



CNR: KAHC010108582019

NC: 2026:KHC:42880-DB
CRL.A No. 308 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.308 OF 2019

BETWEEN:

1. STATE OF KARNATAKA,
BY. DY.S.P. SOMWARPET SUB DIVISION,
KUSHALANAGAR, KODAGU DISTRICT,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

...APPELLANT

(BY SRI. THEJESH P., HCGP)

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

AND:

1. MOHAMMED RAFIQ,
S/O. ABDUL REHAMAN,
AGED ABOUT 39 YEARS,
AUTO DRIVER.
2. SMT. S. SHAKEELA BANU,
W/O. ABDUL REHAMAN,
AGED ABOUT 52 YEARS,
HOUSE WIFE.
3. ABDUL GHANI,
S/O. ABDUL NABI,



NC: 2026:KHC:42880-DB
CRL.A No. 308 of 2019

CNR: KAHC010108582019

AGED ABOUT 77 YEARS,
CYCLE REPAIRER.

ALL ARE RESIDENTS OF NEW MUNICIPALITY,
KODLIPET, SOMWARPET TALUK,
KODAGU DISTRICT-571236.

...RESPONDENTS

(BY SRI. ABUBACKER SHAFI, ADVOCATE FOR R1 TO R3)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF CR.P.C PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 22.09.2018 PASSED BY THE COURT OF THE SESSIONS JUDGE, KODAGU AT MADIKERI IN S.C.NO.94/2013 AND 95/2013 ACQUITTING THE RESPONDENTS/ACCUSED OF THE OFFENCES PUNISHABLE UNDER SECTIONS 498A, 306, 304B OF IPC AND SECTIONS 3 AND 6 OF DOWRY PROHIBITION ACT R/W SECTION 34 OF IPC.

THIS APPEAL COMING ON FOR FINAL HEARING THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

This matter is listed for final hearing. Heard the learned High Court Government Pleader appearing for the appellant/State and the learned counsel for the respondents/accused.



2. The factual matrix of the case of the prosecution is that on 17.11.2011, accused No.1 married the deceased Thabassum Banu at Holenarasipura in accordance with Muslim customs and after one month of the marriage, with a common intention, accused No.1 being the husband, accused No.3 being the mother-in-law of the deceased and accused No.4 being the maternal grandfather of accused No.1, were treating the deceased with mental and physical cruelty of such a nature as was likely to drive her to commit suicide. That on 14.06.2012, the victim committed suicide by hanging herself in the matrimonial house. It is the case of the prosecution that she had taken the decision of committing suicide within a span of seven years of marriage. The prosecution also invoked the offences under Sections 3 and 6 of the Dowry Prohibition Act that at the time of marriage they demanded an amount of Rs.1,05,000/- in cash and 26 grams of gold and accepted the same from the parents of the deceased and even after the marriage also, they demanded additional dowry. Based on the complaint, the police have registered the case and investigated the matter and recorded the statement of witnesses and filed



NC: 2026:KHC:42880-DB
CRL.A No. 308 of 2019

CNR: KAHC010108582019

the charge-sheet by collecting the post mortem report and other documents.

3. The prosecution in order to prove the case, examined P.W.1 to P.W.20 and also got marked the documents at Exs.P.1 to 21(a). The statement of P.W.3 was confronted and marked as Ex.D.1 and M.O.1 to M.O.4 are marked. The Trial Court having considered the material available on record, particularly taking note of the inconsistencies in the evidence of P.Ws.1, 3 and 19 as well as P.W.6 to P.W.9 and P.W.10 to P.W.14 turned hostile partly and not supported the case of the prosecution and hence, comes to the conclusion that on going through the entire evidence, the prosecution fails to prove the case of demand of dowry and acceptance as well as subjecting her for cruelty. The demand and acceptance is also not consistent and some of the witnesses deposes that demand was made to the tune of Rs.5,00,000/- and the same was not found in the complaint, which is marked before the Court as Ex.P.1. The evidence of P.Ws.1, 3 and 19 is also inconsistent and the evidence of P.W.6 to P.W.9 is similar and omnibus statement and particular incident of assault or causing any



CNR: KAHC010108582019

injuries, nothing is placed on record and hence, comes to the conclusion that the material placed before the Court does not connect the accused persons to invoke the offences which have been invoked against them.

4. Being aggrieved by the judgment of acquittal, the present appeal is filed before this Court.

5. The main contention of the learned High Court Government Pleader appearing for the appellant/State is that the Trial Court committed an error in not appreciating the material witnesses' evidence P.Ws.1, 3, 6, 9 and 19, who have clearly deposed that at the time of marriage, the accused persons demanded dowry in cash and also gold and they accepted the same. The prosecution had clearly proved that there was a dowry demand and the demand was met by the complainant. The learned counsel would vehemently contend that the Trial Court erred in holding that there was no evidence insofar as the harassment to the deceased demanding additional dowry. The prosecution witnesses have clearly deposed that the husband of the deceased, along with others, was demanding the deceased to bring Rs.5,00,000/- as



CNR: KAHC010108582019

additional dowry and the same has been proved by the prosecution by tendering the evidence of P.Ws.1, 3, 6, 9 and 19. The Trial Court also failed to appreciate the evidence of P.W.10 and P.W.11 independent witnesses, who are the Secretary of Tippu Sangha and they stated that Panchayath was held with regard to the dispute between the husband and wife. Though they have not supported the case in totality, but their evidence is consistent with regard to the Panchayath was held when she was not able to bear the torture. The evidence of P.W.6 to P.W.9 discloses that the deceased was subjected to harassment and earlier also made an attempt to commit suicide by consuming the tablets. The learned counsel also vehemently contend that death was taken place within seven years of marriage and presumption as provided under Section 113B of the Indian Evidence Act ought to have been drawn by the Trial Court, but the Trial Court fails to consider the same.

6. Per contra, the learned counsel for the respondents/accused would vehemently contend that there is no dispute that marriage was taken place in the month of November 2011 and death was taken place on 14.06.2012.



CNR: KAHC010108582019

But in order to invoke the offences under Sections 304B and 306 of IPC and also Sections 3 and 4 of the Dowry Prohibition Act, there must be a cogent evidence before the Court and no such cogent evidence is available before the Court. The Trial Court has taken note of the contradictions in the evidence of the prosecution witnesses regarding demand of dowry and payment of amount. Some of the witnesses speaks about that dowry amount and gold ornaments were given at the time of marriage and other witnesses speaks about that money was given prior to the marriage and none of the witnesses speaks about the specific incident of harassment and subjecting her for torture. Except the omnibus statement of the witnesses, nothing is placed on record. All these factors were taken note of by the Trial Court while considering the material on record. The prosecution also relies upon the evidence of P.W.10 to P.W.14 and their evidence is also very clear that no such specific event of harassment is complained with them and only prior to taking the extreme step of committing suicide, a panchayath was held. Hence, no ground is made out to interfere with the findings of the Trial Court.



CNR: KAHC010108582019

7. Having heard the learned High Court Government Pleader appearing for the appellant/State and the learned counsel for the respondents/accused and taking note of material available on record, the points that would arise for the consideration of this Court are:

- (i) Whether the Trial Court committed an error in acquitting the accused in coming to the conclusion that the evidence of the prosecution witnesses does not corroborate with each other and whether such finding requires interference of this Court?
- (ii) What order?

Point No.(i):

8. Having considered the grounds urged in the appeal memo and also the oral submission of the learned High Court Government Pleader and the learned counsel for the respondents, the Court has to take note of the specific charges levelled against the accused persons. The main allegation against the accused persons is that at the time of marriage they demanded an amount of Rs.1,05,000/- and also 26 grams of gold and the same was given and subsequently, when the



NC: 2026:KHC:42880-DB
CRL.A No. 308 of 2019

CNR: KAHC010108582019

deceased was unable to bear the cruelty and torture, she took the extreme step of committing suicide on 14.06.2012. It is also the case of the prosecution that there was a demand and acceptance of dowry and death was also taken place within seven years of the marriage.

9. Having considered the accusations made in the charge-sheet and also the material available on record, there is no dispute with regard to the marriage of the deceased and accused No.1 was solemnized on 17.11.2011. It is also not in dispute that she committed suicide on 14.06.2012 in the matrimonial house. It is also not in dispute that the death was taken place within seven years of the marriage and also there was a presumption under Section 113B of the Indian Evidence Act. In order to prove the charges levelled against the accused persons, the prosecution mainly relies upon the evidence of P.Ws.1, 3, 6 to 9 and independent witnesses P.W.10 to P.W.14. No doubt, P.W.10 to P.W.14, being the President and members of Tippu Sangha, have not supported the case of the prosecution in entirety, but they only say that when they approached Tippu Sangha when the victim made an attempt to



commit suicide by consuming the tablet, a panchayath was held. There is no dispute with regard to the said panchayath. But with regard to the cruelty as well as the demand of additional dowry subsequent to the marriage, none of the witnesses speaks about the particular incident of subjecting her for cruelty and torture. Except the oral and omnibus statement of P.W.6 to P.W.9 that there was harassment and torture, none of the witnesses pointed out the particular date when she was subjected to torture. Even there is no material before the Court that she was subjected to assault and treatment was taken. Merely because death was taken place within seven years of the marriage, the same cannot be a ground to invoke Section 304B of IPC and there must be a material before the Court. The evidence of the witnesses is inconsistent with regard to the demand and payment of Rs.1,05,000/- and 26 grams of gold at the time of marriage. Some of the witnesses deposes before the Court that dowry amount and gold ornaments were given at the time of marriage and the evidence of P.Ws.1, 3 and 19 are contrary to each other with regard to the payment of Rs.1,05,000/- is concerned. There is no consistent evidence



CNR: KAHC010108582019

before the Court regarding demand and who were all present at the time of the demand and at the time of acceptance.

10. Apart from that, the other witnesses deposes before the Court that the accused persons demanded an additional amount of Rs.5,00,000/- subsequent to the marriage and the same is missing in the complaint, which is marked as Ex.P.1. No such averment is made in the complaint that demand was made to the tune of Rs.5,00,000/- subsequent to the marriage. In the complaint, it is specifically stated that after the marriage, for about one month they looked after her very well, but thereafter, differences were arisen between the parties. But P.W.6 to P.W.9 in their evidence says that they were cordial for about 3 to 6 months. Thereafter, there were quarrels and the accused were assaulting and not providing food to the deceased and this is the common evidence of P.W.6 to P.W.9. In the complaint, it is stated that they were cordial for about one month, but the evidence of these witnesses is that they were happy for about 3 to 6 months. The death was taken place within a period of seven months of the marriage and when such evidence is available before the Court and



though claims that they demanded additional dowry of Rs.5,00,000/- and in order to substantiate the same, nothing is placed on record and there was no such averment in the complaint at Ex.P.1 that demand was made to the tune of Rs.5,00,000/-.

11. It is also not in dispute that she made an attempt for suicide earlier also by consuming the tablet, but nothing is placed before the Court with regard to the proximity to the cause of death is concerned. On the date of committing suicide, there was no any incident of quarrel or assault or any act done by the accused. To invoke Section 306 of IPC also there must be a proximity to the cause of death. Merely because she committed suicide in the matrimonial house, there cannot be a presumption unless material is placed. There is no material before the Court that a particular incident led her to take the extreme step of committing suicide and none of the witnesses speaks about the proximity to the cause of death. There are inconsistencies in the evidence of the prosecution witnesses P.Ws.1, 3 and 19 with regard to the demand and acceptance of dowry amount. On going through the evidence of



CNR: KAHC010108582019

P.W.10 to P.W.14 coupled with the evidence of P.W.6 to P.W.9, it clearly shows that there was difference of opinion between accused No.1 and the deceased, as the accused was talking with ladies in the autorickshaw and he was talking with ladies in mobile phone. It appears that it has led the deceased to take a decision to commit suicide. But the prosecution fails to prove the specific incident of subjecting her for cruelty and torture. P.W.6 to P.W.9 deposes before the Court that she was not provided with food and the same is an improvement during the course of evidence and the same is not found in the contents of the complaint. No doubt, the contents of the complaint is not an encyclopedia, but at least what made her to take the extreme step of committing suicide should have been stated in the complaint at Ex.P.1.

12. In the complaint only an omnibus allegation is made that the accused persons subjected her for cruelty and the same was informed over the phone. It is also stated in the complaint that a panchayath was held. But no such panchayath details were given in the complaint or in the evidence of any of the witnesses except stating that they



approached Tippu Sangha when an attempt of suicide was made earlier by the deceased by consuming the tablet. The evidence of P.W.10 to P.W.14 is very clear that when such an attempt was made, they called and advised them. These factors will not lead to come to a conclusion that there was cruelty and torture and also demand of additional dowry. With regard to the demand of additional dowry of Rs.5,00,000/- is concerned, there is inconsistency in the evidence of the witnesses and the same is also not found in the complaint. Ex.P.14 post mortem report is also very clear that cause of death is on account of asphyxia as a result of hanging. No doubt, hanging was taken place in the matrimonial house of the deceased and the same does not lead to convict the accused persons for the offence punishable under Sections 498A, 306 and 304B of IPC and the ingredients of these offences are not found in the case on hand. When such materials were assessed by the Trial Court by considering the same, rightly comes to the conclusion that the evidence of the prosecution witnesses not corroborates with each other and there are inconsistencies in the evidence of the prosecution witnesses. When such a



CNR: KAHC010108582019

reasoned order is given by the Trial Court, we do not find any ground to interfere with the findings of the Trial Court and the same not comes within the principles of the judgment of the Apex Court in the case **MALLAPPA AND OTHERS v. STATE OF KARNATAKA** reported in **(2024) 3 SCC 544** and while reversing the judgment of acquittal into conviction, there must be cogent and convincing evidence and only if perversity is found, the Court can reverse the same. Hence, we answer the point in the negative.

Point No.(ii):

13. In view of the discussions made above, we pass the following:

ORDER

The appeal is dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

**Sd/-
(B.PRAMOD)
JUDGE**

MD
List No.: 1 Sl No.: 12