HC-KAR

NC: 2026:KHC:62419
CRL.RP No. 638 of 2026

CNR: KAHC010275212026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO.638 OF 2026

(397(Cr.PC) / 438(BNSS))

BETWEEN:

1.

2.

3.

...PETITIONERS

(BY SRI. GOPALA C.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   SHANTHIGRAMA POLICE STATION,
   HASSAN DISTRICT.
   REPRESENTED BY SPECIAL PUBLIC PROSECUTOR

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HIGH COURT OF KARNATAKA
BENGALURU-560001.

…RESPONDENT

(BY SRI.VINAY MAHADEVAIAH, HCGP)

THIS CRL.RP IS FILED U/S 397 R/W 401 CR.PC (FILED U/S 438 R/W 442 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING TO A. SET ASIDE THE JUDGMENT DTD 05.02.2026 PASSED BY THE PRL. DISTRICT AND SESSIONS JUDGE, HASSAN, IN CRL.A.NO.175/2022 ARISING OUT OF THE JUDGMENT AND ORDER OF CONVICTION AND ORDER OF SENTENCE OF THE TRAIL COURT DTD 06.09.2022 IN C.C.NO.4482/2014 ON THE FILE OF THE II ADDL. CIVIL JUDGE AND JMFC AT HASSAN AND ETC.,

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

This is the criminal revision petition filed under Section 397 and 401 of the Code of Criminal Procedure 1973 (for short 'the Cr.P.C.) by the revision petitioners/accused Nos.1 to 3 praying for setting aside the judgment of conviction and order of sentence dated 06.09.2022 passed in CC No.4482/2014 on the file of II Additional Civil Judge, and JMFC, Hassan which is confirmed in the judgment of

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appeal dated 05.02.2026 in Criminal Appeal No.175/2022 on the file of Principal District and Sessions Judge, Hassan.

2. The parties would be referred with their ranks, as they were before the trial court for the sake of convenience and clarity.

3. The charge-sheet is filed against accused No.1 to 3 alleging the offences punishable under Sections 498-A read with Section 34 IPC; the accused No.1 is husband of the de facto complainant and accused Nos.2 and 3 are her in-laws; the marriage of accused No.1 and *de facto* complainant had taken place on 17.06.2010 as per the customs and traditions prevailing in their community; it is the contention of the complainant that at the time of marriage, 40 grams gold, Rs.50,000/- cash were given as dowry. After the marriage, the complainant has given birth to a male child who died; subsequently, the accused No. 1 to 3 started harassing her that she is not giving birth to any child and asking her to bring money from her parental

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house. In that regard, accused No. 1 married CW-2 for a second time; even though several panchayats were convened, accused No. 1 to 3 have not looked after the *de facto* complainant properly and were always harassing her, that is, assaulting physically and treating her with cruelty even mentally, that if she would not bring money from her parental house, they will throw her out from the matrimonial home, and thereby committed the aforesaid offences.

4. After taking cognizance of the offence, summons was issued to the accused. The accused have pleaded not guilty of the offence when charge under Section 498-A read with 34 IPC was read over and explained to them. The accused were on bail. On behalf of prosecution, the witnesses were examined and documents were marked. The statement of the accused Nos.1 to 3 under Section 313 Cr.P.C., was recorded wherein they have denied the case of prosecution in *toto*.

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5. After hearing arguments, the trial Court convicted the accused Nos.1 to 3 for the offence punishable under Section 498-A read with 34 IPC; sentenced them to undergo simple imprisonment for 2 years and to pay fine of Rs.10,000/-.

6. The said judgment of conviction and order of sentence was challenged before the appellate Court. The appellate Court has dismissed the appeal by confirming the judgment of conviction and order of sentence, which is under challenge in this appeal.

7. Heard arguments of both sides.

8. The learned counsel for appellants Sri Gopala.C would submit that marriage of the *de facto* complainant by name with accused No.1 had taken place on 02.04.2000. According to the first information averments, two years afterwards, in 2002 accused No.1 married another woman by name . It is the case of the *de facto* complainant that accused persons have taken the dowry of 40 grams gold and Rs.50,000/- cash at the time

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of the marriage and the accused persons have demanded unlawful demand of further dowry and harassed the *de facto* complainant and second wife. But no material is produced to prove the demand for dowry.

9. The learned counsel would further submit that even though it is alleged as above in the first information; she admitted in the cross-examination that, since 2002 she is not in talking terms with the accused No.1 and residing separately from him; hence, if any demand for dowry and harassment to her for the dowry is barred by limitation as per Section 468(2)(c) of Cr.P.C., Furthermore, there is no evidence that what was the demand and when the demand was made for dowry to attract the offence under Section 498-A of IPC. These facts were not considered by the trial Court and the appellate Court. Hence, prayed for acquittal by allowing the revision petition.

10. The learned HCGP would submit that offence under Section 498-A IPC is a continuous offence. PWs.2

and 6 have categorically deposed that PW.1 was also residing with PWs.2, 6 and accused No.1 even on the date of filing of the first information. Hence Section 468(2)(c) of Cr.P.C., does not attract. There is demand of dowry which is deposed by the *de facto* complainant, her relatives and other witnesses. Hence, there is proper appreciation of the evidence by the trial Court and the appellate Court. Hence prayed for dismissal of the revision petition.

11. Having heard arguments of both sides, verifying the revision petition papers, the trial Court and the appellate Court records, the point that arises for consideration is:

> *"Whether the revision petitioners establish that the trial court and the appellate court have wrongly appreciated the ingredients of section 498-A IPC and not considered the point of limitation and thereby the judgment of trial court and the appellate court are perverse, vexatious, capricious and grossly erroneous?"*

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12. The finding of this Court on above point is in '***Affirmative'*** for the following:

REASONS

13. The revisional jurisdiction of this Court is very limited. In this regard, this Court places reliance on the Judgment of the Hon'ble Apex Court in the case of ***Kuntegowda v/s Thurubaiah in Criminal Appeal No.3654/2026, (Arising out of Special Leave Petition (Criminal) No.2247 of 2024 dated 04.08.2026*** reported in ***2026 SCC OnLine SC 1485***. In the aforesaid judgment, the Hon'ble Apex Court at paragraph No.7.3 has discussed the revisional jurisdiction of this Court, which reads as follows:

> *"7.3. The contours for exercise of revisional jurisdiction has been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower Court unless:*

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i. The order or finding of the lower Court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.

ii. The lower Court has passed the impugned order after considering an immaterial or irrelevant material or no material at all.

iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously."

14. Thus, only if the judgment of the trial Court confirmed by the appellate Court is *perverse* or grossly erroneous, or grossly unreasonable, or wholly unreliable, or wholly untenable, or the trial Court considered an immaterial or irrelevant, material or no material or not at all relevant material or judicial discretion has been exercised arbitrarily and capriciously, the revisional Court can interfere with such judgment.

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15. With this background, the facts of the present case are to be analyzed.

16. The first information given by the *de facto* complainant as per Ex.P.1 is in respect of harassment to her and also to the second wife. But, the second wife has not put signature to the first information.

17. According to recitals of this first information, the accused No.1 married PW.1 on 02.04.2000; at that time, as per the request of accused Nos.1 to 3, her parents have given 50 grams gold, Rs.50,000/- cash as dowry and performed the marriage. Two years afterwards in the year 2002, she gave birth to a male child by name who died immediately after the birth. Afterwards, the accused No.1 started abusing, harassing, assaulting her that she cannot give birth to a child and also demanded to bring money from her parental house; several times, panchayaths were convened, but accused Nos.1 to 3 have not improved. Even then the marriage of accused No.1 with PW2 is performed in her absence without her consent

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by accused Nos.1 to 3. All of them are residing together in H.Bandihalli Village. Now her husband and in-laws are not treating them properly; they are abusing, assaulting and treating them with cruelty both physically and mentally and not giving the property to them; she and second wife are not able to tolerate the cruelty of accused persons; hence prays for taking suitable action against them.

18. Based on this first information, the I.O. has investigated the matter and filed charge-sheet as stated above.

19. The allegation in the first information are just an omnibus allegations. There is no specific allegation that when, where and how demand of dowry was made by the accused persons; whether they have demanded cash, jewellery or landed property and the quantum of dowry was demanded is not found in the charge-sheet, its averments and in evidence of witnesses. Hence, it is very vague allegations.

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20. Even though in the first information it is stated that both wives are residing with accused Nos.1 to 3, in the cross-examination, the *de facto* complainant has deposed that she led a happy marital life with accused No.1 for a period of 2 years. Afterwards because of non-cordial relationship between them, they are residing separately. She admitted that in the house belonged to accused No.2, the accused Nos.1 to 3 are residing. Thus, according to PW.1 she is residing separately from accused Nos.1 to 3 since 2002, onwards.

21. As per the above evidence of PW.1, since 2002, there is no conversation between her and accused No.1; they are residing separately; then, where the accused made the demand of dowry and harassed her for such demand on which date; no specific allegation against accused No.2 & 3 is made.

22. Even according to PW3, the first informant was residing separately from accused persons. There was no transaction between them. Hence, there cannot be any

unlawful demand for dowry by the accused persons 3 years preceding to lodge the complaint.

23. The offence under 498-A IPC is punishable with maximum sentence of 3 years.

24. Section 468 of Cr.P.C., deals with period of limitation to take cognizance of the offence. It is extracted as follows:

> ***"468. Bar to taking cognizance after lapse of the period of limitation****.—(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.*
>
> *(2) The period of limitation shall be—*
>
> *(a) six months, if the offence is punishable with fine only;*
>
> *(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;*
>
> *(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.*

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(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment."

25. Thus, according to Section 468(2)(c) of Cr.P.C., within 3 years from the date of offence, cognizance is to be taken; otherwise it is barred by limitation. The courts shall not take cognizance of the offence after three years of its commission, if the maximum punishment is three years.

26. If the demand of dowry is in the year 2002 or prior to that; then, the first information given in the year 2014 is clearly barred by limitation.

27. The second wife is examined as PW.2 and according to her, her marriage with accused No.1 had taken place in the year 2002. Immediately after the marriage, the father of the *de facto* complainant and the *de facto* complainant have brought police; by looking into

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it, the accused persons ran away from the house. Two years afterwards, both first wife and the accused No.1 came to the house. She has not stated in detail that, when the offence has been committed. But PW.6, who is the son of PW.2 and accused No.1 has deposed that, in the same house accused No.1 to 3, he, PWs.1 and 2 are residing together. However, he does not know when the quarrel has taken place. He has also deposed only that the accused Nos.1 to 3 were making demand to bring additional money and abusing and assaulting them.

28. PW.3 and PW.4, the parents of PW.1 have deposed that, their daughter was telling them that the accused were making demand for additional demand of dowry. According to PW.4 in the fifth year of marriage of his daughter, he had been to the house of the accused and at that time, his daughter told him about the cruelty inflicted by the accused. If this evidence is to be taken as correct then, the incident of demand for dowry might have taken place in 2005 but first information is filed in 2014.

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29. PW.5 is the mother of second wife- According to her all the accused were making unlawful demand of dowry but it is also very weak evidence. PW.7 is the elder sister of PW.2.

30. In this case the first information is filed by the first wife- wherein she has made serious allegation of demand of dowry by the accused Nos.1 to 3 not only from her but also from PW.2. In that context evidence of PW.7 and PW.9 who are the relatives of PW.2 and PW.1 respectively is relevant. The evidence of other witnesses i.e., police witnesses is only formal in nature.

31. On careful perusal of the evidence of all the above witnesses, it reveals that there is no specific allegation of demand of dowry by the accused Nos.1 to 3 to PW.1 or PW.2 and there is no allegation that for that demand, PW.1 and PW.2 were treated with cruelty both physically and mentally by accused Nos.1 to 3.

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32. Section 498-A IPC is extracted as follows:

"498A. Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.— For the purpose of this section, "cruelty" means—

(a)any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b)harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

33. To attract the offence under Section 498-A IPC, the prosecution has to prove that the accused persons have treated PW.1 and PW.2 with cruelty; the wilful conduct of the accused to such an extent to drive that

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woman to commit suicide or to cause grave injury or danger to her life, limb or health, both mentally and physically; OR treated her with such harassment both physically and mentally for an unlawful demand of dowry.

34. In this case, there is no such allegation. The only allegation is demand of dowry. For such demand of dowry, the accused shall treat PW.1 and PW.2 & PW.6 with cruelty. As discussed above, there is no such evidence. Furthermore, if PW.1 is residing separately from the accused Nos.1 to 3 from 2002 onwards, there is no question of accused Nos.1 to 3 treating her with cruelty. PW.2 has not fully supported the case of prosecution and she was treated as hostile. She married the accused No.1 in the year 2002. According to her evidence, the accused has treated PW.1 with cruelty and she came to know about it from the neighbours. Thus, there is no direct evidence. She has not deposed about the cruelty against her, even though, it is in the first information.

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35. PW.3 & 4 are parents of first informant. They have not witnessed any cruelty. Their evidence is that they heard about cruelty from their daughter.

36. As discussed above, there is an inordinate delay of about 12 years in lodging the first information. The maximum punishment for the offence under Section 498-A IPC is 3 years. Hence, Section 468(2)(c) of Cr.P.C., attracts.

37. According to it, the Court can take cognizance of the offence only within 3 years from the date of commission of the offence but in this case, no such incident has taken place 3 years preceding the date of first information. But it might have taken place in the year 2002-03. Hence, viewed from any angle, there is no evidence of cruelty to the first informant for unlawful demand of dowry that too within three years preceding the complaint.

38. The trial Court and the appellate Court, without examining the point of limitation and without examining

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the ingredients of Section 498-A IPC, have wrongly passed the judgment. The judgment of conviction and order of sentence passed by the trial Court is just confirmed by the appellate Court without making any efforts to verify the pleadings and evidence. They have not considered the relevant evidence. On the other hand, immaterial evidence was considered. Thus, the judgment of the trial Court confirmed by the appellate Court is *perverse*, grossly erroneous, glaringly unreasonable, capricious, and vexatious, and thus requires interference.

39. Hence, this Court passes the following :

ORDER

i) The Revision petition filed under 397 and 401 Cr.P.C., is ***allowed***;

ii) The accused Nos.1 to 3 are ***acquitted*** of the offence punishable under Section 498-A IPC.

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iii) The accused Nos.1 to 3 are set at liberty.

iv) The bail bonds of accused stands cancelled.

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(GEETHA K.B.)
JUDGE

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List No.: 1 Sl No.: 26