IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR JUSTICE S RACHAIAH

CRIMINAL REVISION PETITION NO. 1209 OF 2017

BETWEEN:

DAYANANDA S/O PUTTEGOWDA,
AGED ABOUT 37 YEARS,
R/O. CHIKKAMALLENAHALLI VILLAGE,
SHANTHIGRAMA HOBLI,
HASSAN TALUK AND DISTRICT-573201.

...PETITIONER

(BY SRI GIRISH B. BALADARE ., ADVOCATE)

AND:

STATE BY GORUR POLICE STATION,
HASSAN DISTRICT,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE-01

...RESPONDENT

(BY SRI K. NAGESHWARAPPA, HCGP)

Digitally signed by RENUKA
Location: HIGH COURT OF KARNATAKA

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C PRAYING TO SET ASIDE THE JUDGMENT DATED 07.09.2017 PASSED BY THE 5TH ADDITIONAL DISTRICT AND SESSIONS COURT, HASSAN IN CRL.A.NO.53/2017 BY CONFIRMING THE JUDGMENT DATED 13.02.2017 AGAINST THE ACCUSED NO.1/PETITIONER PASSED BY THE LEARNED ADDITIONAL CIVIL JUDGE AND JMFC, AT HASSAN IN C.C.NO.4593/2014 (OLD C.C.NO.209/2013) BY CONVICTING THE PETITIONER AND OTHERS FOR THE OFFENCE PUNISHABLE UNDER SECTION 498A, 506, 323 R/W 34 OF IPC AND THE PETITIONER TO BE ACQUITTED FOR THE OFFENCE ALLEGED AGAINST HIM. AND

GRANT SUCH OTHER RELIEF'S AS THIS HON'BLE COURT DEEMS FIT IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

THIS CRIMINAL REVISION PETITION HAVING BEEN HEARD AND RESERVED ON 24.02.2025 COMING ON FOR PRONOUNCEMENT OF ORDER, THROUGH VIDEO CONFERENCING, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE S RACHAIAH

CAV ORDER

1. This revision petition is filed by the petitioner seeking to set aside the judgment and order dated 07.09.2017 passed by the V Additional District and Sessions Judge, Hassan in Criminal Appeal No.53/2017 by confirming the judgment of Conviction and Order on sentence dated 13.02.2017 passed by the Additional Civil Judge and J.M.F.C., Hassan in C.C.No.4593/2014 (Old C.C. No.209/2003) against the petitioner / accused No.1. The Trial Court recorded the conviction against all the accused for the offences punishable under Sections 498A, 506 and 323 read with Section 34 of Indian Penal Code (for short 'IPC'). However, in the appeal, the said conviction has been modified and restricted only against Accused No.1.

2. The rank of the parties in the Trial Court henceforth will be considered accordingly for convenience.

Brief facts of the case:

3. It is the case of the prosecution that on 07.11.1999, the marriage between Accused No.1 and P.W.1 was solemnized. The couple were happy for some times. Thereafter, he is stated to have started harassing her both physically and mentally by demanding P.W.1 to bring additional dowry from her parents' house. It is also further stated that, all the accused conjointly with a common intention, stated to have threatened her with dire consequences and also insisted her to go out of the house.

4. Further, it is alleged that P.W.1 was assaulted with hands and caused bodily injury by all the accused persons. Therefore, she lodged a complaint against all the accused before the jurisdictional Police. The jurisdictional Police have registered a case. After registering the case, conducted investigation and submitted the charge sheet.

5. The prosecution in order to prove its case, examined nine witnesses as PWs.1 to 9 and got marked four documents as Exs.P1 to P4. The Trial Court after appreciating the oral and documentary evidence on record, convicted the accused for the offence stated *supra.* On appeal being filed, the Appellate Court modified the judgment of conviction passed by the Trial Court, by acquitting the accused Nos.2 to 4 and confirming the judgment of conviction and order on sentence passed by the Trial Court in respect of accused No.1. Hence, the accused No.1 has preferred this revision petition.

6. Heard Sri Girish B.Baladare, learned counsel for the petitioner and Sri K. Nageshwarappa, learned High Court Government Pleader for the respondent – State.

7. It is the submission of the learned counsel for the petitioner that, initially, conviction was recorded against all the accused on the strength of some allegations and evidence of all the witnesses. Subsequently, in the appeal it has been restricted only against Accused

No.1, which ought not to have been passed by the Appellate Court.

8. It is further submitted that the evidence of all the witnesses should not be read in isolation and overt act of each of the accused cannot be segregated as there are similar allegations made against all the accused. Segregating the evidence, read in isolation and recorded the conviction against the petitioner herein, certainly would amount to miscarriage of justice. Therefore, interference is very much essential. Making such submissions, learned counsel for the petitioner prays to allow the revision petition.

9. *Per contra*, learned High Court Government Pleader vehemently justified the concurrent findings and he further submitted that the accused No.1 being the husband, has committed the offences stated *supra*. All the witnesses have supported the case of the prosecution. Therefore, interference in the said findings is not appropriate and proper. Hence, the petition may be dismissed. Making such submissions, learned High Court

Government Pleader prays to dismiss the revision petition.

10. Having heard the learned counsel for the respective parties and also perused the findings of Courts below in recording the conviction, it is relevant to refer the evidence of PW.1.

11. PW.1 has stated in her evidence that, she married accused No.1. The said marriage, though, it appears to be arranged and performed by the elders, however, it is a love marriage. As such, the family members of the accused No.1 were not happy about the said marriage. After the marriage, she was staying along with her in-laws in the matrimonial house for a period of three months. She stated to have given birth to a female child. After she gave birth to the said child, all the family members were not happy and they used to subject her to cruelty, both mentally and physically. It is further stated that, the accused No.1 being a lorry driver, was insisting PW.1 to bring her additional dowry to purchase a lorry. As PW.1 could not heed to such illegal demand, she decided to

lodge a complaint. Further, she deposed that, three days prior to lodging of the complaint, she was thrown out of the house.

12. PW.1 – Shobha, in the cross-examination, has admitted that, after marriage, she used to go to Hassan, where her parents are residing. The in-laws and her husband requested her that, she should not go often to Hassan. As she did not listen to their words, a complaint came to be registered against her before Gorur police, there the matter has been settled between accused No.1 and herself. It is also admitted by her that, she had given an undertaking that she did not stay with her husband.

13. On reading of her evidence in toto, it appears that there are some contradictions in respect of the incident and also allegations in respect of demand of dowry. Totally, she made omnibus allegations against all the family members.

14. PW.2 – Dharmegowda is the father of PW.1. He has supported the case, however, he also made some

omnibus allegations in respect of demand of dowry and harassment.

15. PW.3 – Lakshmamma is the mother of PW.1. She also supported the case. However, the allegations are omnibus in nature.

16. PW.4 - Yashodhamma being an independent witness, supposed to depose about the cruelty, harassment, demand of dowry etc., However, she turned hostile.

17. PW.5 - Thimmegowda also an independent witness. He has not supported the case in respect of demand of dowry, cruelty and assault etc.,

18. PW.6 - Annappa stated to be the witness to Ex.P2, has not supported the case.

19. PWs.7 and 8 are the official witnesses.

20. PW.9 – Manjunatha is the witness to Ex.P2. He has supported the case.

21. Before adverting to the merit of the case, it is appropriate to refer the judgment of the Hon'ble Supreme Court in the case of ***ABHISHEK v. STATE OF MADHYA***

PRADESH[1]. The Hon'ble Supreme Court, in para Nos.14 and 15, has held as under:

> *14. In **Preeti Gupta and another vs. State of Jharkhand and another [(2010) 7 SCC 667],** this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.*
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> *15. Earlier, in **Neelu Chopra and another vs. Bharti [(2009) 10 SCC 184]**, this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence.*

[1] (2023) LIVE LAW SC 731

These observations were made in the context of a matrimonial dispute involving Section 498A IPC.

22. On careful reading of the above observations of the Hon'ble Supreme Court, I may take note of certain glaring inconsistencies and discrepancies in the evidence of PW.1 that, though PW.1 in her examination-in-chief has stated that, she stayed for three months in her matrimonial home, the fact remains that, she gave birth to a female child and admittedly, she stayed there for 1½ year. Prior to lodging of the complaint, there was a complaint filed by the in-laws against her and the matter was settled at the intervention of elders and well-wishers. Therefore, her evidence in respect of cruelty and harassment, which appears to be baseless and concocted. However, the Trial Court committed an error in recording the conviction. Though the Appellate Court modified the said judgment by convicting accused No.1, the fact remains that, when the similar set of allegations made out against all the accused are not accepted and other accused have been acquitted, the benefit of acquittal of other accused should have been extended to the accused No.1 also.

Having not extended the said benefit, resulted in miscarriage of justice. Therefore, interference with the findings of Appellate Court is justified and the conviction of accused No.1 / petitioner appears to be erroneous and the same is liable to be set aside.

23. In the light of the observations made above, I proceed to pass the following:-

ORDER

(i) The Criminal Revision Petition is *allowed.*

(ii) The judgment and order dated 07.09.2017 passed by the V Additional District and Sessions Judge, Hassan in Criminal Appeal No.53/2017, by confirming the judgment of Conviction and Order on sentence dated 13.02.2017 passed by the Additional Civil Judge and J.M.F.C., Hassan in C.C.No.4593/2014 (Old C.C. No.209/2003) against the petitioner / accused No.1, is set aside.

(iii) The petitioner / accused No.1 is acquitted for the offence punishable under Section 498A, 506 and 323 read with Section 34 of Indian Penal Code

(iv) Bail bonds executed, if any, stand cancelled.

Sd/-
(S RACHAIAH)
JUDGE

BSS
List No.: 19 Sl No.: 1