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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

LEGAL IMPLICATIONS ON THE SHIVAJI CHINTAPPA PATIL V. STATE OF MAHARASHTRA (SC) 2021 CASE: AN ANALYSIS OF HANGING INCIDENTS.

AUTHORED BY - POOJA YADAV & SALTANAT SHERWANI

ABSTRACT

In India, hanging self-murder is a serious concern. A sizable number of hanging cases are reported each time, according to data from India's National Crime Records Bureau (NCRB). The statistical data on suicides recorded as part of the NCRB and Police Report was analysed. The maturity of hanging cases is generally suicidal. A sanguine case that results in a hanging scene is largely uncommon. The crime scene must be examined on multitudinous important locales in an unperturbed state, followed by a necropsy analysis, to separate between suicidal and sanguine declensions. The analysis of the differences between sanguine and suicidal declensions, as well as the legal approach to hanging cases, are the main motives of this exploration work. In one of the chapters of this exploration paper, the author examined the case of **Shivaji Chintappa Patil v. State of Maharashtra (2021)** which is the base of the research handed a case analysis of it.

Followings are the points discussed in this paper:

1. Introduction
2. Analysis of Shivaji Chintappa Patil v. State of Maharashtra, 2021
3. Homicidal Hanging
4. Suicidal Hanging Difference between Hanging and Strangulation
5. Difference between Hanging and Strangulation
6. IPC Provisions Related to Homicide and Suicide
7. Conclusion
8. Bibliography Keywords: Hanging, Strangulation, Homicidal Hanging, Suicide, Suicidal Hanging, ligature material, violent asphyxia deaths, internal neck findings.

INTRODUCTION

When the body either does not receive enough oxygen to maintain normal function or has too much carbon dioxide for healthy function, it is said to be suffering from asphyxia. Without enough oxygen, brain nerve cells start to irreversibly die in around two to four minutes. Violent asphyxia is typically relevant to asphyxia death in a forensic setting. In cases of violent asphyxia deaths, some harsh mechanical measures prohibit air exchange between the atmosphere and the lung beds. The most common causes of violent asphyxia deaths are drowning, hanging, or strangulation.

Asphyxia caused by hanging occurs when the body is suspended by a ligature that wraps around the neck, with the weight of the body acting as the restricting force. Except for the now-rare "lynching," hangings are nearly invariably accidental or suicidal, with the former being by far the more frequent. Homicides by hanging have been reported on occasion. There have also been instances where persons were slain in some other method and then suspended to mimic hanging. As a result, asphyxia deaths resulting from hanging are among the most complicated and contentious types. In situations of hanging, careful analysis of the ligature mark, neck structural discoveries, and other autopsy results are very helpful in determining the cause and method of death. To determine the circumstances and method of the hanging, a visit to the crime scene is also highly beneficial.¹

We constantly see examples of suicides, homicides, and accidents because of the population boom, poverty, and rising stress and strain in our daily lives. Both men and women are subjected to these pressures, but it seems that because men predominate in our culture and are more exposed to the outside world, such cases are more frequently found in men. Rural areas are not excluded from urbanization, as seen by the rise in these instances coming from these locations. Given the aforementioned information, it is crucial to diagnose and distinguish between various asphyxia deaths, particularly between hanging and strangulation by ligature. The thorough post-mortem can also assist the investigator in concluding the way of death in addition to the cause of death.

The legal system frequently serves as a battlefield for complex conflicts, revealing the complexity present at the intersection of the law, judicial system, and social norms. "Shivaji Chinattappa Patil vs.

¹Britannica, 'Asphyxia' (The Editors of Encyclopaedia Britannica, 12 October 2023) <<https://www.britannica.com/science/asphyxia> > accessed on 16 March 2024.

State of Maharashtra" is one such case. This legal tale started in Maharashtra, India, when several instances led to a careful examination of the intricacies of the constitution and criminal law. Shivaji Chinattappa Patil is at the centre of the matter; he and the State of Maharashtra are engaged in a judicial battle. The main point of contention is that the appellant came before the court feeling wronged by the decisions made by the Bombay High Court and the Trial court. The prosecution claims that the dead and the accused/appellant were husband and wife and that he used to mistreat her. Her sudden death aroused scrutiny.

“A purposeful act inflicting harm to a person leading to death and undertaken by the person himself in the absence of participation from any external agent, particularly in the initiation of the act”, is one definition of suicide. The majority of hangings are either accidental or suicidal, with the former being by far the more frequent. Most hangings are self-suspensions, which can be done in several ways. One common way is to fasten a thin rope to a high place, like a stairway or a ceiling beam. The suicides used whatever material that was nearby at the time of the impulse as a ligature for hanging.²

ANALYSIS OF SHIVAJI CHINTAPPA PATIL V. STATE OF MAHARASHTRA, 2021

FACTS OF THE CASE

Before the incident, which occurred roughly 8 or 9 years ago, the deceased Jayashree was married to the accused. They were fortunate to have two problems. The deceased's mother is Anandibai. The appellant's brother, Ramchandra Chintappa, lived separately in a different area of the same home. According to the prosecution, the appellant used to beat and abuse the deceased to coerce her into accepting money from her mother since she was an alcoholic. The accused and the deceased went to sleep in their home on the fatal night of March 23. Ramchandra called the appellant early on March 24, so they could head out to their land to pick the jawar crop. Opening the door, the defendant stated that Jayashree had committed suicide by hanging and that he was unable to go with him to the field. For the offence punishable under Section 302 IPC, crimes began to be recorded. According to the advance death certificate, strangling and asphyxia were the likely causes of death. The charge sheet was presented to the relevant First-Class Magistrate.³

²Pekka J Saukko, Bernard Knight, 'Knight's Forensic Pathology' (CRC Press, 2016) 666.

³Shivaji Chintappa Patil v State of Maharashtra, (2003) 6 SCC 641.

The experienced Sessions Judge was assigned to hear the case. Charges were prepared for the offence covered by Section 302 of the IPC. The appellant entered a plea of innocence and demanded a trial. After the trial was over, the learned trial judge found the defendant guilty of the crime covered by Section 302 IPC and gave him a life sentence. Angered by this, the appellant filed an appeal with the High Court, which was ultimately denied. Thus, the current appeal.

ARGUMENTS

Shri Qamaruddin, knowledgeable lawyer for the appellant, asserted that only circumstantial evidence supports the charge. He argued that conviction in a case involving circumstantial evidence would not be merited unless and unless the prosecution establishes its case beyond all reasonable doubt. The knowledgeable attorney argued that a conviction could not be upheld based on mere suspicion. In this regard, he draws support from the ruling rendered by this Court in the instance of *G. State of Karnataka v. Parshwanath*.⁴

The prosecution has not been able to prove that the dead person's death was the result of homicide in the current instance, according to the experienced counsel. He said that the evidence is incongruous with the idea of homicidal death if Dr Kishor Patki's testimony is considered. The learned attorney bases this argument on the court's ruling in *Eswarappa alias Doopada Eswarappa v. State of Karnataka*.⁵

Regarding the findings of the learned trial court and the High Court regarding the burden of the accused in light of Section 106 of the Evidence Act, the learned counsel made the argument that the burden would not transfer onto the appellant unless the first burden is discharged by the prosecution. The decisions of this Court in *Subramaniam v. State of Tamil Nadu and Another* and *Gargi v. State of Haryana* are relied upon in this regard.⁶

The prosecution has completely failed to establish its case on motive, according to the skilled counsel, who argued that motive plays a significant part in the case of circumstantial evidence. In this regard, the court's ruling in the case of *Babu v. State of Kerala* is relied upon.⁷

⁴ G. State of Karnataka v Parshwanath, (2003) 8 SCC 771.

⁵ Eswarappa alias Doopada Eswarappa v State of Karnataka, (2003) 2 SCC 681.

⁶ Subramaniam v State of Tamil Nadu and Another, (2003) 10 SCC 719.

⁷ Babu v State of Kerala, (2002) 5 SCC 657.

JUDGMENT

In **Shivaji Chintappa Patil v. State of Maharashtra**, the Supreme Court ruled that the Sessions Court and High Court erred in concluding that the prosecution had shown the accused's guilt beyond a reasonable doubt. The Apex Court further ruled that, unless the victim is a child, is extremely frail and helpless, or is put unconscious by some intoxicating or narcotic drug, there is typically more than one person engaged in homicide cases and homicidal hanging cases.

Relying on **Sharad Birdhi Chand Sarda v. State of Maharashtra**, the Supreme Court specified five criteria that must be met before an accusation can be deemed to be fully substantiated:

- It is important to thoroughly establish the facts from which guilt is to be inferred.
- In other words, the facts should not be able to be explained by any other hypothesis save that the accused is guilty. They should only be compatible with the premise that the accused is guilty.
- The environment should have a clear tendency.
- All possibilities should be ruled out except for the one that needs to be confirmed.
- Evidence must be presented in a chain that is both convincing enough to prove the accused's guilt beyond a reasonable doubt and thorough enough to eliminate all other reasonable explanations.

The Supreme Court further ruled that upward ears are the hanging marks on the victim's neck in cases of suicide, which was supported by the senior medical officer. As a result, the Apex Court reversed the Sessions Court and High Court's judgments of conviction and cleared the defendant of all charges.⁸

HOMICIDAL HANGING

Homicide by hanging occurs incredibly infrequently. There are many instances where a homicide victim has been hanged after their death, however, there are very few examples in which a person has been rendered unconscious and then hanged to simulate suicidal death. In cases of hanging, suicide is almost always the cause of death. However, homicidal hangings are typically regarded as being extremely infrequent. Indian Penal Code, 1860's Section 299 deals with culpable homicide. This

⁸ Sharad Birdhi Chand Sarda v State of Maharashtra, AIR 1984 SC 1622.

section defines culpable homicide as the act of causing death by the commission of an act with the intent to do so, the intention of inflicting physical harm that is likely to result in death, or the knowledge that such an act is likely to result in death. Murder is an offence that is covered in Section 300 of the Indian Penal Code, 1860. This clause states that a responsible homicide qualifies as murder if:

- (1) The death was intentionally caused by the conduct that brought it about.
- (2) The act is performed knowing that it will likely result in death and is done with the intent to cause great bodily harm.
- (3) The conduct is committed with the intent to harm another person physically, and the intentional harm is sufficient to result in death under normal circumstances.
- (4) The perpetrator of the act is aware that it is extremely risky and will almost certainly end in death or serious physical harm that will result in death.⁹

Murder is a species in the genus of culpable homicide. Although all culpable homicides are murder, not all murders are culpable homicides. According to Section 299 of the Indian Penal Code¹⁰, culpable homicide refers to the killing of a human person without consent. When an act first satisfies all the requirements of Section 299 and then Section 300, it is considered murder. A murderous act may, in certain circumstances or exceptions, be prosecuted as culpable homicide that does not constitute murder under Section 300 of the IPC¹¹. It has five exceptions that change the severity of the crime from culpable homicide not amounting to murder to culpable homicide. Section 300 of the Indian Penal Code lists five exceptions: grave and unexpected provocation, excessive use of private defence, exercising legal authority, sudden heat and conflict, and permission.

In the case of **Palani Goundan v. Emperor**, according to the circumstances, the accused gave his wife a hard smack to the head with a ploughshare, knocking her out cold. He then intended to fabricate a cause of death and declare his wife dead to hide his crime. She was hanged by the accused to hide the crime, and she passed away as a result. The medical evidence clearly stated that the woman had received a severe blow to the side of her head, which would have likely rendered her unconscious, and shows that she died of strangulation, which may have been the result of hanging. The accused

⁹ Indian Penal Code, 1860

¹⁰ Section 299 deals with culpable homicide

¹¹ Section 300 covers murder

and his mother attempted to narrate a false version of the events of the crime to avoid being charged, but this was impossible to believe given that the medical evidence clearly stated that the woman had died of strangulation. In the case, the court found that the deceased died from asphyxiation by hanging and that the accused did not intend to kill the victim when he struck her in the head. Therefore, there was no evidence of mens rea on the part of the accused. As a result, the Honourable High Court overturned the Sessions Court's decision and determined that the accused could not be found guilty of either murder or culpable homicide. However, he must be penalized for assaulting his wife and attempting to hang her as evidence.¹²

In the case of **Mandhari v. State of Chhattisgarh**,¹³ the prosecution's evidence against the appellant is that he strangled his wife Kassobai @ Singerjheen to death on 13-5- 1985 at around 4 p.m. He is also accused of telling the village's Patel and Kotwar that his wife had killed herself. It is further claimed that he only reported his death on 14 May, at 9:00 a.m. in Police Station Jai Nagar at the suggestion of Patel and Kotwar and that this was the basis for the formal FIR that was filed. In his examination according to Section 313 of the Criminal Procedure Code, the accused admitted that he was present in the home at the time of the occurrence, which was the most culpable circumstance determined to have been proved and accepted by the courts below against him. He claimed that he heard a noise coming from the adjacent room and, when entering, discovered his wife hanging by the neck from a roof rafter while wearing a sari. He then untied the sari, carried the dead body outside, and reported the incident to the police after first informing the people. According to the post-mortem report created after the autopsy, the deceased had an antemortem ligature mark on his neck. The doctor's conclusion is unequivocal and unwavering, according to which a horizontal 5 cm wide ligature mark might have been created by strangulation rather than hanging. Therefore, medical evidence refutes the appellant's claim that he discovered his wife hanging when he returned from the field, proving that she had committed suicide. Additionally, the accused's behaviour is not normal. He did not raise a fuss or summon the local people when he saw his wife hanging by the neck. The body was hanging from the roof when he dragged it down by himself. After that, he delayed reporting the incident. He accepted the explanation that she had committed suicide when the locals gathered. Additionally, he did not call the police on his own; rather, he did so at the Sarpanch's request and on Kotwar's testimony, according to Kotwar's deposition. These witnesses also said that the wife had

¹²Palani Goundan v Emperor, (1919) 17 LW 46

¹³ Mandhari v State of Chhattisgarh, (2002) 5 SCC 430.

previously complained to the Panchayat about how the appellant was mistreating her and neglecting to feed her. The accused admitted during his examination under Section 313 CrPC that he was inside the home when he heard a noise and immediately ran outside to discover his wife hanging by the neck. His claim that his wife committed suicide was found to be untrue, and medical evidence does not support it either. The facts, along with the fact that they were not having a happy marriage, the accused's strange behaviour after the incident, and the spot map indicating that the roof's rafter was too high to be reached for suicide, all add up to one unavoidable conclusion: that the accused alone was responsible for the crime and had adopted the false defence that he had witnessed the deceased commit suicide by hanging. The court determined that there is no reason to overturn the conviction and punishment in the above-mentioned state of the evidence. As a result, the appeal is dismissed for lack of merit.

SUICIDAL HANGING

According to research conducted by the National Crime Records Bureau (NCRB) , the data reveals that 1,31,666 individuals in India died by suicide, with suicidal hanging constituting 41.8% of these cases. In response to such incidents, the police collaborate with forensic teams and medicolegal experts to conduct thorough investigations. Upon the initial discovery of a victim hanging, authorities scrutinize whether the death resulted from suicide, homicide, or accident. It is imperative to meticulously examine the crime scene without disturbance to ascertain the potential cause of death in hanging cases. Inquests and postmortem studies of the deceased play a crucial role in determining the cause of death, particularly in complex and suspicious hanging scenarios. Additionally, a thorough analysis of critical areas at the crime scene aids in unravelling the circumstances surrounding the death.¹⁴

Forensic autopsies are frequently performed on hanged victims to determine how they died. Suicide hanging is the most frequent type of hanging observed; homicidal and accidental hanging are very uncommon. The forensic pathologist's job is to ascertain if the victim hanged herself or himself, whether the hanging happened while the victim was still alive, or whether the decedent was placed in a hanging situation after the fact, for example, as a ruse to conceal homicide and to fake suicide. Differentiation is based on both a medical history of psychiatric illnesses and the presence of a suicide

¹⁴National Crime Records Bureau (NCRB) (2023).

note. In 2015, the World Health Organization (WHO) surveyed 56 nations and discovered that poisoning was the most popular means of suicide in most of them, followed by hanging. While it is the second-largest cause of suicide in India and the United States, respectively, after drunkenness and injuries from guns, hanging has been identified as a leading means of suicide in several nations, including Germany and Japan. One of the most prevalent behaviours in less civilized communities was the use of ligation to end another person's life. These practices were effectively imported into more civilized societies. The diagnosis of accidental hanging might be challenging to separate from that of suicide or even criminal hanging due to its rarity. Accidental hangings share the common trait of killing their unknowing victims.¹⁵

The provisional 2022 suicide number (49,449) was 3% higher than the 2021 final number (48,183), and the highest number ever recorded in the United States (1). The 2022 final number of suicides is likely to be higher as additional death certificates with pending causes of death may be determined to be suicides (5). The age-adjusted rate of 14.3 was 1% higher than in 2021 (14.1), the highest since 1941 (11). The percentage increase in the number of suicides was greater for females (4%) than males (2%), but the provisional 2022 suicide number for males (39,255) was nearly four times that of females (10,194). The age-adjusted rates were 4% higher in 2022 than in 2021 for females and 1% higher for males. For both males and females, suicide rates generally declined from 2021 to 2022 for younger age groups, from ages 10 to 34 for males and 10 to 24 for females, although not all decreases were significant. Most age groups of men 35 and older experienced increases, with significant increases among those ages 45–54 and 55–64. All age groups for females 25 and older experienced increases, with a significant increase only for those ages 25–34.¹⁶

Suicide is a deadly, self-inflicted act. Hanging was adopted or contemplated for two main reasons: the anticipated nature of a death from hanging; and accessibility. Those favouring hanging anticipated a certain, rapid, and painless death with little awareness of dying and believed it was a 'clean' method that would not damage the body or leave harrowing images for others. Hanging materials were easily accessed and respondents considered it 'simple' to perform without the need for planning or technical knowledge. Hanging was thus seen as the 'quickest' and 'easiest' method with few barriers to

¹⁵ World Health Organization (WHO) (2022, September 6) Suicide Fact Sheet <<https://www.who.int/news-room/fact-sheets/detail/suicide>> accessed on 16 March 2024.

¹⁶Sally C Martin and others, 'Provisional estimates of suicide by demographic characteristics: United States, 2022' (November, 2023) vol. 34.

completion and sometimes adopted despite not being a first choice. Respondents who rejected hanging recognised it could be slow, painful, and ‘messy’, and thought technical knowledge was needed for implementation.¹⁷

In the case of **Kishori Lal v. State of M.P.**,¹⁸ Rajkumari was the bride of the appellant. On August 31, 1982, she killed herself. The investigation was done using the information the accused had provided. The suspect was detained on suspicion of encouraging the deceased's suicide on August 31, 1982. The accused left the deceased in the residence on the evening of August 31, 1982, according to the prosecution, and went to his place of work. The room was closed from the inside when he arrived at the residence in the evening, and the deceased did not answer when he yelled for him to open the door. He went to the police station and filed the report after realizing there was a problem. The deceased had committed himself by hanging himself from the roof, the police discovered when they went with him and helped locals break open the door. After the inquiry was finished, a charge sheet was filed, and the accused maintained their innocence. It was stated in the case that a conviction under Section 306 IPC is not supportable based solely on the charge of harassment. The dead was troubled since she had never given birth to a child, and there is plenty of documentation to support this. The Court granted the appeal because it was abundantly evident that the prosecution had not proven its case.

In the case of **G.V Siddaramesh v. State of Karnataka**,¹⁹ Usha, the daughter of the complainant K.G. Lingappa, wed Siddaramesh on December 13, 1997. On January 15, 1998, the deceased went to her marital residence. The dead killed herself by hanging on January 17, 1998. The prosecution's argument is essentially that during the marriage negotiations in November 1996, the appellant and his family requested a motorcycle, 20 tolas of gold, and Rs 2 lakh in cash as dowry. Negotiations eventually led to a settlement for the sum of Rs. 1,65,000 in cash, 18 tolas of gold, and a motorcycle. The plaintiff complied with these demands, and as a result, the marriage occurred on December 13, 1997. The deceased revealed to her older sister that the accuser was harsh to her. The dead further revealed that she had just been asked for an additional dowry of Rs 50,000. Her spouse was beating her against her will and did not want to continue having a physical relationship with her. The

¹⁷ Biddle L and others, Factors influencing the decision to use hanging as a method of suicide: a qualitative study (The British Journal of Psychiatry 2010).

¹⁸ Kishori Lal v State of M.P., (2007) 10 SCC 189.

complainant learned after a few days that her daughter had killed herself by hanging herself. The trial court also relied on the post-mortem report, which showed that the deceased died from asphyxiation from hanging and that there were some unexplained scratches on the body, which the trial court claimed was proof that the appellant had harassed the deceased. As a result, the trial court concluded that the deceased had committed suicide as a result of the appellant's cruel treatment and harassment of her. In the aforementioned appeal, the court said that it was certain that the appellant's conviction under Section 304-B IPC was appropriate given the facts and circumstances of the case. However, we consider the life sentence imposed on him by the lower courts to be disproportionate. The young guy who filed the appeal was sentenced to 6 years in jail after being found guilty by the Additional Sessions Judge and the High Court. Considering the facts and circumstances of the case, we believe that a sentence of 10 years in a hard labour camp would be fair. In light of this, we modify the appellant's life sentence to 10 years of harsh imprisonment while upholding his conviction under Section 304-B of the IPC. The appellant's further conviction and sentence are upheld.²⁰

DIFFERENCE BETWEEN HANGING AND STRANGULATION

Suicidal or homicidal intent can lead to hanging death. Differentiating between hanging types depends heavily on general external appearances, local external neck findings, neck autopsy, and neck histological changes. Correlating recent observations with the results of the autopsy makes it easier to examine the corpse in hanging situations. The easy formulation of a final opinion in these circumstances is made possible by the correlation of exterior, internal, and microscopic results. Additionally, it helps to some extent to distinguish between various hanging styles.

In the total number of hanging cases and strangulation, the offending weapons were found to be various types of ligature materials 37.72% of the males and 27.53% of females preferred soft materials (saree, veil, towel, etc.) whereas 23.07% of men and 11.07% women used hard ligature material (wire, rope, string, etc.). These findings correlate with the study of Patel et al⁴ where they found in hanging 80% of the victims used soft materials and 20% of victims used hard materials. In strangulation cases, they found that 66.77% of victims were strangulated by using soft materials and 33.43% of victims were strangulated by using hard materials. In a study conducted only on the type of ligature material used for hanging by Sharma et al⁵, they found that soft material was used in 56.26% and hard material

²⁰ G.V Siddaramesh v State of Karnataka, (2010) 1 SCC 431.

in 43.25% of cases. In another study conducted only on the type of ligature material used for hanging by Naiket al⁶, they found that soft material was used in 53.77% and hard material in 46.25%. Lastly, in a study by Vijaynath et al⁷ on the type of ligature material used for hanging, they found that soft material was used in 70% of cases and hard material was used in 30%.²¹

First off, hanging should not be confused with strangulation. Asphyxia caused by the closing of the blood vessels and/or air passageways of the neck as a result of external pressure on the neck is known as strangulation. Hanging, ligature strangulation, and manual strangulation are the three basic divisions. The difference between these three situations is based on what is exerting pressure on the neck: hands, forearms, or other limbs; a constricting band tightened by the gravitational weight of the body or part of the body (hanging); a constricting band tightened by a force other than the body weight (ligature strangulation); or a constricting band tightened by a force other than gravity (manual strangulation). Second, there are two distinct types of hanging: total hanging, in which the victim's body is suspended completely free, and incomplete hanging, in which only a portion of the body is free to support the victim's weight (incomplete or partial hanging). The third and most crucial point is that hanging while falling from a height is not a common kind of hanging and is not a method of strangulation. Hangings that involve jumping or being forced from a height (including judicial hangings) differ greatly from traditional hangings in nature. In many situations, suffocation rather than a fracture-dislocation of the top cervical vertebrae is the cause of death.²²

The "mark of hanging" left on the victim is determined by several variables, including the height of the suspension point, the type and makeup of the ligature material used, the victim's weight, the length of the suspension, and any objects that get in the way of the ligature material's contact with the victim's neck skin. To determine the reason and manner of death, expertise and care are required. To determine the cause and manner of death, multiple rounds of ligature around the neck with two or more fixed knots require great caution in interpretation. Additional injuries to the neck and physical injuries may further complicate matters.²³

²¹ Manoj Kumar Sharma and others, Ten Year Autopsy Study of Differentiating Features Between Hanging and Strangulation, (October-December 2020), Vol. 20, No. 4.

²² Sauvageau A. (2011), About strangulation and hanging: Language matters, Journal of emergencies, trauma, and shock, 4(2), 320.

²³ V Dekal, 'Exam Preparatory Manual for Undergraduates' [2015] (Jaypee Brothers Medical Publishers) 13.

Making the distinction between hanging and strangulation by a ligature depends on the level at which the ligature mark is located. Strangulation is a type of death that occurs when the neck is compressed in a way other than by the weight of the body.²⁴ Asphyxia is the main factor in deaths from hanging and strangling. But it could also be brought on by cerebral ischemia, shock, venous congestion, a combination of more than two causes, or a third factor. In judicial hanging, the cervical vertebrae might fracture and dislocate. In post-mortem appearances, several modes of death are represented. There are outward and within manifestations. External manifestations are caused by the neck ligature and those unique to the mechanism of death. According to the type of material used as a ligature, the ligature mark on the neck differs, necessitating a close examination. The ligature mark is typically located above the thyroid cartilage between the larynx and chin in cases of full hanging. It travels obliquely along the mandible's (lower jaw) line until it reaches the mastoid process behind the ear. At the back, where the noose's two arms extend upward toward the knot, it can occasionally be missing. On or beneath the thyroid cartilage, particularly in cases of partial suspension, the mark may be seen. Also, it might be round. When a person is strangled with a ligature, the mark is well defined, typically located low in the neck below the thyroid cartilages, and it completely and horizontally encircles the neck. If the ligature is twisted around the neck several times, there are several markings. If the person has been dragged by a ligature or strangled while lying flat, the execution may be oblique, like hanging.

In the case of **Ravirala Laxmaiah v. State of Andhra Pradesh (2013)**, the appellant's second wife was Balamani (the deceased). Their nuptials took place in 2002, and her father provided a dowry of Rs 20,000 as well as gold earrings, a ring, silver anklets, and other items. As the appellant grew doubtful of his wife's loyalty, he occasionally started beating her. Due to the abuse, she received from the appellant, the deceased decided to move in with her parents. She chose to return to the appellant, nonetheless, on the counsel of her family's elders. Balamani's father was notified by phone by the appellant that she had died by suicide. The deceased's father and his family hurried over in a jeep right away. They ran into the appellant in Santa Bazaar in Achampet while travelling. They were subsequently told by the appellant that Balamani had hanged herself at the G Type Labour Quarters, close to Krishna Guest House in Eagalapenta. On July 15, 2003, the father of the deceased filed an FIR about the incident, saying that the appellant had strangled Balamani the previous evening, on

²⁴ Stevens RR and others, Prevention of accidental childhood strangulation. (Ann Otol Rhinol Laryngol) ,2000;109:797–802.

July 12, 2003. All her gold anklets and jewels had been taken, and her nose and ears had been brutally chopped off. The distinction between a suicide and a strangling death was addressed in the instance. It referred to Modi's Medical Jurisprudence and Toxicology, which stated that although the larynx and trachea may, in rare instances, be fractured as a result of a fall, "hyoid bone and superior corneal of the thyroid cartilage are not, as a rule, fractured by any other means other than by strangulation." According to the post-mortem, the hyoid bone fracture is distinguished by the lack of haemorrhage in the tissues around the fracture. In the case, the court came to the unavoidable conclusion that the appellant had been doubting his wife's character and had good reason to get rid of her. Even though he had been in the same room as his wife when she was discovered dead, he did not explain. especially because the suicide explanation had been rejected by the lower courts. The same conclusion is fully supported by the fact that the deceased's saree was lying in the room's corner, and the appellant's claim that he discovered his wife hanging with a saree around her neck and cut it off with a knife is completely refuted because, under the circumstances, a portion of the saree should have been discovered hanging from the room's ceiling. The appellant's actions, including the fact that he gave his in-laws false information and slept at Krishna Guest House while the corpse was lying in his home, along with the fact that he fled the city, suggest that he committed the crime. As a result, the asserted appeal was rejected since it lacked merit.²⁵

In the case of **Amar Iqbal Singh v. State of Punjab (2009)**, the court considered the content from HWV Cox (hence referred to as "Cox") wrote about asphyxia deaths in his book "Medical Jurisprudence and Toxicology," which was released by LexisNexis Butterworths in its seventh edition. Cox provides several examples of asphyxia deaths brought on by suffocation, hanging, and strangulation in Section 3, Chapter 2. According to Cox, strangulation can be separated into two types: manual strangulation (also known as "throttling") and strangulation by ligature (also known as "garrotting"). Differentiations have been identified when pathological findings are considered. The author has noted in his clear research that common patterns such as spiral rope patterns, woven cords, plaited electric wires, chain links, and others may be imprinted on the skin surface. The author has also noted that the size of a ligature may not be the same as the item that created it. For instance, when a folded piece of cloth is used, there may be significant discrepancies in how the neck mark appears and the size of the ligature. When a piece of fabric is pulled taut, it will form bands of tightly stretched

²⁵ Ravirala Laxmaiah v State of Andhra Pradesh, (2013) 12 SCC 583.

material. When they are firmly applied to the skin, just the stretched bands may cause the skin to wrinkle. Therefore, one of the markers to identify ligature strangulation is the nature of the ligature mark and the object, such as cloth, wire, or rope, utilized. The author went on to say that although strangulation by ligature and hanging share some characteristics, the mechanisms of death are noticeably different. One of the obvious differences is that the mark left by the ligature in a hanging victim is typically higher on the neck than the mark left by a ligature in a victim of a strangle. The hanging mark typically rises to a high point where the noose is attached to the fixed part of the rope or wire, going above the larynx at the level of the base of the tongue before passing beneath the angles of the jaw. Furthermore, it was maintained that cardiac arrest brought on by pressure on the major veins in the neck commonly results in rapid death.²⁶

In the case of **Sanjeev Jain & Ors. v. State of U.P. (2013)**²⁷, the Eleventh Revised Edition of Taylor's Principles and Practice of Medical Jurisprudence, published by J & A Churchill Ltd., was cited by the court. Taylor placed a lot of stress on post-mortem appearances to evaluate whether someone has passed away in cases of suffocation from hanging or strangulation. According to Taylor, broad markers include general external appearances, injuries discovered during neck dissection, and general internal appearances. Intense generalized venous congestion, capillary stasis, haemorrhages into the lung substance and mucous membranes, punctate petechiae in the skin and conjunctivae, prominence of the eyes, protrusion of the tongue, or its pressure against the teeth, and bloody saliva and mucus in the trachea are the common characteristics of asphyxia death seen in strangled bodies, which have been noted above. Since circulation stops with life, it is impossible for a ligature around the neck after death to generate these symptoms. Instead, the existence of these symptoms strongly shows that suffocation was the cause of death. Nevertheless, they are not pathognomonic in and of themselves because, as Gordon and Turner have emphasized, they also show up in other subtoxic deaths. However, their regional distribution in the head and neck strongly suggests strangulation. Ecchymoses around the markings on the neck haemorrhages above the level of the constriction and swelling and lividity of the face are signs of forceful compression or constriction of the neck during life. These are phenomena that, no matter how much force is used, cannot be replicated in a corpse. A depression occurs when the constriction occurs shortly after death, but it is exceedingly improbable that there will be any lividity or swelling of the tissues above. Casper's studies showed that nothing

²⁶ Amar Iqbal Singh v State of Punjab, (2009) 2 SCC 581.

²⁷ Sanjeev Jain & Ors v State of UP (2013) 14 SCC 722.

even somewhat approximating an antemortem strangling mark could be produced on a dead body. It will be challenging to make an opinion if there are no ecchymoses in the neck, without circumstantial evidence. However, it must be kept in mind that there may not always be any clear marks, as someone may be strangled by applying pressure on the neck through a soft material. It is difficult for homicidal strangulation to be carried out without the development of certain appearances of violence on the skin, so we should be cautious in offering an opinion that may affect the life of an accused party in the absence of all traces of violence around the neck. There is a remote chance that death could be brought about in this way without leaving any obvious signs of violence, yet it is unlikely that strangulation would ever occur without some marks on the neck indicating the means used. To end their lives, most murderers and suicides use far more force than is necessary. It is feasible that death from strangulation might occur if a soft, elastic band were stretched to the neck with progressively increasing tension without any obvious visible signs of the injury.

IPC PROVISIONS RELATED TO HOMICIDE AND SUICIDE

Section 299 of the Indian Penal Code, 1860 governs culpable homicide that does not constitute murder. A culpable homicide is defined as an act done with the purpose of killing, causing serious bodily harm that will likely result in death, or knowing that such an act will probably result in death.²⁸ According to Section 304 of the Indian Penal Code, whoever intentionally causes death or causes bodily harm that is likely to cause death or with the knowledge that death is likely to be caused as a result of the act is subject to life imprisonment or imprisonment of either description for a term that may extend to ten years, as well as to fine.²⁹ Second, anyone who causes death without intending to do so, causes physical harm that is likely to result in death or does not know that their action could result in death will face a fine in addition to a term of imprisonment of either kind that may last up to 10 years. Suppose the conduct that results in death is carried out without the intent to do so but with the knowledge that it is likely to result in death. In that case, the person will receive a sentence of either type of imprisonment for a duration that may last up to ten years, as well as be subject to a fine. Section 300 of the Indian Penal Code, 1860 regulates culpable homicide that constitutes murder. When an act is done with the intent to kill, cause bodily harm that is likely to result in death or cause bodily harm severe enough to result in death in the normal course of things, or when there is the

²⁸ Section 299 Indian Penal Code 1860.

²⁹ Section 304 Indian Penal Code 1860.

knowledge that the act is so fatal that it almost certainly can result in death or bodily harm that is likely to result in death and the perpetrator still commits the act, it is considered a culpable homicide.³⁰ According to Section 302 of the Indian Penal Code, a person who commits murder or culpable homicide that amounts to murder faces the possibility of the death penalty or life in prison as well as a fine. However, the death sentence is only permitted in the most extreme circumstances.³¹ This was established in the case of **Bachan Singh v. State of Punjab**,³² when it was noted that when the court had the option of life in prison, why would it choose such a cruel punishment as the death penalty?

"Whoever attempts suicide and undertakes any act towards the commission of such offence shall be punished with simple imprisonment for a time which may extend to one year or with fine, or with both," states Section 309 of the Indian Penal Code, 1860.³³ The legislature's meaning was obvious when it created this provision, which means that if a person attempts suicide but is unsuccessful, they could face up to a year of simple imprisonment, a fine, or both. Suicide is the topic of this provision, and comprehending it is important to the provision under discussion. Suicide is comprised of the two terms "sui" and "side," which both mean to kill oneself. In other words, regardless of the methods a person employs to end their own life, suicide must be carried out by the suicide victim. Suicide's lack of a clear definition in the Indian Penal Code, 1860 is one of the main problems with it. In a broader sense, every action that pushes someone away from life and toward death is illegal. It is possible to infer the goal from several factors, including the suicide technique, without a doubt. These inferences' truth, nevertheless, might be contested. Many persons may engage in the same or similar behaviours with varying goals, and not all of them are intended to take someone's life, as the basic acts themselves may not imply a specific intention.

Anyone who encourages, coerces, or forces another person to commit suicide would be punished under Section 306 of the Indian Penal Code, 1860 for aiding suicide. According to Section 108 of the Indian Penal Code, 1860, a person is an "abettor" if they encourage, coerce, or assist another person in committing a crime. The mental act of inciting, persuading, or assisting someone to commit suicide is referred to as abetting suicide. Without a deliberate attempt on the side of the accused to aid or abet suicide, a conviction cannot stand. Section 306 penalizes suicide facilitation. Abetment of suicide

³⁰ Section 300 Indian Penal Code 1860.

³¹ Section 302 Indian Penal Code 1860.

³² *Bachan Singh v State of Punjab*, (1980) 2 SCC 684.

³³ Section 309 Indian Penal Code 1860.

carries a sentence that can last up to ten years in jail as well as a fine. Section 305 of the Indian Penal Code, 1860 addresses aiding a child's or mad person's suicide. It specifies that anyone who encourages or assists a minor, a crazy person, a delirious person, an idiot, or a person under the influence of alcohol to commit suicide faces a sentence of life in prison, a term of imprisonment not to exceed ten years, a fine, or both.³⁴

SUGGESTIONS AND CONCLUSION

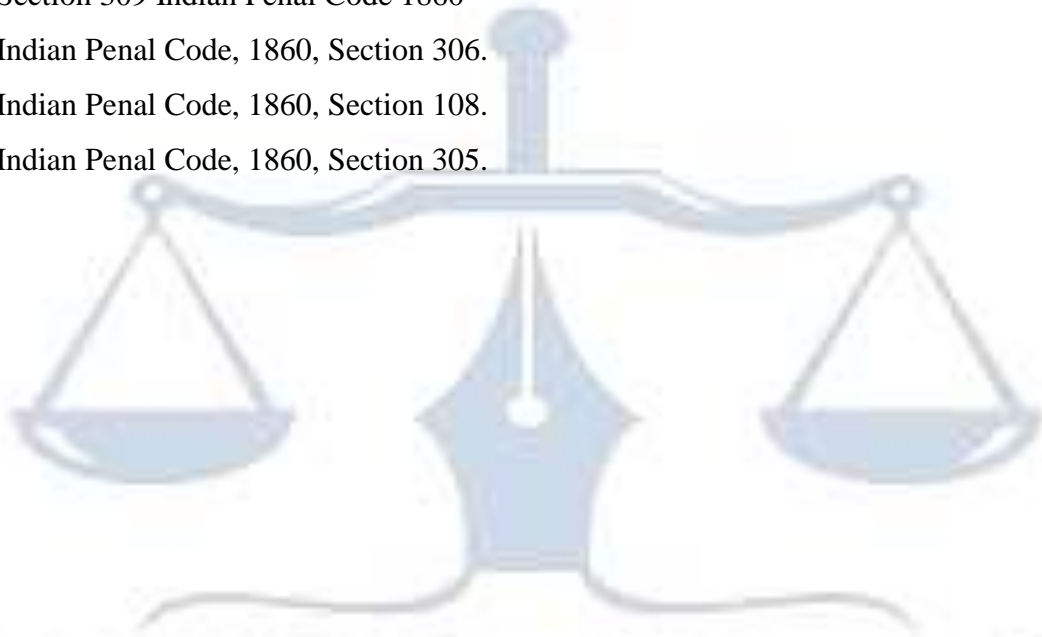
The act of hanging involves suspending the body from a ligature around the neck, with the body's weight acting as the constricting force. This results in a violent asphyxia death. Asphyxia, venous obstruction, cerebral anaemia, reflex vagal inhibition, fracture, and dislocation of the cervical vertebra are some of the factors that contribute to hanging deaths. The most significant discovery and distinct indication of a hanging death in a post-mortem case is the development of the ligature mark. The skin folds on the neck of an infant or an obese person may resemble a ligature mark. Forearms, arms, legs, feet, and soles are affected by post-mortem staining, which is sometimes referred to as "glove and stocking-like distribution" since they become dependent areas as a result of the corpse being suspended. The act of hanging is always suicidal unless proven differently. Any material that is on hand at the time can be utilized in a suicidal hanging. It is very difficult to prove homicidal hanging unless the victim is a young kid, a weak person, or is under the influence of drugs or alcohol. Hanging is a method of carrying out death sentences or capital punishment in certain nations, including India. In the majority of hanging instances, the ligature mark was above the level of the thyroid cartilage, but in strangulation cases, it was either below or at the level of the thyroid cartilage. Most of the time, soft materials were utilized as favoured ligatures in hanging and strangulation situations. Since most post-mortem investigations into violent asphyxia fatalities are carried out by doctors rather than forensic experts, they frequently struggle to determine whether the death was caused by hanging or strangulation. The post-mortem examination should only be performed by forensic professionals in all situations of violent asphyxia fatalities, it is urged, in the interest of justice and to prevent confusion. To distinguish between hanging and strangling easily, police personnel should also be trained not to cut the ligature material or remove it before post-mortem investigation. They should routinely use technology to their advantage by taking pictures and videos of the crime scene.

³⁴ Section 306 Indian Penal Code 1860.
Section 108 Indian Penal Code 1860.
Section 305 Indian Penal Code 1860.

REFERENCES:

1. Britannica, 'Asphyxia' (The Editors of Encyclopaedia Britannica, 12 October 2023) <<https://www.britannica.com/science/asphyxia> > accessed on 16 March 2024
2. Saukko P, Knight B, 'Knight's Forensic Pathology' (CRC Press, 2016) 666
3. Shivaji Chintappa Patil v. State of Maharashtra, (2003) 6 SCC 641
4. G. State of Karnataka v. Parshwanath, (2003) 8 SCC 771
5. Eswarappa alias Doopada Eswarappa v. State of Karnataka, (2003) 2 SCC 681
6. Subramaniam v. State of Tamil Nadu and Another, (2003) 10 SCC 719
7. Babu v. State of Kerala, (2002) 5 SCC 657
8. Sharad Birdhi Chand Sarda v. State of Maharashtra, AIR 1984 SC 1622
9. Indian Penal Code 1860:
10. Section 299 deals with culpable homicide
11. Section 300 covers murder
12. Palani Goundan v. Emperor, (1919) 17 LW 46
13. Mandhari v. State of Chhattisgarh, (2002) 5 SCC 430
14. National Crime Records Bureau (NCRB) (2023)
15. World Health Organization (WHO) (2022, September 6) Suicide Fact Sheet <<https://www.who.int/news-room/fact-sheets/detail/suicide>> accessed on 16 March 2024
16. Martin S, 'Provisional estimates of suicide by demographic characteristics: United States, 2022' (November 2023) vol. 34.
17. Biddle L and others, 'Factors influencing the decision to use hanging as a method of suicide: a qualitative study' (The British Journal of Psychiatry 2010)
18. Kishori Lal v. State of M.P., (2007) 10 SCC 189
19. G.V Siddaramesh v. State of Karnataka, (2010) 1 SCC 431
20. Sharma MK and others, 'Ten Year Autopsy Study of Differentiating Features Between Hanging and Strangulation' (October-December 2020), Vol. 20, No. 4
21. Sauvageau A. (2011), About strangulation and hanging: Language matters, Journal of emergencies, trauma, and shock, 4(2), 320.
22. Dekal V, 'Exam Preparatory Manual for Undergraduates' [2015] (Jaypee Brothers Medical Publishers) 13
23. Stevens RR and others, Prevention of accidental childhood strangulation. (Ann Otol Rhinol Laryngol) ,2000; 109:797–802.

24. Ravirala Laxmaiah v. State of Andhra Pradesh, (2013) 12 SCC 583
25. Amar Iqbal Singh v. State of Punjab, (2009) 2 SCC 581
26. Sanjeev Jain & Ors. v. State of U.P., (2013) 14 SCC 722
27. Section 299 Indian Penal Code 1860
28. Section 304 Indian Penal Code 1860
29. Section 300 Indian Penal Code 1860
30. Section 302 Indian Penal Code, 1860
31. Bachan Singh v. State of Punjab, (1980) 2 SCC 684
32. Section 309 Indian Penal Code 1860
33. Indian Penal Code, 1860, Section 306.
34. Indian Penal Code, 1860, Section 108.
35. Indian Penal Code, 1860, Section 305.



W H I T E B L A C K
L E G A L