

The State Through Vs. Sanganna @ Sangappa S/o Gireppa Chital And Anr

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Court : Karnataka Kalaburagi

Decided On : Mar-04-2022

Judge : K.Somashekar and Anant Ramanath Hegde

Appeal No. : CRL.A 200035/2014

Appellant : The State Through

Respondent : Sanganna @ Sangappa S/o Gireppa Chital And Anr

Advocate for Def. : Sri. Baburao Mangane

Judgement :

1 R IN THE HIGH COURT OF KARNATAKA KALABURAGI BENCH DATED THIS THE4H DAY OF MARCH 2022 PRESENT THE HONBLE MR. JUSTICE K. SOMASHEKAR AND THE HONBLE MR. JUSTICE ANANT RAMANATH HEGDE CRIMINAL APPEAL NO.200035/2014 Between: The State through Aland Police Station Represented by Addl. State Public Prosecutor Gulbarga. Appellant (By Sri Prakash Yeli, Addl. SPP) And:

1. Sanganna @ Sangappa S/o Gireppa Chitali Age:

48. Years, Occ: Hotel Work R/o Near Kanchana Talkies Aland 2. Laxmibai W/o Sanganna @ Sangappa Chitali Occ: Household, R/o Near Kanchana Talkies Aland Dist. Gulbarga Respondents (By Sri Baburao Mangane & Sri Ashok B. Mulage, Advocates) 2 This Criminal Appeal is filed under Section 378(1) & (b) of

Cr.P.C., praying to grant leave to appeal against the judgment dated 01.10.2013 passed by I Addl. Sessions Judge at Gulbarga in Sessions Case No.388/2012 thereby acquitting the respondents/accused for the offence punishable under Sections 498-A & 302 r/w Section 34 of IPC; set aside the judgment of acquittal dated 01.10.2013 passed by the I Addl. Sessions Judge at Gulbarga in Sessions Case No.388/2012 for the offence punishable under Sections 498-A, 302 R/w Section 34 of IPC; and convict the respondents/accused for the offences punishable under Sections 498-A and 302 r/w Section 34 of IPC. This appeal coming on for hearing this day, K. Somashekar J., delivered the following:

JUDGMENT

This appeal is directed against the judgment of acquittal dated 01.10.2013 rendered by the I Addl. Sessions Judge, Gulbarga (for short, 'the trial Court') for the offences punishable under Sections 498-A, 302 r/w Section 34 of Indian Penal Code, 1860. The appellant/State seeking intervention of this Court on various grounds urged in the appeal memo and thereby seeks to set aside of the impugned judgment of acquittal and prays to allow the appeal thereby convict the respondents/accused of the aforesaid offences. 3

2. Heard Sri Prakash Yeli, learned Additional State Public Prosecutor for the appellant/State and so also Sri Baburao Mangane, learned counsel for the respondents/accused and perused the entire material on record.

3. The factual matrix of the prosecution case briefly stated are as under; It transpires from the prosecution case that, on 31.05.2012 at about 9.00 a.m., the Police Sub-Inspector of Aland P.S. received a MLC report from Government Hospital, Aland to the effect that one Smt. Umadevi has been admitted to the said hospital for treatment as she has sustained burn injuries. It is stated that on the said date at about 10.15 a.m., the Police Sub-Inspector of Aland P.S. visited the Government Hospital, Aland and got confirmed that one Smt. Umadevi W/o Santosh Chitali, resident of Aland has been admitted to the hospital for treatment due to burn injuries sustained by her. Thereafter, the Police Sub-Inspector, Aland P.S. 4 submitted a requisition to the doctor who treated the injured and sought his opinion as to whether the injured was in a fit position to give her statement or not.

Accordingly, the said doctor gave an endorsement stating that the injured was in a position to give her statement. Later, in the presence of the doctor, Police- Sub Inspector recorded the statements of the injured Smt. Umadevi. Based upon her statement, a case in Crime No.110/2012 came to be registered by recording the first information report for the offences punishable under Sections 498-A and 307 r/w Section 34 of Indian Penal Code, 1860. During the course of the treatment, the injured Smt. Umadevi breathed her last. Consequently, the investigating agency had submitted a requisition for incorporation of Section 302 of Indian Penal Code, 1860 in the aforesaid crime and accordingly offence under Section 302 of IPC incorporated substituting the offence punishable under Section 307 of IPC. Thereafter, the investigating officer took up the 5 case for investigation and proceeded to the scene of offence held inquest over the dead body of the deceased Smt. Umadevi and the dead body was sent to the mortuary where the doctor conducted an autopsy over the dead body; subsequently, the investigating officer secured the post-mortem report; drew the spot mahazar in the presence of witnesses; conducted the inquest over the dead body of the deceased Smt. Umadevi; recorded the statement of inquest witnesses; and after completion of the investigation, the Investigating officer laid the charge sheet against accused persons for the offences punishable under Sections 498-A and 302 r/w Section 34 of Indian Penal Code, 1860. After receipt of the charge-sheet, the committal Court passed an order as contemplated under Section 209 of Criminal Procedure Code, 1973 and complied with Section 207 of Cr.P.C. by supplying the charge sheet and other materials and the case has been 6 committed to Sessions Court which culminated into the registration of S.C.No.388/2012.

4. After committal of the case, the trial Court has heard the arguments of both the learned Public Prosecutor and also the defence counsel relating to framing of charges and since there were grounds to proceed against the accused, the trial Court framed the charges against the accused of the offences punishable under Sections 498-A and 302 r/w Section 34 of Indian Penal Code, 1860. The charges were read over and explained to the accused, who pleaded not guilty and claim to be tried. Accordingly, a plea of the each accused was recorded separately and thereafter the matter was posted for recording prosecution evidence.

5. To prove its case, the prosecution has examined in all 12 witnesses as P.Ws.1 to 12 and got marked as many as 15 documents at Exs.P.1 to 15 and got marked 2 material objects as M.Os.1 and 2. 7

6. After the closure of prosecution evidence, the accused has been subjected to examination as contemplated under Section 313 of Cr.P.C., wherein the accused have denied the incriminating circumstances appearing against them in the prosecution witnesses.

7. After the recording of the 313 Cr.P.C. statement, the accused were called upon to adduce defence evidence as contemplated under Section 233 of Code of Criminal Procedure, 1973. Accordingly, accused No.1 got examined himself as D.W.1 and got marked two documents through him as Exs.D1 and 2.

8. After the closure of the evidence from both sides, and hearing the counsel appearing for the State and the accused, the trial court considered the evidence of P.W.1-Mahantesh, P.W.8-Sri Mahadevappa, Taluka Executive Magistrate, P.W.9-Sri Alesh, Police Sub- Inspector, who recorded FIR as per Ex.P.11, P.W.10- Dr. Ambaraya in whose presence dying declaration at 8 Ex.P.12 was recorded, the P.W.12, who is the Investigation Officer and also the evidence of P.Ws.1 to 7 examined by the prosecution, who did not support the version of their statements and whose contradictory statements have been marked as per Exs.P.2 to 7. The material document i.e., dying declaration at Ex.P.13 given by the deceased Smt. Umadevi is also considered. On close scrutiny of the evidence of the prosecution witnesses inclusive of post-mortem report at Ex.P.12, and even the doctors opinion about the cause of the death of the deceased, trial court concluded that the prosecution failed to establish the guilt of the accused by facilitating the worthwhile evidence and consequently the trial Court rendered the acquittal judgment. It is this judgment is under challenge by the appellant/State urging various grounds.

9. Learned Additional State Public Prosecutor for the State has taken us through the evidence of P.W.11- Taluka Executive Magistrate, who recorded the 9 dying declaration of the deceased Smt. Umadevi as per Ex.P.13 on 13.12.2012 and the dying declaration has been confirmed by doctor P.W.10. The evidence of P.Ws.10

and 11 relating to the dying declaration are got marked on the part of the prosecution as Ex.P.11. However, the trial court did not consider the aforesaid evidence on the part of the prosecution in a proper perspective is the submission. Therefore, the impugned judgment of acquittal rendered by the trial Court requires re-appreciation in the light of both oral and documentary evidence, placed before the court. On these grounds learned Additional State Public Prosecutor sought for intervention of this Court. It is further contended that Ex.P.13 is the dying declaration recorded by the responsible Taluka Executive Magistrate who has been examined as P.W.11. Though there are minor infirmities on the part of the prosecution, the Trial court ought to have given importance to the evidence of the executive magistrate. 10 It is urged that P.Ws.9, 10 and 11 have stated in their evidence reiterating the cause of the death and also about burn injuries over the person of the deceased Smt. Umadevi. On a fateful day, the mother-in-law of the deceased who is arrayed as accused No.2 said to have poured kerosene over the deceased when she was in the kitchen and set her fire by scratching the match stick. Therefore, this appeal, calls for intervention and seeks to allow the appeal and consequently set aside the judgment of acquittal rendered by the trial Court in S.C.No.388/2012 dated 01.10.2013. And consequent upon setting aside of the acquittal judgment prays to convict the accused for the offences punishable under Sections 498-A and 302 r/w Section 34 of Indian Penal Code, 1860.

10. On the other hand, Sri Baburao Mangane, learned counsel for the respondents/accused supports the impugned judgment of acquittal. Referring to the 11 evidence of P.Ws.9 to 11 submits that the entire evidence of the prosecution is revolving around these material witnesses, but these prosecution witnesses have not supported the case of the prosecution. The learned counsel draws the attention of this Court the evidence of P.W.1 who is a panch witness and he has stated in his evidence that about one and half years ago on one day, the police secured him and asked him to act as panch witnesses relating to conducting of inquest panchanama over the dead body of the deceased. The deceased Smt. Umadevi had sustained burn injuries to the extent of 90% to 95% as per the evidence of the doctor. He has stated in his evidence about the cause of death of the deceased is due to hypovolemic shock due to 90-95% burns sustained on her person. Even the evidence on the part of the prosecution does

not inspire the confidence to prove the guilt of the accused. The entire case is revolving around the evidence of P.W.9, the Police Sub-Inspector who recorded the statement 12 and recorded the FIR as per Ex.P.11. Even from a cursory glance of the evidence of P.Ws.9 to 11 inclusive of the evidence of P.W.12 examined on the part of the prosecution, it is evident that their evidence is inconsistent and contradictory to the evidence of P.Ws.2 to 7 who have given a complete go-bye to their version at Exs.P.2 to 7 and further contradictory to the version of the statement made by the deceased Smt. Umadevi as per Ex.P.10. Though accused No.2 alleged to have poured kerosene over the body of the deceased Smt. Umadevi and set her ablaze thereby caused burn injuries over her body, the prosecution has miserably failed to prove the guilt of the accused by facilitating credible evidence and no credential can be given to the said evidence and the same could be seen from the evidence of the prosecution and the same has been appreciated by the trial Court. Therefore, the trial court rendered an acquittal judgment holding that the prosecution has miserably failed to prove the guilt of the 13 accused by facilitating the worthwhile evidence relating to the ingredients of Sections 498-A and 302 r/w Section 34 of Indian Penal Code, 1860. On this premise, the learned counsel for the respondents/accused seeks for dismissal of this appeal being devoid of merits.

11. It is in this context of the contention made by the learned Additional State Public Prosecutor for the State by urging the various grounds and also counter-arguments advanced by the learned counsel for the respondents/accused, it is necessary to consider the evidence of P.W.6 and P.W.7 who are the parents of the deceased Umadevi and they have stated in their evidence that their daughter Umadevi had died due to burn injuries. But P.W.6 and P.W.7 have not specifically stated in their evidence how their daughter Umadevi sustained extensive burn injuries over her person as indicated in the post mortem report at 14 Ex.P.12 and also they have not stated about the allegation made in the complaint at Ex.P.10 and Ex.P.13, the dying declaration alleged to have been recorded by P.W.11.

12. It is seen in the evidence of the prosecution that P.W.6 and P.W.7 have given their statements and the same has been recorded by the investigating agency. But they have not withstood the version of their statements and their statements are

contrary to the contents of the dying declaration at Ex.P.13 and even the contents at Ex.P.11 FIR recorded by P.W.9 PSI who is said to have gone to the Government hospital and recorded deceased's statement. Based upon her statement, criminal law was set in motion by recording FIR at Ex.P.11. Accused No.1 is none other than the father-in-law of the deceased and accused No.2 is none other than the stepmother-in-law of the deceased. P.W.3, Santosh is the husband of the deceased Umadevi 15 and he is examined by the prosecution even though he is said to have given his statement during the course of the investigation conducted by the investigating agency, he did not support the version of his statement that his wife Smt. Umadevi lost her breath by suffering burn injuries over her person as indicated in the post mortem report issued by the doctor who conducted an autopsy over the person of the deceased.

13. As already stated, the PSI of Aland Police Station recorded the statement of the injured Smt. Umadevi and based on her complaint, criminal law was set in motion by registering FIR and registered the case in Crime No.110/2012 and initially crime came to be registered for the offences punishable under Sections 498-A, 302 read with Section 34 of Indian Penal Code, 1860. Subsequently, the PSI of Aland Police Station sent a requisition to the responsible Tahasildar and Taluka Magistrate, Aland for recording the dying 16 declaration of the injured Smt. Umadevi. Accordingly, the Taluka Executive Magistrate who visited the Government hospital, Aland and in the presence of the doctor and also confirmed from the doctor that she was in a position to give her statement. Accordingly, her dying declaration has been recorded as per Ex.P.13.

14. The deceased Umadevi is none other than the wife of P.W.3 Santosh. Accused No.2 is none other than her stepmother-in-law extending some sort of physical as well as mental harassment saying that they have to maintain her and saying her and her husband to reside separately i.e., to go out from their house. By saying so, they have been extending physical as well as mental harassment to the deceased Umadevi. In her statement of the allegation the deceased Umadevi stated that on 31.05.2012 at about 00-08 a.m., while she was preparing food, her stepmother-in-law who is arranged as accused No.2 came into the kitchen room and picked 17 up a quarrel with her with an intention to eliminate her and poured

kerosene over her person and set ablaze by scratching matchstick. Hearing the hue and cry of the injured Umadevi, the neighbours namely, Smt. Shantabai and her husband rushed to the scene of the crime and doused the fire which was found on the person of the injured Umadevi and thereafter, the injured was shifted to the Government hospital for treatment. The injured initially has given her statement and says that it is her father-in-law who is arranged as accused No.1 namely, Santanna and her stepmother-in-law who is arranged as accused No.2 have caused burn injuries over her person.

15. It is relevant to refer to Section 498-A of the Indian Penal Code, 1860. Explanation (a) of the said section, speaks about 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 18 health (whether mental or physical) of the woman; Explanation (b) deals with harassment of the woman where such harassment is to coerce 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. These two elements find a place in explanation (a) and (b), concerning the husband or relatives of the husband of a woman subjecting her to cruelty. This is the main ingredient of the offence under Section 498-A of the Indian Penal Code, 1860. But in the instant case, P.W.3 Santosh is none other than the husband of the deceased Umadevi was residing with his wife and parents. There is no demand for anything by the accused. But only stated that she will be a burden for their family, after her marriage with their son who is P.W.3. Insofar as willful conduct, the allegation against the husband was that he abused and beat his wife and forced her to commit suicide. But in the instant case, 19 the in-laws are being arranged as accused and there is no any sort of allegation pressurizing her to bring any property. On a fateful day, while the deceased Umadevi was in the kitchen room and preparing food, accused No.2 who is said to have entered the kitchen room i.e., scene of the crime, said to have poured kerosene over her person and set ablaze by scratching matchstick. But there is no evidence facilitated by the prosecution to prove the guilt of the accused that accused Nos.1 and 2 have physically as well as mentally harassed the deceased. The accused neither abused her nor beat her.

16. It is relevant to refer to Section 3 of the Indian Evidence Act, 1872, wherein the word "Proved" is defined -- A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it 20 exists. "Disproved" is defined as -- A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its existence so probable that prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. In the instant case, several witnesses have been subjected to examination and those witnesses did not withstand the version of their statements. Their evidence has been contrary to the contents of the dying declaration given by the injured Umadevi while she was taking treatment in the Government hospital.

17. It is relevant to note that mens rea i.e., the criminal intent is required to constitute a crime. It must be proved that the accused meant or intended to do wrong or at least knew he was doing wrong. However, the precise mental element varies from crime 21 to crime. Most criminal cases involve one of the following kinds of mens rea: Intent: This is the explicit and conscious desire to commit a dangerous or illegal activity. Knowledge: This term applies if a person is aware that his or her actions will have certain results, but does not seem to care. For example, if a person violently lashes out at someone, inflicting harm may not be her primary goal. However, if she was aware that harm would be a predictable result of her actions, then she is guilty of having criminal knowledge, but the prosecution ought to establish the ingredients. The dying declaration is not reliable. The manner of recording dying declaration is doubtful, and it cannot be relied upon to sustain the conviction of the accused as under Section 302 of Indian Penal Code, 1860. If there are two dying declarations giving two different versions, serious doubt is created about the truthfulness of the 22 dying declarations. The dying declaration does not reveal the entire truth, and it has to be considered only as a piece of evidence on which event conviction cannot be rested solely based on such doubtful dying declaration. If the dying declaration was recorded in the presence of the relatives of the deceased, the possibility that the deceased is tutored cannot be ruled out. The Court must be satisfied that the deceased was in

a fit state of mind after a clear opportunity to observe and identify the assailant. Once the Court is satisfied that the declaration was true and voluntary, undoubtedly, it can base its conviction without any further corroboration, but it cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence. A dying declaration is a very important document because it amounts to a statement of the deceased verba dicta. The Court must satisfy that the 23 deceased was in the state of mind after a clear opportunity to observe and identify the assailant. But the dying declaration should be carefully scrutinized.

18. In a case of circumstantial evidence, the motive factor assumes the important significance. Motive always locks up in the mind of the accused and sometimes it is difficult to unlock. People do not act wholly without motive. The failure to discover the motive of an offence does not signify its non-existence. In the instant case, the deceased Umadevi who is no other than the wife of P.W.3 Santosh lost her breath by sustaining extensive burn injuries as indicated in the post mortem report issued by the doctor who conducted autopsy over her body and so also opined that the death was due to hypovolemic shock due to 90-95% burns. However, the deceased Umadevi's dying declaration is not proved. 24

19. The moot point is whether accused No.2 who is none other than stepmother-in-law of the deceased has poured kerosene over her person and set her ablaze by scratching matchstick with an intention to eliminate her. But there is no specific evidence on the part of the prosecution to prove the guilt of the accused. Rightly, the trial Court has appreciated the evidence by holding that the prosecution has miserably failed to prove the guilt of the accused.

20. In the instant case, it is relevant to refer to the judgment rendered by the Hon'ble Supreme Court in the case of Sharad Birdhichand Sarda vs. the State of Maharashtra reported in (1984) 4 SCC116 whereas, in this judgment, the Hon'ble Supreme Court has extensively addressed the elements of Section 302 of Indian Penal Code, and also an issue relating to a specific provision of Section 32 (1) of Evidence Act, 1872 and so also Section 498-A read with Section 113-A of 25

Evidence Act, 1872. Under what circumstances, the benefit of the doubt has to be extended to the accused under the criminal justice system has been addressed in detail. Therefore, it is relevant to refer to paragraph No.163 of this judgment:

"163. We then pass on to another important point which seems to have been completely missed by the High Court. It is well settled that where on the evidence two possibilities are available or open, one which goes in favour of the prosecution and the other which benefits an accused, the accused is undoubtedly entitled to the benefit of the doubt. Another golden thread that runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has special relevance 26 in cases wherein the guilt of the accused is sought to be established by circumstantial evidence.

21. It is relevant to refer Section 134 of the Indian Evidence Act, 1872, Merit of the statement is important. It is the well-known principle of law that reliance can be based on the solitary statement of a witness if the Court concludes that the said statement is the true and correct version of the case of the prosecution. It has been extensively addressed in the judgment of *Raja vs State*, reported in (1997) 2 Crimes 175 (Del). Quality of Witness - It is the quality of the evidence and not the quantity of the evidence which is required to be judged by the Court to place credence on the statement. It has been extensively addressed in the judgment of *State of Uttar Pradesh v. Kishanpal*, 2008 (8) JT650 27 Plurality of Witnesses - In the matter of appreciation of evidence of witnesses, it is not the number of witnesses, but the quality of their evidence which is important, as there is no requirement in law of evidence that any particular number of witnesses is to be examined to prove/disprove a fact. It is a time- honoured principle, that evidence must be weighed and not counted. The test is whether the evidence has a ring of trust, is cogent, credible and trustworthy or otherwise. The legal system has emphasized value provided by each witness, rather than the multiplicity or plurality of witnesses. It is quality and not quantity, which determines the adequacy of evidence as has been provided by Section 134 of the Evidence Act, 1872. This has been extensively addressed by the Hon'ble Supreme Court of India in the

case of Laxmibai (Dead) through LRs & Another vs Bhagwantbuva (Dead) through LRs & Others, reported in AIR 2013 SC1204 28 22. It is necessary to refer to Section 32 of the Indian Evidence Act, 1872 in respect of dying declaration when more than one dying declaration is produced. In the case of two conflicting dying declarations, one recorded by a doctor in the presence of two more doctors and the second by a person attested by Sarpanch, the second one not proved by a competent witness cannot be relied upon. The same has been addressed in detail in the case of Harbans Lal v. State of Haryana, AIR 1993 SC819 (ii) Where there is more than one dying declaration and they are inconsistent there, it is not possible to pick out one such declaration wherein the accused is implicated and based the conviction on the sole basis of that dying declaration. In the instant case, the deceased Umadevi who has given dying declaration and the same has been recorded by the responsible Taluka Executive Magistrate and even confirmed through the concerned doctor, who had provided treatment to her, but the contents in her dying declaration have not been proved by the prosecution by facilitating worthwhile evidence or even any independent witnesses on the part of the prosecution.

23. As already stated that the prosecution even though has subjected to the examination of several witnesses, the entire case of the prosecution rests on the evidence of P.W.10 who has given the treatment to the injured Umadevi. In his evidence, he has stated that on 31.05.2012 at about 09-00 a.m., the injured Umadevi was brought to the hospital with a history of burn injuries. Accordingly, he had provided first treatment to her. Even at one stage of his evidence, he has stated that he sent MLC report to Aland Police Station, but in the latter part of his evidence, he has stated that he has not sent MLC to Aland Police Station, but the police themselves came to the hospital along with the patient. The trial Court has made it in 30 observation in Paragraph 20 of the judgment that P.W.9 PSI who has given evidence that after receipt of MLC report from the Government hospital, Aland, he visited the hospital but the evidence of P.W.10 reveals that he had not at all sent MLC report to the Police Station. Therefore, there is a material contradiction in the evidence of P.W.9 and P.W.10 which creates some clouds of doubt of the theory of the prosecution to prove the guilt of the accused.

24. P.W.10 is a doctor who provided treatment to the injured has stated that the deceased had sustained more than 98% of burn injuries. Even at Ex.P.12 post mortem report, the doctor who has conducted the post mortem examination on the dead body of the deceased Smt. Umadevi has clearly stated that the deceased had sustained 90-95% burn injuries. Therefore, there is much force in the arguments advanced by the counsel for the respondents-accused to the effect that as the 31 deceased has sustained about 98% of burn injuries over her person, she was not in a position to give her statement before PSI or Taluka Executive Magistrate. Ex.P.13 is the dying declaration of the deceased Umadevi, it was recorded by P.W.11 Tahasildar cum Taluka Executive Magistrate, Aland and he has given evidence on the part of the prosecution. However, his evidence relating to the dying declaration at Ex.P.13 did not support the evidence of independent witnesses on the part of the prosecution. At a cursory glance of the evidence of P.W.9, P.W.10, and P.W.11, a prudent man can infer whether the dying declaration at Ex.P.13 was voluntary, without any coercion. Injured Umadevi was not in a position to give her dying declaration at Ex.P.13 or even the statement given by her as per Ex.P.10. Even at Ex.P.13, her signature is not there. Even after scrutiny and reappraisal of the evidence, it is evident that the prosecution evidence does not inspire the confidence of the Court. Consequently, the trial Court 32 has rendered the acquittal judgment for the offences under Section 498-A, 302 read with Section 34 of IPC.

25. D.W.1 who is accused No.1 has been subjected to examination on the defence side. In a criminal trial in that the evidence has to be facilitated, it must be consistent, corroborative, cogent and positive to probable that the accused committed the crime. But there is no such kind of evidence facilitated by the prosecution to prove the guilt of the accused beyond all reasonable doubt. Therefore, in this appeal, we are of the opinion by assigning the aforesaid reasons and findings, that there is no perversity or absurdity in the judgment rendered by the trial Court. Consequently, it does not call for any interference in the acquittal judgment rendered by the trial Court. Consequently, the appeal deserves to be rejected. In view of the aforesaid reasons and findings, we proceed to pass the following order:

33.

ORDER

The appeal preferred by the appellant/State under Section 378 (1) and (b) of Cr. P.C is hereby rejected. Consequently, the acquittal judgment rendered by the trial Court in S.C.No.388/2012 dated 01.10.2013 is hereby confirmed. Bail bonds, if any, executed by the accused shall stand cancelled. SD/- JUDGE SD/- JUDGE BL/RSP

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