

KAVP030124942022



Presented on : 22-11-2022  
Registered on : 22-11-2022  
Decided on : 24.08.2023  
Duration: 09 Months 08 Days.

IN THE COURT OF IV ADDL. CIVIL JUDGE & J.M.F.C  
AT VIJAYAPURA

Present : Sri Chandrakanth,  
B.Com, LL.M.  
C/C IV Addl.Civil Judge and JMFC, Vijayapura

C.C. No.9086/2022

Dated this 30<sup>th</sup> day of August, 2023.

Complainant : The State  
By Women Police, Vijayapura  
(By A.P.P.)

V/s

Accused : 1. Saiyyad Dastagir Khadri,  
Age; 42 years, Occ; Businessmen,  
R/o; Vijayazpur, Tq;Dist; Vijayapura.

(By Sri.M.N.Hundekar, Advocate)

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Date of Commission of Offence : 05.12.2015 to  
13.05.2022  
Date of Report of Offence : 13.08.2022  
Date of appearance of accused : 24.08.2023

Name of the informant : Saiyyadabi Soleha  
Kamaliwale Phiran W/o  
Dastagir Khadari,  
Date of recording evidence : 24.08.2023  
Date of Closing of evidence : 24.08.2023  
Offences complained of : Ss.498-A, 323, 504,506  
of IPC.  
Opinion of the Judge : As per final order  
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### **JUDGMENT**

The PSI of Women Police Station, Vijayapura has filed charge-sheet against the accused for the offences punishable U/s.498-A,323,504,506 of IPC.

**2.** The case of the prosecution is as under:

The accused is the husband of the complainant. Between 05.12.2015 to 13.05.2022 while the complainant was residing in the house of accused situated at Chandapur Colony, Vijayapur, the accused has subjected the complainant and physical and Mental Cruelty demanding to bring money and gold from maternal house assaulted C.W.1 with hands, abused her filthy language and subjected the complainant to physical and mental cruelty demanding to bring dowry from her parents. Based on the complaint given by the complainant, FIR has been registered against the accused persons. After completion of investigation,

the Investigating Officer has filed charge-sheet against the accused for the aforesaid offences.

**3.** Thereafter cognizance was taken and issued summons to the accused. The accused appeared through counsel in pursuance of summons and got enlarged themselves on bail. Charge-sheet copies were furnished to the accused in compliance of Sec.207 of Cr.P.C.

**4.** The charges of offences U/s.498-A, 323, 504, 506 of IPC were read over and explained to the accused person to which who pleaded not guilty and claimed to be tried.

**5.** The prosecution in order to bring home the guilt of the accused it got examined one witness as Pw.1 and got marked document as per Ex.P.1. Since Pw.1 who is the complainant and victim has turned hostile, the prayer of the prosecution for examination of other witnesses has been rejected and remaining witnesses have been dropped. There is no any incriminating evidence against the accused, the statement of the accused under Section 313 of Cr.P.C is dispensed with.

**6.** Heard the arguments of learned prosecution and Counsel for accused.

7. The points that arise for consideration of this Court are as under :

**POINTS**

1. Whether the prosecution proves beyond all reasonable doubt that, the accused being the husband of the complainant from 05.12.2015 to 13.05.2022 at about 10.00 p.m, while the complainant was residing in the house of accused situated at Chandapur Colony, Vijayapur the accused has subjected the complainant to physical and mental cruelty demanding to bring dowry from her parents and thereby committed offence punishable U/s.498-A of IPC ?
2. Whether the prosecution proves beyond all reasonable doubt that, above said date, time and place, the accused assaulted the complainant with hands and voluntarily causing simple hurt and thereby committed offence punishable U/s.323 of IPC?
3. Whether the prosecution proves beyond all reasonable doubt that, on the above said date, time and place, the accused subjected the complainant and intentionally insulted the complainant by abusing in filthy language intending to give provocation which would cause break the public peace and thereby committed offence punishable U/s.504 of IPC?
4. Whether the prosecution proves beyond all reasonable doubt that, on the above said date, time and place, you accused gave life threat to the complainant and thereby committed an offence punishable U/s.506 of IPC?

5. What Order?

8. The findings of this Court on above points are as under:-

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Negative,

Point No.4 : In the Negative,

Point No.5 : As per final order for the following:-

### **REASONS**

9. **POINTS NO.1 TO 4:** These points are connected each other and to avoid repetition of facts and appreciation of evidence, these points are taken together for consideration.

10. It is the specific case of the prosecution that, the accused being the husband from 05.12.2015 to 13.05.2022 while the complainant was residing in the house of accused situated at Chandapur Colony, Vijayapur the accused has subjected the complainant to physical and mental cruelty demanding her to bring dowry from her parents. It is further alleged that, the accused has subjected the complainant to cruelty, assaulted her with hands and abused the complainant in filthy language.

**11.** The prosecution in order to bring home the guilt of the accused it got examined Pw.1 who is the complainant/victim. Alongwith oral evidence got marked document as per Ex.P.1.

**12.** Pw.1 who is the first informant deposed that there was some dispute in regard to the family matters. As per the say of the police she registered the case against the accused. She does not know the contents of the complaint. She has not shown the spot to the panchas while drawing panchanama. Regarding the verbal exchange of words she has given complaint as per Ex.P.1. The prosecution treated this witness as hostile witness and cross-examined by suggesting about the case of the prosecution but nothing has been elicited to prove the case of prosecution.

**13.** The learned A.P.P. has prayed this court to treat PW1 as hostile witness. She was treated as hostile witness. The learned APP has cross-examined her in detail with great efforts. But, inspite of the cross-examination by the learned APP nothing has been elucidated from her mouth so as to support the case of prosecution.