

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.1106 OF 2013

BETWEEN:

1. SRI. SUNDARAMURTHY
S/O VENKATASWAMY
AGED ABOUT 38 YEARS,
2. SMT. CHINNAMMA
W/O VENKATASWAMY
AGED ABOUT 68 YEARS,
3. SMT. SARASWATHI
W/O JAYARAM,
AGED ABOUT 35 YEARS,

ALL ARE RESIDING AT NO.1103,
SWARNA NAGAR, 2ND CROSS,
ROBERTSONPET, KGF, KOLAR-563128.

...APPELLANTS

(BY SRI. VISWANATHA N. S., ADV. FOR A1 AND A3,
V/O DATED: 14/11/2025 - A2 IS ABATED.)

AND:

STATE OF KARNATAKA
BY ROBERTSONPET, POLICE STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE-560001.

...RESPONDENT

(BY SRI. B. LAKSHMAN, HCGP)

THIS CRL.A IS FILED U/S 374(2)CR.P.C. BY THE ADV., FOR THE APPELLANTS/ACCUSED NOS. 1,2 AND 3 PRAYING TO SET ASIDE THE ORDER OF CONVICTION DATED 01.10.2013 PASSED BY THE P.O., FTC., KGF IN CRL.A 40/2012 CONVICTING THE APPELLANTS/ACCUSED FOR THE OFFENCE P/U/S 498-A AND 506 R/W SEC.34 OF IPC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 12.01.2026 AND COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

The appellants have preferred this appeal against the Judgment of conviction and order on sentence passed by the Fast Track Judge, KGF in Criminal Appeal No.40/2012, dated 01.10.2013 (for short "the first Appellate Court").

2. The parties herein are referred to the rank what they had before the Trial Court.

3. The brief facts leading to this appeal are that the Station House Officer, Robertsonpet Police Station submitted the charge sheet against the accused for the offence under Section 498A, 506 r/w 34 IPC. It is alleged by the prosecution that the accused No.1 being the husband of CW1 and other accused who are in-laws of CW1, in furtherance of their common intention on 24.05.2010 at 08.30 p.m. at Swarnanagar, have caused mental and physical cruelty and

threatened to kill her by pouring kerosene. Thus, the accused have committed the offence. After filing the charge sheet, case was registered before the Prl. Senior Civil Judge and Prl. JMFC at KGF in CC No.202/2010. On hearing the charges, the Trial Court has framed the charges for the commission of alleged offences and the same was read over and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

4. To prove the guilt of the accused, prosecution has examined in all nine witnesses as PWs1 to 9 and six documents were marked at Exhibits P1 to P6. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C. was recorded. The accused has totally denied the evidence of prosecution witnesses. However, they did not choose to lead any defence evidence on their behalf. Having heard the arguments on both sides, the Trial Court has acquitted the accused for the alleged commission of offences punishable under Section 498A and 506 r/w 34 IPC. Being aggrieved by this Judgment of acquittal, the State has preferred the appeal before the Fast Track Judge, KGF in Criminal Appeal No.40/2012, the same came to be allowed by the First Appellate Court and Judgment of acquittal passed by the Trial

Judge was set aside and accused Nos.1 to 3 are convicted and sentenced to undergo simple imprisonment for a period of 3 years for the offence under Section 498A and also sentenced to undergo further simple imprisonment for a period of 3 years for the offence under Section 506 r/w 34 IPC. Being aggrieved by the judgment of conviction and sentence, the appellants/accused are before this court in this appeal.

5. The learned counsel appearing on behalf of the appellants would submit that the Judgment of conviction and sentence passed by the first Appellate Court is bad in law and on facts, the same is liable to be set aside. The Appellate Court has not properly appreciated the oral and documentary evidence placed by both parties. The alleged incident happened on 24.05.2010, but the complaint came to be filed on 10.06.2010. As per Ex.P.1, the delay is not explained by the prosecution. The complainant is the wife of appellant No.1. Their marriage took place on 04.05.2001. They are having two children by name Priya aged 8 years (now aged 20 years) and Kiran aged about 6 years (now aged 18 years). There is no simple allegation that in the family matter the husband and mother-in-law were ill-treated the complainant, and the complainant led a happy marital life for more than 10 years.

The Appellate Court has failed to consider the fact that the contents of the complaint differs from the evidence of the prosecution witnesses and as noticed in his evidence, PW2-Raju has deposed a different version than to the averments made in the complaint. The Appellate Court has not properly appreciated the evidence on record in accordance with law and facts. He would submit that the Trial Court has properly appreciated the evidence on record and acquitted the accused, but same is not considered by the Appellate Court. Police have not seized the kerosene can, the alleged eye-witnesses have not supported the case of the prosecution. The Appellate Court has convicted the accused only on the basis of interested witnesses. All mahazar witnesses have not supported the case of the prosecution. The independent witnesses not examined by the prosecution. On all these grounds sought to allow this appeal.

6. On the other hand, the learned HCGP Sri.B.Lakshman appearing for the respondent-State would submit that the Appellate Court has properly appreciated the evidence on record in a proper perspective. There are no materials to interfere with the impugned Judgment of

conviction and order on sentence passed by the Appellate Court and sought for dismissal of the appeal.

7. Having heard the arguments and perusal of materials, the following points would arise for my consideration:

1. Whether the First Appellate Court is justified in reversing the Judgment of acquittal passed by the Trial Court?
2. What order?

Regarding Point No.1:

8. I have examined the materials placed before this Court. Robertsonpet Police have submitted the charge-sheet against the accused for the offence under Section 498A and 506 read with Section 34 of Indian Penal Code. It is alleged by the prosecution that, accused No.1 being the husband of CW1 and other accused who are her in-laws, in furtherance of their common intention on 24.05.2010 at about 8.30 p.m, at Swarnanagara, have caused mental and physical cruelty and threatened to kill the complainant by pouring kerosene. Thus, the accused committed the offences.

9. After examination of the witnesses, the trial Court has acquitted the accused. In appeal preferred by the State

against the judgment of acquittal, the First Appellate Court has convicted the accused by reversing the judgment of the trial Court and passed sentence against the accused to undergo simple imprisonment for a period of 3 years for the offence punishable under Section 498A read with Section 34 of Indian Penal Code and also sentenced to undergo simple imprisonment for a period of 3 years for the offence punishable under Section 506 read with Section 34 of Indian Penal Code.

10. Exhibit P1 dated 10.06.2010 is the complaint filed by the complainant. The alleged incident took place on 24.05.2010 at 08.30 pm. The complaint has not explained the reasons for inordinate delay in filing the complaint.

11. It is an admitted fact that complainant is the wife of accused No.1, their marriage took place on 04.05.2001 as per their family customs. The complainant is having two children by name Priya and Kiran. There is no allegation that in the family matter the husband and mother-in-law ill-treated the complainant. The complainant led a happy marital life for more than 10 years.

12. PW2 has deposed a different version that he heard crying sound from the house of the complainant and he

reached the house and noticed that accused 2 and 3 were assaulting the complainant and accused No.1 was attempting to pour kerosene on the complainant from the Can and he threatened to the life of the complainant. Further, he has reported that he had snatched the kerosene can and pacified the clash. During the course of cross-examination, he has specifically admitted that CW5, Lakshminarayan, father of the complainant and he are the workers of BJP political party and they are also friends. He has further admitted that house wherein the incident took place is on the public road and so many independent persons were gathered at the time of incident. However, the Investigating Officer has not examined any of the independent witnesses to substantiate the case of the prosecution.

13. PW3-Lakshminarayan is the father of the complainant. He has supported to the case of the complainant.

14. PW4-Saravanakumar and PW5-Vincent are the mahazar witnesses. They have deposed as to the spot mahazar conducted by the police as per Exhibit P2.

15. PW6-Ramesh Naidu is the eyewitness, but he has not supported the case of the prosecution.

16. PW7-Dhanalakshmi is the mother of the complaint has supported the case of the prosecution.

17. PW9-Somashekar, Investigating Officer has deposed as to the investigation conducted by him.

18. On careful scrutiny of the entire evidence, the trial Court at paragraph 15 of the judgment, has observed as under:

"15. Only the family members of the complaint deposed about the incident alleged by the complainant in her complaint. The relationship between the parties is not disputed. Even it is also not in dispute that the complainant is having two children and she had lead happy married life for more than 10 years. The essential ingredients of Sec. 498A of IPC mandates that the woman must be married, she must be subjected to cruelty or harassment and lastly such cruelty or harassment must have been shown either by husband of the woman or by the relative of her husband. The complainant herself has stated that accused No.1 works in Bangalore for his livelihood. He used to go to Bangalore in the early hours of the Morning and returns late night. Under these circumstances the question of ill-treatment by the husband as alleged in the complaint cannot be accepted. The sole independent witness had turned hostile and had not supported the case of the ward complainant. In a criminal trial for conviction, the law equires the higher degree of proof because it is well settled that no level of suspicion can substitute for a hard evidence and conclusive proof. I have gone through the decision relied

by the learned advocate for the laccused with reference to proof of guilt of the accused. It is not necessary to reproduce the dictum laid down in the decisions referred by the learned Advocate for the accused as it is settled proposition of law that discrepancies statements dare or unreliable and even circumstantial evidence is also unreliable in the absence of chain of direct evidence. In the decision reported in ILR 2011 KAR 602; STATE BY JNANABHARATHI POLICE VS. H.S.KESHAVAMURTHY Wherein the Hon'ble High Court of Karnataka had observed that, a lady who had lead happy married life for more than 19 years, due to bad misunderstanding between the spouses she might have to committed the suicide. In the present case it is to be noted that the kerosene can which was alleged to have used by the accused No.1 is not seized by the investigation officer for the reasons best known to him only and the version of eye witnesses is also not believable. It is also settled proposition of law that proof regarding dowry demand must be beyond shadow of reasonable doubt. Except the complainant her father and mother and friend of the father of the complainant there is no iota of cogent, positive and acceptable evidence to establish the guilt of the accused. The evidence given by the complainant and her parents is in an exaggerated manner. Therefore I give my findings to the above point in the NEGATIVE."

19. Considering the facts and circumstances of the case, it is appropriate to mention the decisions of the Hon'ble Apex Court as to the scope of the First Appellate Court, while deciding the judgment of acquittal passed by the trial Court.

The Hon'ble Apex Court in the Case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOU DA RUDRAGOUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF KARNATAKA reported in (2007)4 SCC 415; and H.D. SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. In the case of H D SUNDARA (supra), the Apex Court has summarized the principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure as under:

"8. ...8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

20. In the case of BABU SAHEBGOU DA RUDRAGOUDAR AND OTHERS (supra) it is observed that it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles. The same are:

"1. That the judgment of acquittal suffers from patent perversity;

2. That the same is based on a misreading/omission to consider material evidence on record; and

3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."

21. According to the case of the prosecution, accused has committed offence under Section 498A and 506 of Indian Penal Code. To prove the offence punishable under Section 498A of Indian Penal Code, prosecution has to prove the following essential ingredients:

"An offence under Section 498A has following essential ingredients:

- (a) that the victim was a married lady (she may also be a widow);*
- (b) that she has been subjected to cruelty by her husband or the relative of her husband;*
- (c) that such cruelty consisted of either (1) harassment of the woman with a view to coerce meeting a demand for dowry, or (2) a willful conduct by the husband or the relative of her husband of such a nature as is likely to lead the lady to commit suicide or to cause grave injury to her life, limb or health;*
- (d) that such injury aforesaid may be physical or mental. When the husband or the relative of a husband of a woman subjects such woman to cruelty, he or they shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."*

22. To prove the offence punishable under Section 506 of Indian Penal Code, the prosecution has to prove the following essential ingredients:

"Essential ingredients.- The offence of criminal intimidation has been defined under Section 505 Indian Penal Code, Section 506 provides punishment for it.

1. Threatening a person with any injury;

(i) to his person, reputation or property; or

(ii) to the person, or reputation of any one in whom that person is interested.

2. The threat must be with intent;

(i) to cause alarm to that person; or

(ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or

(iii) to cause that person to omit to do any act which that person is legally entitled to do as the means or avoiding the execution of such threat.

23. The First Appellate Court has not properly appreciated the evidence on record and also ignored the aforesaid settled principles of law.

24. I have carefully examined the materials on record independently. Even on re-appreciation/re-examination and reconsideration of the entire evidence on record, I do not find any factual or legal error in the judgment of acquittal passed by the trial Court. The First Appellate Court has failed to appreciate the evidence in a proper perceptive manner. Hence, the First Appellate Court is not justified in convicting the accused for the offence under Section 498A and 506 read with Section 34 of IPC. Hence, I answer point No.1 in the negative.

Regarding Point No.2:

25. For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

- i) Appeal is allowed;
- ii) The judgment of conviction and order on sentence dated 01.10.2013 passed in Criminal Appeal No.40 of 2012 by the Presiding Officer, Fast Track Court, KGF, is set aside. Consequently, the judgment of acquittal passed by the Principal Senior Civil Judge, KGF in CC No.202 of 2010 dated 04.06.2012, is confirmed;
- iii) Registry to send the copy of this judgment along with trial court records to the concerned courts.

**Sd/-
(G BASAVARAJA)
JUDGE**

Inn/KBM