



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 9<sup>TH</sup> DAY OF APRIL, 2025**

**PRESENT**

**THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR**

**AND**

**THE HON'BLE MRS JUSTICE K.S. HEMALEKHA**

**CRIMINAL APPEAL NO.1183 OF 2018**

**BETWEEN:**

THE STATE OF KARNATAKA  
BY BAGEPALLI POLICE STATION,  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR,  
BENGALURU-01.

... APPELLANT

(BY SRI HARISH GANAPATHI, HCGP)

**AND:**

Digitally signed by  
MAHALAKSHMI B M  
Location: HIGH  
COURT OF  
KARNATAKA

1. VENKATARAMANA  
S/O SATYAPPA,  
AGED 23 YEARS,  
R/O CHINTAMAKALADINNE VILLAGE,  
BAGEPALLI TALUK-561207.
2. NAGU @ NAGARAJA  
S/O LATE MUNINARAYANAPPA,  
AGED 27 YEARS,  
R/O ACHARLAHALLI VILLAGE,  
TUBAGERE HOBLI,  
DODDABALLAPURA TALUK-561203.
3. SURI S. SURESHA  
S/O VENKATARAMANAPPA



AGED 27 YEARS,  
R/O CHINTAMAKALADINNE VILLAGE,  
BAGEPALLI TALUK-561207.

4. SMT. RADHAMMA  
W/O SHIVAPPA,  
R/O CHINTAMAKALADINNE VILLAGE,  
GULOORU HOBLI, BAGEPALLI TALUK,  
CHIKKABALLAPURA DISTRICT-561 207  
(MOBILE 9611378198)

(R-4 HAS BEEN IMPEADED VIDE  
COURT ORDER DATED 26/03/2024)

... RESPONDENTS

(BY SRI R. KALYAN, ADVOCATE FOR R-1;  
SRI SHEKAR BADIGER, ADVOCATE FOR R-2;  
SRI M. CHIDANANDA, ADVOCATE FOR R-3;  
SRI B.N. KUMARASWAMY, ADVOCATE FOR R-4)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) &  
(3) CR.P.C. PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE  
JUDGMENT AND ORDER DATED 05.02.2018, PASSED IN  
SPL.S.C.NO.26/2015, ON THE FILE OF THE I ADDITIONAL  
DISTRICT AND SESSIONS JUDGE, CHIKKABALLAPURA  
ACQUITTING THE RESPONDENTS/ACCUSED FOR THE OFFENCE  
P/U/S 366-A, 344, 376 R/W 34 OF IPC AND SECTION 4 OF POCSO  
ACT, 2012 AND ALSO UNDER SECTION 3(1)(xii) AND 3(2)(v) OF  
SC/ST(POA) ACT, 1989.

THIS APPEAL, COMING ON FOR FINAL 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 MRS JUSTICE K.S. HEMALEKHA)

Against the judgment of acquittal dated 05.02.2018 in Spl SC No.26/2015 on the file of the I Additional District and Sessions Judge, Chikkaballapur ('Sessions Court' for short) for the offences punishable under Sections 366A, 344, 376 read with Section 34 of IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for short) and Section 3 (1) (xii) and 3 (2) (v) of SC/ST (POA) Act, 1989, the State is before this Court in this appeal.

2. On 15.12.2014, at around 9.00 a.m. while victim girl (PW1) was on her way to school from Chintamakaladinne to Marganakunte, she was approached by Venkataramana (accused No.1) and Suri @ Suresha (accused No.3). They informed her that her grand mother was being assaulted during a CPI (M) Party Meeting by unknown individuals. Believing their claim, PW1 accompanied them. Instead of taking her to her grand mother, the accused took her to Sri Anjaneya Temple, situated at Sulthanpet, Doddaballapur road. It is further alleged that she was wrongly confined in a



room from 15.12.2014 to 29.12.2014. During this period, accused Nos.1 and 2 committed sexual assault on her, while accused No.3 is alleged to have facilitated the offence. The accused were charged for the offences punishable under Sections 366A, 344, 376 read with Section 34 of IPC, Section 4 of POCSO Act and Section 3 (1) (xii) and 3 (2) (v) of SC/ST (POA) Act, 1989.

3. The prosecution, in order to prove their case, examined 34 witnesses as PW.1 to PW.34, marked documents at Exs.P1 to P46 and MO.1 to MO.6. The accused denied all the incriminating evidence, however, did not choose to lead any evidence. The Sessions Court found material contradictions in the testimony of PW1, particularly with respect to the sequence of events, the identity and role of the accused persons, and the nature of the alleged acts committed during her confinement. PW1 had given multiple, inconsistent versions, these versions differ substantially on who allegedly abducted her (accused Nos.1 and 3), how she was taken to Chikkaballapur, whether she was intoxicated and the commission of sexual assault. Furthermore, the



Sessions Court found that PW1 during her cross-examination admitted to not having previously seen accused No.2 despite earlier implicating him. These inconsistencies were found to be not merely minor discrepancies but material contradictions going to the root of the prosecution's case. The Sessions Court found that there was lack of medical evidence which undermines the core allegation of the prosecution. The mother (PW2) and grandparents (PW3) and (PW4) turned hostile and denied having given any incriminating statements, weakening the prosecution's narrative significantly. The Sessions Court, finding inconsistencies, lack of corroboration and hostility of witnesses, concluded that the prosecution had failed to prove the case beyond reasonable doubt and hence, acquitted the accused.

4. We have heard the learned counsel for the parties and perused the material on record.

5. Learned counsel appearing for the State argues that if the sole testimony of PW1 is considered, it is sufficient



for conviction. The testimony of PW1 clearly states that she was taken away under false pretences, confined, drugged and sexually assaulted. It is argued that the delay in medical examination accounts for lack of physical evidence and as such it should not outweigh the testimony of the prosecutrix particularly in a sexual assault case. Section 164 Cr.P.C. statement of PW1 is reliable, consistent and sufficient to convict the accused, even in the absence of corroboration. The hostility of PWs2, 3, and 4 cannot be placed with much importance, as hostility of witnesses is common in cases involving close family ties or due to societal pressure and should not alone discredit the case of the prosecution. PW23- the medical officer examined PW1. She spoke that hymen of the victim girl was torn and in her cross-examination, she has categorically deposed that PW1 stated that she was sexually assaulted by accused, this evidence ought to have been taken into consideration as it provides corroboration.

6. *Per contra*, learned counsel appearing for the respondents-accused supports the acquittal and contends that the Sessions Court's judgment is well reasoned based



on thorough evaluation of evidence. Version of PW1 is self contradictory and unreliable, and no conviction can rest solely on uncorroborated and inconsistent statements. The medical report conclusively shows no evidence of recent sexual assault, directly contradicting the prosecution's story. The alleged implication arising out of a land dispute further weakens the prosecution's motive theory. Given the hostility of all other key witnesses, there is no lawful basis to reverse a well-founded acquittal order.

7. Having carefully considered the submission made by the learned counsel for both the parties, and upon appraisal of the evidence on record, we proceed to examine whether the findings recorded by the Sessions Court warrant interference.

8. The central issue for determination is whether the prosecution has succeeded in establishing the guilt of the accused beyond reasonable doubt and whether the Sessions Court erred in arriving at a finding of acquittal. Ex.P1-the complaint states that on the morning of 15.12.2014, at



around 9.00 a.m., when PW1 was on her way to school, accused Nos.1 and 3 informed her that her grand mother-Mangalamma was being assaulted in Bagepalli and asked her to accompany them. They traveled together by auto to Bagepalli, where they introduced her to Nagu (accused No.2). Subsequently, accused Nos.1 and 2 took PW1 on a motorbike to Chikkaballapur, while accused No.3 traveled there by bus. Upon reaching Chikkaballapur, they rented a room where PW1 stayed with accused No.2. On the night of 15.12.2014, he committed sexual assault. She continued staying there with accused No.2, and on 19.12.2014, accused No.1 also joined them and on the said night, accused No.1 committed sexual assault. PW1 and accused No.2 stayed in the room until 29.12.2014. On 29.12.2014, around 11.00 a.m. on coming to know that mother of PW1 had filed a missing complaint. Following this, accused Nos.1 and 2 contacted accused No.3, who then took PW1 back to her place. PW1 did not immediately inform her mother and did so on the following day, after which they went to the police station together.



9. PW1 deposed that on 15.12.2014 while on her way to school, accused No.1 informed her that her grand mother-Mangalamma was being assaulted in Bagepalli. He along with accused No.3 took her in an auto. Upon reaching TVS Cross, they revealed that there was no such assault and that they had only brought her there under false pretence. Subsequently, accused Nos.1 and 3 took her on a motor bike to Chikkaballapur. Upon arrival, they rented a room. While in the room, they gave her tea, after which she felt dizzy and collapsed. Accused No.1 later brought her food, which she refused. Despite her resistance, accused No.1 committed sexual assault. Accused No.2, who was staying in the same room, committed sexual assault. On 29.12.2014, accused No.2 dropped her at Chikkaballapur bus stand and accused No.3 took her to the police station.

10. In her cross-examination, when asked about her absence from the school in July, August and September, 2014, PW1 explained that she had been to Bangalore at her mother's place who is her father's second wife. She also mentioned being unwell on certain days. Regarding



December 2014, she confirmed that she stayed with accused No.1 from 15.12.2014 to 29.12.2014. When questioned about accused No.2, she stated that she had seen him for the first time in the court and had never spoken to him before. On her relationship with accused, she clarified that accused No.1 and accused No.3 are her uncles, while she had never seen accused No.2 before. She also admitted that there was an ongoing land dispute between family of accused No.1 and her own.

11. In her 164 statement, PW1 gave a different account. PW1 mentioned that on 15.12.2014 while she was on her way to school, accused No.1 approached her and told her that her grand mother had been beaten up and assaulted, and that she needed to go to Bagepalli. When they reached Bagepalli, accused No.1 revealed that he had lied to her about her grand mother's assault as a pretext to bring her there. She stated that accused Nos.1 and 2 took her on a motor bike to Chikkaballapur while accused No.3 traveled by bus. There, they rented a room. After entering the room, they gave her tea and she felt dizzy, eventually



falling unconscious. PW1 states that she was unaware about what happened during the said time.

12. PW2-the mother of PW1 testified that in December 2014 upon learning from her mother (PW1's grand mother) that PW1 had not returned from school, she rushed home the next day. After inquiring at the school and confirming that PW1 had not attended, she lodged a missing complaint with the police. She stated she was informed that PW1 had last been seen with accused No.3. Upon questioning, accused No.3 denied knowledge and directed her to accused No.1 whose whereabouts were unknown at that time. After approximately 15 days, the police informed her that PW1 had been located, and she was asked to come to the station, where the police and accused No.3 brought PW1. She deposed that despite repeated questioning, PW1 did not tell her what had happened. During cross-examination (after being declared hostile), PW2 confirmed that PW1 had gone in an auto with accused Nos.1 and 3 after being told that her grand mother, Mangalamma had been



assaulted. She also admitted that PW1 did not disclose any detail to her.

13. PW3 is the grand mother, she deposed that her grand daughter was found after about 15 days. At that time, she went to the police station. There in front of the police, her grand daughter stated that the accused had taken her to Chikkaballapur and kept her in a room and that they brought her food. She deposed that she did not know whether the accused committed sexual assault on her grand daughter. Further, her grand daughter did not tell her anything about it nor, did she give any statement in front of the police, atleast not in her presence.

14. PW4 is the grand father of PW1. He categorically deposed that he has not seen accused No.3 with PW1 at any time and that accused No.3 had taken care to bring PW1 home. Further, he denied about any statement being given by him.

15. If the testimony of the witnesses is perused, it is found that PW1 has stated importantly in cross-examination



that she had never seen accused No.2 before undermining the allegations against him. In her complaint, she states that she and accused No.2 were staying in the room at Chikkaballapur and he committed sexual assault. While the testimony of PW1 is that accused No.1 committed sexual assault and later accused No.2, in her 164 statement, she introduced a new narrative that she was given something to drink (tea) after which she fell dizzy and became unconscious. She alleges accused No.1 committed sexual assault, but is unclear about when and how. This version introduces drugging, which was not mentioned in Ex.P1.

16. PW2 admitted in her cross-examination that her daughter-PW1 did not disclose any details about the alleged incident to her and that she did not personally hear her daughter stating anything incriminating before the police. Furthermore, she confirmed that she was not present when certain statements were allegedly made by PW1. Similarly, PW3 and PW4 failed to support the prosecution case and did not confirm any material fact linking the accused to the alleged offence. Hostility of the primary witnesses – PWs2, 3



and 4 who were expected to corroborate and support the victim's account, weakens the case of the prosecution, especially, in light of the already inconsistent and contradictory statements of PW1 herself, both in terms of the time line and the alleged acts committed by the accused. She gave varying accounts regarding how she was taken, who accompanied her and what transpired during the alleged confinement. Moreover, she admitted existence of family land dispute with the accused, raising a possibility of false implication.

17. The medical officer-PW23 states that PW1 informed her about drugging and sexual assault. The medical report revealed no signs of recent sexual assault and PW23 confirmed it in her deposition. If the version of PW1 about drugging is accepted, there ought to have been some medical evidence to that effect. The lack of medical corroboration seriously weakens her claim. The credibility of PW1 is doubtful, as she provided multiple versions of the events surrounding her abduction and alleged assault. These contradictions are not merely trivial discrepancies but pertain



to medical aspects of the case, including the sequence of events, the involvement of the accused and the nature of assault. The inconsistency in her statement raises serious doubt about her reliability as a witness.

18. Having considered the entirety of the evidence, the contradictions in the prosecution case, the absence of corroborative medical evidence and settled legal principles governing interference with acquittal, we find no compelling reasons to disturb the findings of the Sessions Court. The view taken by the Sessions Court is plausible and legally sustainable one. Accordingly, the appeal filed by the State fails and is hereby ***dismissed***.

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

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