

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.1209 OF 2010

c/w

CRIMINAL APPEAL NO.676 OF 2010

In Crl.A. No.1209/2010

BETWEEN:

SMT ASKARI BEGUM
W/O YAKUB BAIG,
AGED ABOUT 60 YEARS,
RESIDING AT NO.745,
FORT ROAD D.PURA TOWN,
BANGALORE RURAL DISTRICT.

...APPELLANT

(BY SRI. M. SHARASS CHANDRA, ADV.)

AND:

1. SHABEEBI
W/O MOHAMMAD SAFIR,
AGED ABOUT 35 YEARS,
R/AT CHICKPETE,
D.B PURA TOWN,
BANGALORE RURAL DISTRICT.

2. STATE BY DODDABALLAPURA P.S.
(REP. BY SPP)

...RESPONDENTS

(BY SRI. K.B.K. SWAMY, ADV. FOR R1,
SRI. RANGASWAMY R., HCGP FOR R2.)

[CASUE TITLE AMENDED V/C/O DATED: 08.03.2011]

THIS CRIMINAL APPEAL IS FILED U/S. 372 PRAYING TO
SET ASIDE AND CONSEQUENTLY ENHANCE THE SENTENCE
AWARDED BY LOWER COURT ORDER DT: 31.05.10/3.06.10

PASSED BY THE DIST., AND S.J., & P.O., FTC-I, BANGALORE
(R) DIST., BANGALORE IN S.C.NO. 233/09 - CONVICTING THE
RESPONDENT/ACCUSED FOR THE OFFENCE P/U/S 307 OF IPC.

In Crl.A. No.676/2010

BETWEEN:

SHABEEBI
W/O MOHAMMAD SAFIR
AGED ABOUT 35 YEARS
CHIKKAPET
D.B. PURA TOWN,
DODDABALLAPURA
BANGALORE RURAL DISTRICT
BANGALORE.

...APPELLANT

(BY SRI. K.B.K. SWAMY, ADV.)

AND:

STATE OF KARNATAKA
BY DODDABALLAPURA POLICE STATION
REP. BY STATE PUBLIC PROSECUTOR
OFFICE OF ADVOCATE GENERAL
HIGH COURT BUILDING
BANGALORE.

...RESPONDENT

(BY SRI. RANGASWAMY R., HCGP)

THIS CRIMINAL APPEAL IS FILED U/S. 374 (2) CR.P.C
PRAYING TO SET ASIDE THE CONVICTION AND SENTENCE
DT.31.05.2010 / 03.06.2010 PASSED BY THE DIST. & S.J. &
P.O. FTC-I, BANGALORE RURAL DIST., BANGALORE IN
S.C.NO.233/09-CONVICTING THE APPELLANT/ACCUSED FOR
THE OFFENCE P/U/S 307 OF IPC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 16.10.2025 AND COMING ON FOR
"PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT,
DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

The appellant Shabeebi D/o Mohammed Safir who is accused, has preferred Criminal Appeal No.676 of 2010 challenging the Judgment of conviction and order on sentence dated 31st May, 2010 passed in S.C.No.233 of 2009 by the District and Sessions Judge, FTSC-1, Bangalore Rural District, Bangalore (for short "the trial Court), whereby the accused is convicted for the offence punishable under section 307 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of two years with fine of Rs.1,000/- and in default of payment of fine, to undergo simple imprisonment for a period of fifteen days.

2. Victim-PW1 has preferred Criminal Appeal No.1209 of 2010 seeking enhancement of sentence passed by the trial Court.

3. For the sake of convenience, parties herein are referred to as per status and rank before the trial Court.

4. Brief facts, leading to both these appeals are that, Doddaballapura Town Police submitted charge-sheet against the

accused for offence punishable under sections 120B and 307 of Indian Penal Code. It is alleged by the prosecution that accused was a maid servant in the house of PW1-Smt. Askari Begum and she was working as such in the house of PW1 for the past seven years; she has borrowed a sum of Rs.40,000/- and the said amount was not repaid. It is the case of the complaint that the complainant and her children have conspired to kill PW1 and to rob the valuable jewels and money from house of PW1. Further, it is alleged that, in furtherance of the said conspiracy and common intention, on 16th April, 2009 at about 10:45 am, the appellant and her daughter entered the house of PW1 and appellant alleged to have gagged-up the mouth of PW1 and the daughter the appellant has caught hold the hand of PW1, and the son of appellant alleged to have assaulted on the mouth of PW1 and other parts of her face. When PW1 started to scream, the son of the accused took the mantle of his sister and tied it to the neck of PW1 and pulled her down and thereafter, he poured kerosene on the body of PW1 and tried to light fire. Thus, the accused committed offence under Sections 120B and 307 read with Section 34 of Indian Penal Code.

5. Sri K.B.K. Swamy, learned Advocate was appointed as standing Counsel to the accused at the request of the accused and after hearing the arguments, the trial Court has framed charges for commission of offence under sections 120B and 307 of IPC and the same was explained to the accused in the language to her. Having understood the same accused pleaded not guilty and claimed to be tried.

6. To prove the guilt of the accused, fifteen witnesses were examined as PWs1 to 15, fourteen documents were marked as Exhibits P1 to P14 and seven material objects were marked as MOs1 to 7. On closure of prosecution side evidence, statement of the accused under section 313 of Code of Criminal Procedure was recorded. Accused has totally denied the evidence appearing against her and during the course of cross-examination of prosecution witnesses, Exhibits D1 to D3 were marked.

7. Having heard the arguments on both sides, the trial Court acquitted the accused for the offence punishable under section 120B of Indian Penal Code and convicted the accused for the offence under section 307 of Indian Penal Code and sentenced the accused to undergo rigorous imprisonment for a

period of two years with fine of Rs.1,000/-. The trial Court has also set off the period of detention undergone by the accused for a period of seven months four days. Being aggrieved by the Judgment of conviction and order on sentence under section 307 of Indian Penal Code, the appellant/accused has preferred Criminal Appeal No.676 of 2010. The complainant injured-Askari Begum has also preferred appeal under section 372 of Code of Criminal Procedure, seeking enhancement of sentence passed by the trial Court.

8. Sri K.B.K. Swamy, learned Counsel appearing for the Appellant/accused would submit that there is no motive in the case. The case of the prosecution is that the accused has committed offence with an intention to rob jewel and cash. However, PW1 has not whispered anything about the motive of the accused. Admittedly, the accused have not robbed any jewel or money from the possession of PW1. PW2-Assain Abbas who is the son of PW1, is a chance witness and not an eye-witness. CW3-Sarwar Pasha, who is examined as PW5, is shown as alleged eye-witness. He has clearly admitted in his cross-examination that when they visited the spot, the incident had already occurred. This admission made by the PW1 clearly

goes to show that he is not an eye-witness. However, the investigating officer has planted him as an eye-witness. It is the case of the prosecution that the son of PW1 and son of friend of PW1 i.e. Sarwar Pasha-PW5, said to have come to the scene of offence and took the injured to Janata Nursing Home wherein the history was given regarding the incident. The name of the accused is not disclosed before the medical officer. The wound certificate-Exhibit P4 reveals that injured-Askari Begum was admitted to hospital on 16th April 2009 at 11:45 am with history of alleged assault. But it does not reveal the name of the accused and also does not reveal as to the details of alleged offence. Exhibit P6-wound certificate issued by Mallya Hospital is also cryptic. The medical officer has not disclosed anything as to the cause of injury and also the name of the accused. In Exhibit P1-complaint, it is stated that Shabeebi and Reshma caught hold of the complainant and the son of the accused-Wasim gave blow to her face and she sustained injury to left eye. Wasim also assaulted to her teeth and while she tried to scream and to escape from them, the said Wasim poured kerosene and tried to light fire with a matchstick. At that time, when the complainant came, the accused fled the scene. This scene of occurrence is not witnessed by the PW2,

but only at the instance of the injured-PW1, the complainant has stated the same in the complaint. Therefore, it is clear that PW2 is not an eye-witness to the incident. In the absence of evidence of PW2 and 5, the remaining evidence of PW1 is to be examined. The evidence of PW1 is not trustworthy. The real genesis of the case has not been disclosed by the investigating officer at the earlier point of time. There is a delay of two hours in filing the complaint. Only as an after thought, they have implanted this accused. The trial Court has rightly acquitted the accused under section 120B of Indian Penal Code. When the trial Court has acquitted the accused under section 120B of IPC, the question of conspiracy does not arise.

9. It is further contended by the counsel for the appellant that the trial court erred in not appreciating the defence that, while the appellant/accused was working in the house of PW1, he accidentally broke an aquarium, for which PW1 started hitting the appellant. Upon seeing this, the appellant's son, out of concern for his mother, fisted PW1. Except for this, the allegations of attempted strangulation or pouring kerosene on PW1 are false.

10. The investigating officer did not properly investigate the case and, in a mechanical manner, submitted the charge-sheet against the accused, which is not sustainable under law. He would further submit that the investigating officer admitted that he did not enquire from the injured or the medical officer. The intimation regarding the medico-legal case was not sent to him, and no person was sent to record the statement of the injured on April 16, 2019, at Janata Nursing Home. The investigating officer also admitted that he did not record any explanation for the delay in filing the complaint. The First Information Report reached the court on April 16, 2009, at 2:00 pm, and the delay in dispatching the FIR is also unexplained.

11. The investigating officer clearly admitted that he did not examine the eyewitness regarding the loan borrowed by accused No.1 from Strishakti Sangha. Further, he admitted that he did not send the injured's blood sample to the Forensic Science Laboratory (FSL). Without sending the injured's blood sample, items 4, 5,

and 6, which are "O" group blood, were sent to the FSL. Since the injured's blood sample was not sent, Exhibit P7—the FSL report—cannot aid the prosecution.

12. On all these grounds, it is sought to allow the appeal. Alternatively, if this Court concludes that the accused has committed the offence under Section 307 of the Indian Penal Code, since the appellant has already undergone custody for seven months and four days, is over 50 years old, is a poor maid servant, abandoned by her husband, and has to look after her children, and there was no intention to rob jewels or money from PW1 or to kill the injured, the Court may confirm the sentence only to the period already undergone by the appellant/accused in custody.

13. On all these grounds, modification of the sentence passed by the trial court is sought.

14. As against this, Sri R. Rangaswamy, learned High Court Government Pleader appearing for the State, would submit that the trial Court has properly appreciated the

evidence on record in accordance with law. The presence of accused is not disputed by the injured. Injury caused to PW1 is also not disputed. Absolutely, there are no grounds interfere with the Judgment of conviction passed by the trial Court and accordingly, sought for dismissal of the appeal.

15. Sri Omkar, learned Counsel appearing for the victim would submit that admittedly accused is the maid servant of the victim. The injury to the left eye at Exhibit P6 is one of the chemical injury. Injuries 1, 2 and 4 are grievous in nature and hence considering the injuries caused to PW1, he prayed for enhancement of sentence passed by the trial Court.

16. Having heard on both sides, the following points would arise for my consideration:

- 1) Whether the appellant in Criminal appeal No.676 of 2010 has made out ground to interfere with the Judgment of conviction and order on sentence passed by the trial Court?
- 2) Whether appellant in Criminal appeal No.1209 of 2010 has made out a ground for enhancement of sentence of passed by trial Court?
- 3) What order?

Regarding Point No.1:

17. I have examined the materials placed before me. It is the case of prosecution that the accused was a maid servant in the house of PW1 and was working as such for the past seven years. She had borrowed a sum of Rs.40,000/- and the said amount was not repaid. The complainant and her children conspired to kill PW1 and rob the jewel and cash from the house of PW1. In furtherance of their conspiracy, on 16th April 2009 at about 10:45 am, the appellant and her daughter entered the house of PW1 and alleged to have gagged up the mouth of PW1 and her daughter caught hold of the hand of PW1 and the son of appellant alleged to have assaulted on the mouth of PW1 and other parts of her face. When PW1 started to scream, the son of the accused took the mantle of his sister and tied to the neck of PW1 and pulled her down. Thereafter, he poured kerosene on PW1 and tried to light fire. Thus, accused committed offence under sections 120B and 307 with section 34 of Indian Penal Code.

18. To prove the guilt of the accused, the prosecution has examined fifteen witnesses as PWs1 to 15, fourteen documents were marked as Exhibits P1 to P14 and seven

material objects were marked as MOs 1 to 7. During the course of cross-examination of prosecution witnesses, Exhibits D1 to D3 were marked.

19. PW1-Askari Begum has deposed in her evidence that she know that accused. Accused 2 & 3 are juvenile delinquents. She, her husband and Irshad Abbas, live in her house. They have built a separate house at the Doddaballapur. She knew the accused since she was a child and she had worked in their house for the last three years. She used to give her Rs.700/- for food and clothes. After a month of joining the job, the accused took Rs.5,000/- for admission of her child to school and after a few days, she again asked for Rs.10,000/-, which she gave. She again took a loan of Rs.20,000/- and again Rs.5,000/-, totally a sum of Rs.40,000/- from her. She gave the amount to the accused from the money which her son used to send to her who was staying at London. She gave the money to the accused, thinking that she would do her house work and also take good care of her while her children were away. The accused again asked for Rs.40,000/- to repay the loan which she had taken from Women's Association to which PW1 told the accused that she did not have the money. Two

years before the incident accused asked for an amount of Rs.2,000/- and when she told that she didn't have the money but only had a ring, the accused had taken the ring with a promise to return it within a week and never came back. About 5 to 6 days before the incident, the accused came and said that she would repay the loan. When she enquired her as to from where she would get the money, she replied, "Why do you care? I will repay the loan". Six months ago on 16th April 2009 at about 10.00 am, the accused came to the gate of the house, She went and opened the gate. The accused and her daughter Reshma came inside. She gave both of them the breakfast and went to kitchen to cook. The son of accused also came and stood at the kitchen door when she asked about why he had come, he said he came to take his mother. PW1 told him to stay in the veranda, and he went to veranda. On that day, her husband had gone to Chennai and she was alone at home. When she brought the utensils, accused gagged her mouth and tightly held the neck of PW1 with her hands. She told her son to beat and burn her. The daughter of the accused closed the windows, turned the TV volume to its maximum, and also turned on the fan to full speed. The son of the accused came from the veranda and told his mother to live,

and he grabbed her neck and pushed her against the wall and hit her mouth with his fist to which her mouth started to bleed. He also hit on her eyes. Then the accused and her daughter and son held her hands tightly. When she screamed more, the son of the accused took his sister's mantle and tied it around her neck and all the three of them together threw her down. The son of the accused went and brought kerosene and poured it on PW1. He took out a matchbox and try to light it, but it did not ignite as it was oily. She screamed even loudly and son of the accused step on her neck with his foot and tried to light the matchstick, but it did not light up. At that time, PW1 threw the wardrobe keys and told them that they can't take the money and Jewellery from the wardrobe and leave her alone. In the meantime, her elder son Assain Abbas came with his friend PW3. Accused fled the scene and PW1 informed her son about the incident. Then they took her to Janata Nursing Home for treatment and further to Mallya Hospital at Bangalore for higher treatment. The accused knew that she had money and Jewellery in her house, so they wanted to kill her and rob the money and jewellery to repay their debt. She has also stated that when kerosene was poured on her, she was wearing a saree, skirt and jacket. She has also identified MOs1 & 2.

20. PW2-Assain Abbas has deposed in his evidence that PW1 is his mother and his parents and brother live in a house near Fort Road and he lives in another house at Someshwar layout. He know accused who is before the Court. He also know the juvenile offenders. He know the accused since she was a child. She has been working at his mother's house for the past 3 to 4 years. On 16th April 2009, about 10:30 and 10:45 am, he and his friend CW3, were going to Aralumallige from 'D' Cross and on the way, they went to his mother's house to see her. When they entered the door, the volume of the TV was to its maximum and he heard his mother screaming from the kitchen. CW3 and he went towards the Kitchen. The accused and her daughter had dragged his mother into Kitchen and were holding her. The son of the accused was trying to light the matchstick, but it was not lighting as the fan was on high speed. Then the accused and her children after seeing them. His mother's mouth was bleeding, teeth were broken and her eye was injured. There was a kerosene can on the floor and matchsticks were scattered and there was even a matchbox on the floor. His mother's saree was drenched with kerosene. There were also scratches on her hands. When asked, his mother told that the accused and her children

poured kerosene on her and tried to set her on fire to kill her, and then rob what was there in the house. Then they took PW1 to Janata Nursing Home and then went to the police station and filed a complaint as per Exhibit P1. Later, Police came to the spot and prepared spot mahazar as per Exhibit P2. Police have also seized kerosene can, matchbox, matchsticks and clothes as per MO1 to 4.

21. PW3-Muniraju has deposited as to Seizure mahazar- Exhibit P2 and also seizure of properties MOs1 to 4.

22. PW4-Mehboob Raza has deposed in his evidence that he know PW1 and his house is situated towards the Eastern side of the House of PW1. Accused was the maid servant in the House of PW1. On 16th April 2009 at about 10:45 am when he was standing in front of his House, PW2 and CW3 went inside the House of PW1 and after 3 to 4 minutes, accused and her children ran away from the House of PW1. Out of suspicion, he went inside the house of PW1 and found kerosene spilled on the floor and one can was there. PW1 had fallen in the kitchen. She was bleeding from her mouth. P1 also sustained injury to her eyes. When he asked PW1, she told that accused, her daughter and her son held her tightly and son of the accused

assaulted with his hands and caused injuries. Then PW2 and CW3, took her to Hospital.

23. PW5-Sarwar Pasha, has deposed in his evidence that PW2 is known to him. On 16th April 2009 at 10:30/11:30 am, he and his friend-PW2, were proceeding from D Cross to Aralumallige. By that time they went to the house of mother of PW2. When they entered the house, they heard the TV in full volume and also her mother screaming. PW1 went inside the Kitchen. Then he went there and witnessed that the maid servant under her daughter had caught hold of mother of PW2, and the maid servant and her son tried to light fire from matchstick. On seeing them, they ran from the spot. Blood was oozing from the mouth of the mother of PW2. The mother of PW2 told that accused and her children poured kerosene, and tried to light fire with an intention to drop the jewels and cash. Then they took the mother of PW2 to hospital.

24. PW6 has deposed in the evidence as to mahazar conducted by the police as per Exhibit P8.

25. PW7-Rathnamma has deposed in her evidence that at about six months back, the women Police took her to Police Station from 'D' Cross Doddaballapura. In the Police Station

one Muslim Lady and one gents were there. The women police instructed the Muslim Lady to change her address. Accordingly, she changed her blouse and saree. The saree and the blouse which she wore, were stained with blood and wet with kerosene. Police have conducted mahazar in this regard and she has identified the accused Muslim lady who changed the dress.

26. PW8-Dr. M.R. Basavaraj Naik, has deposed in his evidence as to the examination of injured and also the injuries found as per Exhibit P4. He has also deposed as to the case sheet Exhibit P5 and also opinion given by him as per Exhibit P4.

27. PW9-Dr. Sunil Kumar has deposed as to the examination of the injured.

28. PW10-K Anjanappa has deposed in his evidence that on 19th April 2009, the Station House Officer of the police station has directed him to record the statement of the injured who is taking treatment at Malya Hospital, Bangalore, and accordingly he went to Malya Hospital and informed the same to the medical officer. The medical officer has examined PW1 and permitted him to record the statement of the injured. And

he has reduced the same to writing and took the signature of Doctor and then submitted the same to the sub Inspector.

29. PW11-Shehnaz Fathima, Scientific Officer, has deposed as the contents of Exhibit P7.

30. PW12-B.T. Swamy has deposed as to the seizure manager, Exhibit P3 and seizure of MOs5 and 6.

31. PW13-P.R. Jayaram, Assistant Director of Forensic Science Laboratory has deposed in his evidence as to examination of MOs1 to 6.

32. PW14-S.A. Turabi has deposed in his evidence as to mahazar conducted by the police as per Exhibit P8 and also as to seizure of MO7.

33. PW15-C.R. Ranganath, Police Inspector has deposed as investigation conducted by him.

34. A perusal of these materials makes it clear that on the basis of the complaint filed by PW1, police registered case in Crime No.68 of 2009 against the accused and others for the offence punishable under section 307 read with section 34 of Indian Penal Code and submitted First Information Report to the Court. On the same day, police suite visited the spot and

conducted spot mahazar as per Exhibit P2. Police have also conducted seizure mahazar on the same day as per Exhibit P3. Medical certificate reveals that the injured has sustained the following injuries:

- "1. Chemical injury left eye;*
- 2. Abrasion over left nape of neck;*
- 3. Loss of lower Intercessor, broken;*
- 4. Contusion of varying size all over body."*

35. The Doctor has opined that the injuries are grievous in nature. Exhibit P6-wound certificate also reveals the same. Exhibit P7-FSL report reveals that the blood stain was detected on items 4 to 6, and the same is human blood. Items 4 to 6 were stained with 'O' blood group. Exhibit P8 is the seizure Panchanama, Exhibit P9 is the certificate of materials examined by Forensic Science Authority.

36. The Counsel for the appellant would submit that the trial Court has erred in appreciating the defence taken by them. During the course of cross-examination of PW1, it was suggested that when the appellant was working in the house of PW1 by mistake the accused broken the aquarium, for which, PW1 started hitting the appellant and upon seeing the same,

with concern to his mother, the son of the appellant/accused fisted PW1 and except that, the allegation of trying to strangle or pouring of kerosene on PW1, are false.

37. During the course of cross-examination of PW1, she has clearly admitted that when the accused, while working in her house, she was giving respect to herself, her husband and her children. It is also come in the evidence of PW1 that the appellant was working as maid servant in her house for the past three years. The prosecution has not made any accusation that the appellant along with others, have committed robbery. The only accusation against the appellant and two others is that the accused have committed offence under Sections 120B and 307 of Indian Penal Code. But the trial Court has acquitted the accused for the offence punishable under Section 120B of Indian Penal Code and convicted the accused for the offence punishable under Section 307 Indian Penal Code. The essential ingredients to prove the offence under Section 307 of Indian Penal Code are:

- a. an intention or knowledge of committing murder;
- b. the doing of an act towards it.

38. In the case on hand, Exhibit P1-complaint averments reveals the role of the appellant, that Shabeebi and her daughter Reshma caught hold of PW1 and Wasim son of the appellant has poured kerosene with an intention to kill PW1. PW1 has sustained injury to her left eye and tooth when Wasim fisted on the face of PW1. The present accused has not used any force on PW1. If really the accused had intention to commit murder of PW1, they would have closed the door of the house, but they have not done so. On the fateful day, as usual the accused along with her children came to the house of PW1 for work and while so working, accidentally, the aquarium was broken as suggested by the Counsel for the accused, and getting enraged, PW1 started hitting the appellant/accused and upon seeing the same, the son of the accused, with concern to his mother, would have fisted PW1 causing injuries to PW1 as shown in the wound certificate. On careful examination of the entire evidence placed before this Court, the evidence adduced by the prosecution would establish the offence under Section 341 of Indian Penal Code. The offence under Section 341 of Indian Penal Code is punishable with simple imprisonment for a term which may extend to one month, or with fine which may extend to Rs.500/-, or with both. Even if it is presumed that

the appellant/accused, having common object along with other accused when the present appellant caught hold of the hands of PW1, the son of the appellant/accused fisted on the face of PW1 causing grievous injuries to her. The said offence also comes under Section 325 read with Section 34 of Indian Penal Code. The offence under Section 325 of Indian Penal Code is punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. In the present case, the prosecution has proved the guilt of the accused for the offence punishable under Sections 341 and 325 read with Section 34 of Indian Penal Code. But the prosecution has failed to prove the guilt of the accused for the offence punishable under Section 307 of Indian Penal Code. Considering the nature and gravity of offence and the role of present appellant in commission of offence and the period of offence already undergone by the appellant/accused for a period of 7 months four days, it is just and proper to impose sentence of 7 months four days to the appellant/accused for offence punishable under Section 325 read with Section 34 of Indian Penal Code and further the accused shall undergo simple imprisonment for a period of one month for the offence

punishable under Section 341 of Indian Penal Code. Accordingly, I answer point No.1 partly in the affirmative.

Regarding Point No.2:

39. In view of holding that the prosecution has proved the guilt of the accused for the offence punishable under Sections 341 and 325 read with Section 34 of Indian Penal Code and the prosecution has failed to prove the guilt of the accused for the offence punishable under Section 307 of Indian Penal Code. Considering the facts and circumstances of the case, I do not find any material/evidence to enhance the punishment imposed by the trial Court. Since this Court has modified the conviction from offence punishable under Section 307 of Indian Penal Code to the one punishable under Sections 341 and 325 read with Section 34 of Indian Penal Code, the question of enhancement of punishment as sought for by the learned counsel for the appellant/victim, does not arise. Accordingly, I answer Point No.2 in the negative.

Regarding Point No.3:

40. For discussions and reasons aforestated, I proceed to pass the following:

ORDER

- i. Criminal Appeal No.1209 of 2010 filed by the appellant-victim PW1 is dismissed;
- ii. Criminal Appeal No.676 of 2010 filed by the appellant-accused is partly allowed;
- iii. Judgment of conviction and order on sentence dated 31st May, 2010 passed in S.C.No.233 of 2009 by the District and Sessions Judge FTSC-1, Bangalore Rural District, Bangalore whereby the accused is convicted for the offence punishable under section 307 of Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of two years with fine of Rs.1,000/- and in default of payment of fine, to undergo simple imprisonment for a period of fifteen days, is modified as under:
 - a) Appellant/accused is convicted for the offence punishable under Section 341 read with Section 34 of Indian Penal Code and sentenced to undergo

simple imprisonment for a period of one month;

b) Appellant/accused is further convicted for the offence punishable under Section 325 read with Section 34 of Indian Penal Code and sentenced to undergo imprisonment for a period of 7 months 4 days;

c) Both sentences shall run concurrently;

iv. Appellant/accused has already undergone the above sentence, she is set at liberty.

Sd/-
(G BASAVARAJA)
JUDGE