parents had gone to Police Post Pathriya attached to Police Station Unarasital immediately after the incident but had found no police official present therein and had then gone to Police Station Sironj and lodged a report at 12 noon the next day. We find that the explanation for this delay is somewhat difficult to believe. A police post may have a few police officials posted in it, but Police Station Unarasital was a full-fledged police station which would invariably be manned. Moreover, even if no one was found in the police post on the first day at that particular point of time, the effort of the prosecutrix ought to have been to lodge a report later at Police Station Unarasital, but she chose to go to Police Station Sironj and recorded her statement and the investigation was thereafter referred to Police Station Unarasital.

10. We are also indeed surprised that the High Court has made light of the fact that the prosecutrix had declined to undergo her medical examination at Sironj and had insisted for her medical examination at Vasoda, 55 km away. The prosecution has not been able to furnish any explanation as to why the prosecutrix had insisted on being examined at Vasoda. We have also examined the medical report. Dr. Mamta Sthapak, PW 7 found no injury on her genitalia and deposed that there was no evidence to show that she had been raped as the tear in her hymen was an old one. The prosecutrix also stated that at the time of her medical examination at Vasoda her vagina had been stitched. The doctor found no stitch on her person.

11. We, are therefore, of the opinion that on a cumulative assessment of the evidence, as given above, the finding of the trial court could have been given under the circumstances and the High Court's interference was, therefore, not called for. The appeal is accordingly allowed, the conviction of the appellants is set aside and they are acquitted. The appellants are on bail, their bail bonds shall stand discharged.

(2011) 6 Supreme Court Cases 396

(BEFORE MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.)

BHAGWAN DASS .. Appellant;

Versus

STATE (NCT OF DELHI) .. Respondent.

Criminal Appeal No. 1117 of 2011†, decided on May 9, 2011

A. **Constitution of India — Arts. 25, 19(1)(a) and 21 — Rights to freedom of conscience and freedom of expression — Right to marry person of one's choice — Protection of — "Honour killing" — Psychology behind, discussed and vehemently deprecated — Death sentence recommended for perpetrators of aforesaid crime, as deterrent for such outrageous and uncivilised behaviour — Copy of instant order directed to be circulated widely — Penal Code, 1860 — S. 302 — Honour killing — Death sentence justified — Human and Civil Rights — Right to marry**

† Arising out of SLP (Crl.) No. 1208 of 2011. From the Judgment and Order dated 2-6-2010 of the High Court of Delhi at New Delhi in Crl. A. No. 551 of 2010

Held :

In India, unfortunately, "honour killing" has become commonplace, particularly in Haryana, Western Uttar Pradesh and Rajasthan. Many people feel that they are dishonoured by the behaviour of the young man/woman, who is related to them or belonging to their caste, because he/she is marrying against their wish or having an affair with someone, and hence they take the law into their own hands and kill or physically assault such person or commit some other atrocities on them, which is wholly illegal. If someone is not happy with the behaviour of his daughter or other person, who is his relation or of his caste, the maximum he can do is to cut off social relations with her/him, but he cannot take the law into his own hands by committing violence or giving threats of violence. (Paras 8, 9 and 28)

Arumugam Servai v. *State of T.N.*, (2011) 6 SCC 405, *relied on*

Often young couples, who fall in love, have to seek shelter in the police lines or protection homes, to avoid the wrath of kangaroo courts. There is nothing "honourable" in "honour" killings, and they are nothing but barbaric and brutal murders by bigoted persons with feudal minds. Honour killings, for whatever reason, come within the category of the rarest of rare cases, deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on India. This is necessary as a deterrent for such outrageous, uncivilised behaviour. All persons who are planning to perpetrate "honour" killings, should know that the gallows await them. (Para 28)

Lata Singh v. *State of U.P.*, (2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478, *followed*

Copy of the instant judgment be sent to the Registrars General/Registrars of all the High Courts, who shall circulate the same to all the Judges of the Courts. The Registrars General/Registrars of the High Courts will also circulate copies of the same to all the Sessions Judges/Additional Sessions Judges in the States/Union Territories. Copies of the judgment shall also be sent to all the Chief Secretaries/Home Secretaries/Directors General of Police of all the States/Union Territories in India. The Home Secretaries and Directors General of Police will circulate the same to all SSPs/SPs in the States/Union Territories for information. (Para 29)

[**Ed.**: *See also* Penal Code, 1860, Ss. 299-304 — Culpable Homicide and Murder, 'D.35(f)(ii) Social/Communal/Caste reasons for committing murder/Communal riot', pp. 820 et seq. in **Vol. 23**, *Complete Digest of Supreme Court Cases*, 2nd Edn.]

B. **Penal Code, 1860 — S. 302 — Murder trial — Gruesome "honour killing" by accused of his own daughter — Circumstantial evidence — Conviction confirmed — Daughter of appellant-accused had left her husband and was living in incestuous relationship with her uncle, which had infuriated appellant, as he thought this conduct of his daughter had dishonoured his family, and hence, he allegedly strangulated her with electric wire — In facts and circumstances, there is overwhelming circumstantial evidence to show that appellant committed the crime, as he felt that he was dishonoured by his daughter — Courts below gave very cogent reasons for convicting appellant and there is no reason to disagree with their verdict — Therefore, conviction of appellant, confirmed — Evidence Act, 1872 — S. 27 — Criminal Procedure Code, 1973, S. 162(1) & proviso thereto and S. 313 (Paras 10 to 27)**

Aftab Ahmad Anasari v. *State of Uttaranchal*, (2010) 2 SCC 583 : (2010) 2 SCC (Cri) 1054; *Kulvinder Singh* v. *State of Haryana*, (2011) 5 SCC 258 : (2011) 2 SCC (Cri) 608; *State of Rajasthan* v. *Raja Ram*, (2003) 8 SCC 180 : 2003 SCC (Cri) 1965; *B.A. Umesh* v. *State of Karnataka*, (2011) 3 SCC 85 : (2011) 1 SCC (Cri) 801; *State of U.P.* v. *Ramesh Prasad Misra*, (1996) 10 SCC 360 : 1996 SCC (Cri) 1278; *Sk. Zakir* v. *State of Bihar*, (1983) 4 SCC 10 : 1983 SCC (Cri) 761; *Himanshu* v. *State (NCT of Delhi)*, (2011) 2 SCC 36 : (2011) 1 SCC (Cri) 593; *Nisar Ali* v. *State of U.P.*, AIR 1957 SC 366 : 1957 Cri LJ 550; *Manu Sharma* v. *State (NCT of Delhi)*, (2010) 6 SCC 1 : (2010) 2 SCC (Cri) 1385; *State of Rajasthan* v. *Teja Ram*, (1999) 3 SCC 507 : 1999 SCC (Cri) 436; *Trimukh Maroti Kirkan* v. *State of Maharashtra*, (2006) 10 SCC 681 : (2007) 1 SCC (Cri) 80, *relied on*

C. **Criminal Trial — Circumstantial evidence — Links in the chain of circumstances — Necessity of establishing — Held, a person can be convicted on circumstantial evidence provided that links in the chain of circumstances connect accused with crime beyond reasonable doubt — Herein, prosecution proved its case beyond reasonable doubt by establishing all links in the chain of circumstances (Para 5)**

Vijay Kumar Arora v. *State (Govt. of NCT of Delhi)*, (2010) 2 SCC 353 : (2010) 1 SCC (Cri) 1476; *Aftab Ahmad Anasari* v. *State of Uttaranchal*, (2010) 2 SCC 583 : (2010) 2 SCC (Cri) 1054, *relied on*

D. **Criminal Trial — Circumstantial evidence — Motive — Importance of — Held, in cases of circumstantial evidence, motive is very important, unlike cases of direct evidence, where it is not so important — Herein, prosecution case was that motive of appellant-accused in murdering his daughter was that she was living in adultery with her uncle — Appellant felt humiliated by this, and to avenge family honour, he murdered his own daughter (Para 6)**

Wakkar v. *State of U.P.*, (2011) 3 SCC 306 : (2011) 1 SCC (Cri) 846, *relied on*

E. **Criminal Procedure Code, 1973 — S. 162(1) and proviso thereto — Statement to police — Use of — Held, statement to police is ordinarily not admissible in evidence in view of S. 162(1), but as mentioned in proviso to S. 162(1), it can be used to contradict testimony of witness — Herein, mother of appellant-accused also appeared as witness before trial court, and in her cross-examination, she was confronted with her statement to police, to whom she had stated that her son (appellant) had told her that he had killed his daughter — On being so confronted with her statement to police, she denied that she had made such a statement — Held, her statement to police can be taken into consideration in view of proviso to S. 162(1), and her subsequent denial in court is not believable, because she obviously had afterthoughts and wanted to save her son (appellant) from punishment — In fact, in her statement to police, she had stated that dead body of deceased was removed from bed and placed on floor — Hence, her statement to police can be taken into consideration in view of proviso to S. 162(1) — Penal Code, 1860 — S. 302 — Hostile witness (Paras 15 and 16)**

Appeal dismissed Y-D/48097/CR

Advocates who appeared in this case :
Gaurav Agrawal, Advocate, for the Appellant;
J.S. Attri, Senior Advocate [Saurabh Ajay Gupta (for Ms Anil Katiyar), Advocate] for the Respondent.

Chronological list of cases cited ***on page(s)***

1. (2011) 6 SCC 405, *Arumugam Servai* v. *State of T.N.* 400*c-d*
2. (2011) 5 SCC 258 : (2011) 2 SCC (Cri) 608, *Kulvinder Singh* v. *State of Haryana* 401*g-h*
3. (2011) 3 SCC 306 : (2011) 1 SCC (Cri) 846, *Wakkar* v. *State of U.P.* 400*a-b*
4. (2011) 3 SCC 85 : (2011) 1 SCC (Cri) 801, *B.A. Umesh* v. *State of Karnataka* 402*d-e*
5. (2011) 2 SCC 36 : (2011) 1 SCC (Cri) 593, *Himanshu* v. *State (NCT of Delhi)* 402*g*
6. (2010) 6 SCC 1 : (2010) 2 SCC (Cri) 1385, *Manu Sharma* v. *State (NCT of Delhi)* 403*h*
7. (2010) 2 SCC 583 : (2010) 2 SCC (Cri) 1054, *Aftab Ahmad Anasari* v. *State of Uttaranchal* 400*a*, 403*h*
8. (2010) 2 SCC 353 : (2010) 1 SCC (Cri) 1476, *Vijay Kumar Arora* v. *State (Govt. of NCT of Delhi)* 399*h*
9. (2006) 10 SCC 681 : (2007) 1 SCC (Cri) 80, *Trimukh Maroti Kirkan* v. *State of Maharashtra* 404*d-e*
10. (2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478, *Lata Singh* v. *State of U.P.* 400*d-e*, 405*a*
11. (2003) 8 SCC 180 : 2003 SCC (Cri) 1965, *State of Rajasthan* v. *Raja Ram* 401*h*
12. (1999) 3 SCC 507 : 1999 SCC (Cri) 436, *State of Rajasthan* v. *Teja Ram* 404*a-b*
13. (1996) 10 SCC 360 : 1996 SCC (Cri) 1278, *State of U.P.* v. *Ramesh Prasad Misra* 402*e-f*
14. (1983) 4 SCC 10 : 1983 SCC (Cri) 761, *Sk. Zakir* v. *State of Bihar* 402*f*
15. AIR 1957 SC 366 : 1957 Cri LJ 550, *Nisar Ali* v. *State of U.P.* 403*a*

The Judgment of the Court was delivered by

MARKANDEY KATJU, J.—

"Hai maujazan ek kulzum-e-khoon kaash yahi ho
Aataa hai abhi dekhiye kya kya mere aage"

—Mirza Ghalib

2. This is yet another case of gruesome "honour killing", this time by the appellant-accused of his own daughter.

3. Leave granted. Heard the learned counsel for the parties and perused the record.

4. The prosecution case is that the appellant was very annoyed with his daughter, who had left her husband Raju and was living in an incestuous relationship with her uncle, Sriniwas. This infuriated the appellant as he thought this conduct of his daughter Seema had dishonoured his family, and hence he strangulated her with an electric wire. The trial court convicted the appellant and this judgment was upheld by the High Court. Hence this appeal.

5. This is a case of circumstantial evidence, but it is settled law that a person can be convicted on circumstantial evidence provided the links in the chain of circumstances connects the accused with the crime beyond reasonable doubt vide *Vijay Kumar Arora* v. *State (Govt. of NCT of Delhi)*[1]

1 (2010) 2 SCC 353 : (2010) 1 SCC (Cri) 1476

(SCC para 16.5), *Aftab Ahmad Anasari* v. *State of Uttaranchal*[2] (vide SCC paras 13 and 14), etc. In this case, we are satisfied that the prosecution has been able to prove its case beyond reasonable doubt by establishing all the links in the chain of circumstances.

6. In cases of circumstantial evidence motive is very important, unlike cases of direct evidence where it is not so important vide *Wakkar* v. *State of U.P.*[3] (SCC para 14). In the present case, the prosecution case was that the motive of the appellant in murdering his daughter was that she was living in adultery with one Sriniwas, who was the son of the maternal aunt of the appellant. The appellant felt humiliated by this, and to avenge the family honour he murdered his own daughter.

7. We have carefully gone through the judgment of the trial court as well as the High Court and we are of the opinion that the said judgments are correct.

8. The circumstances which connect the accused to the crime are: the motive of the crime which has already been mentioned above. In our country unfortunately "honour killing" has become commonplace, as has been referred to in our judgment in *Arumugam Servai* v. *State of T.N.*[4]

9. Many people feel that they are dishonoured by the behaviour of the young man/woman, who is related to them or belonging to their caste because he/she is marrying against their wish or having an affair with someone, and hence they take the law into their own hands and kill or physically assault such person or commit some other atrocities on them. We have held in *Lata Singh* v. *State of U.P.*[5] that this is wholly illegal. If someone is not happy with the behaviour of his daughter or other person, who is his relation or of his caste, the maximum he can do is to cut off social relations with her/him, but he cannot take the law into his own hands by committing violence or giving threats of violence.

10. As per the post-mortem report which was conducted at 11.45 a.m. on 16-5-2006 the likely time of death of Seema was 32 hours prior to the post-mortem. Giving a margin of two hours, plus or minus, it would be safe to conclude that Seema died sometime between 2.00 a.m. to 6.00 a.m. on 15-5-2006. However, the appellant, in whose house Seema was staying, did not inform the police or anybody else for a long time. It was only some unknown person who telephonically informed the police at 2.00 p.m. on 15-5-2006 that the appellant had murdered his own daughter. This omission by the appellant in not informing the police about the death of his daughter for about 10 hours was a totally unnatural conduct on his part.

11. The appellant had admitted that the deceased Seema had stayed in his house on the night of 14-5-2006/15-5-2006. The appellant's mother was too old to commit the crime, and there is not even a suggestion by the defence

2 (2010) 2 SCC 583 : (2010) 2 SCC (Cri) 1054
3 (2011) 3 SCC 306 : (2011) 1 SCC (Cri) 846
4 (2011) 6 SCC 405
5 (2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478

that his brother may have committed it. Hence we can safely rule out the possibility that someone else, other than the appellant, committed the crime.

12. Seema had left her husband sometime back and was said to be living in an adulterous and incestuous relationship with her uncle (her father's cousin), and this obviously made the appellant very hostile to her.

13. On receiving the telephonic information at about 2.00 p.m. from some unknown person, the police reached the house of the accused and found the dead body of Seema on the floor in the back side room of the house. The accused and his family members and some neighbours were there at that time. The accused admitted that although Seema had been married about three years ago, she had left her husband and was living in her father's house for about one month. Thus, there was both motive and opportunity for the appellant to commit the murder.

14. It has come in evidence that the appellant-accused with his family members were making preparation for her last rites when the police arrived. Had the police not arrived they would probably have gone ahead and cremated Seema even without a post-mortem so as to destroy the evidence of strangulation.

15. The mother of the accused, Smt Dhillo Devi stated before the police that her son (the accused) had told her that he had killed Seema. No doubt a statement to the police is ordinarily not admissible in evidence in view of Section 162(1) CrPC, but as mentioned in the proviso to Section 162(1) CrPC it can be used to contradict the testimony of a witness. Smt Dhillo Devi also appeared as a witness before the trial court, and in her cross-examination, she was confronted with her statement to the police to whom she had stated that her son (the accused) had told her that he had killed Seema. On being so confronted with her statement to the police she denied that she had made such a statement.

16. We are of the opinion that the statement of Smt Dhillo Devi to the police can be taken into consideration in view of the proviso to Section 162(1) CrPC, and her subsequent denial in court is not believable because she obviously had afterthoughts and wanted to save her son (the accused) from punishment. In fact in her statement to the police she had stated that the dead body of Seema was removed from the bed and placed on the floor. When she was confronted with this statement in court she denied that she had made such a statement before the police. We are of the opinion that her statement to the police can be taken into consideration in view of the proviso to Section 162(1) CrPC.

17. In our opinion the statement of the accused to his mother Smt Dhillo Devi is an extra-judicial confession. In a very recent case this Court in *Kulvinder Singh* v. *State of Haryana*[6] referred to the earlier decision of this Court in *State of Rajasthan* v. *Raja Ram*[7], where it was held: (*Raja Ram case*[7], SCC p. 192, para 19)

6 (2011) 5 SCC 258 : (2011) 2 SCC (Cri) 608
7 (2003) 8 SCC 180 : 2003 SCC (Cri) 1965

> "*19*. An extra-judicial confession, if voluntary and true and made in a fit state of mind, can be relied upon by the court. The confession will have to be proved like any other fact. The value of the evidence as to confession, like any other evidence, depends upon the veracity of the witness to whom it has been made. The value of the evidence as to the confession depends on the reliability of the witness who gives the evidence. It is not open to any court to start with a presumption that extra-judicial confession is a weak type of evidence. It would depend on the nature of the circumstances, the time when the confession was made and the credibility of the witnesses who speak of such a confession. Such a confession can be relied upon and conviction can be founded thereon if the evidence about the confession comes from the mouth of witnesses who appear to be unbiased, not even remotely inimical to the accused, and in respect of whom nothing is brought out which may tend to indicate that he may have a motive of attributing an untruthful statement to the accused, the words spoken to by the witness are clear, unambiguous and unmistakably convey that the accused is the perpetrator of the crime and nothing is omitted by the witness which may militate against it. After subjecting the evidence of the witness to a rigorous test on the touchstone of credibility, the extra-judicial confession can be accepted and can be the basis of a conviction if it passes the test of credibility."

In the above decision it was also held that a conviction can be based on circumstantial evidence. Similarly in *B.A. Umesh* v. *State of Karnataka*[8] the Court relied on the extra-judicial confession of the accused.

18. No doubt Smt Dhillo Devi was declared hostile by the prosecution as she resiled from her earlier statement to the police. However, as observed in *State of U.P.* v. *Ramesh Prasad Misra*[9]: (SCC p. 363, para 7)

> "*7*. ... the evidence of a hostile witness would not be totally rejected if spoken in favour of the prosecution or the accused, but it can be subjected to close scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence may be accepted."

Similarly in *Sk. Zakir* v. *State of Bihar*[10] this Court held: (SCC p. 16, para 5)

> "*5*. ... It is not quite strange that some witnesses do turn hostile but that by itself would not prevent a court from finding an accused guilty if there is otherwise acceptable evidence in support of the prosecution."

In *Himanshu* v. *State (NCT of Delhi)*[11], this Court held that the dependable part of the evidence of a hostile witness can be relied on. Thus, it is the duty

8 (2011) 3 SCC 85 : (2011) 1 SCC (Cri) 801
9 (1996) 10 SCC 360 : 1996 SCC (Cri) 1278
10 (1983) 4 SCC 10 : 1983 SCC (Cri) 761 : AIR 1983 SC 911
11 (2011) 2 SCC 36 : (2011) 1 SCC (Cri) 593

of the Court to separate the grain from the chaff, and the maxim "falsus in uno falsus in omnibus" has no application in India vide *Nisar Ali* v. *State of U.P.*[12]

19. In the present case we are of the opinion that Smt Dhillo Devi denied her earlier statement to the police because she wanted to save her son. Hence we accept her statement to the police and reject her statement in court. The defence has not shown that the police had any enmity with the accused, or had some other reason to falsely implicate him.

20. We are of the opinion that this was a clear case of murder and the entire circumstances point to the guilt of the accused.

21. The cause of death was opined by Dr. Pravindra Singh, PW 1 in his post-mortem report as death "due to asphyxia as a result of ante-mortem strangulation by ligature". It is evident that this is a case of murder, and not suicide. The body was not found hanging but lying on the ground.

22. The accused made a statement to the SDM, Shri S.S. Parihar, PW 8, immediately after the incident and has signed the same. No doubt he claimed in his statement under Section 313 CrPC that nothing was asked by the SDM but he did not clarify how his signature appeared on the statement, nor did he say that he was forced to sign his statement nor was the statement challenged in the cross-examination of the SDM. The SDM appeared as a witness before the trial court and he has proved the statement in his evidence. There was no cross-examination by the accused although opportunity was given.

23. In his statement under Section 313 CrPC the accused was asked:

> "*Q.8* It is in evidence against you that you were interrogated and arrested vide memo, Ext. PW-11/C and your personal search was conducted vide memo, Ext. PW-11/D and you made a disclosure statement, Ext. PW-7/A and in pursuance thereto you pointed out the site plan of the incident and got recovered an electric wire, Ext. P-1 which was seized by the IO after sealing the same vide memo, Ext. PW-7/B. What do you have to say?"

The reply he gave was as follows:

> "*Ans.* I was wrongly arrested and falsely implicated in this case. I never made any disclosure statement. I did not get any wire recovered nor I was ever taken again to my house."

We see no reason to disbelieve the SDM as there is nothing to show that he had any enmity against the accused or had any other reason for making a false statement in court.

24. The accused had given a statement (Ext. PW-7/A) to the SDM in the presence of PW 11, Inspector Nand Kumar which led to discovery of the electric wire by which the crime was committed. We are of the opinion that this disclosure was admissible as evidence under Section 27 of the Evidence Act, 1872 vide *Aftab Ahmad Anasari* v. *State of Uttaranchal*[2] (para 40) and *Manu Sharma* v. *State (NCT of Delhi)*[13] (SCC paras 234-38). In his evidence

12 AIR 1957 SC 366 : 1957 Cri LJ 550
13 (2010) 6 SCC 1 : (2010) 2 SCC (Cri) 1385

the Police Inspector Nand Kumar stated that at the pointing out of the accused the electric wire with which the accused is alleged to have strangulated his daughter was recovered from under a bed in a room.

25. It has been contended by the learned counsel for the appellant that there was no independent witness in the case. However, as held by this Court in *State of Rajasthan* v. *Teja Ram*[14]: (SCC p. 513, para 20)

> "*20.* ... The overinsistence on witnesses having no relation with the victims often results in criminal justice going awry. When any incident happens in a dwelling house, the most natural witnesses would be the inmates of that house. It is unpragmatic to ignore such natural witnesses and insist on outsiders who would not have even seen anything. If the Court has discerned from the evidence or even from the investigation records that some other independent person has witnessed any event connecting the incident in question, then there is a justification for making adverse comments against non-examination of such a person as a prosecution witness. Otherwise, merely on surmises the court should not castigate the prosecution for not examining other persons of the locality as prosecution witnesses. The prosecution can be expected to examine only those who have witnessed the events and not those who have not seen it though the neighbourhood may be replete with other residents also."

26. Similarly, in *Trimukh Maroti Kirkan* v. *State of Maharashtra*[15] this Court observed: (SCC p. 690, para 13)

> "*13.* ... These crimes are generally committed in complete secrecy inside the house and it becomes very difficult for the prosecution to lead evidence. *No member of the family, even if he is a witness of the crime, would come forward to depose against another family member.* The neighbours, whose evidence may be of some assistance, are generally reluctant to depose in court as they want to keep aloof and do not want to antagonise a neighbourhood family. The parents or other family members of the bride being away from the scene of commission of crime are not in a position to give direct evidence which may inculpate the real accused except regarding the demand of money or dowry and harassment caused to the bride. But, it does not mean that a crime committed in secrecy or inside the house should go unpunished." (emphasis supplied)

27. In our opinion both the trial court and the High Court have given very cogent reasons for convicting the appellant, and we see no reason to disagree with their verdicts. There is overwhelming circumstantial evidence to show that the accused committed the crime as he felt that he was dishonoured by his daughter. For the reason given above we find no force in this appeal and it is dismissed.

28. Before parting with this case we would like to state that "honour" killings have become commonplace in many parts of the country, particularly

14 (1999) 3 SCC 507 : 1999 SCC (Cri) 436 : AIR 1999 SC 1776
15 (2006) 10 SCC 681 : (2007) 1 SCC (Cri) 80

in Haryana, western Uttar Pradesh and Rajasthan. Often young couples who fall in love have to seek shelter in the police lines or protection homes, to avoid the wrath of kangaroo courts. We have held in *Lata Singh case*[5] that there is nothing "honourable" in "honour" killings, and they are nothing but barbaric and brutal murders by bigoted persons with feudal minds. In our opinion honour killings, for whatever reason, come within the category of the rarest of rare cases deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on our nation. This is necessary as a deterrent for such outrageous, uncivilised behaviour. All persons who are planning to perpetrate "honour" killings should know that the gallows await them.

29. Let a copy of this judgment be sent to the Registrars General/Registrars of all the High Courts who shall circulate the same to all the Judges of the Courts. The Registrars General/Registrars of the High Courts will also circulate copies of the same to all the Sessions Judges/Additional Sessions Judges in the States/Union Territories. Copies of the judgment shall also be sent to all the Chief Secretaries/Home Secretaries/Directors General of Police of all States/Union Territories in the country. The Home Secretaries and Directors General of Police will circulate the same to all SSPs/SPs in the States/Union Territories for information.

(2011) 6 Supreme Court Cases 405

(BEFORE MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.)

ARUMUGAM SERVAI . . Appellant;

Versus

STATE OF TAMIL NADU . . Respondent.

Criminal Appeals No. 958 of 2011† with No. 959 of 2011‡,
decided on April 19, 2011

A. **Constitution of India — Arts. 15(2), 17 and 21 — Freedom from discrimination and right to live with dignity — Insulting/hurting anyone's feelings on account of his caste, religion, tribe, language, etc., deprecated — One of the main causes holding up India's progress is linked to mental attitude of Indian society to regard a section of their own countrymen as inferior — This mental attitude is simply unacceptable — SCs, STs, OBCs and Minorities — Generally (Paras 1 and 8)**

Kailas v. *State of Maharashtra*, (2011) 1 SCC 793 : (2011) 1 SCC (Cri) 401, *relied on*

B. **Constitution of India — Arts. 15(2), 17 and 21 — Caste-based bias — Two tumbler system prevalent in many parts of State of Tamil Nadu, where in many tea shops and restaurants, there are separate tumblers for serving tea or other drinks to SCs and non-SCs — Held, is highly objectionable and**

† Arising Out of SLP (Crl.) No. 8084 of 2009. From the Judgment and Order dated 25-1-2008 of the High Court of Madras in Crl. A. No. 536 of 2001

‡ Arising Out of SLP (Crl.) No. 8428 of 2009