

KAMS010062412022



SC/292/2022

**IN THE COURT OF THE V ADDL. DISTRICT AND
SESSIONS JUDGE, MYSURU**

:PRESENT:

Sri **Gururaj Somakkalavar**, M.A.,LL.B.,
V Addl.District & Sessions Judge, Mysuru

SC/292/2022

Dated this the 23rd day of April,2025

Complainant: State by : Bettadapura P.S.

[By Public Prosecutor]

V/s

Accused: Suresh @ Kurubara Suresh S/o
Gandhi, aged about 38 years, R/a
Basavanahalli New Extension,
Kushalnagara Town.

[By Sri.B.S.P, Advocate]

Date of occurrence : 12.11.2020
of offence

Date of report of offence : 18.07.2021

Evidence commenced on : 20.02.2024

Evidence closed on : 12.02.2025

Name of the complainant : Smt.Gowri

Offences punishable : U/Sec.498(A), 302 and 201 of IPC.

Judgment : As per final order.

JUDGMENT

The Circle Inspector, Bylakuppe Circle, Bettadapura Police Station has submitted the charge-sheet against the accused for the offence punishable U/Sec.498(A), 302 and 201 of IPC.

2. It is the case that, allegedly deceased Mallige who is daughter of CW-1 Gowri was married to accused Suresh about 19 years back. They have two children by name Krishna and Keerthi. This allegedly deceased Mallige and this accused used to reside in Basavanahalli, Hosahadi village. They use to go to coolie work to the

places around the village and return back to their house. Both had habit of drinking alcohol. Accused suspecting the fidelity of Mallige that she has illicit relationship with others, use to impute both physical and mental cruelty. The said Mallige without withstanding the harassment caused by the accused, on 19.10.2020 she left the house at about 10.00 pm and she did not return. Accused herein went in search of Mallige and on 30.10.2020 at 12.00 noon he met her in Bettangala bus stand of Virajpet taluk. He tried to pacify her that he will not harass her, abuse her and convinced her to come along with him. They boarded a bus to Kushalnagara and got down at Kushalnagara. There, in the Kadamba Bar they purchased 4 tetra packs of 90 ml of original choice deluxe whisky. Both consumed alcohol in two tetra packs. After that, accused took Mallige in one passenger auto brought her to Sulekote cross. They got down from there he took her near the canal of Shanaboganahalli village. There, they again drink another two tetra packs of alcohol. At that time, at about 5.00 to 6.00 pm accused without there being any reason started quarrel with Mallige alleging that she had illicit relationship with others.

Accused with intention to kill Mallige took the club lying beside and assaulted on her head and killed her. In order to conceal the offence, he hide the body in bush and also hide the club used to kill said Mallige. By that, this accused has committed murder of allegedly deceased Mallige and caused disappearance of evidence. With these allegations, the prosecution has launched against accused for the offence punishable U/s.498(A), 302 and 201 of IPC. During the course of investigation the I.O arrested accused and after completion of the investigation IO filed the charge sheet against accused.

3. The committal court after taking cognizance of the charge-sheet registered C.C.No.3696/2022 and committed the case for trial under Sec. 209 of Code of Criminal Procedure, after having complied with the provisions of Sec.207 and 208 of Code of Criminal Procedure. In pursuant to the committal order, on committal of the case, present case has been registered and assigned to this Court for disposal in accordance with law. At the time of committal, the accused is in judicial custody. He represented through his advocate. This court after hearing the accused and counsel on both side perused and found sufficient materials for presuming the commission of offence by the accused and hence framed the

charge against the accused for the offence punishable U/Sec. 498(A), 302 and 201 of IPC. Contents of the charges were read over and explained to the accused. The accused pleaded not guilty and claims to be tried.

4. While submitting the Charge Sheet the IO has cited 55 witnesses, but prosecution examined 08 witnesses as PW.1 to 08 and one Court Witness i.e., Mallige and got marked 23 documents exhibited as Ex.P1 to P.23 and MO-1 to 11 marked. In the meantime, the allegedly deceased Mallige is traced and produced before the court. The allegations against accused are become redundant. Hence, the prosecution evidence is closed. Since there is no incriminating evidence against accused hence statement U/s.313 of Cr.P.C., is dispensed with.

5. Heard the arguments of the learned P.P. and the counsel for the accused. Perused the oral and documentary evidence available on records.

6. In the light of above materials and allegations of prosecution, following points are arises for my consideration:-

(1) Whether the Prosecution has proved the case beyond all reasonable doubt for the offences

punishable U/Sec.498(A), 302 and 201 of IPC ?

(2) Whether the accused is entitle to be acquitted honourably?

(3) What Order?

7. This court upon appreciation of available materials, with reference to prevailing legal aspects, give findings to the above points as follows:-

Point No.1 : In the negative

Point No.2 : In the affirmative

Point No.3 : As per final order for the following:

REASONS

Point No.1 and 2:

8. This present case is one of the strange uncommon and exception in itself. The reason for this expression will get clarify in the later part of the judgment. As described above, it is one of the strange case, it is appropriate to note as, it is the case of the Investigating Agency or police, instead of noting as, case of the prosecution. It is the narrative of the police/ Investigating Agency that this present allegedly deceased

Mallige who is daughter of CW-1 Gowri was married to accused Suresh about 19 years back. They have two children by name Krishna and Keerthi. This allegedly deceased Mallige and this accused used to reside in Basavanahalli, Hosahadi village. They use to go to coolie work to the places around the village and return back to their house. Both had habit of drinking alcohol. Accused suspecting the fidelity of Mallige that she has illicit relationship with others, use to impute both physical and mental cruelty. The said Mallige without withstanding the harassment caused by the accused, on 19.10.2020 she left the house at about 10.00 pm and she did not return. Accused herein went in search of Mallige and on 30.10.2020 at 12.00 noon he met her in Bettangala bus stand of Virajpet taluk. He tried to pacify her that he will not harass her, abuse her and convinced her to come along with him. They boarded a bus to Kushalnagara and got down at Kushalnagara. There, in the Kadamba Bar they purchased 4 tetra packs of 90 ml of original choice deluxe whisky. Both consumed alcohol in two tetra packs. After that, accused took Mallige in one passenger auto brought her to Sulekote cross. They got down from

there he took her near the canal of Shanaboganahalli village. There, they again drink another two tetra packs of alcohol. At that time, at about 5.00 to 6.00 pm accused without there being any reason started quarrel with Mallige alleging that she had illicit relationship with others. Accused with intention to kill Mallige took the club lying beside and assaulted on her head and killed her. In order to conceal the offence, he hide the body in bush and also hide the club used to kill said Mallige. By that, this accused has committed murder of allegedly deceased Mallige and screen the evidence. With these allegations charge sheet is laid against the accused for the offences punishable U/s.498(A), 302 and 201 of IPC.

9. As described above, this is a strange and uncommon case. The entire case filled with sequels of facts. Every fact has got inter connected to another. It is important to analyze sequel of facts to unearth the real truth in the present case. It is to be appreciated that there are two sets of sequel of facts get unfolded throughout. Those facts run parallel to each other and get connected at one point of time. If those facts are

appreciated, on one side an unknown dead body under unnatural circumstances was found, at the same time parallelly key person in the present case i.e., Mallige leave her house and get missing. These are the starting points. After that the sequel of facts get reveal one by one.

SEQUEL of FACTS:

10. As stated above, there are two sets of facts gets unfolded they are:

One Natesh CW-10 inform police about one unknown dead body on 12.11.2020. On the basis of that information police visits the spot and found unknown dead body in decomposed condition. After that UDR was registered in UDR No.33/2020 on 12.11.2020. After registration of the UDR, spot mahazar was drawn on the very same day i.e., on 12.11.2020. The mahazar describes the condition of the body as well as the place under which the said body was found. At the spot inquest was drawn in presence of Satish CW-4, Shanmuga CW-15, Ganesha CW-16. In the inquest it is

noted that except the few parts, entire body got decay and there is skeleton remains. It is also noted that near the dead body there was one flower designed red color saree, one black and green stripe sweater, one blue color petticoat, one blue color blouse were found. The dead body was found in the land of Puttaraju CW-9 near the Harangi Canal. After drawing of the inquest, the dead body was sent to Medical College for autopsy. On 13.11.2020 post mortem was conducted from 3.00 pm to 4.00 pm by Dr.Dayanand CW-33. After conducting autopsy, the said dead body which is nothing but skeleton was cremated on 13.11.2020 in presence of CW-21 Mahamed Saddam and CW-22 Saif. The skull and femur bone were preserved for forensic examination.

11. When these facts were getting unfolded, at the same time parallely another development is taking place. On 19.10.2020 Mallige said to have left her house upset with her husband i.e., accused. After that she got missing. On 13.11.2020 her husband i.e., accused herein has lodged information i.e., missing complaint before Kushalnagara police with her photographs and

details. The said missing complaint was registered in Cr.No.92/2020. When facts getting unfolded at this point both sets of facts, which are running paralelly get connected. It can be said that, they are made to connect each other by investigating agency. These are the two sets of facts which got unfolded in the present case.

INVESTIGATION DETAILS OF INVESTIGATING AGENCY:

12. As per police or investigating agency they conducted investigation in the case. Noting of those details are essential to reach right conclusion. The narrative or version of the investigating agency is that on 12.11.2020 one unknown body was found by one Natesha CW-10. He informed to the police and lodged written information on the very same day. On the basis of his written information UDR No.33/2020 was registered. After that CW-52 Jeethendra Kumar visited the spot. There, a spot mahazar was drawn in the presence of witnesses. Subsequently, inquest also drawn on the said unknown dead body. The said dead body was sent to Medical College for post mortem. Post mortem was

conducted on 13.11.2020. Subsequently, except the femur bone and skull which is preserved for forensic examination. The said unknown body was cremated on the very same day i.e., on 13.11.2020.

13. It is further narrative of the investigating agency that parally Mallige left the house of her husband on 19.10.2020. After that on 13.11.2020 her husband i.e., accused herein has lodged missing complaint before Kushalnagara Police, same was registered as Cr.No.92/2020. The information regarding the unknown dead body was published in news paper. However, nobody has claimed the same.

14. As per the further version of the investigating agency, CW-54 Maheshkumar PSI Bettadapura Police Station has called mother and son of Mallige. They were asked to identify the clothes found near the unknown body. As per the version of the CW-54, mother and son of Mallige have identified those clothes said those belongs to Mallige. After identifying those articles and clothes, mother of Mallige CW-1 Gowri has lodged written information on 18.7.2021. The said information was

written by son of Mallige i.e., CW-2. After receiving of the said written information on 18.7.2021, FIR registered in Cr.No.145/2021. After that, investigation in the case was proceeded.

15. On 30.11.2020 the information about the articles seized in UDR No.33/2020 i.e., 90 ml original choice deluxe whisky empty packets was sought from distributing agency. It is found that those tetra packs were supplied to one M.S.Jayanth, M.B. Road, Kushalnagar Town. CW-54 has received the documents.

16. Subsequently, on 7.1.2021 the articles which are recovered at the time of post mortem from unknown dead body was sent to RFSL. As per further narrative of the investigating agency, they continued the investigation, on 5.5.2021, CW-54 has recorded the statement of Puttaraju CW-9 who is the owner of the land where the dead body was found, Anilkumar who was present at the time of recovering of the dead body and Maju who was present at the time of drawing the mahazar of cremating the body.

17. On 15.5.2021 this CW-54 recorded the statement of Ravi CW-12, Ganesh CW-13.

18. On 2.6.2021 recorded the statement of Suresh S/o Sannappa.

19. On 15.7.2021 CW-54 received RFSL report with regard to the viscera. Where, it is reported that there are no poisonous substance found in the said viscera.

20. On 18.7.2021 this CW-54 as there was a missing complaint about Mallige has called the mother of Mallige and she was asked to identify the clothes found on unknown dead body. As per say of police, she identify the said clothes. After that she lodged written information that the clothes belongs to her daughter and somebody has killed her. On the basis of the said information, Cr.No.145/2021 U/s.302, 201 of IPC is registered and the FIR was sent to the Court. After that the records were transferred to CPI i.e., CW-55 for further investigation.

21. On 30.7.2021 CW-55 took the charge and taken up the investigation in the present case. It is

further narrative of the investigating agency that on 16.8.2021 CW-55 submitted requisition to Tahasildar to furnish RTC and revenue records of Sy.No.29, where the dead body was found. Also submitted requisition to send the records in UDR No.33/2020 U/s.174(c) of Cr.P.C to JMFC Periyapatna. Further, submitted requisition to furnish the sketch of the place where the dead body was found.

22. On 17.8.2021 CW-55 has submitted requisition to furnish further opinion on the post mortem report about cause of death of deceased and also to note name as Mallige in the post mortem report.

23. On 20.9.2021 he received the sketch from the Engineer of the crime scene i.e., where the dead body was found.

24. It is further narrative of the investigating officer that on 27.9.2021 he has received the femur bone as well as skull of deceased Mallige, which are preserved in UDR No.33/2020.

25. He submitted requisition to Court to keep those articles, to send them for DNA FSL and also submit to court that, since the identity of the dead body was found and also the heirs of the said person were identified, he has not sent skull to FSL Hyderabad for super imposition. Further, requisition was submitted seeking permission to cremate the said skull.

26. On 4.10.2021 the blood sample of mother Gowri of deceased Mallige was taken with the permission of the court and same was registered in PF No.185/2021. The blood sample of Gowri mother of Mallige and femur bone of unknown body sent to FSL Bangalore through PC 205 Madhu for DNA profiling. After that, since the skull is not required for further investigation, the same was cremated in the forest area of Bettadapura infront of ITI College.

27. After that on 22.10.2021 further statement of Puttaraju, Anilkumar and Manju was recorded.

28. On 20.4.2021 he has recorded further statement of Ravi.R, Ganesh, Suresh S/o Sannappa, Krishna S/o Subramani.

29. On 26.10.2021 he recorded the further statements of Satish, Shanmuka, Ganesh and Harish.

30. On 28.10.2021 he has recorded further statements of Mahamed Saddam, Saif. On 1.11.2021 statement of Natesh was recorded.

31. On 3.11.2021 IO received the further opinion about cause of death, on the basis of the post mortem report from the doctor.

It is further narrative of the Investigating Officer that since 18.7.2021 when the case was registered, the suspect of murder of Mallige was not traced, on 22.5.2022 he instructed Prakash M Yathinmani CW-53, CW-47 Devaraju to trace the accused. On 22.5.2021 the said CW-53 Prakash M Yathinmani and Devaraju traced suspected accused husband of Mallige i.e., accused herein Suresh S/o Gandhi and brought him before the investigating officer at about 1.30 pm. The said accused was interrogated. As per the narrative of the Investigating Officer. Accused has confessed that he has committed murder of deceased Mallige and he also narrated the manner of commission of offence in his

voluntary statement. As per the IO the accused ready to produce the said iron road, which is used for commission of offence.

After that on 22.5.2022 he has called the panchas i.e., Sanaulla and Nagegowda to be present while drawing mahazar. After that the IO, panchas and the accused proceeded in departmental vehicle towards crime spot as instructed by the accused. They stop near Bettangala bus stop and accused informed that he met his wife at that spot and convinced her to come along with him. At that spot, mahazar was drawn from evening 4.45 pm to 5.15 pm and also photos were taken.

Further, they proceeded from Bettangala bus stop to Kadamba Bar where the accused and Mallige purchased alcohol. There also a mahazar was drawn from 6.30 to 7.00. Since, there was a night they continued the investigation to the next day.

On 23.5.2021 accused took them to crime spot and shown place where he committed murder of Mallige and also took out the wooden club and produced stating that

with the said club he has assaulted Mallige. Mahazar was drawn on the spot on 11.00 am to 12.00 noon.

After that, on 26.5.2022 the IO has received opinion about the weapon from the doctor. On 24.6.2022 he received the FSL report about the weapon i.e., wooden club. On 23.7.2022 he received the statements recorded U/s.164 of Cr.P.C. He has recorded the statements of the witnesses from 20.5.2022 to 23.5.2022.

32. As per the IO on analyzing the evidence prima facie he has found that accused has committed the murder of his wife Mallige. After that on 23.7.2022 he has submitted charge sheet U/s.498(A), 302 and 201 of IPC that accused herein has committed murder of Mallige and caused disappearance of the evidence.

33. This is the narrative of the entire investigation carried on by the investigating team i.e., CW-51 to CW-55. It is the specific case of the investigating agency that the unknown dead body found on 12.11.2020 is of Mallige and the said Mallige is dead. Accused herein has committed the murder of Mallige by assaulting on her head and conceal the dead body in bush on the land of

Puttaraju CW-9. It is the explanation of the investigating agency that on 12.11.2020 the said dead body when found, immediately accused herein has lodged missing complaint on 13.11.2020 to conceal the fact that he himself has committed the murder and hatched a plan to escape from the allegation of murdering his own wife. However, during the investigation, the investigating agency has, with all efforts unearth the secrets hidden in the mysterious murder of Mallige and accordingly they have submitted charge sheet.

THE TRIAL:

34. Now, coming to the next development, which took place in the present case before the court. Accused was arrested and remanded to judicial custody, as there are serious allegations against him that he has committed murder of his own wife and the offences alleged are U/s.498(A), 302 and 201 of IPC. The case was committed to the court for trial. After committal of the present case, the charges are framed against accused and the matter is set for trial to find out real facts in the case. During the trial 8 witnesses are examined as PW-1

to 8, witnesses are CW-1,2,6,7,9,10 and CW-11. It is to be appreciated that all these witnesses have not supported the case of the prosecution. Mother of Mallige by name Gowri and son of Mallige by name Krishna PW-4 and 5 have categorically stated in their testimonies that they have not identified any clothes said to have belongs to allegedly deceased Mallige. They have categorically stated that the police have informed and forced them to identify them. PW-5 son of Mallige i.e., Krishna has categorically stated that he and his grandmother has not lodged any information to the police about the death of his mother. The said complaint/information was written by him on the say of the police. He does not know the contents of the same. These PW-4 and 5 Gowri mother of Mallige, Krishna son of Mallige have stated that Mallige is alive and she elope with Ganesha. They don't know whereabouts of Mallige. They have not made any attempt to trace her.

35. When these witnesses have specifically stated that she is alive and elope with somebody, this court has issued notice on 10.7.2024 to submit clarification about

the charge sheet, as the witnesses have categorically stating that Mallige was alive. On 20.8.2024 IO CW-55 appeared before the court and he justified his investigation and filing of the charge sheet. He categorically states that the dead body is of Mallige, which is identified by the witnesses themselves and on the basis of the same, investigation is carried on and charge sheet is filed. After that, the trial is proceeded to find out the real facts.

TURNING POINT:

36. Then comes the turning point in the entire case. On 2.4.2025 counsel for accused submit advancement application. It is submitted that the said Mallige who alleged to have been dead was alive and she was found in Madikeri by Suresh S/o Raju i.e., CW-8 herein. On the basis of the said submission, the court has directed SHO Bettadapura Police to produce the said Mallige before the court. On the very same day, the said Mallige was produced before the court. This court has inquired to the identity of the said Mallige. She was asked to identify her mother, son, husband, in-laws.

Even the mother, son, husband and other in-laws also asked to identify her. Mallige identified her mother, son and husband and also in-laws. Even they also identified Mallige. She has categorically stated that, she was living with her second husband Ganesh at Madikeri since 2020. She also categorically stated that, she has gone with Ganesh. After thorough inquiry, it is found that Mallige who said to have been dead and alleged that accused has committed murder, was alive and present before the court. The court has taken steps for further inquiry in the case and directed CW-51 to 55 and Superintendent of Police, Mysuru to be present before the court on 3.4.2025.

37. On 3.4.2025 CW-51, 53, 54 and 55 and Superintend of Police, Mysuru are present. The court has asked explanation from all the investigating officials i.e., CW-51, 53, 54, 55 as to whom they said to be dead that Mallige is alive. They have submitted their explanation justified their investigation. All the proceedings are noted down and recorded. The Superintend of Police, Mysuru is directed to submit a report by 17.4.2025. The said

Mallige is placed in the State Women run by Women and Child Welfare Department till 9.4.2025. On 9.4.2025 Mallige was produced before the court. Since version of Mallige and her statement is very crucial in the case to ascertain the real truth. She has been examined as court witness. The testimony of Mallige is recorded. In her testimony she has categorically stated about her marriage, children. She also stated that, there was a matrimonial dispute between husband and wife and she is not interested to live along with her husband i.e., accused herein. In the year 2020 she went along with Ganesh to Bettangala. They went to Coffee Estate belongs to one Bavya Chatti and resided there. She do not know any development took place, which took place, after she left the house. Nobody has tried to trace her. She do not know about attempt made to trace her and lodging of the missing complaint.

She categorically stated that on 1.4.2025 she and Ganesha traveling to Dharmastala and came down to Madikeri from Bettangala village. At that time police have traced them at Madikeri and taken to police station.

They identified themselves as Mallige and Ganesha. She also narrated that she was taken to Madikeri court and her statement was recorded. After that she was brought before this court.

During her testimony, she was confronted with the narration of the IO stated in the charge sheet. She has categorically denied that on 30.10.2020 at about 12.00 noon she met Suresh, he took her to Kushalnagara. She has denied that they purchased alcohol from there, they went to Sulekote cross, accused took her to Shanboganhalli village and made her to drink alcohol and after that he quarreled with her and in the quarrel he took the club and assaulted her. All the narrations and the case of the police was categorically denied by her. She has also not identified the clothes, which said to have been seized from the place where the unknown body is found and said to have belongs to her. She states that nothing has happened as stated in charge sheet. She categorically stated that she never met any member of her family. She hardly come out from the coffee estate.

She denied every inch of the case of the investigating agency.

38. After recording of the statement as a court witness, she was permitted to go her village. After that, on 17.4.2025 Superintend of Police has submitted report, recording the statement of Mallige and other witnesses and also the statements of the investigating officials.

VOICE OF WITNESSES:

39. On appreciation of the entire material on record, there are serious allegations leveled against the accused that, he imputed cruelty on his wife Mallige Suspecting her fidelity. Infurtherance of his plan, he traced Mallige on 30.10.2020 near Bettangala bus stop. He pacified her, convinced her and took her to the crime spot and assaulted her with the club and killed her. By that he has committed offence U/s.498(A), 302, 201 of IPC. The charge sheet submitted by the IO i.e., CW-55, which said to be the collection of incriminating evidence against the accused filled with number of documents. The documents pertaining to the information about both UDR and the subsequent information on 18.7.2021 by

CW-1, statement of witnesses, mahazars, photographs, medical reports, FSL reports and other documents. Basing upon the charge sheet material, believing the same, charges are framed against the accused for the offence U/s.498(A), 302 and 201 of IPC. Subsequently, the prosecution has examined 8 witnesses, until the dead Mallige came alive in this case on 2.4.2025. If those testimonies of the witnesses are carefully appreciated they are completely opposite to the case of the IO.

40. The investigating agency has noted six key witnesses who has given their statement during investigation pointing at the accused that he is the culprit. As per the investigating agency apart from CW-1 and 2 who are the family members of the deceased, three independent witnesses i.e., CW-6, 7 and 8, are the key witnesses in the present case. As per the IO, the statement of these witnesses made him to investigate and suspect the accused regarding his involvement in the murder of Mallige. This CW-8 is the Suresh S/o Raju who is examined as PW-3. As per the IO this Suresh is the friend of this accused, before whom the accused

herein has made extra judicial confession under the intoxication and disclosed him that he has suspected his wife that she had illicit relationship with some other person and accused said to have explained the manner of commission of offence and he confessed before Suresh CW-8 that he assaulted on the head of Mallige i.e., his wife and killed her and further conceal body in the bush at Shanboganahlli village. As per IO, this witness is the key witness, before him the accused has made confession about killing his wife. The IO has recorded his statement on 21.5.2022, same is marked as Ex.P.7 when the prosecution treat him hostile.

41. As per IO, PW-1 Sharath S/o Raju and PW-2 Jeevan K.M S/o Muthu.K are the eye witnesses, who have seen the deceased and accused together last. As per IO, this Sharath in the last week of October after the work in a farm at Virajpet, he came to Bettangala bus stop and waiting. At that time Mallige known to him was also standing there. At the same time, her husband Suresh came and tried to pacify her. After convincing her, he took her to Kushalnagara in a bus. He has seen both

husband and wife i.e., accused and Mallige together at Bettangala bus stop. After that, his further statement was recorded at Ex.P.3 after the incident at bus stand, he came to know that accused took her to crime spot and assaulted with the club and killed her.

42. Apart from this PW-1, as per IO another witness PW-2 Jeevan K.M., he has seen Mallige and accused Suresh in front of Kadamba Bar in the last week of October 2020. His another statement was recorded at Ex.P.6 that he came to know that after spotting accused and deceased near Kadamba Bar, accused took her to crime spot and killed her. These two witnesses i.e., Sharath PW-1 and Jeevan PW-2 had given their statement before Magistrate U/s.164(5) of Cr.P.C. Sharath has specifically stated that, he has seen Mallige and Suresh at Bettangala bus stop in the last week of October 2020. Jeevan stated that, he has seen accused and Mallige in front of Kadamba Bar in the last week of October 2020.

43. As per IO, these are the three key witnesses whose statements have made to suspect the accused. These three witnesses PW-1 to 3 are examined before the

court and they have given their testimonies. They have testified opposite to the statement recorded before the IO. Sharath categorically stated that he do not know whether Mallige is alive or not. He do not know about the death of Mallige. He do not know what is the case registered against the accused. He has not given any statement before the police. He has not given voluntary statement before the Magistrate. He has stated before the Magistrate as per the say of the police. The prosecution treat him hostile and subjected him to cross-examination. But he withstood his version that he do not know anything about accused and Mallige. The complete statement recorded U/s.161 of Cr.P.C., by IO is confronted, but he denied every aspect noted in the statement U/s.161 of Cr.P.C.

44. Likewise, PW-2 Jeevan K.M also examined, who has also stated that, he do not know whether Mallige was alive. He also not aware what is the case registered against the accused. He has not given any statement before the police. He specifically states that, he has given statement before the Magistrate as per the say of

the police. He also been subjected to cross-examination by the prosecution treating him hostile. Here also the witness is confronted with the statement recorded by the IO. Where, he completely denied the aspects stated in the statement U/s.161 of Cr.P.C.

45. Further, prosecution has examined PW-3 Suresh S/o Raju, it is said that before whom the accused has made extra judicial confession. In the testimony he has stated that, he do not know whether the wife of Suresh, Mallige was alive or dead. He came to know that his wife elope with somebody in the village. He do not know about Suresh lodging missing complaint. He do not know that the dead body of Mallige was found in decomposed condition. He specifically stated that, accused has not stated anything before him with regard to death of his wife. He has not given statement before police or the Magistrate. This witness has also been subjected to cross-examination and statement U/s.161 of Cr.P.C., is confronted, but he withstood his version as stated in the chief-examination.

46. These three witnesses have categorically stated that, they do not know anything in the present case. Neither they have seen the deceased and accused together last, or the accused has confessed before Suresh S/o Raju. As per the IO these are the key witnesses in the entire case. Now under given facts and circumstances when the Mallige was found alive, there is a question raise as to the recording all those statements by the IO inflicting accused herein.

47. That apart, the prosecution has examined PW-4/CW-1 mother of deceased Mallige. She also categorically stated that she has not identified the clothes of the deceased. She specifically stated that her daughter has left the village along with Ganesh and they have not made any attempt to trace her. When the police called her she has specifically stated to police that, her daughter is alive and she is nearby Gonikoppa. She also been subjected to cross-examination by the prosecution, but she completely denied all the suggestions put to her.

48. Further the prosecution has examined PW-5/CW-2 Krishna son of Mallige. He has testified that, his mother is alive, but he do not know her whereabouts. His relative Suresh has seen her near Kutta village. He also testified that he do not know the contents of Ex.P.10 information dated 18.7.2021. He has written the said information as per the say of the police. He also testified that he came to know a case is registered against his father that he has killed his mother. He also testified that, he has not given any statement before the police. He has been subjected to cross-examination by the prosecution, where he denied completely the suggestions put to him.

49. Apart from these witnesses, the prosecution has examined Puttaraju as PW-6/CW-9 the owner of the land, where the unknown body was found. Another witness Natesh as PW-7/CW-10 who has first seen the unknown body at the land of Puttaraju and also another witness PW-8 who said to be the mahazar witness drawn at the spot where the dead body was found. These three witnesses who said to have been informed about tracing

of unknown dead body have also not stated anything in the line of story of police.

50. PW-6 only stated that, he came to know that near his land at Harangi Canal unknown dead boyd was found, except that, he does not know anything. He do not know what the police have done with said body.

51. Further, PW-7 Natesh testified that, in the year 2020 when he was grazing the cattle near the land of Puttaraju his uncle, he found foul smell. He return back to his village in the evening and called police about that smell. Next day morning he grazing the cattle near the canal, police called him and asked him to show the place where the smell is coming, he has shown the place. At that spot, police have received one signature on the blank paper. He has not lodged any information as per Ex.P.17 information dated 12.11.2020. He do not know the contents of the same. He specifically stated that no articles were seized in his presence by police. He shown the body and went away. He came to know that, after some time, the dead body was taken by the police. Except that, he do not know anything. He has been

subjected to cross-examination by the prosecution. But he denied the entire version stated by the prosecution.

52. Further, prosecution has examined another witness PW-8 Anilkumar. He testified that, he do not know about the drawing of mahazar, where the dead body was found. He has not given any statement before the police. His entire statement was confronted to him, but nothing is elicited by the prosecution in the line of their story.

53. If the testimonies of PW-6,7 and 8 is analyzed with their statements recorded U/s.161 of Cr.P.C, by the IO is completely opposite.

54. On appreciation of these testimonies of the witnesses, they have completely denied the version or the story built up by the investigating agency. Not even single witness has stated anything, which is in align with the story of the IO or the prosecution. These clearly make the court to suspect the statements recorded by the IO, in the presence of Mallige being alive. It appears that, the entire statements were created for the sake of this case. Since Mallige found alive and entire charge

sheet come under scanner. The court found that there is no need for further evidence and the prosecution has not placed any credible evidence in support of the allegation against accused, prosecution evidence is closed and proceed to pass order.

55. It is to be appreciated that the emergence of dead Mallige alive make entire case come under cloud of suspicion. The statements loose relevancy. All the so called incriminating evidence collected by IO fall and shatter. Under facts and circumstances of the case offences alleged against accused do not constitute. The person who said to be killed by accused is very much alive. Certainly the offences alleged against accused fell flat. But, it give rise to very suspicion on the case of police. The intention and conduct to build the false case. It is to be appreciated that, the witnesses have not stated their version after Mallige found alive. But they given their testimonies much prior to Mallige emerging alive. This crucial aspect points at what they are saying is truth, the same cannot term as hostile or false.

Likewise, the documentary evidence comes under scrutiny they have to be seen suspiciously. Certainly the facts and circumstance leads to conclude that offences alleged do not attract to accused. But it give rise to serious issues as to whether innocent person is framed in false case. Though, the offences are not attract to accused, once Mallige found alive. But the deeper analysis is needed to ascertain the real truth. For that dissection of charge sheet is necessary.

ANALYSIS:

56. The story of the investigating agency is that, accused herein is the main culprit. He has imputed cruelty on his wife Mallige, suspecting her fidelity. This Mallige has left the house along with somebody. Accused traced her near the Bettangala bus stop on 13.10.2020 convinced her, took her to Kushalanagara in bus. Both consumed alcohol near Kadamba Bar. After that in a passenger auto this accused took her to Shanboganahalli village, they again consumed alcohol. At that time, this accused quarreled with her questioning her fidelity that she had illicit relationship with some other person and in

the quarrel he grab club lying there, assaulted on her head and killed her. After that, he conceal the dead body in the bush and came down to village. It is further narrative of the investigating agency that on 12.10.2020 an unknown body was found, which is of Mallige. Accused got frighten that he will come under the radder of the police and to escape from the offence, immediately, he gave one false missing complaint on 13.10.2020. Paralally this investigating agency carried on the investigation inrespect of that unknown body. After that on 18-7-2021 the mother of allegedly deceased Mallige has identified the clothes, which are preserved seizing from the place where the dead body was found. After that, this Gowri mother of Mallige lodged information which is written by CW-2 son of Mallige by name Krishna. After lodging of the same, FIR registered in Cr.No.145/2021. They carried on investigation in Cr.No.145/2021. After that, they suspected that accused is the killer and he was arrested with the allegation that he killed his wife Mallige.

57. The IO found the statements of three key witnesses i.e., Sharath, Jeevan, Suresh S/o Raju and the statement of these witnesses and identification of the clothes by Gowri had made to suspect that accused is the killer. It is to be said harshly that the entire case is scripted and evidence are fabricated. There is a strong reason for these observations.

58. The first and foremost thing is that, it is true, an unknown dead body was found in the land of Puttaraju in decomposed condition. The identity of the said body is not possible, as it is almost decomposed, except the some parts. In the entire body only skeleton are remain. It is also the fact that this Natesh has informed to the police about foul smell found in the land of Puttaraju. Except that, he does not know anything in the entire case. This Puttaraju came to know that unknown dead body in decomposed condition found in his land. He has no personal information about anything in the case.

59. It is also true facts that Mallige the key person in the entire case left the house of her husband as there is a matrimonial dispute between husband and wife and

as she is not interested to lead life with Suresh accused herein. She went away along with Ganesh to Coorg and both of them resided in the Coffee Estate of one Bavya Chetti. She does not know anything that missing case is registered. An attempt is made to trace her. She do not know that case is registered against her husband that he killed her. She has absolutely no idea about these developments taken place after she left house. Now, she has come alive mysteriously she is alive and breathing. Mallige as per the IO who is killed emerged before the court. Now when she came before the court living and breathing, the entire case built up by the investigating agency clearly come under scrutiny and has to be suspected. There is a clear reason to suspect the story built up by the IO or the investigating agency. Now, it is clear that the unknown dead body found in the land of Puttaraju, does not belongs to Mallige.

60. Now, there are three questions arise, one to whom the dead body belongs and why it is not been traced for such a long time. The second question is, why the accused is suspected and charge sheet is filed

alleging that accused himself has killed Mallige. What are the compulsions for the investigating agency to suspect accused and to file charge sheet against him. That another important question is whether investigation is bonafide mistake or not. To the first question still there is no answer. But, answer to question No.2 and 3 to be find out.

(a) The entire case of the investigating agency is scripted. This expression is made by the court, as because nothing is happened as narrated by the investigating agency in the entire case. As per the investigating agency accused traced Mallige on 30.10.2020 at 12.00 noon at Bettangala bus stand, took her to Kushalnagara in bus, they had alcohol. He took her to Shanboganahalli village in a passenger auto near the land of Puttaraju quarreled with her, assaulted her with club and killed her. This entire narration is fabricated and false. To support this narration, the statements of the witnesses are also created, mainly PW-1 and 2 Sharath and Jeevan. When Mallige was examined as a court witness, this entire narration of the

IO is read over to her and explained to her. Where, she has categorically stated that, she was not there at Bettangala bus stand on 30-10-2020. She never met accused, they have not gone to Kushalnagara and then to Shanboganahalli. If Mallige was alive and she was not gone to bus stand and to Kadamba Bar at Kushalnagara. There is no question of this Sharath PW-1 and Jeevan PW-2 seen both husband and wife together at Bettangala Bus stop and at Kadamba Bar in Kushalnagara. Then the question arises why these statements were created by the investigating officer, as if, they have seen Mallige and accused together last, before the said Mallige was found dead. These PW-1 and 2 have categorically stated that, they have not given any statement before the police. Even the PW-1 and 2 has stated that, they have given statement before Magistrate on the say of police. Why these two witnesses were created for the sake of this case to substantiate 'last seen' is to be answered by the IO. There is no necessity or compulsion for creating these witnesses just to prove case. It is clear that the statement of these witnesses are created and fabricated

for the sake of this case and just to implicate the accused herein in the present case.

(b) Now, the statement of Suresh PW-3 as per IO before whom the accused has made extra judicial confession. His statement is also fabricated and created. This Suresh has specifically stated that accused has never stated anything about the death of his wife. It is unacceptable to say that when the accused himself has not killed his wife as narrated by the investigating agency, there is no question of him confessing before his friend i.e., Suresh that he himself has killed his wife in the manner narrated by the police. This statement of PW-3 is also fabricated and it is planted to prove that there is confession by accused regarding commission of offence.

(c) The strong argument of the IO is that, the mother of Mallige and her son have identified the clothes, which are found near the place where the unknown dead body was traced. It is not understandable why would the mother and son of Mallige identify those clothes, when they were categorically, specifically saying that Mallige was alive. However, it is to be understood that there is a

possibility this mother of Mallige was rustic villager and they had grievance, anger against her daughter Mallige that she eloped with some other person and she is not traceable for long period of time. They might have under frustration stated that may be those clothes belongs to Mallige. But, the IO has to investigate the case independently finding out the other corroborative evidence that the dead body does belongs to Mallige. There is absolutely no attempt were made by the IO to ascertain whether the dead body is really of Mallige.

Even though, if the argument of the IO is taken that mother of Mallige has identified those clothes, what made him to create the statements of PW-1 to 3 that they have seen Mallige and accused together. Infact the IO taking que from the unclear statement of mother of Mallige, it seems that he has scripted entire story, which has never happened on the earth. This clearly shows that the evidences are manipulated by the IO in the present case.

(d) The another surprising and shocking creation of evidence by the IO is that, the statement of the person who was there in the bar by name Naveen. It is

recorded in the statement U/s.161 of Cr.P.C by the IO that this Naveen, the person at Kadamba Bar, Kushalnagara has seen both accused and Mallige together and they have purchased alcohol in Tetra Packs. As discussed above, the entire facts as narrated by the IO has not at all happened. When such being the case where is the question that Naveen bar person identifying the accused and Mallige together purchasing alcohol. They never went near the Kadamba Bar as per the testimony of this Mallige herself. This clearly visible that the statement of this Naveen is also fabricated.

(e) The another fact to be appreciated is that the clothes seen at Ex.P.18 photographs found to be on the unknown decomposed body and the material objects placed in the present case before the court are totally different. As per the narrative of the IO, the dead body of Mallige was lying in the bush at the land of Puttaraju, where the animals have eaten her body, the same got decomposed and the only skeleton are remain. It is interesting to note here that, though, it is narrated that the animals have eaten the body when the clothes are on

the unknown body, but the material objects placed on record does not have even single hole or scratch, tear on the clothes. They are so clean, neat and has no damages. Though, there is a red color saree, but it has no damages. Apart from that a petticoat, under garments are not have a single tear. Though, they seems to be old, but does not appears to be found from the dead body of decomposed condition. When it is stated by the IO, the animals have eaten the body, the clothes ought to have been torn. They ought to have been scattered and ought to have been stained with blood, mud and filth. But, when those articles are seen produced before the court, they have no stains or filth, blood or even torn at any place. It is not understandable which animal has eaten the dead body without tearing the clothes. The entire evidence is so manipulated just for the heck of this case.

It is the narrative of the IO that near the unknown dead body two Tetra Packs are seized. That made the IO to build story that this accused and Mallige purchased 4 Tetra Packs original choice deluxe whisky, they drink two

packs near Kadamba Bar and after that they went to Shanboganahalli village near the land of Puttaraju drink another two Tetra Packs of alcohol and those Tetra Packs found near the dead body.

It is to be appreciated that, from the day when Mallige left the house and got missing on 19-10-2020 till the unknown dead body was found on 12-11-2020 there was gap of 20 to 24 days. As per the IO, those Tetra Pack, Bingo chips packet, plastic cup was lying at the crime spot. As per the IO, himself accused took Mallige from Bettangala bus stop to this crime spot on 30-10-2020 and the dead body was found on 12-11-2020. There was gap of 12 days. When these articles were carefully observed they don't even have stain of mud on them. The Bingo packet has no dust or even the Tetra Pack has stain of mud. They are so clean. It is interesting to note that, for about 12 days they are lying without stain when entire body of a person get decomposed in such environment.

These clearly indicates that, those articles seems to be does not belongs to the present case. They might

have been lying near the place where the dead body was found. But the creativity of the IO is so high that he built up story and written a script that these two accused and Mallige purchased tetra pack at Kadamba Bar, where they never went and came down to crime spot, drink alcohol in those tetra pack and thrown on the spot and they are found with the dead body of Mallige. So cleverly drafted the script taking out the each of the details from the crime scene.

(g) Manipulation of evidence gone to the next level. As per the IO accused was arrested on 22.5.2022. He was interrogated. He has confessed that he has killed his wife Mallige in the manner narrated in the charge sheet Col.No.17. His voluntary statement is recorded. Where, he also stated that, if he was taken, he will show the crime spot and also weapon used for the commission of offence. As per the IO, on 22-5-2022 accused took the IO, mahazar witnesses to Bettangala village bus stop. Where, he first traced Mallige. After that, he took them to Kushalnagara near Kadamba Bar. Where, they have purchased alcohol. As per IO, spot mahazar was drawn

on 22-5-2022 in the presence of witnesses. After that on 23-5-2022 accused took them to Sulekote cross at Shanboganahalli village. Where, the Mallige and accused got down from passenger auto. Then, he took them to the crime spot at the land of Puttaraju in Shanboganahalli village. He shown the place crime spot, where he killed his wife. After that he took out the club from the bush and produced the same, which is the weapon in the case. At that time mahazar was drawn in the presence of witnesses. So, as per IO, on the disclosure of the accused, the crime scene was detected and also the weapon used for the commission of offence was recovered and seized.

It is very interesting to note here that, as discussed above the testimony of Mallige clearly shows that they never went to Bettangala bus stop from there to Kadamba Bar and from there to Shanboganahalli. That means, accused also not went to all these places. It is important to note that, how can accused take IO and panchas to the crime spot, when he himself has not gone there, how can he know all these spots, when he himself

has not gone along with Mallige. This shows that, the voluntary statement of accused and recovery mahazar dated 22.5.2022 and 23.5.2022 are fabricated. There is no question that accused can taken them to those places i.e., Bettangala bus stop, Kadamba Bar at Kushalnagara and Sulekote cross and then to crime scene as the accused himself has not at all visited the spot.

The IO went further and created the statements of even mahazar witnesses i.e., Sandesh Gowda CW-9, Sanaulla CW-26 and Nagegowda CW-27, Mallesha CW-28. Their statements were created to prove that accused has taken them to the crime spot and produced the weapon. As discussed above, under the given facts and circumstances, these witnesses are manipulated as nothing has happened as narrated in the charge sheet. The entire mahazars dated 22.5.2022 and also 23.5.2022 are created for this case. Even the photographs which said to have been taken at the time of drawing the mahazar were also been created. The accused was taken to those spots and he made to stand and photos are taken.

(h) The another interesting point to be noted here is that, the seizure of wooden club on the disclosure of the accused. As per the IO, on 23-5-2022 accused took them to crime spot, take out the wooden club saying that he has used the said club to assault Mallige and produced the same. The said club was seized by drawing mahazar.

It is interesting to note that, as per the voluntary statement recorded by the IO, in the voluntary statement it is noted that accused disclose he will produce the club. But in the remand application dated 23.5.2022 it is noted that, on 22.5.2022 accused gave his voluntary statement and ready to produce the iron rod thrown at the spot after assaulting Mallige. Here also on one stretch it is stated that the iron rod is said to have been used. But another stretch it is stated that accused has produced the wooden club.

It is interesting to note that, accused never went to those places. He never assaulted on the alleged deceased Mallige. He never used wooden club to assault, under such situation, how can he produce the said club saying he used it to assault. Further, how can the club be

seized by drawing mahazar when Mallige herself is alive without any injuries on her body. This shows that the said weapon is also implicated in the present case.

There might be post mortem report which states that death due to head injury cannot be ruled out. But, it is specifically stated in the post mortem report that exact cause of death could not be determined. Only taking out the said observation in post mortem report, the weapon is implicated in the present case saying that, with the wooden club accused assaulted on the head of Mallige and killed her. The story is built to show cause of death and also use of weapon for commission of crime. In every stage there is a fabrication of evidence, just to prove that the accused is the culprit in the present case.

(i) The most disturbing factor to be appreciated is from the remand application dated 23-5-2012. Where, there was narration made with regard to the progress of investigation. It is noted that, on 30-7-2021 this IO CW-55 taken up the investigation. Straightaway on 22-5-2022 PSI Prakash M Yettinamane, ASI Somashekar and CW-47 Devaraju secured the accused and produced

before the CW-55 IO at 12.30 pm. After that, interrogation was made and accused was arrested.

It is to be appreciated that there is absolutely no base or prima facie evidence that accused has killed Mallige. Straightaway on 22.5.2022 without any preliminary inquiry or collection of even iota of evidence that accused is involved in the present case has been arrested and implicated in the case. Once, he was arrested in the present case, the entire case was built, evidence was created to implicate the accused as a culprit. Before the accused being implicated in the present case, there is only a unclear statement of mother of Mallige i.e., Gowri that she has identified the clothes found on the unknown dead body, that too she has categorically stated that she has not identified the clothes, that too in her testimony before court even before Mallige found alive. There is absolutely nothing to suspect that accused is involved in the alleged offence.

(j) It is the contention of the IO that during the investigation he found that there is a matrimonial dispute between Mallige and accused and accused used to harass

Mallige and at the same time, mother of Mallige has identified the clothes. Hence, he suspected the accused. It is interesting to note that, none of the witness have stated that accused used to suspect Mallige and he has imputed cruelty. No where in the complaint by the mother of Mallige or in the missing complaint by the accused stated that Mallige had illicit relationship with any other person. If the statements of the witnesses are carefully appreciated, none of the witnesses have stated that Mallige had illicit relationship with other person or that the accused used to suspect Mallige and harass her. All of them have stated that after the incident they came to know about the harassment. That means, their statements itself is hearsay statements. They have no personal knowledge about any thing between Mallige and accused. They never voluntarily stated that they have witnessed that the accused harassed deceased and he imputed cruelty. Such being the case, from which source the IO find out that accused imputed cruelty on deceased suspecting her fidelity. The IO CW-55 has himself imagines things and fabricated the evidence in the line of his scripted story.

(k) It is to be noted that if the remand application dated 23.5.2022 is looked into which discloses the progress in the investigation. Until 27-9-2021 there is no material emerges that unknown body is of Mallige. But, on 27-9-2021 IO got enlighten without any evidence and concluded that the said dead body is of Mallige and the femur bone and skull is of her. He even not made attempt to send the skull for super imposition, presuming himself that unknown dead body is identified as of Mallige and the heirs of that unknown dead body was found, they are Gowri, Krishna and others. He straightaway concluded that unknown dead body is of Mallige, without there being any prima facie material. The IO by his own presumption and assumptions investigated the matter.

The IO has imagine the things and concluded that the dead body is of a woman. The dead body was found with the hairs wrapped in towel, which may indicates that the dead body is of a woman. But the IO has never present when unknown dead body found or at the time of conducting inquest or post mortem. It is all done by CW-52. IO without there being any collection of evidence in

and around the unknown dead body straightaway concluded that dead body is of a woman and i.e., Mallige herself.

(I) It is to be appreciated that unknown dead body is sent for autopsy. CW-33 Dr.Dayanand has conducted autopsy on the unknown dead body. He has submitted post mortem report. Where, he has noted that the exact cause of death could not be determined. However, it is observed that, death due to head injury cannot be ruled out. This observation he has made on the basis of examination, where he found that at the skull region fissure fracture 5 cm present over the left parietal bone. That means there is deep crack in skull region. In the PM report he has noted in the name column 'unknown'.

It is to be appreciated that, this IO has submitted requisition on 11.8.2021 seeking to note the name in the post mortem report as Mallige W/o Suresh and also sought the further additional opinion about the cause of death and also the injuries found on the deceased. As per the request dated 11.8.2021, CW-33 Dr.Dayanand

has strikes down 'unknown' and noted 'Mallige'. To submit this requisition IO has no base.

That apart, he has sought further opinion, in that further opinion dated 11.8.2021 Dr.Dayanand has stated that, it cannot be said with certainty the age of injury, the time of death and also noted that the injury on the unknown body cannot be caused by hands. In the last part of his opinion, he has stated that, the IO has not mentioned the probable weapon and not produced the brief facts and progress in the investigation. Hence, he cannot opinion with regard to the injuries on the head.

After that on 26.5.2022 i.e., almost nine months from 11.8.2021 to 26.5.2022 a club was sent for examination. Dr.Dayanand has examined the weapon i.e., club and gave opinion that, the possibility of injuries sustained in the head occurring when assaulted by the wooden rod, similar to the one examined cannot be ruled out.

Even in the medical evidence, there is no certainty with regard to the cause of death. However, the IO has implicated the weapon wooden club and opinion is sought

from doctor, he knowing fully well that said club is not used for commission of offence. The same is implicated in the case and sent for examination, which clearly shows the fabrication of evidence in the present case.

It is to be appreciated that, the unknown body found, sustained head injury. There is a opinion by the Doctor that there is a fissure fracture at the skull region. That means a deep crack in skull region. But, it is not clear that the said injury is by assault itself with any weapon. There is no certainty with regard to the injuries or with regard to the cause of death. But, the investigating agency mainly IO CW-55 has made all efforts to see that even the medical evidence and the opinion about the weapon is to be implicated, so as to substantiate his version that the accused herein has assaulted Mallige with club on her head, which is nowhere in the earth has happened.

(m) That apart, the viscera sent to FSL on 7.1.2021. In that also, the name of the deceased was mentioned as 'Annegowda'. This also has led to add up one of the fabrication and lead to suspect the intention of the IO,

even though it is a bonafide typographical mistake. It is to be appreciated that the post mortem was conducted on 13.11.2020 on the unknown body, but viscera was sent on 7.1.2021. Why there is delay in sending those articles to FSL is also lead to suspect.

(n) It is to be appreciated here that, the skull of unknown body said to be of Mallige was cremated on 4.10.2021. Accused, mother of Mallige have cremated the skull of the dead body. Even that cremation by the accused itself is manipulated as he has not killed Mallige. Even at that point of time i.e., on 7.10.2021 investigating agency has not suspected the accused, it is only on 22.5.2022 all of a sudden they got enlighten that accused is the culprit and arrested him. That it clearly indicates that accused has been implicated in the present case. The said mahazar dated 4.10.2021 is also created document.

(o) If the information lodged by the CW-1 dated 18.7.2021 if looked into, there is no allegations against the accused that he has imputed cruelty on the daughter of informant/CW-1/PW-1 Gowri. It is only noted in the

alleged complaint that some unknown person. Nothing is stated against the accused. But, all of a sudden in the statement U/s.161 of Cr.P.C, she said to have alleged against the accused. Even, it is same with the CW-2 son of deceased. These sequels shows that those statements U/s.161 of Cr.P.C., were also fabricated.

(p) The entire voluntary statement of the accused is created only to fix him in the present case. There is nothing has happened as noted in the voluntary statement of accused. He has not taken Mallige to the crime spot and killed her. She is alive and present before the court.

(q) Most disturbing part in the present case is that, the statements of witnesses were made to record by the Magistrate U/s.164 of Cr.P.C. The witnesses Pw-1 to 5 have categorically stated that as per the say of the police, they have stated before the Magistrate. Even though, statements are made to create through the court. Those statements are made to record through the court just to support the story built up by the IO. These witnesses never seen accused and deceased together. Anywhere

accused never confess before PW-3 Suresh S/o Raju about the killing of his wife. The IO has made court also the part of his design and made to record those statements of oath.

(r) It is to be appreciated that this CW-52 is also seems to be manipulated the records. Natesha who first seen the unknown body has categorically stated that, he has only found smell and shown to the police. The police visited the spot. Except that he has no information. But as per the story of the police, Natesha has lodged information on the basis of which UDR No.33/2020 is registered. In his testimony Natesha has categorically stated that police have obtained signature on the blank paper. It reveals that CW-52 obtained signature of Natesha on the blank paper and after that complainant/informant is written down, basing upon which UDR is registered. This is also the manipulation of records.

(s) The another point to be appreciated is that, on 4.10.2021 sample blood of Gowri was collected with the permission of the court and after collecting the same

blood and femur bone of unknown body was sent for DNA profile. DNA report is received, which is placed on record as additional charge sheet before the court. In the DNA report submitted by the FSL Bangalore, it is noted that the amplicons from femur bone sent in item No.1 were not sufficient for DNA profile examination. That means, the sample is not sufficient for DNA profiling. Even before the said DNA report is received, IO CW-55 has submitted charge sheet, keeping the FSL report awaited. Though, this report does not give conclusion with regard to DNA profiling, but if the entire material on record is carefully appreciated there are number of evidences were fabricated, which are discuss in detail above.

(t) The other officials are also part of illegal investigation and their contribution is also there to the fabricated charge sheet. CW-52 Jitendra Kumar who has first found the dead body on the information of the PW-7 Natesh has conducted the investigation in UDR. But, there is a serious allegation against the investigator and his assistants that they have made to sign blank paper during the investigation in UDR case. At the time of visit

to the place where the dead body is found, the articles are seized. It has not been properly investigated whether those articles is involved and connected to the case. On the basis of those articles only, the entire case is built up. That apart, PW-7 Natesh categorically deposed that he was made to sign blank papers. May be same is used to write a UDR first information said to have been given by PW-7 Natesh. There is no reason for these witness to depose false, as he is no where interested in the present case.

Mahazar was said to be drawn in the presence of panchas by CW-52. The witnesses mainly PW-7 and 8 have submitted that, they are not present at the time of drawing the mahazars where unknown dead body was found. That apart, though it is stated that, mahazar was drawn where the dead body is found in the presence of witnesses, but the spot mahazar dated 12.11.2022 does not disclose signature of any witnesses. That means the said mahazar was not drawn in the presence of witnesses. It is projected that, in the presence of witnesses, the mahazar was drawn. The statements of Ramesh and

Sandesh Gowda are seems to be created. It is questionable why the statements of these witnesses are taken and mahazar was drawn in their absence. There is serious lapses on the part of CW-52 who has initially investigated the case. What is the necessity for the CW-52 and his assistants to get the signature on the blank paper. He is responsible to answer the lapses. Hence, it can be found that there is a error on the part of CW-52.

61. Now CW-53 Prakash M Yatinamani, PSI who has arrested accused. As per the remand application dated 23.5.2022 he was instructed by CW-55 IO to findout the suspect in the present case. It is to be appreciated that, at that point of time there is absolutely no evidence that accused is involved in the alleged offence. But this CW-53 has straightaway secured the accused herein without there being any base and produced before the IO CW-55. It shows the involvement of this CW-53 in implicating accused in the present case.

62. CW-54 Mahesh Kumar is the PSI who the investigation further in UDR case and who has first shown the clothes found on the unknown dead body to CW-1

mother of Mallige and son of Mallige Krishna. It is the serious allegation against this CW-54 that he has not shown any clothes to mother of Mallige i.e., Gowri and son Krishna i.e., PW-4 and 5. They have categorically denied the said aspects. It is to be appreciated that, there is no reason for these witnesses to falsify the investigating officials as they are rustic villagers, they don't have any knowledge of the procedure. There is video of said identification of clothes said to have been recorded while mother of Mallige and others are identifying the same. Here it has to be understand the condition of these mother and son of Mallige and others. They are belongs to tribe, rustic having no education and knowledge. Their capacity to understand things is very less and they can be easily dominated. Under such circumstances saying that, they have identified the clothes after 9 months from 19-10-2020 when Mallige left house and the clothes shown on 18-7-2021 is not convincing. Moreover, there is no independent effort to ascertain whether the clothes does belongs to Mallige. There is a lapse on the part of the CW-54. That apart, it is another serious allegation against CW-54 that he made

to write the first information from PW-5 Krishna. PW-4 and 5 witnesses have categorically stated that, they have not given any information on 18.7.2021. They have categorically stated that, on the say of the police PW-5 has written the said information. It is allegation that this CW-54 forced to give information. These officials also have done flawed investigation and contributed in the fabricated charge sheet which has led to initiate malicious prosecution against the accused by which a murder case is foisted on the accused. Because of this flawed investigation accused was arrested and remanded to judicial custody.

FINDINGS ON ANALYSIS:

63. On appreciation of the material, the unknown dead body was found, subsequently UDR is registered and there was progress in investigation in respect of that unknown dead body. It is also the fact that, Mallige got missing and missing complaint is lodged by the accused. But the two sets of facts are not inter connected to each other. Though, an attempt is made to find out that there is a possibility that unknown dead body might be of

Mallige, but, there is no material available to that effect. In spite of that, the investigating agency mainly CW-53 to 55 especially CW-55 had made and created all the evidence, manufactured the documents in the line of their scripted story that accused killed Mallige. The manufacturing of documents in the form of mahazars, statements and creating evidence is clearly visible in the present case. The fact remains that Mallige was alive, living and breathing, but accused was arrested on the allegations that he has killed her. He was sent to custody and he suffered one and half years of Jail only because investigating agency mainly IO scripted the story of Murder of Mallige. From 12.11.2020 till arrest on 22.5.2022 there is no iota of evidence that accused is involved in killing of his own wife. In the first place Mallige is not at all killed, but accused is labeled by the investigating agency that he killed Mallige.

64. Now the investigating agency has alleged that accused has imputed cruelty on Mallige suspecting her fidelity. He hatched a plan, took her to the crime spot and killed her. To escape from the punishment of

commission of offence, he conceal the dead body in the bush and destroy the evidence. None of these offences are committed by the accused as allegedly Mallige herself is alive. He has not killed allegedly deceased Mallige, he has not conceal the dead body so offences U/s.302 and 201 of IPC are all falsely implicated. The another offence i.e., Sec.498(A) of IPC no where in the entire case, iota of evidence is placed satisfying the ingredients of the offence that accused has committed offence U/s.498(A) of IPC. There is a matrimonial dispute between Mallige and accused herein. It is also the fact that Mallige gone away with the another person. But, there is absolutely nothing that there is a commission of offence U/s.498(A) of IPC by the accused. Only on the presumption of the IO those allegations are leveled. There is no commission of above said offences by the accused. The entire case is built up by the IO and accused was made a villan and he has been falsely implicated in the present case. The entire charge sheet by the IO is a result of creation of evidence, fabrication of documents, manipulation of things in support of the scripted story of accused killing Mallige.

65. It is discussed above that the investigation report is made up of cooked up story, fabricated evidences in the line of the story. Now, the point to be analyzed, appreciated is whether the conduct of the IO is bonafide mistake or intentional act. It is to be appreciated that on 3.4.2025 when it is found that Mallige was alive and the entire case comes under scrutiny. Superintend of Police, Mysuru is directed to submit detail report. The Superintend of Police has submitted report. It is to be noted that, though he has recorded the statements of the witnesses and his police officials, but there is no report as such, with regard to his finding or opinion or conclusion of that incident where Mallige found alive, though there are allegations of killing her. There is absolutely nothing. It is simply a statements of the witnesses. The statements of CW-53 to 55 was recorded, where they have justified their investigation. Especially CW-55 has narrated his line of investigation.

66. In the back drop of above said discussion if the report is appreciated even the statement of the investigating officials are false. Though, they have

justified their investigation, but on appreciation of the entire material, there is clear manufacture of evidences to justify their story and investigation.

67. As stated above, it has to be appreciated whether the act is bonafide mistake or the intentional one. When the investigation has started with some minor mistakes, the investigation went in a natural course. Where, on 12.11.2020 unknown body was found, UDR is registered, inquest and post mortem was conducted. Initially, after Mallige got missing, the investigation in that line also started. But, as the investigation progress there is clear fabrication of evidences. Those facts are discussed in detail above. The facts with regard to the commission of offence stated in the charge sheet has never happened. But inspite of that, there is a complete creation of evidence in the line of that story. The statements of eyewitnesses who said to have seen Mallige and accused together at Bettangala bus stand and at Kadamba bar are created. The statement of PW-3 that there is a extra judicial confession by the accused regarding killing of his wife is also

created. The spot and recovery mahazars are all created. The weapon is implicated in the present case. Even tried to get the medical records in the line of the fabricated story.

Though, the investigation started in the natural course, but subsequently unknown body was tagged as body of Mallige and it is concluded that there is a homicidal death and after that accused was implicated alleging that he has killed his 'living' wife. These scripting of story fabrication of the evidence and manufacturing of documents in the scripted story does not seems to be a bonafide mistake, but intentional one. The conduct of the investigating officials are to be taken seriously.

68. As it is observed, these mistakes are not bonafide mistake, but clear fabrication of evidence just to implicate the accused. The whole charge sheet is built up and presented before the court to prove the offence, which the accused has not committed. This has to be taken note of as the investigating officials have made the court also part of their evil design.

69. The conduct of the investigating officials in this case cannot be termed as lapses in the investigation or it cannot be said as a faulty investigation. As because, in a faulty investigation there is a possibility of lapses or missing out the important evidences. But, here it is a clear case of manufacturing of evidences, hence it cannot be termed as a faulty investigation.

70. It made this court to observe that, this is a conduct of the investigating agency that they are creating the evidences rather than bringing the evidence to assist the court to reach a proper conclusion in the case and to render justice. The recent tendency is submitting charge sheet or investigating report with either manufactured evidences or the report with loop holes. This is leading to damage the criminal justice system. The investigation is the collection of evidence brought before court to unearth the truth and to render justice.

71. A bias attributed on the part of the investigator may lead to a deception leading to injustice. A duty is imposed upon the investigator to give an impression that it has been done without an element of unfairness or

ulterior motive. He must dispel a possible suspicion to the genuineness of the investigation done. An attempt of an investigation officer is to make a genuine endeavour to bring out the truth. The Hon'ble Apex Court in ***Babubhai v. State of Gujarat ((2010) 12 SCC 254)*** has held as follows:

" 32. The investigation into a criminal offence must be free from objectionable features or infirmities which may legitimately lead to a grievance on the part of the accused that investigation was unfair and carried out with an ulterior motive. It is also the duty of the investigating officer to conduct the investigation avoiding any kind of mischief and harassment to any of the accused. The investigating officer should be fair and conscious so as to rule out any possibility of fabrication of evidence and his impartial conduct must dispel any suspicion as to its genuineness. The investigating officer is not merely to bolster up a prosecution case with such evidence as may enable the court to record a conviction but to bring out the real unvarnished truth".

Considering the duty of a investigator to conduct a proper investigation, the Apex Court in another judgment Manohar Lal Sharma Vs. Principal Secretary and others ((2014) 2 SCC 532), made its observation as under:

" A proper investigation into crime is one of the essentials of the criminal justice system and an integral facet of rule of law. The investigation by the police under the Code has to be fair, impartial and uninfluenced by external influences. Procedure qua a cognizable offence."

If the observation of Hon'ble Apex Court is carefully appreciated, it is the duty of the investigating officer to conduct the investigation avoiding any mischief or harassment to accused. The IO should be fair and try to rule out any possibility of fabrication of evidence. But here in this present case, the investigating agency mainly IO CW-55 has made all efforts to create or fabricate the evidence in the present case. Instead of bringing the real facts he has created statements, documents in align with his scripted story that accused herein has killed allegedly deceased Mallige.

The public see towards these institutions such as Courts of Law, Police and the whole system with the hopeful eyes that they will get the justice in any circumstances. The public entrusted trust on the system. It is the duty of these entire system to upheld the trust entrusted by the public. But, here in a case like present, where the entire system has been misused and the courts of law are misguided. It is the duty of this court to restore the trust and belief in the justice system by rectifying the defects. If the system is not been set at

right culprit get escape, innocent get punished and the victim get lost in the system for his justice. Hence, it is very much necessary to rectify the defects in the system and to restore justice system.

72. Here in this present case, as discussed above, the entire investigation is tainted, which has led to malicious prosecution against accused herein. The accused has been labeled as a murderer when his wife is very much alive. By filing the fabricated charge sheet, the investigating agency mainly IO has mis lead the court. A false case with fabricated evidences is placed before the court on the strength of such evidence causing the court to form an erroneous opinion on the point material to the result of proceedings. Where the court presuming the charge sheet is true, initiated proceedings against the accused. The court cannot close its eyes allowing the agency to ride over and derail the entire criminal justice system.

The above said fabrications of evidence by the investigating agency just to implicate the accused are not ignoreable mistakes. The officials very well know that

they are creating the statements, mahazars just to project that accused is the culprit. Because of the biased unfair fabricated investigation a person is charged with offences which he has not committed. He made to suffer by filing false case. He has suffered incarceration. His personal liberty is violated. The family of that person has suffered social, financial difficulties. The court has to take a serious note of these aspects and make things set right to uphold the justice.

73. The investigating officials in this present case have conducted unfair, biased investigation. The details of the same are noted supra. There is no doubt that, the investigation report/charge sheet leveled against accused is full of fabricated facts. It is just either to implicate the accused in the present case or to get rid of the investigation without properly conducting the investigation and close case. In either case, there is serious lapse on the part of the investigating officer and in the present case there is a illegal investigation. The erring officials are to be dealt with stringent action who tried to derail the entire justice system. The Hon'ble Apex Court in **State**

of Gujarat Vs. Kishanbhai (2014) 5 SCC 108 has made serious observation of such kind of attitude of the Investigating Officers. The Hon'ble Apex Court observes as, "culmination of a criminal case in acquittal, the concerned investigating – prosecuting officials) responsible for such a acquittal must necessarily be identified. A finding needs to be recorded in each case, whether a lapse was innocent or blameworthy. Each erring officer must suffer the consequences of his lapses, by appropriate departmental action whenever called for all such erring officials – officers identified, as responsible for failure of prosecution case, on account of sheer negligence or because of culpable lapses must suffer departmental action. The above mechanism formulated would infuse seriousness in the performance of investigating and prosecuting duties, and would ensure that investigation and prosecution are purposeful and decisive. The instant direction shall also be given effect to within 6 months".

74. It is to be appreciated that though, the above said judgment of the Hon'ble Apex Court is in respect of failure of prosecution case due to the lapses of

investigating officials and taking action against them, but the Hon'ble Apex Court has observed that, ' we also feel compelled to require the adoption of some indispensable measures, which may reduce the malady suffered by parties on both sides of criminal litigation'.

75. It is observed that, due to the defective investigation or error by investigating officer, the both sides of the litigation should not suffer, that includes the accused also. Here in this present case, due to the illegal investigation by the investigating officials, accused has suffered great hardship, suffered incarceration for more than one year. The erring officials are to be dealt by taking departmental action against them as laid down by the Hon'ble Apex Court. Hence, here in this present case, the CW-52 Jitendra Kumar who initially investigated UDR case and has first found the dead body on the information of the PW-7 Natesh has conducted the investigation. But, there is a serious allegation against CW-52 and his assistants that they have made to sign blank paper during the visit at the crime spot when the unknown dead body was found. Natesh PW-7 categorically deposed

that he was made to sign blank papers. What is the necessity for the CW-52 and his assistants to get the signature on the blank paper. There is no reason to disbelieve the say of the PW-7 Natesh, as because, he is no where interested in the present case. Whatever he is telling are the facts, which are transpired. There is statement of the witnesses that they are not present while drawing the mahazar on the dead body. Further, the mahazar dated 12.11.2020 does not disclose any signature of Ramesh and Sandeshgowda, it shows that there is a mahazar drawn without following the procedure. He is responsible for conducting of flawed investigation. Hence, it can be found that there is a error on the part of CW-52.

76. Now CW-53 Prakash M Yatinamani, PSI who has arrested accused. As per the remand application dated 23.5.2022 he was instructed by CW-55 IO to findout the suspect in the present case. But this CW-53 has straightaway secured the accused herein without there being any base and produced before the IO CW-55. It is

shows the involvement of this CW-53 in implicating accused in the present case.

77. CW-54 Mahesh Kumar is the PSI who has first shown the clothes found on the unknown dead body to CW-1 mother of Mallige and son of Mallige Krishna. It is the serious allegation against this CW-54 that he has not shown any clothes to mother of Mallige i.e., Gowri and son Krishna i.e., PW-4 and 5. They have categorically denied the said aspects. It is to be appreciated that, there is no reason for these witnesses to falsify the investigating officials as they are rustic villagers, they don't have any knowledge of the procedure. Moreover, there is no independent effort to ascertain whether the clothes does belongs to Mallige. There is a lapse on the part of the CW-54. That apart, it is another serious allegation against CW-54 that he made to write the first information from PW-5 Krishna. PW-4 and 5 witnesses have categorically stated that, they have not given any information on 18.7.2021. They have categorically stated that, on the say of the police PW-5 has written the said information. It is allegation that this CW-54 forced

to give information. These aspects have a serious concern with regard to the fair investigation in the present case.

In respect of CW-55 Prakash B G IO the whole list of fabrication of evidence is listed in the above paragraphs. He is the erring official is clearly emerging from the records. Hence, action against him is necessary. Considering the unfair investigation by these officials, a departmental action has to be initiated. When the Mallige is brought before the court, when she found alive, these officials are asked to submit their explanation, they are given opportunity to submit their explanation. In the present case, when the Mallige itself is alive and they have filed this fabricated report which involves the part of all the witnesses, their explanation seems to be reasonable and justifiable. There is a misconduct on the part of these officials who are part of the investigation. The court cannot ignore the illegality committed by these officials. There must be some action against them for their lapses in investigation, which has led to present

false case. Hence, IGP is directed to initiate departmental action against CW-52 to CW-55.

78. In case of this investigating officer CW-55 Prakash B G, only the departmental inquiry is not sufficient, because he is the author of the entire false case. He has fabricated the evidence just to fix the accused and get the punishment. His conduct and unfair investigation is listed above. It is clear that he has fabricated the evidence to procure punishment to accused, which is offence against public justice and also obstruction of administration of justice. A serious action has to be initiated the against CW-55 as he has fabricated the evidence, made the court part of the unfair process and misled the court. His acts are constitute offence against public justice. He has fabricated statements, mahazars just to project that accused has killed his wife. By that fabricated charge sheet, there is a possibility of punishment to accused that will amounts to procuring the punishment on the fabricated document. The Hon'ble Apex Court in ***Suresh Chandra Sharma Vs State of MP 2011 (11) SCC 173*** has found investigating officer

guilty who has manipulated the documents. The Hon'ble Apex Court held as under:

" 11. Section 194 appears in Chapter 11 of IPC under the heading "Of False Evidence and Offences against Public Justice". Section 194 makes punishable the act of giving or fabricating false evidence with intent to procure conviction of capital offence. Both Sections 194 and 195 provide for aggravated forms of giving or fabricating false evidence. The stress on these provisions is on giving or fabricating false evidence intending thereby to cause or knowing it to be likely that he will thereby cause any person to be convicted of an offence which is not capital by the law for the time being in force in India.

12. On the facts of the case it has been established that there was fabrication of official records by manipulating the records in large number of documents. The appellant was the investigating officer. The obvious purpose was to get the accused persons convicted. The purpose could have been achieved had the fabrication gone unnoticed. Additionally, the defence lawyer himself had deposed to have seen manipulation. Though, his conduct in not reporting the same to anybody is not certainly to be appreciated yet the evidentiary value thereof, and the evidence of the then Presiding Officer who was examined as PW-5 clearly established the accusations. That being so, the trial Court and the High Court were justified in holding the appellant guilty".

79. In that case the investigating officer has only manipulated the records in large number of documents. Here, in this present case, the entire charge sheet is fabricated to implicate the accused and this is very serious. The investigating officer has to be initiated proceedings for the offence U/s.299 and 231 of B.N.S, 2023 (Old Sec.193 and 195 of IPC). Hence, it is necessary to direct Chief Administrative Officer, District & Sessions Court, Mysuru to file a complaint against CW-55 Prakash B.G. for the offence punishable U/s.193 and 195 of IPC (New Sec.299 and 231 of B.N.S, 2023).

80. Now, the question here is whether CW-55 Prakash B G may be heard. It is to be noted here that, the CW-55 has been given opportunity to explain himself with regard to the charge sheet he has filed and also the aspects in the charge sheet which are fabricated are brought to his notice. All the proceedings are noted in the order sheet. He has justified his investigation and filing of the charge sheet. He has been given opportunity of submit himself. At this juncture it is worth to rely upon the observation of Hon'ble Apex Court in **Anju**

Chowdari Vs State of U.P. (2013) 6 SCC 384 held as under:

" 31. ... Where the officer in charge of a police station is informed of a heinous or cognizable offence, it will completely destroy the purpose of proper and fair investigation if the suspect is required to be granted a hearing at that stage and is not subjected to custody in accordance with law. There would be predominant possibility of a suspect escaping the process of law. The entire scheme of the Code unambiguously supports the theory of exclusion of audi alteram partem pre-registration of an FIR. Upon registration of an FIR, a person is entitled to take recourse to the various provisions of bail and anticipatory bail to claim his liberty in accordance with law. It cannot be said to be a violation of the principles of natural justice for two different reasons : firstly, the Code does not provide for any such right at that stage, secondly, the absence of such a provision clearly demonstrates the legislative intent to the contrary and thus necessarily implies exclusion of hearing at that stage. This Court in *Union of India v. W.N. Chadha*³ clearly spelled out this principle in para 98 of the judgment that reads as under : (SCC p. 293)

98. If prior notice and an opportunity of hearing are to be given to an accused in every criminal case before taking any action against him, such a procedure would frustrate the proceedings, obstruct the taking of prompt action as law demands, defeat the ends of justice and make the provisions of law

relating to the investigation lifeless, absurd and self-defeating. Further, the scheme of the relevant statutory provisions relating to the procedure of investigation does not attract such a course in the absence of any statutory obligation to the contrary."

In Surjitsingh Vs Balbir Singh while explaining the scope of the inquiry under Section 340 CrPC observed as under:

"Public justice demands an absolute bar of private prosecution and that power be given to the court to lay complaints under Section 340 of the Code as per the procedure prescribed therein. The object thereby is to protect persons from needless harassment by the prosecution for private vendetta; to preserve the purity of the judicial process and unsullied administration of justice; to prevent the parties from the temptation to pre-empt proceedings pending in a court and to pressure and desist parties from proceeding with the case. The bar of Section 195 is to take cognizance of the offences covered thereunder. The object thereby is to preserve the purity of the administration of justice and to allow the parties to adduce evidence in proof of certain documents without being compelled or intimidated to proceed with the judicial process. In this case, the original agreement appears to have been filed in the civil court on 9.2.1984 long after cognizance was taken by the Magistrate."

81. In the background of the above observation of Hon'ble Apex Court the court can proceed to initiate proceedings. However, in the present case CW-55 has been given opportunity to put up his explanation about these fabricated evidence, which are specifically noted in the order sheet. That apart, this court has also directed the Superintendent of Police, Mysuru to submit report along with statement of CW-55, where there also CW-55 Prakash.B.G. has been given opportunity to explain himself with regard to the fabricated charge sheet, but those explanations are not acceptable as it is clearly visible that the CW-55 has fabricated those evidences. Hence, it is proper to direct CAO to file complaint against CW-55 for the offence punishable U/s.299 and 231 of B.N.S,2023.

82. The accused herein has suffered because of the false case launched against him by investigating agency. He was arrested and to made to suffer incarceration about more than one year. His life's one year spent in jail for the offence he has not committed. His right life, personal liberty granted under the Indian Constitution are

violated. It is only because of the malicious proceedings initiated against him. He has not committed murder of his wife or conceal the dead body. She is very much alive. But he has been labeled as murderer. He suffered humiliation in the society. The suffering days of the accused cannot be resettled now. But, he can be compensated for malicious prosecution and illegal detention. It is on behalf of the State, prosecution is initiated for the offence, which he has not committed. He suffered jail, faced false litigation, he incurred expenses for the litigation. Since, on behalf of the State the malicious prosecution initiated the State has to compensate for the damage accused has suffered. Hence, it is directed to Addl.Chief Secretary, Home Department to pay compensation of Rs.1,00,000/- to accused. However, the authority is at liberty to recover the said amount from the erring officials during departmental action.

83. It is found during the case that there is one unknown dead body was recovered. The death of a person to whom the dead body belongs might have

suffered homicidal death or any form of death. There might be a cognizable offence committed. There is no logical conclusion in respect of that dead body. Hence, investigation in respect of the same is necessary. Considering the same, Superintendent of Police, Mysuru is directed to investigate in respect of the unknown dead body either by registering UDR or in a already registered UDR No.33/2020. The investigation has to be carry on to give logical conclusion in respect of that said dead body.

84. On appreciation of the entire material on record, it is clear that no offence is constituted against accused. Hence, he has to be acquitted honourably, as because, the acquittal is not because of lack of evidence, but it is clear that accused has not at all committed murder of his living wife Mallige. The entire case is false, allegations are frivolous. Hence, the accused has not committed any offence and he is innocent. Considering these aspect, the accused is hereby acquitted honourably and it is directed to SHO Bettadapura P S or the concerned authority to remove his name from police

records in respect of the present case. Accordingly, **point No.1 held in negative and point No.2 is held in affirmative.**

Point No.3 :

In the result, I proceed to pass the following:

ORDER

In exercise of power vested with this Court U/Sec.232 of Cr.P.C., the accused Suresh @ Kuruba Suresh S/o Gandhi is hereby Honourably Acquitted for the offences punishable U/Sec.498(A), 302 and 201 of IPC. SHO Bettadapura Police Station is directed to remove his name from the police records in respect of this present case.

The bail bonds of the accused and his surety bonds stand canceled.

It is directed to the State represented by the Additional Chief Secretary, Home Department, Bangaluru to pay compensation of Rs.1,00,000/- (Rs.One

Lakh only) to Suresh @ Kuruba Suresh S/o Gandhi.

It is directed to the Inspector General of Police, Mysuru Division to initiate departmental action against CW-52 Jitendra Kumar, CW-53 Prakash.M.Yattinamani, CW-54 Mahesh.B.K, CW-55 Prakash B.G. and submit report to the court.

Chief Administrative Officer, District and Sessions Court, Mysuru is hereby authorized in writing to file a complaint against CW-55 Prakash.B.G. for the offence punishable U/s.299 and 231 of B.N.S, 2023 (Old Section 193 and 195 of IPC).

It is directed to Chief Administrative Officer, District and Sessions Court, Mysuru to file complaint against CW-55 Prakash.B.G. for the offence punishable U/s.299 and 231 of B.N.S, 2023 (Old Section 193 and 195 of IPC).

It is directed to Superintendent of Police, Mysuru to initiate investigation in

registered UDR case in respect of the unknown dead body found in the present cases and submit report accordingly to the concerned jurisdictional court and also to this court.

Office is directed to send the copy of this judgment to Director General of Police, Bangaluru and Prl. Secretary, Government of Karnataka, Bangaluru.

Office is directed to send the copy of this judgment to Addl.Chief Secretary, Home Department, Bangaluru, Inspector General of Police, Mysuru Division and Superintendent of Police, Mysuru.

(Dictated to the Stenographer, transcript, corrected and then pronounced in the open Court on this the 23rd day of April, 2025)

(Gururaj Somakkalavar)
V Addl. District & Sessions Judge,
Mysuru.

: ANNEXURE :**Witnesses examined for the Prosecution:**

PW-1	Sharath
PW-2	Jeevan K M
PW-3	Suresh
PW-4	Gowri
PW-5	Kirshna
PW-6	Puttaraju
PW-7	Natesh
PW-8	Anilkumar

Witnesses examined for the COURT:

Mallige

Documents marked for the Prosecution:

Ex.P-1	164 (5) statement of Sharath
P-1(a-b)	Signature of PW-1
Ex.P-2-3	Statement of PW-1
Ex.P-4	164(5) statement of PW-2
P-4(a-b)	Signature of PW-2
Ex.P-5-6	Statement of PW-2
Ex.P-7	Statement of PW-3
Ex.P-8	Two photos
Ex.P-9	Police Prakatane
Ex.P-10	Complaint

P-10(a)	Signature of PW-5
Ex.P-11	Statement of PW-4
Ex.P-12-13	Statement of PW-5
Ex.P-14-16	Statement of PW-6
Ex.P-17	Complaint
P-17(a)	Signature of PW-7
Ex.P-18	Photos (8)
Ex.P-19-20	Statement of PW-7
Ex.P-21-23	Statement of PW-8

Witnesses examined for the defence: Nil

Documents marked for the defence: Nil

M.Os. Marked for the Prosecution:

MO-1	Tetra Packet
MO-2	Plastic bag
MO-3	Rose color Saree
MO-4	Sweater
MO-5	Blouse
MO-6	Slippers
MO-7	Towel
MO-8	Petticoat
MO-9	Glass Bangles
MO-10	Threat
MO-11	Inner wear

(Gururaj Somakkalavar)
V Addl. District & Sessions Judge,
Mysuru.