HC-KAR
NC: 2026:KHC:59954-DB
CRL.A No. 15 of 2021
CNR: KAHC010127422020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 15 OF 2021 (C)

BETWEEN:

SATISHA
S/O GOVINDAPPA,
AGED ABOUT 30 YEARS,
LABOURER
R/O MALENAHALLI VILLAGE
BHADRAVATHI - 577 301

...APPELLANT

(BY SRI. PRASAD B S.,ADVOCATE)

AND:

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

STATE OF KARNATAKA
BY RURAL POLICE STATION
BHADRAVATHI
REP BY SPP
HIGH COURT BUILDING
BENGALURU - 560 001

...RESPONDENT

(BY SRI. VIJAYKUMAR MAJAGE, SPP-II A/W;
SRI. SUDHINDRA B.S., HCGP)

THIS CRL.A FILED U/S 374(2) CR.P C TO SET ASIDE THE JUDGMENT OF CONVICTION DATED 30.01.2020 AND SENTENCE DATED 31.01.2020 PASSED BY THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, SHIMOGA, SITTING AT

BHADRAVATHI IN S.C.NO.5004/2016, CONVICTING THE APPELLANT/ACCUSED NO.1 FOR THE OFFENCE P/U/S 498A AND 302 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

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

This appeal is preferred by the accused against the judgment of the trial Court, convicting and sentencing him for the offences punishable under Sections 302 and 498A of IPC.

2. The charges were framed against accused Nos.1 and 2 for the offences punishable under Sections 498A, 304B and 302 r/w Section 34 of IPC and Section 4 of the Dowry Prohibition Act, 1961 (for short "DP Act").

3. To establish the charges, the prosecution got examined PWs.1 to 22 and got marked Exhibits P1 to

P35 and MOs. 1 to 5. The defense got marked Exhibits D1 to D3.

4. Appreciating the oral and evidentiary evidence on record, the trial Court acquitted accused No.2 of all the charges and also acquitted accused No.1 of the offences punishable under Section 304B of IPC and Section 4 of DP Act. The trial Court convicted accused No.1 for the offence punishable under Section 498-A and 302 of IPC holding that the prosecution has proved that he has subjected the deceased to cruelty and caused her death.

5. Insofar as accused No.2, the Trial Court has held that there is no material with respect to the allegations made against her. The reasons and findings recorded insofar as accused No.2 is concerned, has become final, as there is no challenge to it by the State.

6. It is the case of the prosecution that deceased Rukmini, daughter of the complainant-Nagarajappa, married the accused on 04.07.2012 at Sunnadahalli

Shri.Anjaneyaswamy Temple, and it was a love marriage. Accused No.1, her husband, and accused No.2, her mother-in-law, used to harass and ill-treat her by not providing food, etc., on the ground that she had not brought any dowry. They were subjecting her to cruelty both physically and mentally, insisting her to bring dowry from her parents' house. On 14.09.2015 at about 11.30 a.m., when the deceased was preparing to go to her parents' house, by packing her clothes, accused No.1 with an intention to kill her, tied a ribbon thread around her neck and committed her murder.

7. The law was set into motion by the father of the deceased. Complaint is marked as Ex.P12. The complaint averments reveal that on 14.09.2015 at about 12.00 p.m., complainant's son Danesh (PW.6) and one Mylarappa (PW.14) had been to the matrimonial house of the deceased. At that time, both the accused were quarrelling with the deceased, inside the room. When the accused came out, they entered the room and saw the deceased in

a lying position and she was found to be dead. The complainant further alleged the physical and mental harassment meted out to the deceased by the accused and stated that the panchayats were held by the village elders in that regard.

8. The accused denied all the incriminating evidence appeared against him while he was examined under Section 313 Cr.P.C. He filed a written statement stating that at the time of incident, he was not present in the house and when he returned at about 12.00 in the noon, he heard the cry of his children from inside the house. His wife did not open the door and therefore, he forcibly opened the door and found his wife hanging to the ceiling fan. Immediately, he called the neighbours, Smt. Lakshmi W/o Karunandhi and Smt.Manjula W/o Lokesh. They brought down the body and when they were intending to shift her to the hospital, she was found to be dead. Thereafter, he informed the matter to her family members.

9. The trial Court rejected the defense of the accused observing that, the accused would have taken such a defense in the course of cross-examination of material witnesses who made allegations against them. Further, it is not stated as to what was the object used by the deceased for hanging and it is not elicited as to what was the reason for the deceased to commit suicide by hanging.

10. The fact that the marriage of the deceased and the accused was a love marriage, is not in dispute. In Ex.P12 itself, complainant has stated that the deceased and accused were in love and they got their marriage registered at the Office of the Sub-Registrar, Bhadravathi. The allegations are that after the marriage, the accused was subjecting the deceased to cruelty insisting her to bring dowry from her parental home. PW.5, mother of the deceased, PWs.6 and 11, brothers of the deceased, PWs.15 and 16, uncles of the deceased have all deposed that the accused was subjecting the deceased to cruelty

and he was harassing her and in this regard they had even held panchayats. Ex.P10 is the complaint lodged by the deceased alleging physical and mental torture meted out to her by the accused. She has stated that the accused was addicted to drinking habits and he used to abuse and assault her and not provide food and medicine to her and children. There is no allegation made alleging dowry demand. The accused was advised by the police not to quarrel with the deceased and with an undertaking given by him, the said complaint was closed.

11. The evidence of PWs.5, 6, 11, 13 and 14 would demonstrate that the deceased was being subjected to physical and mental torture by the accused. The accused was addicted to drinking habits and he was ill-treating the deceased. Their evidence coupled with Ex.P10, the earlier complaint lodged by the deceased clearly establish the ingredients of Section 498A of IPC.

12. To convict the accused for the offence punishable under Section 302 of IPC, the trial Court has held at paragraph Nos.47 to 49 as under:

> *" 47. Even if all these loopholes in the prosecution case, one thing is not denied by the accused persons that deceased died while she was residing in their house on 14.9.2015. As I already discussed above, there is no defence against the accused with respect to the allegation made against them as to the cause of death of deceased Rukmini. No doubt the defence counsel has disproved the presence of PW.6 and PW.14 at the time of alleged incident on 14.9.2015 in the house of accused. But, the prosecution has proved that deceased died when she was residing with the accused persons on 14.9.2015 and there was 2 contusions over left occipital region, abrasion over left cheek, right eye brow and multiple injuries over both fore arm. No doubt as argued by the learned Advocate for the accused, doctor had directly sent this document to the I.O., not to the court. But, nothing has been elicited from the mouth of doctor to say that he had not conducted the Postmortem and he gave report at the instance of police by mentioning these external injuries.*

48. Even in Ex.P.1- inquest mahazar also it is shown that there were two contusion injuries on the back of the head, PW.5, PW.6 and PW.14 have deposed about these injuries found on the dead body. Nothing has been elicited from their mouth to disbelieve their version. So, the prosecution has proved that there was injuries on the dead body of Rukmini as mentioned in Ex.P.1 inquest mahazar and Ex.P.20- Postmortem report.

49. PW.1 - Kuberappa, PW.5- Smt.Deviramma, PW.6-Danesh, PW.11-Mahantesha, PW.12-Krishnappa and PW.14-Mailarappa have also deposed about ligature mark found on the front of neck of deceased. In Ex.P.1 - inquest mahazar it is stated that there was ligature mark on the left side of neck. In Ex.P.20-Postmortem report it is shown about ligature mark, which was oblique incomplete, measuring 20 x 1 c.m. present over front, left side and left side back of upper and middle part of neck situated 7 c.m. below left ear lobe 6 c.m. below chin and 1.5 c.m. below posterior hairline. Nothing has been elicited from the mouth of these witnesses to say that there was no such ligature mark. PW.17-doctor in his cross-examination deposed that these ligature marks could be caused if rope is tied around neck.

Further he admitted that he had shown in the Postmortem report -Ex.P.20 that those ligature marks were down gradient and those could be caused if while hanging to a fan or beem, the hanging hook comes down, and he has not stated in his report that there was a ligature mark around the neck. Whether the ligature mark was down gradient or it was oblique incomplete, the fact that there was ligature marks on the neck of the neck of the deceased was stand proved. It is the accused who has to show how there was injuries on the head and also body of deceased and ligature marks on her neck. "

13. The trial Court has further held that, the deceased was in the custody of accused No.1 on the date of incident and there is no defence by the accused about the cause of death. For the first time in the course of cross-examination of PW.13, he has taken a defence that deceased had committed suicide by hanging.

14. It is not in dispute that Rukmini died in her matrimonial home. As per the defence taken by the accused, he was not present in the house and when he

returned home at about 12.00 noon, his children were crying and the door of the house was closed. He forcibly opened the door and when he entered the house, saw his wife in a hanging position. He immediately called his neighbours Smt.Lakshmi and Smt.Manjula and removed the knot and when they were about to shift his wife to the hospital, they found that she was dead.

15. Ex.P20 is the PM report. Post mortem examination is conducted by PW.17. As per the final opinion furnished by him, cause of death is "*Asphiyxia due to compression of neck by ligature*."

16. According to the prosecution, PW6 -Danesh and his friend PW.14-Mylarappa went to the house of the accused at about 12.00 noon on 14.09.2015. At that time, they heard the sound of quarrelling from inside the house and after some time, the accused came out of the house. When they went inside, they saw the dead body of Rukmini lying on the bed and also noticed injury on the

back of her head and the ligature mark in the neck and broken bangle pieces. PW.6 has stated that he enquired with the neighbour namely Mrs. Lakshmi, who informed him that for the last 3 to 4 days, the accused was physically assaulting the deceased. Similarly, PW.14 has deposed in his evidence that when he along with PW.6-Danesh had been to the house of the accused, the accused and the deceased were quarrelling inside the house and after about 10 minutes, the accused came out of the house. When they went inside, they found the dead body of Rukmini and noticed injury on her head and a ligature mark on her neck. The neighbours informed that for the last 2-3 days, the accused was quarrelling with Rukmini.

17. According to prosecution, PW6 and PW14 went to the house of the accused at about 12:00 p.m., on 14.09.2015. In his cross-examination, PW6 has stated that on 14.09.2015 at about 10:30 a.m., he left the village on a motorcycle, along with PW14 and reached the house

of the accused at about 11:15 a.m. Contrary to the same, PW14, in his cross-examination has stated that PW6-Danesh and himself had left their village at about 05:00 p.m. in the evening and reached the house of the accused at about 07:00 p.m. PW11-brother of PW6 has stated that he received a phone call from his brother-Danesh and PW14-Mylarappa during the night hours of 14.09.2015, informing him that the accused have committed the murder of Rukmini.

18. The above contradictions in the evidence of PW6 and PW14 raise a reasonable doubt in the mind of the Court with regard to both of them going to the house of the accused at about 12:00 noon on 14.09.2015. Even otherwise, it is evident from their evidence that they have not seen the accused committing the murder of Rukmini by strangulating her with MO5-ribbon (thread). They have stated that on enquiry, the neighbours informed them that the accused and the deceased have been quarrelling for the past 2-3 days.

19. The accused was arrested on 15.9.2015. On his arrest, the I.O. has not recorded his voluntary statement. The I.O.-PW20 has stated that after the arrest, the accused was produced before the Court and he was taken into police custody on 29.9.2015 and recorded his voluntary statement as per Ex.P28. Based on the voluntary statement, a green colour ribbon tape i.e., MO.5 was seized from a drawer inside his house under a mahazar at Ex.P17.

20. The prosecution has got examined PW8 and PW10-the panch witnesses to Ex.P17. Their evidence do not reveal that the voluntary statement of the accused was recorded in their presence. They have not stated that the accused led them and the police to his house and removed MO5 from the drawer. Their evidence only shows taking of photographs marked as Exs.P18 and P19, wherein the accused was seen holding MO5.

21. PW17 has given his opinion regarding the ligature material, i.e., green colour synthetic piece of cloth (like a rope). He has opined that (i) it is possible to sustain such a ligature mark mentioned in the post mortem report (ii) possibility of causing death of a human being by application of force around the neck by the given material cannot be completely ruled out. In the cross examination, PW17 has stated that if a person is strangulated with a rope, there is a possibility of ligature mark around the neck. It is elicited that in the post mortem report, he has mentioned that the ligature mark was downwards and if a person commits suicide by hanging, such a mark is possible.

22. We have perused the post mortem report. As per which, the ligature mark was oblique incomplete ligature mark measuring 20 x 1 cm. present over front, left side, back of upper and middle part of the neck. There was no ligature mark completely encircling the neck. This assumes importance, because according to the defense of

the accused, on entering the house, he saw his wife hanging from a ceiling fan. He immediately called the neighbours namely Mrs.Lakshmi and Mrs.Manjulamma. They brought down the body and found that Rukmini was dead. Mrs.Lakshmi is examined as PW13. She has deposed that Rukmini committed suicide by hanging, but stated that, she was not aware as to for what reason she committed suicide by hanging. She was treated hostile by the prosecution. In the cross-examination, she has stated that when Rukmini died, there was no one present in the house. She and Manjulamma saw her for the first time. The door was closed and the children were weeping inside the house. The accused also came to the house for lunch and they forcibly opened the door and found Rukmini hanging to the ceiling fan. When they were about to shift the dead body to the hospital, she breathed her last.

23. From the above evidence and material on record, we are of the opinion that the trial Court was not justified in convicting the accused for the offence

punishable under Section 302 IPC. However, there is sufficient material to show that the accused was subjecting the deceased to physical and mental cruelty, attracting the ingredients of Section 498A of IPC. Hence, the conviction and sentence passed by the trial Court for the offence punishable under Section 498A IPC is justified.

24. For the foregoing reasons, we pass the following:

ORDER

i. Appeal is **allowed-in-part**.

ii. The Judgment dated 30.01.2020 and the Order on Sentence dated 31.01.2020, convicting and sentencing the appellant/accused No.1 for the offence punishable under Section 302 of IPC is **set aside**.

iii. The judgment and order of conviction and sentence passed for the offence punishable under Section 498A of IPC is **confirmed.**

iv. The accused is in custody. He has already undergone the sentence imposed against him for the offence punishable under Section 498A of IPC. Hence, he shall be released forthwith from the prison, if not required in any other case.

v. The District Legal Services Committee, Shivamogga, shall determine adequate compensation to be awarded to PW5-Smt.Deviramma, mother of the deceased, under the Karnataka Victim Compensation Scheme, within a period of three months.

Copy of the judgment shall be communicated to the concerned Jail Authority and the Member Secretary, DLSA, Shivamogga.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

BSV/TL
List No.: 1 Sl No.: 19