IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER 2026

PRESENT

THE HON'BLE MR. JUSTICE R DEVDAS

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

CRIMINAL APPEAL NO. 590 OF 2019 (A)

BETWEEN:

NANJAPPA SHETTY
S/O LATE NINGAPPA SHETTY
AGED ABOUT 66 YEARS
R/O LAKSHMI KUTEERA
DADADAHALLI ROAD
ALURU TOWN, HASSAN DISTRICT.

...APPELLANT

(BY SRI KALEEMULLAH SHARIFF, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY SURATHKAL P.S.
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.

2. SRI MANJUNATH
S/O KRISHNAIAH J.J.
AGED ABOUT 28 YEARS
PRESENTLY R/AT D.NO.22/2-7
C/O SMT. VIJAYA
KAYARBETTU MANE
SRINIVASA NAGAR
MUNCHURU, SURATHKAL VILLAGE
MANGALURU.

3. SRI KRISHNAIAH G.J.
@ KRISHNAPPA

Digitally signed by G SHREERAKSHA
Location: HIGH COURT OF KARNATAKA

S/O JAVARA SHETTY
AGED ABOUT 55 YEARS.

4. SMT. V. VARALAKSHMI
W/O KRISHNAIAH J.J.
AGED ABOUT 52 YEARS

RESPONDENTS 2 TO 4 ARE
R/AT D.NO.409 LIG, 27TH ROAD
CHENNAPATTANA, KHB LAYOUT
OPP: HASSAN NEW BUS STAND
HASSAN DISTRICT.

…RESPONDENTS

(BY SMT. RASHMI JADHAV, ADDL. SPP FOR R1;
SRI UMESH P.B., ADVOCATE FOR R2 TO R4
(VIDE COURT ORDER DATED 03.09.2026,
APPOINTED AS AMICUS CURIAE))

THIS CRL.A. IS FILED U/S.372 CR.P.C PRAYING THAT TO SET ASIDE THE ORDER OF ACQUITTAL IN S.C.NO.75/2015 DATED 31.07.2017, PASSED BY THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAKSHINA KANNADA, MANGALORE O/P/U/S 498-A, 304-B, 306 IPC AND 3 AND 4 OF D.P. ACT AND ETC.,

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 07.10.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE R DEVDAS
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

This appeal is directed against the judgment and order of acquittal dated 31.07.2017 passed by the learned IV Additional District and Sessions Judge Dakshina Kannada

Mangaluru in Sessions Case No.75/2015 whereby the respondents-accused were acquitted of the charges framed against them under Sections 498-A, 304-B and 306 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act 1961.

2. The brief facts of the prosecution case are as under.

The appellant is the father of the deceased Smt. Nayana. The marriage of the deceased with accused No.1 was solemnised on 05/06.08.2012 at S.R.S. Kalyana Mantapa. It is alleged that at the time of marriage a sum of Rs.2,50,000/- and 250 grams of gold ornaments were given as dowry. After the marriage the accused allegedly started harassing the deceased. It is further alleged that the in-laws used to taunt that if they had married their son to some other girl they would have received Rs.10,00,000/- as dowry and that accused No.1 demanded a sum of Rs.1,00,000/- towards his Ph.D. course of which a sum of Rs.50,000/- was paid by the appellant.

3. On 23.05.2014 the deceased is stated to have telephoned the appellant in the morning complaining of

torture by accused No.1. Later the same day she was found dead by hanging in the rented premises at Munchuru Surathkal. The hospital records indicate that she expired at about 11:55 a.m. On the basis of the complaint lodged by the appellant Crime No.175/2014 was registered for the offences under Sections 498-A and 306 of the IPC. After investigation charge-sheet was filed for the offences under Sections 498-A and 304-B read with Section 34 of the IPC. Additional charge under Section 306 of the IPC was framed during the trial. The accused denied the charges and claimed to be tried.

4. The prosecution examined 18 witnesses (P.W.1 to P.W.18) and marked 38 documents (Ex.P.1 to Ex.P.38). The accused examined themselves under Section 313 of the Cr.P.C. Accused No.1 examined himself as D.W.1 and marked Ex.D.1 to Ex.D.39.

5. The learned Sessions Judge after considering the entire oral and documentary evidence answered all the points framed for consideration in the negative and acquitted the accused by the impugned judgment.

6. Learned counsel for the appellant Sri Kaleemullah Shariff submitted that the learned Sessions Judge has committed an error in disbelieving the evidence of P.W.1 to P.W.5 regarding demand and acceptance of dowry and the subsequent harassment. It is contended that the death having occurred within seven years of marriage under unnatural circumstances the presumptions under Sections 113-A and 113-B of the Indian Evidence Act stood attracted and the accused failed to rebut the same. The hospital records regarding the time of death and the evidence of the doctor were not properly appreciated. The acquittal is therefore illegal and deserves to be set aside.

7. Learned Amicus Curiae Sri Umesh P B for the accused supported the judgment of acquittal and submitted that the first complaint (Ex.P.2) did not contain any allegation of demand of dowry. The detailed allegations appeared only in the further complaint (Ex.P.4) filed after consultation with an NGO. There is no reliable evidence of payment of the alleged dowry. The evidence of the neighbours and house owners indicates that the relations between the couple were cordial. The medical records show

that the deceased was under treatment for anxiety related to conception. The view taken by the Sessions Court is a possible and reasonable view based on proper appreciation of evidence and does not call for interference.

8. Heard the learned counsels for the appellant as well as for the respondents. We have carefully perused the entire evidence on record and the impugned judgment.

9. It is well settled law that in an appeal against acquittal the High Court has jurisdiction to re-appreciate the evidence. However, the interference is warranted only if the findings of the Sessions Court are perverse, unreasonable or based on non-consideration of material evidence. Where two views are possible the view which favours the accused and has been taken by the Sessions Court should not ordinarily be disturbed. The presumption of innocence is further strengthened by an order of acquittal as held in the Judgments of the Hon'ble Supreme Court in ***Chandrappa v. State of Karnataka, (2007) 4 SCC 415*** and ***Murugesan v. State, (2012) 10 SCC 383.***

10. On a careful re-appreciation of the evidence the following aspects emerge:

(i) The first complaint (Ex.P.2) lodged by P.W.1 on the date of the incident makes no mention whatsoever of any demand or acceptance of dowry. The detailed allegations regarding demand of Rs.3,00,000/- and 300 grams of gold (later reduced to Rs.2,50,000/- and 250 grams) the comparative taunt that if the accused had married elsewhere they would have received Rs.10,00,000/- as dowry and the demand of Rs.1,00,000/- towards the Ph.D. course appear only in the further complaint (Ex.P.4) dated 29.05.2014 after the appellant is stated to have consulted an NGO advocate. The Sessions Court has rightly treated the further complaint as an improvement and afterthought.

(ii) There is no reliable documentary evidence to prove the actual payment of the alleged dowry amount. The bills produced (Ex.P.14) claiming marriage expenses of over Rs.16 lakhs were largely handwritten lacked supporting receipts or related to periods prior to the marriage. P.W.1 admitted that his annual income was only Rs.35,000/- and that he had borrowed Rs.1,00,000/- from accused No.2

which remained unpaid. The bank records produced by the defence show that accused No.1 himself had withdrawn money for his Ph.D. fees.

(iii) The evidence of P.W.1 and P.W.2 regarding specific acts of cruelty is vague and general. Both witnesses admitted that the overall relationship between the families was cordial and that any differences were resolved by mutual discussion. Photographs marked by the defence depict the couple leading a happy married life, attending functions, celebrating the birthday of the deceased, performing Sathyanarayana Pooja after she cleared the bank examination and going on trips.

(iv) The neighbours (P.W.6 and P.W.7) and the house owners (P.W.8 and P.W.9) though treated as hostile consistently stated that the relationship between accused No.1 and the deceased appeared cordial. On a careful re-examination of their evidence it is noticed that they have not specifically deposed in clear terms that the facial injuries found on the deceased were caused while removing the body from the suspension. P.W.6 and P.W.7 have spoken about the process of cutting the veil and bringing down the body

and that the body came into contact with the table. However their testimony does not contain a categorical assertion attributing the facial abrasions exclusively to the act of removal of dead body. At the same time having regard to the surrounding circumstances including the small dimension of the injuries, the absence of any other mark of violence, the evidence of cordial relations and the overall sequence of events, it is not possible to conclude that the said injuries were caused by the accused. The Sessions Court has carefully weighed this aspect and has not found the medical evidence to be of such a nature as to assist the prosecution in establishing physical assault by the accused.

(v) The medical evidence requires detailed consideration. P.W.11 Dr. Francis N.P. Monteiro conducted the post-mortem examination and issued the post-mortem report (Ex.P.28). The post-mortem report records three external injuries namely (1) reddish abrasion on the right upper eyelid in its inner half measuring 1 cm × 0.5 cm exposing the reddish base (2) reddish abrasion on the right side of the forehead just above the mid-point of the right eyebrow measuring 0.6 cm × 0.4 cm and (3) ligature mark

over the neck. The doctor opined that injuries Nos.1 to 3 are ante-mortem in nature and caused by blunt force impact and that the cause of death is due to pressure over the neck structures resulting from hanging. The final opinion (Ex.P.30) and the clarification (Ex.P.31) further state that the injuries are fresh (less than 12 hours old at the time of death) and that the possibility of the blunt force impact being caused by assault could not be ruled out. The doctor also clarified that the material similar to the piece of chudidar veil produced for examination if used as a material of suspension could cause the injuries on the neck and had enough strength to bear the weight of the deceased. In his cross-examination P.W.11 stated that injuries Nos.1 and 2 could possibly be caused by nail scratch or twig of a plant but the possibility of they being caused while removing the suspension is less. He also volunteered that if there is a fall during the release of the body the projecting parts of the face such as the nose forehead and chin are commonly injured but the injuries of the dimension shown in the post-mortem report are not of that nature. The Sessions Court after considering the entire medical evidence including the clarification (Ex.P.31) held

that the injuries are very small in nature and that there is no firm opinion that the injuries mentioned in the post-mortem report could not be caused while removing the suspension. The Sessions Court further observed that in the absence of cogent and clear evidence regarding the opinion on the injuries the evidence of P.W.11 is of no assistance to the case of the prosecution. This appreciation of the medical evidence cannot be said to be perverse or unreasonable.

(vi) The medical records produced by the defence indicate that the deceased was under treatment for anxiety related to her inability to conceive and was prescribed medication for the same. This provides a plausible alternative explanation for the suicide. The defence has also placed on record photographs depicting the couple leading a normal married life. These surrounding circumstances further weaken the prosecution case of continuous harassment culminating in the unnatural death.

11. In view of the above discussion the foundational facts necessary to attract the presumptions under Sections 113-A and 113-B of the Indian Evidence Act have not been established. It is well settled that the presumption under Sec.

113-B of the Act is not automatic. The Hon'ble Supreme Court in ***Shoor Singh v. State of Uttarakhand (2025) 2 SCC 815*** has clarified that the presumption under Section 113-B is not in respect of the act of cruelty or harassment in connection with any demand for dowry. Such presumption arises only after the prosecution proves by ordinary rules of evidence and beyond reasonable doubt all the essential ingredients of "dowry death" under Sec. 304-B of the IPC namely (i) death of the woman by burns or bodily injury or otherwise than under normal circumstances (ii) such death occurring within seven years of marriage (iii) soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband and (iv) such cruelty or harassment was in connection with any demand for dowry. Only upon proof of these foundational facts does the presumption operate that the accused caused the dowry death. The apex court further held that mere admissibility of statements of close relatives regarding what the deceased told them does not automatically render such evidence reliable. The same must still be evaluated against the surrounding circumstances. In the present case

the prosecution has failed to prove the existence of any demand for dowry or cruelty/harassment soon before the death in connection with such demand. Consequently the presumptions under Sections 113-A and 113-B of the Evidence Act are not attracted. The learned Sessions Judge has correctly appreciated this legal position and declined to draw the statutory presumptions.

12. The learned Sessions Judge has considered the entire evidence in detail, noted the contradictions and improvements in the testimony of the interested witnesses carefully analysed the medical evidence including the post-mortem report, the final opinion and the clarification and has given cogent reasons for disbelieving the prosecution version on the vital aspects of demand of dowry and cruelty. The view taken by the Sessions Court is a possible and reasonable view. No perversity or illegality is made out which would warrant interference in this appeal against acquittal.

13. For the foregoing reasons the appeal is devoid of merits and liable to be dismissed.

ORDER

(i) The Criminal Appeal is ***dismissed.***

(ii) The judgment and order of acquittal dated 31.07.2017 passed by the learned IV Additional District and Sessions Judge, Dakshina Kannada, Mangaluru in S.C. No.75/2015 is confirmed.

(iii) The bail bonds if any executed by the respondents-accused shall stand discharged.

(iv) This Court places on record the able services rendered by Sri.Umesh.P.B, learned Amicus Curiae, appearing on behalf of respondents 2 to 4. The Registry is directed to pay the maximum fee/honorarium that is permissible under the Karnataka State Legal Services Authority Regulations, 1997, to the learned Amicus Curiae Sri.Umesh.P.B.

Sd/-
(R DEVDAS)
JUDGE

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

BNV