

IN THE COURT OF II ADDITIONAL ASSISTANT SESSIONS JUDGE :: KAKINADA

PRESENT: **Smt M.V.N.PADMAJA**
II ADDL. ASST. SESSIONS JUDGE, KAKINADA

Wednesday, this the 3rd day of May, 2023

SESSIONS CASE No.308/2022

(PRC.No.66/2022 of II Addl.J.F.C. Magistrate's Court, Kakinada in Cr.No.149/2022 of II Town L & O Police Station)

Complainant:

Accused:

State: Sub-Inspector of Police,
II Town L & O Police Station,
Kakinada

Maddi Uma Sankar, S/o Kannayya Reddy
Aged 48 years, C/Reddika, Gorusuvari Street,
Ramakrishnaraopeta, Kakinada

Prosecution conducted by:

Accused defended by:

Sri D.D.Jason,
Additional Public Prosecutor,
Kakinada

Smt S.R.N.Laxmi, Learned Counsel for
Accused (LAC)

Nature of Offence:

Under Section 306 of Indian Penal Code

Plea of the accused:

Pleaded not guilty

Name of the police station and
crime Number :

II Town P.S., Cr.No.149/2022

Finding of the Judge:

Found guilty

Sentence of order:

In the result, the accused is not found guilty of the offence punishable under Section 498-A of the Indian Penal Code, and he is acquitted under Section 235 (1) of the Criminal Procedure Code. However, the accused is found guilty of the offence punishable under Section 307 of the Indian Penal Code, and he is convicted under Section 235 (2) of the Criminal Procedure Code. The accused is sentenced to undergo simple imprisonment for a period of **five years** and also pay a fine of **Rs. 5,000/-**. In default of payment of the fine amount, the accused has to undergo simple imprisonment for a period of **five months** as a default

sentence.

Further, the accused is also found guilty of the offence punishable under Section 324 of Indian Penal Code, and he is convicted under Section 235 (2) of the Criminal Procedure Code. The accused is sentenced to undergo simple imprisonment for a period of **one year** and also pay a fine of **Rs.1,000/-**. In default of payment of the fine amount, the accused has to undergo simple imprisonment for a period of **one month** as a default sentence.

The sentences imposed against the accused for the offences under Sections 324 and 307 of the Indian Penal Code shall run concurrently. The accused is in jail from 17-08-2022 to 03-05-2023; therefore, no remand period to set off under Section 428 of the Criminal Procedure Code. The case property M.O.1, M.O.2, shall be handed over to the committal court to destroy after the lapse of appeal time, if no appeal is pending. Further, the unmarked non-valuable property, if any, shall also be handed over to the committal court with a direction to destroy the same after the lapse of appeal time if no appeal is pending. The accused is informed about his right of appeal before the Hon'ble Appellate court, and he is also informed about his right to get free legal aid from the Mandal Legal Services Committee, Kakinada.

J U D G M E N T

The Sub-Inspector of Police, II Town L & O Police Station, Kakinada, filed a charge sheet in Crime No.149/2022 for the offences punishable under Sections 498-A, 324, and 307 of the Indian Penal Code against the accused.

2. The brief facts of the prosecution case are as follows:

The P.W.1 is the wife of the accused. The mother of P.W.1 has a two-story building bearing D.No.14-12-14, which contains seven portions situated at Gorusuvari Street, Ramaraopeta, Kakinada. The P.W.1, her son P.W.3, residing on the ground floor of the building, and the accused is residing in the upstairs portion of the said building. The P.W.2 is the daughter of the P.W.1 and the accused, who was married and residing at Ibrahim Street, Suryaraopeta in Kakinada. The marriage of P.W.1 with the accused was performed 30 years ago. The accused is not doing any work and is addicted to bad vices like consuming liquor, and he used to sell household articles. The accused sold away his properties after turning around the courts in view of his disputes with others. The P.W.1 has one house site at Burma Colony, Kakinada, to an extent of 180 square yards. The accused used to demand that P.W.1 sell away the said site. Due to disputes, they have been living separately since 5 years.

3. While doing so, on 24-07-2022 at 9-30 p.m., P.W.1 and P.W.2 went outside on their scooty and returned to their house. At that time, the accused was present on the road in front of the house and demanded P.W.1 sell the property, and when she denied his proposal, the accused picked up a knife available with him and stabbed her on the right side of the chest and stomach with an intention to kill her. As a result, she sustained bleeding injuries. Meanwhile, P.W.2 tried to rescue her mother, and then, the accused stabbed her on her right hand. On hearing their cries, the neighbours of the locality and the tenants of P.W.1 rushed there. The P.W.4 restrained the accused and tried to pull the knife from his hands. Thereon, the accused absconded. On information, the P.W.3 came to the house and shifted P.Ws.1 and 2 to the Government General Hospital, Kakinada, by Auto for treatment.

4. On receipt of the hospital intimation, P.W.13 went to the hospital and recorded the statement of P.W.1. Based on it, the P.W.14-Investigating Officer registered a case in Cr.No.149/2022 of II Town L & O Police Station for the offences punishable under Sections 498-A and 324 of the Indian Penal Code on 25-07-2022 at 5-00 p.m. During the course of the investigation, P.W.14 visited the scene of offence, observed the same, drafted a rough sketch, and also prepared a scene observation report in

the presence of P.Ws.10 and 11. He examined and recorded the statements of P.Ws.1 to 9. Based on the statements of P.Ws.1 to 9, P.W.14 added Section 307 of the Indian Penal Code. On 17-08-2022 at 9-30 a.m., P.W.14 arrested the accused and seized the blood-stained knife and shirt based on his confessional statement under the cover of the mediators' report in the presence of P.Ws.10 and 11. Then he sent the accused to the court with a remand report and got him remanded. The P.W.12- medical officer who treated P.Ws.1 and 2 issued wound certificates, opining that they sustained simple injuries. On completion of the investigation, P.W.14 filed a charge sheet in this case.

5. The learned II Addl. J.F.C.Magistrate, Kakinada, took cognizance of the offence, numbered the case PRC.No.66/2022 and committed the matter to the Hon'ble Principal District Court, Rajamahendravaram. The Hon'ble Principal District Court, Rajamahendravaram, numbered the same as S.C.No.308/2022 and made over the same to this court for disposal in accordance with law.

6. On receipt of the summons, the accused appeared before the court. Heard on both sides on the framing of charges. The contents of the charge sheet were read over and explained to the accused, who denied them as false and pleaded not guilty. Therefore, Charges under Sections 498-A, 307, and 324 of the Indian Penal Code have been framed against the accused. The contents of the charges were read over and explained to him in Telugu, for which he denied them, pleaded not guilty, and claimed to be tried.

7. During the course of trial, the prosecution examined P.Ws.1 to 14 and got marked Exs.P1 to P10 and M.Os.1 and 2.

8. After the completion of prosecution side evidence, the accused was examined under Section 313 of the Criminal Procedure Code. The substance of the incriminating evidence was read over and explained to him in Telugu, for which he denied the same as false and stated that there is no defence evidence on his behalf.

9. Heard arguments on both sides. Perused the material in the record. Considered the evidence of P.Ws.1 to 14, coupled with Exs.P1 to P10, M.Os.1 and 2, and other material on record.

10. Now, the point for determination is:

“Whether the prosecution proved the guilt of the accused for the offences punishable under Sections 498-A, 307, and 324 of the Indian Penal Code beyond reasonable doubt”?

POINT:

11. On perusal of the contents of the charge sheet, it is the case of the prosecution that the accused stabbed P.W.1 on her right side of the chest and stomach in order to kill her when she refused to sell her site, and as a result, P.W.1 sustained bleeding injuries, and when her daughter, P.W.2, tried to rescue her from the hands of the accused, she sustained an injury on her right hand, and they got treated at the hospital. It is further evidence of the prosecution that the accused, being the husband of P.W.1, used to harass her both mentally and physically; hence, she separated from him five years ago, and now she is residing separately. To substantiate the case, the prosecution examined P.Ws.1 to 14 and marked Ex.P1 to P10 and M.Os.1 and 2. P.W.1 is the defacto-complainant. P.W.2 is the daughter, and P.W.3 is the son of P.W.1 and the accused. P.Ws.4 to 9 are the neighbours to the house of P.W.1 and the accused. The P.Ws.10 and 11 acted as mediators at the time of drafting the scene observation report and mediators report by the police. The P.W.12 is the medical officer who treated P.Ws.1 and 2. P.Ws.13 and 14 are the investigating officers.

12. During hearing arguments, the learned Additional Public Prosecutor submitted that the evidence of P.Ws.1 to 14 is cogent, corroborating with each other, and the prosecution proved their case beyond reasonable doubt; hence, he prays the court to convict the accused according to law. On the other hand, the learned counsel for the accused argued that the evidence of P.Ws.1 to 14 suffered from material contradictions and omissions and that no eyewitness supported the case of the prosecution proving guilt against the accused; hence, she sought acquittal of the accused.

13. On perusal of the entire evidence on record, admittedly, the marriage of P.W.1 was performed with the accused 30 years ago; they were blessed with one female

issue and one male issue, i.e., P.Ws.2 and 3, respectively, and they both have been living separately from 5 years in the same building. It is also not disputed facts that P.W.1 is residing on the 1st floor of the building along with her son in the house bearing D.No.14-2-14 of Ramakrishnaraopeta, Gorusuvari Veedhi, Kakinada, which belongs to her mother and has seven portions, and her husband is residing in the pent house of the building, and that P.W.2, who is the daughter of P.W.1 and accused, is married on 03-05-2021, and she is residing with her husband on the next street to P.W.1's house. In the light of evidence adduced on both sides, a provision as contained under Section 498-A of the Indian Penal Code needs to be taken notice of, which reads as follows:

Section 498-A: "Husband or relative of husband of a woman subjecting her to cruelty: - Whoever, being the husband or the relative of the husband of a woman, subject such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.-For the purposes of this section, 'cruelty' means- (a) any willful conduct which is of such a nature as is likely to drive, the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security is on account or failure by her or any person related to her to meet such demand".

Thus from the above, the essential ingredients of the aforementioned provision are:

1. A woman must be married.

2. She must be subjected to cruelty.

3. Cruelty must be of the nature of:

(i) any willful conduct was likely to drive such woman:

a) to commit suicide;

b) cause grave injury or danger to her life, limb, either mental or physical;

(ii) harassment of such woman,

(1) with a view to coerce her to meet unlawful demand for property or valuable security,

(2) or on account of failure of such woman or by any of her relation to meet the unlawful demand,

(iii) Woman was subjected to such cruelty by:

(1) husband of that woman, or

(2) any relative of the husband

14. From the above provision, it is clear that for the offence punishable under Section 498-A of the Indian Penal Code, the prosecution must prove that the accused demanded dowry or caused ill-treatment to P.W.1 to commit suicide or

cause grave injury or danger to life or limb. When coming to the facts of this case, it is an admitted fact that the marriage of P.W.1 was performed 30 years ago with the accused. It is the evidence of P.W.1 that the accused is not doing any work for their livelihood, and he is in the habit of taking alcohol and making disputes with others, and he used to roam around the court, and he sold away his father's house property and they both have been living separately from 5 years as the accused used to sell household articles. It is the evidence of P.W.2 that her parents have been residing separately since 5 to 6 years, and her father is residing at the upstairs portion, and her mother and brother are residing at the 1st floor portion and her father is not doing any work, and he is in the habit of taking alcohol and used to make galata with others by beating them, and he also used to beat them. It is the evidence of P.W.3 that he, along with his mother, is residing in the house, and his sister is married and residing with her husband on the next street of their house, and his father is in the habit of taking alcohol and is not doing any work, and the accused used to disturb them, demanding money, and so many criminal cases were lodged against his father. Further, P.W.4 deposed that they used to hear shouts from the house of the accused. It is the evidence of P.W.6 that she is residing in the house of P.W.1 as a tenant besides the portion of P.W.1 on the 1st floor of the building, and the accused is residing on the top floor of the building, and both wife and husband used to altercate each other. It is the evidence of P.W.9 that there are family disputes between P.W.1 and the accused. Though P.W.1 deposed during her cross examination that she gave a police report several times against the accused, as per the cross examination of P.W.1, she never lodged a complaint against her husband, and no document was placed before the court showing that she gave a report against her husband for the offence punishable under Section 498-A of the Indian Penal Code. The P.W.14-investigating officer also deposed that no criminal case was registered against the accused based on the report of P.W.1 but, other criminal cases were lodged against the accused.

15. On perusal of the entire evidence on record, and as per the recitals of Ex.P1-Written Report of P.W.1, it is not the case of prosecution that the accused or the

husband of P.W.1 or his family members harassed P.W.1 both mentally and physically, demanded dowry, or presently demanding additional dowry. Furthermore, no material evidence was placed before the court showing that P.W.1 gave a report against the accused about his harassment against her. Furthermore, as per the evidence on record, there is no illegal demand from the accused to cause grave injury or danger to her life. Hence the above evidence of P.Ws.1 to 3 and their cross examination contents show that no allegations were made in regard to the harassment covered under the provisions of Section 498-A of the Indian Penal Code against the accused, and the P.Ws.1 to 3 also did not depose about harassment of the accused in regard to additional dowry. To punish the accused for the offence punishable under Section 498-A of the Indian Penal Code, the prosecution must prove that the ill-treatment alleged to have been made against the defacto-complainant comes within the meaning of cruelty as defined under Section 498-A of the Indian Penal Code. On perusal of the explanation given under Section 498-A of the Indian Penal Code, cruelty means wilful conduct of such nature and not such a magnitude as to drive a woman to commit suicide or to cause grave injury or danger to life, limb, or health of the woman, and the harassment of the woman shall be with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security. In the present case, P.W.1, other material witnesses have to come with full details of the harassment caused to her by the accused, and such harassment has to come within the purview of Section 498-A of the Indian Penal Code to punish the accused, but no such evidence is adduced in such a way. Thus, in light of the above discussion, this court is of the view that there was no cogent evidence in the record for arriving at a finding in respect of the alleged cruelty of the accused as defined in Section 498-A of the Indian Penal Code against P.W.1. Therefore, this court is of the view that the prosecution failed to prove their case against the accused for the offence punishable under Section 498-A of the Indian Penal Code, for which the accused is prosecuted.

16. In regard to other offences punishable under Sections 307 and 324 of the Indian Penal Code said to have been committed by the accused, it is the evidence of

P.W.1 that on 24-07-2022, she along with her daughter-P.W.2, went outside on scooty, and they returned back to the house at 9-30 p.m., and the accused made galata with her near their house, demanding to sell her house site, which is an extent of 180 square yards located at Burma Colony. It is the evidence of P.W.2 that on 24-07-2022, she and her mother went outside and returned back to the house at 9-30 p.m., they found her father near the gate of the house, who made galata with her mother to sell her mother's house site to an extent of 180 square yards located at Burma Colony. In regard to the alleged incident, P.W.1 deposed that the accused stabbed her with a knife on her right side of the chest and stomach, meanwhile when P.W.2 intervened, she sustained an injury on her right hand, and they both sustained bleeding injuries. It is further evidence of P.W.1 that on hearing their cries, their neighbor i.e., P.W.4, rushed there and took the knife from the hands of the accused, and she went into the house of P.W.6 along with her daughter, and they both made a phone call to P.W.3, who came to the house and shifted them to Government General Hospital, Kakinada, for treatment. It is further evidence of P.W.1 that they both got treated at the hospital. The P.W.2 deposed that when her mother refused to sell the property, the accused took a knife from his pocket and stabbed on the right chest of P.W.1 due to which, P.W.1 fell down, leaving scooty, and the accused stabbed on her stomach and in the meantime, when she intervened, she also sustained an injury on her right hand. It is further evidence of P.W.2 that on hearing their cries, the P.W.4 came out side and caught hold of the accused from behind, in the meantime, they both rushed into the house, and on seeing them, P.W.6 saved them by locking her house door and then, they both called P.W.3, who came and shifted them to the hospital, and in the meantime, the accused escaped from there.

17. Supporting the evidence of P.Ws.1 and 2, it is the evidence of P.W.3 that on 24-07-2022, between 9-00 p.m., to 9-30 p.m., P.W.2 informed him through the phone that their father stabbed their mother with a knife on the road, on that phone call, he rushed to the house from Ramya Hospital and found her mother with bleeding and in an unconscious state at the house of their tenant, who are Muslims by religion, and he found injuries on the right side of the chest and on abdomen of

his mother and on the right hand of his sister and that, he shifted both of them to Government General Hospital, Kakinada for treatment, and later police examined him and recorded his statement. Further it is the evidence of P.W.4, who is auto driver by profession, that the accused is doing finance business, and on 24-07-2022 between 9-00 p.m., to 9-30 p.m., he found an altercation between the accused and P.W.1, and then P.W.1 went into the house and the accused went outside, and the police did not examine or record his statement. The P.W.4, who is an eye witness to the incident as per the case of prosecution, did not support the case of prosecution, and he turned hostile. Though the learned Additional Public Prosecutor was cross examined, nothing was elicited during his cross examination except marking of his statement recorded under Section 161 of Criminal Procedure Code as Ex.P2.

18. The prosecution also examined the neighbours of P.W.1 and it is the evidence of P.W.5 that on 24-07-2022 at 9-30 p.m., while he was residing at the house of P.W.1 as a tenant, he heard the cries from the outside, then he went outside and found the accused with a knife roaming around scooter behind P.Ws.1 and 2, and that the accused stabbed P.W.1 with a knife on her right side of the chest and stomach, causing bleeding injuries, and that P.W.1 went upstairs portion of the building, and he went into her house and locked the door. It is further evidence of P.W.5 that police came to the scene of offence, and then he came to know that the injured were shifted to the hospital and on the next morning, the Sub-Inspector of police came, examined him and recorded his statement. It is the evidence of P.W.6 that on 24-07-2022 at 9-30 p.m., while she was present in the house, she heard shouts from outside, then she came outside and found P.W.1, who was coming upstairs with bleeding injuries, and she invited her into her house and found bleeding on her right side of the chest and stomach and also an injury on the right hand of P.W.2. It is further evidence of P.W.6 that P.W.2 informed P.W.3 by phone about the incident, who came and shifted P.W.1 to the hospital, and on the next day, police came to her house, examined her, and recorded her statement. It is the evidence of P.W.7 that eight months ago on one day morning hours, he came to know through neighbours in the street that galata had happened between P.W.1 and the accused at previous night the he did not witness the incident, and that police examined and recorded his

statement. It is the evidence of P.W.8 that on the next day of the alleged incident, he came to know about the same through neighbours, and he did not witness the incident personally, and that police examined and recorded his statement. It is the evidence of P.W.9 that there are family disputes between P.W.1 and the accused and that four or five months ago on one morning, he came to know through his neighbours that the accused stabbed her wife with a knife and that police examined and recorded the statement.

19. The prosecution also examined the mediators at the time of the scene observation report and at the time of the arrest-cum-seizure of material objects. It is the evidence of P.W.10, who works as ward revenue secretary, that on 25-07-2022 at morning hours, he and P.W.11, on the request of the police, reached the house bearing No.14-2-14 situated at Ramakrishnaraopeta, Kakinada, and there is a tiled house in front of the two-story building at where, the police observed the scene of offence between 12-30 p.m., to 1-30 p.m., took photographs, prepared Ex.P3-scene observation report in their presence, and they both signed on it. Further evidence of P.W.1 is that they both observed blood-stained marks at the house of P.W.1, and the police seized M.Os.1 and 2 steel knife and white coloured shirt with blue and black checks from the scene of offence under the cover of Ex.P4-mediators report in their presence, and they both signed on it. It is the evidence of P.W.11 that on 25-07-2022 at 12-00 noon, on the phone call of P.W.10, he reached the scene of the offence situated at Gorusuvedhi to the house having two stairs building with seven portions bearing D.No.14-2-14, and there is a tiled house having two portions in front of the said building after the cement road leads from East to West i.e., from Ramakrishnaraopeta to Cinema Road, and they found blood stained marks at the house of P.W.1 and the Sub-Inspector of Police took photographs, observed the scene of offence, prepared Ex.P3-scene observation report in their presence and they both have signed on it. It is further evidence of P.W.11 that on 17-08-2022, at afternoon hours, he and P.W.10 accompanied the police on their request, and they reached the scene of offence, where, the police arrested the accused at his house and in their presence, the police seized M.Os.1 and 2 from his possession under the cover of Ex.P4-mediators report, which they both signed.

20. In regard to the injuries sustained by P.Ws.1 and 2, the prosecution examined P.Ws.12 and 14. It is the evidence of P.W.12-medical officer working at Kakinada Government General Hospital, that on 24-07-2022 at 9-15 p.m., he examined P.W.1 and found 3 cm x 1.5 cm muscle deep stab injury present over right upper chest, spindle shaped, transversely placed, anterior to posterior directed, bleeding present, well defined clean cut margins, and 4 cm x 1.5 cm muscle deep muscle phpochondrium, spindle-shaped, obliquely placed, anterior to posterior directed, bleeding present, well defined clear cut margins. It is further evidence of P.W.12 that he referred P.W.1 for an X-ray and CT scan and found no bone injury on her chest and no abnormality detected on her abdomen as per the X-ray. It is further evidence of P.W.12 that he found mild pleural effusion-exudative etiology and a birotic strand noted in the right b-middle lobe? Koch's etiology and opined that the nature of injuries sustained by P.W.1 are simple in nature, the age of the wound is less than 6 hours prior to examination, and he issued Ex.P5-wound certificate, and the nature of the wound is possible due to a sharp-edged object. Supporting his evidence, P.W.14-investigating officer deposed that he received wound certificates of P.Ws.1 and 2 from P.W.12. The ocular evidence of P.Ws.1 and 2 is corroborated with the medical evidence in regard to the nature of injuries sustained by P.Ws.1 and 2.

21. In regard to the report, it is the evidence of P.W.1 that the writer of II Town Police Station came to the hospital at night and recorded her statement and obtained her signature, and on the next day morning, the Sub-Inspector of Police came to the hospital, examined her, and recorded her statement. P.W.2 further deposed that they both got treated at Government General Hospital, Kakinada, where the police came and recorded her mother's statement at night, and on the next morning, the Sub-Inspector of Police came to the hospital, examined her, and recorded her statement. Supporting the evidence of P.Ws.1 and 2, it is the evidence of P.W.13-investigating officer that on 24-07-2022 at 9-30 p.m., while he was present at the police station as S.H.O., he received Ex.P6-MLC information from O.P., Government General Hospital, Kakinada, and he rushed to the hospital and recorded Ex.P1-statement of P.W.1 at 11-00 p.m., and then, he handed over the same to Ex.P14. On careful perusal of Exs.P6-MLC intimation coupled with Ex.P1-statement

of P.W.1, it appears that P.W.13 received information from the hospital at 10-00 p.m., and he rushed to the hospital and recorded Ex.P1-statement of P.W.1 at hospital at 11-00 p.m. The evidence of P.Ws.1 and 11 is corroborated with each other in respect of the report.

22. Further, it is the evidence of P.W.14-investigating officer, that based on Ex.P1-statement of P.W.1 recorded by P.W.13 and Ex.P6-MLC., received by P.W.13 on 25-07-2022 at 5-00 a.m., he registered a case in Cr.No.149/2022 of II Town Police Station, Kakinada, for the offences punishable under Sections 498-A and 324 of the Indian Penal Code against the accused and issued Ex.P7-First Information Report. It is the further evidence of P.W.14 that he examined and recorded the statements of P.Ws.1 to 3 at Government General Hospital, Kakinada, and then he visited the scene of offence situated at the house of P.W.1, observed the scene, drafted Ex.P8-rough sketch, and also prepared Ex.P3-scene observation report in the presence of P.Ws.10 & 11. It is further evidence of P.W.14 that he examined P.Ws.4 to 9 and then, he added Section 307 of the Indian Penal Code and filed Ex.P9-memo along with the remand report. It is further evidence of P.W.14 that on 17-08-2022 at 9-00 a.m., he received credible information about the accused, arrested the accused in the presence of P.Ws.10 and P.W.11, and seized M.Os.1 and 2 from his possession under the cover of Ex.P4-mediators report and then, he sent the accused to the court and got him remanded. It is further evidence of P.W.14 that on 14-10-2022, he received Ex.P5-wound certificate of P.W.1 and also Ex.P10-wound certificate of P.W.2 and on completion of the investigation, he filed a charge sheet in the case.

23. On perusal of the entire evidence on record, the case of prosecution is totally based on the direct evidence of injured-P.Ws.1 and 2 corroborated by the evidence of P.Ws.3 to 9 to the extent of facts known to them; the P.Ws.10 and 11, who acted as mediators at the time of scene observation and seizure of the material objects; P.W.12-medical officer, who examined P.Ws.1 and 2 and issued wound certificates as in Exs.P5 and P10; and the P.Ws.13 and 14, who are the investigating officers. In regard to the alleged incident, the injured P.W.1 deposed that the accused stabbed her with a knife on her right side of the chest and stomach, meanwhile when P.W.2 intervened, she sustained injury on her right hand, and they both sustained

bleeding injuries. It is further evidence of P.W.1 that on hearing their cries, their neighbor, i.e., P.W.4, rushed there and took the knife from the hands of the accused, and she went into the house of P.W.6 along with her daughter, and they both made a phone call to P.W.3, who came to the house and shifted them to Government General Hospital, Kakinada, for treatment. It is further evidence of P.W.1 that they both got treated at the hospital. P.W.2 deposed that when her mother refused to sell the property, the accused took a knife from his pocket and stabbed on the right chest of P.W.1, due to which, P.W.1 fell down leaving scooter, and the accused stabbed on her stomach and in the meantime, when she intervened, she also sustained an injury on her right hand, and by saying so, she supported the version of P.W.1 in all material aspects.

24. Further P.Ws.3 to 9, though did not support the prosecution's case in its entirety, they deposed to the extent of facts known to him. In support of the ocular evidence of P.W.1, P.W.2 who are injured persons, P.W.12, who is a medical officer, deposed that on 24-07-2022 at 9-15 p.m., he examined P.W.1 and found 3 cm x 1.5 cm muscle deep stab injury present over the right upper chest, spindle-shaped, transversely placed, anterior to posterior directed, bleeding present, well defined clean cut margins, and 4 cm x 1.5 cm muscle deep stab injury present over the right phpochondrium, spindle-shaped, obliquely placed, anterior to posterior directed, bleeding present, well defined clear cut margins. It is further evidence of P.W.12 that he referred P.W.1 for an X-ray and CT scan and found no bone injury on her chest and no abnormality detected on her abdomen as per the X-ray. It is further evidence of P.W.12 that he found mild pleural effusion-exudative etiology and a birotic strand noted in the right b-middle lobe? Koch's etiology and opined that the nature of injuries sustained by P.W.1 are simple in nature, the age of the wound is less than 6 hours prior to examination, and he issued Ex.P5-wound certificate and the nature of the wound is possible due to a sharp-edged object. Further, the Ex.P10-wound certificate of P.W.2, which is marked through investigating officer shows that P.W.2 sustained a linear scratched abrasion of 6 mm x 2 mm over the dorsal side of her right forearm. Therefore, the injuries noted in Exs.P5 and P10-wound certificates of P.Ws.1 and 2 respectively, are corroborated with the oral

testimony P.Ws.1 and 2, other material witnesses in regard to the place of injury on the person of P.Ws.1 and 2, the nature of the injuries that P.Ws.1 and 2 received in the hands of the accused, and the evidence of the medical officer, which was not discredited in any manner by the defence counsel during cross-examination, except for suggesting that the injuries of P.Ws.1 and 2 are simple in nature. When the injuries sustained by P.Ws.1 and 2 are not disputed by the accused, small variations between the ocular and medical evidence are not fatal to the case of the prosecution.

25. The learned counsel for the accused also raised the contention that there were contradictions, omissions, and variations in the evidence of prosecution witnesses and that the investigation in this case was not properly conducted and that the police falsely foisted this case against the accused. No doubt there were minor contradictions, omissions, and variations in the evidence of prosecution witnesses, but the same are not fatal to the case of the prosecution as they are not going into the root of the prosecution case. Further, those contradictions, omissions, and variations do not give a better defence to the accused, which falsifies the entire case of the prosecution. On this point, this court relied on a decision reported in **1999 (2) SC 126**, between Paras Yadav and others Vs. State of Bihar, where in the Hon'ble Court held that **"while commenting upon certain omissions of the investigating agency, it was held that it may be that such lapse is committed designedly or because of negligence and hence the prosecution evidence is required to be examined de hors such omissions to find out whether the said evidence is reliable or not"**. Therefore, in light of the above decision, the above mentioned lapses on the part of the investigating officer in conducting the investigation do not cause any infirmity to the other evidence on record, and the entire case of the prosecution cannot be collapsed solely because of the said lapses on the part of the investigating officer. Further, this court also relied on a decision reported in **2006(1) ALD Criminal 279 SC**, between State of Andhra Pradesh Vs. Konda Gopalam, Where in the Hon'ble Apex Court held that **"every discrepancy, contradiction in statement of witnesses cannot be treated as fatal to the case of the prosecution case and discrepancies which is not fatal to the case**

not create any infirmity". The above decisions were applicable to the facts of the present case.

26. Further learned counsel for the accused also contended that P.Ws.1 to 3 are interested witnesses to the prosecution case, and P.Ws.4 to 9, who are independent witnesses, do not support the case of the prosecution in all aspects and that based on their evidence, the accused cannot be punished. On this aspect, this court relied on a decision reported in **1964(8) SCR 133**, Masalti Vs. State of U.P., wherein the Hon'ble Apex court had observed that **"though the evidence of an interested or partisan witness has to be weighed by the Court very carefully but it would be unreasonable to contend that evidence given by a witness should be discarded only on the ground that it is evidence of a partisan or interested witness. The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to failure of justice"**. Further relied on another decision reported in **(2011) 6 SCC 350**, between Birender Poddar Vs. State of Bihar, wherein the Hon'ble Apex Court held that **"Merely because witnesses are related, it is not a ground to discard their evidence. In many cases, only relatives are available for giving evidence, having regard to trend in present society, where other than relations, witnesses are not available. However, evidence of interested witnesses has to be carefully scrutinized"**. In the light of the above decisions of the Hon'ble Apex Court, if we see the facts of the present case in hand, out of the fourteen witnesses examined by the prosecution, P.Ws.1 and 2 are the injured persons, P.W.3 is a family member of the injured, P.Ws.4 to 9 are neighbouring witnesses, and others are official witnesses. Further, on close scrutiny of their evidence, this court is of the view that their evidence is natural, cogent, and convincing, and there is no reason to disbelieve their version on any ground. Hence, merely because there is some existing relationship between P.Ws.1 to 3, or they belong to one family, their evidence cannot be brushed aside in the absence of eliciting any new things in their cross-examination. Further, during cross examination, the learned defence counsel failed to discredit the evidence of P.Ws.1 to 3, P.Ws.5 to 9 in any manner, and she did not elicit any new things contrary to the evidence deposited in their chief examination. Further, mere giving suggestions to P.Ws.1 to 3, P.Ws.5 to 14 are not sufficient, and the said suggestions should be supported by positive evidence to

believe the version of the defence, and based on those suggestions, the entire case of the prosecution cannot be thrown out as if nothing happened.

27. Further, the learned counsel for the accused contended that Exs.P5 and P10-wound certificates of P.Ws.1 and 2, respectively, show that they sustained simple injuries and, therefore, charge under Section 307 of the Indian Penal Code, is not applicable, and that the incident happened in the dark, hence there is no possibility to identify the accused, while committing the alleged offence. Relating to these aspects, the learned counsel for the accused relied on a decision reported in **2001 CRI. L. J. 1604**, between Ram Kumar Goutam, Vs. The State of Madhya Pradesh, wherein the Honourable Court held that **“after dispassionate consideration of the evidence this Court is of the opinion that the offence under Section 324 of Indian Penal Code alone is made out. The accused did not intend to cause death of the complainant. There was no attempt to commit murder. The nature of injury sustained by the complainant is simple and not grievous. Therefore, the conviction of the appellant under Section 307 of Indian Penal Code is set aside”**. She further relied on another decision reported in **2023 CRI. L. J. 198**, between Birnami and another Vs. State of U.P., wherein the Honourable Court held that **“to prove the source of light, the burden was on the prosecution”**. Further this court relied on a decision reported in **2004 (1) ALD (Cri.) 608 (SC)**, between R. Prakash Vs. State of Karnataka, wherein the Hon'ble Supreme Court of India held that **“It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. Although the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, such intention may also be deduced from other circumstances, and may even, in some cases, be ascertained without any reference at all to actual wounds. The Section makes a distinction between the act of the accused and its result, if any. The Court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the Section. Therefore, it is not correct to acquit an accused of the charge under Section 307 of the Indian Penal Code merely because the injuries inflicted on the victim were in the nature of a simple hurt”**. Further this court also relied on another decision reported in **2007 (1) ALD (Cri.) 248 (SC)**,

between Lachman Singh Vs. State of Haryana, wherein the Hon'ble Supreme Court of India held that **“It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overact in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. Although the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, such intention may also be deduced from other circumstances, and may even, in some cases, be ascertained without any reference at all to actual wounds. The Section makes a distinction between the act of the accused and its result, if any. The Court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the Section. An attempt in order to be criminal need not be the penultimate act. It is sufficient in law, if there is present an intent coupled with some overt act in execution thereof”**. The above decisions were also applicable to the facts of the present case. Though the incident happened during night hours, it is not the case of the prosecution that the accused was an unknown person while committing the alleged offence, and P.W.3 deposed that their building has lights even though there are no street lights and further, all the witnesses had a good acquaintance with the accused even prior to the alleged incident. In such circumstances, the question of identification does not arise. In the present case, the prosecution is able to prove that the accused caused injuries to P.W.1 with such intention or knowledge as mentioned in Section 307 of the Indian Penal Code, and therefore a charge under Section 307 of the Indian Penal Code is squarely attracts even if the accused inflicted simple injuries to P.W.1 as noted in Ex.P5-wound certificate. Further, the accused is also liable for punishment for voluntarily causing a linear scratched abrasion of 6 mm x 2 mm over the dorsal side of the right forearm of P.W.2 with the M.O.1-knife, and he is liable for punishment under Section 324 of the Indian Penal Code.

28. So in the light of the above discussion, except in the above-noted aspects and charges, the evidence of the prosecution was found to be truthful, and there were no reasons to disbelieve their evidence or to believe that the accused was falsely implicated in this case. After careful scrutiny of the entire evidence of prosecution

witnesses, it is clear that their evidence is natural and convincing and cannot be thrown out easily. Further, the evidence P.W.1 and P.W.2 is corroborated by all material witnesses examined on the side of the prosecution to the extent facts are known to them. The discrepancies raised by the defence counsel are minor in nature and do not go in to the root of the prosecution case; therefore, they need not be given much credence. In view of the above discussion, this court is of the view that the prosecution is able to establish the guilt of the accused for the offence punishable under Section 307 of the Indian Penal Code for causing the injuries to P.W.1 as noted in Ex.P5-wound certificate, and therefore, he is liable for punishment under Section 235 (2) of the Criminal Procedure Code. Further the prosecution was able to establish the guilt of the accused for the offence punishable under Section 324 of the Indian Penal Code for causing the injury to P.W.2 as noted in Ex.P10-wound certificate, and therefore, he is liable for punishment under Section 235 (2) of the Criminal Procedure Code. Except for the above, in regard to other charge under Section 498-A of the Indian Penal Code framed against the accused concerned, as the prosecution failed to prove with cogent evidence, the accused is entitled to an acquittal for the said charge framed against him.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in open court on this the 3rd day of May, 2023

**II Addl. Asst. Sessions Judge,
Kakinada**

29. The accused, when asked about the quantum of punishment to be imposed against him, he stated that (Recorded in separate Sheet) he is aged about 58 years, and that he is suffering from health issues and that nobody is looking after him from the family members. He also submitted that if he is convicted in this case and sent to jail, he would suffer immensely and requested the court to take a lenient view in imposing a sentence.

30. However, considering the nature of the offences proved against the accused and its gravity, this court is not inclined to invoke the beneficial provisions of the Probation of Offenders Act in favour of the accused. However, keeping in view of the plea made by the accused, his age, his health conditions, and more particularly the

social background under which he is living, this court is of the opinion that it is a fit case to take some leniency. The circumstances do justify considering them leniently.

In the result, the accused is not found guilty of the offence punishable under Section 498-A of the Indian Penal Code, and he is acquitted under Section 235 (1) of the Criminal Procedure Code. However, the accused is found guilty of the offence punishable under Section 307 of the Indian Penal Code, and he is convicted under Section 235 (2) of the Criminal Procedure Code. The accused is sentenced to undergo simple imprisonment for a period of **five years** and also pay a fine of **Rs.5,000/-**. In default of payment of the fine amount, the accused has to undergo simple imprisonment for a period of **five months** as a default sentence.

Further, the accused is also found guilty of the offence punishable under Section 324 of Indian Penal Code, and he is convicted under Section 235 (2) of the Criminal Procedure Code. The accused is sentenced to undergo simple imprisonment for a period of **one year** and also pay a fine of **Rs.1,000/-**. In default of payment of the fine amount, the accused has to undergo simple imprisonment for a period of **one month** as a default sentence.

The sentences imposed against the accused for the offences under Sections 324 and 307 of the Indian Penal Code shall run concurrently. The accused is in jail from 17-08-2022 to 03-05-2023; therefore, no remand period to set off under Section 428 of the Criminal Procedure Code. The case property M.O.1, M.O.2, shall be handed over to the committal court to destroy after the lapse of appeal time, if no appeal is pending. Further, the unmarked non-valuable property, if any, shall also be handed over to the committal court with a direction to destroy the same after the lapse of appeal time if no appeal is pending. The accused is informed about his right of appeal before the Hon'ble Appellate court, and he is also informed about his right to get free legal aid from the Mandal Legal Services Committee, Kakinada.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in open court on this the 3rd day of May, 2023

**Sd/-Smt M.V.N.Padmaja,
II Addl. Asst. Sessions Judge,
Kakinada**

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR PROSECUTION:

P.W.1: Maddi Durga
P.W.2: Maddi Prasanna Lakshmi
P.W.3: Maddi Anil Kumar
P.W.4: Nidrabingi Srinivas
P.W.5: Mohammad Sirajuddin
P.W.6: Shaik Sharmila
P.W.7: Nimmi Lova Babu
P.W.8: Basa Samba Murthy
P.W.9: Pilli Sati Babu
P.W.10: Machagiri Durga Buralamma
P.W.11: Akula Uday Kumar
P.W.12: Dr.B.Sri Hari Babu, Doctor
P.W.13: L.Sita Rama Murthy, Head Constable
P.W.14: P.Ramesh, Sub Inspector of Police

FOR DEFENCE:

Nil

DOCUMENTS MARKED

FOR PROSECUTION:

Ex.P1: Statement of P.W1, dated 24-07-2022
Ex.P2: Statement recorded by police under Sec.161 Cr.P.C
Ex.P3: Scene observation report
Ex.P4: Mediators report
Ex.P5: Wound certificate
Ex.P6: M.L.C intimation, dated, 24-07-2022
Ex.P7: First Information Report
Ex.P8: Rough Sketch
Ex.P9: Memo along with remand report
Ex.P10: Wound Certificate

FOR DEFENCE:

Nil

MATERIAL OBJECTS MARKED

M.O1: Steel Knife
M.O2: White Color Shirt having blue and black checks

Sd/-Smt M.V.N.Padmaja
II Addl. Asst. Sessions Judge,
Kakinada

22
CALENDAR

IN THE COURT OF II ADDITIONAL ASSISTANT SESSIONS JUDGE :: KAKINADA

PRESENT: **Smt M.V.N.PADMAJA**
II ADDL. ASST. SESSIONS JUDGE, KAKINADA

Wednesday, this the 3rd day of May, 2023

SESSIONS CASE No.308/2022

(PRC.No.66/2022 of II Addl.J.F.C.Magistrate's Court, Kakinada in Cr.No.149/2022 of II Town L & O Police Station)

Complainant:

Accused:

State: Sub-Inspector of Police,
II Town L & O Police Station,
Kakinada

Maddi Uma Sankar, S/o Kannayya Reddy
Aged 48 years, C/Reddika, Gorusuvari Street,
Ramakrishnaraopeta, Kakinada

Prosecution conducted by:

Accused defended by:

Sri D.D.Jason,
Additional Public Prosecutor,
Kakinada

Smt S.R.N.Laxmi, Learned Counsel for
Accused (LAC)

Nature of Offence:

Under Section 306 of Indian Penal Code

Plea of the accused:

Pleaded not guilty

Name of the police station and
crime Number :

II Town P.S., Cr.No.149/2022

Finding of the Judge:

Found guilty

Sentence of order:

In the result, the accused is not found guilty of the offence punishable under Section 498-A of the Indian Penal Code, and he is acquitted under Section 235 (1) of the Criminal Procedure Code. However, the accused is found guilty of the offence punishable under Section 307 of the Indian Penal Code, and he is convicted under Section 235 (2) of the Criminal Procedure Code. The accused is sentenced to undergo simple imprisonment for a period of **five**

years and also pay a fine of **Rs. 5,000/-**. In default of payment of the fine amount, the accused has to undergo simple imprisonment for a period of **five months** as a default sentence.

Further, the accused is also found guilty of the offence punishable under Section 324 of Indian Penal Code, and he is convicted under Section 235 (2) of the Criminal Procedure Code. The accused is sentenced to undergo simple imprisonment for a period of **one year** and also pay a fine of **Rs.1,000/-**. In default of payment of the fine amount, the accused has to undergo simple imprisonment for a period of **one month** as a default sentence.

The sentences imposed against the accused for the offences under Sections 324 and 307 of the Indian Penal Code shall run concurrently. The accused is in jail from 17-08-2022 to 03-05-2023; therefore, no remand period to set off under Section 428 of the Criminal Procedure Code. The case property M.O.1, M.O.2, shall be handed over to the committal court to destroy after the lapse of appeal time, if no appeal is pending. Further, the unmarked non-valuable property, if any, shall also be handed over to the committal court with a direction to destroy the same after the lapse of appeal time if no appeal is pending. The accused is informed about his right of appeal before the Hon'ble Appellate court, and he is also informed about his right to get free legal aid from the Mandal Legal Services Committee, Kakinada.

Date of Offence : 24-07-2022

Date of Complaint : 25-07-2022

	24
Apprehension of accused	: 17-08-2022
Commencement of trial	: 01-02-2023
Close of Trial	: 15-02-2023
Sentence/Order	: 03-05-2023

Explanation for Delay:

This case has been made over to this Court by the Court of Sessions, East Godavari District, Rajamahendravaram in Dis.No.8842, dated 20-12-2022 for disposal according to law. On appearance of accused on 20-01-2023 before this court, charges have been framed. In this case, P.Ws.1 to 14 are examined and Exs.P1 to P10 and M.Os. 1 & 2 are marked on behalf of the prosecution. Trial of the case commenced on 01-02-2023 and closed on 15-02-2023. Accused was examined under Section 313 Cr.P.C on 20-02-2023 and judgment is pronounced on 03-05-2023. Hence, there is no in-ordinate delay.

Sd/-Smt M.V.N.Padmaja,
II Addl. Asst. Sessions Judge,
Kakinada.

Copies submitted to:

1. The Hon'ble Registrar (Judl.) Hon'ble High Court of Andhra Pradesh, Nelapadu, Guntur District.
2. The Directorate of Prosecution, Andhra Pradesh, Nelapadu, Guntur District.
3. The Hon'ble District Judge, East Godavari, Rajamahendravaram.
4. The Superintendent of Police, Kakinada.
5. The Collector, East Godavari District, Kakinada.
6. The II Addl.J.F.C.Magistrate's Court, Kakinada
7. The Additional Public Prosecutor, Kakinada.

TABULAR FORM

**TO BE APPENDED TO THE JUDGMENT AS PER THE RULE 67 OF CRIMINAL
RULES OF PRACTICE**

SESSIONS CASE No.308/2022

1.	Sessions Case Number	:	308 of 2022
2.	PRC Number	:	66 of 2022
3.	Crime Number and Name of the Police Station	:	Crime No.149 of 2022 of II Town L & O Police Station
4.	Description of the accused	:	Maddi Uma Sankar, S/o Kannayya Reddy Aged 48 years, C/Reddika, Gorusuvari Street, Ramakrishnaraopeta, Kakinada.
5.	Date of		
	a) Offence	:	24-07-2022
	b) Complaint	:	25-07-2022
	c) Apprehension of accused	:	17-08-2022
	d) Released on bail	:	Accused produced from Sub Jail, Kakinada
	e) Committal	:	16-11-2022
	f) Commencement of trial	:	01-02-2023
	g) Closure of trial	:	15-02-2023
	h) Judgment	:	03-05-2023
6.	Result	:	In the result, the accused is not found guilty of the offence punishable under Section 498-A of the Indian Penal Code, and he is acquitted under Section 235 (1) of the Criminal Procedure Code. However, the accused is found guilty of the offence punishable under Section 307 of the Indian Penal Code, and he is convicted under Section 235 (2) of the Criminal Procedure Code. The accused is sentenced to undergo simple imprisonment for a period of five years and also pay a fine of Rs. 5,000/-. In default of payment of the fine amount, the accused has to undergo simple imprisonment for a period of five months as a default sentence. Further, the accused is also found guilty of the offence punishable under Section 324 of Indian Penal Code, and he is convicted under Section 235 (2) of the Criminal Procedure Code. The accused is

		sentenced to undergo simple imprisonment for a period of one year and also pay a fine of Rs.1,000/-. In default of payment of the fine amount, the accused has to undergo simple imprisonment for a period of one month as a default sentence. The sentences imposed against the accused for the offences under Sections 324 and 307 of the Indian Penal Code shall run concurrently. The accused is in jail from 17-08-2022 to 03-05-2023; therefore, no remand period to set off under Section 428 of the Criminal Procedure Code. The case property M.O.1, M.O.2, shall be handed over to the committal court to destroy after the lapse of appeal time, if no appeal is pending. Further, the unmarked non-valuable property, if any, shall also be handed over to the committal court with a direction to destroy the same after the lapse of appeal time if no appeal is pending. The accused is informed about his right of appeal before the Hon'ble Appellate court, and he is also informed about his right to get free legal aid from the Mandal Legal Services Committee, Kakinada.
7.	Explanation for delay in this Court :	This case has been made over to this Court by the Court of Sessions, East Godavari District, Rajamahendravaram in Dis.No.8842, dated 20-12-2022 for disposal according to law. On appearance of accused on 20-01-2023 before this court, charges have been framed. In this case, P.Ws.1 to 14 are examined and Exs.P1 to P10 and M.Os. 1 & 2 are marked on behalf of the prosecution. Trial of the case commenced on 01-02-2023 and closed on 15-02-2023. Accused was examined under Section 313 Cr.P.C on 20-02-2023 and judgment is pronounced on 03-05-2023. Hence, there is no in-ordinate

		delay.
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Sd/-Smt M.V.N.Padmaja,
II Addl. Asst. Sessions Judge,
Kakinada.

Compact Disc submitted to the Registrar (Judl.), High Court of Andhra Pradesh.

Copies submitted to:

1. The Hon'ble Registrar (Judl.) Hon'ble High Court of Andhra Pradesh, Nelapadu, Guntur District.
2. The Directorate of Prosecution, Andhra Pradesh, Nelapadu, Guntur District.
3. The Hon'ble District Judge, East Godavari, Rajamahendravaram.
4. The Superintendent of Police, Kakinada.
5. The Collector, East Godavari District, Kakinada.
6. The II Addl.J.F.C.Magistrate's Court, Kakinada
7. The Additional Public Prosecutor, Kakinada.