

CRL.A NO.100127/2023

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 9th DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

AND

THE HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE

CRIMINAL APPEAL NO.100127 OF 2023

BETWEEN

STATE OF KARNATAKA
REPRESENTED BY THE
SUB-INSPECTOR OF POLICE
BRUCEPET POLICE STATION,
BALLARI DIST. BALLARI,
THROUGH THE ADDL. STATE PUBLIC
PROSECUTOR,
ADVOCATE GENERAL OFFICE,
HIGH COURT OF KARNATAK, DHARWAD BENCH,
DIST DHARWAD 580011.

...APPELLANT

(BY SRI M.B. GUNDEWADE, ADDL. SPP.)

AND

1. A.R. MOHAMMED ILIYAS S/O V. ABDUL RAHIM
AGE 41 YEARS, OCC. MINES BUSINESS,
R/O. NO.2, CBB COMPOUND,
PARVATHI NAGAR, TALUR ROAD,
BALLARI, DIST. BALLARI 583101.
2. ISMAIL S/O MOHAMMED YOUSUF
AGE 51 YEARS,
R/O. KALATTHIL HOUSE, GANDHINAGAR END,
POCHHAR OLAVAKKAD,
PALIKKAD-678001, KERALA STATE.



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3. BUTTU S/O SHAIK ABDUL BASHEED
AGE 23 YEARS, TRANSPORT AGENT IN ILIYAS
TRANSPORT COMPANY,
R/O. 3RD CROSS, COURT MOHALLA,
MILLERPET, BALLARI, DIST. BALLARI 583101.
4. PINJAR GOUSE S/O MOHAMMED ALI
AGE 37 YEARS, WORKING IN ILIYAS TRANSPORT
9TH CROSS, HUSSAIN NAGAR,
BALLARI, DIST. BALLARI 583101.

...RESPONDENTS

(BY SRI S.B. HEBBALLI, ADVOCATE)

THIS CRIMINAL APPEAL IS FILED U/SEC. 378(1) AND (3) OF CR.P.C. PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL IN SESSIONS CASE NO.16/2011 DATED 14.03.2022 ON THE FILE OF PRL. DISTRICT AND SESSION JUDGE, BALLARI AND TO SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL DATED 14.03.2022 PASSED BY THE PRL. DISTRICT AND SESSIONS JUDGE, BALLARI IN SESSIONS CASE NO.16/2011 AND CONVICT AND SENTENCE THE RESPONDENT 1 TO 4 /ACCUSED NOS. 1,5,7 AND 8 FOR THE OFFENCES PUNISHABLE U/SEC. 498A, 307, 323, 504, 109 R/W 34 OF IPC AND SECTIONS 3 AND 4 OF DOWRY PROHIBITION ACT, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 15.06.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD
AND
HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE

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CAV JUDGMENT

(PER: HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE)

1. The appellant/State has filed this appeal under Sections 378(1) and 378(3) of the Code of Criminal Procedure, seeking the following reliefs:

(a) *"TO GRANT LEAVE to appeal against the Judgment and order of acquittal in Sessions Case No.16/2011 dated 14.03.2022 on the file of learned Prl. District and Sessions Judge, Ballari;*

(b) *TO SET ASIDE the judgment and order of acquittal dated 14.03.2022 passed by the learned Prl. District and Sessions Judge, Ballari in Sessions Case No.16/2011;*

AND

(c) *TO CONVICT and sentence the Respondents No.1 to 4/accused Nos.1, 5, 7 and 8 for the offences punishable under Sections 498-A, 307, 323, 504, 109 R/w. 34 of IPC and Section 3 and 4 of Dowry Prohibition Act, in the interest of justice and equity."*

2. The case of the prosecution, in brief, is as under:

Smt. Ayasha alias Manjula stated in her complaint that she came into contact with the respondent/accused No.1

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during a tour to Goa, and they thereafter remained in touch over the phone. In October 2004, when the accused came to Ballari for mining business, she introduced him to certain mining owners. During this period, the accused expressed his love for her and proposed for marriage. Although she disclosed her earlier for marriage with one Andhra Babu and their disputes that were pending between them, the accused assured her to forget the past. Thereafter, she converted to Islam and married the accused on 30.12.2004 according to the Muslim customs in the presence of Khazi Ghouse Peer. Marriage receptions were subsequently held at Ballari on 07.01.2005 and at the accused's native place in Kerala on 10.04.2005.

3. Subsequent to the marriage, the sister of accused No.1 came to Ballari and stayed with the complainant and the accused No.1. During her stay, she allegedly harassed the complainant by stating that accused No.1 would have received substantial dowry if he had married a Muslim girl. It is further alleged that the accused No.1 also subjected the complainant to physical and mental

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cruelty. Thereafter, the couple shifted to a house at Rameshwari Nagar, DAR Police Lane, Ballari, where the parents of the accused No.1, his elder sister, and her husband allegedly harassed the complainant, demanded dowry, and ill-treated her.

4. The complainant further alleged that accused No.1 has demanded her to bring ₹20,00,000/- as dowry from her parents. She also alleged that an attempt was made on her life by releasing cooking gas in the kitchen and locking the door from outside while she was preparing tea. On noticing the smell of gas, she escaped with the assistance of a neighbour, Khasim Basha.

5. It is further alleged that accused No.1 went to Egypt and returned when the complainant was five months pregnant. He allegedly administered certain tablets to her, by stating that they would aid the growth of the child. After consuming the tablets, she developed severe stomach pain and, upon medical examination, came to know that the foetus had suffered injury. Thereafter, the accused No.1

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allegedly took her to a nursing home and got the pregnancy terminated.

6. The complainant further stated that she again conceived, and during the fifth month of pregnancy, the accused No.1, at the instigation of accused Nos.8 and 9, pressured her to undergo an abortion so that he could marry another woman for dowry and avoid responsibility of the child. She further alleged that, at the instigation of his family members, the accused No.1 took her to a railway track late at night with an intention to kill her, but returned after noticing police presence.

7. According to the complainant, the accused No.1 continued to harass and threaten her, including threatening to burn her alive by pouring petrol on her if she refused to consume tablets given by him. Consequently, she started residing in her parental home.

8. The complainant further alleged that on 11.01.2007 at about 7.30 a.m., accused Nos. 7 and 9, along with 20-25 persons who arrived in two lorries, a Scorpio vehicle and a Tata Sumo vehicle, trespassed into

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her house, assaulted her, and took away her Taali weighing seven tolas, other gold ornaments, household articles, clothes, and other belongings worth about ₹5,00,000/-. They also allegedly threatened her and her parents with dire consequences if any complaint was lodged against the accused No.1.

9. The complainant further alleged that on 28.01.2007, the accused No.1 picked up a quarrel with her in the matrimonial home. Thereafter, on 09.05.2007 at about 4.40 p.m., when she was nine months pregnant, accused No.1 allegedly threatened her over the telephone, demanding that she has to give consent for divorce, failing which he would throw acid on her. Despite these incidents, the complainant hoped that the accused No.1 would change his ways; however, her expectations were not fulfilled.

10. Accordingly, on 19.05.2007, she lodged a complaint before the Ballari Police, which came to be registered in Crime No.75/2007 for the offences punishable under Sections 498A, 323, 504, 506(ii), 314, 315 and 420

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read with Section 149 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act.

11. After investigation, the Investigating Officer filed a charge sheet against accused Nos.1 to 9. The learned Magistrate took cognizance of the offences and, after compliance with Section 209 of the Cr.P.C., committed the case to the Sessions Court for trial.

12. During the proceedings, accused Nos.2 to 4 and 6 were discharged, and accused No.9 having passed away, the case against him stood abated. Charges were framed against accused Nos.1, 5, 7 and 8 for the offences punishable under Sections 498A and 504 read with Section 34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act. In addition, charges under Sections 323 and 307 of the IPC were framed against accused No.1, and a charge under Section 498A read with Section 109 of the IPC was framed against accused No.8.

13. The accused pleaded not guilty and claimed to be tried.

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14. To prove this case, the prosecution examined 16 witnesses as PWs.1 to 16, marked Exs.P1 to P15, and produced Material Objects Nos.1 and 2. After completion of the prosecution evidence, the accused were examined under Section 313 of the Cr.P.C. They denied all incriminating circumstances appearing against them and did not choose to lead any defence evidence.

15. Upon appreciation of the oral and documentary evidence on record, the learned Trial Judge acquitted the accused of all the charges levelled against them.

16. Aggrieved by the impugned judgment and order of acquittal, the State has filed the present appeal challenging the same, *interalia*, on the following grounds:

- i. It is contended that the judgment and order of acquittal passed by the learned Trial Judge is contrary to law, facts, and the evidence available on record.*
- ii. The complainant, in her evidence before the Trial Court, has clearly deposed regarding her marriage with accused No.1, which was solemnized on 30.12.2004 in accordance with the customs prevailing in the Muslim community followed by*

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the family of the accused No.1. She has stated that after the marriage, she came to Ballari along with her mother-in-law and sister-in-law and started residing in a rented house with accused No.1.

- iii. According to her evidence, during her stay in the matrimonial home, her mother-in-law and sister-in-law used to taunt and harass her by stating that, if the accused No.1 had married a Muslim girl from Kerala, the family would have received dowry of ₹20,00,000/-. She further deposed that the accused No.1 used to physically assault her by beating and kicking her. She stated that such incidents were witnessed by the neighbours and that accused No.1, along with his mother and sister, used to pick quarrels with her on a daily basis. The complainant further deposed regarding the demand for additional dowry and stated that her father had paid a sum of ₹3,00,000/- to the accused No.1 by borrowing the amount from one Brahmmya. She also stated that 20 tolas of gold were given to the accused No.1. Despite the same, accused No.1 continued to harass and quarrel with her.*
- iv. She further deposed that on one occasion the accused No.1 asked her to prepare tea and thereafter left the house after locking the door from outside. When she entered the kitchen, she*

noticed the smell of leaking gas from the cylinder. Without lighting a matchstick, she opened the windows and raised an alarm. On hearing her cries, a neighbour, namely Khasim Basha, came to her for rescue, got the door opened from outside, entered the kitchen, and switched off the gas regulator. According to the complainant, accused No.1 returned home about an hour later and quarrelled with her, stating that she had not died despite the incident.

- v. She further deposed that the accused No.1 administered tablets to her with an intention to terminate her pregnancy. She stated that even when she conceived for the second time, accused No.1 compelled her to undergo an abortion. She further alleged that the accused No.1 made an attempt on her life by taking her to a railway track late in the night. According to her, both of them returned home after noticing Whistle of beat police.*
- vi. PW.12 has clearly deposed regarding the physical and mental harassment allegedly meted out to her by the accused No.1 and his family members. It is contended that the said evidence has not been appreciated by the Trial Court in its proper perspective.*

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- vii. *PW.14, a neighbour of the complainant and the accused No.1, has deposed that he opened the door of the house, entered the kitchen, and switched off the gas regulator after noticing the gas leakage. It is contended that this evidence has also not been properly appreciated by the Trial Court.*
- viii. *Further, PWs.3, 4, 13, 15 and 16 have deposed regarding the demand and payment of additional dowry and the frequent quarrels between the complainant and the accused No.1. The medical evidence of the doctor who treated the complainant has also been placed on record. According to the appellant-State, the Trial Court has failed to properly appreciate the oral and documentary evidence adduced by the prosecution and has erroneously acquitted the accused.*
- ix. *It is further contended that the Trial Court rejected the testimony of the injured witness without assigning proper, cogent and acceptable reasons. The findings recorded by the Trial Court are stated to be contrary to law and the evidence on record and, therefore, unsustainable.*
- x. *According to the appellant, the Trial Court has attached undue importance to minor contradictions and suggestions made during cross-examination and, without proper application of mind, has*

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mechanically passed the impugned judgment of acquittal. On these grounds, the appellant-State has prayed for allowing the appeal, setting aside the impugned judgment, and convicting the accused.

17. We have heard the learned Additional State Public Prosecutor for the appellant-State and the learned counsel appearing for the respondents/accused. We have also carefully perused the records and the impugned judgment passed by the Trial Court.

18. The following points would arise for are consideration:

- i. "Whether the Trial Court has failed to properly appreciate the evidence on record and has erroneously acquitted the accused?"*
- ii. Whether the impugned judgment suffers from any irregularity, illegality or perversity warranting interference by this Court?"*

19. In order to answer the aforesaid points, it is necessary to examine the prosecution's case in detail. As could be seen from the complaint (Ex.P-1), the same is dated 19.05.2007. The complaint was lodged on

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19.05.2007 at about 5.00 p.m., on the basis of which Crime No.75/2007 came to be registered for the offences punishable under Sections 498A, 323, 504, 506(ii), 314, 315 and 420 read with Section 149 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act.

20. In the complaint, the complainant has made various allegations against the accused No.1. Other accused persons were arrayed as accused Nos.2 to 9 in the charge-sheet. However, accused Nos.2 to 4 and 6 were discharged. Accused No.9 was reported to have passed away and, consequently, the case against him stood abated. Thus, the remaining accused are the accused Nos.1, 5, 7 and 8. Accused No.1 is the husband of the complainant, accused No.5 is the brother-in-law of the accused No.1, and accused Nos.7 and 8 were employees working with accused No.1.

21. The complainant deposed that she became acquainted with the accused No.1 in the year 2004 when she had gone to Goa. At that time, she was working as a social worker and was involved in political activities. Thereafter, the accused No.1, who intended to come to

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Ballari, sought her assistance and, in that connection, they frequently interacted with each other.

22. She further deposed that she met the accused No.1 in a hotel. He was engaged in the iron ore business. Thereafter, accused No.1 proposed marriage to her. She disclosed to him that she had earlier married to one Andhra Babu, who had cheated on her after tying a *thali*, and expressed her unwillingness to marry again. However, the accused No.1 persuaded her to forget her previous marriage and insisted on marrying her.

23. She further stated that when the accused No.1 met her parents and uncle, they also informed him about her previous marriage. Despite the same, the accused No.1 expressed his willingness to marry her. Accordingly, she married the accused No.1 according to the customs and traditions prevailing in the Muslim community to which the family of the accused No.1 belonged. About twelve days prior to the marriage, she converted to Islam. For that purpose, the accused No.1 prepared an affidavit and took her before a Khazi. Her name was changed from M.S.

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Manjula to Ayasha in the presence of witnesses Ayub and Usman.

24. She further deposed that after their marriage on 30.12.2004, a marriage reception was held at the native place of the accused No.1 in Kerala. Thereafter, she came to Ballari along with her sister-in-law and mother-in-law and started residing in a rented house.

25. Accordingly, during her stay with her mother-in-law and sister-in-law, they used to taunt and harass her by stating that had the accused No.1 married a Muslim woman from Islam, they would have received dowry of ₹20,00,000/-. She further deposed that the accused No.1 used to assault her by beating her with a belt, using his hands, and kicking her. These incidents were allegedly witnessed by a neighbour, Govindaraj.

26. She further stated that the accused No.1, along with his mother and sister, used to quarrel with her on a daily basis. Subsequently, accused No.1 shifted their residence to D.L. Shetty Compound, belonging to one Nagaraj. According to her, they lived cordially for about one

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month. Thereafter, the parents, elder sister and brother-in-law of accused No.1 came from Kerala and started residing with them. She deposed that, at their instigation, the accused No.1 again started assaulting and abusing her regularly. These incidents were allegedly witnessed by one Suresh and S.C. Brahmayya.

27. She further deposed that she did not wish to go to Kerala, but her mother-in-law, sister-in-law and brother-in-law compelled her to do so. However, they later left her at Ballari and returned.

28. She further stated that the accused No.1 demanded additional dowry and 20 tolas of gold. According to her, her father had borrowed a sum of ₹3,00,000/- from Brahmayya and provided 20 tolas of gold to the accused No.1. Despite receiving the same, the accused No.1 continued to harass and quarrel with her.

29. She further deposed that, the accused No.1 attempted to kill her. On one occasion, he asked her to prepare tea and left the house after locking it from outside. When she entered the kitchen, she noticed a strong smell of

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leaking gas. She then requested one Khasim Basha to open the door. Upon entering the kitchen, he switched off the gas regulator. According to her, when the accused No.1 returned about an hour later, he quarrelled with her and remarked that still she had not died.

30. She further deposed that she had obtained a loan of ₹1,00,000/- and handed over the amount to the accused No.1. She also stated that when she was five months pregnant, the accused No.1 forcibly administered tablets to her. Further, the accused No.1 and 9 allegedly attempted to kill her by making her walk on a railway track. She also stated that the accused No.5 quarrelled with her, snatched away her *thali*, removed the household articles and furniture, and compelled her to leave the matrimonial home and insisted to return her parental house.

31. Therefore, according to the complainant, all the accused subjected her to cruelty, attempted to take her life, and caused the termination of her pregnancy. Consequently, she lodged the complaint against the accused No.1 and the other accused persons.

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32. In support of its case, the prosecution examined several other witnesses and produced documentary evidence.

33. The prosecution examined PW.1 – Mahammed Ayub Sab. He deposed that he knew the Accused No.1 as well as the complainant. According to him, the complainant married accused No.1 after converting to Islam. He further deposed that disputes arose between accused No.1 and the complainant after their marriage, and consequently they started living separately.

34. PW.2 – Bhramaiah S. deposed regarding the marriage of the complainant with the Accused No.1 and also stated that there were frequent quarrels between them. He further deposed that the Accused No.1 demanded additional dowry and that of 10 tolas of gold had been given to him by the complainant's parents. He also stated that the Accused No.1 compelled the complainant to terminate her pregnancy.

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35. PW.3 – Dr. Susuyagna Joshi deposed that the complainant was five months pregnant and that her pregnancy was terminated.

36. PW.4 – Dr. Satish Reddy deposed that the complainant came to the hospital complaining of stomach pain and when she was five months pregnant that relevant time.

37. PW.5 – Khaja deposed about a quarrel between the complainant and the Accused No.1 and stated that the police visited the spot and conducted a mahazar.

38. PW.6 – Krishna, a mahazar witness to Exs.P6 and P7, deposed that the police called him to Brucepet Police Station in connection with the complaint that the Accused No.1 was harassing the complainant.

39. PW.7 – Rajendra Prasad, Police Constable, deposed regarding the submission of the FIR to the Court.

40. PW.8 – G. Chandrashekar, Police Inspector, deposed that he received the complaint, Ex.P9, from the complainant on 19.05.2007 at 5.00 p.m. and registered Crime No.75/2007 as per FIR, Ex.P8.

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41. PW.9 – Ravindra Shirur, Dy.S.P., deposed regarding the investigation conducted in the case.

42. PW.10 – Manjunath Chowdari deposed that he conducted further investigation and filed the charge sheet.

43. PW.11 – Prathap Singh deposed that the Accused No.1 and the complainant were residing as tenants in the house of one Mahesh at Rameshwari Town.

44. PW.12 is the complainant. Her evidence has already been discussed above.

45. PW.13 – M.S. Vijay Kumar, brother of the complainant, deposed on similar lines as PW.12-complainant.

46. PW.14 – S. Khasim Basha deposed that he knew both the complainant and the Accused No.1. The Accused No.1 subjected the complainant to cruelty in connection with a demand for additional dowry.

47. PW.15 – Gadheppa deposed that he knew both the complainant and Accused No.1. According to him, after their marriage they frequently quarrelled and the Accused

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No.1 attempted to get the complainant's pregnancy terminated.

48. PW.16 – Abbas deposed that Accused No.1 and the complainant got married and that after their marriage Accused No.1 harassed the complainant by demanding additional dowry. He further stated that the Accused No.1 caused the complainant to undergo an abortion and also attempted to kill her by leaking LPG gas.

49. The Trial Court disbelieved the evidence of the complainant and the other witnesses and held that the prosecution had failed to prove the charges against Accused Nos.1, 5, 7 and 8. Accordingly, they were acquitted of all the offences charged against them.

50. The learned Additional State Public Prosecutor argued that the Trial Court failed to properly appreciate the evidence of PW.12-the complainant, who had clearly deposed regarding the harassment meted out by the accused persons, and therefore erroneously acquitted them.

51. In the present case, the marriage between the Accused No.1 and the complainant is not in dispute. PW.12

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the complainant and victim of the incident has deposed regarding the harassment allegedly caused by the Accused No.1 and the other accused persons. She further stated that the Accused No.1 compelled her to terminate her pregnancy and also attempted to kill her.

52. In her cross-examination, she admitted that her marriage with Accused No.1 was a love marriage and that no dowry was exchanged between the families. She further admitted that she had not obtained a divorce from her first husband and on that aspect she had earlier lodged a complaint against him.

53. The cross-examination further reveals that she was pregnant prior to lodging the complaint and that the police attempted to mediate and settle the dispute between the complainant and the Accused No.1. However, the mediation failed, following which she filed the complaint.

54. She also stated that for the first time during her evidence before the Court that, the accused No.1 had leaked the LPG gas cylinder and had also taken her to a railway track, these allegations had not been stated earlier.

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55. She denied the suggestion that, the doctors at Geeta Nursing Home had informed her that the foetus was suffering from abnormalities and denied that the accused No.1 had never administered any tablets to induce abortion.

56. It was further suggested to her that she had lodged a false complaint with the intention of teaching the accused No.1 a lesson and extracting money and property from him. She denied the suggestion.

57. On appreciation of the evidence of PW.12, it emerges that she and the accused No.1 were living separately in a rented house and that there were frequent quarrels between them. This aspect is also spoken by the PWs.1 to 5.

58. In the cross-examination of PW.1, he admitted that he had not personally witnessed any quarrels between the complainant and accused No.1. Therefore, his evidence was not accepted by the Trial Court.

59. Similarly, PW.2 admitted in cross-examination that he had not personally witnessed any ill-treatment of

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the complainant. Consequently, his evidence was also not accepted by the Trial Court.

60. PW.3, the doctor, deposed that the abortion was carried out due to abnormalities in the foetus, including accumulation of fluid in the head. This evidence indicates that the abortion was caused by any tablets allegedly administered by accused No.1.

61. PW.5 deposed regarding the quarrel between the complainant and the accused No.1. Although it was suggested that he was falsely deposing in order to support the complainant, he denied the suggestion.

62. Upon re-appreciation of the evidence, it is not disputed that the complainant and the Accused No.1 are husband and wife.

63. The prosecution's case is that the Accused No.1 and the other accused subjected the complainant to physical cruelty, compelled her to undergo an abortion, and attempted to kill her and also for additional dowry.

64. With regard to the allegation of harassment for additional dowry, except the testimony of PW.12 and

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PW.13, no other witness has spoken about any dowry demand. Moreover, PW.12 herself admitted that no dowry was given or taken at the time of marriage. Therefore, insofar as the allegation of demand for additional dowry is concerned, the prosecution has failed to establish the guilt of the accused beyond reasonable doubt.

65. With regard to the allegation of abortion, the medical evidence clearly indicates that the pregnancy was terminated because the foetus suffered from serious abnormalities. Therefore, there is no acceptable evidence to establish that the accused No.1 compelled the complainant to terminate the pregnancy.

66. The prosecution has also alleged that accused No.1 attempted to kill the complainant by causing gas leakage. However, except for the testimony of PW.12, there is no evidence in support of this allegation. Further, PW.12 admitted that she disclosed the allegations regarding the leakage of gas cylinder and the railway track for the first time during her deposition before the Court. Consequently, the prosecution has failed to prove beyond reasonable

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doubt that the accused No.1 attempted to kill the complainant.

67. However, upon consideration of the evidence of PW.12 and the other witnesses who consistently stated that there were frequent quarrels between the complainant and the accused No.1, and in the absence of any material elicited in cross-examination to completely discredit their testimony, it is evident that the complainant was subjected to cruelty in her matrimonial life.

68. The Trial Court failed to properly appreciate the evidence of PW.12 and the other witnesses insofar as the offence under Section 498A of the IPC is concerned and erroneously acquitted accused No.1 of the said offence.

69. On re-appreciation of the entire evidence on record, we are of the view that, although the prosecution has failed to establish the allegations relating to dowry demand, abortion, and attempt to murder, it has succeeded in proving that the complainant was subjected to cruelty by Accused No.1 during her matrimonial life. Accordingly,

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Accused No.1 is found guilty for the offence punishable under Section 498A of the IPC.

70. Insofar as the remaining offences and the other accused persons are concerned, the prosecution has failed to prove the charges beyond reasonable doubt. Consequently, the order of acquittal passed by the Sessions Judge in respect of the other offences and the other accused persons is maintained.

71. Accused No.1 is found guilty of the offence punishable under Section 498A of the IPC.

72. Insofar as accused Nos.5, 7 and 8 are concerned, there is no cogent and reliable evidence on record to establish their involvement in the commission of the alleged offences. Accordingly, accused Nos.5, 7 and 8 are acquitted of all the charges levelled against them.

73. In view of the above, We proceed to pass the following:

ORDER

a. The appeal is ***allowed in part.***

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- b. The judgment and order dated 14.03.2022 passed by the learned Principal District and Sessions Judge, Ballari, in Sessions Case No.16/2011, acquitting accused No.1 of the offence punishable under Section 498A of the Indian Penal Code, is hereby set aside.
- c. Accused No.1 is convicted for the offence punishable under Section 498A of the Indian Penal Code.
- d. The judgment and order of acquittal passed in favour of accused Nos.5, 7 and 8 for the offence punishable under Section 498(A) of the IPC, and the acquittal of accused No.1 and accused Nos.5, 7 and 8 for the offences punishable under Sections 307, 323, 504 read with Section 34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, are hereby confirmed.

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e. As accused No.1 is convicted for the offence punishable under Section 498A of the IPC, he has been sentenced as under:

He shall undergo simple imprisonment for one year and shall also pay a fine of Rs.1,00,000/-. In default of payment of the fine amount, he shall undergo simple imprisonment for six months.

The sentence in default of payment of the fine amount shall run consecutively.

Out of the sum of Rs.1,00,000/-, a sum of Rs.80,000/- is ordered to be paid to PW.1 (the victim) as compensation, and the remaining sum of Rs.20,000/- is ordered to be paid to the State Government.

Accused No.1, who has been convicted, shall surrender before the Trial Court, i.e., the Principal District and Sessions Judge, Ballari, within one month from the date of this order.

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If accused No.1 does not surrender before the Trial Court within one month from the date of this order, the Trial Court is directed to issue a Non-Bailable Warrant (NBW) against accused No.1 for undergoing the sentence.

The Trial Court is further directed to intimate this Court regarding the action taken in the matter.

The Registry is directed to send a copy of this order to the Superintendent of the jurisdictional Police.

**Sd/-
(H.T.NARENDRA PRASAD)
JUDGE**

**Sd/-
(RAJESHWARI N.HEGDE)
JUDGE**

AC/CT-cmu