



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NOS. 2382 - 2383 OF 2026
(Arising out of SLP (Crl.) Nos. 8581 - 8582 of 2026)
(Arising out of SLP (Crl.) Diary No. 19684 of 2023)

JAYESH KANNA

...APPELLANT (s)

VERSUS

**THE ASSISTANT COMMISSIONER
LAW AND ORDER (WEST) ETC.**

...RESPONDENT(s)

O R D E R

1) Delay condoned.

2) Leave granted.

3) The instant appeals have been preferred, being aggrieved by the impugned judgment dated 09.01.2023¹ passed by the Madras High Court (hereinafter referred to as '**High Court**') confirming the judgment dated 29.11.2018 of the Trial Court² convicting the Appellant for the charge under Section 498A of Indian Penal Code,

¹ Crl.A.No.831 of 2018 and Crl.R.C. No. 1351 of 2019

² IV Additional District Judge/Sessions Judge, Mahalir Neethi Mandram (Mahila Court), Coimbatore in Session Case No.248 of 2015.

1860 (hereinafter referred to as '**IPC**') and directing him to undergo the sentence of three years Rigorous Imprisonment (hereinafter referred to as '**RI**') with fine of Rs. 10,000/- and in default, six months RI. The High Court, *vide* the impugned order has also dismissed the criminal revision³ filed by the Appellant challenging the order⁴ of the Trial Court refusing to return his passport (marked as M.O.12).

4) As per the case of prosecution, the deceased Sangeetha committed suicide between 5.00-6.45 P.M. on 31.01.2015 by hanging, while she was staying at her parental home. The Appellant-accused is the husband of the deceased. As alleged, at the time of marriage, the parents of the deceased gave Rs.3 lakhs, 20 sovereign gold jewels to her and 1 sovereign chain of 3 gm., dollar, 1/2 sovereign ring, 3 gm kanganam and 2 kg of silver to the Appellant. It was further alleged that Appellant often asked the deceased to bring money from her

³ Crl.RC No. 1351 of 2019.

⁴ Order dated 18.10.2019 in C.M.P. No. 476 of 2019 in S.C. No. 248 of 2015.

parents while the remaining accused persons consistently agitated the issue of demand for additional dowry, subjecting the deceased to persistent harassment. The allegation against the brother-in-law is of scolding the deceased due to her dark complexion. Additionally, the prosecution alleges that the Appellant reprimanded the deceased for visiting her parents against his family's wishes and refused to speak to her over the phone. It is alleged that this non-communication caused severe mental agony to the deceased resulting in her being forced to commit suicide on 31.01.2015. On such allegations, the case was registered under Sections 498A and 304B IPC by the Police, Coimbatore City, against the Appellant and 4 co-accused persons viz., father-in-law, mother-in-law, two brothers-in-law and one of them was a juvenile. The trial was only conducted against four accused persons, while no trial was conducted against the juvenile.

5) It is not in dispute that the Appellant, at the relevant point of time, was working at Muscat, Oman as an Engineer and after marriage, the deceased resided with and her in-laws and the Appellant for some time; later, she shifted to her parents' house. As alleged, after the deceased came to her parental house, the Appellant had told her that he would not communicate with her over the phone because she had gone there without consulting her in-laws. Therefore, due to such immense mental agony, the deceased committed suicide. With the aforesaid allegations, FIR No. 45 of 2025 dated 31.02.2015 was registered with the B8 Variety Hall Road Police Station initially for the offence under Section 304B IPC. After investigation and submission of the chargesheet, the Trial Court framed charges against the Appellant and the co-accused under Sections 498A and 304B IPC *vide* the order dated 05.04.2016.

6) In the trial, all other accused persons (in-laws) were acquitted by the Trial Court for the

charges under Sections 304B and 498A IPC since the allegation of demand of dowry and harassment was not proved against them bringing cogent evidence to bring the charge home. However, the Appellant, though acquitted for the charge under Section 304B IPC, was convicted for the charge under Section 498A IPC, and was sentenced as described above. Trial Court further directed that the passport of the Appellant (being M.O. 12) shall be returned to the Accused No. 3 (mother-in-law) after the expiry of time for appeal or if any appeal is preferred, after the disposal of the appeal.

7) Although the order itself is not on record, but it appears from a perusal of the impugned order that the Appellant sought return of his passport by filing an application bearing C.M.P. No. 476 of 2019 in S.C. No. 248 of 2015, which was rejected by the Trial Court *vide* order dated 18.10.2019.

8) Being aggrieved, the Appellant preferred a criminal appeal before the High Court challenging

his conviction along with a criminal revision challenging the order of refusal of the application for return of the passport. However, by the common impugned judgment, the High Court confirmed the judgment of the Trial Court maintaining the conviction and sentence for the charge under Section 498A IPC and also dismissed the criminal revision petition filed by the Appellant. Assailing the common impugned judgment, the instant appeals have been filed.

9) Mr. R. Basant, learned senior counsel appearing for the Appellant, has strenuously urged that the facts of present case are quite glaring wherein even the allegation under Section 498A IPC cannot be made out against the Appellant. He submits that the marriage took place on 02.11.2014, the deceased and the Appellant remained in association only up till 29.11.2014, i.e., date on which the Appellant left the country for Muscat, Oman. The deceased stayed for about 1½ months with her in-laws and then shifted to her

parental house on 18.01.2015. While staying with her parents, on 31.01.2015, she committed suicide. It is mainly alleged that during her stay at parent's house, the Appellant did not speak with deceased on telephone causing mental cruelty to her; and therefore, he has been convicted for the said offence.

10) *Per Contra*, learned counsel for the Respondent, Mr. Balaji Subramanian submits that this is a case in which the conduct of the Appellant of not communicating with the Deceased, caused serious mental cruelty to the her, driving her to commit suicide on 31.01.2015. As such, the Appellant's conviction under Section 498A and sentence as directed, warrants no interference by this Court.

11) After hearing learned counsel for parties at length, we have perused the provisions of Section 498A IPC which are reproduced for ready reference as thus:

"Section 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 purposes of this section, Cruelty means:-

(a) any willful 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."

12) On perusal thereof, it is clear, if the husband or the relatives of the husband subject the woman with cruelty, they shall be punished under the said section. In the explanation appended to Section 498A IPC, the word 'cruelty' has been defined which primarily includes any willful conduct of a nature which may drive a

woman to commit suicide or to cause grave injury or danger to life, limb or health.

13) This Court in the case of ***Mohd. Hoshan v. State of A.P.***⁵ while adjudicating a matter involving the tragic suicide of an eighteen-year-old bride within eleven months of her marriage, held that the determination of mental cruelty is essentially a question of fact, the evaluation of which must entirely depend upon the distinct circumstances of each case. For easy reference relevant portion of the said judgement is reproduced hereunder:

"6. Whether one spouse has been guilty of cruelty to the other is essentially a question of fact. The impact of complaints, accusations or taunts on a person amounting to cruelty depends on various factors like the sensitivity of the individual victim concerned, the social background, the environment, education etc. Further, mental cruelty varies from person to person depending on the intensity of sensitivity and the degree of courage or endurance to withstand such mental cruelty. In other words, each case has to be decided on its own facts to decide whether the mental cruelty was established or not."

⁵ (2002) 7 SCC 414

14) While considering a criminal appeal preferred by the husband against his conviction under Section 498A and 494 of IPC, this Court in case of **Manju Ram Kalita v. State of Assam**⁶ observed as under

"21. "Cruelty" for the purpose of Section 498-A IPC is to be established in the context of Section 498-A IPC as it may be different from other statutory provisions. It is to be determined/inferred by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find out as to whether it is likely to drive the woman to commit suicide, etc. It is to be established that the woman has been subjected to cruelty continuously/persistently or at least in close proximity of time of lodging the complaint. Petty quarrels cannot be termed as "cruelty" to attract the provisions of Section 498-A IPC. Causing mental torture to the extent that it becomes unbearable may be termed as cruelty."

(Emphasis supplied)

15) In view of the above, it is quite clear that the question of mental cruelty must be determined in the context of the facts and circumstances of each case. Whether an act amounts to cruelty or not varies from person to person, their sensitivity, their mental fortitude and faculties all come into the picture. An innocent quarrel may

⁶ (2009) 13 SCC 330

affect a person more than others depending upon their mental state of being. As such, there cannot be a thumb rule with respect to determination of mental cruelty which can be applied uniformly to all cases.

16) In addition, it is also required to be determined whether the gravity or seriousness of the act is of such a nature that it is likely to drive a woman to commit suicide or cause injury or danger to her mental health. In this regard, persistent harassment within a close proximity of time of lodging the complaint may be a relevant factor. It is, further, clarified that a petty quarrel cannot be termed as cruelty to attract the charge under Section 498A. It is incumbent upon Courts, therefore, to analyze the facts and circumstances, the act on the part of the accused and gauge its impact.

17) The substance of the allegation against the Appellant which has resulted in his conviction under Section 498A IPC is that his refusal to

communicate with the deceased over the phone and his displeasure over the deceased going to her parental home without informing the in-laws, hurt the deceased who was forced to commit suicide as a result.

18) In the instant case, in the evidence of PW-1 Mother of deceased, PW-2 Father of deceased and PW-3 Sister of deceased, various allegations of demand of dowry and harassment have been brought against the Appellant as well as other accused persons, while making several improvements from the allegations made in the FIR. The Trial Court recorded the finding that those allegations are not proved. The allegation of dowry death has also not been proved against the Appellant as well as against the in-laws. The Trial Court went on to observe that the prosecution has not established that the Appellant has instigated the deceased to commit suicide or engaged himself in a conspiracy with others for the commission of suicide, or has intentionally aided by act or omission in the

commission of suicide, hence the allegation for abetment of suicide was not proved. Thereafter, the Trial Court acquitted other co-accused of the allegations of demand of dowry, cruelty and harassment including father-in-law, mother-in-law and brother-in-law. It is only against the Appellant a finding has been recorded by the Trial Court that the compelling behavior of the Appellant against the deceased who came to her parental house without permission of her in-laws and his act of deciding not to talk to the deceased on the said pretext between 18.01.2015 and 31.01.2015, may fall within the purview of cruelty since such willful conduct was of such nature which may likely drive the woman to commit suicide. Otherwise, all other allegations have not been proved.

19) The said finding has been confirmed by the High Court *in toto*. In view of the contents of Section 498A, defining cruelty, and the findings recorded by the Court below in the light of the

precedent referred above, it is required to be determined whether the act of the Appellant of not talking to the deceased would amount to cruelty in the facts of the case.

20) Indeed, it is true that the testimonies of PW-1, PW-2 and PW-3 were ocular on the point of demand of dowry, looking to the inconsistencies and improvements made, the Trial Court and the High Court were of the opinion that the said statements of demand of dowry and cruelty have not been proved against all other co-accused. As such, only the instance of not speaking over the phone during a particular period by the Appellant and his displeasure against the deceased for returning to her parental house without permission of in-laws has been taken against the Appellant to convict him for the charge under Section 498A of the IPC.

21) It is trite law that the prosecution has to establish the allegations beyond reasonable doubt to bring home the charge as alleged against the

accused. It is not the accused who has to dispel such burden, especially when the charge under Section 498A IPC is involved. Looking to the testimony of PW-1, PW-2 and PW-3 on the point of displeasure of the Appellant since the deceased came to her parental home and his decision to not communicate over phone calls, the evidence is only oral. The prosecution was duty bound to prove such allegation of lack of communication between the Appellant and the deceased with the call details of the deceased, accused and the parents of the deceased, who deposed against the Appellant. In defense, the Appellant stated that he made an attempt to communicate with the deceased, however it could not be materialized because the mobile phone of the deceased was not in order, therefore, he called the father of the deceased. In such circumstances, merely oral testimony to say that because of non-communication on the part of the Appellant, the deceased was compelled to commit suicide was not sufficient to bring the charge

within the purview of cruelty. It is the duty of the prosecution to produce evidence in the form of call details, supporting oral testimony. The said duty has not been discharged.

22) The prosecution has placed reliance upon WhatsApp chats showing that no messages were sent by the Appellant to the deceased in order to prove that there was no conversation, however, in our opinion not sending messages over WhatsApp is also not sufficient since the conversation may have been made through normal phone call also. Moreover, in order to establish cruelty, the willful conduct of the accused must be of such compelling nature which may drive the deceased to commit suicide. In this regard, as per the findings recorded by the Trial Court and the High Court, it appears that the deceased could not have travelled to Muscat along with the Appellant due to pending formalities in her passport due to which the visa could not be issued. It is not a case where any allegation of harassment and

cruelty has been proved during stay of the deceased with the Appellant from the date of marriage till the Appellant from India to Muscat.

23) Therefore, in absence of any material, mere non-communication with the deceased for thirteen days, without substantiating the same with cogent evidence, cannot, in any stretch of the imagination, fall within the ambit of cruelty in the facts of this case. Differences in marital life are a part and parcel of it and such differences may result in non-communication, but it is not even a case where there was some quarrel between the Appellant and the deceased, due to which, the Appellant has been convicted by the Trial Court.

24) Once the allegation of cruelty is not proved against the Appellant or the co-accused, merely not talking to the deceased by the Appellant for some days, proof whereof is also not available, would not suffice to construe an act of cruelty by the Appellant. The judgment of the High Court is

without due appreciation of evidence and in our view, there is insufficient evidence to prove the allegation of cruelty.

25) In view of the foregoing discussion, it can safely be concluded that the prosecution has utterly failed to establish the ingredients to prove the charge under Section 498A IPC. As such, findings of conviction on proof of cruelty and harassment are without any cogent evidence and in consequence, the sentence as directed is also not justified. Accordingly, the impugned judgment and judgment of the Trial Court deserve to be set aside and the present appeals stand allowed.

26) Exemption from surrendering was granted by this Court vide order dated 04.10.2024, and during the trial also, the Appellant was on bail. On account of setting aside the conviction and sentence, bail bond(s), if any, executed by him, shall also stand discharged.

27) The Appellant has also assailed the judgment dismissing the Crl.R.C. No.1351 of 2019 questioning the order dated 18.10.2019 in C.M.P. No.476 of 2019 in S.C. No.248 of 2015 whereby return of his passport was denied. The reason for refusal to return passport was his conviction under Section 498A. Since, the appeals against such conviction and sentence are allowed by this order, in consequence, it is directed that the passport of the Appellant, if seized by the Trial Court, shall be returned to him. Accordingly, the appeals stand allowed.

28) Pending application(s), if any, shall stand disposed of.

.....J.
[J.K. MAHESHWARI]

.....J.
[ATUL S. CHANDURKAR]

New Delhi;
May 07, 2026.