



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MRS JUSTICE K.S. HEMALEKHA

CRIMINAL APPEAL NO. 198 OF 2019

Between:

State of Karnataka
By Devaraja Police Station,
Mysuru City,
Represented by State Public Prosecutor
High Court Building, Bengaluru-560001.

...Appellant

(By Sri Harish Ganapathy, HCGP)

And:

1. Prashanthkumar
S/o Mahadeva
Aged about 23 years,
R/o Devagowdanakoppalu Village
Pandavapura Taluk
Mandya District-571401.
2. Raveendra V
S/o Late M.P.Vasu
Aged about 36 years,
R/o No.77, Gollageri
Chamaraja Mohall
Mysuru-570001.
3. Smt. Mahalakshmi
W/o Balakrishna
Aged about 30 years,
R/o No.2124, 6th Cross,

Digitally signed
by VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA



6th Main, Kumaraswamy Layout,
II Stage, Bengaluru City-560078

...Respondents

(By Sri S.Manjunath, Advocate for R3 (Absent);
Sri B.N.Anjan Kumar, Advocate for R1 & R2 (Absent),
Sri C.Lingaraju, Advocate for R1 (Absent),
Sri Kumara K.G., Advocate for R2 (Absent))

This Criminal Appeal is filed u/s.378(1) and (3) Cr.P.C praying to grant leave to appeal against the judgment and order of acquittal dated 06.08.2018 passed by the VI Additional District and Special Judge, Mysuru in S.C.No.386/2014 acquitting Accused No.1/Respondent No.1 for the offences p/u/s 366, 376 of IPC and sections 3, 4, 17 of POCSO Act and acquitting the Accused No.2 and 3/Respondent No.2 and 3 for the offence p/u/s 366 r/w 114 of IPC and Section 17 of POCSO Act.

This Criminal Appeal, coming on for hearing, this day, judgment was delivered therein as under:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MRS JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

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

This appeal is against acquittal judgment passed in S.C.No.386/2014 on the file of VI Additional District and Sessions Judge, Mysuru. Three accused persons faced trial for the offences punishable under Sections 366 and 376 read with Section 114 of IPC and Sections 4 and 17 of the



POCSO Act. The trial court by its judgment acquitted the accused of all of the offences.

2. The prosecution case is about subjecting PW3 to forcible sexual intercourse. Her age according to prosecution was below 18 years and therefore the provisions of POCSO Act were invoked.

3. The incident projected is that PW3 had failed in the first year PUC examination and therefore she was little bit upset. On 06.07.2014 at 06.30pm she left her house and while going in front of Marimallappa College, accused No.1 met her. She told him that she was upset because of PUC result. Then accused No.1 told that he would take her to his friend's house. Thereafter both PW3 and accused No.1 came to the house of accused No.2. Accused No.3 is the wife of accused No.2. PW3 was left in the company of accused No.3. PW3 spent that night in the house of



accused Nos.2 and 3. On the next day, accused No.2 brought PW3 to railway station, where accused No.1 was present. Accused No.2 gave accused No.1 the key of his house at Bengaluru and asked both accused No.1 and PW3 to go to Bengaluru. Accordingly, on 07.07.2014 both of them came to Bengaluru and stayed in a house at Nagarabhavi. On 08.07.2014, accused No.1 told PW3 that he wanted to marry her. To this PW3 replied that her parents would take a decision in regard to her marriage. Then inspite of resistance by her accused No.1 committed rape on her. This is the prosecution case.

4. On 09.07.2014, the police brought both of them to Devaraja police station, Mysuru. After registration of FIR, investigation was held and charge sheet came to be filed against three accused persons. The prosecution examined 13 witnesses and got marked 28 documents.



Assessing the evidence, the trial court arrived at a conclusion that the evidence of PW3 i.e., prosecutrix would not inspire confidence because of her inconsistent testimony. This is the main reason for recording acquittal.

5. We have heard the arguments of Sri Harish Ganapathy, learned High Court Government Pleader for the appellant/State. Learned counsel for the respondents remained absent. We have perused the entire evidence.

6. Exs.P25 and 26 are the documents produced by the prosecution to prove the age of PW3. Ex.P25 is the SSLC Certificate and Ex.P26 is the birth certificate. In both these documents the date of birth of PW3 is mentioned as 12.04.1997. Therefore as on 06.07.2014, her age was 17 years 2 months and 24 days i.e., she was a girl below the age of 18 years.



7. During the investigation PW3 was taken before the Magistrate. She gave her statement under Section 164 of Cr.P.C., narrating the entire incident and said that she was subjected to forcible sexual intercourse by accused No.1. In the medical examination reports Exs.P22 and 23, it is opined that PW3 was used to an act like that of sexual intercourse; her hymen was absent. For the reason that the doctor who has examined PW3 and the accused, though an inference can be drawn that PW3 might have been subjected to intercourse by somebody, but the manner in which she has given evidence does not inspire confidence to act upon her testimony.

8. Although many witnesses have been examined, her testimony is not sufficient enough to prove the case of prosecution. In the examination-in-chief she supported, but when she was questioned with regard to Ex.P8, the



panchanama drawn in connection with the place where the sexual intercourse had taken place, she did not support the prosecution with regard to drawing up of panchanama. Her clear answer is that she did not know where she put her signature on Ex.P8 and she did not show any place to the police. According to prosecution the house mentioned in Ex.P8 is the place where she was subjected to forcible sexual intercourse. If she did not support drawing up of panchanama as per Ex.P8, it causes a serious dent to the prosecution case. Even in the cross examination she gave a go-bye to whatever she stated in examination-in-chief by stating that she did not know the first accused and she did not go with him to any place. She denied to have come over to Bengaluru with accused No.1. She simply stated that she spent 4 days in her friend's house. Therefore her evidence is not supporting to the prosecution. If it is mentioned in the medical report that PW3 was



used to an act like that of sexual intercourse, it does not assume any significance. The prosecution case has failed. The trial court is justified in acquitting all the accused. Therefore appeal is ***dismissed.***

**Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

KMV
List No.: 1 Sl No.: 8