



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO.12 OF 2018 (C)

C/W

CRIMINAL APPEAL NO.1385 OF 2017 (C)

CRIMINAL APPEAL NO.2166 OF 2017 (A)

IN CRL.A No.12/2018

BETWEEN:

STATE BY CHELUR POLICE
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-01.

...APPELLANT

(BY SMT. RASHMI JADHAV, ADDITIONAL SPP)

AND:

1. RAJANNA
S/O. KARIYAPPA
AGED ABOUT 36 YEARS.

2. SHIVAKUMAR
S/O. KARIYANNA
AGED ABOUT 35 YEARS.

BOTH ARE RESIDENT OF
KODIHALLI VILLAGE
HAGALAVADI HOBLI
GUBBI TALUK-572 216.

...RESPONDENTS

(BY SRI H.S. CHANDRAMOULI, SENIOR COUNSEL, FOR
SRI RAJATH, ADVOCATE, FOR R-2;
VIDE ORDER DATED 22-8-2023, APPEAL AGAINST R-1 IS ABATED)





NC: 2026:KHC:17676-DB
CRL.A No. 12 of 2018
C/W CRL.A No. 1385 of 2017
CRL.A No. 2166 of 2017

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 377 OF THE CR.P.C PRAYING TO MODIFY THE SENTENCE OF IMPRISONMENT PASSED BY THE III ADDITIONAL SESSIONS JUDGE AND SPECIAL COURT FOR TRIAL OF CASES UNDER SC/ST (PREVENTION OF ATROCITIES) ACT, 1989, TUMKUR, IN SESSIONS CASE NO.251 OF 2011 DATED 24-7-2017 BY IMPOSING ADEQUATE AND MAXIMUM SENTENCE AGAINST THE RESPONDENTS/ACCUSED NOS.1 AND 2 FOR THE OFFENCE PUNISHABLE UNDER SECTION 307 OF IPC.

IN CRL.A NO.1385/2017

BETWEEN:

1. RAJANNA
S/O. KARIYAPPA
AGED ABOUT 30 YEARS
RESIDING AT KODIHALLI VILLAGE
HAGALAVADI HOBLI, GUBBI TALUK
TUMKUR DISTRICT-572 216.
2. SHIVAKUMAR
S/O. KARIYANNA
AGED ABOUT 29 YEARS
RESIDING AT KODIHALLI VILLAGE
HAGALAVADI HOBLI, GUBBI TALUK
TUMKUR DISTRICT-572 216.

...APPELLANTS

(BY SRI H.S. CHANDRAMOULI, SENIOR COUNSEL, FOR
SRI RAJATH, ADVOCATE, FOR APP-2;
VIDE COURT ORDER DATED 22-8-2023, APPEAL AGAINST
APP-1 IS ABATED)

AND:

THE STATE OF KARNATAKA
BY THE POLICE OF CHELUR POLICE STATION
TUMKUR-572 117
REPRESENTED BY THE STATE PUBLIC PROSECUTOR
HIGH COURT BUILDINGS
HIGH COURT OF KARNATAKA
BENGALURU-560 001.

...RESPONDENT

(BY SMT. RASHMI JADHAV, ADDITIONAL SPP)



NC: 2026:KHC:17676-DB
CRL.A No. 12 of 2018
C/W CRL.A No. 1385 of 2017
CRL.A No. 2166 of 2017

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF THE CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION DATED 24-7-2017 AND ORDER OF SENTENCE DATED 25-7-2017 PASSED BY THE III ADDITIONAL SESSIONS JUDGE, TUMKUR, IN SESSIONS CASE NO.251 OF 2011, CONVICTING THE APPELLANTS/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 307 R/W 34 OF IPC.

IN CRL.A NO.2166/2017

BETWEEN:

STATE BY CHELUR POLICE
REPRESENTED BY STATE PUBLIC PROSECUTOR-01.

...APPELLANT

(BY SMT. RASHMI JADHAV, ADDITIONAL SPP)

AND:

1. RAJANNA
S/O. KARIYAPPA
AGED ABOUT 36 YEARS.
2. SHIVAKUMAR
S/O. KARIYANNA
AGED ABOUT 35 YEARS
RESPONDENT NOS.1 AND 2 ARE
RESIDENT OF KODIHALLI VILLAGE
HAGALAVADI HOBLI
GUBBI TALUK.
3. KARIYAPPA @ KARIYANNA
S/O. BOMMANNA
AGED ABOUT 61 YEARS.
4. LAKSHMAMMA
W/O. KARIYANNA
AGED ABOUT 56 YEARS.
5. MANJANNA
D/O. BHEEMANNA
AGED ABOUT 56 YEARS.



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RESPONDENT NOS.3 TO 5 ARE
RESIDENT OF MATTIKERE VILLAGE
GUBBI TALUK-572 216.

...RESPONDENTS

(BY SRI H.S. CHANDRAMOULI, SENIOR COUNSEL, FOR
SRI RAJATH, ADVOCATE, FOR R-2 AND R-5;
VIDE ORDER DATED 22-8-2023, APPEAL AGAINST
R-1, R-3 AND R-4 IS ABATED)

* * *

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF THE CR.P.C., PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL DATED 24-7-2017 PASSED IN SESSIONS CASE NO.251 OF 2011 ON THE FILE OF III ADDITIONAL SESSIONS JUDGE AND SPECIAL COURT FOR TRIAL OF CASES UNDER SC/ST (PREVENTION OF ATROCITIES) ACT, 1989, TUMKUR, ACQUITTING THE RESPONDENTS/ACCUSED NOS.1 AND 2 FOR THE OFFENCE PUNISHABLE UNDER SECTION 498(A) R/W 149 OF IPC AND SECTION 3 AND 4 OF DOWRY PROHIBITION ACT AND RESPONDENTS/ACCUSED NOS.3 TO 5 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 498(A) AND 307 R/W 149 OF IPC AND SECTIONS 3 AND 4 OF DOWRY PROHIBITION ACT.

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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VENKATESH NAIK T)

Heard Smt. Rashmi Jadhav, learned Additional State
Public Prosecutor appearing for the State,
Sri. H.S. Chandramouli, learned Senior Counsel representing
Sri. Rajath, on behalf of accused Nos.1 to 5.



2. Criminal Appeal No.12/2018 is filed by the State challenging the judgment of acquittal dated 24.07.2017 passed by the III Additional Sessions Judge and Spl. Court for Trial of Cases, Tumakuru under SC/ST(Prevention of Atrocities) Act, 1989, in Sessions Case No.251 of 2011 being aggrieved by the inadequate sentence passed against accused Nos.1 and 2 for the offence punishable under Section 307 of Indian Penal Code, 1860 (for short, 'IPC').

3. Criminal Appeal No.2166/2017 is filed by the State being aggrieved by the acquittal order dated 24.07.2017 passed in S.C.No.251/2011 by the learned III Addl. Sessions Judge and Spl. Court for Trial of Cases under SC/ST(Prevention of Atrocities) Act, 1989 against accused Nos.1 and 2 for the offences punishable under Section 498A read with Section 149 of IPC and Sections 3 and 4 of Dowry Prohibition Act and acquittal order passed in respect of accused Nos.3 to 5 for the offences punishable under Sections 498A, 307 read with Section 149 of IPC and Sections 3 and 4 of D.P. Act.

4. Criminal Appeal No.1385/2017 is filed by accused Nos.1 and 2 being aggrieved by the judgment of conviction and



order on sentence dated 24.07.2017 passed in S.C.No.251/2011 by the learned III Addl. Sessions Judge and Spl. Court for Trial of Cases under SC/ST(Prevention of Atrocities) Act, 1989 for the offences punishable under Section 307 read with Section 34 of IPC.

5. The factual matrix of the case of the prosecution is that on 10.08.2009, at about 08.35 a.m., at Government Hospital, Chelur, the victim lodged Ex.P1 complaint to Chelur Police, wherein, she has stated that accused No.1 is her husband, accused No.2 is her brother-in-law, accused Nos.3 and 4 are her father-in-law and mother-in-law and accused No.5 is uncle of accused No.1. Her marriage was solemnized with accused No.1 about one and half years, prior to lodging of the complaint at Sri Basavanna Temple, Gubbi Taluk. During the marriage, her parents had given ₹60,000/- cash, a Hero Honda motorcycle, 40 grams of gold neck chain, a ring, as dowry to accused and one mangalya chain, one pair ear studs and one pair of hangings to her and her father had incurred Rs.3.00 lakh towards marriage expenses. After the marriage, accused No.1 took her to Kodihalli village and she was residing



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happily with her husband-accused No.1, father-in-law, mother-in-law and brother-in-law. The relationship of victim with accused No.1 was cordial for a couple of months and thereafter, the accused started to harass her, abused her in filthy language and voluntarily caused hurt. Therefore, several panchayaths were convened and thereafter, accused No.1 took her to his village and thereafter the accused persons threatened her to eliminate her by pouring kerosene on her. On 08.08.2009, the victim and accused No.1 decided to go to Bengaluru and join a garment factory in order to clear all debts. Thus, they came walking from Kodihalli to Hagalavadu and later, accused Nos.1 and 2 under the guise that she would visit Bangalore, took her to Tiptur and other places and on the way, the car got punctured and when they were changing the tyre, accused No.1 asked her to bring a stone and while she attempted to bring a stone, accused Nos.1 and 2 pushed her into the Ghat and threw stones on her, due to which, she sustained bleeding injuries on her left shoulder, face and neck as she fell from the height. Thereafter, she rescued herself and as her clothes were removed, she came naked to a village and the people gave her clothes and took her to Banakal Police



station and later the police sent her to a hospital, where treatment was given to her in the hospital and later, she informed about the incident to her father over phone and her father admitted her to Chelur Hospital. Hence, she lodged complaint as per for Ex.P1 on 10.08.2009.

6. Based on the complaint, the Investigating Officer took up investigation, investigated the matter and filed the charge sheet. The trial Court examined 17 witnesses as per PW1 to PW17 and marked 13 documents as per Ex-P1 to P13, two material objects-MO.1 and 2 and Ex.D1. Assessing the evidence of the prosecution witnesses, the trial court acquitted accused Nos.3 to 5 of the offences punishable under Sections 498A and 307 IPC r/w 149 IPC and Sections 3 and 4 of Dowry Prohibition Act and also acquitted accused Nos.1 and 2 for the offences punishable under Sections 498A r/w 149 of IPC and Sections 3 and 4 of Dowry Prohibition Act. However, the trial Court convicted accused Nos.1 and 2 for the offence punishable under Section 307 r/w 34 of IPC. Being aggrieved by the same, the State has preferred Crl.A.No.2166/2017 and Crl.A.No.12/2018 and accused Nos.1 and 2 also preferred Crl.A.No.1385/2017.



Soon after institution of the appeals, accused No.1 died on 10.06.2023, accused No.3 died on 24.12.2018 and accused No.4 died on 24.10.2021. Hence, the case against accused Nos.1, 3 and 4 stands abated.

7. Learned Addl. SPP appearing for the State vehemently contended that the trial Court has rightly come to the conclusion of guilt against the accused for the offence punishable Section 307 r/w 34 of IPC, however, has wrongly awarded inadequate sentence compared to the gravity of the offence committed by the accused. The prosecution has examined PW1 to PW3, PW5, PW6, PW7, PW11 and PW15, who are relatives, independent panchayatdhars, independent witness and medical officers, who have clearly deposed that PW1 was harassed mentally and physically and she was pushed into a Ghat with an intention to commit her murder and she came to be rescued; that PW1 had also sustained injuries in the incident.

8. It is further contended that PW1 to PW3 have categorically stated about the mental and physical harassment meted out to PW1 at the hands of the accused. Therefore, the



trial Court ought to have convicted the accused for the offences punishable under Section 498A IPC and Sections 3 and 4 of Dowry Prohibition Act.

9. Learned Senior Counsel appearing for the accused vehemently contended that the trial Court has committed an error in holding that accused Nos.1 and 2 are guilty of the offence under Section 307 r/w 34 IPC. In fact, the prosecution has to prove its case beyond reasonable doubt. It cannot take advantage of false evidence. In the case on hand, the trial Court predominantly relied upon suggestions made in the cross-examination and thus, has come to the conclusion that the prosecution has proved the case and recorded the order of conviction, which on the face of it, is unacceptable one. The trial Court has committed an apparent error in overlooking the major discrepancies occurred in the evidence of the witnesses, which disprove the case of the prosecution against accused Nos.1 and 2. The trial Court ought to have acquitted accused Nos.1 and 2, since the prosecution has failed to prove the origin of the case and also the motive.



10. It is contended that, except the evidence of PW1, which is unreliable on the face of it, nothing has been brought on record to prove the case. The oral testimony of PW1 is full of contradictions, omissions and improvements. Her testimony is also not corroborated with the testimony of PWs.6 and 7. No investigation was done soon after the incident till lodging of the complaint for almost one and a half day. Though the victim visited Banakal Police and Chelur Police Station, the police did not register the case and no MLC intimation was forwarded to the jurisdictional police about the commission of the offence. The evidence of the victim is not of sterling quality. The victim has lodged a false complaint against the accused persons as there was matrimonial dispute between accused No.1 and the victim and the same is pending before the Court, Gubbi. Hence, the ingredient of Section 307 IPC is also not attracted in this case. Thus, he prayed to set aside the judgment of conviction and order of sentence passed by the trial Court.

11. In the light of the above, we have perused the material on record and the following points arise for our consideration in these appeals:-



1. Whether the prosecution proved that accused No.1 solemnised his marriage with victim on 09.03.2008 and the gold ornaments and cash of ₹60,000/- was given to accused No.1 and thereafter, accused Nos.1 to 5 subjected PW1 to cruelty, to bring more dowry, and thereby committed offence punishable Section 498A of Indian Penal Code and Sections 3 and 4 of Dowry Prohibition Act?
2. Whether the prosecution further proved that on 08.08.2009 at about 02.00 p.m., accused No. 1 and 2, in furtherance of their common intention, took PW1 to Charmadi Ghat and in the night, they pushed her into the valley and thereby, they attempted to commit her murder?
3. Whether the judgment passed by trial Court is perverse, thus, requires interference by this Court?

12. In order to prove the ingredient of Sections 3 and 4 of Dowry Prohibition Act and Section 498A IPC, the prosecution has to prove the demand of dowry, harassment meted out to PW1 at the hands of accused Nos.1 to 5.

13. In the instant case, there is no allegation against the accused, by the victim, that all the accused have demanded



dowry during the marriage. Therefore, the evidence of PW1 victim does not disclose the aspect of demand of dowry by the accused.

14. As per our view, in the instant case, there is no allegation against the accused by the victim, that all the accused have demanded Mangalya chain in consideration for the marriage. Therefore, the evidence of PW1 victim does not disclose the demand of dowry as alleged by the prosecution.

15. PW2-Ramachandrappa, who is the father of victim, has stated that the marriage took place in the Muruda Basaveshwara Temple and he spent huge amount for the marriage. But, PW2 has not stated as to the persons who were present at the time of marriage talks. Further, he has not stated as to who had demanded gold neck chain, ring and also cash, in consideration of the marriage.

16. PW3-Prakash who is none other than the elder brother of victim has stated that they gave one gold chain, ring, watch, cash of Rs.75,000/-, 01 Hero Honda Motorcycle to accused No.1 before the marriage. However, PW3 has not



stated as to the persons who demanded dowry and the persons who were present at the time of marriage. Though PW1 and PW2 stated that they have given Rs.60,000/- cash before the marriage of accused No.1 and victim, however, PW3 has stated that they have given Rs.75,000/- as dowry. Thus, the evidence of PW1 and PW2 is not consistent and corroborated with testimony of PW3 in respect of cash given to accused No.1. Further, PW2 has not stated with regard to motorcycle given to accused No.1. Strangely, the Investigating Officer has not seized the Hero Honda Motorcycle to show that the parents of victim have purchased the said Hero Honda Motorcycle in the name of accused No.1. Further, the Investigating Officer has not recorded the statement of the authorised dealer of Hero Honda Showroom to substantiate that the parents of the victim purchased the Hero Honda motorcycle and given to accused No.1 as dowry.

17. PW11-Chikkanna, who performed the marriage of accused No.1 and the victim at Muruda Basaveshwara Temple, has stated that at the time of marriage, one ring, watch and neck chain was given by the parents of victim to the accused.



Later, he came to know that there was quarrel between the accused and the victim with regard to dowry. Thus, the evidence of PW11 is not consistent and corroborated with the oral testimonies of PWs.1 to 3. The evidence of PW1 and PW3 appears that on the alleged date of marriage talks, the victim and PW3 were not present and only PW2 was present. The Investigating Officer did not examine any independent witnesses who were present at the time of marriage talks. Therefore, the prosecution has not produced consistent and corroborative evidence to prove that accused Nos.1 to 5 have demanded dowry in consideration of marriage which was held between accused No.1 and the victim. Therefore, the trial Court has rightly held that accused Nos.1 and 2 are not guilty of the offences punishable under Section 498(A) r/w 149 of IPC and Section 3 and 4 of the Dowry Prohibition Act, in view of inconsistent and unfavourable testimony of the prosecution witnesses.

18. Insofar as the offence under Section 307 of IPC is concerned, the prosecution has contended that accused Nos.1 and 2 took PW1- victim in a car bearing No.KA-02-AC-2526



towards Chikkamagaluru side. It is alleged that while proceeding, accused stopped the car near Charmadi Ghat and asked the victim to bring a stone stating that the car tyre got punctured. Accordingly, she brought one stone and handed over to accused. Again, they insisted her to bring one more stone. While she went to bring another stone, the accused pushed her into Ghat with an intention to commit murder. On this basis, the prosecution has sought enhancement of sentence for offence punishable under section 307 of IPC, contending that the trial Court has imposed minimal sentence upon accused Nos.1 and 2.

19. Learned Senior counsel appearing for accused Nos.1 and 2 vehemently contended that there are many omissions and contradictions in the evidence of PW1 as to the role attributed to accused Nos.1 and 2 and there are discrepancies in Ex.P1-complaint.

20. We have perused the evidence of the prosecution witness. Insofar as the allegation against accused No.2 is concerned, PW1 has stated that in the midnight of 08.08.2009, both accused Nos.1 and 2 pushed her into the Charmadi Ghat.



Again they lifted her, removed her clothes, tied her clothes to her neck and pulled her up and down, tore her clothes and pushed her into the valley. Thus she became unconscious. She was naked and she regained her consciousness in the midnight at 02.00 a.m. She came to one tarpaulin shed, where she removed tarpaulin and covered her body and went to Mudugere. By seeing her, everybody pelted stones on her saying she is mad. She got clothes from someone and she telephoned to her father. Later, she was sent to Banakal Police Station and the Banakal Police took her to hospital and she gave the phone number of her brother and the police informed the said aspect to her brother and later the Banakal Police themselves took her to Chelur Hospital. Later, she was shifted to Government Hospital at Tumakuru, where she was admitted as inpatient for one month and after one month of the incident, the police took her to the scene of offence and drew spot panchanama as per Ex.P2.

21. In her cross-examination, PW1 has admitted that Frock, Sari and petticoat were provided by a small child and she has not stated that PW6 and PW7 have provided clothes to



her. It shows that in Exhibit P1, she has stated that accused Nos.1 and 2 removed her saree and tied her neck with the saree, they pushed her into the valley and thrown stones on her and thus, she sustained injuries to left shoulder and head. However, in the evidence given before the Court, she has given different colour that accused Nos.1 and 2 pushed her into the valley and again they lifted her and later they removed her saree and tied saree to her neck. She has further stated that Banakal police took her to Chelur Hospital for treatment. Once she has stated that she went to Mudigere and again came back to Banakal. The contents of Ex.P1 show that it was lodged on 10.08.2009 at 08.35 a.m. Neither PW1 nor the Investigating Officer has explained as to what had happened to the victim on 09.08.2009 till lodging of complaint on 10.08.2009.

22. Though, PW6 and PW7 have stated that soon after the incident they provided clothes to the victim as she came to their hotel in a naked condition but the victim has given contradictory evidence that a child provided clothes to her and not PWs.6 and 7. Hence the victim has omitted to state that PWs.6 and 7 provided clothes to her. Therefore, the evidence of



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PW1 is not corroborated with the oral testimony of PWs.6 and 7 with regard to providing clothes to her. Though suggestions were made by the counsel for accused, with reference to scene of occurrence, whether accused Nos.1 and 2 were present and rescued her and the victim had voluntarily fell on the ground and sustained injury.

23. In this case, evidence of PW1 and the contents of Ex.P1 are contradictory in nature. As per oral testimony of PW1, accused Nos.1 and 2 pushed her and again lifted her holding her hands. If at all, accused Nos.1 and 2 had any intention of committing or attempting to murder the victim, they would not have lifted her by holding her hand. As per the oral testimony of PW7-Smt.Manjula, wife of PW6, she has stated that when PW1 visited her Annapurneshwari Hotel, she was asked as to how she sustained injury, PW1 revealed that her husband pushed her down and she sustained injuries. If the evidence of PW7 is believed to that extent, then, there is no case against accused No.2.

24. As per oral testimony of PW14-PSI of Banakal Police Station, on 09.08.2009 he received information from the owner



of Annapurneshwari Hotel, Kottigehara, that the victim's husband, father-in-law, mother-in-law and brother of the accused pushed the victim down from the Charmadi Ghat and therefore told him to send some police personnel, immediately, he sent PW9-Women Police Constable and one Nandisha to the spot and they brought the victim to Banakal Police Station. Therefore, the evidence of PW14 goes contrary to the oral testimony of PW1 and PW7 as to the role attributed to the accused persons.

25. In order to corroborate the oral testimony of victim, prosecution examined PW15-Dr.Lavanya. In her evidence, she has stated that she examined the victim on 10.08.2009 who was brought by ASI-PW10. On examination, she found the following injuries:

- 1) Abrasion over (R) cheek, (L) cheek 2 x 2cm, bright red below the nose 1cm x 4cm.
- 2) Swelling of knee joints.
- 3) Movements at (L) hip joint painful.
- 4) Movements at (L) ankle present.



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- 5) Abrasion over (L) hip joint 0.5 x 0.5 cm bright red color.

Thus, she issued wound certificate vide Ex.P10. As per the opinion of the doctor, the injuries are simple in nature. In her cross-examination, she has categorically admitted that in the wound certificate, in column No.3 'brought from' is shown as 'self' and the victim has not disclosed as to how she fell and there is no reference in the wound certificate, to that effect. She has not furnished any identification marks on the victim. PW15 admits that if a person fall on a rough ground, similar injuries mentioned in Ex.P10 are possible. She further admitted that the injuries were sustained by the victim about six hours prior to her examination. If this is taken into consideration, the victim was examined by PW15 on 10.08.2009 at about 03.00 a.m. As per examination, if the injuries were sustained by the victim six hours prior, she would have sustained those injuries on 10.08.2009 at about 03.00 a.m. whereas according to prosecution, accused Nos.1 and 2 have pushed her into the valley on the night of 09.08.2009 i.e., about 2.00 a.m. Hence, the medical evidence is contrary to the oral testimony of PW1. The injuries sustained by the victim, described in Ex.P1 and the



injuries as described in her oral testimony are contrary to the medical evidence except the injuries sustained by the victim on her cheek.

26. Merely because the victim has sustained certain injuries, by that itself, it cannot be believed that it was accused Nos.1 and 2 who committed the alleged offence. Sole evidence of injured witness is sufficient to convict a person, provided her evidence is reliable and trustworthy.

27. In the instant case, the oral testimony of PW1 is not of sterling quality. Hence, her testimony is not credible, consistent and reliable one. Her oral testimony is not corroborated by medical evidence also. As per the evidence of PW9, PW10 and PW14, soon after the incident, the victim was taken to Banakal Police Station and then to Chelur Police Station and from there she was sent to District Hospital, Tumakuru, but the prosecution has not placed any material that how PW1 reached the hospital and who brought her to the hospital, there is no reference in the oral testimony of PWs.9, 10 and 14 to that effect. If at all, PWs.9, 10 and 14 had really visited the victim at Banakal Police station or Chelur Police



Station, probably they would have brought the injured to the hospital immediately for treatment and recorded her oral testimony and registered case, but, they have not done so. PW15-Doctor also stated that the injured came by 'self'. However, she was brought by ASI-PW10, H.V.Shivanna. In this case, the Investigating Officer has not examined the person who dropped the victim to the District Hospital, Tumakuru. More particularly, PW1-victim has not stated the name of the assailants before the doctor and she has not stated the history that accused Nos.1 and 2 have attempted to commit her murder. Thus, from the very beginning itself the total inaction or any act of endeavourness or an attempt or reaction in any manner to say the name of assailants after the incident imbibes a serious doubt about believing the evidence of PW1.

28. All the above doubts prevent the Court from treating the evidence of PW1, though she herself was injured in the incident, is taken as trustworthy. Therefore, the oral testimony of PW1 cannot be believed. Further, the evidence of PW1 and evidence of PW15-Doctor do not inspire any confidence to believe that victim-PW1 sustained severe injuries and accused



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Nos.1 and 2 attempted to commit her murder. Consequently, the case of prosecution suffers from lack of evidence to prove the alleged guilt against the accused.

29. In the light of the above, the alleged motive for commission of crime falls to the ground. As analysed above, since the prosecution is not able to prove the charge levelled against the accused, whatever the defence taken by the accused whether established or not, have no consequence. On considering the evidence both oral and documentary placed before it, in its proper perspective the learned Sessions Judge is wrong in convicting accused Nos.1 and 2 of the alleged offence i.e., 307 of IPC. Hence, the finding given by the trial Court is liable to be reversed. Admittedly, accused No.1 died on 10.06.2023. The prosecution has failed to prove the allegation against accused No.2. Accordingly, we proceed to pass the following:

ORDER

- i. CrI.A.No.12/2018 and CrI.A.No.2166/2017 filed by the State are **dismissed**.
- ii. CrI.A.No.1385/2017 is **allowed**.



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- iii. The impugned judgment of conviction and order on sentence, convicting accused for offence punishable under Section 307 of IPC is **set aside**.
- iv. The bail bond of accused No.2 and that of surety shall stand cancelled in view of the disposal of main appeals.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

MN/TL
List No.: 1 Sl No.: 13