



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO. 14398 OF 2024

BETWEEN:

SRI. VENKATESH,
S/O PUJAPPA,
AGED ABOUT 23 YEARS,
RESIDING AT BULLAHALLI VILLAGE,
VIJAYAPURA HOBLI, DEVANAHALLI TALUK,
BANGALORE RURAL DIST - 562 110.

...PETITIONER

(BY SRI. SUBRAMANYA H.V, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY CHIKKAJALA POLICE STATION,
BANGALORE NORTH TALUK.
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

2. SRI. NARASIMHA MURTHY,
S/O LATE PILLAPPA,
AGED ABOUT 41 YEARS,
RESIDING AT BULLAHALLI VILLAGE,
VIJAYAPURA HOBLI, DEVANAHALLI TALUK,
BANGALORE RURAL DIST - 562 110.

...RESPONDENTS

(BY SRI. DIVAKAR MADDUR, HCGP FOR R1;
SRI. S. RAJU, ADVOCATE FOR R2)



THIS CRL.P IS FILED U/S 482 OF CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE CHARGE SHEET AND FURTHER PROCEEDINGS IN SPL.C.C.NO.2243/2024 PENDING ON THE FILE OF THE FTSC-IV AND ADDL.CITY CIVIL AND SESSIONS JUDGE AT BENGALURU FOR THE OFFENCE P/U/S 137(2), 87, 64(2)(m) OF BNS 2023 AND SEC.5(L), 6 OF POCSO ACT 2012 AGAINST THE PETITIONER AND FURTHER ORDER TO RELEASE THE PETITIONER FORTHWITH FOR THE REASONS STATED ABOVE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

Learned High Court Government Pleader accepts notice for respondent No.1. Sri. B. Raju, learned counsel appears on behalf of respondent No.2/ complainant.

2. The petitioner has been charge sheeted for the offences punishable under Section 137(2), 87, 64(2)(m) of BNS 2023 and SEC.5(I), 6 of POCSO Act, 2012.



3. Case of the prosecution is that a missing complaint was filed alleging that on 22.09.2024, complainant's daughter left the house and did not returned back. It was alleged that the daughter of the complainant used to frequently converse with the petitioner - accused and the complainant suspected that his daughter might have eloped with the petitioner - accused. During the course of investigation, the daughter of the complainant was traced on 26.09.2024 at Devanahalli and upon enquiry and recording of the statement of the victim girl, she alleged that she was in love with the petitioner since two years and on 22.09.2024 to celebrate her birthday, petitioner / accused took her to her friend's house and by promising to marry her, had sexually assaulted her. The accused is 23 years and the victim girl is 17 years as of today.

4. The Medico-legal Examination report of sexual violence annexed to the charge sheet reveals that there is no sign of sexual assault perpetrated by the petitioner / accused and that the hymen is intact.



5. The petitioner's father, the defacto complainant and the victim / daughter are present before this Court and filed a joint memo along with an affidavit stating that at the instance of the elderly people they have resolved the dispute and the petitioner's father is ready to perform the marriage of his son with the victim girl, after the victim girl attains the age of majority.

6. Furthermore, the victim examined by the medical doctor and has narrated the incident in the said medico-legal examination report as follows:

Surakshita:

Venkatesh & Surakshita known to each other since 2yr. (Lover). On 22/09/2024 at 3.00pm, she left Bullahakki with Venkatesh & stayed at Jakkur at Manu's house. Manu is Venkatesh's friend. Both stayed at Manu's house for 5 days. On 24/11/2024 he slept on her body & touched breast & kissed her lips. Not had sexual contact. Client insisted on collection of specimen.

7. Therefore, in view of the Medico-legal Examination report and the statement of description of the incident by the victim given to examining doctor, if the accused were to be subjected to trial, the probability of his conviction is remote.



8. The object of POCSO Act is to protect minors from sexual abuse and not to criminalize the consensual relationship between two adolescents who had consensual sexual intercourse without knowing the consequences. The petitioner and the survivor come from the lower socio economic segment having limited access to information and knowledge, thus depriving them about the consequences of having consensual sexual intercourse with minors. Though having sexual intercourse consensually with the minor is an offence under the POCSO Act, however, having regard to the facts and circumstances of the case, to secure the ends of justice, it would be appropriate to quash the impugned proceedings, otherwise, lest it result in miscarriage of justice.

9. Therefore, the contention of the criminal proceedings will be abuse of process of law. Accordingly, the petition is **allowed.**

10. Impugned proceedings in Spl.CC.No.2243/2024 on the file of the FTSC-IV and Additional City Civil and Sessions Judge at Bengaluru is hereby quashed and accused is ordered



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to be released from judicial custody forthwith, subject to the petitioner not being required in any other cases.

Sd/-
(HEMANT CHANDANGOUDAR)
JUDGE

LDC
List No.: 1 SI No.: 33
CT: BHK