

**IN THE COURT OF THE ADDL. DIST. & SESSIONS JUDGE-I,
KOLLAM**

Present: Sri. P.N. Vinod, Addl. Sessions Judge-I, Kollam
Wednesday, the 13th day of November, 2024/22nd day of Karthika, 1946.

Sessions Case No. 2044/2022

C.P. No. : 114/2022 of JFMC, Karunagapally

Crime No. : 561/22 of Karunagapally Police Station

Complainant : State of Kerala represented by Sub Inspector of
Police, Karunagapally Police Station

By Adv: **Sri. Sicin. G. Mundakkal**
Addl. Public Prosecutor

Accused : Noushad, aged 49/22, S/o Shahul Hameed,
Kaleeykal Thekkathil, Thodiyoor North,
Thodiyoor.

By Adv. Albert P. Netto

Charge : u/s. 323, 324, 308 and 498A of IPC and
Sec. 75 of the JJ Act, 2015

Plea of the accused : Not guilty

Finding of the Judge : Not guilty

Sentence or Order : The accused is acquitted u/s.235(1) of Cr.P.C.

Dates of trial & hearing : 20.06.2023, 11.09.2024, 07.11.2024 and
08.11.2024

This Sessions Case has been coming on for final hearing on 08.11.2024 and having stood over for consideration and on 13.11.2024 the court delivered the following:-

J U D G M E N T

This is a case charge sheeted by Karunagappally police against the accused alleging commission of offences punishable u/s. 498A, 341, 323, 324, 294(b), 506 and 308 of the Indian Penal Code (IPC in short) and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act, 2015 in short).

2. The following is the summary of the prosecution case as brought out by the final report:-

The accused is the husband of witness no. 1. The accused committed cruelty against witness no. 1 by demanding dowry. On 04.05.2022 at 08.30 p.m, the accused caused hurt to witness no. 2 who is the child of the spouses and caused hurt to her and committed cruelty against her. When witness no. 1 tried to interfere, the accused cut her by a chopper and caused hurt to her and attempted to commit culpable homicide.

3. Originally, case was registered as crime no. 561/2022. After the completion of investigation, final report was laid against the accused alleging commission of the above mentioned offences.

4. The final report was filed before the court of Judicial First Class Magistrate, Karunagappally. The case was taken into the file of the said court as C.P. No. 114/2022. The accused appeared before the committal court. After complying with the procedural requirements, the case was committed to the Court of Session, Kollam.

5. The Court of Session made over the case to this court for trial and disposal.

6. The accused appeared before this court.

7. After hearing both sides and after verifying the records of the case, charge was framed against the accused u/s. 323, 324, 308 and 498A of IPC and Section 75 of the JJ Act, 2015. Charge was read over and explained to the accused to which he pleaded not guilty.

8. On the side of the prosecution, PW 1 to PW 3 were examined and Ext.P1 to Ext.P7 and MO1 were marked. The remaining witnesses were given up by the prosecution.

9. When the accused was questioned u/s. 313 of Cr.P.C, he denied the incriminating circumstances appearing in evidence against him and stated that he is innocent.

10. Thereafter, both sides were heard u/s. 232 of Cr.P.C. This court was of the opinion that sufficient grounds were not made out to acquit the accused at that stage. Therefore, the accused was called upon to enter on his defence.

11. The accused did not adduce any evidence.

12. Both sides were heard.

13. According to me, the following points arise for consideration in the case:-

- (1) Whether the prosecution succeeded in proving that the accused committed cruelty against PW1 and thereby committed offence punishable u/s. 498A of IPC ?
- (2) Whether the prosecution succeeded in proving that the accused voluntarily caused hurt to PW1 by means of dangerous weapon of offence and attempted to commit culpable homicide and thereby committed offences punishable u/s. 324 and 308 of IPC ?
- (3) Whether the prosecution succeeded in proving that the accused caused hurt to PW2 and committed cruelty against PW2 and thereby committed offences punishable u/s. 323 of IPC and Sec. 75 of the JJ Act, 2015 ?
- (4) If found guilty, what is the proper sentence to be awarded ?

14. **Points 1 to 3:-** The said points are considered and answered together.

I have already referred to the summary of the charge levelled against the accused. The evidence adduced has to be analysed in order to decide whether the prosecution succeeded in proving the charge levelled against the accused.

15. The first informant was examined as PW1. She is the wife of the accused. The first information statement was marked through her as Ext.P1. She did not support the prosecution case and gave evidence to the effect that the accused did not demand dowry and did not cause hurt to her and PW2. Ext.P2 is contradictory portion of Ext.P1.

16. PW2 is the daughter of PW1 and the accused. PW2 repeated the stand of PW1 and gave evidence to the effect that the accused did not harass PW1 and did not cause hurt to PW1 and PW2.

17. PW3 was Sub Inspector of Police, Karunagappally. He conducted the investigation in the case. Ext.P3 FIR, Ext.P4 scene mahazar, Ext.P5 property list and Ext.P7 birth certificate of PW2 were marked through PW3. PW3 further stated that he seized MO1 chopper from the scene of crime as per Ext.P4 and produced the same before court as per Ext.P5 property list. The accused was arrested on 13.07.2022. Ext.P6

series are records of arrest. PW3 questioned the witnesses and recorded their statements. He laid the charge sheet after the completion of investigation.

18. The prosecution case was mainly resting upon the oral evidence of PW1 and PW2. Both of them did not support the prosecution case and stated that the accused did not commit the offences. Thus, they gave a clean chit to the accused.

19. There is no satisfactory evidence to prove the charge against the accused. He is entitled to be exonerated.

20. In the light of the above discussion, I hold that the prosecution failed to prove that the accused committed the alleged offences.

Points 1 to 3 are answered against the prosecution.

21. **Point no. 4:-** In the light of my findings on points 1 to 3, I find the accused not guilty u/s. 323, 324, 308 and 498A of IPC and Section 75 of the JJ Act, 2015. Therefore, the accused is acquitted of the said offences u/s.235(1) of Cr.P.C. The bail bond of the accused is cancelled and he is set at liberty forthwith.

22. MO1 will be broken up and sold after the appeal period is over as per Rule 268 of the Kerala Criminal Rules of Practice.

(Dictated to the Confidential Assistant, transcribed and typed by her corrected by me and pronounced in open Court on this the 13th day of November, 2024.)

Sd/-
P. N. Vinod
Addl. Sessions Judge-I

APPENDIX

Exhibits for the Prosecution :

P1	-	05.05.2022	-	F I S	proved by PW1
P2	-	05.05.2022	-	Portion of F I S	proved by PW1
P3	-	05.05.2022	-	F I R	proved by PW3
P4	-	06.05.2022	-	Scene Mahazar	proved by PW3
P5	-	29.07.2022	-	Property List	proved by PW3
P6	-	13.07.2022	-	Arrest Memo	proved by PW3
P6(a)	-	13.07.2022	-	Custody Memo	proved by PW3
P6(b)	-	13.07.2022	-	Inspection Memo	proved by PW3
P7	-	23.04.2010	-	Birth Certificate of PW2	proved by PW3

Exhibits for the Defence : Nil

Court Exhibits : Nil

Witnesses for the Prosecution:

PW1	-	Nisha
PW2	-	Subiya. N
PW3	-	Aloysius Alexander, Sub Inspector of Police, Karunagappally Police Station

Witnesses for the Defence : Nil

Material objects :

MO1	-	Chopper
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Sd/-
Addl. Sessions Judge-I

TABULAR FORM AS PER RULE 132 OF THE CRIMINAL RULES OF PRACTICE

- | | | |
|---|---|---|
| 1. Serial No. | : | S.C. No. 2044/2022 |
| 2. Name of Police Station &
Crime No. of offence | : | 561/2022 of Karunagapally Police
Station |

DESCRIPTION OF THE ACCUSED

- | | | |
|--------------------|---|---|
| 3. Name of Accused | : | Noushad |
| 4. Father's name | : | Shahul Hameed |
| 5. Occupation | : | --- |
| 6. Residence | : | Kaleeykal Thekkathil,
Thodiyoor North, Thodiyoor |
| 7. Age | : | 44/2022 years |

DATES OF

- | | | |
|--|---|------------------------------|
| 8. Occurrence | : | 04.05.2022 and earlier dates |
| 9. Complaint | : | 05.05.2022 |
| 10. Apprehension | : | 13.07.2022 |
| 11. Release on bail | : | 28.11.2022 |
| 12. Commitment | : | 03.10.2022 |
| 13. Commencement of trial | : | 20.06.2023 |
| 14. Close of trial | : | 08.11.2024 |
| 15. Sentence or Order | : | 13.11.2024 |
| 16. Service of copy of judgment
or finding on accused | : | 13.11.2024 |
| 17. Cause of delay | : | No delay |

Sd/-
Addl. Sessions Judge-I

Typed by : Rejani. P
Compared by : Rekha. K. Raj

Judgment
in
S.C. No. 2044/2022
Dated: 13.11.2024