calls A1, they would tell that you can talk with Thushara only after paying Rs.2,00,000/-. Thushara gave birth to her second child on 07.06.2017 in District Hospital, Kollam. They got information regarding the second delivery of Thushara after 2 - 3 days after delivery. Thereafter, she along with the mother of Thushara went to the said hospital to see Thushara and her newborn baby. When they reached in front of the hospital, they saw A1. When they told A1 that they want to see Thushara and her newborn baby, he got angry and uttered obscene words towards them. Thereafter, A1 was seen calling somebody else over phone. At that time the mother of A1 was seen walking away carrying baby. They told A1 that they want to see Thushara and her newborn baby. After they compelled him, he permitted them to see Thushara and her newborn baby. When the mother of Thushara asked A1 for permission to take Thushara and her newborn baby to their house, he told that "കൂട്ടിയെ ഉണ്ടാക്കാൻ അറിയാമെങ്കിൽ വളർത്താനും അറിയാം". Thereafter, they didn't wait there and returned. Even though she called over phone on many days to talk with Thushara, the mother and A1 told about dowry only. On

seeing the dead body of Thushara she understood that Thushara died due to lack of food and medicine.

15. PW8, Mini Varghese gave evidence as follows:

She is residing nearby Spring Valley School, Pooyappally. She is a school teacher. She knows A1. Chancy T.C, who is the daughter of A1 was in her play class. She got admission in the said school on 18.11.2018. She was not so smart like other students. She would not go along with other students for playing. When she is asked anything she would smile. The mother and father of A1 would come to the school along with Chancy. When she asked the mother of A1 as to where is the mother of Chancy, she told that the mother of Chancy is laid up due to paralysis after second delivery. When she asked the mother of A1 as to the name of the mother of Chancy, she told her that the name of the mother of Chancy is Geethamma. After the death of the mother of Chancy, she came to know that the name of the mother of Chancy was Thushara.

16. PW9, Ramesh Babu gave evidence as follows:

He is residing at Ayanivelikulangara, Karunagappally. He was the Secretary of SNDP Sakha Yogam No. 417 of Karunagappally SNDP Union. He knows Thushara, the daughter of Thulasi and Vijayalakshmi who are members of the said Sakha Yogam. Thushara was also a member of the said Sakha Yogam. The marriage of Thushara was held at Puthumannayil Auditorium, Karunagappally. At the time of marriage, Thushara and her husband Chandulal affixed their signature in the register of Sakha in the presence of their parents. Ext.P6 copy of the relevant page in the register of Sakha where Thushara, her husband and their parents

affixed signatures was issued.

17. PW10, K G Ajith Kumar gave evidence as follows:

He was the Convener of the administrative committee of SNDP SakhaYogam No. 417, Keshavapuram, Ayanivelikulangara during the period from 2017 till 2021. He was the custodian of the registers and other records of the Sakha. As required by Dy.S.P, Kottarakkara, he produced the register of Sakha in which the marriage of Thushara and Chandulal was registered before Dy.S.P. Ext.P6, which is the self attested copy of the relevant page in the marriage register where the marriage of Thushara and A1 was registered was also produced before the Dy.S.P, Kottarakkara. After giving Ext.P6 copy of the page, he received back the original register for which he gave Ext.P7 receipt.

18. PW11 Dr. Rashmi Devi L gave evidence as follows;

On 07.06.2017, while she was working as consultant gynecologist in Govt. Victoriya Hospital, Kollam, she examined Thushara, aged 28 years. She was brought to the hospital with complaints of leaking of amniotic fluid from 3 p.m. on 06.06.2017. She has a case of previous cesarean section. She was evaluated and investigated and emergency cesarean section was done on 07.06.2017 and delivered a healthy female baby weighing 2.68 KG at 12.26 p.m. During surgery she had no abnormal bleeding. She was observed in the hospital post operative ward till 11.06.2017 and she was discharged on 11.06.2017. Her post operative period was uneventful. The copy of the treatment records of Thushara is marked as Ext.P8 series. At the time when she was brought to the hospital she had a weight of 46 Kg. When she was asked what is the

time lag between the leakage of fluid and examination of patient, she testified that as stated by the patient she had fluid leakage from 3 PM on 06.06.2017 and she was examined at 10.45 a.m. on the next day. When she was asked by what time the patient will feel discomfort after the commencement of leakage of fluid, she testified that soon after the leakage of fluid. When she was asked what is the static period for the foetus and mother in case after the commencement of leakage of fluid, she testified that 18 to 20 hours. She testified further that after delivery, Thushara was healthy and there were no symptoms of any other disease.

19. PW12, Sreekumar S gave evidence as follows:

On 22.03.2019, while he was working as Sub Inspector of Police, Pooyappally, PW1 came to the police station at 6:30 a.m and gave Ext.P1 statement. He recorded the said statement and based on the said statement, he registered Ext.P9 FIR u/s 174 of Cr.P.C.

20. PW13, Sini P gave evidence as follows:

During 2019, while she was working as Village Officer, Pooyappally, as per the requisition of the investigating officer in this case, she visited the place of occurrence and prepared Ext.P10 site plan.

21. PW14, M K Anil Kumar gave evidence as follows:

On 22.03.2019, while he was working as Tahsildar, Kottarakkara, as per the order of RDO, Punalur, he conducted inquest on the dead body of Thushara, aged 27 years and prepared Ext.P11 inquest report. The chest of the dead body was seen

emaciated and the ribs were seen projecting towards out. The abdomen of the dead body was scaphoid. The thighs of the dead body were also seen emaciated. The dead body was seen emaciated. Abrasions were seen all over the body. There was swelling on the feet. Wound was seen on the palms of the dead body. At the time of the inquest, two nighties and an inner wear were seen on the dead body and the said dresses were taken into custody. Photographer took the photographs of the dead body.

22. PW15, Suraj Kumar C gave evidence as follows:

During 2019, while he was working as medical records librarian in Victoria Government Hospital, Kollam, as required by the investigating officer in this case, he produced the medical records of Thushara in connection with her delivery along with its copies before the investigating officer. After receiving the copies of the medical records, the investigating officer returned the original medical records to him. The copies of the medical records of Thushara was marked as Ext.P8 series.

23. PW16, Rejani P gave evidence as follows:

She is an Advocate practicing in Kollam. She knows A1 and his mother Geetha Lali. They approached her for legal advice in connection with a case in the Women Cell, Kottarakkara and for the purpose of the case they entrusted Ext.P2 agreement with her. Later, as required by the investigating officer, she handed over the said document to the investigating officer.

24. PW17, T Balachandran Pillai gave evidence as follows:

During 2019, while he was working as Sub Inspector in Dy.S.P Office, Kottarakkara, on 24.05.2019, the attested copy of the relevant page where the marriage of Thushara and A1 was registered in the marriage register of SNDP Sakhayogam No. 417,

Karunagappally was taken into custody by the Dy.S.P, Kottarakkara by preparing Ext.P12 mahazar and he affixed his signature in the said mahazar as a witness. Thereafter, on 18.06.2019, the CD containing the visuals of the house of the accused and its surroundings, was produced in the Dy.S.P Office, Kottarakkara by WPC, Pooyappally Police Station and the said CD was also taken into custody by the Dy.S.P by preparing Ext.P13 inventory. In the said inventory also, he affixed his signature as a witness.

25. PW18, S B Praveen gave evidence as follows:

While he was working as Inspector of Police, Pooyappally, he conducted investigation in this case from 22.03.2019 till 27.03.2019. He gave request to the RDO for conducting inquest on the body of deceased Thushara and accordingly, PW16 conducted inquest on the dead body of Thushara. As the commission of offence under S.304B was revealed during his investigation, he added S. 304B r/w S. 34 of IPC and submitted Ext.P14 report to that effect.

26. PW19, Dr. K Valsala gave evidence as follows:

On 22.03.2019 while she was working as Assistant Professor and Assistant Police Surgeon in the Department of Forensic Medicine in Government Medical College, Thiruvananthapuram, she along with Dr. Parinita, Senior Resident in the Department of Forensic Medicine, Government Medical College, Thiruvananthapuram conducted Postmortem examination on the body of a female by name THUSHARA aged about 27 years, involved in the Crime No. 469/2019 of Pooyappally Police Station and issued Ext.P15 postmortem certificate. She testified further that body of the deceased was of a moderately built, emaciated adult female of height 153 cm and weight 21Kg having a fair complexion. The skeletal framework could be easily appreciated

due to the state of emaciation. The skin was dry and glistening over the bony prominences. Abdomen was scaphoid. Legs and feet showed oedema. Scalp hair was cut short. Mid arm circumference was 12.5cm, chest circumference was 58cm, abdominal circumference was 46cm and mid-thigh circumference was 22cm. Eyes were sunken and partly open. Conjunctivae were pale, cornea clear, pupils dilated. Mouth remained open, lips and buccal mucosa were dry. Tongue was dry, pale, smooth with loss of papillae. An area of redness 0.5x0.3cm was seen on the inner aspect of right angle of mouth. Brownish discolouration 0.3x0.3cm was seen on the inner aspect of left angle of mouth. Multiple infected papular lesions of sizes varying from 0.1x0.1x0.1cm to 0.2x0.1x0.1cm over an area 13x3cm on front and outer aspect of right leg, on top of left foot, ankle and adjoining lower part of the leg. Healed papular skin lesions seen on inner aspect of right foot. Impending bed sore 4x3cm on back of trunk in midline, 6cm above lower end of vertebral column. Old lower segment caesarean scar 12.5cm long, horizontal on front of lower abdomen, just above the pubic symphysis. Blood stain seen sticking to middle of left leg. Rigor mortis was absent all over the body except at the ankles where it was faintly present. Postmortem staining was faint on the back, not fixed. No sign of decomposition.

She noted the following injuries on the body of deceased Thushara:-

1. Contusion 3x1.5cm to 3.5x0.3cm on the chin across midline, right extent was 1.5 cm outer to midline over the jaw border, on the left side it was extending towards the angle of mouth with the upper end 0.8cm below the lip border.

2. Contusion 0.3x0.3x0.1cm on tip of right thumb.
3. Abrasion 0.1x0.1cm curved downwards with convexity upwards on outer aspect of right forearm 6cm above the wrist.
4. Contusion 0.5x0.5x0.2cm on back of right leg, 1.5cm below knee.
5. Superficial contusion 1.2x0.5cm on the front of left shoulder 2cm below its tip.
6. Superficial contusion 0.5x0.3cm on left side of back of neck 6cm below tip of mastoid process.
7. Abrasion 1.5x0.8 cm vertical on left side of back of trunk 2.5cm outer to midline and 9 cm above natal cleft.
8. Multiple linear abrasions of sizes varying from 0.3x0.1cm to 0.7x0.1cm over an area 6x4 cm on back of trunk across the midline 27cm below root of neck.
9. Abrasion 2.5x0.1cm oblique on inner and back aspect of left forearm 10cm above wrist, curved backwards and upwards.
10. Multiple abrasions of sizes varying from 0.3x0.2cm to 3x0.5cm over an area 4x4 cm on right side of back of chest, upper inner end of the larger one was 8 cm outer to midline and 18 cm below top of shoulder.
11. Superficial incised wound 0.3x0.1x0.1cm oblique on front of right index finger 1cm above its tip, 0.5cm outer to its inner border.
12. Incised wound 0.2x0.1x0.2cm on front of right index finger with avulsion of skin flap 0.7x0.3cm downwards. Its outer end

showed an extension 0.3x0.1cm outwards and downwards and the inner end showed an extension 0.5x0.1cm upwards.

13. Infected incised wound 0.7x0.6x0.3 cm on front of right middle finger, 3.5cm above its tip avulsing a skin flap 0.7x0.5cm downwards. The skin flap was contused (bluish brown in colour).

14. Infected incised wound 1x0.8x0.4cm on front of right ring finger, 1cm above its tip avulsing a skin flap 1x0.5cm downwards and outwards. Skin flap was contused (brown). Pus was present on floor of the wound.

15. Healing linear abrasion 9x0.1 to 0.3cm oblique on back and outer aspect of right thigh, lower back end was 11cm above knee. Its lower half was seen covered by brown adherent scab and upper half was hypopigmented.

16. Three healing wounds 0.3x0.1cm, 0.3x0.2cm and 0.3x0.1cm with pale brown scab at the centre and pale scar at periphery over an area 2.5x0.5cm on the back of right hand, the lower outer one was 3cm above second web space.

17. Contusion 3.5x2.5x0.4cm (brown) on outer aspect of right leg, 2cm below knee.

18. Abrasion 1x0.5cm (covered by brown adherent scab) oblique on inner aspect of right leg, 11cm below knee.

19. Infected wound 1.8x1.2x0.7cm on outer and top aspect of left foot, 4.5cm behind tip of little toe, margins rounded, thickened, floor contained gravel and sand particles.

20. Graze abrasion 4x1 cm vertical (covered with brown adherent scab) on outer aspect of left elbow and adjoining part of forearm.

21. Healing abrasion 1.5x0.3cm with loosely adherent brown scab on back of left forearm.

22. Contusion 0.6x0.4cm (purplish) involving nail of left big toe.

23. Healing wound 0.5x0.3cm involving outer and front aspect of left knee.

24. Irregular depression (suggestive of scar) 1x0.3x0.2cm on the right thumb nail which showed a new growth of nail behind the injury.

25. Hypopigmented scars: (1) 1.3x0.5 cm with hyperpigmented periphery on tip of right shoulder, (2) 2x0.2cm to 0.4cm vertical on top of right shoulder just behind No (1), (3) 2.5x0.2cm with hyperpigmented periphery on tip, upper part and outer aspect of right arm just below the tip of shoulder, (4) 1 x0.2cm oblique on outer aspect of right arm 1cm below No.(3), (5) two in numbers, 1 x 0.1cm and 0.8 x 0.1cm with hyperpigmented periphery on outer aspect of right arm, obliquely extending from lower border of No(4), (6) two in number 1.2x 0.3cm and 1.5x0.2cm over an area 2x1.5cm on back of right shoulder in the shape of ' ' outer end of lower horizontal one was 3cm behind tip of shoulder, (7) two in numbers 0.3x0.2cm each over an area 0.8x0.8cm on outer aspect of right arm, 9cm below top of shoulder, surrounding skin showed hyper pigmentation,(8) 2x1.1cm on outer aspect of right arm with the upper inner broader end 9.5cm below tip of

shoulder, (9) 0.9x0.7cm circular with surrounding hyperpigmentation on outer aspect of right arm 10cm below tip of shoulder, (10) two in number 0.9x0.5cm and 1.2x0.5cm over an area 1.2x0.9cm on outer aspect of right arm in the shape of 'Λ' 1.5 cm above elbow, (11) 0.6x0.1x0.2 cm, depressed with hyperpigmented periphery on outer and back aspect of right wrist just below styloid process, (12) 1x0.3cm oblique with wrinkling of surface on outer aspect of right forearm, upper front end was 13.5cm below elbow, (13) two in numbers 1.3x0.1cm and 1.5x0.1cm oblique and parallel to each other and 0.2cm apart on the outer aspect of right forearm, 2 cm below No.(12), (14) 1x0.6cm horizontal on outer aspect of right forearm, 9cm above wrist, (15) 0.3x0.2cm on back of right hand, 2cm above third web space, (16) 4.8x0.2cm oblique on outer aspect and back of right thigh, with lower back end 11cm above knee, (17) 0.6x0.2cm with hyperpigmented periphery on back towards the outer aspect of right thigh, lower end 20cm above knee, (18) 3cm horizontal with hyperpigmented periphery on front of left forearm 3cm above wrist, (19) 1x0.1cm horizontal on front of left forearm near to the inner border just below elbow, (20) 0.6x0.2cm on back of left elbow, (21), multiple in number, sizes varying from 0.2x0.1cm to 4x0.1cm over and area 14x5cm in varying dispositions on back and outer aspect of left arm and elbow, (22) 1.5x0.7cm oblique on outer aspect of left arm, 12cm below tip of shoulder, (23) 2x0.5cm oblique on outer aspect of left arm, 6cm above elbow, (24) two in number 0.4x0.2cm each on inner border of left ring finger 3.5cm above its tip, (25) 0.3x0.3cm on back of left middle finger, 3.5cm above its tip, (26) multiple in number sizes varying from 0.3x0.1cm to

0.5x0.2cm over an area 7x2cm on back of left hand and root of index finger.

26. Pale surgical scars: (1) ' ' ' shaped, 19cm long with hypertrophied suture marks involving back and inner aspect of left foot, the lower end was curved forwards below the level of ankle, (2) ' ' shaped 18cm long with hypertrophied suture marks on inner aspect of left leg and adjoining part of foot, lower end curved forwards behind ankle

27. PW19 testified further that brain (weighed 1497g) was oedematous and sulci were wider with atrophic gyri. Air passages were pale, Lungs were pale and showed patchy areas of consolidation. Petechial haemorrhages on surface of left lung. Froth and pus was seen coming out of cut sections of minor air passages. Chest cavities contained 200ml straw coloured fluid. Heart (115g), myocardium appeared normal. Tricuspid valve had circumference of 10cm, mitral valve 7cm, aortic and pulmonary valves measured 5.5cm each. Left ventricular wall thickness was 1cm and right ventricular wall was 0.3cm thick. Diaphragm showed areas of haemorrhage. Stomach contained 50ml of mucoid fluid and mucous having no unusual smell, mucosa was pale with submucosal haemorrhage at places. Stomach wall was oedematous. Rectum contained loose stools. Spleen weighed 48gm, pale and shrunken. Liver (543g), right kidney (50g) and left kidney(58g) were pale. Uterus measured 6.5x5x2.5cm showed caesarean section scar at lower segment on front aspect Ovaries were atrophic. Right ovary measured 2x1x1cm, and left ovary 2.5x1.5x1cm. Fat tissue was seen thinned out in the chest and abdominal wall, measured 0.1m.m thickness at places and was absent at other areas. Omental

mesenteric and perinephric fat were absent. Urinary bladder was empty. All other internal organs were pale.

28. PW19 testified further that the death of Thushara was due to consolidation of lungs as a complication of starvation. She received the certificate of chemical analysis dated 30.06.2020 in this case and as per the chemical analysis certificate no poison was detected in the viscera and blood sample. Emaciated means wasting of the body. Scaphoid abdomen means it was sunken towards vertebral column. When she was asked whether the deficiency of vitamin B, D, zinc and iron would lead to tongue papillae, she answered in the affirmative and testified further that tongue papillae is a result of malnutrition. Injury no.11,12,13 and 14 were incised wounds and hence the blood stains seen sticking to the middle of left leg might have been from those injuries. When she was asked what was the reason for petechial haemorrhage on the surface of left lung, she testified that consolidation of lung may cause petechial haemorrhage. Trivial forces can cause diaphragmatic haemorrhage. Due to severe malnutrition hormonal levels may be deranged and that will cause atrophy of ovaries. Omental mesenteric and perinephric fat were absent due to malnutrition. Injury nos.15,16, 21 and 23 were healing wounds. Injury nos. 15,16 and 21 were healing abrasions covered by brown adherent or loosely adherent brown scabs. The age of the above injuries could be a minimum of 6 days prior to her death. Injury no.23 was a healing wound and its age could be a minimum of 5 days or above. Contusions and abrasions could be caused by blunt force. Injury Nos. 11,12,13 and 14 which were noted on the right hand could be caused by using sharp weapon. When she was asked whether hypopigmented scars could be caused by applying blunt

force, she testified that it is possible. The required weight of a person having 153 cm is 44 to 50 Kg. Consolidation of lungs means pneumonia. Pneumonia can be caused by various pathogenic organism when the immune system of the body is weak. Severe malnutrition will lead to deficiency of immunoglobulin and other proteins involved in the immune system. This can cause widespread infection in the body and one of which is pneumonia. If a person is subjected to starvation for a period of one month, it can cause derangement of brain functions. When she was asked whether starvation is so imminently dangerous that it must in all probability likely to cause death, she answered that yes, it can cause death. According to her, if there is deprivation of food and water death can occur within 10 to 12 days and if there is deprivation of food only and water is provided death can occur in 30 to 60 days. When she was asked what is the normal weight of the brain of a woman aged 27 years, she testified that in female it could be 900 to 1200 g.

29. When PW19 was asked during cross examination that is it correct to say that if the diabetes is not controlled, the metabolism of cells in the body become improper and it will cause fat burning, she testified that diabetes is a metabolic disorder when there is deficiency of insulin which is necessary for the metabolism of carbohydrate, protein and fat; when there is insulin deficiency the carbohydrate metabolism will not be properly functioning and hence protein and later on fat will be utilized for production of energy. In text book of Forensic pathology by Bernard Knight and also in text book of basic pathology by Robbins it is said that in diabetes mellitus even though fat is utilized the entire storage of fat in the omentum and other abdominal tissues will not be completely utilized, but it can happen in starvation. In this case the abdominal

wall and other abdominal tissue was reduced to 0.1 m.m thickness and was absent at other areas. Diabetes cannot be diagnosed during postmortem. When she was asked whether contusions and abrasions found on the body of deceased could be caused while falling in a pit, she testified that injury no.1 to 10 were fresh injuries on various parts of the body and all these injuries could not be caused in a single fall; injury no.15 to 23 were injuries of varying duration and that can occur when the body comes in contact with a rough, blunt, heavy object or surface at various times according to the ages of the injuries. She testified further that all the injuries could not be caused in a single fall on the same day.

30. PW20, Nazarudeen S gave evidence as follows:

He was working as Dy.S.P, Kottarakkara from 13.06.2019. He took over the investigation of this case on 14.06.2019. The CD containing photos and videos of the house of the accused and its surroundings was taken into custody by preparing Ext.P13 inventory mahazar and the said CD was produced before the court as per Ext.P16 property list. He verified the records of the case and submitted final report before the court.

31. PW21, Samraj R gave evidence as follows:

His house is at Parandodu. A1 and A2 are the brother and mother of his wife. Thushara died on 21.03.2019. On the date on which Thushara died, while Thushara was taken to District Hospital, Kollam he also accompanied them. They went to the hospital in an auto taxi at 9:30 p.m. He does not remember the exact time. They reached at the hospital within half an hour. When they reached at the hospital A1 took Thushara to the hospital by laying her on a stretcher and he had gone for taking OP ticket. When he came back after taking OP ticket, he came to know that

Thushara is dead. He took the dead body of the deceased to the mortuary and he doesn't know whether deceased died before she was brought to the hospital. He doesn't remember whether deceased was taken to the hospital 10:51 p.m. At the time of occurrence his mobile phone number was 9995050 443. From 11.07.2006 onwards he has been using this mobile number. He doesn't know whether Thushara was alive when they left the house for hospital.

32. PW22, V S Dinaraj gave evidence as follows:

On 28.03.2019, while he was working as DySP, Kottarakkara, he took over the investigation of this case. At about 04:00 p.m. on the aforesaid day, he visited the place of occurrence and house and prepared Ext.P17 mahazar. The photographs and videos taken at the time of inquest and the dresses taken into custody from the dead body of the deceased Thushara were produced before him by the CPO of Pooyappally Police Station and the said photographs, video graphs and the dresses were taken into custody as per Ext.P18 inventory. The photographs so taken into custody were produced before the court as per Ext.P19 document and the CD containing the videos and photographs was produced before the court as per Ext.P20 property list. The dresses were produced before SDMC. On 29.03.2019, at 10:30 a.m., A1 and A2 were arrested at the Police Station, Pooyappally. A1 was arrested as per Ext.P21 arrest memo and he prepared Ext.P21(a) custody memo and Ext.P21(b) inspection memo at the time of arrest of A1. A2 was arrested as per Ext.P22 arrest memo and he prepared Ext.P2(a) custody memo and Ext.P22(b) inspection memo at the time of arrest of A2. He produced Ext.P23 report before the court stating the name and addresses of A1 and A2. As the commission offences u/s.

344 and 302 of IPC was revealed during investigation, he conducted investigation by adding the aforesaid offences and he submitted Ext.P24 report to that effect. On 01.04.2019, he entrusted PW18 to conduct search in the house of the accused and accordingly, PW18 visited the house of the accused and conducted search as per Ext.P26 search list. PW18 Ext.P25 search memorandum before conducting search. During the search, the wedding album and a diary were taken into custody by PW18 and produced it before him. He produced the wedding album and diary before the court as per Ext.P27 document. The wedding album was marked Ext.P28 and the diary was marked as Ext.P29. A3 was arrested on 03.04.2019 at 10:40 p.m at Pooyappally Police Station as per Ext.P30 arrest memo. He prepared Ext.P30(a) custody memo and Ext.P30(b) inspection memo at the time of arrest of A3. He submitted Ext.P31 report stating the name and address of A3. PW16 produced Ext.2 agreement before him and the said agreement was taken into custody as per Ext.P32 inventory. He produced the said agreement before the court as per Ext.P33 document. He gave application before the Chief Judicial Magistrate Court, Kollam to record the statements of CW2 to CW6 and CW20 as per S. 164 of Cr.P.C. On 17.05.2019, he gave letter to the Municipality, Karunagappally and in pursuance of the said letter, the marriage certificate of deceased Thushara and A1 was issued to him and the said marriage certificate was taken into custody as per Ext.P34 inventory. He produced the said marriage certificate before the court as Ext.P35 document. The said marriage certificate was marked as Ext.P36. On 24.05.2019, he visited SNDP Sakha Yogam No. 417, Karunagappally and he inspected the marriage register produced by the Convener of the said Sakha Yogam and on inspection it was revealed that the

marriage of deceased Thushara and A1 was registered in page No. 8 of the said register on 09.12.2013. He prepared Ext.P12 mahazar by inspecting the page No.8 of the marriage register and copy of page No. 8 of the said marriage register was taken into custody as per the said mahazar. He produced the copy of page No. 8 of the said marriage register before the court as Ext.P37 document. The copy of page No. 8 of the said marriage register was marked as Ext.P6. After preparing mahazar, he returned the said register to the convener of the Sakha Yogam as per Ext.P7 receipt issued by PW10. Thereafter, on 11.06.2019, Ext.P8 copy of treatment records of the deceased in connection with her 2<sup>nd</sup> delivery at Kollam Victoria Hospital were taken into custody as per Ext.P38 inventory. He produced the said treatment records before the court as per Ext.P39 document. When PW3 Muraleedharan gave statement to him, he stated to him as per Ext.P4, Ext.P4(a) and P4(b).

33. PW23, Rahima A gave evidence as follows:

From July 2023 she was working as medical records librarian in Kollam District Hospital. As per the summons issued from the court she produced the freezer register and police intimation register during the period 21.03.2019. As per the entries in the police intimation register dated 21.03.2019, the death intimation of Thushara, aged 30 years, Chenkulam was conveyed to Kollam east police station. Police intimation register and freezer register are kept in the medical records library and the medical records librarian is the custodian of the records kept in the library. The death intimation of Thushara was entered in the police intimation register as serial No. 1226. The duplicate of the death intimation of Thushara is available in the police intimation register. As the police intimation register is necessary for the other purposes

also, the copy of the duplicate of death intimation of Thushara attested by the Superintendent, Kollam District Hospital was produced along with police intimation register and the said copy after comparison with duplicate of police intimation No. 1226 in police intimation register was marked as Ext.P40. She produced the freezer register during 01.01.2019 till 31.12.2019. When the register is complete it will be kept in the library. As per the entry in the freezer register dated 21.03.2109, serial No. 142, Thushara, aged 30 years C/o. Samraj, Sam Nivas, Kurishummood, Oyoor was shifted to freezer at 11:40 p.m. on 21.03.2019 and the dead body was taken from the freezer at 10:43 a.m. on 22.30.2019. As the freezer register is necessary for other purpose also, she produced the attested copy of relevant page in the freezer register along with the freezer register and after comparison with the relevant page in the freezer register the above copy is marked as Ext.P41.

34. The case of the prosecution is that as demanded by A1 and A2, the parents of the deceased gave her 20 sovereigns of gold ornaments at the time of marriage and agreed to give Rs.2,00,000/- within a period of 3 years; it was also agreed upon by the parents of the deceased that if they fail to give the said amount within 3 years, they would give 5 cents of land and as insisted by A2, the parents of the deceased executed an agreement in a stamp paper regarding the payment of the said amount on 15.11.2013, but as the parents failed to comply with the terms of that agreement, A1 and A2 subjected the deceased to physical and mental cruelty and they didn't provide her with medicines, medical assistance and food and thereby starved her and caused her death. In order to ascertain whether the death of Thushara was homicide the first aspect to be considered is the cause of her death. The oral evidence

of PW19, Dr. K. Valsala and Ext.P15 post - mortem certificate issued by her would show that the death of deceased was due to consolidation of lungs as a complication of starvation. Next aspect to be considered is have A1 and A2 starved the deceased and thereby caused her death. There is no direct evidence to establish that A1 and A2 starved the deceased and thereby caused her death. So, the entire case of the prosecution is based on the evidence which is circumstantial in nature. There is no doubt that conviction can be based solely on the circumstantial evidence, but it should be tested by the touchstone of law relating to circumstantial evidence laid down by the Hon'ble Supreme Court of India in *Hanumant Govind Narbundkar v. State of M.P. (AIR 1952 SC 343)* wherein it was observed that:

“It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should be in the first instance be fully established, and all the facts so established should be consistent only with the hypotheses of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused”.

35. In a later judgment in *Sharad Birdhichand Sarda v. State of Maharashtra (AIR (1984) SC 1622)*, the Hon'ble Supreme Court held that

“ the following conditions must be fulfilled before a case against the accused can be said to be fully established. They are;

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned must or should and not may be established;

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty ;

(3) the circumstances should be of a conclusive nature and tendency;

(4) they should exclude every possible hypothesis except the one to be proved; and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused”.

36. In the present case the circumstances relied upon by the prosecution are;

1. Demand for dowry by A1 and A2 and execution of Ext.P2 agreement by the parents of Thushara as insisted by A2.
2. Parents of Thushara didn't comply with the terms of Ext.P2 agreement.
3. Strained relationship between the parents of Thushara and the accused soon after marriage.
4. Thushara was subjected to extreme cruelty by A1 and A2.

5. Even though the condition of health of Thushara was extremely deteriorated, she was not taken to hospital.

6. Non explanation of the circumstances leading to the death of Thushara.

37. **Circumstance No.1:-** In order to establish this circumstance, learned prosecutor relies on the evidence of PW1, PW6, PW7 and Ext.P2 agreement. It has come out in the evidence of PW1 that after marriage engagement, the date of marriage of the deceased and A1 was taken and when the A1 along with A2 came to her house with the date of marriage, they asked what would be given as 'Sthreedhan' to Thushara, whereupon they told them that they would give 20 sovereigns of gold ornaments and Rs.2,00,000/- as 'Sthreedhan'; as they told them that Rs.2,00,000/- will be given within a period of 3 years, A1 and A2 insisted to execute an agreement regarding that and accordingly, they executed Ext.P2 agreement agreeing to give Rs.2,00,000/- within a period of 3 years and it was stipulated in the said agreement that if they fail to give the said amount as agreed upon, they shall transfer 5 cents of land in the name of Thushara. Even though she was cross examined in detail nothing was brought out to disbelieve or disregard the above evidence. Moreover, her evidence is corroborated by the evidence of PW6, PW7 and Ext.P2 agreement.

38. PW6 is the brother of deceased Thushara. According to him also, at the time of marriage of Thushara, 20 sovereigns of gold ornaments were given and an agreement was written agreeing to give Rs.2,00,000/- within a period of 3 years. PW7 is the aunty of the deceased. According to her, when A1 and A2 came to the house of PW1 after fixing the marriage of Thushara, she along with her husband was also there at the house of Thushara and at that time,

A2 asked the father of Thushara as to what would be given as 'Sthreedhan' to Thushara, whereupon, the father of Thushara told them that they would give goodish 'Sthreedhan' to Thushara; at that time, 2<sup>nd</sup> accused insisted him to make it clear as to what they would give, whereupon the father of Thushara told her that they would give 20 sovereigns of gold ornaments to Thushara at the time of marriage and Rs.2,00,000/- within 3 years and as a security for the said amount they would transfer 5 cents of land in the name of Thushara. She testified further that at that time, A2 told him that the oral assurance is not sufficient and she insisted them to execute an agreement regarding 'Sthreedhan' and accordingly, the parents of Thushara executed Ext.P2 agreement; she along with her husband were witnesses to the said agreement and affixed their signatures therein. Even though PW6 and PW7 were cross examined in detail nothing was brought out to disbelieve the above evidence of PW6 and PW7.

39. Ext.P2 agreement was in the custody of PW16, who is a lawyer practicing in Kollam and as required by PW22, the investigating officer, she handed over the same to him and PW22 produced the same before the court. It has come out in the evidence of PW16 that A1 and A2 approached her for a legal advice in connection with a case in Women Cell, Kottarakkara and at that time they entrusted Ext.A2 agreement with her. From the above evidence of PW16 what is discernible that Ext.P2 agreement was kept in the custody of A1 and A2 and they entrusted the same with PW16. It appears from Ext.A2 agreement that the above agreement was executed on 15.11.2013, i.e., 25 days prior the marriage of Thushara. The parents of Thushara had executed the said agreement agreeing to give her Rs.2,00,000/- within a period of 3

years and as per the said agreement, if the parents fail to give the said amount as agreed upon, they shall transfer 5 cents of land in her name. On a conjoint reading of the evidence of PW1, PW6, PW7 and Ext.P2 agreement what is discernible that before the marriage of the deceased, A1 and A2 demanded 'Sthreedhan' and accordingly, the parents of the deceased gave 20 sovereigns of gold ornaments to the deceased at the time of marriage and they executed Ext.P2 agreement as insisted by A2 agreeing to give Rs.2,00,000/- within a period of 3 years.

40. **Circumstance No.2:-** The case of the prosecution is that A1 and A2 subjected Thushara to mental and physical cruelty and starved her as her parents failed to comply with the terms of Ext.P2 agreement. As per Ext.P2 agreement the parents of Thushara had to give Rs.2,00,000/- within a period of 3 years and if they fail to give the amount as agreed upon, they had to transfer 5 cents of land in the name of Thushara. The evidence of PW1 and PW6 would show that the parents of Thushara didn't pay Rs.2,00,000/- as agreed upon. It has come out in the evidence of PW1 that after some period after the 1<sup>st</sup> delivery of Thushara, Thushara called her over phone and asked her to give the amount of dowry agreed upon, otherwise she would not get any mental peace at her matrimonial home. It has also come out in her evidence that when the deceased was pregnant for the second time, her daughter told her over phone that she wants to eat some food items and insisted her to bring those food items; when they reached at the house with the food items, her daughter was alone there and at that time her daughter behaved lovely, but after sometime, when A1 and A2 came there, Thushara scared on seeing them and told her that "why did you come, who invited you to come, whether you

bring the agreed dowry". According to PW1, A1 and A2 starved her daughter and caused her death due to the reason that the amount of dowry was not given within the period agreed upon. It has come out in the evidence of PW6, the brother of Thushara that after some period after marriage, A1 demanded Rs.2,00,000/-, and at that time they told him that as the gold was sold soon after the marriage, he should give document for the amount to be given, but A1 told that document cannot be given and he insisted to give the agreed amount. It has also come out in his evidence that after the second delivery of deceased Thushara, A1 and Thushara called them over phone and demanded Rs.2,00,000/-; Thushara called and demanded money as threatened by A1. It has also come out in his evidence that Thushara told them over phone that A1, A2 and the sister of A1 used to subject her to cruelty as Rs.2,00,000/- was not given. It has come out in the evidence of PW7 that when she calls A1 over his phone, he wouldn't give the phone to Thushara and he would tell her to talk with Thushara after giving Rs.2,00,000/- The evidence of PW1, PW6 and PW7 would show that the parents of Thushara neither gave Rs.2,00,000/- nor gave 5 cents of land as agreed upon as per Ext.P2 agreement.

41. **Circumstance No.3:-** It is pertinent to note that soon after the marriage of Thushara and A1, the relationship between the parents of Thushara and accused became strained. In order to establish this circumstance prosecution relies on the evidence of PW1, PW6 and PW7. It has come out in the evidence of PW1, PW6 and PW7 that that after marriage, A1 and deceased were residing at Kanjaveli and after some period they shifted their residence to Charuvila house in Oyoor. It has also come out in the evidence of PW1 that A1 visited her house for 3 times only and they visited the

house of A1 many times in the first 3 months; on one occasion, she visited the house of accused along with Reshma, who is the friend of Thushara, but after they returned from there, A1 called PW7 over phone and told her that the parents of Thushara have no manners and neither she nor her relatives shall visit his house. The evidence of PW1 would show further that when she sustained fracture on her hand in a fall, A2 along with Thushara came to her house and at that time she insisted A2 to permit the deceased to stay there for two days, but without heeding her demand A2 left there taking the deceased. It has also come out in her evidence that when they went to the house of the sister of A1 with snacks knowing about Thushara was pregnant, Thushara asked her on seeing the snacks what is this, throw it away and cried; when she asked her as to the reason for crying, she didn't give reply but continued to cry. It has also come out in her evidence that when she asked A1 over phone about bringing Thushara to her house for delivery, he told that neither she nor her relatives shall come to his house and that his wife would deliver baby at his house. According to her, when she came to know about the delivery of her daughter, she along with her husband, her son and son of her brother went to Govt. Victoria Hospital, Kollam, but at that time A2 took away the baby somewhere and after sometime she brought back the baby and laid the baby on the cot where the deceased was lying; when she tried to take the baby, A2 blocked her hand away and told that don't touch, it would cause infection and at that time her daughter cried and told her that you have seen the baby, then you may go and as they knew the situation of her daughter, she returned. She testified further that on their way back to their house, A1 called her over phone and told that “കൊച്ചിനെ ഉണ്ടാക്കാൻ അറിയാമെങ്കിൽ അവരുടെ കാര്യങ്ങൾ

നോക്കാനും എനിക്കറിയാം. നിങ്ങൾ ആരും ഇനി എന്റെ വിട്ടിലേക്ക് വന്നു പോകരുത്".

The evidence of PW1 would show further that after some days, Thushara called her over phone and asked her to give the dowry amount as agreed upon, otherwise she would not get any mental peace at that house; accused didn't permit Thushara to say any other things. It has come out in her evidence that A1 and A2 would call her over phone and demand dowry and ask for the share in the shop and house. According to her, Thushara told the daughter of her brother that A1 has sold the gold ornaments of Thushara. It has also come out in her evidence that when the deceased was pregnant for the second time, she came to know about the pregnancy after seven months and at that time, her daughter told that she wants to eat some food items and insisted her to bring those food items; when they reached at the house with the food items, her daughter was alone there and at that time her daughter behaved lovely, but after sometime, when A1 and A2 came there, Thushara scared on seeing them and told her that why did you come, who invited you to come, whether you bring the agreed dowry. She testified further that when she asked A1 for permission to take the delivery of her daughter, A1 told that "കൊച്ചിനെ ഉണ്ടാക്കാൻ അറിയാമെങ്കിൽ അവരുടെ കാര്യങ്ങൾ നോക്കാനും എനിക്കറിയാം". According to her, on 07.06.2017, her daughter gave birth to second child and on getting information about the delivery of her daughter, she along with PW7 went to Government Victoria Hospital, Kollam; at that time also, she sought permission of A1 to take her daughter and baby to her house, but at that time A1 scolded her. According to her, after they returned from the hospital a complaint was lodged at the police station alleging that they attempted to kidnap her daughter and thereafter, accused didn't call them; her daughter had no phone.

42. The evidence of PW6, who is the brother of Thushara would show that after the marriage of Thushara, when he along with his relatives went to the matrimonial home of his sister in connection with 'nallavathil chadangu', A1 had no co-operation with them. According to him, when A1 along with deceased Thushara visited his house, on the 3<sup>rd</sup> day after marriage, the gold ornaments worn by deceased Thushara at the time of her marriage were not seen; when his aunty asked Thushara about the gold ornaments, Thushara told her that as A2 didn't like the Tali chain, she gave the gold ornaments to A1, thereupon, A1 brought a large chain and other ornaments which were created by him. According to him, when the deceased along with A1 came to his house on the 3<sup>rd</sup> day after marriage, she wore a large chain and other ornaments which were created by A1 and later it was realized that the large chain and other ornaments worn by the deceased were not gold. It has come out in his evidence that after some days after marriage, his mother and the friend of Thushara, Reshma went to the house of the accused at Kanjaveli and in the night on that day, his aunty was called from the house of the accused over phone and told her that don't come to their house with local people. According to him, after some days after marriage, A1 demanded Rs.2,00,000/-, and at that time they told him that as the gold was sold soon after the marriage, he should give document for the amount to be given, but A1 told that document cannot be given and he insisted to give the agreed amount. It has also come out in his evidence that thereafter, whenever Thushara was called over phone she cried and later, when they called over phone, A1 would not attend the phone and even if he attended the phone, he did not give the phone to deceased Thushara. He testified further that after some days after marriage,

A1 forcefully obtained the mobile phone of deceased Thushara. According to him, as A1 threatened them that, if they come to their house he would kill them, thereafter they did not go to the house of the accused. He testified further that when deceased Thushara was pregnant for the second time, she called his mother and asked her to bring snacks and she cut the phone suddenly; she cut the phone telling that if she spent more money by talking for more time through phone, A2 would utter obscene words towards her. He testified further that thereafter, when they went to Parandodu for seeing Thushara, Thushara alone was there and at 02:00 p.m. when A1, his mother and father came back, his mother told A1 that Thushara was not sent to her house for her first delivery and sought permission of A1 to take the deceased to their house for the 2<sup>nd</sup> delivery, but A1 got angry and told that “കൊച്ചിനെ ഉണ്ടാക്കാൻ അറിയാമെങ്കിൽ കൊച്ചിന്റെ പ്രസവം എടുത്ത് വളർത്താനും അറിയാം”; at that time Samraj who is the brother in law of A1 came there and told that the matters will be after delivery and that can be decided after delivery and then they left there. According to him, After the second delivery of deceased Thushara, A1 and Thushara called them over phone and demanded Rs.2,00,000/-; Thushara called and demanded money as threatened by A1 and A1 did not inform them about any other things.

43. According to PW7, the aunty of Thushara, after marriage, Thushara resided along with A1 at Kanjaveli and thereafter, they shifted to Parandodu; while the accused and Thushara were residing at Kanjaveli, she visited their house 2 - 3 times, but after they shifted their residence to Parandodu she didn't go to their house. It has come out in her evidence that the accused didn't like anybody from the house of Thushara visiting their house and if they

make call to the phone of A1 in order to talk with Thushara, they would not give phone to Thushara. According to her, whenever she calls A1, they would tell her to talk with Thushara only after paying Rs.2,00,000/-. The evidence of PW7 would show further that Thushara gave birth to her second child on 07.06.2017 in District Hospital, Kollam and they got information regarding the second delivery of Thushara after 2 - 3 days after delivery; she along with the mother of Thushara went to the said hospital to see Thushara and her newborn baby and when they reached in front of the hospital they saw A1 and when they told him to see Thushara and her newborn baby, he got angry and uttered obscene words towards them. According to her, thereafter, A1 was seen calling somebody else over phone and at that time, A2 was seen walking away carrying the baby; they told A1 that they want to see Thushara and her newborn baby and as they compelled him, he permitted them to see Thushara and her name born baby. She testified further that when the mother of Thushara asked A1 for permission to take Thushara and her newborn baby to their house, he told that "കൂട്ടിയെ ഉണ്ടാക്കാൻ അറിയാമെങ്കിൽ വളർത്താനും അറിയാം" and thereafter, they didn't wait there and returned. According to her, even though she called over phone on many days to talk with Thushara, the mother and A1 told her about dowry only.

44. Even though PW1, PW6 and PW7 were cross examined in detail nothing was brought out to disbelieve their evidence. The above evidence of PW1, PW6 and PW7 would show that the relationship between the parents of Thushara and the accused became strained soon after the marriage. It is pertinent to note that even though A1, A2 and Thushara visited the house of Thushara for few times at the early stage after marriage, later, neither A1 and A2

visited the house of Thushara nor they permitted Thushara to visit her house. The evidence of PW1, PW6 and PW7 would show that the parents and relatives of the deceased hadn't visited the matrimonial home of Thushara frequently and they visited the house of the accused for few times only. It has come out in the evidence of PW7 that the accused didn't like anybody from the house of Thushara visiting their house. It has come out in the evidence of PW1, PW6 and PW7 that even though PW1 requested A1 to send Thushara to her house for her delivery, he didn't send Thushara to her house either during the 1<sup>st</sup> delivery or during the 2<sup>nd</sup> delivery, but at that time he insulted her. The evidence of PW1, PW6 and PW7 would show further that when they visited the hospital during the 1<sup>st</sup> and 2<sup>nd</sup> delivery of Thushara, A1 and A2 were reluctant to permit them to see Thushara and her new born baby. The above evidence would clearly show that the relationship between the parents of the deceased and the accused was not cordial after marriage and it became strained soon after the marriage.

45. **Circumstance No.4:-** In order to establish this circumstance, prosecution rely on the evidence of PW1, PW2, PW5, PW6 and PW7. It has come out in the evidence of PW1, PW6 and PW7 that the relationship between the parents of the deceased and the accused had become strained soon after marriage and even though A1, A2 and Thushara visited the house of Thushara for few times at the early stage after marriage, later, neither A1 and A2 visited the house of Thushara nor they permitted Thushara to visit her house. It has come out in the evidence of PW1, PW6 and PW7 that Thushara had no mobile phone and in order to talk with Thushara, they would make calls to the mobile phone of A1; the evidence of PW6 would show that after marriage, A1 forcefully took

the mobile phone of the deceased. It was also spoken to by PW1, PW6 and PW7 that Thushara was not sent to her house either at the time of 1<sup>st</sup> delivery or at the time of 2<sup>nd</sup> delivery; even though PW1 requested A1 to send Thushara to her house for her delivery, he didn't heed to her request and he insulted her. The evidence of PW1 would show further that when they went to the house of the sister of A1 with snacks knowing about Thushara was pregnant, on seeing the snacks, Thushara asked what is this, throw it away and cried; when she asked her as to the reason for crying, she didn't give reply but continued to cry. It has also come out in her evidence that after some days after the delivery of Thushara, she called her over phone and asked her to give the dowry amount agreed upon, otherwise she would not get any mental peace at that house; accused didn't permit Thushara to say any other things. The evidence of PW1 would show further that when the deceased was pregnant for the second time, she came to know about the pregnancy after seven months and at that time, her daughter told that she wants to eat some food items and insisted her to bring those food items; when they reached at the house with the food items, her daughter was alone there and at that time her daughter behaved lovely, but after sometime, when A1 and A2 came there, Thushara scared on seeing them and told her that why did you come, who invited you to come, whether you bring the agreed dowry. It has come out in the evidence of PW6 that when Thushara was pregnant for the second time, she called his mother and asked her to bring snacks and she cut the phone suddenly; she cut the phone telling that if she spent more money by talking for more time through phone, A2 would utter obscene words towards her. According to PW1, on 07.06.2017, her daughter gave birth to

second child and on getting information about the delivery of her daughter, she along with PW7 went to Government Victoria Hospital, Kollam; after they returned from the hospital a complaint was lodged at the police station alleging that they attempted to kidnap her daughter. According to PW6, after the second delivery of deceased Thushara, A1 and Thushara called them over phone and demanded Rs.2,00,000/-; Thushara called and demanded money as threatened by A1. It has come out in the evidence of PW7 that if they make call to the phone of A1 in order to talk with Thushara, they would not give phone to Thushara. According to PW7, whenever she calls A1, they would tell her to talk with Thushara only after paying Rs.2,00,000/-. According to her, even though she called over phone on many days to talk with Thushara, the mother and A1 told her about dowry only. On a conjoint reading of the evidence of PW1, PW6 and PW7 what is discernible that Thushara was subjected to harassment at her matrimonial home.

46. Coming to the evidence of PW2 Lincy, she is the neighbour of the accused. She testified that the house where Thushara was residing is situated on the adjacent western side of her house. According to her, when Thushara and her husband came there, firstly they resided at the house of the sister of A1, Jancy, who is residing at the house situated on the north of the house situated on the northern side of her house; Thushara gave birth to her elder child while she was residing at the house of Jancy. She testified further that thereafter, they purchased the land and the building situated therein lying on the western side of her house and started to reside there; after buying the said property, they constructed compound wall on all the boundaries of the said property with sheet and Thushara gave birth to younger child while

she was residing at the said house. It has come out in her evidence that she saw A1 and A2 manhandling Thushara and she heard the outcry of Thushara; in the night on almost all days, they would manhandle Thushara and A1 called Thushara 'അനാഥപ്രേതം'. It has also come out in her evidence that pooja and black magic were performed at the house of the accused. According to her, when she saw the accused manhandling deceased Thushara, she told the ward member about it and made complaint to Maruthamonpally Health and accordingly, they came and enquired about it, but even after that they used to manhandle the deceased. She testified further that when the accused go out of the house, they would lock Thushara inside the house, but the neighbours would not ask anything to the accused fearing them. She testified further that one day, when the accused beat Thushara she saw it through the hole in the sheet and on seeing her looking through the hole in the sheet wall, A1 and A2 uttered obscene words towards her. She testified further that one day when she looked through the hole in the sheet wall hearing the outcry of Thushara and the sound of beating Thushara, Thushara was seen huddled there with hollowed cheeks, sunken eyes, shaved head and in a distorted form. She testified further that on 14.01.2019, Thushara attempted to commit suicide by cutting her vein and at that time, Jancy came to the house of the accused and told Thushara that "എന്തിനാടി പുല്ലേ നീ ഞരമ്പ് മുറിച്ചത് നീ ചാകുന്നതിനുമുമ്പ് വെള്ളം തരാൻ വന്നതാണ്".

47. She was cross examined elaborately. She testified during cross examination that accused didn't allow Thushara to come out of their house and she didn't see Thushara outside their house; she saw Thushara two times when she was taken to hospital in connection with her 2<sup>nd</sup> delivery. When she was asked during cross

examination that whether she stated to the police and Magistrate that she heard Jancy telling Thushara that “എത്തിനാടി പുല്ലേ നീ ഞരമ്പ് മുറിച്ചത് നീ ചാകുന്നതിനുമുമ്പ് വെള്ളം തരാൻ വന്നതാണ്”, she testified in the affirmative. when PW22, the investigating officer was asked during cross examination whether PW2 Lincy stated to him that Jancy came to the house of the accused and told Thushara that “എത്തിനാടി പുല്ലേ നീ ഞരമ്പ് മുറിച്ചത് നീ ചാകുന്നതിനുമുമ്പ് വെള്ളം തരാൻ വന്നതാണ്”, he testified that PW2 stated to him that on 14<sup>th</sup> January, Jancy came to the house of the accused and asked in loud voice that “എത്തിനാടി പുല്ലേ നീ ഞരമ്പ് മുറിച്ചത്”, but she hadn’t stated to him that she heard Jancy telling “നീ ചാകുന്നതിനുമുമ്പ് വെള്ളം തരാൻ വന്നതാണ്”. As per Ext.P3(a) statement she stated to the magistrate that once when Thushara cut the vein in her hand, Jancy, her sister in law had gone there and at that time, she heard Jancy telling that she has come there to give water to the dying women.

48. When she was asked further during cross examination that when did she see the accused inflicting injuries to the deceased firstly, she answered that when the accused started to reside there and she testified further that the deceased was beaten frequently and it can be seen through the window of the house of the accused. When she was asked when did the accused increase the height of sheet wall on the eastern side, she testified that after 3 - 4 days after the accused came there, she looked there on hearing the sound of beating Thushara, whereupon A1 and A2 uttered obscene words towards her and thereafter, they increased the height of the sheet wall on the eastern side. When she was asked what was the maltreatment caused by the accused, she testified that she saw A1 and A2 beating the deceased. When she was asked what was used for beating, she testified that one day, at 06.00 - 06.30 A.M, she saw

A1 hitting the head of the deceased on the wall and she heard the outcry also. When she was asked whether she stated to the police that she saw A1 hitting the head of the deceased on the wall, she testified that she didn't give such a statement to police and she is speaking so as she remembers it now. When she was asked how many times she heard A1 hitting the head of Thushara on the wall, she testified that 2-3 times. When she was asked how many times she saw A2 inflicting injuries to the deceased, she testified that A2 would inflict injuries to the deceased frequently and it cannot be counted. When she was asked whether she gave statement to Police and Magistrate that A2 would inflict injuries to the deceased frequently, she testified that she stated so. When she was asked what was the harassment caused by A2, she testified that A2 would run after the deceased around the house and beat her. She testified further that A2 would beat the deceased with stick and hand. When she was asked whether she gave statement to Police and Magistrate that A2 would run after the deceased around the house and beat her, she testified that she didn't state so. PW22 also testified that PW2 didn't state to him that A2 would beat the deceased by running after her around the house. When she was asked what was the other harassment she saw, she testified that if the deceased takes the children, A2 would beat her. A2 didn't permit the deceased to take her younger child and breast feed the baby. When she was asked whether she gave statement to Police and Magistrate that A2 didn't permit the deceased to take her younger child and breast feed the baby, she testified that she stated so. PW22 testified during cross examination that PW2 didn't state to him that A2 didn't permit the deceased to take her younger child and breast feed the baby. When she was asked when did she see A2 beating the

deceased by running after her around the house, she testified that she saw it after one week after the accused came there for residence and she doesn't remember the date. She testified further that while the deceased was pregnant for the 2<sup>nd</sup> time also, she saw A2 beating the deceased by running after her around the house and at that time she was wearing a nighty.

49. During cross examination, she was asked further that what was the harassment caused by A1 to the deceased, she testified that she heard the sound of beating and hitting Thushara by A1. When she was asked how did she understand that it was A1 who inflicted injuries, she testified that Thushara would scream by saying don't beat, don't hit. When she was asked whether she gave statement to Police that Thushara screamed by saying don't beat, don't hit, she testified that as the police didn't ask the same, she didn't state it to police. When she was asked as to the date on which A1 hit the deceased, she testified that she doesn't remember the date, but she heard the sound of beating Thushara by A1 2 - 3 times, once in the morning and thereafter, in other times. When she was asked whether she heard A1 and A2 inflicting injuries to the deceased in the night, she answered in the affirmative. When she was asked whether she gave statement to Police and Magistrate that on almost all days accused would inflict injuries to the deceased in the night, she testified that she stated to the police and Magistrate that the accused would inflict injuries to the deceased, but she had not stated the time when they inflicted injuries. When PW22 was asked whether PW2 stated to him that she heard A1 and A2 inflicting injuries to the deceased in the night, he testified that PW2 stated to him that on many days she heard the outcry of deceased and sound of beating, but she had not stated specifically

that she heard it in the night. When she was asked whether Thushara screamed in loud voice when the accused inflicted injuries to her, she testified that when they inflicted injuries, A2 would shut her mouth to prevent the sound from coming out. When she was asked how did she saw it, she testified that she saw it through the hole in the sheet wall on the eastern side. When she was asked what is the size of the hole, she testified that it has a size of her right palm. She testified further that Thushara was seen outside the house only when she spread the clothes out to dry. When she was asked whether she talked with Thushara while she was residing at the house of Jancy, she testified that Thushara was not allowed to talk with others. She reiterated during cross examination that the accused increased the height of the sheet wall on all the sides after 3-4 days after they came there for residence. She denied the suggestion put to her that they increased the height of sheet wall as her harassment became intolerable. When she was asked which lock was used for locking the gate of the accused, she testified that padlock was used. When she was asked how would the accused lock their house, she testified that by using key. When she was asked how did she understand that the accused would go out after locking the deceased inside the house, she testified that when the accused go out, deceased alone was there in their house and at that time they would lock the gate. When she was asked how did she understand that only the deceased was there in the house of the accused, she testified that she could see Thushara from her house and after demolition of house of the accused she could see Thushara very well. When she was asked how did she identify the voice of Thushara, she testified that she saw beating Thushara through window and she heard her scream; thereby she knows her

sound. When she was asked whether she stated to the Police and Magistrate that one day when she looked through the hole in the sheet wall hearing the outcry of Thushara and the sound of beating Thushara, Thushara was seen huddled there with hollowed cheeks, sunken eyes, shaved head and in a distorted form, she answered in the affirmative. When PW22 was asked whether PW2 stated to him that when Thushara was seen she was in a distorted form with hollowed cheek, sunken eyes and shaved head, he answered that she stated to him that when she looked through the hole in the sheet wall, she felt that they are beating and uttering obscene words to a child huddled there with shaven head, and thereafter when she looked there carefully, she realised that it was Thushara.

50. Admittedly, PW2 is residing on the adjacent eastern side of the house of the accused. Even though PW2 was cross examined in detail nothing was brought out during cross examination to discredit or disbelieve her oral testimony regarding the ill treatment of A1 and A2 towards the deceased. Even though some omissions were brought out during cross examination, those omissions cannot be considered as material. Moreover, her evidence is corroborated by Ext.P3 and Ext.P3(a) statements given to the Magistrate. As per Ext.P3 statement, PW1 stated to the Magistrate that when the accused and Thushara started to reside nearby her house, she saw A2 manhandling Thushara; thereafter accused increased the height of compound wall on all the boundaries. As per Ext.P3, it was also stated to the Magistrate that she could hear the sound of hitting Thushara by A1 and A2 and the cry of Thushara; A1 and A2 assaulted the deceased by saying that it will be correct only if she dies. As per Ext.P3(a) statement, she stated to the Magistrate that she heard the deceased crying by asking why did the mother

throw away her food. As per Ext.P3(a) it was also stated by her that she had not seen Thushara coming out of the house. Once Thushara cut the vein in her hand and her sister in law had gone there; at that time, she heard that sister in law of the deceased telling that she has come there to give water to the dying women. As per Ext.P3(a) statement PW1 stated to the Magistrate that they used to call Thushara as 'അനാഥപ്രേതം'. The evidence of PW1 is corroborated by the evidence of PW5 and the medical evidence.

51. PW5 is working as 'Asha worker' and she is residing in ward No. XII of Pooyappally Panchayat; according to her, Thushara was also residing in the said ward of Pooyappally Panchayat. It has come out in her evidence that while Thushara was pregnant, she could talk with her only once; thereafter, whenever she went to the house of Thushara, A1 and A2 alone talked with her and they didn't permit her to talk with deceased Thushara. According to her, when the accused and Thushara came to reside there, firstly they resided at the house of the sister of A1 and they resided there for some period, thereafter, they resided at rented house; they came to the house of the sister of A1 again; while so, they purchased land and building nearby the house of the sister of A1 and started to reside at the said house. The evidence of PW5 would show further that when they started to reside at the said house, they constructed compound wall on all boundaries with sheet; as the height of the sheet wall was low, they increased the height of sheet wall and thereafter, when she went to the house of the deceased she could not enter inside the house. She testified that the gate of the said house would be locked; when she passes nearby the house of the accused, she would hear the hue and cry of Thushara, but as the gate was locked, she could neither enter inside the house nor see

Thushara. According to her, Thushara gave birth to her younger child while she was residing at the said house; even though she went to the house of Thushara while she was pregnant for the second time, she could not talk with Thushara as A1 and A2 did not permit her to talk with her and A1 and A2 would always be with Thushara. According to her, as A1 and A2 didn't permit her to talk with deceased, she gave instructions to the sister of A1 for Thushara. She testified further that after Thushara gave birth to her younger child, when Thushara and her child came to Maruthamonpally PHC for taking vaccine for her younger child, another mother, who also came there along with her child for taking vaccine, on seeing the deceased asked "ആ അമ്മ പ്രസവിച്ച കുട്ടിയാണോ ഇങ്ങനെ ഇരിക്കുന്നത്" and at that time Jancy, who was also along with Thushara, told that "അവൾക്ക് ആഹാരം ഒന്നും കഴിച്ചുകൂടാ അതുകൊണ്ടാണ് ഇങ്ങനെ ഇരിക്കുന്നത്".

52. PW5 was also cross examined elaborately. When she was asked, after the 2<sup>nd</sup> delivery of Thushara, how many times she went to the house of Thushara for giving instructions to her, she testified that she went there 2 - 3 times in every month, but she was not permitted by the accused to talk with Thushara. When she was asked when did she hear the outcry of Thushara, she testified that she heard the outcry of the deceased when she passed nearby her house one month prior to her death. When she was asked how did she understand that it was the outcry of Thushara she testified that only the cry of Thushara could be heard from there. Nothing was brought out during her cross examination to disbelieve or disregard her evidence.

53. PW8 is a school teacher and the daughter of A1 was in her play class. It has come out in her evidence that Thushara never

visited the school where her daughter was studying. According to PW8, the mother and father of A1 would come to the school along with Chancy and when she asked the mother of A1 as to where is the mother of Chancy, she told her that the mother of Chancy is laid up due to paralysis after second delivery.

54. It is pertinent to note that PW19, the doctor who conducted postmortem noted multiple ante mortem injuries on the body of the deceased. The oral evidence of PW19 and Ext.P15 post mortem certificate issued by her would show that the deceased had multiple contusions, multiple abrasions and multiple incised wounds. The injuries noted by PW19 are as follows:

Contusions- contusion on the chin across midline, contusion on tip of right thumb, contusion on back of right leg, 1.5cm below knee, superficial contusion on the front of left shoulder 2cm below its tip, superficial contusion on left side of back of neck 6cm below tip of mastoid process, contusion on outer aspect of right leg, 2cm below knee and contusion involving nail of left big toe.

Abrasions - abrasion on outer aspect of right forearm 6cm above the wrist, abrasion on left side of back of trunk 2.5cm outer to midline and 9 cm above natal cleft, multiple linear abrasions of sizes varying on back of trunk across the midline 27cm below root of neck, abrasion on inner and back aspect of left forearm 10cm above wrist, multiple abrasions of sizes varying over an area 4x4 cm on right side of back of chest, healing linear abrasion oblique on back and outer aspect of right thigh, abrasion oblique on inner aspect of right leg, graze abrasion 4x1 cm vertical (covered with brown adherent scab) on outer aspect of left elbow and adjoining part of forearm and healing abrasion with loosely adherent brown scab on back of left forearm;

Incised wounds- superficial incised wound oblique on front of right index finger, incised wound on front of right index finger with avulsion of skin flap downwards and infected incised wound on front of right middle finger, infected incised wound on front of right ring finger.

Other wounds- three healing wounds with pale brown scab at the centre and pale scar at periphery on the back of right hand infected wound on outer and top aspect of left foot, healing wound involving outer and front aspect of left knee, irregular depression (suggestive of scar) on the right thumb nail which showed a new growth of nail behind the injury and hypopigmented scars 26 in numbers.

55. According to PW19, hypopigmented scars would be caused by applying blunt force; contusions and abrasions could also be caused by blunt force. She testified further during chief examination that Injury Nos. 11,12,13 and 14 were incised wounds and hence the blood stains seen sticking to the middle of left leg might have been from those injuries. According to her, injury Nos. 15, 16 and 21 were healing abrasions covered by brown adherent or loosely adherent brown scabs and the age of the above injuries could be a minimum of 6 days prior to her death; injury No. 23 was a healing wound and its age could be a minimum of 5 days or above. According to her, injury Nos. 11,12,13 and 14 which were noted on the right hand could be caused by using sharp weapon. When PW19 was asked during cross examination whether the contusions and abrasions found on the body of the deceased could be caused by falling in a pit, she testified that injury Nos 1 to 10 are fresh wounds and those injuries couldn't be caused in a single fall; injury Nos.15 to 23 are injuries of varying duration and those injuries

could be caused when the body comes in contact with a rough, blunt, heavy object or surface at various times according to the ages of injuries. When PW19 was asked further during cross examination that whether the abrasions found on the body of the deceased could be caused with the nail of children, she answered in the negative. When PW19 was asked whether hypopigmented scars could be caused by engaging in cattle farming, she answered in the negative.

56. A1 put forwarded a case in the written statement filed under S.313(5) of Cr.P.C. that when there occurred fluctuation in sugar level, Thushara would fall down and at that time small wounds were seen on her body and they pursued treatment for the said wounds sustained by the deceased while falling. It is to be noted that the accused have not produced any treatment records to show that the deceased underwent treatment for the wounds found on her body. Moreover, considering the nature and sites of wounds, it cannot be believed that the wounds found on the body of the deceased were sustained in fall. So, the presence of multiple wounds on the body of the deceased also corroborate the testimony of PW2 and PW5 that the deceased was subjected to extreme cruelty.

57. On a conjoint reading of the evidence of PW1, PW2, PW5, PW6, PW7, PW8, PW19 and other attending circumstances, what is discernible that A1 and A2 had subjected Thushara to extreme mental and physical cruelty and they confined the deceased in the house without allowing her to interact with the neighbours and to go out of the house. The evidence on record would show that she had gone out of the house only for the purpose of going to hospital. Presence of wounds of various nature on the body of the deceased

also corroborate the testimony of PW2 and PW5 that the deceased was subjected to extreme cruelty.

58. **Circumstance No.5:-** Admittedly, at the time of second delivery of Thushara, her body weight was 46 kg. PW11 Dr. Rashmi Devi. L, who was working as Consultant Gynecologist, Govt. Victoria Hospital, Kollam attended Thushara when she was admitted there on 06.06.2017 and she performed the emergency cesarean section on 07.06.2017. According to her, the weight of Thushara at the time when she was admitted in the said hospital was 46 kg. PW11 testified further that the new born baby had a weight of 2.68 kg. So, after delivery, Thushara might have a weight of not less than 42 kg. But it is pertinent to note that at the time of death of the deceased, she had a weight of 21 kg only and her body was extremely emaciated.

59. The evidence of PW19 would show that at the time of post mortem, the body of the deceased was extremely emaciated, and had a weight of 21 kg only and the skeletal frame work could be easily appreciated due to the state of emaciation. As per the postmortem findings the skin on the body of deceased was dry and glistening over the bony prominences, abdomen was scaphoid, legs and feet showed oedema, mid arm circumference was 12.5cm, chest circumference was 58cm, abdominal circumference was 46cm, mid-thigh circumference was 22cm, eyes were sunken and partly open, tongue was dry, pale, smooth with loss of papillae, brain weighed 1497g and was oedematous, sulci were wider with atrophic gyri, Lungs were pale and showed patchy areas of consolidation, Petechial haemorrhages on surface of left lung, froth and pus was seen coming out of cut sections of minor air passages, chest cavities contained 200ml straw coloured fluid, heart weighed 115g,

myocardium appeared normal, tricuspid valve had circumference of 10cm, mitral valve 7cm, aortic and pulmonary valves measured 5.5cm each, left ventricular wall thickness was 1cm and right ventricular wall was 0.3cm thick, diaphragm showed areas of haemorrhage, stomach contained 50ml of mucoid fluid and mucous having no unusual smell, mucosa was pale with submucosal haemorrhage at places, stomach wall was oedematous, rectum contained loose stools, spleen weighed 48gm, pale and shrunken, liver weighed 543g, right kidney weighed 50g and left kidney weighed 58g were pale, uterus measured 6.5x5x2.5cm and were atrophic, right ovary measured 2x1x1cm, and left ovary 2.5x1.5x1cm, fat tissue was seen thinned out in the chest and abdominal wall, measured 0.1m.m thickness at places and was absent at other areas, omental mesenteric and perinephric fat were absent, urinary bladder was empty and all other internal organs were pale.

60. During chief examination, when PW19 was asked whether the deficiency of vitamin B, D, zinc and iron would lead to tongue papillae, she answered in the affirmative and she testified further that tongue papillae is a result of malnutrition. According to her, consolidation of lung may cause petechial haemorrhage and trivial forces can cause diaphragmatic haemorrhage. She testified further that due to severe malnutrition, hormonal levels may be deranged and that will cause atrophy of ovaries and the absence of omental mesenteric and perinephric fat was due to malnutrition. According to her, the required weight of a person having 153 cm is 44 to 50 Kg. She testified further that consolidation of lungs means pneumonia and pneumonia can be caused by various pathogenic organism when the immune system of the body is weak; severe

malnutrition will lead to deficiency of immunoglobulin and other proteins involved in the immune system and this can cause widespread infection in the body and one of which is pneumonia. She testified further that if a person is subjected to starvation for a period of one month it can cause derangement of brain functions. According to her, starvation is so imminently dangerous that it must in all probability likely to cause death. She testified further that if there is deprivation of food and water death can occur within 10 to 12 days and if there is deprivation of food only and water is provided death can occur in 30 to 60 days.

61. The oral evidence of PW19, Dr. K. Valsala and Ext.P15 post - mortem certificate issued by her would show that the death of deceased was due to consolidation of lungs as a complication of starvation. The post mortem findings are consistent with the case of the prosecution that the deceased died due to starvation and as per the post mortem findings, at the time of the death of Thushara, her body weight was reduced by about 50% and the condition of her health was extremely deteriorated. It is pertinent to note that even though the condition of health of Thushara was extremely deteriorated, accused didn't provide medical assistance to her and she was brought dead to the hospital. Ext.P40, which is the copy of death intimation of Thushara would show that she was brought dead to the hospital.

62. DW1 was examined from the side of defence to establish that Thushara had no health issues prior to her death. DW1 testified before the court that he is a mason and he went to the house of the accused for construction of their house. He testified further that he started to construct basement for the purpose of constructing new house. According to him, while he was engaged in the construction

work, Thushara would come to the construction site with drinking water and at that time he heard A1 telling Thushara 'walk slowly otherwise she would fall'; he also heard A1 asking deceased Thushara as to whether she took medicines. According to him, when he asked Thushara as to what is the reason for her weakness, she told him that she has sugar. He testified further that he employed there for eight days and when he went there on the 9<sup>th</sup> day, he came to know that Thushara is no more. But considering the evidence of PW3 and medical evidence, the evidence of DW1 cannot be considered as a believable version. PW3 testified before the court that it was he who constructed the basement at the house of the accused during the period February - March in 2019. During examination under S.313 of Cr.P.C, A1 and A2 admitted that it was PW3 who constructed the basement at their house for the construction of new building. It is pertinent to note that at the time of death of Thushara, she had a body weight of 21 kg and her health was extremely deteriorated. Considering the condition of health of Thushara as per the post mortem findings, it cannot be believed that she was in a position to walk and give drinking water to the workmen engaged in the construction work of the house. So, considering the post mortem findings and other evidence on record, DW1 cannot be considered as a reliable witness and hence his evidence cannot be relied upon. Even though the accused contended that the deceased lost her body weight and her body became emaciated due to diabetes, they have not produced any treatment records to show that Thushara had undergone treatment for diabetes. Considering the condition of health of Thushara at the time of her death and the conduct of A1 and A2 not taking her to hospital, what is to be inferred that A1 and A2 wilfully and

deliberately neglected to provide necessary food and medical assistance to her at the matrimonial home.

63. **Circumstance No.6:-** It has been established by the prosecution that the deceased died due to consolidation of lung as a complication of starvation. Even though she had a body weight of 46 kg at the time of her 2<sup>nd</sup> delivery i.e. on 07.06.2017, on the date of her death i.e on 21.03.2019, she had a body weight of 21 kg only and her body was emaciated. So, from the medical and other evidence what is to be inferred that her health was deteriorated day by day and there occurred a loss of 50% of body weight of the deceased after her 2<sup>nd</sup> delivery. As the deceased was residing at her matrimonial home along with A1 and A2, the circumstances which led to the death of Thushara were within their knowledge, but they had not offered any plausible explanation as to the circumstances leading to her death. According to learned prosecutor, non explanation of facts leading to the death of the deceased constitute an additional link in the chain of circumstances pointing towards his involvement in the death of deceased. The general rule is that in criminal case the burden of proof is on the prosecution, but S.106 will apply to cases where the prosecution has succeeded in proving the facts from which a reasonable inference can be drawn regarding the existence of certain other facts which are within the special knowledge of the accused. In this context it is useful to refer S.106 of Indian Evidence Act.

64. S.106 of the Indian Evidence Act read as follows:

“106. Burden of proving fact especially within knowledge. - When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Illustration

(a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.”

65. The Hon’ble Apex Court has considered the scope of the principle embodied in S.106 of Evidence Act in many of its judgments. In *Shambu Nath Mehra V State of Ajmer (1956 AIR SC 404)* the Hon’ble Apex Court held as follows:

“This lays down the general rule that in a criminal case the burden of proof is on the prosecution and S.106 is certainly not intended to relieve it of that duty. On the contrary it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult for the prosecution to establish facts which are "especially" within the knowledge of the accused and which he could prove without difficulty or inconvenience. The word "especially" stresses that it means facts that are pre eminently or exceptionally within his knowledge.”

66. In *State of W.B V Mir Mohammed Omar and others (2000 KHC 1735)* the Hon’ble Apex Court held as follows:

“The pristine rule that the burden of proof is on the prosecution to prove the guilt of the accused should not be taken as a fossilised doctrine as though it admits no process of intelligent reasoning. The doctrine of presumption is not alien to the above rule, nor would it impair the temper of the rule. On the other hand, if the traditional rule relating to burden of proof of the prosecution is allowed to be wrapped in pedantic coverage the offenders in serious offences would be the major beneficiaries, and the society would be the casualty.”

67. In *Trimukh Maroti Kirkan V State of Maharashtra* (2006 SCC (10) 681) the Hon'ble Apex Court while considering a case of homicidal death in the confines of the house held as follows:

"14. If an offence takes place inside the privacy of a house and in such circumstances where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence, as noticed above, is insisted upon by the courts. A judge does not preside over a criminal trial merely to see that no innocent man is punished. A judge also presides to see that a guilty man does not escape.

Both are public duties. (See *Stirland v. Director of Public Prosecutions* - quoted with approval by Arijit Pasayat, J. in *State of Punjab v. Karnail Singh*). The law does not enjoin a duty on the prosecution to lead evidence of such character which is almost impossible to be led or at any rate extremely difficult to be led. The duty on the prosecution is to lead such evidence which it is capable of leading, having regard to the facts and circumstances of the case. Here it is necessary to keep in mind S.106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (b) appended to this section throws some light on the content and scope of this provision and it reads:

"(b) A is charged with travelling on a railway without ticket. The burden of proving that he had a ticket is on him."

Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would

undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a comparatively lighter character. In view of S.106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation."

68. In the said case Hon'ble Apex Court held further that:

"Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime they were seen together or the offence takes place in the dwelling home where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime."

69. In *State of Rajasthan V Thakur Singh (2014 (12) SCC 211)* The Hon'ble Supreme Court held as follows:

"The law, therefore, is quite well settled that the burden of proving the guilt of an accused is on the prosecution, but there may be certain facts pertaining to a crime that can be known only to the accused, or are virtually impossible for the prosecution to prove. These facts need to be explained by the

accused and if he does not do so, then it is a strong circumstance pointing to his guilt based on those facts”

70. In *Kalu @ Lakshminarayan V State of Madhya Pradesh (2019 SCC (10) 211)* the Hon’ble Apex Court held as follows:

“Once the prosecution established a prima facie case, the appellant was obliged to furnish some explanation under S.313, Cr.P.C. with regard to the circumstances under which the deceased met an unnatural death inside the house. His failure to offer any explanation whatsoever therefore leaves no doubt for the conclusion of his being the assailant of the deceased.”

71. Coming to the case on hand, it is to be noted that the deceased died due to the consolidation lungs as a complication of starvation at the house of the accused. According to the prosecution, A1 and A2 didn’t provide food, medicines and medical assistance to the deceased and thereby the deceased died due to starvation. It has been established by the prosecution that the deceased was along with the accused at the matrimonial home at the time of her death; she was subjected to cruelty by A1 along with A2 and she was not allowed to go out of their house and to interact with neighbours. The evidence of PW1 and PW6 would show that Thushara had no mobile phone and according to PW6, soon after the marriage, A1 forcefully took the mobile phone of Thushara. So, she had no opportunity to seek help either from her parents or her neighbours. As the deceased died inside the house of the accused, it is difficult for the prosecution to lead any direct evidence to establish the circumstances which led to the death of the deceased. In such cases, as held by the Hon’ble Apex Court, the initial burden to establish the case would be on the prosecution and in view of S.106 of the Indian Evidence Act there will be a corresponding

burden on the inmates of the house to give a cogent explanation as to how the deceased died. So, A1 and A2, who are none other than the husband and mother - in - law of the deceased are obliged to give a plausible explanation with regard to the circumstances leading to the death of deceased.

72. When A1 and A2 were examined under S.313 Cr.P.C, it was put to A1 and A2 that "PW19 gave evidence that at the time of post mortem, the dead body of deceased had a weight of 21 kg and it was emaciated", but both A1 and A2 replied that it is false. When it was put to A1 and A2 that PW19 gave evidence that at the time of post mortem, the abdomen of the deceased was scaphoid, both A1 and A2 replied that they don't know. In the written statement filed by A1 under S.313(5) of Cr.P.C, he put forwarded a case that the deceased was suffering from diabetes and piles and she was under the treatment of Dr. Anilkumar; when the body of the deceased was emaciated, they asked Dr. Anilkumar about it and at that time he told them that the body of diabetic patients would emaciate and they would loss body weight and he gave medicines. According to A1, when there occurred fluctuation in sugar level, Thushara would fall down and at that time small wounds were seen on her body and they pursued treatment for the said wounds sustained by the deceased while falling. On 21.03.2019, when the deceased fell ill, they contacted Dr. Anilkumar and as per his instruction, Thushara was taken to District Hospital, Kollam and Thushara died while she was undergoing treatment in the casualty. A2 also filed written statement under S.313(5) of Cr.P.C, in which she also stated that Thushara was suffering from diabetes.

73. Even though A1 contended that Thushara died after she was taken to District hospital, Kollam and while she was

undergoing treatment in the casualty of that hospital, there is no material before the court to substantiate the above contention. On the other hand, Ext.P40, which is the copy of death intimation of Thushara, would show that she was brought dead to the hospital. So, the contention of A1 that Thushara died while undergoing treatment in the casualty is false. Further contention of A1 and A2 is that Thushara was suffering from Diabetes and Piles and she was under the treatment of Dr. Anilkumar and the body of the deceased was emaciated due to diabetes, but no treatment records were produced before the court to substantiate the above contention. It is to be noted that a medical certificate issued by Dr. Anilkumar on 16.07.2022 was produced from the side of the accused and the said certificate was marked as Ext.D5. As Dr. Anilkumar is no more the said certificate was marked through DW2, Dr. Sindhu Sreedharan, who was working as Medical Superintendent, Taluk Head Quarters Hospital, Kottarakkara. According to DW2, Dr. Anilkumar. S was working in Taluk Head Quarters Hospital, Kottarakkara and he died in 2024. It is pertinent to note that the above medical certificate was issued after 3 years after the death of Thushara. According to DW2, medical certificate cannot be issued after the death of the patient and in case of death of a patient, if it is necessary for any specific purpose treatment certificate will be issued after verifying treatment records. What is stated in the said certificate is "Thushara, aged 24 years was suffering from T2DM and she was under my treatment 'during the year 2014. onwards. She was unnotrolled diates". What is written in the said certificate is not clear. It is pertinent to note that at the time of death, the deceased was aged 27 years, but in the above certificate, which was issued in 2022 i.e. after 3 years after her death, the age of deceased is

mentioned as 24 years. It is not known for what purpose the above medical certificate was issued by Dr. Anilkumar after 3 years after the death of Thushara. Absolutely, there is no treatment records before the court to show that Thushara had undergone treatment either as outpatient or as inpatient for diabetes or piles. Accused have not produced any treatment records to show that the deceased was suffering from diabetes or piles. When PW11, the doctor who conducted caesarean section of Thushara at the time of her 1<sup>st</sup> and 2<sup>nd</sup> delivery, was examined Ext.P8 copy of treatment records, Ext.D2 series laboratory reports and Ext.D3 discharge summary were marked. Ext.D3 discharge summary is with respect to the 1<sup>st</sup> delivery of Thushara and Ext. D2 series reports and Ext.P8 treatment records are relating to the 2<sup>nd</sup> delivery of Thushara. As per Ext.D3 discharge summary Thushara gave birth to her elder child on 06.05.2015. There is no whisper in the above treatment records that Thushara was suffering from diabetes mellitus or piles. In the circumstances, based on Ext.D5 certificate alone, it cannot be concluded that deceased was suffering from diabetes.

74. It is pertinent to note that she had a body weight of 46 kg at the time of her 2<sup>nd</sup> delivery i.e. on 07.06.2017, but on the date of her death, she had a body weight of 21 kg only and her body was emaciated. The medical and other evidence would show that her health was deteriorated day by day and there occurred a loss of 50% of body weight of the deceased after her 2<sup>nd</sup> delivery. It is to be noted that the skeletal frame work of the deceased was easily appreciated due to the state of emaciation and all the internal organs were underweight; she died due to consolidation of lungs as a complication of starvation. As per the post mortem findings froth and pus was seen coming out of cut sections of minor air passages

and chest cavities contained 200ml straw coloured fluid. It cannot be said that the deceased lost 50% of her body weight and her health was deteriorated to that extent on a single day. From the evidence on record and other circumstances what is to be inferred that she lost her body weight and her health was deteriorated gradually. Even though her health was deteriorated to that extent and her body weight was reduced by 50%, neither A1 nor A2 took her to the hospital. In the circumstances the contention of the accused that deceased lost her weight and she became emaciated due to diabetes cannot be believed at all. The accused have not offered any plausible explanation as to the cause of death of deceased, but they made a false explanation that she lost her weight and she became emaciated due to diabetes. So, the non explanation of actual facts leading to the death of the deceased and the false explanation offered by the accused provides an additional link in the chain of circumstances proved against him.

75. In view of the above discussion this court is of the considered opinion that the prosecution has succeeded in establishing the above circumstances cogently and firmly. The above circumstances concatenate into a chain so complete that an irresistible conclusion can be drawn that A1 and A2 didn't provide necessary food and medical assistance to the deceased and thereby caused her death. The next aspect to be considered is whether the act of the accused was culpable homicide amounting to murder.

76. According to prosecution the death of Thushara is culpable homicide amounting to murder and the accused has committed the murder. 'Culpable homicide' is defined in section 299 and the offence of 'murder' is defined in section 300 of the Indian Penal code. To bring a case within the ambit of section 300

IPC, it is necessary for the prosecution to bring home that the act by which the death was caused was done with the intention of causing death or it was done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused or it was done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted was sufficient in the ordinary course of nature to cause death or if the person committing the act knew that it was so imminently dangerous that it must, in all probability cause death or such bodily injury as is likely to cause death and committed such act without incurring the risk of causing death or such injury as aforesaid. The ingredients necessary to constitute the offence of murder have to be inferred from a series of facts and other attending circumstances.

77. Now I shall come to the question whether the A1 and A2 have caused the death of the deceased with requisite mens rea so as to attract the offence of murder as defined under S.300 of IPC? The state of mind of the accused can ordinarily be inferred from the circumstances which preceded, attended and followed the occurrence. The oral evidence of PW19, Dr. K. Valsala and Ext.P15 post - mortem certificate issued by her would show that the death of deceased was due to consolidation of lungs as a complication of starvation. It has been established by the prosecution that A1 and A2 have omitted to provide necessary food and medical assistance to the deceased and thereby caused her death. The next aspect to be considered is whether causing death by omitting to provide food and medications to the deceased would come within the definition of murder. It is well settled that acts done extends also to illegal omissions. In this context it is useful to refer S.32 and S.43 of IPC.

S.32 and S.43 IPC read as follows:

78. S.32. Words referring to acts include illegal omissions.—

In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions. The word "illegal" which is prefixed before the word "omissions" in S.32 is of wide import.

43. "Illegal", "Legally bound to do".—

The word "illegal" is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

79. In this context it is useful to refer the judgment of the Hon'ble High Court of *Punjab and Haryana in Om Prakash Tilak Chand V State (1959 AIR (P&H) 134)*. In the above case the victim, Bimla Devi was married to the appellant in October, 1951. Their relations got strained by 1953 and she went to her brother's place and stayed there for about a year when she returned to her husband's place at the assurance of the appellant's maternal uncle that she would not be maltreated in future. She was, however, ill treated and her health deteriorated due to alleged maltreatment and deliberate under nourishment. In 1956, she was deliberately starved and was not allowed to leave the house and only sometimes a morsel or so used to be thrown to her as alms are given to beggars. She was denied food for days together and used to be given gram husk mixed in water after five or six days. She managed to go out of the house in April 1956, but Romesh Chander and Suresh Chander, brothers of the appellant, caught hold of her and forcibly dragged her inside the house where she was severely beaten. Thereafter she was kept locked inside a room. On 5<sup>th</sup> June

1956, she happened to find her room unlocked, her mother - in - law and husband away and, availing of the opportunity, went out of the house and managed to reach the Civil Hospital, Ludhiana where she met lady Doctor Mrs. Kumar, and told her of her sufferings. At that time she appeared to be suffering from extreme emaciation. Her cheeks appeared to be hollow. The projecting bones of her body with little flesh on them made her appearance skeletal. The countenance seemed to be cadaverous. In the said case Hon'ble High Court of Punjab and Haryana considered the question whether the accused who is the husband of the victim was legally bound to feed his wife and if not discharging his duty, he was guilty of illegal omission. The Hon'ble High Court after referring to an old case decided in 1873 and held as follows:

"In an old case decided in 1873 "The Queen v. Gunga Singh, 5 NWP H C. R. 44, the, accused had allowed his female child of tender age whose mother had died six months after the child's birth, to languish away and die for want of proper sustenance, and had persistently ignored the wants of the child, although repeatedly warned of its state and the consequences of his neglect of it; the prisoner was in a position to support the child. The Sessions Judge convicted the prisoner under S.304 for the offence of culpable homicide not amounting to murder, sentencing him to two years' rigorous imprisonment. It was held that the offence committed was murder and not one under S.304, I. P. C., Turner J., said--

"If the omission was accompanied by an intention to cause death, or by the knowledge that it must in all probability cause death, the appellant must be held to have committed murder. It must be, I think, presumed that every man who-has arrived

at his discretion knows that the omission to supply an infant with proper and sufficient food must' in all probability cause death."

80. In the aforesaid case, the Hon'ble High Court of Punjab and Haryana observed further as follows:

"The next question is, whether the case of a grown up adult from whom sustenance has been withheld could be placed on the same footing as that of a helpless infant. The husband is liable to feed and shelter his wife who is incapable of self-help to the same extent as the parent of a help-less child exclusively depending on him. Lord Macaulay in his report on the Indian Penal Code posed this question and answered it in the following words:

"Early in the progress of the Code it became necessary for us to consider the following question: When acts are made punishable on the ground that those acts produce, or are intended to produce, or are known to be likely to produce, certain evil effects, to what extent ought omissions which produce, which are intended to produce, or which are known to be likely to produce, the same evil effects to be made punishable? Two things we take to be evident; first that some of these omissions ought to be punished in exactly the same manner in which acts are punished; secondly, that all these omissions ought not to be punished. It will hardly be disputed that a galore who voluntarily causes the death of a prisoner by omitting to supply that prisoner with food, or a nurse who voluntarily causes the death of an infant entrusted to her care by omitting to take it out of a tub of water into which it has fallen, ought to be treated as guilty of murder. On

the other hand, it will hardly be maintained that a man should be punished as a murderer because he omitted to relieve a beggar even though there might be the clearest proof that the death of the beggar was the effect of this omission, and that the man who omitted to give the alms knew that the death of the beggar was likely to be the effect of the omission. ....Again it appears to us that it may be fit to punish a person as a murderer for causing death by omitting an act which cannot be performed without personal danger or pecuniary loss. A parent may be unable to procure food for an infant without money. Yet the parent, if he has the means, is bound to furnish the infant with food, and if, by omitting to do so, he voluntarily causes its death, he may with propriety be treated as a murderer. A nurse hired to attend a person suffering from an infectious disease cannot perform her duty without running some risk of infection. Yet if she deserts the sick person, and thus voluntarily causes his death, we should be disposed to treat her as a murderer..... We cannot define this rule better than by giving a few illustrations of the way in which it will operate. A omits to give Z food, and by that omission voluntarily causes Z's death. Is mis murder? Under our rule it is murder if A was Z's gaoler, directed by the law to furnish Z with food. It is murder if Z was the infant child of A. and had therefore a legal right to sustenance, which right a Civil Court would enforce against A. It is murder If Z was a bedridden invalid, and A, a nurse hired to feed Z. It is murder if A was detaining Z in unlawful confinement, and had thus contracted (see Clause 338) a legal obligation to furnish Z. during the continuance of the confinement, with necessaries.

It is not murder if Z is a beggar, who has no other claim on A than that of humanity." (See The Complete Works of Lord Macaulay. Vol. XI, p. 110 et seq)"

81. In the aforesaid case Hon'ble High Court observed further as follows:

"A wife does not ask for food and raiment ad misericordiam. but on the basis of an obligation which is not placed by morality alone but which is also imposed by law. Stephen states this duty in the following words:

"Every person under a legal duty whether by contract or by law, or by the act of taking charge, wrongfully or otherwise, of another person, to provide the necessaries of life for such other person, is criminally responsible if death is caused by the neglect of that duty, and if the person to whom the duty is owing, is from age, health, insanity or any other cause, unable to withdraw himself from the control of the person from whom it is due; but not Otherwise." (See Digest of Criminal Law 5th Ed. Article 234.) Bimla Devi, in this case, apart from being an invalid, and suffering from advanced anaemia, was also kept under restraint amounting to confinement; a person in her condition was unable to withdraw herself from the control of Om Parkash. When-food is wilfully withheld from a helpless person, under the charge of the accused, with the intention to kill, he is guilty of offence of murder vide Reg v. Conde, (1867) 10 Cox CC (Eng) 547, and Reg v. Bubb, (1850) 4 Cox CC (Eng) 455. Where the wife was in a helpless state and unable to appeal elsewhere for aid, the husband who has the means to provide necessaries for existence, when deliberately withholding them, commits murder and is guilty of murder.

82. The Hon'ble Apex Court upheld the conviction under S.307 of IPC in the aforesaid case as per the judgment in *Om Prakash Tilak Chand V State (1961 KHC 767)* and observed as follows:

“ The word 'act' again, does not mean only any particular, specific instantaneous act of a person, but denotes, according to S.33 of the Code, as well, a series of acts. The course of conduct adopted by the appellant in regularly starving Bimla Devi comprised a series of acts and therefore acts falling short of completing the series, and would therefore come within the purview of S.307 of the Code.”

83. In *Mithailal s/o Rajaram Sahu and others V State of Maharashtra ( 1993 Cr.L.J 3580)* the victim Sitabai died due to starvation and the husband of Sitabai, his brother, their mother and wife of husband's brother were tried for the death of Sitabai and after trial they were convicted for offence under S.342 and S.302 r/w S.34 of IPC. The Hon'ble High Court of Bombay confirmed the conviction under S.302 r/w S.34 of IPC and observed as follows:

“Criminal law fastens liability on the persons who omit to perform the duty required by law such as to provide food, clothing, shelter, or medical aid to another, but a refusal to perform acts of mere charity or mercy not coupled with a legal duty does not entail legal punishment even if death ensue from such refusal or neglect. Thus, where the wife is in a helpless state and unable to appeal elsewhere for aid and the husband and his relations like that of appellants, who had the means to provide necessities for existence, deliberately withhold them with the intention to kill her, they commit

murder and are guilty of murder as that of parents towards infant or of a jailer towards a prisoner or of a person in charge of lunatic asylum towards its inmates The criminal liability of a husband for causing the death of a wife in such a helpless condition, by withholding necessities of life from her, is on the same footing as that of a parent towards an infant or of a jailer towards a prisoner or of a person in charge of a lunatic asylum towards its inmate. Similar liability is cast on guardians of helpless persons including nurses attending the sick. In short where there is a legal duty, law imposes a liability”

84. Coming back to the case on hand, it is pertinent to note that at the time of death of Thushara, her body weight was 21 kg and her body was emaciated. As per the postmortem findings, the skeletal frame work of the deceased could be easily appreciated due to the state of emaciation, the skin was dry and glistening over the bony prominences, abdomen was scaphoid, legs and feet showed oedema, mid arm circumference was 12.5cm, chest circumference was 58cm, abdominal circumference was 46cm, mid-thigh circumference was 22cm, eyes were sunken and partly open, tongue was dry, pale, smooth with loss of papillae, brain weighed 1497g and was oedematous, sulci were wider with atrophic gyri, Lungs were pale and showed patchy areas of consolidation, Petechial haemorrhages on surface of left lung, froth and pus was seen coming out of cut sections of minor air passages, chest cavities contained 200ml straw coloured fluid, heart weighed 115g, myocardium appeared normal, tricuspid valve had circumference of 10cm, mitral valve 7cm, aortic and pulmonary valves measured 5.5cm each, left ventricular wall thickness was 1cm and right

ventricular wall was 0.3cm thick, diaphragm showed areas of haemorrhage, stomach contained 50ml of mucoid fluid and mucous having no unusual smell, mucosa was pale with submucosal haemorrhage at places, stomach wall was oedematous, spleen weighed 48gm, pale and shrunken, liver weighed 543g, right kidney weighed 50g and left kidney weighed 58g were pale, uterus measured 6.5x5x2.5cm and were atrophic, right ovary measured 2x1x1cm, and left ovary 2.5x1.5x1cm, fat tissue was seen thinned out in the chest and abdominal wall, measured 0.1m.m thickness at places and was absent at other areas, omental mesenteric and perinephric fat were absent, urinary bladder was empty and all other internal organs were pale.

85. In acute starvation, the feeling of hunger is lost after about forty-eight hours but thirst becomes intense. Apathy is pronounced and fatigue comes on easily. There is progressive loss of body weight. Emaciation, due to loss of subcutaneous fat, begins to take place and the bones stand out. The person appears pale due to nutritional anaemia; the skin is thin, dry, sometimes fissured and ulcerated due to superadded infection, and drawn tight like parchment over the bony prominences; the lips are dry and cracked; the cheeks hollow; eyes sunken and glistening; abdomen carinated; and legs and arms like broomsticks. The loss of forty per cent of the body weight ordinarily ends in death. According to medical science, as a rough average, an adult may survive for about ten days without food and water, whereas if water be supplied, he may live about fifty or sixty days. Females can withstand starvation better than males on account of more fat in their bodies. ( See: Mithailal s/o Rajaram Sahu and Others V State of Maharashtra 1993 Cr.L.J 3580)

86. A1, who is none other than the husband of the deceased

was legally bound to provide food, clothing, medications and other necessities to Thushara and he has omitted to provide food, medication and other necessities to her and the said omission amounts to illegal omission. The evidence on record would show that even though A1 had the capacity, means and ability to provide the necessities of life to his wife, he wilfully and deliberately omitted to discharge the obligation which he owed towards his wife. It is pertinent to note that the deceased was in a helpless state and she was unable to appeal elsewhere for help. Even then A2, who is none other than her mother in law also wilfully and deliberately neglected to provide food or medications to her. Ext.P40, which is the copy of death intimation of Thushara, would show that she was brought dead to the hospital. Even though the body weight of the deceased was reduced to 21 kg and the condition of health of the deceased was deteriorated to such an extent, she was neither taken to the hospital nor her parents or relatives were informed about the condition of health of the deceased. Even after the death of deceased Thushara, neither A1 nor A2 informed the parents about her death. According to PW1 and PW6, at about 12.00 A.M on the fateful night, a stranger called to her husband's phone and told that the deceased has been admitted in the District Hospital, Kollam and when they called him back, he told them that he made the call as instructed by A1 and Thushara died. Moreover, when the parents of deceased Thushara and PW7 reached at the hospital on getting information about the death of Thushara, dead body of Thushara was in mortuary and neither the accused nor their relatives were present there at that time. Considering the conduct of A1 and A2 prior to and after the death of Thushara what is to be inferred that they didn't provide food, medical assistance and other necessities

of life to Thushara with the common intention to end her life and with the knowledge that it must in all probability cause her death. So, it can be safely concluded that the deceased Thushara died a homicidal death and it was culpable homicide amounting to murder. So, A1 and A2 are liable to be convicted under S.302 r/w S.34 of IPC. The above point is answered in favour of the prosecution.

87. **Point No.2:-**

In order to bring home the offence under Section 304B of the Penal Code the Prosecution has to establish the following ingredients.

(a) The death of the woman should have been caused by burns or bodily injury or otherwise than under normal circumstances and such death should have been occurred within seven years of her marriage.

(b) Soon before her death she must have been subjected to cruelty or harassment by her husband or any relative of the husband.

(c) Such cruelty of harassment must have been for or in connection with demand for dowry.

88. Section 113B of the Indian Evidence Act provides that when the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman was subjected to cruelty or harassment for or in connection with any demand for dowry, the court shall presume that such person had caused the dowry death. But before the above presumption is raised it must be established that soon before her death the woman was subjected to cruelty or harassment for or in connection with demand of dowry.

89. In the present case, admittedly, the marriage of the deceased and A1 was solemnized on 09.12.2013, and she died due to consolidation of lungs as a complication of starvation on 21.03.2019 at her matrimonial home. So, the Prosecution has succeeded in establishing that the death of the deceased was occurred within 7 years of her marriage and her death was otherwise than under normal circumstances as provided in section 304B of the Indian Penal Code. But that alone is not sufficient to attract Section 304B IPC. The prosecution has a further duty to establish that soon before her death she was subjected to cruelty or harassment for or in connection with demand of dowry by her husband or his relatives.

90. So, the next important ingredient, which needs to be established by the prosecution is whether the deceased was subjected to cruelty or harassment for or in connection with demand for dowry soon before her death. In this context it is useful to refer the judgments of the Hon'ble Apex Court in *Kans Raj V State of Punjab* (2000 AIR SC 2326) and *Hera Lal V State (Govt. of NCT) Delhi* (2003 (8) SCC 80).

91. In *Kans Raj V State of Punjab* the Hon'ble Apex Court considered the expression "soon before" and observed as follows:

"Soon before" is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time limit. This expression is pregnant with the idea of proximity test. The term "soon before" is not synonymous with the term "immediately before" and is opposite of the expression "soon after" as used and understood in S.114, Illustration (a) of the Evidence Act. These words would imply that the interval should not be too long between

the time of making the statement and the death. It contemplates the reasonable time which, as earlier noticed, has to be understood and determined under the peculiar circumstances of each case. In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. If the cruelty or harassment or demand for dowry is shown to have persisted, it shall be deemed to be "soon before death" if any other intervening circumstance showing the non existence of such treatment is not brought on record, before such alleged treatment and the date of death. It does not, however, mean that such time can be stretched to any period. Proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough."

92. In *Hira Lal V State (Govt. of NCT)*, Delhi the Hon'ble Apex Court observed as follows:

"The expression 'soon before' is very relevant where S.113B of the Evidence Act and S.304B IPC are pressed into service. Prosecution is obliged to show that soon before the occurrence there was cruelty or harassment and only in that case presumption operates. Evidence in that regard has to be led by prosecution. 'Soon before' is a relative term and it would depend upon circumstances of each case and no strait - jacket formula can be laid down as to what would constitute a period of soon before the occurrence. It would be hazardous to

indicate any fixed period, and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under S.113B of the Evidence Act. The expression 'soon before her death' used in the substantive S.304B IPC and S.113B of the Evidence Act is present with the idea of proximity test. No definite period has been indicated and the expression 'soon before' is not defined. A reference to expression 'soon before' used in S.114. Illustration (a) of the Evidence Act is relevant. It lays down that a Court may presume that a man who is in the possession of goods 'soon after the theft, is either the thief has received the goods knowing them to be stolen, unless he can account for his possession. The determination of the period which can come within the term 'soon before' is left to be determined by the Courts, depending upon facts and circumstances of each case. Suffice, however, to indicate that the expression 'soon before' would normally imply that the interval should not be much between the concerned cruelty or harassment and the death in question. There must be existence of a proximate and live - link between the effect of cruelty based on dowry demand and the concerned death. If alleged incident of cruelty is remote in time and has become stale enough not to disturb mental equilibrium of the woman concerned, it would be of no consequence."

93. Coming to the case on hand it has been established by the prosecution that even prior to the marriage of Thushara A1 and A2 demanded dowry and as demanded by A1 and A2, the parents of Thushara gave 20 sovereigns of gold ornaments at the time of her marriage and agreed to give Rs.2,00,000/- within 3 years. It has

also been established by the prosecution that as insisted by A1 and A2, the parents of Thushara executed Ext.P2 agreement agreeing to give Rs.2,00,000/- within a period of 3 years and it was stipulated in the said agreement that if they fail to give the said amount within the said period, they shall transfer 5 cents of land in the name of Thushara.

94. The case of the prosecution is that A1 and A2 subjected Thushara to mental and physical cruelty and starved her as her parents failed to comply with the terms of Ext.P2 agreement. The evidence of PW1, PW6 and PW7 would show that the parents of Thushara neither gave Rs.2,00,000/- nor conveyed 5 cents of land as agreed upon. It has come out in the evidence of PW1 that after some period after the 1<sup>st</sup> delivery of Thushara, Thushara called her over phone and asked her to give the amount of dowry as agreed upon, otherwise she would not get any mental peace at her matrimonial home. It has also come out in her evidence that when the deceased was pregnant for the second time, her daughter told her over phone that she wants to eat some food items and insisted her to bring those food items; when they reached at the house with the food items, her daughter was alone there and at that time her daughter behaved lovely, but after sometime, when A1 and A2 came there, Thushara scared on seeing them and told her that "why did you come, who invited you to come, whether you bring the agreed dowry". According to PW1, A1 and A2 starved her daughter and caused her death due to the reason that the amount of dowry was not given within the period agreed upon. It has come out in the evidence of PW6, the brother of Thushara that after some period after marriage, A1 demanded Rs.2,00,000/-, and at that time they told him that as the gold was sold soon after the marriage, he

should give document for the amount to be given, but A1 told that document cannot be given and he insisted to give the agreed amount. It has also come out in his evidence that after the second delivery of deceased Thushara, A1 and Thushara called them over phone and demanded Rs.2,00,000/-; Thushara called and demanded money as threatened by A1. It has also come out in his evidence that Thushara told them over phone that A1, A2 and the sister of A1 used to subject her to cruelty as Rs.2,00,000/- was not given. It has come out in the evidence of PW7 that when she calls A1 over his phone, he wouldn't give the phone to Thushara and he would tell her to talk with Thushara after giving Rs.2,00,000/-. So, from the evidence of PW1, PW6 and PW7 what is discernible that the parents of Thushara neither gave Rs.2,00,000/- or conveyed 5 cents of land as agreed upon as per Ext.P2 agreement.

95. It has also been established by the prosecution through the evidence of PW1, PW6 and PW7 and other attending circumstances that soon after the marriage of Thushara, the relationship between the parents of Thushara and the accused became strained. On a conjoint reading of the evidence of PW1, PW2, PW5, PW6, PW7 and the medical evidence what is discernible that Thushara was subjected to mental and physical cruelty at the matrimonial home. Thushara died due to the consolidation of lungs as a complication of starvation at her matrimonial home. At the time of the death of Thushara, her body weight was 21 kg and her body was emaciated; as per the postmortem findings, the skeletal framework of the deceased could be easily appreciated due to the state of emaciation and all the internal organs were under wight. The evidence on record would show that she was brought dead to the hospital. Even though the body weight of the deceased was reduced

to 21 kg and her health was deteriorated to such a dangerous state, she was not taken to hospital. From the circumstances discussed above and the condition of health of the deceased at the time of her death, what is to be inferred that A1 and A2 didn't provide the necessary food and medical assistance to Thushara and thereby they have caused her death. The act of not providing food, medical assistance and other necessities of life is another instance of extreme cruelty exerted by A1 and A2 towards the deceased. On an overall analysis of the evidence on record and other attending circumstances what is discernible that the deceased was subjected to extreme mental and physical cruelty for and in connection with the demand for dowry by A1 and A2 and such cruelty continued throughout her married life and which ultimately led to the homicidal death of the deceased. So, it can be concluded that all the ingredients requisite for bringing home the charge under S.304B IPC have been established by the prosecution.

96. Now the question that arises is whether the accused can be convicted offences both under S.302 and S.304B of IPC for the death of the deceased. In this context it is useful to refer the judgment of the Hon'ble High Court of Delhi in Prakash Chander V State (1995 KHC 2489). In the said case the Hon'ble High Court of Delhi observed as follows:

“ S.302 and S.304B, IPC are not mutually exclusive. If in a case material on record suggest commission of offence under S.302, IPC and also commission of offence under S.304B, IPC, the proper course would be to frame charges under both these Sections and if the case is established then accused can be convicted under both the Sections but no separate sentence need be awarded under

S.304B, in view substantive sentence being awarded for the higher offence under S.302, IPC.”

97. Coming back to the case on hand, as held by the Hon'ble Delhi High Court in the aforesaid case the accused can be convicted under both the Sections but no separate sentence need be awarded under S.304B, in view substantive sentence being awarded for the higher offence under S.302, IPC. The prosecution has succeeded in establishing the ingredients to attract S. 304B of IPC and hence A1 and A2 are liable to be convicted u/s 304B r/w S. 34 of IPC also. The above point is also answered in favour of the prosecution.

98. **Point No.3:-**

The case of the prosecution is that as the parents of deceased Thushara failed to comply with the terms of Ext.P2 agreement, A1 and A2 with the knowledge of deceased A3, constructed a compound wall with tin sheet around their house compound in an exorbitant height and put a gate in front of the house and thereby locked the deceased in the house; when the accused go out of the house, they would lock the gate leaving the deceased alone at the said house and hence the deceased couldn't go out of the house and as the dowry was not given as agreed, the accused subjected the deceased to mental and physical cruelty and they detained the deceased in the house in the name of dowry. Coming to the question whether the evidence on record discloses the commission of offence under S. 344 IPC, it is useful to refer the definition of wrongful restraint and wrongful confinement.

99. The wrongful restraint is defined under Section 339 of the Indian Penal Code, which is as under :-

"339. Wrongful restraint. - Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any

direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception. - The obstruction of a private way over land or water which a person in good faith believes himself to have lawful right to obstruct, is not an offence within the meaning of this section".

100. Wrongful confinement is defined under Section 340 of the Indian Penal Code, which reads as under:-

"340. Wrongful confinement. - Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person."

101. It is well settled that to support a charge of wrongful confinement proof of actual physical obstruction is not essential and it must be proved in each case, that there was at least such an impression produced in the mind of the person confined, as to lead him, reasonably to believe that he was not free to depart, and that he would be forthwith restrained, if he attempted to do so.

102. Coming to the case on hand, it has been established by the prosecution that after the accused along with the deceased started to reside nearby the house of PW2, accused increased the height of compound wall constructed by using tin sheet and fixed gate at the entrance. It has come out in the evidence of PW2 that when A1 and A2 go out of their house, they would lock Thushara inside the house. The evidence of PW5, the Asha worker would show that when she visited the house of the accused while Thushara was pregnant and after her delivery, A1 and A2 didn't permit her to talk with Thushara and she talked with Thushara once. It has also come out in her evidence that when the deceased

was pregnant for the second time, she visited the house of the house of the accused, but A1 and A2 didn't permit her to talk with Thushara. It has come out in the evidence of PW8 that Thushara never visited the school where her daughter was studying. According to PW8, the mother and father of A1 would come to the school along with Chancy and when she asked the mother of A1 as to where is the mother of Chancy, she told her that the mother of Chancy is laid up due to paralysis after second delivery. The evidence of PW1, PW6 and PW7 would show that Thushara had no mobile phone and in order to talk with Thushara, they would make calls to the mobile phone of A1. It has come out in the evidence of PW6 that soon after the marriage, A1 forcefully took the mobile phone of Thushara. As deceased had no mobile phone, she had no opportunity interact with others and to seek help either from her parents or her neighbours. The evidence on record would show that the deceased was subjected to cruelty by A1 and A2 and she was not allowed to go out of their house or to contact with her parents or neighbours. Nobody saw her going out of the matrimonial home alone. It is pertinent to note that even though the body weight of Thushara was reduced to 21 kg and the condition of her health was deteriorated to such a dangerous state and she was subjected to extreme cruelty through out her married life, she couldn't have left the matrimonial home. She was in a helpless state and she was unable to appeal elsewhere for help. She had no option than to suffer the ill treatment of A1 and A2. Considering the facts and circumstances of the case, what is to be inferred that an impression was formed in the mind of the deceased as to lead her reasonably to believe that she was not free to leave the matrimonial home. So, what is discernible that the prosecution has succeeded in

establishing the commission of offence u/s 344 of IPC also. Hence, A1 and A2 are liable to be convicted for offence under S. 344 r/w. 34 of IPC. The above point is also answered in favour of the prosecution.

In the light of the above findings on the above points, A1 and A2 are found guilty of offences punishable U/Ss 302, 304B and 344 r/w 34 of IPC and they are convicted thereunder. As A3 is no more the case against stands abated.

*Dictated to the Confidential Assistant, transcribed by her, revised and corrected by me and pronounced in Open Court on this, the 26<sup>th</sup> day of April, 2025.*

*Sd/-*

**Subash. S**

**Addl. Sessions Judge-IV, Kollam**

103. **Point No.4:-** A1 and A2 heard on the question of sentence as required u/s.235(2) of Cr.P.C. The learned counsel for the accused was also heard on the question of sentence. A1 submitted that he has mother and children. A2 submitted that she has nobody to depend on. The learned Additional Public Prosecutor argued that A1 and A2 should be awarded with capital punishment as they have been convicted for the murder of a hapless woman, who is none other than the wife of A1. On the other hand, the learned counsel for the accused submitted that this case would not come within the category of rarest of rare cases. According to her, the socio - economic background of the accused also to be considered while awarding sentence. She further submitted that the accused has no criminal antecedents and they comes from poor socio - economic background; there is every possibility of

reformation and rehabilitation of the accused.

104. The offence u/s 302 IPC is punishable with death or imprisonment for life and with fine. Section 354(3) Cr.P.C. mandates that when the conviction is for an offence punishable with death or in the alternative imprisonment for life, or imprisonment for a term of years, the judgment shall state the reason for the sentence awarded and in case of sentence of death, special reason for such a sentence. The cardinal principles laid down by the Hon'ble Supreme Court to be looked into while deciding whether a person, who is convicted of an offence of murder shall be awarded with death penalty or life imprisonment.

105. In *Machhi Singh and Others vs State of Punjab (1983 KHC 477)* the Hon'ble Supreme Court after referring to the judgment in Bachan Singh's case held as follows:

“In this background the guidelines indicated in Bachan Singh's case will have to be culled out and applied to the facts of each individual case where the question of imposing of death sentence arises. The following propositions emerge from Bachan Singh's case:

(i) The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability.

(ii) Before opting for the death penalty the circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'.

(iii) Life imprisonment is the rule and death sentence is an exception. Death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided, the option to impose

sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.

(iv) A balance-sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances has to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised."

106. In the above case the Hon'ble Apex Court held further that in order to apply these guidelines inter alia the following questions may be asked and answered.

(a) Is there something uncommon about the crime which renders sentence of imprisonment for life, inadequate and calls for a death sentence.

(b) Are the circumstances of the crime such that there is no alternative, but to impose death sentence even after according maximum weightage to the mitigating circumstances which speak in favour of the offender.

107. Coming to the case on hand, A1 and A2 have been found guilty and convicted for offences under Ss. 302, 304B and 344 r/w S. 34 of IPC. The victim is the wife of A1 and daughter - in - law of A2. The fact that the victim is a hapless woman and the manner in which the murder was committed are aggravating circumstances. But, as submitted by the learned counsel for the accused, it is to be noted that A1 and A2 come from poor socio - economic background and there is no material before the court to rule out the probability of reformation and rehabilitation of the accused. Moreover,

prosecution has no case that the accused has any criminal antecedents. So, I don't find any special reasons to depart from the normal rule of life imprisonment and to impose death penalty. Under this circumstances, this court is of the view that imprisonment for life is adequate punishment in this case and this court is not inclined to award death penalty. Therefore, sentence of imprisonment for life and a fine of Rs.1,00,000/- for offence punishable u/s 302 of IPC is adequate in this case.

108. Coming to the offence u/s 304B of IPC, in the light of the finding in Point No. 2, no separate sentence is awarded under S. 304B, in view of substantive sentence being awarded for the higher offence under S. 302 IPC.

109. For offence under S. 344 of IPC the offender is liable to be punished with imprisonment of either description for a term which may extend to 3 years and shall also be liable to fine. In view of the facts and circumstances for the present case, I am of the considered view that Rigorous Imprisonment for two years and a fine of Rs.5,000/- will be adequate punishment for that offence.

In the result, A1 and A2 are sentenced for the offence committed in this case as follows:

- i. A1 is sentenced to undergo imprisonment for life and to pay a fine of Rs.1,00,000/- u/s 302 IPC. In default of payment of fine A1 shall undergo Rigorous Imprisonment for a further period of one year.
- ii. A2 is sentenced to undergo imprisonment for life and to pay a fine of Rs.1,00,000/- u/s 302 IPC. In

default of payment of fine A2 shall undergo Rigorous Imprisonment for a further period of one year.

- iii. A1 and A2 are sentenced to undergo Rigorous Imprisonment for 2 years and to pay a fine of Rs.5,000/- each u/s 344 of IPC. In default of payment of fine A1 and A2 shall undergo Rigorous Imprisonment for a further period of 3 months each.
- iv. No separate sentence is awarded under S. 304B, in view of substantive sentence being awarded for the higher offence under S. 302 IPC.
- v. The substantive sentence of imprisonment shall run concurrently.
- vi. The fine amount, if paid or realized, will be paid to Chancy, aged 10 years, and Chincy, aged 8 years, D/o. Thushara, Thushara Bhavanam, Ayani Thekku, S.V.M.P.O. Karunagappally, who are the children of deceased Thushara as compensation U/s 357(1) Cr.P.C.
- vii. A1 is entitled to set off for a period of detention undergone by him during investigation and trial, that is from 29.03.2019 to 13.11.2019. A2 is entitled to set off for a period of detention undergone by her during investigation and trial, that is from 29.03.2019 to 01.10.2019. The accused are entitled to set off for the above said period subject to any remission or commutation of the term of life imprisonment ordered by the appropriate Government U/s. 432 or 433 Cr.P.C.

On expiry of the period prescribed for preferring appeal and if

any appeal is preferred, subject to the orders of the appellate court, the material objects if any and other remnants of samples received from FSL shall be destroyed.

Chancy, aged 10 years, and Chincy, aged 8 years, D/o. Thushara, Thushara Bhavanam, Ayani Thekku, S.V.M.P.O. Karunagappally are the children of deceased Thushara and 1<sup>st</sup> accused. Having regard to the facts and circumstances of the case and considering the age of the children of the deceased, I am of the view that they require rehabilitation under victim compensation scheme. Hence I recommend the District Legal Services Authority, Kollam to decide the quantum of compensation to be awarded to them for their rehabilitation under the victim compensation scheme as provided U/s. 357A Cr.P.C.

*Dictated to my Confidential Assistant, transcribed and typed by her, revised and corrected by me and pronounced in open court, on this the 28<sup>th</sup> day of April, 2025.*

Sd/-  
**Subash. S**  
**Addl. Sessions Judge-IV,**  
**Kollam**

APPENDIX :

Exhibits for the Prosecution:

P1	22-03-2019	FIS proved by PW1
P2	15-11-2013	Agreement proved by PW1
P3	03-07-2019	Portion of 164 statement proved by PW2
P3(a)	03-07-2019	Portion of 164 statement proved by PW2

P4	-	Portion of 161 statement proved by PW3
P4(a)	-	Portion of 161 statement proved by PW3
P4(b)	-	Portion of 161 statement proved by PW3
P5	24-06-2019	Portion of 164 statement proved by PW3
P5(a)	24-06-2019	Portion of 164 statement proved by PW3
P6	09-12-2013	Copy of marriage register of SNDP Sakha Yogum proved by PW9
P7	24-05-2019	Moonamsthana Kaicheet proved by PW10
P8 series	-	Copy of treatment records of Thushara proved by PW11
P9	22-03-2019	FIR proved by PW12
P10	18-05-2019	Scene plan proved by PW13
P11	22-03-2019	Inquest report proved by PW14
P12	24-05-2019	Seizure mahazar proved by PW17
P13	18-06-2019	Inventory proved by PW17
P14	-	Report proved by PW18
P15	22-03-2019	Postmortem Certificate proved by PW19
P16	18-06-2019	Property list proved by PW20
P17	28-03-2019	Scene mahazar proved by PW22
P18	29-03-2019	Inventory proved by PW22
P19	29-03-2019	Form No. 15 proved by PW22
P20	-	Property list proved by PW22
P21	29-03-2019	Arrest memo of A1 proved by PW22
P21(a)	29-03-2019	Inspection memo of A1 proved by PW22
P21(b)	29-03-2019	Custody memo of A1 proved by PW22
P22	29-03-2019	Arrest memo of A2 proved by PW22

P22(a)	29-03-2019	Inspection memo of A2 proved by PW22
P22(b)	29-03-2019	Custody memo of A2 proved by PW22
P23	29-03-2019	Address report of A1 and A2 proved by PW22
P24	31-03-2019	Section adding report proved by PW22
P25	01-04-2019	Search Memorandum proved by PW22
P26	01-04-2019	Search list proved by PW22
P27	01-04-2019	Form 15 proved by PW22
P28	-	Wedding album proved by PW22
P29	-	Diary proved by PW22
P30	03-04-2019	Arrest memo of A3 proved by PW22
P30(a)	03-04-2019	Inspection memo of A3 proved by PW22
P30(b)	03-04-2019	Custody memo of A3 proved by PW22
P31	04-04-2019	Address report of A3 proved by PW22
P32	04-05-2019	Inventory proved by PW22
P33	04-05-2019	Form 15 proved by PW
P34	17-05-2019	Inventory proved by PW22
P35	14-05-2019	Form 15 proved by PW22
P36	-	Marriage Certificate proved by PW22
P37	24-05-2019	Form No. 15 proved by PW22
P38	11-06-2019	Inventory proved by PW22
P39	11-06-2019	Form No. 15 proved by PW22
P40	-	Attested copy of police intimation register proved by PW23
P41	-	Attested copy of relevant pages of Freezer register of Kollam District Hospital proved by PW23

Exhibits for the Defence :

D1	-	Portion of 161 statement proved by PW1
D2	03-06-2017	Clinical laboratory report proved by PW11
D2(a)	03-06-2017	Clinical laboratory report proved by PW11

D3	-	Discharge summary of deceased Thushara proved by PW11
D4	-	Non number pass book from Milma proved by PW21
D5	16-07-2022	Medical Certificate issued by Dr.Anilkumar (RMO, Kottarakkara Hospital) proved by DW2
D6 series	-	Copy of Treatment records of Thushara

Witnesses for the prosecution :

PW1	09-09-2024, 11-09-2024	Vijayalekshmi
PW2	01-10-2024, 18-11-2024, 19-11-2024, 22-11-2024	Lincy
PW3	16-11-2024	K. Muraleedharan
PW4	11-12-2024	Rajesh Sathyan
PW5	11-12-2024 12-12-2024	Thankamma
PW6	17-12-2024	Thushanth
PW7	03-01-2025	Prabhalatha P.S.
PW8	15-01-2025	Mini Varghese
PW9	15-01-2025	Ramesh Babu
PW10	15-01-2025	K.G. Ajith Kumar
PW11	24-01-2025	Dr. Rashmi Devi L
PW12	25-01-2025	Sreekumar S.
PW13	27-01-2025	Sini P
PW14	27-01-2025	M.K. Anilkumar
PW15	28-01-2025	Suraj Kumar C
PW16	05-02-2025	Rejani P
PW17	07-02-2025	T. Balachandran Pillai
PW18	10-02-2025	S.B. Praveen
PW19	11-02-2025	Dr. K. Valsala

PW20	12-02-2025	Nazarudeen S
PW21	17-02-2025	Samraj R.
PW22	18-02-2025 19-02-2025	V.S. Dinaraj
PW23	20-02-2025	Rahima A
<u>Witness for the defence :</u>		
DW1	12-03-2025 14-03-2025	Jyothi
DW2	14-03-2025	Dr. Sindhu Sreedharan

Material Objects : Nil

FORM AS PER RULES 132 OF THE CRIMINAL RULES OF PRACTICE

1. Serial No. : SC. No. 1062/2019
2. Name of Police Station and Crime No. of offence : 469/2019 of Pooyappally Police Station

Description of the accused:

3. Name of accused : A1 Chanthulal, aged 30/2019, S/o. Lali, Maniyanvila Veedu, Oalikkara Vanvila, Kanjaveli Muri, Thrikkaruva Village (Now residing at Charuvila Veedu, Parandodu, Chenkulam Muri, Pooyappally Village).
- A2 Geethalali, aged 55/2019, W/o. Lali, Maniyanvila Veedu, Oalikkara Vanvila, Kanjaveli Muri, Thrikkaruva Village (Now residing at Charuvila Veedu, Parandodu, Chenkulam Muri, Pooyappally Village).
- A3 Lali, aged 60/2019. S/o. Nanu, Maniyanvila Veedu, Oalikkara Vanvila, Kanjaveli Muri, Thrikkaruva Village (Now residing at Charuvila Veedu, Parandodu, Chenkulam Muri, Pooyappally Village). (Abated)

Dates of:

4. Occurrence : 21-03-2019  
5. Complaint : 22-03-2019  
6. Apprehension : A1- 29-03-2019,  
A2 - 29-03-2019  
A3 - 03-04-2019  
7. Release on bail : A1- 13-11-2019, A2 - 01-10-2019  
A3- 01-10-2019  
8. Commitment : 29-07-2019  
9. Commencement of trial : 09-09-2024  
10. Close of trial : 25-04-2025  
11. Sentence or order : 28-04-2019  
12. Service of copy of judgment  
or finding on accused : 28-04-2019  
13. Cause of delay : No delay

Sd/-  
Addl. Sessions Judge- IV,  
Kollam

Typed By : Ramsa Beevi E.  
Compared By : Sruthi Krishna

Copy of Judgment in  
S.C. No. 1062/2019  
Dated: 28-04-2025

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