

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 17th DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE

CRIMINAL APPEAL NO.100027 OF 2018

BETWEEN:

RAGHVENDRA S/O IRAPPA BADIGER
AGE: 32 YEARS, OCC: CARPENTER,
R/O: ASTIKATTI VILLAGE,
TQ: KALGHATAGI, DIST: DHARWAD.

...APPELLANT

(BY SRI. JAGADISH PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THOROUGH CPI,
KALAGHATAGI POLICE STATION,
R/BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENCH AT: DHARWAD.

...RESPONDENT

(BY SRI. JAIRAM SIDDI, HCGP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374 (2) OF CR.P.C., PRAYING TO SET ASIDE THE CONVICTION AND SENTENCE IMPOSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, DHARWAD IN S.C.NO.122/2017 BY HIS JUDGMENT AND ORDER OF SENTENCE DATED 02.01.2018 FOR THE OFFENCES U/S.498A, 504, 506, 109, 307 R/W 34 OF IPC AND ACQUIT THE APPELLANT, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 14.08.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE



CAV JUDGMENT

1. This appeal is filed by the appellant/accused under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), challenging the judgment of conviction and order of sentence dated 02.01.2018 passed by the Principal District and Sessions Judge, Dharwad, in S.C. No.122/2017. Where by the accused have been convicted for the offences p/u/s 498-A, 504, 506, 307 and 107 read with Section 34 of the Indian Penal Code (for short, 'the IPC').

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

The prosecution case is that, on the basis of the complaint lodged by the complainant namely Smt. Lakshmi W/o. Raghavendra Badiger, on 16.03.2017 before the Kalaghatagi Police Station, a case was registered in Crime No.100/2017 against accused Nos.1 to 3 for the offences punishable under Sections 498-A, 307, 504, 506 and 109 read with Section 149 of the IPC.

3. In the complaint which is marked as Ex.P1, the complainant alleged, that she had married accused No.1 i.e. Raghavendra Badiger about four years prior to the lodging of the complaint and after her marriage, she was residing in her matrimonial home along with her in-laws. The accused looked after her well for about one year after the marriage. Thereafter, they started harassing her. It is further alleged that, accused No.2 and 3, being her in-laws, instigated accused No.1 to ill-treat her and, accordingly, all the accused used to quarrel with her and subject her to harassment. She tolerated the said harassment by hoping that the situation would improve with the passage of time.

3.1 However, despite her request, the accused did not stop harassing her. On the contrary, they intensified the harassment and demanded that, she has to bring additional dowry from her parental house. It is alleged and insisted that, if she failed to bring the additional dowry then she has to give divorce to the accused No.1. The complainant disclosed these facts to the villagers namely, Irappa

Gangappa Badiger and Shivappa Malali. They called accused Nos.1 to 3 and advised them not to harass the complainant.

3.2 Thereafter, accused No.1 took a separate house for the complainant and made her reside therein. According to the complainant, she and accused No.1 were residing separately in the said house. However, accused No.1 used to frequently go to his parents' house.

3.3 The complainant further contended that, about three days prior to 09.03.2017, the accused No.1 being her husband used to come to the house during the night, pick up quarrels. Started abusing and assaulting her and demanded her to give him a divorce, also threatened that, if she did not give him a divorce, he would kill her. Despite her request for not to harass her, the accused No.1 did not stop the harassment and continued to insist that she should give him a divorce.

3.4 It is further alleged that, on 09.03.2017, at about 4.00 a.m., when the complainant was in deep sleep

the accused No.1 came to the house and attempted to strangle her, as a result of which she became unconscious. Thereafter she was shifted in an ambulance to the KIMS Hospital, where she was admitted for treatment. She regained consciousness at about 1.00 p.m. on the same day.

3.5 The complainant further alleged that, despite the accused No.1 attempted to strangle her, while she was in the hospital, she had stated that she herself had attempted to commit suicide by strangling herself. Thereafter, she lodged the complaint before the jurisdictional police.

4. After registration of the case, the Investigating Officer took up the investigation and upon completion of the investigation and the necessary formalities, filed the charge-sheet against accused Nos.1 to 3 for the aforesaid offences.

5. After committal of the case to the Sessions Court, the learned Sessions Judge, after hearing the

accused and the learned Public Prosecutor, proceeded to frame the charges against accused Nos.1 to 3.

6. As the accused denied the charges and claimed to be tried, the case was taken up for trial. Accused Nos.1 to 3 were on bail during the course of the trial.

7. In order to prove the guilt of the accused, the prosecution examined 11 witnesses as PW.1 to 11 and got marked Ex.P1 to P11 and one material object as MO.1.

8. After completion of the prosecution evidence, the accused were examined under Section 313 of Cr.P.C. Where they denied the incriminating circumstances appearing against them. The accused did not choose to adduce any oral evidence. However, during the cross-examination of PW.1 and PW.11, they got marked Ex.D1, D1(a) and (b).

9. The learned Sessions Judge, after hearing the arguments of both sides, proceeded to pass the impugned judgment. By the said judgment the accused No.2 and 3 were acquitted of the offences punishable under Sections 498-A, 504, 506 and 109 read with Section 34 of the IPC and were set at liberty. However, the accused No.1 was

convicted for the offences punishable under Sections 498-A, 504, 506 and 307 of the IPC, vide judgment dated 02.01.2018. The accused No.1 was sentenced as stated in the order of sentence, which reads as under:

"Accused No.1 is sentenced to undergo imprisonment for two years and pay fine of Rs.5000/- in default to undergo SI for four months for the offence under section 498-A I.P.C., to undergo rigorous imprisonment for five years and pay fine of Rs.10,000/- in default to undergo SI for one year for the offence under section 307 I.P.C., to undergo imprisonment for four months and pay fine of Rs.2,500/- in default to undergo SI for one month for the offence under section 504 I.P.C. and to undergo imprisonment for six months and pay fine of Rs.2,500/- in default to undergo SI for two months for the offence under section 506 I.P.C.

Out of the fine amount a sum of Rs.10,000/- be paid to the Complainant P.W.1 as compensation under section 357 Cr.P.C. The Complainant P.W.1 is also entitled to seek compensation from District Legal Services Authority.

All the sentences of imprisonment shall run concurrently.

Accused No.1 is entitled to set off as contemplated under section 428 Cr.P.C."

10. Being aggrieved by the impugned judgment of conviction and order of sentence, the accused No.1 has preferred the present appeal on the following grounds:

a. The incident occurred on 09.03.2017 and was reported on 16.03.2017. Thus, there is a delay in lodging

the complaint. It is contended that the treating doctor, the complainant and the parents of the complainant had knowledge of the alleged incident; however, the same was not reported immediately. The said delay has not been properly or satisfactorily explained, which, according to the appellant, creates a serious doubt regarding the prosecution case.

b. It is further contended that the complainant claims to have remained unconscious until the next day. The accused informed the treating doctor that the complainant had attempted to commit suicide; however, this fact was not reported to the police. The complainant was admitted to the hospital on 09.03.2017 and was discharged on 14.03.2017. It is contended that, there is no explanation as to what prevented the complainant from lodging the complaint during the said period.

c. The learned counsel for the appellant further contended that, the Trial Court failed to appreciate the fact that it was the accused himself who had taken the complainant to the hospital for treatment. The Trial Court also failed to appreciate the evidence of PW1 regarding her previous history of attempting suicide. It is contended that she had consumed kerosene on one occasion and on another occasion, attempted to set herself ablaze. It is also stated that, she had jumped from a motorcycle and

sustained injuries. According to the appellant, these aspects of the evidence have not been properly appreciated by the Trial Court.

d. It is further contended that, while the prosecution has put forth a case alleging an attempt to murder, the accused has elicited evidence regarding the complainant's previous attempts to commit suicide. The said aspect has not been properly appreciated by the Trial Court.

e. It is further contended that, the complainant had initially filed a private complaint before the jurisdictional Magistrate, which was subsequently forwarded to the respondent-police for registration of the FIR. Thereafter, the complainant also lodged a separate complaint. According to the appellant, there are several discrepancies between the two versions, which have not been properly appreciated by the Trial Court.

f. The learned counsel for the appellant further contended that PW2 and PW3, who are the panch witnesses to the spot mahazar marked as Ex.P3, have pleaded ignorance regarding the contents of the mahazar. It is also contended that PW7 and PW8 had earlier participated in the mediation proceedings between the complainant and the accused, wherein the alleged harassment was discussed.

According to the appellant, their evidence does not establish the alleged harassment and this aspect has also not been properly appreciated by the Trial Court.

g. It is further contended that, in the written complaint the complainant stated that the accused had used a rope to strangle her, whereas the prosecution has produced MO1, which is a saree. Thus, there is a contradiction with regard to the identification of the material object used in the alleged incident. According to the appellant, this material contradiction has not been properly appreciated by the Trial Court.

h. Therefore, the learned counsel for the appellant contended that, the Trial Court without properly appreciating the oral and documentary evidence available on record, has erroneously convicted the appellant/accused No.1 and passed the impugned judgment and order of conviction and sentence, hence on these grounds the learned counsel for appellant prays to call for interference by this Court.

11. Learned High Court Government Pleader (HCGP) has entered appearance on behalf of the respondent-State. Trial Court records have been secured.

12. Heard the learned counsel Sri. Jagadish Patil, for the appellant and the learned HCGP Sri.Jai Ram Siddi, for the respondent.

13. The learned counsel for the appellant has relied upon the following decisions:

- a. State of Karnataka v. Rajeshekhar S/o. Veerappa Shettar and Others, CrI.A. No.100422/2019, decided on 02.02.2023.
- b. State of Andhra Pradesh v. M. Madhusudhan Rao, reported in (2008) 15 SCC 582.
- c. Mahavir Singh v. State of Madhya Pradesh, reported in (2016) 10 SCC 220.
- d. State of Maharashtra v. Kashirao and Others, reported in (2003) 10 SCC 434.

14. Perused the records.

15. The point that would arise for consideration:

Whether the impugned judgment and order of conviction and sentence suffers from illegality, perversity and material irregularity warranting interference by this Court?

Arguments on behalf of the Appellant/Accused:

16. Learned counsel for the appellant/accused argued that, as per the averments made in the complaint, the complainant was subjected to ill-treatment by accused No.1 at the instigation of accused Nos.2 and 3. However, the Trial Court had acquitted accused Nos.2 and 3, who are in laws (parents of accused No.1) of the complainant.

16.1 He further argued that there was an inordinate delay in lodging the complaint. According to the complainant, the incident had occurred three days prior to 09.03.2017, and on 09.03.2017, at about 4.00 a.m., accused No.1 had allegedly attempted to strangle her while she was sleeping, as a result of which she became unconscious. She was thereafter shifted to the hospital, where she regained consciousness at about 1.00 p.m. on the same day. However, the complaint was lodged only on 16.03.2017. The prosecution had not satisfactorily explained the delay in lodging the complaint, which, according to the learned counsel, raises serious doubt regarding the prosecution case.

16.2 He further argued that, on perusal of the medical evidence, the doctor had stated that the ligature mark found on the neck could have been caused by an attempt to commit suicide. It was also argued that the complainant had made two or three earlier attempts to commit suicide. Though the accused had taken this defence, the Trial Court had erroneously convicted accused No.1 despite the absence of reliable evidence against him.

16.3 He further argued that the marriage between the complainant and accused No.1 had taken place four years prior to the lodging of the complaint. As per the complaint, the complainant had lived happily with her husband and in-laws for about one year. Thereafter, she alleged that the accused began harassing her. With the intervention of the elders, accused No.1 had established a separate residence for her. Despite this, she had lodged a false complaint, taking advantage of the fact that she herself had attempted to commit suicide.

16.4 He further argued that the Trial Court had failed to properly appreciate the evidence on record and had erroneously convicted the accused. Hence, he prayed that the impugned

judgment be set aside by allowing the appeal and acquitting the accused.

Arguments on behalf of the Respondent-State:

17. *Per contra*, learned HCGP argued that the complainant, who was examined as PW1, had deposed regarding the allegations made against the accused. PW2 and PW3 had also been examined, and PW5, the doctor, had deposed regarding the treatment given to the complainant. PW6, the mother of the complainant, had also supported the case of the prosecution.

17.1 He further argued that the evidence on record discloses that several panchayats had been convened in connection with the harassment meted out to the complainant. Though PW7 to PW9, who had participated in the said panchayats, had not supported the case of the prosecution, the Trial Court had rightly placed reliance upon the evidence of the victim and convicted the accused.

17.2 He further argued that the appellant had not made out any ground warranting interference with the impugned

judgment. Accordingly, the State prayed for dismissal of the appeal and confirmation of the impugned judgment.

Reasoning

18. In order to appreciate the rival contentions and the evidence available on record, it is necessary to refer to the evidence of the prosecution witnesses. The particulars of the witnesses and the substance of their evidence are summarized as under:

18.1 PW1 is the complainant. PW2 is a relative of the complainant and a witness to the spot mahazar. PW2 has not supported the case of the prosecution.

18.2 PW3 is also a witness to the spot mahazar. He has not supported the case of the prosecution.

18.3 PW4 is the father of the complainant. He has deposed regarding the alleged harassment meted out to his daughter by the accused. He has stated that his daughter used to inform him about the harassment and that, on several occasions, the accused had asked her to strangulate herself (“ಉರುಳು ಹಾಕಿಕೊ”). He

has further stated that, on the date of the incident, accused No.1 himself attempted to strangle her.

18.4 PW5 is the doctor who examined the complainant. He has deposed that, on 09.03.2017, at about 9.50 a.m., the complainant, Smt. Lakshmi Raghavendra Badiger, was brought to the hospital by her husband and in-laws. On examination, he found injuries around her neck, including a ligature mark extending around the neck, near the ears and on the sides of the neck, above the thyroid cartilage.

18.5 The doctor opined that the injuries were approximately 2 to 12 hours old and were consistent with an attempt at hanging. He issued the wound certificate as per Ex.P6 and identified MO No.1, namely, the saree.

18.6 PW6 is the mother of the complainant. She has also deposed regarding the alleged harassment and the panchayats convened in that regard.

18.7 PW7 and PW8 are relatives of the complainant. They have not supported the case of the prosecution.

18.8 PW9 is the Police Sub-Inspector who conducted the investigation.

18.9 PW10 is another doctor who treated the complainant and issued the case sheet as per Ex.P10.

18.10 PW11 is the police official who deposed regarding the receipt of the complaint and the steps taken thereafter.

19. On perusal of the evidence of PW1, the complainant, PW4, her father, and PW6, her mother, it is evident that they have deposed regarding the alleged harassment meted out to the complainant by accused No.1. It is not in dispute that the complainant was taken to the hospital by the accused persons and that injuries were found on her neck. PW5, the doctor, has deposed regarding the injuries sustained by the complainant and opined that the injuries on her neck were consistent with an attempt at hanging.

20. PW4, the father of the complainant, has specifically deposed that his daughter had informed him that, two to four months prior to the incident, accused No.1 had asked her to strangle herself.

21. Further, PW1, PW4 and PW6 have deposed that panchayats had been convened earlier, during which the accused persons had assured the elders that they would treat the complainant properly. Thereafter, a separate house was also provided to the complainant. However, according to their evidence, the harassment did not stop.

22. Learned counsel for the appellant/accused has contended that, though the incident is alleged to have occurred on 09.03.2017, the complaint was lodged only on 16.03.2017. It is argued that the prosecution has not satisfactorily explained the delay in lodging the complaint and that such delay creates suspicion regarding the incident itself. Therefore, according to the learned counsel, the evidence of the complainant and her parents cannot be safely relied upon.

23. Insofar as the delay in lodging the complaint is concerned, on perusal of the cross-examination of PW1, it is evident that, soon after the incident, she was admitted to the hospital. She has stated that, while she was in the hospital, her husband and in-laws informed the doctor that she had attempted to commit suicide. She has further stated that she was not aware of the same and that the police had not recorded her statement.

She has also stated that she did not know about the MLC proceedings and that accused No.1 was present with her in the hospital.

24. She has further stated that, as she was very weak and was not in a position to move, she lodged the complaint only on 16.03.2017.

25. It is true that there was a delay in lodging the complaint. However, the complainant has offered an explanation for the delay by stating that she was weak and was undergoing treatment in the hospital. During her cross-examination, an attempt was made to elicit that she herself had attempted to strangle herself. However, nothing material has been elicited to discredit her version regarding the incident.

26. It is the defence of the accused that the complainant had earlier attempted to commit suicide on two or three occasions. In this regard, during her cross-examination, PW1 admitted that, on one occasion, she had consumed kerosene and had been taken to the hospital.

27. However, she stated that accused No.1 had forcibly administered kerosene to her. It was suggested to her that she had attempted to kill herself by pouring kerosene on her body,

but she denied the said suggestion. She further stated that accused No.1 himself had poured kerosene on her and attempted to set her on fire.

28. It was also suggested to her that, on one occasion, when she was travelling on the motorcycle of accused No.1, she had attempted to jump from the motorcycle. She denied the said suggestion and stated that, as she was weak and accused No.1 was riding the motorcycle at high speed, she fell from the motorcycle when it encountered a bump.

29. Thus, though an attempt was made during the cross-examination of PW1 to establish that she had herself attempted to commit suicide, she denied the said suggestions. The said defence, by itself, does not discredit her testimony regarding the incident in question.

30. Learned counsel for the accused has further argued that PW7 and PW8, who had participated in the panchayat, did not support the case of the prosecution. It is therefore contended that there is no evidence to establish that the accused had harassed the complainant and that the complainant had herself attempted to commit suicide.

31. It is true that PW7 and PW8 have not supported the prosecution version. However, during their cross-examination, PW7 admitted that he had a good relationship with the accused. PW8 also admitted that the accused were his villagers. Therefore, merely because these witnesses have not supported the case of the prosecution, it cannot be concluded that no panchayat had been convened or that the complainant had not been subjected to harassment.

32. Learned counsel for the accused has drawn the attention of this Court to the evidence of PW5 and Ex.P6, the wound certificate, wherein the ligature mark is described as running upwards and backwards across the neck, with its width varying from 1 to 3 centimetres. It is contended that, if accused No.1 had attempted to strangle the complainant, the ligature mark would not have appeared in the manner described by the doctor.

33. In support of the said contention, learned counsel has relied upon *Modi's Textbook of Medical Jurisprudence and Toxicology*, wherein the distinction between hanging and strangulation and the nature of injuries that may be caused in such cases have been discussed.

34. It is true that, during his cross-examination, PW5, the doctor, admitted that the ligature mark found on the neck of the complainant could also have been caused by an attempt to commit suicide. However, the mere possibility that the injury could have been caused in such a manner does not, by itself, establish that the complainant had attempted to commit suicide.

35. The medical evidence has to be considered along with the ocular evidence of the complainant and the other prosecution witnesses. In the present case, the medical evidence establishes the existence of the ligature injury and does not render the prosecution version inherently improbable. The opinion of the doctor that the injury was also possible in a case of attempted suicide is only a possibility and cannot, by itself, displace the direct testimony of the complainant.

36. Learned counsel for the accused has further submitted that, in the complaint, Ex.P1, the complainant stated that the accused had attempted to kill her by strangulating her with a rope. However, the material object produced by the prosecution is a saree, marked as MO No.1. It is therefore contended that there is a discrepancy regarding the material

object and that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt.

37. It is true that the complaint refers to a rope, whereas MO No.1 is a saree (ನನ್ನ ಕುತ್ತಿಗೆ ಹಗ್ಗದಂತೆ ಉರುಳು ಹಾಕಿದ). However, in her evidence before the Court, PW1 has stated that the accused attempted to kill her by strangulating her with a saree. The reference to a rope in the complaint, by itself, cannot be treated as a material contradiction, particularly when the complainant has consistently deposed regarding the act of strangulation. The discrepancy relates only to the nature of the material used for strangulation and does not, in the facts and circumstances of the case, affect the core of the prosecution version.

38. The said discrepancy does not go to the root of the prosecution case, particularly when the evidence of PW1 is considered along with the evidence of PW4, PW6 and PW5. The evidence of PW1 regarding the incident is supported, to the extent relevant, by the evidence of her parents and the medical evidence regarding the ligature injury. Therefore, the discrepancy regarding whether a rope or a saree was used for strangulation, by itself, is not sufficient to discard the prosecution case.

39. Learned counsel for the accused has relied upon the judgment of the Division Bench of this Court in Criminal Appeal No.100422/2019, dated 02.02.2023, contending that, in similar circumstances involving discrepancies in the medical evidence and delay in lodging the complaint, the benefit of doubt was extended to the accused.

40. Learned counsel has also relied upon the judgment reported in **(2008) 15 SCC 582**, contending that mere harassment does not, in every case, constitute cruelty within the meaning of Section 498A of the IPC.

41. Further, reliance has been placed on the judgment reported in **(2016) 10 SCC 220**, wherein the principles relating to contradictions in the evidence of prosecution witnesses and the credibility of interested witnesses have been discussed. It is contended that, where the evidence of the prosecution witnesses is found to be unreliable, the accused is entitled to the benefit of doubt.

42. It is also contended that delay in lodging the FIR may result in the introduction of a concocted version after deliberation and consultation. Therefore, according to the learned counsel, the accused is entitled to the benefit of doubt.

43. However, in the present case, on careful appreciation of the evidence of PW1, the complainant, it is evident that she has deposed regarding the harassment and cruelty allegedly meted out to her by accused No.1. She has also spoken about the earlier incidents wherein, according to her, accused No.1 had forcibly administered kerosene to her and poured kerosene over her with an intention to burn her. She has further deposed that accused No.1 drove the motorcycle at high speed, as a result of which she fell from the motorcycle.

44. PW4 and PW6, the father and mother of the complainant, respectively, have also deposed that she used to inform them about the harassment and that accused No.1 had insisted that she take her own life by committing suicide.

45. On re-appreciation of the evidence available on record, this Court finds that the testimony of the complainant is corroborated in material particulars by the evidence of PW4 and PW6, as well as by the medical evidence. The discrepancies pointed out by the learned counsel for the appellant are not of such a nature as to discredit the prosecution case in its entirety.

46. The Trial Court has elaborately considered the evidence available on record and has arrived at the conclusion

that the accused had committed the offences punishable under Sections 498A, 307, 504 and 506 of the IPC. On re-appreciation of the entire evidence, this Court finds no sufficient ground to interfere with the findings recorded by the Trial Court.

47. Accordingly, the point for consideration is answered in the Negative and against the appellant.

ORDER

The appeal is ***dismissed***.

The judgment of conviction and order of sentence dated 02.01.2018 passed by the Principal District and Sessions Judge, Dharwad, in S.C. No.122/2017, convicting the appellant/accused for the offences punishable under Sections 498A, 307 and 504, 506 of the IPC, is hereby confirmed.

The appellant/accused, who is on bail, is directed to surrender before the jurisdiction Trial Court forthwith and in any event within one month from today, to serve the sentence imposed upon him.

The bail bond and surety bonds executed by the appellant/accused shall stand cancelled.

In the event of failure to surrender within the aforesaid period, the Trial court shall take necessary steps in accordance with law to secure his custody for execution of the sentence.

The Registry shall transmit the records to the Trial court forthwith.

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

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