HC-KAR

NC: 2026:KHC:59690
CRL.A No. 990 of 2015
C/W CRL.A No. 1600 of 2015

CNR: KAHC010371772015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.990 OF 2015 (C)

C/W

CRIMINAL APPEAL NO.1600 OF 2015 (A)

IN CRL.A NO.990/2015

BETWEEN:

1. MOHAMAD ILIAS
   S/O GOUS SAB
   AGED ABOUT 33 YEARS,
   R/AT NO.105, 4TH A CROSS,
   KANAKANAGARA LAYOUT,
   HEBBALA, BANGALORE - 560024.
   NATIVE OF KALKERE VILLAGE,
   TURUVEKERE, TUMKURU.

...APPELLANT

(BY SRI. MANJUNATH M. R., ADV. FOR
SRI. B. N. SHIVA KUMAR., ADV.)

Digitally signed by LAKSHMINARAYAN N
Location: High Court of Karnataka

AND:

1. STATE OF KARNATAKA
   BY HEBBALA P.S.

...RESPONDENT

(BY SRI. K. NAGESHWARAPPA, HCGP.)

CRL.A. FILED U/S.374(2) CR.P.C BY THE ADV. FOR THE APPELLANT/ACCUSED PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT OF CONVICTION DATED 27.6.2015 PASSED BY THE LXIII ADDL.

CITY CIVIL AND S.J., BENGALURU CITY IN S.C.NO.592/2014 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 498(A) OF IPC AND ETC.

IN CRL.A NO.1600/2015

BETWEEN:

1. STATE OF KARNATAKA
   BY HEBBAL POLICE STATION,
   BENGALURU CITY, BENGALURU,
   REPRESENTED BY
   STATE PUBLIC PROSECUTOR.

...APPELLANT

(BY SRI. K. NAGESHWARAPPA, HCGP.)

AND:

1. MOHAMMED ILIAS
   S/O. GOUS SAB,
   AGED ABOUT 32 YEARS,
   R/AT NO.105, 4TH "A" CROSS,
   KANAKANAGAR, HEBBAL,
   BENGALURU-560 024.

   NATIVE OF: KALKERE VILLAGE,
   TURUVEKERE, TUMKUR DISTRICT-572 227.

...RESPONDENT

(BY SRI. MANJUNATH M. R., ADV. FOR
SRI. B. N. SHIVA KUMAR., ADV.)

CRL.A. FILED U/S.378(1)AND(3) CR.P.C BY THE STATE P.P. AND ADV. FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUTTAL DATED 27.06.2015 IN SESSIONS CASE NO.592/2014 ON THE FILE OF THE LXIII ADDL. CITY CIVIL AND S.J., BENGALURU CITY, BENGALURU, ACQUITTING THE RESPONDENT -ACCUSED OF THE OFFENCES P/U/S 306 OF IPC AND ETC.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

Both these appeals arise out of judgment of conviction and order on sentence dated 27.06.2015 passed in SC No.592 of 2014, by the LXIII Additional City Civil and Sessions Judge, Bengaluru City (for short, the "trial Court").

2. Appellant/accused has preferred Criminal appeal No.990 of 2015, challenging the conviction and sentence for the offence under Section 498-A of Indian Penal Code. State has preferred Criminal Appeal No.1600 of 2015 against the acquittal of the accused under Section 306 of Indian Penal Code.

3. Brief facts leading to this appeal are that the Police Inspector, Hebbal Police Station, filed charge-sheet against the accused for the offence punishable under Sections 498A and 306 of Indian Penal Code. It is alleged

by the prosecution that the accused being the husband of the deceased, after marriage with deceased, started residing in Kanakanagar, Hebbal, Bangalore in the house given by the complainant without doing any work and he subjected the deceased to cruelty physically and mentally and used to spend the rent amount by harassing the deceased. The complainant purchased an autorickshaw for accused in order to look after deceased properly. Even then, accused used to harass the deceased by demanding the registration of house and the shop constructed by the complainant, into his name. Being unable to tolerate the harassment of the accused, on 23.10.2013, deceased committed suicide in her house by hanging to the ceiling fan with the help of veil. Thus, the accused has committed the alleged offences.

4. After filing the charge-sheet, case was registered in CC No.319 of 2014 and thereafter, case was committed to the Court of Sessions where it was registered as SC No.592 of 2014. Accused appeared before the court and

enlarged on bail. On hearing charges, trial Court framed charges against the accused for the alleged offences; the same were read over and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried. To prove the guilt of the accused, prosecution has, in all, examined 14 witnesses as PW1 to 14 and marked nine documents as Exhibits P1 to P9 and one material object was marked as MO1. On closure of prosecution side evidence, statement of accused under Section 313 was of Cr.PC was recorded. Accused has denied the incriminating evidences appearing against him. However, he did not choose to lead any defence evidence on his behalf. Having heard the arguments on both sides, the trial Court acquitted the accused under Section 306 of Indian Penal Code and convicted for the offence punishable under Section 498A of Indian Penal Code and passed the sentence to undergo simple imprisonment for two years and to pay fine of Rs.5,000/-. Being aggrieved by the Judgment of acquittal for the offence under Section

306 of Indian Penal Code, State has preferred Criminal Appeal No.1600 of 2015. Accused has preferred Criminal Appeal No.990 of 2015, challenging judgment of conviction and order on sentence.

5. Sri Manjunath M.R., learned Counsel appearing on behalf of the appellant-Accused, would submit that the judgment of conviction and sentence passed by the trial Court is opposed to facts, circumstances and probabilities of the case. He would submit that PW1, the mother of the deceased has not stated as to on which date the accused demanded the dowry. Date of negotiation also not disclosed. Deceased was suffering from chest pain and vomitting because of which she was depressed and hence, she committed suicide. PW2-brother of the deceased Abeed Pasha, PW3-Shahajan, sister of the deceased, have not deposed anything against the accused. PW4-Shafi Ulla, PW5-Sadiq Pasha and PW6-Abdul Basith established material omissions and contradictions in their evidence. They are all relatives. The trial court has accepted their

evidence. PW7-Mohammed Dastagir has turned hostile. PW8-Abdul Khayum and PW9-Mohammed Mumtaz have not deposed anything as to the cruelty meted out to the deceased, soon before her death. Exhibit P1-complaint does not disclose that the accused demanded dowry. The evidence of PW1 to PW4 are not corroborated with the evidence of PW7 to 9. No Panchayat was held earlier. The parents or the brothers of the deceased, never questioned the accused about ill treatment. It shows that there was no difference between the couple. The attitude of the deceased was abnormal as she was highly sensitive, she was not eating food, not talking with anybody and she felt to stay alone in the house for the reason that she was suffering from chest pain and vomiting. The investigation is tainted investigation. The investigating officer colluded with the relatives of the deceased and concocted false case against the accused. The appellant is innocent and he has not committed any offence as alleged. The trial court has not properly appreciated the evidence on record and

convicted the accused for the offence under Section 498A of Indian penal code, which is not sustainable under law. On all these grounds, it is sought to allow the appeal.

6. Sri K. Nageshwarappa, learned HCGP for the State in Criminal Appeal No.1600 of 2015, would support the impugned judgment of conviction and sentence. However, he submits that the judgment of acquittal of the accused for offence and Section 306 of Indian Penal Code is illegal, invalid and contrary to law, facts and evidence on record. The reasons assigned by the Presiding officer while passing the impugned judgment of acquittal of the charge, is erroneous and improper. He has reached the wrong conclusion, which has resulted in miscarriage of justice. The trial Judge, without appreciating the materials on record in its proper perspective, has erroneously acquitted the accused for offence punishable under Section 306 of Indian Penal Code. On all these grounds, it is sought to allow the appeal preferred by the State.

7. Having heard the arguments on both sides and on perusal of records, the following points would arise for my consideration:

(1) Whether the State has made out grounds to interfere with the impugned judgment of acquittal for offence under Section 306 of Indian Penal Code?

(2) Whether the appellant/accused has made out grounds to interfere against the judgment of conviction and sentence passed by the trial Court for the offence punishable under Section 498-A of Indian Penal Code?

(3) What order?

8. My answer to the above points are:

Point No.1: in the negative;
Point No.2: partly in the affirmative;
Point No.3: as per final order.

Regarding Point No.1:

9. I have examined the materials place before the court. It is alleged by the prosecution that the accused, after marriage with deceased, started residing in Kanakanagar, Hebbal, Bangalore in the house given by the complainant. He was not doing any work and subjected the deceased to cruelty, both physically and mentally and also used to spend the rent amount. The complainant purchased an autorickshaw for accused in order to look after deceased properly. Even then, accused used to harass the deceased by demanding the registration of house and the shop constructed by the complainant, into his name. Being unable to tolerate the harassment of the accused, on 23.10.2013, deceased committed suicide in her house by hanging to the ceiling fan with the help of veil. Thus, the accused committed the alleged offences. To prove the guilt of the accused, prosecution has examined 14 witnesses as PWs1 to 14 and marked nine

documents as exhibits P1 to P9 and 1 material object as MO1.

10. With regard to acquittal of the accused for the offence punishable under Section 306 IPC is concerned, it is appropriate to mention here as to the judgment of Hon'ble Supreme Court in the cases of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOUDA 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. The Hon'ble Supreme court, in the above cases, has laid down principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure are, 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, while deciding an appeal against acquittal,

after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a plausible view which could have been taken on the basis of the evidence on record; if the view taken is a plausible 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 a 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.

11. In the case on hand, with regard to the offence under Section 306 of Indian Penal Code, at paragraph 38

and 39 of the judgment, the trial Court has observed as under:

> *"38. On going through the evidence of the prosecution it is seen that, all the witnesses stated that, accused is responsible for the death of the deceased. It itself is not sufficient to say that acts of the accused abetted the deceased to commit suicide. Absolutely no circumstances of abetment are made out by the prosecution against the accused before the Court. Merely because accused found guilty for the offence punishable U/Sec.498(A) of IPC he should not be necessarily held to be guilty for the offence punishable U/Sec.306 of IPC on the basis of the same evidence. In this case absolutely no independent evidence is brought before the Court to show the acts of the accused abetted the deceased to commit suicide. Arguments of the advocate for the accused that, no ingredients of offence U/Sec.306 of IPC is made out in the facts and circumstances of the case is acceptable one. The acts of the deceased appear that, she is hyper sensitive. Hence absolutely no circumstances are brought before the Court to show that, there was act of abetment by the accused and harassment of the accused leads the deceased to commit suicide. The arguments of the prosecution that harassment leads to suicide of the deceased are not acceptable one. Because in India difference of opinion between husband and wife is common. When it is so, whether such difference induced the deceased to commit suicide is to be looked into. In*

the opinion of the Court the evidence relied by the prosecution will not inspire the Court to come to the conclusion that harassment induced the deceased to commit suicide. Hence I have not accepted the evidence led by the prosecution to base the conviction of the accused for the offence punishable U/Sec.306 of IPC. Merely in a bit of anger if husband says something to the wife it will not amount to abetment or if there was any harassment to the wife by the husband that itself is not sufficient to commit suicide. Unless extreme circumstances are brought before the Court. Such extreme circumstances are not found in the evidence led by the prosecution. Hence this Court comes to the conclusion that prosecution utterly failed before the Court to prove beyond all reasonable doubts that accused has committed the offence punishable U/Sec.306 of IPC. Whenever doubt arises in the mind of the Court then accused is entitled for the said benefit of doubt in his favor. In view of the discussion made above and the citations relied upon by the accused, I am of the opinion that prosecution fails to prove its case as against the accused for the offence punishable U/Sec.306 of IPC. Accordingly by awarding benefit of doubt in favour of the accused, this Court comes to the conclusion that prosecution fails to prove its case as alleged against the accused for the offence punishable U/Sec.306 of IPC. The evidence led by the prosecution as far as offence U/Sec.498 (A) of IPC is corroborative and acceptable one.

> *39. In view of the discussion made above and findings, this Court comes to the conclusion that accused found guilty of the offence punishable U/Sec.498 (A) of IPC and he is liable for conviction for the said offence. The prosecution fails to prove beyond all reasonable doubt that accused has committed the offence punishable U/Sec.306 of IPC. Hence accused is entitled for acquittal for the said offence. Accordingly Point No.1 is answered partly in the Affirmative and partly in the Negative."*

12. The trial court has also relied on the decision in the cases of KIRANBHAI GOVINDBHAI KURKURI v. STATE OF GUJARAT reported in 2002 SCC (Cri.) 1088 and GANGULA MOHAN REDDY v. STATE OF ANDHRA PRADESH reported in (2010)1 SCC (Cri.) 917. On careful examination of the entire material on record, I do not find any evidence to constitute the offence under Section 306 of Indian Penal Code. The trial court has properly appreciated evidence on record in accordance with law and facts. I do not find any legal or factual error in the impugned judgment. Considering the facts and circumstances of this case and also keeping in mind the aforesaid decisions, I am of the opinion that the State has

failed to make any ground to interfere with the judgment of acquittal for offence under Section 306 of Indian Penal Code. Hence, I answer Point No.1, in the negative.

Regarding Point No.2:

13. With regard to offence punishable under section 498-A of Indian Penal Code is concerned, the trial Court has held that the accused has committed the offence under the said Section. The trial court has discussed the evidence of prosecution witnesses at length and observed that PWs1 to 5, and 9 have clearly deposed as to the mental and physical cruelty meted out on the deceased to the accused. It is submitted by the learned counsel for the appellant that the deceased died on 23.10.2013 and the case was registered as UDR No.20 of 2013 for offence and section 174(c) of CrPC. On the basis of the complaint by Smt. Shakira Begum as per Exhibit P1 after three days, case was registered against the accused for the offence punishable under Section, 498-A of Indian Penal Code.

14. PW1-Shakira Begum has clearly deposed as to the alleged cruelty of the accused. Mere delay in filing the complaint is not a ground to acquit the accused for the offence under Section 498A of Indian Penal Code. The trial Court has properly appreciated the evidence on record in accordance with law and fact and has rightly convicted the accused for the offence under the said Section. The trial court has passed the sentence against the accused to undergo simple imprisonment for two years and to pay a fine of Rs.5,000/-, in default to pay fine, to undergo simple imprisonment for a period of six months. The trial Court records reveal that the accused has already remitted the fine amount of Rs.5,000/- vide Q receipt No.525 of 2015 dated 27.06.2015.

15. While imposing sentence, the trial Court has assigned reasons that the accused has regularly appeared before the court on all dates of hearing. He has got aged parents to look after. The learned counsel for the appellant would submit that the accused is having two minor

children aged 16 and 11 years, respectively. Except the accused, there are nobody to look after the children. It is submitted that the accused has already undergone custody for a period of 81 days. The offence under Section 498-A of Indian Penal Code is punishable with imprisonment for a term which may extend to 3 years and is also liable to fine. In the case on hand, it is not in dispute that the accused has already undergone incarceration for a period of 81 days. Considering the nature and gravity of the offence, prior antecedents of the accused and also keeping in mind the welfare of the children of the accused who are minor, in my opinion, it is just proper to modify the sentence passed by the trial Court only to the extent of 81 days with fine of Rs.5,000/-. Accordingly, I answer Point No.2, partly in the affirmative.

Regarding Point No.3:

For the reasons and discussion afore, I proceed to pass the following:

O R D E R

1. Criminal Appeal No.1600 of 2015 preferred by the State is dismissed;

2. Criminal Appeal No.990 of 2015 filed by the accused is partly allowed;

3. The judgment of conviction dated 27.06.2015 passed in SC No.592 of 2014 by the LXIII Additional City Civil and Sessions Judge, Bangalore City is confirmed;

4. The order on sentence dated 27.06.2015 passed in SC No.592 of 2014 by the LXIII Additional City Civil and Sessions Judge, Bangalore city, is modified as under:

   i) Accused shall undergo simple imprisonment for a period of 81 days and pay fine of Rs.5,000/-;

   ii) Accused is entitled for set off under section 428 of Cr.PC;

iii) Accused has already undergone judicial custody for a period of 81 days and also remitted the fine amount of Rs.5,000/-. Hence, the Trial court is directed to forfeit the fine amount.

Registry is directed to transmit the trial court records along with the copy of this judgment to the concerned court.

Sd/-
(G BASAVARAJA)
JUDGE

LNN
LIST NO.: 1 SL NO.: 63