

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

PRESENT

**THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND
THE HON'BLE MR. JUSTICE G BASAVARAJA**

CRIMINAL APPEAL NO.976 OF 2018

c/w

CRIMINAL APPEAL NO.62 OF 2018

IN CRL. APPEAL 976/2018

BETWEEN:

STATE OF KARNATAKA BY
THE POLICE INSPECTOR, C.I.D.,
BENGLAURU
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
BENGALURU-01

...APPELLANT

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

AND:

1. B D JAYENDRA
S/O B S DOMBAIAH
AGED ABOUT 37 YEARS,
MECHANIC,
NAKURU SHIRANGALA VILLAGE-571237
2. T G SUNITHA
W/O B D JANARDHANA,
TEACHER, 7TH HOSKOTE,
NAKURU SHIRANGALA VILLAGE-571237
3. B D JANARDHANA
S/O DOMBAIAH
AGED ABOUT 45 YEARS,

BUSINESS
NAKURU SHIRANGALA VILLAGE,
SUNTICOPPA-571237.

...RESPONDENTS

(BY SRI. V. SRINIVAS, ADV. FOR R1 TO R3.)

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C BY THE STATE P.P. FOR THE STATE PRAYING TO GRANT LEAVE TO FILE AN APPEAL AGAINST THE JUDGEMENT AND ORDER DATED 28.12.2017 PASSED BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, KODAGU, MADIKERI IN S.C.NO.8/2011 IN SO FAR AS ACQUITTING THE ACCUSED NO.1 U/S 304(B) AND 302 OF IPC AND U/S 3,4 AND 6 OF DOWRY PROHIBITION ACT AND ACQUITTING THE ACCUSED NO.3 AND 4 FOR THE OFFENCE P/U/S 498-A,304-B,302 AND 306 R/W 34 OF IPC AND SECTION 3,4 AND 6 OF DOWRY PROHIBITION ACT.

IN CRL. APPEAL 62/2018

BETWEEN:

JAYENDRA B D
S/O B S DOMBAIAH
AGED ABOUT 30 YEARS,
MECHANIC,
NAKURA SHIRANGALA VILLAGE,
SUNTICOPPA.

...APPELLANT

(BY SRI. V. SRINIVAS., ADV.)

AND:

THE STATE OF KARNATAKA
BY THE POLICE INSPECTOR C.I.D.,
BENGALURU
REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
BANGALORE - 560001.

...RESPONDENT

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

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO SET ASIDE THE ORDER OF CONVICTION DATED 28.12.2017 PASSED BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, KODAGU, MADIKERI IN S.C.NO.08/2011 - CONVICTING THE APPELLANT/ACCUSED NO.1 FOR THE OFFENCE P/U/S 498(A) AND 306 OF IPC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 04.06.2026 AND COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT, DELIVERED THE FOLLOWING:

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

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE G BASAVARAJA)

1. Both these appeals arise out of Judgment of conviction and Order on sentence dated 28th December, 2017 passed in SC No.8 of 2011 by the I Additional District & Sessions Judge, Kodagu at Madikeri (for short hereinafter referred to as "the trial Court").

2. State has preferred Criminal Appeal No.976 of 2018, challenging the acquittal of accused No.1 of offences punishable under Sections 304-B and 302 of IPC and Sections 3, 4 and 6 of Dowry Prohibition Act, 1961, and also challenging the acquittal of accused 3 and 4 for offences punishable under Sections 498-A, 304-B, 302,

306 read with 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act, 1961.

3. Criminal Appeal No.62 of 2018 is preferred by accused No.1-B.D.Jayendra, challenging the conviction and sentence for the offence under Section 498-A and 306 of Indian Penal Code.

4. For the sake of convenience, parties in these appeals are referred to as per their status and rank before the trial Court.

5. Brief facts leading to these appeals are that the Police Inspector, CID Police, Bangalore, submitted charge-sheet against accused 1 to 4 for offences under Sections 498-A, 304-B and 306 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act, 1961. It is alleged by the prosecution that accused No.1 married Jayanti, who is the second daughter of CW1-B.S. Vishwanath on 7th May, 2009 at Kote Mahila Samaja, Madikeri. During the marriage talks, accused No.4, who is the elder brother of accused No.1, demanded 100 grams of gold and ₹50,000/- cash as dowry and it was decided that the

dowry of ₹25,000/- in cash and mangalya chain, ring, nose-stud would be given at the time of marriage and the same were given to the accused. After the marriage, the said Jayanti started living with accused 1 to 4 and Dombaiah, who is the father of the accused, in his house at Nakuru Shirangala Village. After three months of marriage, accused 1 to 4 started giving mental and physical harassment to Jayanti asking her to bring ₹50,000/- as dowry from her parents' house. When Jayanti came to the house of CW1, about 20 days prior to Huttari festival, she informed the same to her parents and her sister Shobha. Thereafter, on 3rd December, 2009, Jayanti came along with accused No.1 to the house of CW1 for Huttari festival. When the parents of Jayanti asked accused No.1 as to why he was harassing their daughter, accused No.1 demanded further dowry of ₹50,000/-. Jayanti took hand loan of ₹25,000/- from CW4-Janardhan and accused No.1 went back along with Jayanti and her youngest sister Shobha to his village. On 13th December, 2009 at about 5.00 pm, accused No.1 called CW1 over phone and informed him that Jayanti was

not keeping well since he had physically assaulted her twice after having a quarrel with her as she had alleged that he was having an illicit relationship with accused No.3. On 14th December, 2009 at about 8:20 pm, accused No.1 again called CW1 over phone and informed that his daughter is serious and requested him to come immediately. CW1, along with his family members and neighbours, came to the house of accused No.1, wherein, they found the body of Jayanti hanging from an iron pipe in the bedroom with a saree tied around her neck. There were injuries on her hands and ant-bites on her face and bleeding below her waist. They came to know that the deceased had committed suicide, unable to tolerate the mental and physical harassment given by accused 1 to 4.

6. After filing the charge-sheet, case was registered in CC No.427 of 2010 and after committal of the case to the Court of Sessions, the same was registered as SC No.8 of 2011. All the accused were enlarged on bail. After committal of the case, accused No.2 passed away and hence proceedings against accused No.2 was abated.

Upon hearing on charges, trial Court framed charges against accused 1, 3 and 4. Having understood the same, accused pleaded not guilty and claimed to be tried.

7. To prove the guilt of the accused, prosecution has examined 22 witnesses as PW1 to PW22 and marked 28 documents as Exhibits P1 to P28 and 20 material objects were marked as MOs1 to 20. On closure of prosecution side evidence, statements of the accused under Section 313 of Cr.PC. were recorded. Accused have totally denied the evidence of prosecution witnesses and have led defence evidence as DW1 to DW3 and marked 29 documents as Exhibits D1 to D29. After hearing the arguments on both sides, the trial Court acquitted accused 3 and 4 of the offences punishable under Sections 498-A, 304-B, 302, 306 read with 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act. However, the trial Court has convicted accused No.1 for the offences punishable under Sections 498-A and 306 of Indian Penal Code.

8. Being aggrieved by the judgment of conviction and order on sentence, accused No.1-B.D. Jayendra has preferred Criminal Appeal No.62 of 2018. State has preferred Criminal appeal No.976 of 2018, challenging the judgment of acquittal for offences punishable under Sections 498-A, 304-B, 302, 306 read with 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act.

9. Sri V. Srinivas, learned Counsel appearing on behalf of appellant/accused, would submit that the judgment of conviction and order on sentence passed by the trial Court is opposed to law, facts, circumstances and probabilities of the case. The same is not sustainable under law or on facts, and is liable to be set aside in limine. The learned Counsel would submit that the Sessions Judge has not properly appreciated the contradictions pointed out by the appellant and hence, has erred in convicting the appellant. The trial Court has failed to notice the admission made by PW1 during cross-examination that he has not given dowry to the appellant

either before or after the marriage. The trial Court has also failed to notice that PW1 has clearly admitted that PW4 does not have the capacity to give ₹25,000/- and therefore, the conviction for offence under Section 498-A of Indian Penal Code is bad in law. Though the trial Court, at paragraph 56, has held that the evidence of PWs1 to 12 with regard to dowry harassment caused to the deceased is general in nature, inconsistent and not reliable, there is no cogent evidence to hold that the accused 1, 3 and 4 had harassed the deceased by demanding further dowry and PW4 had given ₹25,000/- to accused No.1 through the deceased, but has erred in convicting the appellant for offence under Section 498-A of Indian Penal Code.

10. The learned counsel further contended that the trial Court has also erred in convicting the appellant under Section 306 of Indian Penal Code when there is no allegation either in the complaint, in the charge-sheet or in the deposition of any of the witnesses regarding abetment to suicide. The trial Court has failed to notice that PW1 has admitted that there was a demand for separate

residence by the deceased and for non-acceding to the demand there was an attempt to commit suicide earlier, which was prevented by the appellant and therefore, the Court should have drawn an inference and should have acquitted the appellant. There are no grounds to convict the accused for offence under Section 498-A and 306 of Indian Penal Code. The trial Court has completely brushed aside the defence evidence, though sufficient evidence was placed on record to show that the deceased was suffering from depression.

11. The learned counsel further contended that, the trial Court has further erred in invoking presumption under Section 113A of Indian Evidence Act, despite the prosecution having failed to prove the essential ingredients of Sections 498-A and 306 of Indian Penal Code. He would further submit that the trial Court has been swayed by the emotions instead of the evidence on record and therefore, the conviction order is liable to be set aside. There are serious infirmities, irreconcilable contradictions, material improvements, omissions and inconsistencies in

the evidence of witnesses. Further, learned Counsel would submit that there are no grounds to interfere with the judgment of acquittal passed by the trial Court. On all these grounds, it is sought to allow the appeal.

12. To substantiate his arguments, the learned Counsel placed reliance upon the following decisions:

1. STATE OF HIMACHAL PRADESH V. MADAN GOPAL - 2025 SUPREME (SC) 225;
2. SHER SINGH @ PARTAPA V. STATE OF HARYANA - 2015 AIR SCW 716;
3. UDE SINGH V. STATE OF HARYANA - 2019 17 SCC 301;
4. PUNIT ALIAS PUNIT KUMAR V. SMY. JAYALAKSHMI - 2025 SUPREME (ONLINE) (KAR) 19986;
5. BASAVARAJA V. STATE OF KARNATAKA - 2025 SUPREME (KAR) 1647; AND
6. CRL.A.NO.712 OF 2014 DECIDED ON 4TH DECEMBER, 2025 (SATISH & ANOTHER v. STATE OF KARNATAKA)

13. On the other hand, Sri Rahul Rai K., learned High Court Government Pleader appearing for the appellant in Criminal Appeal No.976 of 2018 would submit that there are sufficient materials to convict accused 1, 3

and 4 for commission of offence under Sections 304-B, 302, 498A read with 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act. The trial Court has not properly appreciated evidence on record and acquitted accused 3 and 4 for offences punishable under Sections 498-A, 304-B, 302, 306 read with 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act. He would submit that the trial Court has also acquitted accused No.1 for offences punishable under Sections 304-B and 302 read with 34 of Indian Penal Code. He would further submit that the Sessions Judge ought to have seen that the death of deceased had taken place in the house of the accused within a period of seven years of marriage and hence, ought to have raised a presumption under Section 113-B of Indian Evidence Act. The non-appreciation of oral and documentary evidence in this regard has led to miscarriage of justice. The defence taken by the accused that the deceased was suffering from mental depression is not supported by any acceptable evidence. The cardinal principle of law is that the rule regarding the benefit of doubt does not warrant the act of

the accused by resorting to surmises and conjunctures in arriving at the conclusion about the guilt of the accused charged with the commission of crime. The Court has to judge evidence by the yardstick of probability, its intrinsic work, and while giving the benefit of reasonable doubt, the Court should not reject the evidence which is ex-facie trustworthy.

14. His further submission is that the learned Sessions Judge erred in holding that evidence of PWs1 to 4, 8 and 9 are not consistent with each other and further holding that there is no cogent and reliable evidence against accused 1, 3 and 4 for causing harassment to the deceased and the trial Court has further erred in holding that the ingredients of Section 304-B of Indian Penal Code are not proved. On all these grounds, the learned High Court Government Pleader sought to allow the appeal preferred by the State and to dismiss the appeal preferred by accused No.1.

15. Having heard the arguments on both sides and on perusal of material placed before us, the following points would arise for our consideration:

1. Whether the appellant-State has made out grounds to interfere with the impugned judgment of acquittal passed by the trial Court against accused No.1 for offence punishable under Sections 302 and 304-B read with Section 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act?
2. Whether the appellant-State has made out grounds to interfere with the impugned judgment of acquittal passed against accused 3 and 4 for offences punishable under Sections 498-A, 304-B, 302 and 306 read with Section 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act?
3. Whether the appellant-accused has made out grounds to interfere with the impugned judgment of conviction and order on sentence passed by the trial Court for offence under Section 498-A of Indian Penal Code?

4. Whether the appellant-accused has made out grounds to interfere with the impugned judgment of conviction and order on sentence passed by the trial Court for offence under Section 306 of Indian Penal Code?
5. What order?
16. Our answer to the above points are as follows:

Points No.1 & 2: in the negative;

Point No.3: partly in the affirmative;

Point No.4: in the affirmative;

Point No.5: As per final order

Regarding Points 1 to 2:

17. Since points 1 and 2 are interlinked to each other, the same are taken up together for giving finding. We have examined the materials placed before us.

18. State has preferred Criminal Appeal No.976 of 2018 challenging the judgment of acquittal passed against accused 1, 3 and 4 for the offences punishable under Sections 302, 304B read with 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act and also the

judgment of acquittal passed against accused 3 and 4 for the offence punishable under Sections 498A and 306 read with 34 of IPC.

19. Before appreciation of evidence on record, it is appropriate to mention as to the scope of appellate Court in appeals against the judgment of acquittal.

20. The Hon'ble Supreme Court, in the case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOU DA RUDRAGOUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF KARNATAKA reported in (2007)4 SCC 415; and H.D. SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581, while discussing the scope of an appeal preferred against the judgment of acquittal under Section 378 of Code of Criminal Procedure, has observed that, the acquittal of the accused further strengthens the presumption of innocence; the appellate Court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and

documentary evidence; the appellate Court, after re-appreciating the evidence, is required to consider whether the view taken by the trial Court is a possible view which could have been taken on the basis of the evidence on record. If the view taken is a possible view, the appellate Court cannot overturn the order of acquittal on the ground that another view was also possible; and the appellate Court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond reasonable doubt and no other conclusion was possible. The interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised only if the judgment of acquittal suffers from patent perversity; the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

21. In the case on hand, the Police Inspector, CID, Bangalore submitted charge-sheet against accused 1 to 4 for offences punishable under Sections 498-A, 304-B and 306 and Sections 3, 4 and 6 of Dowry Prohibition Act, 1961. It is the case of the prosecution that, accused No.1 married Jayanti, the second daughter of CW1-B.S. Vishwanath, on 7th May, 2009 at Kote Mahila Samaja, Madikeri. During the marriage talks, accused No.4, the elder brother of accused No.1, demanded 100 grams of Gold and ₹50,000/- in cash as dowry and it was decided that the dowry of ₹25,000/- in cash and mangalya chain, ring, nose-stud would be given at the time of marriage and the same were given to the accused. After the marriage, Jayanti started living with accused 1 to 4 and Dombaiah who is the father of the accused, in his house at Nakuru, Shirangala Village. After three months of marriage, accused 1 to 4 started giving mental and physical harassment to Jayanti asking her to bring ₹50,000/- as dowry from her parents' house. When Jayanti came to the house of CW1 at about 20 days prior to Huttari festival, she informed the same to her parents

and her sister Shobha. Thereafter, on 3rd December, 2009, Jayanti came with accused No.1 to the house of CW1 for Huttari festival. When the parents of Jayanti asked accused No.1 as to why he was harassing their daughter, accused No.1 demanded further dowry of ₹50,000/-. Jayanti took hand loan of ₹25,000/- from CW4-Janardhan and gave it to accused No.1. Accused No.1 went back with Jayanti and her sister Shobha to his village. On 13th December, 2009 at about 5.00 pm, accused No.1 called CW1 over phone and informed that Jayanti was not keeping well since he had hit her two times after having quarrel with each other as she had alleged that accused No.1 was having illicit relationship with accused No.3. On 14th December, 2009 at about 8:20 pm, accused No.1 again called CW1 over phone and informed that his daughter is in a serious condition and requested him to come immediately. CW1, along with his family members and neighbours, came to the house of accused No.1 and saw the body of Jayanti hanging to the iron pipe in the bedroom by tying saree around her neck. There were injuries on her hands and ant-bites on her face

and there was bleeding below her waist. They came to know that the deceased has committed suicide as she was unable to tolerate the mental and physical harassment given by accused 1 to 4. Thus, the accused committed the alleged offences.

22. Though the investigating officer has not submitted charge sheet against the accused for commission of offence under Section 302 of Indian Penal Code, the trial Court has framed charges against the accused for commission of offence under Section 302 read with 34 along with Section 306, 304B read with Section 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act.

23. To prove the guilt of the accused, prosecution has examined 22 witnesses as PWs1 to 22 and marked 28 documents as Exhibits P1 to P28 and 20 material objects as MO1 to MO20. The defence has also examined three witnesses as DW1 to DW3 and marked 29 documents as Exhibits D1 to D29.

24. Law was set into motion on the complaint-Exhibit P1 filed by Vishwanath, the father of the deceased. On the basis of the complaint, Suntikoppa Police registered case in Crime No.99 of 2009 against accused Nos.1 to 3 for commission of offence under Sections 498-A, 304-B and 302 read with Section 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act and submitted FIR to the Court on 15th December, 2009 at 6.00 am as per Exhibit P22 as endorsed by the learned JMFC. After investigation, the Investigating Officer submitted charge-sheet against accused Nos.1 to 4 for offences punishable under Sections 498-A, 304-B and 306 read with Section 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act.

25. PW1-complainant is the father of deceased Jayanti. He has deposed in his evidence that PW2 is his wife, PWs3 and 6 are his daughters, PW7 is the husband of PW6 and his son-in-law; and PW4 is his nephew. Accused No.1 is the husband of deceased Jayanti. Accused No.2 is the sister and accused No.4 is the brother of accused No.1

and accused No.3 is the wife of accused No.4. The deceased died in the house of the accused about six years ago. She was married to accused No.1 about seven months prior to her death at Kote Mahila Samaja, Madikeri.

26. PW1 had introduced both the families and mediated for the said marriage. Marriage discussions took place around one month prior, in the house of the accused. The accused demanded 80 grams of gold and ₹50,000/- cash as dowry and it was finalised to give 64 grams of gold and ₹25,000/- cash. He borrowed ₹50,000/- from PW4 as loan towards marriage expenses. He has given the gold in the form of ornaments to his daughter at the time of marriage. However, could not pay the cash of ₹25,000/-, as agreed at the time of marriage. After the marriage, the deceased went and stayed in the house of accused No.1 at Nakuru Shirangala Village. Her relationship with the accused was cordial for three months and thereafter, accused started to harass her by asking her to bring ₹50,000/- from her parents' house. The same

was being informed by the deceased over phone to the complainant. The deceased and accused had come to complainant's house one day prior to Huttari Festival. The deceased asked him for money. PW1 informed her that he did not have money and PW4 gave ₹25,000/- to her at that time. On 13th December, 2009, accused No.1 called him and stated that his daughter was not keeping well since he slapped her and asked him to come to his house. But, on that day, PW1 and his wife did not go to the house of accused No.1. On 14th December, 2009 at 8.20 pm, accused No.1 called him and stated that the deceased was in a serious condition and asked him to come immediately. PW1, his wife and CWs2 to 11 went to the house of accused in a vehicle at about 1.00 am. He saw his daughter's dead body hanging from the iron rod in the bedroom tied with a saree. There was bleeding on her hands, face and legs, and there were blood stains on the cement floor and walls of the room. Broken bangle pieces were found in the backyard. He came to know that accused have committed the murder of his daughter for dowry. He lodged the complaint as per Exhibit P1 at 4.00

am. The police came and conducted Mahazar as per Exhibit P2 and seized blood stained bangle pieces as MO1 to 7. Police also conducted inquest mahazar. The police collected the blood scrapings from the cement floor in the bedroom, on the kitchen slab, and near the backside door of the house of the accused. MO No.7 was in the backyard of the house of the accused. Police have seized material objects MO8 to 12. He has stated that, his daughter died due to dowry harassment meted out by all the accused.

27. PW2-Revathi, wife of PW1; PW3-Shobha, sister of deceased Jayanti; PW4-Janardana, who is the cousin brother of deceased Jayanti; PW5-Dinesh; PW6-Sheela, who is the other sister of the deceased; PW7-Poovaappa, the husband of PW6; PW8-Gayatri, the wife of PW4; PW9-B.K. Vittala; PW10-B.K. Lokesh, neighbour of PW1; PW11-Ranjith, another neighbour of PW1, have all deposed regarding the mental and physical ill-treatment given by the accused to the deceased. They have also deposed as to the demand of dowry. The trial Court has discussed at length as to the evidence of these material witnesses. The

trial Court has also discussed the evidence of DWs1 to 3. After careful examination of the entire evidence of material witnesses, the trial Court has held that the demand and acceptance of dowry coupled with categorical admissions made by PWs1 to 10, it is established that gold ornaments of 64 grams were given by PW1 to the deceased as gift for her marriage. Further, PW1 has categorically admitted that he had never given any dowry to the accused before the marriage, at the time of marriage or after the marriage. Therefore, the alleged acceptance of dowry by accused 1, 3 and 4 is not established by the prosecution, beyond reasonable doubt.

28. Further, at paragraphs 53 to 56 of the judgment, the trial Court has observed as under:

"53. PW-1 has deposed that when the deceased and accused No. 1 had come to his house for Huttari festival, PW-4 had given Rs.25,000/- to the deceased, to be given to accused No.1. PW-2 has deposed that on 03-12-2009, when accused No. 1 and her daughter had come to her house for celebrating Huttari festival, he had stated that he would look after her daughter very well if

Rs.50,000/- is given to him and the deceased had borrowed Rs.25,000/- from PW-4 and gave it to accused No. 1. PW-3 has deposed that on 03-12-2009, when the deceased and accused No. 1 came to the house of PW-1 for Huttari festival, accused No. 1 stated that he would take good care of the deceased, if Rs.50,000/- is given as dowry and the deceased borrowed Rs.25,000/- from PW-4 and gave it to accused No. 1. PW-4 has deposed that when the deceased had come for Huttari festival, she requested him to give Rs.25,000/- in cash, in order to give it to accused No. 1, since he was demanding dowry. He had Rs.15,000/- and borrowed Rs.10,000/- from his cousin - Vittala (PW-9) and gave Rs.25,000/- to the deceased. PW-8 has deposed that when the deceased had come to the house of PW-1 for Huttari festival, she informed them and also PW-8 about the dowry harassment given by the accused. The deceased came and requested PW-4 to arrange for Rs.25,000/- to be paid to the accused as balance amount of dowry. PW-9 has deposed that when the deceased had come to the house of PW-1 for Huttari festival, PW-4 came and informed him that the deceased was asking for Rs.25,000/- in cash and requested him to pay Rs.10,000/-, since he had only Rs.15,000/- with him. Hence, he paid Rs.10,000/- to PW-4.

54. PW-1 has admitted that PW-4 does not have capacity to pay Rs.25,000/- and PW-4 had

borrowed money from somebody else and given it to accused No. 1. PW-2 admits that when the deceased and accused No. 1 had come for Huttari festival, accused No. 1 had demanded the said sum of Rs.25,000/-, which was the dowry payable to them. PW-4 had stated that he had paid the said money to her daughter, out of his savings. Her daughter had taken the said sum of Rs.25,000/- from PW-4 as loan and told him that PW's. 1 & 2 would repay it back to him. PW-4 admits that the deceased had come to his house 04-12-2009 and stayed in his house from 8:00 a.m. to 9:00 a.m. PW-9 admits that PW-4 informed him that the deceased had asked for Rs.25,000/- from him, since accused No. 1 wanted the same for his business. He had given Rs.10,000/- to PW-4 in his house and nobody else were present at that time, at about 8:30 to 9:00 p.m.

55. It is to be noticed that the evidence of PW's. 1 to 4, 8 & 9 are totally inconsistent with each other. PW-2 states that her daughter had received Rs.25,000/- from PW-4 as loan, whereas PW-9 states that the deceased had asked for Rs.25,000/-, since accused No. 1 wanted the same for his business. PW-4 states that the deceased had come to his house on 04-12-2009 and stayed between 8:00 a.m. to 9:00 a.m., and collected Rs.25,000/- from him, after he borrowed Rs.10,000/- from PW-9, whereas PW-9 states that he had given Rs.10,000/- to PW-4 in his house between 8:30 to 9:00 p.m. There is no cogent

and reliable evidence to hold that the accused No. 1 had demanded further dowry and PW-4 had given Rs.25,000/- as dowry amount to accused No. 1, through the deceased.

56. The evidence of PW's. 1 to 12 with regard to dowry harassment caused to the deceased, is general in nature, inconsistent and not reliable. There is no cogent and reliable evidence to hold that the accused Nos. 1, 3 and 4 had caused dowry harassment to the deceased by demanding further dowry and PW-4 had given Rs.25,000/- as dowry amount, to accused No. 1 through the deceased."

29. The trial Court has relied on the judgments of Hon'ble Supreme Court in the case of M NARAYANA v. STATE OF KARNATAKA reported in 2015(6) SCC 465 and in the case of V.K. MISHRA AND ANOTHER v. STATE OF UTTARAKHAND AND ANOTHER reported in 2015(9) SCC 588, wherein the Hon'ble Supreme Court has held that the standard of proof to be applied to the prosecution in improving the ingredients of Section 304-B of Indian Penal Code, so as to raise presumption as stated in the said provision, i.e., the death of woman should be caused in unnatural circumstances and she should have been subjected to cruelty or harassment by her husband or

relatives in connection with demand of dowry, before her death. When these essential ingredients are proved, it is obligatory on the part of the Court to raise presumption under Section 113-B of Evidence Act that the accused has caused dowry death and it is for the accused to rebut such presumption.

30. Further, the trial Court has observed that in view of the categorical admissions made by the prosecution witnesses, the prosecution has not established the case of the accused for commission of offence punishable under Section 304B read with 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act.

31. On re-appreciation, re-examination and re-consideration of the entire material on record, and also keeping in mind the aforesaid judgments of Hon'ble Supreme Court, we do not find any error, factual or legal, in the impugned judgment of acquittal against accused No.1 of offence punishable under Sections 304-B and 302 read with 34 of Indian Penal Code and Sections 3, 4 and 6

of Dowry Prohibition Act; and also acquittal of accused 3 and 4 of offence punishable under Sections 498-A, 304-B, 302, 306 read with Section 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act. The prosecution has not made out any ground to interfere with the impugned judgment of acquittal. Accordingly, we answer Points 1 and 2 in the negative.

Regarding Point No.3

32. Insofar as offence punishable under Section 498-A of Indian Penal Code is concerned, we have examined the material placed before us. In Exhibit P1-Complaint, it is stated that the accused No.1 has informed the complainant over phone that he has hit his daughter twice and the same is also deposed by PW1-Vishwanath. The trial Court has observed that the evidence of PWs1 and 2, the parents of the deceased and PWs3 to 9, the close relatives, clearly reveal that accused No.1 had subjected the deceased to mental and physical harassment in the matrimonial home, though not relating to demand of dowry and considering the said evidence,

the trial Court has held that the prosecution has proved the guilt of the accused for the offence punishable under Section 498-A of Indian Penal Code.

33. The trial Court, after evaluation of the entire evidence on record, has come to the conclusion that the accused has committed offence under Section 498-A of Indian Penal Code. On re-appreciation and re-examination of the entire material on record, we do not find any illegality or error in convicting the accused No.1 for the offence punishable under Section 498-A of the Indian Penal Code.

34. The trial Court has passed the sentence of rigorous imprisonment for three years and to pay fine of Rs.7,500/-, in default of payment of fine, to undergo simple imprisonment for two months. While imposing sentence, the trial Court has observed that accused No.1 has already undergone detention for about two and a half years. The incident pertains to the year 2009. The Court has taken eight long years and accused has promptly appeared before the court. He has already undergone the

agony of facing the trial. The accused has an aged father to look after, who requires constant care, including attending nature's call and medication. The avocation of the accused No.1 as a mechanic is also to be kept in mind. The accused No.1 has not re-married and his aim in life is only to look after his aged father. The accused No.1 hails from a respectable family and has no criminal antecedents. Considering the principle laid down by Hon'ble Supreme Court in the case of STATE OF MADHYA PRADESH v. NAJAB KHAN AND OTHERS reported in 2013 CRL.L.J. 3951 (SC) and a decision by a three-judge Bench of the Hon'ble Supreme Court in the case of SHABNAM v. STATE OF UTTAR PRADESH reported in (2015)6 SCC 632, so also, considering the aggravating and mitigating circumstances, the trial Court has imposed rigorous imprisonment for a period of three years and to pay fine of ₹7,500/-.

35. It is submitted by the learned Counsel for the appellant that the fine amount has already been deposited. Considering the nature and gravity of the

offence and also the observations made by the trial court, so also considering the maximum period of sentence imposed for the offence under Section 498-A of Indian Penal Code, we are of the opinion that it is just proper to modify the sentence passed by the trial Court against the accused to undergo imprisonment for a period of three years, to the extent of period of detention already undergone by the accused i.e. about 2½ years. Accordingly, Point No.3 is answered partly in the affirmative.

Regarding Point No.4:

36. With regard to offence under Section 306 of Indian Penal Code is concerned, the prosecution has to prove essential ingredients to constitute offence punishable under the said Section. The Hon'ble Supreme Court, in the case of AYYUB AND OTHERS v. STATE OF UTTAR PRADESH AND ANOTHER reported in (2025) 3 SCC 334, at paragraphs 18 and 19 has observed as under:

"18. In Swamy Prahaladdas vs. State of M.P. and Another, (1995 Supp (3) SCC 438), the

appellant remarked to the deceased that 'go and die' and the deceased thereafter committed suicide. This Court held that :- "... Those words are casual nature which are often employed in the heat of moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite means rea on the assumption that these words would be carried out in all events...."

19. By a long line of judgments, this Court has reiterated that in order to make out an offence under Section 306 IPC, specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It has been further held that the intention of the accused to aid or instigate or to abet the deceased to commit suicide is a must for attracting Section 306 IPC [See Madan Mohan Singh vs. State of Gujarat and Another, (2010) 8 SCC 628]. Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commit suicide [See Amalendu Pal alias Jhantu vs. State of West Bengal, (2010) 1 SCC 707 and M. Mohan vs. State, (2011) 3 SCC 626 and Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618.]"

37. In the case of M ARJUNAN v. STATE REPRESENTED BY INSPECTOR OF POLICE, reported in (2019)3 SCC 315, at paragraph 7 of the judgment has observed thus:

"7. The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C. "

38. In the case of STATE OF HIMACHAL PRADESH v. MADAN GOPAL, reported in 2025 SCC OnLine SC 191, at paragraphs 9 and 10 of the judgment it is observed as under:

"9. Recently, in Ram Pyarey v. State of Uttar Pradesh 2025 INSC 71, this Court while discussing the difference between the two provisions, has also

observed that 'cogent evidence' regarding cruelty and harassment or evidence pointing towards the specific act of abetment in the form either instigating or aiding the suicide would be a 'condition precedent' for applying the presumption under Section 113A of Evidence Act. This is what the Court observed:

"13. It is relevant to note that under Section 113B, the Court shall presume dowry death unlike Section 113A where the provision says that Court may presume abetment of suicide. This is the vital difference between the two provisions which raises presumption as regards abetment of suicide. When the Courts below want to apply Section 113A of the Evidence Act, the condition precedent is that there has to be first some cogent evidence as regards cruelty & harassment. In the absence of any cogent evidence as regards harassment or abetment in any form like aiding or instigating, the court cannot straightway invoke Section 113A and presume that the accused abetted the commission of suicide."

10. In view of the aforesaid discussion, we are of the considered opinion that the learned trial court erred in applying the presumption under Section 113-A of the Evidence Act. We therefore, find no merit in this appeal and are of the opinion that the respondent was rightly acquitted by the High Court. "

39. In the case on hand, the trial Court has observed that the deceased has committed suicide in the matrimonial home, and it is for accused No.1 to explain

the circumstances in which the death of deceased took place. Interestingly, accused No.1 has a defence that after 5 to 6 months of their marriage, the deceased started insisting that they should shift to another house in Suntikoppa town stating that she could not stay in the village and look after his aged father and sister. The trial court has observed that during August 2009 also, the deceased tried to commit suicide by jumping into Harangi backwaters. Accused No.1 had also taken the deceased to Iguru Temple and Chettalli temples, since the deceased was of very adamant nature.

40. The trial Court at paragraphs 65 to 70 has observed thus:

"65. The deceased was aged 23 years and had the experience of working in a Garment Factory at Bengaluru. DW-2 admits that the deceased did not have any diseases. There is nothing on record to even remotely indicate that she was a hypersensitive woman or had adamant nature. None of the witnesses have deposed that the deceased was a sensitive person or that she was depressed. Though all witnesses have denied that the deceased had tried to commit suicide by jumping into Harangi

River, PW-1 admits the said fact, but however states that it was only due to the harassment given by accused No. 1. There is nothing on record to suggest that the deceased had tried to commit suicide, since accused No. 1 did not accede to her request to make another house in Santicoppa Town.

66. As per the Post Mortem Report (Ex.P-17), there are contusions present on the anterior aspect of left thigh, right leg and left knee and an abrasion over the center of the abdomen, above the umbilicus. In absence of any explanation on the part of accused No. 1, with regard to such injuries sustained by the deceased, it is clear that the deceased was subjected to physical harassment by accused No. 1, immediately prior to her committing suicide. PW-6 has admitted that the deceased had called her over phone at 10:00 a.m., on 13-12-2009 and informed that she is not able to tolerate the harassment given by the accused and PW-6 had advised her to be patient till the next day. PW's. 1 and 2, have consistently deposed that on 13-12-2009, the accused No. 1 had called them over phone and informed that he had assaulted the deceased by hitting her two times, since she had alleged that accused No. 1 was having illicit relationship with his sister-in-law (accused No. 3).

67. The evidence of PW's. 1 and 2, who are the parents of the deceased and PW's. 3 to 9, who are her close relatives, clearly reveals that accused No. 1

had subjected the deceased to mental and physical harassment in the matrimonial home, though not relating to demand of dowry. In absence of any explanation on the part of accused No. 1 regarding the injuries found on the deceased as well as the circumstances in which the deceased had expired, the definition of 'cruelty' as per Clause (a) of Section 498-A of IPC, which means a willful conduct of such a nature which is likely to drive the victim woman to commit suicide or to cause grave injuries to health and life, limb or health (mental or physical), stands established.

68. The evidence on record would point out that the accused No. 1 had subjected the deceased to mental and physical harassment. The deceased herself had informed PW's. 1 to 3 and 6 about such harassment caused to her, on many occasions and they had pacified her. DW-2 has admitted that PW-1 and other close relatives had advised him and his wife to lead a proper and happy life. There can be no dispute that in a family life, there can be differences, quarrels, misgivings and apprehensions, but it is the degree which raises it to the level of mental cruelty. A wife is to be treated as a member of the family with warmth and affection and not as a stranger with despicable and ignoble indifference. She should not be treated as a housemaid. By considering the evidence put forth by the prosecution coupled with the nature of defence taken by accused No. 1, it is

clear that the deceased was totally insensitively treated and harassed. The deceased had not accidentally committed suicide by hanging herself, but had deliberately put an end to her life. The accused No. 1 has not been able to bring in adequate material on record to show that the deceased was suffering from such depression, as would have forced her to commit suicide.

69. When the entire evidence is considered, the said defence of accused No. 1 is not proved, even upon preponderance of probability. In view of non-explanation on the part of the accused about any other reason for the deceased to have committed suicide, the said defence taken by the accused cannot be believed under normal circumstances and thus the accused have failed to rebut the presumption contained under Section 113-A of the Evidence Act. The basic ingredients of the offence under Section 306 IPC have been established by the prosecution inasmuch as the death has occurred within seven years in an abnormal circumstance and the deceased was meted out with mental cruelty.

70. This Court cannot lose sight of the fact that a young bride of 23 years was forced to take the extreme step of committing suicide by hanging herself, after 7 months of her marriage with accused No. 1. There can be never by direct evidence with regard to the instigation of the accused for having abetted the deceased to commit suicide and has to

be inferred from the attending circumstances. The prosecution has proved that the deceased was subjected to cruelty as defined under Section 498-A of IPC and the evidence on record clearly establishes that the accused No. 1 had given mental and physical harassment to the deceased, which instigated her and compelled her to commit suicide. Thus, when once the charge under Section 498-A of IPC stands established, the presumption contained under Section 113-A of Evidence Act with regard to the offence under Section 306 of IPC is raised. In the absence of accused No. 1 rebutting such presumption, the accused No. 1 is also liable to held guilty of the offence under Section 306 of IPC. "

41. On careful examination of the entire evidence on record, we do not find that there is essential evidence to prove the guilt of the accused under Section 306 of Indian Penal Code. However, the trial Court has held that once the charge under Section 498-A stands established, the presumption contained under Section 113-A of Evidence Act with regard to offence under Section 306 of Indian Penal Code is raised and in the absence of rebuttal evidence, accused No.1 is liable to be held guilty of offence under Section 306 IPC. This observation made by the trial Court is not sustainable under law in view of the decision

of Hon'ble Apex Court, in the case of RAMESH KUMAR (supra), wherein it is held that, merely because the accused is found guilty under Section 498-A IPC, he should not necessarily be held guilty under Section 306 of Indian Penal Code on the basis of same evidence. The said principle has been reiterated by the Hon'ble Supreme Court in the case of M ARJUNAN (supra) that, unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 of Indian Penal Code.

42. Viewed from any angle, we do not find any cogent, convincing, corroborative or clinching evidence to convict the accused No.1 for offence under Section 306 of Indian Penal Code. Accordingly, the prosecution has failed to prove the guilt of the accused No.1 under Section 306 IPC. Hence, we answer Point No.4 in the Affirmative.

Regarding point No.5:

43. For the aforestated reasons and discussions, we proceed to pass the following:

ORDER

- i) Criminal Appeal No.976 of 2018, preferred by the State is dismissed;
- ii) Criminal Appeal No.62 of 2018, preferred by the appellant/Accused No.1 is allowed in part;
- iii) The judgment of conviction and order on sentence dated 28th December, 2017 in SC No.8 of 2011 passed by the I Additional District & Sessions Judge, Kodagu at Madikeri against accused No.1 for offence punishable under Section 306 of Indian Penal Code is set aside;
- iv) Accused is acquitted of the offence under Section 306 of Indian Penal Code;
- v) The judgment of conviction passed against accused No.1 for the offence punishable under Section 498-A IPC is confirmed. However, the sentence imposed against accused No.1 to undergo three years imprisonment with payment of fine of Rs.7,500/- is modified as under:
 - a) The period of detention already undergone by accused No.1 in

judicial custody shall be considered as the sentence imposed for the offence punishable under Section 498-A Indian Penal Code. It is submitted that the fine amount is already deposited;

- b) The period of detention already undergone by the accused No.1 shall be given set-off in view of Section 428 of Code of Criminal Procedure.
- c) The fine amount deposited by the appellant/accused No.1 if any, in respect of the offence punishable under Section 306 of IPC, shall be refunded to him;

Registry to send the copy of this judgment along with TCR to the concerned Court.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

Inn