



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION No.209 OF 2017

C/W

CRIMINAL REVISION PETITION No.208 OF 2017

IN CRL.RP No. 209/2017

BETWEEN:

G. I. YOUSUF
S/O. G.I. IBRAHIM,
AGED ABOUT 39 YEARS,
R/AT NAFEESA MANZIL,
SUNNATHKERE,
BELATHANGADI TALUK,
DAKSHINA KANNADA DISTRICT.

...PETITIONER

(BY SRI. MUZAFFAR AHMED, ADVOCATE)



AND:

1. SMT. SAIDA BI
W/o. G.I. YOUSUF,
AGED ABOUT 32 YEARS,
D/O. K. MUHAMMED,
R/AT IMANE ATHRABAIL,
KUNJATHBAIL,
MANGALURU TALUK,
MANGALURU DISTRICT – 575 001.



NC: 2026:KHC:16762
CRL.RP No. 209 of 2017
C/W CRL.RP No. 208 of 2017

2. THE STATE
BY KAVOOR POLICE STATION
REPRESENTED BY ITS
PUBLIC PROSECUTOR,
HIGH COURT,
BANGALORE-560 001.

...RESPONDENTS

(BY SRI.HAREESH BHANDARY T, ADVOCATE FOR R1;
SRI. K. NAGESHWARAPPA, HCGP FOR R2)

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C
PRAYING TO SET ASIDE THE JUDGMENT AND ORDER PASSED
BY THE PRL. AND DIST. AND S.J., MANGALORE D.K., DISTRICT
BY ITS JUDGMENT DATED 06.12.2016 AND CRL.A.No.3/2016
FOR THE OFFENCE P/U/S 323,504 OF IPC AND CONFIRMED
AND UPHELD THE JUDGMENT AND ORDER DATED 15.06.2015
PASSED BY THE III JMFC, MANGALURU, D.K., DISTRICT IN
C.C.NO.4309/2010 BY ALLOWING THE REVISION PETITION.

IN CRL.RP No.208/2017

BETWEEN:

1. G.I. YOUSUF
S/o. G.I. IBRAHIM,
AGED ABOUT 39 YEARS,
R/AT NAFEESA MANZIL,
SUNNATHKERE,
GURUVAYANAKERE,
BELATHANGADI TALUK,
DAKSHINA KANNADA DISTRICT - 575001.

...PETITIONER

(BY SRI. MUZAFFAR AHMED.,ADVOCATE)



NC: 2026:KHC:16762
CRL.RP No. 209 of 2017
C/W CRL.RP No. 208 of 2017

AND:

THE STATE
KAVOOR POLICE STATION,
MANGALORE, D.K.
REPRESENTED BY ITS
PUBLIC PROSECUTOR,
HIGH COURT,
BANGALORE-560 001.

...RESPONDENT

(BY SRI. NAGESHWARAPPA., ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C
PRAYING TO SET ASIDE THE JUDGMENT AND ORDER
DATED 6.12.2016 PASSED BY THE PRINCIPAL DISTRICT
AND SESSIONS JUDGE, MANGALURU, D.K. IN
CRL.A.No.205/2015 FOR THE OFFENCE P/U/S 323 AND 504
OF IPC AND CONFIRMED AND UPHELD THE JUDGMENT AND
ORDER DATED 15.06.2015 PASSED BY THE J.M.F.C.-III
COURT, MANGALURU, D.K. DISTRICT IN C.C.No.4309/2010
BY ALLOWING THE REVISION PETITION.

THESE PETITIONS, COMING ON FOR FINAL HEARING,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA



ORAL ORDER

Heard Sri Muzaffar Ahmed, learned counsel for the revision petitioner, Sri Hareesh Bhandary T., learned counsel for respondent No.1 and Sri K. Nageshwarappa, learned High Court Government Pleader for respondent No.2.

2. Accused who has been partly convicted for the offence under Section 504 and Section 323 of Indian Penal Code in CrI.A.No.205/2015 and CrI.A.No.3/2016 is the revision petitioner.

3. At the outset, revision petitions themselves are not maintainable as against the order of conviction for the first time before the First Appellate Court.

4. Nevertheless since the revision petitions are admitted on merits. As such, by consent of the parties, these revision petitions are considered as appeals from the judgment of the First Appellate Court for the purpose of discussion only though it is filed as criminal revision petitions.

5. Facts in the nutshell which are utmost necessary for disposal of the present petitions are as under:



4.1. A complaint came to be lodged by Smt. Saida Bi on 09.02.2010 alleging that on 31.07.2003 marriage of said Saida Bi took place with G.I.Yusuf. After the marriage, two children were born out of the wedlock - a daughter and son.

4.2. It is contented that parents of complainant had given 35 pawans of gold and marriage expenses of Rs.1,00,000/- and after the children were born, there were frequent harassment in abusing the complainant in filthy words. Same was being tolerated by the complainant and on 02.02.2010 there was again a quarrel wherein accused persons abused the complainant in filthy language and physically assaulted her and thrown out of the matrimonial house.

6. On receipt of said complaint, police registered the case and thoroughly investigated the matter and filed charge sheet for the offences punishable under Section 498(A), 504, 506A r/w Section 149 of Indian Penal Code and Section 4 of the Dowry Prohibition Act.

7. Learned Trial Magistrate after taking cognizance of framed the charges for the aforesaid offences by securing the



presence of the accused persons. Accused persons pleaded not guilty therefore trial was held.

8. In order to bring home the guilt of the accused persons, prosecution proceeded to examine the complainant as P.W.1 and Mohammed Mushtaq and Mohammed Rafiq as independent witnesses namely, P.W.2 and P.W.3, Ibrahim and Abdul Arif as P.W.4 and P.W.5, G. A. Sheikabba and C.H.Suresh as P.W.6 and P.W.7 and Investigation Officer Valentin D'Souza as P.W.8.

9. Prosecution placed on record 17 documentary evidence on record which are exhibited and Marked as Ex.P.1 to Ex.P.17.

10. During the course of cross examination of two prosecution witnesses, two money slips were confronted to the witnesses, which were marked as Ex.D.1 and Ex.D.2.

11. Learned Trial Magistrate proceeded to examine the accused persons for recording the accused statement as is contemplated under Section 313 of Code of Criminal Procedure and in such statement, the incriminatory materials were put to the accused persons. All the incriminatory circumstances were



denied by the accused persons and there was no defence evidence placed on record.

12. Thereafter, learned Trial Magistrate heard the arguments of the parties and by considered judgment dated 15.06.2015 acquitted the accused persons for all the offences.

13. Against order of acquittal, defacto complainant filed appeal in Crl.A.No.205/2015, whereas State preferred an appeal in Crl.A.No.3/2016.

14. Learned judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on re-appreciation of the material evidence on record, convicted accused No.1 alone for the offence under Section 504 and 323 of Indian Penal Code and imposed fine Rs.1,000/- and Rs.10,000/- for the offences under Section 504 and 323 of Indian Penal Code with default sentence of simple imprisonment for 15 days and 4 months respectively.

15. Out of the fine amount, sum of Rs.10,000/- was ordered to be paid as compensation to P.W.1.

16. Those orders are assailed in these two revision questions by accused No.1.



17. Sri Muzaffer Ahmed, learned counsel for the revision petitioner reiterating the grounds urged in the revision petition would contend that learned judge in the First Appellate Court while re-appreciating the material evidence on record has come to the conclusion that first accused having married for the second time has resulted in commission of the offence punishable under Section 504 of Indian Penal Code which is *per se* incorrect and thus sought for allowing the revision petition.

18. He would further emphasize that the specific incident to prove the charges, that has been deposed to by the complainant is on 02.02.2010, wherein there is a physical assault said to have been made by the revision petitioner to the defacto complainant.

19. He would further argued that except the self-serving testimony of P.W.1 there is no corroboratory material on record inasmuch as P.W.2 being the brother and P.W.4 and 5 are the persons who are not eyewitnesses to the incident. Admittedly, they deposed based on what has been stated by P.W.1. Therefore, they are only to be treated as hearsay witnesses for recording an order of guilt for the offence



punishable under Section 323 of Indian Penal Code and thus sought for allowing the petition.

20. Per contra, Sri Hareesh Bhandari T, learned Counsel representing the respondent No.1 in Crl.RP.No.209/2017 and Sri K. Nageshwarappa, learned High Court Government Pleader would support the order of the First Appellate Court and thus by contending that P.W.1 who tolerated the torture of the accused No.1 for all these days has deposed before the Court and her testimony cannot be doubted inasmuch as complainant was not allowed to live in the matrimonial home after 02.02.2010 and thus, sought for dismissal of the petitions.

21. Having heard the arguments of both sides this Court perused the material on record meticulously.

22. On such perusal of the material on record, marriage between accused No.1 and P.W.1 is not in dispute. Marriage took place on 31.07.2003. The alleged incident wherein P.W.1 has been thrown out of the matrimonial home is on 02.02.2010.

23. Pertinently between 31.07.2003 to 02.02.2010 there is no complaint to the police about the alleged



harassment. Further, the incident occurred on 02.02.2010, a belated complaint came to be filed on 09.02.2010.

24. Admittedly, no injuries are found on the body of P.W.1. Even according to P.W.1, the assault said to have taken place on 02.02.2010 is by hands from accused No.1.

25. What prevented P.W.1 to approach the police on the very same day or on the next day is a question that remains unanswered. There is no proper explanation for delayed complaint either.

26. In the First Information Report there is no reason for the delay. Admittedly, the First Information Report came to be registered based on the order of referring to the police by the jurisdictional Magistrate based on the private complaint filed by P.W.1.

27. In the private complaint also, no reasons are assigned for delayed complaint.

28. Learned Trial Judge while considering the evidence of P.W.1 noted that version of P.W.1 is not corroborated with regard to the alleged harassment for the provisions of Section 4 of the Dowry Prohibition Act. There is an acquittal granted by the Trial Magistrate after assessing the necessary material



evidence on record which has been reaffirmed by the learned judge in the First Appellate Court. Therefore, the alleged harassment, if any, would lose its significance.

29. The material evidence of physical assault is spoken to by P.W.1 alone, which is nothing but self-serving testimony on account of the strained matrimonial relationship between P.W.1 and the revision petitioner.

30. In such circumstances, when there is a delayed complaint, it is just and necessary to look for corroboration as a rule of prudence.

31. When this court undertakes to find out the corroboratory evidence to substantiate the oral testimony of P.W.1 in this regard, the material evidence is available in the form of P.W.2, P.W.4 and P.W.5. Admittedly, they are not eyewitnesses to the incident. While P.W.2 is a brother of P.W.1, his evidence cannot be relied on totally inasmuch as his testimony is interested testimony.

32. P.W.4 and P.W.5 are admittedly the persons who have deposed before the Trial Court based on the version narrated by P.W.1 and P.W.2. Therefore, they can be termed as hearsay witnesses and their evidence cannot be considered



only for the purpose of convicting the accused No.1 for the offence under Section 323 of Indian Penal Code.

33. First Appellate Court should have been slow while reversing the Order of acquittal passed by the learned Trial Magistrate inasmuch as an order of acquittal results in reinforcing the innocence of the accused.

34. Further, First Appellate Court also lost sight of the fact that the prosecution is required to travel a long distance between the suspicion and actual proof and an order of acquittal recorded by a duly constituted Courts results in reinforcing the innocence of the accused.

35. The view of this Court in this regard is fortified by the judgment of the Hon'ble Apex Court in the case of ***Chandrappa vs. State of Karnataka***, reported in **(2007) 4 SCC 415**.

36. Taking note of these aspects of the matter and also taking note of the fact that the petitioner is continuing to pay the maintenance amount to the son of P.W.1 and petitioner has taken active part and financially contributed for the marriage of the daughter of P.W.1 and the petitioner in all respect, including providing necessary finance, this Court is of the



considered opinion that the conviction of the petitioner for the offence under Section 504 and 323 of Indian Penal Code needs to be set aside for want of sufficient, cogent material evidence on record.

37. Accordingly, the following:

ORDER

- (i) Revision petitions are allowed.
- (ii) Consequently, impugned order passed by the First Appellate Court, partly convicting the revision petitioner for the offences punishable under Section 323 and 504 of Indian Penal Code is hereby set aside.
- (iii) Bail bonds, if any, stand discharged.
- (iv) Fine amount deposited by the revision petitioner is ordered to be returned to him under due identification.

Sd/-
(V SRISHANANDA)
JUDGE