



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2024

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE UMESH M ADIGA

CRIMINAL APPEAL NO. 1004 OF 2018 (A)

BETWEEN:

THE STATE OF KARNATAKA,
BY MAHADEVAPURA POLICE STATION,
BENGALURU,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU- 01.

...APPELLANT

(BY SRI. RAJAT SUBRAMANYAM, HCGP)

AND:

KADIRIPATHI,
S/O NARASIMHAPPA,
AGED ABOUT 26 YEARS,
R/AT CHANDRASHEKAR BUILDING,
SUNDARA RAMAREDDY LAYOUT,
BASAVANAGAR HOODI,
BENGALURU – 560 048.

...RESPONDENT

(BY SRI. K. B. K. SWAMY, ADVOCATE)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) CR.P.C BY THE S.P.P. FOR THE APPELLANT PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGEMENT AND ORDER OF ACQUITTAL DATED 01.01.2018 PASSED BY THE LIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE IN SPL.C.C.NO.314/2014 IN SO FAR AS IT RELATES TO ACQUITTING THE ACCUSED/RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 363, 366, 376 OF IPC AND SEC.3 READ WITH 4 OF POCSO ACT.



THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MR JUSTICE UMESH M ADIGA

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR)

Heard Sri. Rajat Subramanyam, learned High Court Government Pleader appearing for the appellant on admission. This is an appeal against the acquittal judgment passed by LIII Additional City Civil and Sessions Judge, (CCH-54), Bengaluru in Spl.CC.No.314/2014. The accused was tried for the offences punishable under Sections 363, 366, 376, 417 of IPC and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The prosecution case is that a month prior to 03.04.2014, when PW-5 – victim, was alone in her house, the accused entered her house and subjected her to forcible sexual intercourse. Again on 03.04.2014, the appellant entered the house when she was alone and making a promise to marry, subjected her to sexual intercourse.



Thereafter, he took PW-5 to Mysuru and surrounding places on an assurance that he would marry her and then returned to Bengaluru on 10.4.2014. By that time, at the instance of the father of the girl, FIR was registered in Cr.No.232/2014 for the offence punishable under Section 363 of IPC. Thereafter, the other offences were invoked in the FIR. The investigation resulted in filing of the charge sheet against the accused for the aforesaid offences.

3. The prosecution examined 12 witnesses and relied on 8 documents as per Exs.P1 to P8. Ex.D1 is the study certificate of the victim.

4. Assessing the evidence, the trial court acquitted the accused of the offences charged against him. The trial court is of the opinion that on the day of the first incident, the age of the victim girl was 17 years 9 months. She was a grown up girl and capable of understanding the consequences of her act. She did not inform about the sexual act committed by the accused to her parents. Even when she was traveling in the bus, she did not think of complaining the same to anybody. Therefore, noticing the



conduct of the victim girl, the trial court opined that the accused was entitled to be acquitted.

5. We have also re-assessed the evidence. PW-5 is the star witness. She had given her date of birth as 29.07.1996. The answers elicited from her in the cross-examination do not inspire confidence to believe her testimony. Even when she was medically examined by PW-4, she did not reveal the incident before him. The testimony of PW-5 clearly indicates that at the instance of her uncle namely Nagaraj, the FIR came to be registered. Therefore, the evidence of PW-5 does not inspire confidence of the court to trust her. We do not find any infirmity in the acquittal judgment recorded by the trial court. The appeal is not fit to be admitted. Hence, ***dismissed***.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

Sd/-
(UMESH M ADIGA)
JUDGE