



CNR: KAHC010086022024

NC: 2026:KHC:47984-DB
CRL.A No. 308 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 308 OF 2024 (C)

BETWEEN:

VIVEKANANDA
S/O NAGARAJU S.N.,
AGED ABOUT 35 YEARS,
R/AT ARALAKUPPE VILLAGE,
PANDAVAPURA TALUK,
MANDYA-571 427.

...APPELLANT

(BY SRI. S. SHANKARAPPA, ADVOCATE (PH))

AND:

STATE OF KARNATAKA
THROUGH SRIRANGAPATNA PS
REP. BY SPP,
HIGH COURT OF KARNATAKA,
HIGH COURT OF KARNATAKA
COMPLEX,
BANGALORE-560 001.

...RESPONDENT

(BY SRI. RAHUL RAI K., HCGP (PH))

THIS CRL.A. IS FILED U/S 374(2) CR.P.C., PRAYING TO
SET ASIDE THE JUDGMENT AND ORDER ON SENTENCE IN
S.C.NO.5061/2016 ON THE FILE OF THE III ADDL. DISTRICT



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AND SESSIONS JUDGE, MANDYA (AT SRIRANGAPATNA) DATED 22.01.2024 FOR OFFENCES U/S 302, 498A AND SEC. 3 AND 4 OF D.P. ACT AND ACQUIT HIM.

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 24.07.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

This appeal is preferred by the appellant/accused No.1 under Section 374(2) of Cr.P.C, 1973, aggrieved by the judgment of conviction and order on sentence dated 22.01.2024 passed in S.C.No.5061/2016 by the learned III Additional District and Sessions Judge, Mandya, sitting at Srirangapatna, whereby the appellant has been convicted for the offences punishable under Sections 302 and 498A of the Indian Penal Code, 1860 (for short, 'IPC') and Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short, 'D.P. Act').



2. The appellant has sought to set aside the judgment of conviction and order on sentence and consequently to acquit him of the aforesaid offences.

3. The prosecution case has its genesis in the complaint lodged by one Prabhudev N.J., S/o Gosappa, who is the father of the deceased. On the basis of the said complaint dated 15.10.2015, Srirangapatna Police registered FIR in Crime No.590/2015 against three accused persons for the offences punishable under Sections 302, 304B and 34 of the IPC.

4. Upon completion of investigation, the Investigating Officer filed a charge-sheet against accused nos.1 to 3 for the offences punishable under Sections 302, 304B, 498A read with Section 34 of the IPC and Sections 3 and 4 of the D.P. Act. The appellant herein is accused No.1 – Vivekananda, who is the husband of the deceased. Accused No.2 – Nagaraju S.N., is the father-in-law of the



deceased, and accused No.3 – Prema, is the mother-in-law of the deceased.

5. The charges were framed against accused nos.1 to 3 for the offences punishable under section 498A, 302, 304B r/w 34 of IPC and Section 3 and 4 of the D.P.Act.

6. During the course of trial, the prosecution examined 28 witnesses as PWs.1 to 28 out of the 56 witnesses cited in the charge-sheet and produced and marked 51 documents as Exs.P1 to P51. Material Objects Nos.1 to 14 were also marked on behalf of the prosecution.

7. After completion of the prosecution evidence, the incriminating circumstances appearing against the accused in the evidence on record were put to them in their statements recorded under Section 313 of the Cr.P.C. The accused denied the allegations and claimed to be innocent. In support of the defence, accused No.1 examined himself as DW.1 and examined five other



witnesses as DWs.2 to 6. The defence also produced and marked documents at Exs.D1 to D25.

8. Upon appreciation of the oral and documentary evidence on record, the learned trial Court acquitted accused Nos.2 and 3 of all the charges. However, insofar as the appellant/accused No.1 is concerned, the learned trial Court held him guilty of the offences punishable under Sections 302 and 498A of the IPC and Sections 3 and 4 of the D.P. Act. The appellant was, however, acquitted of the charge for the offence punishable under Section 304B of the IPC.

9. For the offence punishable under Section 302 of the IPC, the appellant has been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.50,000/-, and in default of payment of fine, to undergo simple imprisonment for a period of one year. For the offence punishable under Section 498A of the IPC, the appellant has been sentenced to undergo simple



imprisonment for a period of three years and to pay a fine of Rs.10,000/-, and in default of payment of fine, to undergo simple imprisonment for a period of one month. For the offence punishable under Section 3 of the D.P. Act, the appellant has been sentenced to undergo simple imprisonment for a period of five years and to pay a fine of Rs.15,000/-, and in default of payment of fine, to undergo simple imprisonment for a period of one year. For the offence punishable under Section 4 of the D.P. Act, the appellant has been sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.1,000/-, and in default of payment of fine, to undergo simple imprisonment for a period of one year.

10. It is stated that the appellant was arrested on 29.10.2015 and has been in judicial custody since then. Thus, as on the date of consideration of this appeal, he has undergone incarceration of approximately 10 years and 9 months.



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11. It is relevant to note that during the pendency of the appeal, the appellant had filed I.A.No.1/2024 seeking suspension of the sentence and grant of bail. The said application came to be rejected by this Court by order dated 06.06.2024.

Brief Facts of the Case:

12. It is the case of the prosecution that the marriage of the deceased-Vidyarani with accused No.1-Vivekananda was solemnized on 07.02.2010 at Vivekananda Kempegowda Memorial Hall, Metagalli, Mysuru. It is alleged that, at the time of marriage talks, a demand for dowry was made and, accordingly, CW-1, the father of the deceased, gave gold ornaments, silver articles and a sum of Rs.85,000/- for purchase of a motor bike. Gold ornaments were also given to the deceased at the time of her marriage. After the marriage, accused No.1 and the deceased begot a female child.



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13. After about one or two years of the marriage, accused Nos.1 to 3 started subjecting the deceased to physical and mental harassment in connection with the demand for dowry. As the car allegedly agreed to be given at the time of marriage was not provided, accused Nos.1 to 3 are stated to have insisted that the deceased bring a car from her parental house. In this regard, CW-1 allegedly paid a sum of Rs.2,00,000/- to accused No.1 and, by making the said amount as down payment and availing loan from Sundaram Finance, Mysuru, a Maruti Swift car bearing registration No.KA-11-M-7537 was purchased.

14. It is alleged that, even thereafter, accused Nos.1 to 3 demanded that two acres of land standing in the name of CW-1 be registered in favour of the deceased. As the said demand was not complied with, the deceased was allegedly subjected to physical and mental cruelty by the accused. On 14.10.2015, in connection with the Pithrupaksha celebrations, the parents of the deceased



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had been invited to the house. In that connection, accused Nos.1 to 3 allegedly picked up a quarrel with the deceased. Thereafter, when the deceased went to the room situated on the first floor to sleep, accused No.1 followed her and picked up a quarrel with her. It is alleged that accused No.1 assaulted the deceased with his hands and dashed her against the wall, as a result of which she sustained an injury to her right forehead and abrasions on her body. Further, when the deceased fell on the bed, accused No.1 strangled her neck with a veil and caused her death. Thereafter, he changed the bed-sheet and pillow cover which were stained with blood and thereby attempted to screen the evidence of the crime.

Facts as per Complaint :

15. The complainant, in Ex.P.1-complaint dated 15.10.2015, has stated that he has two daughters and a son and that his younger daughter, namely, Vidhyarani, who had studied up to II PUC, was given in marriage in



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the year 2010 to Vivekananda @ Vivek, son of S.N. Nagaraju of Aralakuppe Village, Pandavapura Taluk, and the marriage was solemnized at Kempegowda Choultry, Mysuru. It is alleged that at the time of marriage, at the insistence of Nagaraju and Prema (parents of accused No.1), gold chain, wrist chain, ring, silver plate and four vessels were given to the bridegroom. His daughter has a female child by name Yashika and that for about two years prior to the incident, her husband Vivekananda and his parents Nagaraju and Prema were physically and mentally harassing her by demanding that she bring a sum of Rs.2,00,000/-, a car for her husband's use and also get two acres of land transferred in their favour from her parental family. According to the complainant, his daughter had informed him about the said harassment and, on five or six occasions, elders including Shivakumar, Nagaraju, Narayana, Vasudeva and Venkatesh had convened panchayats at Aralakuppe and in their village and advised the accused not to subject his daughter to



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dowry-related harassment. It is further alleged that, notwithstanding the said panchayats, the harassment continued and, therefore, in the year 2014, the complainant gave a Maruti Swift car bearing registration No.KA-11-M-7537 to his son-in-law as dowry. Even thereafter, the accused continued to demand that his daughter get two acres of land transferred in their favour. The complainant has alleged that on 15.10.2015 at about 7.00 a.m., he received a telephone call informing him that his daughter had been killed as she had failed to bring dowry and asking him to come and take away the dead body. Accordingly, he, along with his relatives, went to Aralakuppe and found Vidhyarani dead, with injuries on her face, neck, forehead and other parts of the body, and her face having turned blue. It is alleged that on the night of 14.10.2015, her husband Vivekananda and his parents Nagaraju and Prema assaulted her with their hands and, on account of her failure to bring money and get the land transferred, subjected her to dowry-related harassment



and caused her death, and thereafter absconded from the place in order to prevent the witnesses from coming to know of the incident.

16. Upon appreciation of the oral and documentary evidence on record, the learned trial Court held that the death of Vidhyarani was homicidal and not suicidal. In arriving at such conclusion, the learned trial Court principally relied upon the medical evidence of PW.22, the Medical Officer who conducted the post-mortem examination. It was noticed that the deceased had sustained 18 ante-mortem injuries and that, after receipt of the chemical examination and histopathology reports, PW.22 had opined that the cause of death was due to compression pressure over the neck. The learned trial Court held that the injuries noticed on the deceased were consistent with the prosecution case of assault and strangulation and rejected the defence theory that the deceased had committed suicide on account of her alleged health condition.



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17. With regard to the allegations of dowry and cruelty, the learned Trial Court held that the prosecution had established that accused No.1 had received dowry at and subsequent to the marriage. It accepted the prosecution case that a sum of Rs.2,00,000/- was paid by the father of the deceased and that the said amount was utilised towards purchase of the Maruti Swift car bearing registration No.KA-11-M-7537. The learned Trial Court further accepted the allegation that, even thereafter, there was a demand that two acres of land standing in the name of the father of the deceased be transferred in favour of the accused. On such appreciation, it held that the prosecution had established the offence punishable under Section 498A of the IPC and the offences under Sections 3 and 4 of the D.P. Act against accused No.1.

18. Insofar as the charge under Section 302 of the IPC is concerned, the learned Trial Court held that accused No.1 had assaulted the deceased and thereafter caused her death by compressing her neck. It was of the view



that the evidence on record established that the death was caused by the overt act of accused No.1 and, consequently, the act constituted the offence punishable under Section 302 of the IPC. Accordingly, accused No.1 was convicted for the offences punishable under Sections 302 and 498A of the IPC and Sections 3 and 4 of the D.P. Act, and acquitted of the charge under Section 304B of the IPC.

19. As regards accused Nos.2 and 3, the learned trial Court held that the evidence on record was insufficient to establish their individual involvement either in subjecting the deceased to harassment or in causing her death. It specifically observed that merely because accused Nos.2 and 3 were the parents of accused No.1, it could not be presumed that they had also subjected the deceased to harassment or participated in her killing. Accordingly, accused Nos.2 and 3 were acquitted of all the offences charged against them.



20. Heard the learned Counsel Sri Shankarappa S., for the appellant and learned High Court Government Pleader Sri Rahul Rai K., for the state and perused the material on record.

21. Learned counsel for the appellant, would contend that the impugned judgment, whereby the appellant has been convicted and sentenced for the offences punishable under Sections 302 and 498A of the IPC and Sections 3 and 4 of the D.P. Act, is contrary to the evidence on record and the facts and circumstances of the case. It is contended that the learned trial Court has failed to properly appreciate the evidence and has arrived at findings which are perverse and unsustainable in law.

22. Learned counsel would contend that the appellant has no criminal antecedents and has been falsely implicated in the present case for reasons unconnected with the alleged occurrence. It is submitted that the



prosecution has failed to establish the allegations against the appellant beyond reasonable doubt.

23. Learned counsel would further contend that the very fact that the learned trial Court has acquitted the appellant of the charge under Section 304B of the IPC assumes significance. According to him, the evidence of the material prosecution witnesses, particularly PWs.1, 2 and 5, does not establish any specific demand for dowry or any consequent harassment or ill-treatment of the deceased. It is argued that these witnesses have not made material allegations supporting the charge of dowry-related cruelty and that the learned trial Court, despite noticing the deficiencies in the prosecution evidence, has proceeded to convict the appellant for the offences under Section 498A of the IPC and Sections 3 and 4 of the D.P. Act without properly appreciating their cross-examination.

24. Learned counsel would contend that there is no direct eyewitness to the alleged occurrence and that the



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entire case of the prosecution rests upon circumstantial evidence. According to him, the prosecution has failed to establish the complete chain of circumstances so as to unerringly point towards the guilt of the appellant and exclude every reasonable hypothesis consistent with his innocence. It is submitted that merely because the appellant and the deceased were residing together, or because the appellant was allegedly last seen in the company of the deceased, the same cannot, in the absence of other incriminating circumstances, constitute sufficient material to hold the appellant responsible for the death. Learned counsel submits that the learned trial Court has failed to properly consider this aspect of the matter.

25. Learned counsel would next contend that the appellant has himself entered the witness box and has examined himself as DW.1, explaining the circumstances relied upon by the prosecution against him. According to the appellant, he had left the house on 14.10.2015 at



about 6.00 p.m., after informing the deceased that he was proceeding to the sugarcane field, as the sugarcane was required to be harvested. It is his specific defence that he was elsewhere during the intervening night of 14.10.2015 and 15.10.2015 and was not present at the scene of occurrence when the alleged incident took place.

26. Learned counsel would submit that the defence version is not a mere assertion of the appellant but is supported by the evidence of DWs.2 to 5. It is contended that their evidence is consistent with the case of the appellant that he had gone to attend to the harvesting and delivery of sugarcane. The appellant has also produced and marked receipts relating to the delivery and weighing of sugarcane at the alemane, including the weight receipts dated 15.10.2015. According to learned counsel, these documents lend substantial corroboration to the defence version and establish that the appellant was present at a place other than the scene of occurrence during the relevant time. It is therefore contended that the learned



trial Court has failed to give due weight to the defence evidence and has rejected the same without assigning cogent reasons.

27. Learned counsel would further contend that the evidence regarding the relationship between the deceased and her parental family and the circumstances prevailing in the matrimonial home has also not been properly appreciated. It is submitted that PW.1, the mother of the deceased, had not visited the house of the deceased at Aralakuppe for about three years prior to the incident. According to learned counsel, PW.1, PW.2 and PW.5 had visited the house of the appellant only on the occasion of the naming ceremony of CW.12, along with CW.1, and thereafter there was no regular interaction which could establish the alleged continuous dowry-related harassment.

28. Learned counsel would further submit that the evidence on record indicates that the deceased had



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developed health-related problems and that she was overweight, weighing approximately 95 kilograms, despite being about 28 years of age. It is contended that this aspect is spoken to by PW.1 and is further supported by the evidence of DW.6, who had treated the deceased for diabetes. According to learned counsel, owing to her health condition, a pregnancy of the deceased was terminated. It is submitted that the deceased was thereafter depressed on account of her apprehension that she might not be able to conceive again, particularly as she desired to have a male child.

29. Learned counsel would contend that the deceased had expressed her displeasure and distress regarding the said circumstances even before her neighbours. It is therefore argued that the possibility of the deceased having taken the extreme step of ending her life on account of her mental and physical condition cannot be ruled out. According to learned counsel, this aspect of the defence has not been properly considered by the



learned trial Court while appreciating the circumstances surrounding the death.

30. Learned counsel would also place reliance on the evidence of PWs.7 to 9, who are stated to be neighbours of the deceased. It is submitted that these witnesses had climbed to the house where the deceased was found lying dead and thereafter brought down the dead body after removing the ligature. According to learned counsel, their evidence and the surrounding circumstances do not support the prosecution theory of homicidal death in the manner alleged and, at the very least, create a reasonable doubt regarding the manner in which the death occurred.

31. On these grounds, learned counsel for the appellant would submit that the prosecution has failed to establish the guilt of the appellant beyond reasonable doubt. It is therefore contended that the appellant is entitled to the benefit of doubt and that the judgment of



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conviction and order on sentence passed by the learned trial Court calls for interference by this Court. Learned counsel accordingly seeks that the appeal be allowed and the appellant be acquitted of the offences for which he has been convicted.

32. Learned Counsel for appellant has placed reliance upon the following judgments :

- a) **Jaikam Khan v. State of Uttar Pradesh**
reported in **(2021) 13 SCC 716.**
- b) **Talari Naresh v. State of Telangana**
reported in **2026 SCC Online 852.**
- c) **Pritinder Singh @ Lovely v. State of Punjab**
reported in **(2023) 7 SCC 727.**
- d) **Pradeep Kumar v. State of Chattisgarh**
reported in **(2023) 5 SCC 350.**
- e) **Anand Ramachandra Chougale v. Sidarai Laxman Chougula and others c/w State of**



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Karnataka v. Sidarai Laxman Chougala and others reported in **(2019) 8 SCC 50.**

f) **Gargi v. State of Haryana** reported in **(2019) 9 SCC 738.**

g) **Sujit Biswas v. State of Assam** reported in **(2013) 12 SCC 406.**

h) **Subhash v. State of Haryana** reported in **(2011) 2 SCC 715.**

i) **Dhanna v. State of Madhya Pradesh** reported in **(1996) 10 SCC 79.**

33. Per contra, learned High Court Government Pleader, supporting the judgment of conviction and order on sentence, would submit that the learned trial Court has considered the entire oral and documentary evidence in its proper perspective. He would contend that the medical evidence clearly establishes that the death of Vidhyarani was homicidal and not suicidal. The evidence of PW.22,



coupled with the ante-mortem injuries noticed during post-mortem examination and the opinion regarding the cause of death, supports the prosecution case that the deceased was subjected to assault and strangulation.

34. Learned HCGP would further submit that the prosecution has established the circumstances relating to the appellant's conduct towards the deceased and the demand for dowry. The evidence regarding payment of Rs.2,00,000/- and the purchase of the Maruti Swift car, as well as the subsequent demand relating to two acres of land, according to him, establishes the ingredients of the offences punishable under Section 498A of the IPC and Sections 3 and 4 of the D.P. Act.

35. Learned HCGP would contend that the absence of an eyewitness to the actual occurrence is not by itself sufficient to discard the prosecution case, since the guilt of the appellant can be established on the basis of circumstantial evidence. According to him, the



circumstances proved by the prosecution, when considered cumulatively, establish the involvement of the appellant in causing the death of his wife.

36. Learned HCGP would submit that the defence evidence led by the appellant has been rightly appreciated and rejected by the learned trial Court. The mere assertion of the appellant that he was elsewhere on the relevant night cannot displace the cogent medical and other evidence adduced by the prosecution. He would further submit that the defence theory regarding the alleged health condition and suicidal tendency of the deceased has not been established so as to create a reasonable doubt regarding the prosecution case and therefore, he submits that the judgment of conviction and order on sentence does not call for interference. Accordingly, he would seek dismissal of the appeal.

37. Learned HCGP has relied upon the judgment of Hon'ble Apex Court in **State of Karnataka v.**



Manjunathgowda & Anr reported in **AIR 2003 SC 809.**

38. The prosecution case, in substance, is that the deceased Vidhyarani was married to accused No.1- Vivekananda on 07.02.2010 and that, at and subsequent to the marriage, demands were made for dowry. The evidence further discloses that, apart from the articles and cash stated to have been given at the time of marriage, a sum of Rs.2,00,000/- was paid by the father of the deceased towards purchase of a car and that the Maruti Swift car bearing registration No.KA-11-M-7537 was thereafter purchased. It is the further case of the prosecution that even thereafter there was a demand that two acres of land belonging to the parental family of the deceased be transferred in favour of the deceased/accused and that the deceased was subjected to physical and mental harassment on account of non-fulfilment of such demand.



39. PW.1-Mangala, the mother of the deceased, has deposed regarding the marriage and the circumstances preceding and following the marriage. Though, according to the learned Sessions Court, her evidence did not inspire confidence insofar as the alleged payment of Rs.1,00,000/- as dowry at the time of marriage was concerned, her evidence regarding the subsequent payment of Rs.2,00,000/- to accused No.1 was found to be reliable. She has stated that the said amount was paid towards the purchase of the car.

40. PW.2-Shivakumar is the son-in-law of the complainant, he has deposed that after the marriage accused No.1 and his family members started harassing Vidyarani and insisted that she bring additional dowry. He has specifically spoken about the payment of Rs.2,00,000/- in February 2015 and the subsequent purchase of the Maruti Swift car bearing registration No.KA-11/M-7537. His evidence further discloses that Vidyarani had herself disclosed to the family about the



harassment and that she was not interested in going back to the house of the accused on account of such harassment.

41. PW.5-Prashantha has also spoken regarding the demand for additional dowry and the payment of Rs.2,00,000/- for purchase of the car. He has stated that, on account of the harassment meted out to Vidyarani, panchayats were convened and, during such proceedings, a further demand relating to land was made.

42. PW.6-Vasudeva has also deposed regarding the marriage negotiations and the subsequent conduct of the accused. According to him, after the birth of the daughter Yashika, accused Nos.1 to 3 demanded a car and property and subjected Vidyarani to harassment, on account of which she was sent to her parental house. He has further stated that panchayats were convened on two occasions and the accused had agreed not to harass her.



43. The evidence of these witnesses has to be considered in the light of Ex.P1-complaint. As noticed earlier, the complainant has specifically alleged that, for about two years prior to the incident, the deceased was being physically and mentally harassed by her husband and his parents in connection with the demand for money, a car and transfer of two acres of land. The complaint also refers to the panchayats convened by the elders in an attempt to resolve the matrimonial dispute and to the subsequent payment of Rs.2,00,000/- and purchase of the car. Thus, the allegation regarding demand for additional dowry and consequent harassment is not an allegation introduced for the first time during the trial.

44. Learned counsel for the appellant has contended that PWs.1, 2 and 5 have not made any consistent and specific allegations regarding demand for dowry or consequent ill-treatment and that the learned Sessions Court failed to properly appreciate their cross-examination. We have carefully considered the said



submission. It is true that there are certain variations in the evidence of these witnesses regarding the quantum and occasion of the demands. The learned Sessions Court itself did not accept every allegation in its entirety. For instance, the alleged payment of Rs.1,00,000/- at the time of marriage was not accepted, whereas the evidence regarding the subsequent payment of Rs.2,00,000/- was found reliable. Such cautious appreciation of the evidence lends assurance to the conclusion arrived at by the learned Sessions Court rather than demonstrating that the evidence was mechanically accepted.

45. The evidence of PW.1 regarding the payment of Rs.2,00,000/- receives corroboration from PW.2 and PW.5. The evidence of PW.28, the Investigating Officer, also discloses that the Maruti Swift car bearing registration No.KA-11/M-7537 was purchased subsequent to the marriage and that the material on record supports the prosecution case that the amount of Rs.2,00,000/- was



paid as down payment towards the purchase of the said car.

46. The subsequent demand relating to the land also finds support from the evidence of PW.5 and PW.6. PW.5 has spoken about the panchayats convened on account of the harassment and the demand for land, while PW.6 has stated that, after the birth of the daughter, the accused demanded a car and property and that panchayats were convened in that regard.

47. Merely because the principal witnesses regarding the matrimonial relationship are relatives of the deceased, their evidence cannot be discarded if, on careful scrutiny, the material portions of their testimony are found to be consistent and receive corroboration from other circumstances on record. In the present case, the evidence of PW.1, PW.2, PW.5 and PW.6, when read together with the contents of Ex.P1 and the documentary material relating to the car, establishes the existence of



demands for additional dowry and the consequent harassment of the deceased.

48. It is also relevant that the prosecution has examined witnesses regarding the panchayats convened in relation to the matrimonial dispute. The evidence of PW.6 is that, on account of the demand for car and property and the resultant harassment, the deceased was sent to her parental house and panchayats were convened, during which the accused agreed not to subject her to further harassment. The existence of such intervention by elders is a circumstance which lends support to the prosecution case regarding the continuing matrimonial discord arising out of the demands.

49. The learned Sessions Court has also considered the evidence of the hostile witnesses and the other circumstances relied upon by the defence. Some of the witnesses examined by the prosecution did not support its case regarding the alleged harassment. However, their



failure to support the prosecution does not render the positive evidence of PWs.1, 2, 5 and 6 unacceptable, particularly when the latter evidence has been found to be consistent on the material aspects and is supported by the contents of Ex.P1 and the circumstances relating to the purchase of the car. The evidence has to be appreciated as a whole and not by isolating individual discrepancies.

50. Insofar as the offence under Section 498A of IPC is concerned, the evidence on record establishes that the deceased was subjected to physical and mental harassment in connection with demands for additional dowry. The demand for the car, payment of Rs.2,00,000/- and subsequent demand relating to property, coupled with the evidence regarding the panchayats convened on account of such harassment, establish that the conduct attributed to accused No.1 was not merely an ordinary matrimonial dispute but amounted to cruelty within the meaning of Section 498A of IPC.



51. We are, therefore, of the considered view that the learned Sessions Court has rightly appreciated the evidence on this aspect. The finding that the prosecution has established the offence punishable under Section 498A of IPC against accused No.1 is based on material evidence and cannot be said to be perverse or contrary to the record. The said finding, therefore, does not call for interference.

52. Sections 3 and 4 of the Dowry Prohibition Act, the evidence discussed above establishes the demand and receipt of dowry, particularly the payment of Rs.2,00,000/- to accused No.1 and the utilization of the said amount towards purchase of the Maruti Swift car. The evidence regarding the articles and gold ornaments given at the time of marriage, though not every part of the prosecution allegation has been accepted, also forms part of the material considered by the learned Sessions Court. The finding under Sections 3 and 4 of the Dowry



Prohibition Act is thus supported by the evidence on record.

53. In view of the foregoing discussion, we find that there is sufficient and cogent material to establish the offences punishable under Section 498A of IPC and Sections 3 and 4 of the Dowry Prohibition Act against accused No.1. The findings recorded by the learned Sessions Court in that regard are just, proper and in accordance with law. Consequently, the conviction of accused No.1 for the offences punishable under Section 498A of IPC and Sections 3 and 4 of the Dowry Prohibition Act is confirmed.

54. We now proceed to consider the conviction of accused No.1 for the offence punishable under Section 302 of IPC. The learned Sessions Court, principally relying upon the medical evidence and the circumstances surrounding the death, has held that the prosecution has established that accused No.1 assaulted Vidharani and



thereafter caused her death by compressing her neck. The learned Sessions Court has also relied upon the failure of the appellant to establish his plea of alibi, his conduct in not immediately informing the police about the unnatural death of his wife, his failure to offer a satisfactory explanation regarding the injuries found on the dead body and his alleged abscondence from the place of occurrence.

55. It is not in dispute that there is no eyewitness to the actual occurrence. The prosecution case, insofar as the offence under Section 302 of IPC is concerned, therefore rests entirely upon circumstantial evidence. In such a case, the circumstances relied upon by the prosecution must be firmly established and must form a complete chain pointing towards the guilt of the accused, excluding every reasonable hypothesis consistent with his innocence. The burden of proving such circumstances remains upon the prosecution and cannot be shifted upon the accused merely because he has failed to establish his defence.



56. The medical evidence of PW.22 establishes that the deceased had sustained several ante-mortem injuries. The post-mortem examination revealed, a pressure mark and bluish contusion over the right side of the neck. PW.22 has opined that the death was due to compression pressure over the neck. Ex.P38 is the subsequent opinion of PW.22 with regard to MO.7-veil, wherein he has stated that the pressure mark and contusion described in injury No.3 could be caused by the said material.

57. The medical evidence, therefore, establishes that the death was not a natural death and that the deceased had sustained compression pressure over the neck. However, the medical opinion has to be appreciated for what it establishes and not beyond it. The opinion that MO.7 could have caused the pressure injury does not, by itself, establish that it was accused No.1 who used the said material for causing the injury or that he intentionally compressed the neck of the deceased.



58. It is also significant that PW.22 has categorically stated that he did not notice a definite ligature mark around the neck. There is also no finding in the post-mortem report regarding fracture of the thyroid cartilage or hyoid bone. Though the absence of a ligature mark around the neck, by itself, cannot lead to a conclusion that the death was suicidal, the said circumstance assumes relevance while examining the precise manner in which the prosecution alleges that the deceased was strangled with MO.7.

59. Further, PW.22 has not stated that the injury over the neck was necessarily caused by MO.7. His evidence is that the said injury could be caused by the material produced before him. The distinction between a possibility and a conclusive medical opinion is material in a case resting upon circumstantial evidence.

60. The evidence of PW.11, PW.13 and PW.14 also requires consideration. These witnesses are neighbours of



the accused and were treated as hostile by the prosecution. However, merely because a witness is declared hostile, his or her entire testimony does not stand effaced from the record. The evidence has to be examined in its entirety and the portion which is found reliable can be taken into consideration. In the present case, PW.11, PW.13 and PW.14 have stated in their evidence that the dead body of Vidyarani was found in a hanging position in her bedroom. Their evidence regarding the manner in which the dead body was found, by itself, cannot be converted into proof of suicide. The proper approach is to consider their testimony along with the medical evidence and the other circumstances on record. The evidence of these witnesses, coupled with the medical evidence, wherein the doctor has not noticed a ligature mark around the neck of the deceased, gives room to doubt whether the death was homicidal in nature.

61. The prosecution has relied upon the recovery of MO.7-veil at the instance of accused No.1. PW.17 and



PW.28 have supported the recovery proceedings. According to the Investigating Officer, pursuant to the information furnished by accused No.1, he led the police and panch witnesses to the first floor of the house and MO.7 was recovered under the mahazar.

62. The recovery of MO.7 is certainly a circumstance which requires consideration. However, the evidentiary value of the said recovery has to be assessed in the context of the other evidence. The recovery establishes, if accepted, that the material object was found pursuant to the information furnished by accused No.1. The medical evidence establishes only that such material could have caused the pressure injury noticed over the neck. There is no further scientific evidence connecting MO.7 with the deceased or establishing conclusively that it was the very material used in causing her death.

63. It is also relevant that the other articles alleged to have been seized in connection with the occurrence do



not provide the necessary corroboration. The prosecution alleged that the blood-stained bed-sheet and pillow covers had been removed and replaced after the incident. However, the medical evidence does not disclose any bleeding injury corresponding to such allegation and the clothes of the deceased were not found to be blood-stained. Therefore, the seizure of MO.8 to MO.12 does not materially advance the prosecution case insofar as the charge under Section 302 IPC is concerned.

64. The learned Sessions Court has also relied upon the conduct of accused No.1 after the incident. It has been noticed that he did not immediately approach the police to report the unnatural death of his wife and that he was not found at the place when the relatives arrived. Such conduct may undoubtedly be taken into consideration as an additional circumstance. However, conduct subsequent to the occurrence cannot, by itself, establish the act constituting murder.



65. Similarly, the plea of alibi set up by accused No.1 has been disbelieved by the learned Sessions Court. We have also considered the evidence adduced by the defence in this regard. Even assuming that the appellant has failed to establish his plea of alibi, such failure does not relieve the prosecution of its primary burden of proving the charge under Section 302 IPC. The prosecution must succeed on the strength of its own evidence and cannot derive the missing link in its chain merely from the weakness of the defence.

66. The prosecution has undoubtedly established that the deceased died an unnatural death in her matrimonial house. It has also established that accused No.1, her husband was subjecting her with cruelty and harassment in connection with dowry demands. Further, antemortem injuries were noticed on the dead body, indicating prior to her death, she was meted with cruelty.



67. The learned counsel for the appellant has placed reliance upon the decisions referred to in the course of his submissions, including *Jaikam Khan v. State of U.P.*, *Talari Naresh v. State of Telangana*, *Pritinder Singh v. State of Punjab*, *Pradeep Kumar v. State of Chhattisgarh* and *Sujit Biswas v. State of Assam* stated *Supra*, to contend that in a case resting on circumstantial evidence every circumstance must be firmly established, the circumstances must form a complete chain and suspicion, however strong, cannot substitute proof. The said principles are well settled and there can be no quarrel with the same.

68. The decision in *Talari Naresh (supra)*, in particular, reiterates that the testimony of a hostile witness is not effaced from the record and that the reliable portion of such testimony can be considered. It also reiterates that, in a case based on circumstantial evidence, the circumstances must form a complete chain consistent only with the guilt of the accused. The factual



circumstances in that case are distinguishable; nevertheless, the principles governing appreciation of evidence stated therein are applicable and have to be borne in mind while assessing the present case.

69. Applying the said principles, we find that the prosecution has established circumstances which raise a strong suspicion against accused No.1. But the crucial link connecting him with the actual act of causing the fatal injury has not been established with the degree of certainty required for sustaining a conviction under Section 302 IPC. The failure of the appellant to establish his alibi or to furnish a satisfactory explanation cannot be treated as a substitute for proof of the act of murder.

70. In a prosecution based on circumstantial evidence, the Court must guard against converting suspicion into legal proof. The circumstances proved in the present case may give rise to a strong inference that accused No.1 was involved in the circumstances leading to



the death of his wife. Nevertheless, the evidence does not conclusively establish that he intentionally caused her death by compressing her neck.

71. We are, therefore, of the considered view that the prosecution has failed to establish beyond reasonable doubt the charge under Section 302 of IPC against accused No.1. The finding of the learned Sessions Court insofar as it holds that the appellant has committed the offence punishable under Section 302 of IPC cannot, therefore, be sustained.

72. At the same time, the above conclusion has to be distinguished from the finding already recorded by us regarding the cruelty and harassment meted out to the deceased in connection with dowry demand. The failure to establish the specific act constituting murder does not, by itself, efface the evidence relating to dowry-related cruelty. The offences under Sections 302 and 304B of IPC have distinct ingredients and, therefore, the evidence has



to be considered separately from the perspective of the respective statutory requirements.

73. We shall now consider whether, notwithstanding the failure of the prosecution to establish the charge under Section 302 IPC, the evidence on record establishes the offence punishable under Section 304B of IPC.

74. Section 304B IPC is attracted when the death of a woman is caused by burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or his relative in connection with, or for, any demand for dowry. The provision has to be read along with Section 113-B of the Evidence Act, which provides for a statutory presumption once the foundational facts are established.



75. In the present case, the marriage of Vidyarani with accused No.1 was solemnized on 07.02.2010 and her death occurred on 15.10.2015. Thus, her death occurred within seven years of marriage. The evidence already discussed also establishes that her death occurred otherwise than under normal circumstances.

76. The remaining and crucial question is whether, soon before her death, Vidyarani was subjected to cruelty or harassment by accused No.1 for or in connection with demand for dowry.

77. On this aspect, the evidence of PWs.1, 2, 5 and 6 assumes significance. As noticed earlier, the evidence establishes the demand for a car, payment of Rs.2,00,000/- and purchase of the Maruti Swift car. There is also evidence regarding a subsequent demand relating to two acres of land and the panchayats convened in connection with the matrimonial dispute. The evidence does not disclose a solitary or isolated demand made



several years prior to the death. On the contrary, the material on record shows that the demand for additional dowry continued during the subsistence of the marriage and that the deceased had complained about such conduct to her parental family and elders. The intervention of elders by way of panchayats is also a circumstance corroborating the existence of continuing matrimonial discord arising from the dowry demands.

78. It is true that the expression "soon before" does not mean that the cruelty or harassment must necessarily have been committed immediately before the death or within any fixed period of time. What is required is a proximate and live link between the effect of the cruelty or harassment based on dowry demand and the death in question. In the present case, the evidence regarding the continuing demand for additional dowry and the consequent harassment, when considered along with the unnatural death of Vidharani in the matrimonial home,



with injuries on her body, establishes the requisite proximity.

79. The fact that the demand was made to the father or other members of the parental family of the deceased does not take the case outside the scope of Section 304B IPC. What is material is whether the demand was for or in connection with dowry and whether the deceased was subjected to cruelty or harassment on account of such demand. The evidence on record establishes that the demands made upon the parental family had a direct bearing upon the treatment meted out to Vidyarani in her matrimonial home.

80. We have already found that the prosecution has established the offence under Section 498A IPC against accused No.1. The same evidence, insofar as it establishes cruelty or harassment for or in connection with demand for dowry, is relevant for determining the foundational facts under Section 304B IPC. However, the conviction under



Section 304B is not being recorded merely because Section 498A has been established; the ingredients of Section 304B are independently examined and are found to be satisfied on the cumulative effect of the evidence.

81. Once the foundational facts contemplated by Section 304B IPC are established, Section 113-B of the Evidence Act requires the Court to presume that such person had caused the dowry death. The presumption is rebuttable. The burden then shifts to the accused to rebut the statutory presumption by bringing on record circumstances sufficient to displace the same.

82. The Hon'ble Apex Court in *Vijay Pal Singh v. State of Uttarakhand*, reported in (2014) 15 SCC 163 relevant paras are extracted hereunder:

"18. In *Muthu Kutty v. State* [*Muthu Kutty v. State*, (2005) 9 SCC 113: 2005 SCC (Cri) 1202] , this Court addressed the issue and held as follows: (SCC pp. 122-23, para 20)



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"20. A reading of Section 304-B IPC and Section 113-B, Evidence Act together makes it clear that law authorises a presumption that the husband or any other relative of the husband has caused the death of a woman if she happens to die in circumstances not normal and that there was evidence to show that she was treated with cruelty or harassed before her death in connection with any demand for dowry. It, therefore, follows that the husband or the relative, as the case may be, need not be the actual or direct participant in the commission of the offence of death. For those that are direct participants in the commission of the offence of death there are already provisions incorporated in Sections 300, 302 and 304. The provisions contained in Section 304-B IPC and Section 113-B of the Evidence Act were incorporated on the anvil of the Dowry Prohibition (Amendment) Act, 1984, the main object of which is to curb the evil of dowry in the society and to make it severely punitive in nature and not to extricate husbands or their relatives from the clutches of Section 302 IPC if they directly cause death. This conceptual difference was not kept in view by the courts



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below. But that cannot bring any relief if the conviction is altered to Section 304 Part II. No prejudice is caused to the accused-appellants as they were originally charged for offence punishable under Section 302 IPC along with Section 304-B IPC."

34. In Alamgir Sani v. State of Assam [Alamgir Sani v. State of Assam, (2002) 10 SCC 277 : 2003 SCC (Cri) 1447] , one of the issues that came up for consideration before this Court on acquittal under Section 302 IPC is whether on account of acquittal under Section 302 IPC, the accused could claim acquittal under Section 304-B IPC. It was clarified by this Court that the acquittal under Section 302 IPC will not lead to automatic acquittal under Section 304-B IPC. Even if an accused is acquitted under Section 302 IPC, if there is evidence available so as to satisfy the ingredients of Section 304-B IPC, the accused can still be convicted under Section 304-B IPC, in case there is no rebuttal of presumption on the death as caused by the accused. To quote: (SCC p. 283, para 15)

"15. We also see no substance in the submission that merely because the appellant had been acquitted under Section 302 IPC the presumption under Section 113-B of the Evidence Act stands automatically rebutted.



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The death having taken place within seven years of the marriage and there being sufficient evidence of demand of dowry, the presumption under Section 113-B of the Evidence Act gets invoked. There is no evidence in rebuttal."

83. The Hon'ble Apex Court in *Bansi Lal v. State of Haryana* reported in (2011) 11 SCC 359, emphasised the mandatory application of the presumption under Section 113-B of the Evidence Act once the ingredients of Section 304-B IPC stood proved :

"19. It may be mentioned herein that the legislature in its wisdom has used the word "shall" thus, making a mandatory application on the part of the court to presume that death had been committed by the person who had subjected her to cruelty or harassment in connection with any demand of dowry. ... Therefore, in view of the above, onus lies on the accused to rebut the presumption and in case of Section 113-B relatable to Section 304-B IPC, the onus to prove shifts exclusively and heavily on the accused. ...



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20. Therefore, in case the essential ingredients of such death have been established by the prosecution, it is the duty of the court to raise a presumption that the accused has caused the dowry death.”

84. In the present case, the defence theory of suicide on account of the alleged health problems of the deceased has not been established. The evidence of DW.6 does not furnish satisfactory medical material to establish that the deceased was suffering from depression or any such condition which would furnish a credible explanation for her death. The plea of alibi has also not been established. There is, therefore, no satisfactory rebuttal of the statutory presumption arising under Section 113-B of the Evidence Act.

85. It is necessary to emphasize that the presumption under Section 113-B does not proceed on the basis that the husband must necessarily have physically caused the death. The statutory scheme is intended to



address circumstances where a married woman dies otherwise than under normal circumstances and the prosecution establishes that, soon before her death, she was subjected to dowry-related cruelty or harassment. The Supreme Court has recognized the distinction between direct participation in causing death, which may attract Section 302 IPC, and the statutory presumption operating in a dowry death case under Sections 304B IPC.

86. Thus, the acquittal of accused No.1 of the charge under Section 302 IPC does not, by itself, render the evidence relating to dowry death unavailable for consideration. The two offences are distinct. Where the evidence does not establish the individual act of murder but establishes the statutory ingredients of dowry death, the Court is required to examine the latter offence independently. The Supreme Court has specifically held that acquittal under Section 302 does not automatically result in acquittal under Section 304B where the



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ingredients of the latter offence are established and the statutory presumption remains unrebutted.

87. In the present case, therefore, we find that the prosecution has established: firstly, that Vidyarani died otherwise than under normal circumstances; secondly, that her death occurred within seven years of her marriage; thirdly, that accused No.1 subjected her to cruelty and harassment in connection with demand for dowry; and fourthly, that such cruelty and harassment continued in close proximity to her death. The statutory presumption under Section 113-B of the Evidence Act consequently arises against accused No.1.

88. We therefore find that, though the prosecution has failed to establish beyond reasonable doubt that accused No.1 intentionally caused the death of Vidyarani so as to attract Section 302 IPC, the evidence establishes the ingredients of dowry death punishable under Section 304B IPC. The finding under Section 302, therefore,



requires to be interfered with and the conviction requires to be appropriately modified.

89. In this regard, we also find support from the principle stated by the Hon'ble Supreme Court in *Jasvinder Saini v. State (Government of NCT of Delhi)* reported in (2013) 7 SCC 256, wherein it has been held that if the main charge of murder is not proved against the accused at the trial, the Court can look into the evidence to determine whether the alternative charge of dowry death punishable under Section 304B is established. The ingredients constituting the two offences are different, thereby demanding appreciation of evidence from the perspective relevant to such ingredients.

90. The present case stands on an even clearer footing inasmuch as accused No.1 was originally charged with the offence under Section 304B IPC and had full opportunity during the trial to meet the said allegation. The evidence relating to dowry demand, cruelty, the



circumstances of death and the defence put forward by the appellant was adduced in the course of the same trial. Consequently, consideration of the offence under Section 304B does not introduce a new factual allegation or cause prejudice to the appellant.

91. The distinction between the two offences is also material in the present case. For Section 302, the prosecution was required to establish beyond reasonable doubt the culpable act of accused No.1 in causing the death. That link has not been satisfactorily established. For Section 304B, once the statutory foundational facts are established and the presumption under Section 113-B arises, the question is whether the accused has rebutted the statutory presumption. On the evidence available, such rebuttal has not been made out.

92. The Hon'ble Apex Court in *Satbir Singh v. State of Haryana*, reported in (2021) 6 SCC 1, wherein it is held that:



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" xxx

38.2. The prosecution must at first establish the existence of the necessary ingredients for constituting an offence under Section 304-B IPC. Once these ingredients are satisfied, the rebuttable presumption of causality, provided under Section 113-B of the Evidence Act operates against the accused.

38.3. The phrase "soon before" as appearing in Section 304-B IPC cannot be construed to mean "immediately before". The prosecution must establish existence of "proximate and live link" between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives.

38.4. Section 304-B IPC does not take a pigeonhole approach in categorising death as homicidal or suicidal or accidental. The reason for such non-categorisation is due to the fact that death occurring "otherwise than under normal circumstances" can, in cases, be homicidal or suicidal or accidental....."

93. We accordingly hold that the prosecution has failed to prove the guilt of accused No.1 for the offence



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punishable under Section 302 IPC beyond reasonable doubt. However, the prosecution has established the offence punishable under Section 304B IPC. The conviction under Section 302, therefore, deserves to be set aside and modified to one under Section 304B IPC.

94. Consequently, the conviction of accused No.1 for the offences punishable under Section 498A IPC and Sections 3 and 4 of the Dowry Prohibition Act is confirmed. The conviction under Section 302 IPC is set aside and is modified to one under Section 304B IPC.

95. Insofar as the sentence is concerned, Section 304B IPC prescribes imprisonment which shall not be less than seven years but may extend to imprisonment for life. The learned Sessions Court had originally imposed imprisonment for life under Section 302 IPC. Since the conviction is now modified to Section 304B IPC, the sentence requires to be considered afresh in accordance with law, bearing in mind the circumstances of the case



and the period of incarceration already undergone by the appellant.

96. We have also considered the authorities relied upon by learned counsel for the appellant. The said decisions reiterate the settled principles that suspicion cannot replace proof, that the prosecution must establish its case on the strength of its own evidence, that the burden under Section 106 of the Evidence Act cannot be used to fill gaps in the prosecution case and that the circumstances in a case based on circumstantial evidence must form a complete chain. We have applied those principles while setting aside the conviction under Section 302 IPC. However, those principles do not displace the statutory presumption arising under Section 113-B once the foundational requirements of Section 304B IPC are independently established. The evidence relating to dowry-related cruelty and the circumstances of death has, therefore, been considered separately for the purpose of determining the offence under Section 304B IPC.



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97. For the reasons stated above, the following:

ORDER

- i. Appeal is ***allowed in part.***
- ii. The judgment and order dated 22.01.2024 passed in S.C.No.5061/2016 by the learned III Additional District and Sessions Judge, Mandya, sitting at Srirangapatna, insofar as Convicting and sentencing the appellant/accused No.1 for the offence punishable under Section 302 of IPC is ***set aside.***
- iii. The appellant/accused No.1 is convicted for the offence punishable under Section 304B of IPC and he is sentenced to undergo rigorous imprisonment for 10 years and to pay fine of Rs.50,000/-, in default of payment of fine, shall undergo simple imprisonment for one year.



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- iv. The judgment and order, insofar as convicting and sentencing the appellant/accused No.1 for the offences punishable under Section 498A of IPC and Sections 3 and 4 of the Dowry Prohibition Act,1961 is ***confirmed***.
- v. All the sentences shall run concurrently.
- vi. The appellant/accused No.1 is entitled to the benefit of set-off under section 428 of Cr.P.C. (468 of BNSS).

The Registry to communicate this order to the concerned prison authorities.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(G BASAVARAJA)
JUDGE**