



**NON-REPORTABLE**

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

**CRIMINAL APPEAL NO. 3152 OF 2025**

**KHAJA MOHAIDEEN & ANR.**

**... APPELLANT(S)**

**VS.**

**THE STATE OF TAMIL NADU & ANR.**

**... RESPONDENT(S)**

**J U D G M E N T**

**RAJESH BINDAL, J.**

1. Challenge in the present appeal is to the order<sup>1</sup> passed by the High Court<sup>2</sup> in a revision petition<sup>3</sup> filed by the complainant whereby the High Court had set aside the order<sup>4</sup> passed by the Trial Court<sup>5</sup> by which the appellants/accused were acquitted of the charges. The High Court, vide impugned order, while setting aside the order passed by the Trial Court had remitted the matter back to the Trial Court for fresh consideration.

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<sup>1</sup> Dated 31.10.2018

<sup>2</sup> Madurai Bench of Madras High Court.

<sup>3</sup> CrI. R.C.(MD) No. 463 of 2008.

<sup>4</sup> Dated 11.03.2008

<sup>5</sup> Additional Sessions Judge, Periyakulam.

2. Learned counsel for the appellants submitted that in exercise of revisional jurisdiction, the High Court could have only examined glaring errors in the judgment of acquittal passed by the Trial Court. Re-appreciation of the evidence could not be done. The Trial Court, in the case in hand, after appreciating evidence led by both the parties had come to a conclusion that prosecution had not been able to make out any case against the appellants and acquittal was ordered. He further submitted that the High Court had wrongly observed that the dying declaration was not properly considered. He has referred to the dying declaration of the deceased placed on record and submitted that even if the dying declaration is considered in its totality, still it does not make out a case against the appellants. It can merely be said to be an unfortunate accident. Even appellant No. 1 suffered burn injuries in the same accident when the deceased had gone to the kitchen in the early hours of morning to heat up the milk for the children. As is evident from the dying declaration, while sleeping at night, since the gas regulator was not closed and it remained open, the gas spread all over the room and upon lighting the gas stove in the morning, the fire spread over, causing burn injuries.

3. On the other hand, learned counsel for the respondent No.2-complainant submitted that the Trial Court had totally mis-directed itself in appreciating the evidence led by the prosecution. The facts which are not even mentioned in the dying declaration, are sought to be read. It does not suggest who had left the gas supply on at night. It could have been the husband who wanted to kill the deceased. There were instances of harassment of the wife immediately prior to the incident. If the facts are taken in their totality, it was a clear case made out by the prosecution for conviction. The complainant being aggrieved, preferred revision before the High Court. He further submitted that the complainant was informed by the deceased about the harassment and the present incident which he had stated in his examination-in-chief.

4. The High Court had rightly exercised its revisional jurisdiction and remitted the matter back to the Trial Court for consideration afresh. There is no error in the impugned order passed by the High Court.

5. Learned counsel for the respondent-State also submitted that there is no error in the impugned order passed by the High Court hence, the present appeal deserves to be dismissed.

6. Heard learned counsel for the parties and perused the material on record.

7. It is a case in which First Information Report was registered against the appellants/accused and charge-sheet was filed. Appellant No.1/Accused No.1 was charged for the offences punishable under Sections 498A and 306 of the Indian Penal Code whereas the appellant No.2/Accused No.2 was charged for the offences punishable under Sections 498A and 109 read with Section 306 of the IPC. The Trial Court, while considering the entire evidence led by the prosecution and the stand taken by the defence, opined that the accused were not guilty of the charges framed against them.

8. The High Court, while setting aside the acquittal of the appellants, had observed that the deceased had given dying declaration before the doctor. However, without marking the same, the Trial Court had acquitted the appellants/accused. While referring to few judgments on the issue, the matter was remitted back for consideration of the dying declaration, thereby setting aside the acquittal.

9. The dying declaration has been placed on record. It was stated by the deceased that in the fire incident which happened in early morning on 14.06.2005, the deceased as well as her children and husband sustained burn injuries. It happened as while sleeping on the previous night the gas regulator was not properly closed as a result of which all suffered burn injuries. From the aforesaid dying declaration, nothing could be inferred to suggest that the deceased raised any accusation against her husband, as is sought to be suggested by the learned counsel for the respondent.

10. The material which is sought to be referred to by the respondents to sustain the order passed by the High Court is, in fact, of no value. It is the statement of the father of the deceased, who stated that after his daughter suffered burn injuries, she spoke to him the next day, and told him that the appellant No.1/husband of the deceased would kill her and marry the appellant No.2/second accused. As is evident from the scientific report dated 20.06.2005, available on record as Annexure P-2, the cylinder and gas stove were kept inside the bedroom and as a result of fire, the entire family suffered injuries. The deceased being closest suffered highest burn injuries.

11. For the reasons mentioned above, we find merit in the present appeal, as it would be a futile exercise to refer the matter back to the Trial Court for fresh consideration. The impugned order is accordingly set aside, and the acquittal of the appellants is upheld. The appeal is accordingly allowed.

12. Pending applications, if any, shall also stand disposed of.

.....J.  
(RAJESH BINDAL)

.....J.  
(MANMOHAN)

NEW DELHI;  
August 12, 2025.