



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 239 OF 2025

BETWEEN:

SATHISH KUMAR. A @
SATHISH KUMAR ANAND @
SATHISH KUMAR GUPTA,
S/O. ANAND KUMAR GUPTHA,
AGED ABOUT 31 YEARS,
R/AT NO. 331, 2ND FLOOR,
2ND CROSS, BDA EWS SECTOR,
VENKATESHWARA LAYOUT,
J. P. NAGAR, 8TH BLOCK,
BENGALURU- 560 078.

...APPELLANT

(BY SRI. K RAVISHANKAR., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY HULIMAVU POLICE STATION,
BENGALURU-560 076.
REPRESENTED BY
THE OFFICE OF THE SPP,
HIGH COURT OF KARNATAKA,
BENGALURU-560 001.
2. KANCHAN AGARWAL,
W/O HARIKISHAN AGARWAL,
MAJOR,



3. HARIKISHAN AGARWAL,
S/O GANESHILAL AGARWAL,
AGED ABOUT 75 YEARS,

RESPONDENT NO.2 AND 3 ARE
RESIDING AT NO.285, PINK CITY,
MOHAN ROAD, LUCKNOW,
UTTAR PRADESH- 226 017.

[CAUSE TITLE AMENDED V/O DTD 14.03.2025]

...RESPONDENTS

(BY SRI. RAHUL RAI.K., HCGP FOR R1- STATE;
SRI. BOJAPPA.K.K., ADVOCATE FOR R2 AND R3)

THIS CRL.A IS FILED U/S 454(1) OF CR.P.C PRAYING TO
ALLOW THIS APPEAL AND CONSEQUENTLY SET ASIDE THE
ORDER DTD 03.10.2024 PASSED IN SC.NO.1387/2010 PASSED
BY THE PRINCIPAL CITY CIVIL AND SESSIONS JUDGE,
BENGALURU, IN SO FAR AS IT RELATES TO REJECTION OF
CLAIM FOR RELEASE OF GOLD ORNAMENTS SEIZED AS PER
EX.P33 AND RETURN OF LOCKER KEY AS PER MO45.

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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

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

Appellant, a convict filed an application before the trial
Court under Section 452 of Cr.P.C., for release of seized gold
articles under Ex.P33, laptop, mobile phones and locker key-



MOs.4 to 6, MO.36 and MO.37 to his custody, which application has been partly allowed by the learned Sessions Judge, vide order dated 03.10.2024, which is challenged in this appeal filed under Section 454(1) of Cr.P.C.

2. The appellant / applicant was convicted vide Judgment dated 28.07.2017 by the Court of the Principal City Civil and Sessions Judge at Bengaluru in S.C.No.1387/2010, for the offence punishable under Section 302 of IPC, for committing the murder of his wife. He was sentenced to undergo Rigorous Imprisonment for life with fine of Rs.25,000/-, in default of payment of fine, to further undergo Simple Imprisonment for 6 months.

3. Judgment and order of conviction and sentence passed by the trial Court was confirmed by this Court in Crl.A.No.1586/2017 vide judgment dated 27.09.2018. It is not in dispute that the SLP(Crl.)No.6990/2021 preferred against the said judgment was also dismissed by the Apex Court on 23.02.2022.



4. After release of the appellant, he filed the application under Section 452 of Cr.P.C. before the trial Court, for release of gold ornaments, Bank locker-key etc. The learned Sessions Judge vide impugned order, partly allowed the said application. The prayer was accepted insofar as return of MO4-Nokia mobile phone, MO5-Motorola mobile phone, MO6-Samsung mobile phone and the laptops marked as MO.36 and MO.37. However insofar as release of the gold ornaments seized under a mahazar at Ex.P33 and the prayer to return the locker key marked as MO.45 was rejected.

5. It is the contention of the learned counsel for the appellant that the gold ornaments are purchased by the appellant and before the trial Court, he has placed all the materials to substantiate his claim. There was no rival claim, as such the trial Court was not justified in rejecting his prayer for release of the gold ornaments and the locker key. He contended that the locker was maintained in Syndicate Bank and it is standing in the joint name of the appellant and his deceased-wife and appellant being the sole nominee and that



being so, the trial Court ought to have released the locker key to the appellant. He further contented that the locker key and the gold ornaments are not the proceeds of the Crime and since, the locker key was seized at the behest of the accused, he is entitled for the same. Learned counsel further contended that under Section 45ZC of the Banking Regulation Act, 1949, The appellant, being in joint custody of the Bank locker and being the nominee, is entitled for the property kept in the locker.

6. The learned counsel for respondents Nos.2 and 3, the parents of the deceased, would contend that the said respondents were not party to the proceedings / application filed before the trial Court and therefore, they could not file any objections. They contended that the gold ornaments which are in the locker are the Stridhana properties, purchased by them and also received as gifts during marriage. He further, contended that the appellant has been convicted for committing the murder of his wife, which has been affirmed by the Apex Court and therefore, in view of



Section 25 of the Hindu Succession Act, 1956, the appellant is disqualified from inheriting the property of his wife. He contended that the respondents had no opportunity to contest the application filed before the trial Court and further, they hail from the State of Uttar Pradesh and they were not aware of the appeal proceedings and could not file separate application for the custody of the locker key and the gold ornaments.

7. The Learned Sessions Judge, while dismissing the application insofar as the locker key and the gold ornaments are concerned, has observed that during the investigation of the case, the accused gave a voluntary statement stating that the gold ornaments belonged to his deceased-wife and further the case papers reveal that both the accused and his deceased-wife had sufficient income and therefore, the accused has failed to place sufficient materials on record to show his right to claim the gold ornaments in question. It is further observed that the accused has murdered his wife and even suffered sentence and therefore, he is not entitled to



claim the gold ornaments in question, as such, and since the deceased and accused had no issues, the gold ornaments belonging to the deceased should go to her parents. Therefore, if the locker key is returned to the accused, it would give scope for him to take away the gold ornaments.

8. In the case on hand, the factual position is that, the locker key-MO.45 was seized by the Investigating Officer at the instance of the accused, the locker key contains gold articles and other valuables.

9. The appellant has contended that there is no rival claimant. In the case of immovable properties, the person in whose possession it is found, is presumed to be its owner unless contrary is proved. In the instant case, respondent Nos.2 and 3 are the parents of the deceased. The appellant's claim over the property is disputed by respondent Nos.2 and 3. Under such circumstances, whenever right over any property is disputed by other party, the person who claims right over the property, which includes both movable and



immovable property, can also seek declaration under Section 34 of the Transfer of property Act.

10. Having perused the material on the record and hearing the arguments of both the learned counsel, we are of the view that both the parties should be given an opportunity to make their claim before the trial Court once again by placing all materials, as we have noticed that relevant aspects are not considered by the trial Court while disposing of the application, insofar as rejecting the claim of the appellant, regarding return of the locker key and release of the gold ornaments. The trial Court while partly allowing the application, has rejected the prayer for return of locker key marked as MO.45 for the time being. Hence, liberty is reserved to both the parties to file fresh applications before the trial Court.

11. Impugned order dated 03.10.2024 passed in SC.No.1387/2010, by the Court of the Principal City Civil and Sessions Judge, Bangalore, rejecting the application filed



under Section 452 of Cr.P.C., insofar as return of gold ornaments seized under mahazar marked at Ex.P33 and for return of locker key-MO.45 etc. is ***set aside***.

12. Both the parties are at liberty to file fresh applications before the trial Court along with the materials supporting their respective claims. If such applications are filed, the learned Sessions Judge giving a fair hearing to both the parties, and also taking into consideration the documents which are already on record shall dispose of the application as expeditiously as possible.

Appeal is ***disposed of***, keeping open all the contentions.

Registry is directed to send back the Trial Court Records.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE