



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST 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.919 OF 2015

BETWEEN:

THE STATE BY MAHILA
POLICE STATION,
DAVANAGERE -577001.

... APPELLANT

(BY SRI RANGASWAMY R., HCGP)

AND:

1. SRI RAVI @ RAVIKUMAR
S/O RAMACHANDRAPPA,
AGED ABOUT 24 YEARS,
WORKING AT MORE SHOP,
RESIDING AT 14TH CROSS,
1ST MAIN, K.T.J. NAGAR,
DAVANAGERE-577001.
2. MAMTHA W/O. LATE J. KOTRESH
AGED ABOUT 39 YEARS,
HOUSEWIFE, 14TH CROSS,
2ND MAIN, K.T.J. NAGAR,
DAVANAGERE-577001.

(AMENDED VIDE COURT
ORDER DATED 05.12.2023)

... RESPONDENTS

(BY SRI C.H. JADHAV, SENIOR COUNSEL FOR
SRI CHETHAN JADHAV, ADVOCATE FOR R-1;
SMT. NIRMALA K. ADVOCATE FOR R-2 (AUTHORIZED BY HCLC))

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Location: HIGH
COURT OF
KARNATAKA



THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) CR.P.C. PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 13.02.2015 PASSED BY THE LEARNED PRINCIPAL DISTRICT AND SESSIONS JUDGE AND SPECIAL JUDGE AT DAVANAGERE IN S.C.NO.14/2014, THEREBY, ACQUITTING THE RESPONDENT/ACCUSED OF THE OFFENCES P/U/S 366 OF IPC AND SECTION 4 OF POCSO ACT AND ETC.

Date on which the appeal was reserved for Judgment	07.03.2025
Date on which the Judgment was pronounced	21.04.2025

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

CAV JUDGMENT

(PER: HON'BLE MRS JUSTICE K.S. HEMALEKHA)

This appeal is preferred against the judgment of acquittal for the offences punishable under Section 366 of Indian Penal Code (IPC) and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).

2. The case of the prosecution revolves around the alleged kidnapping of a 14 year old girl on 31.10.2013 by the



accused. The victim was living with the complainant at that point of time. The complaint was lodged on 07.11.2013 after the accused brought the victim to the police station, where she revealed that she had been kidnapped. The accused was charged for the offences punishable under Section 366 of IPC and Section 4 of the POCSO Act.

3. The Trial Court acquitted the accused finding the prosecution case to be unreliable. It pointed out contradiction and discrepancies in the victim's testimony-PW.1 and noted that complainant-PW.2's evidence did not align with the complaint. The Court also observed that there were improvements in the testimony, and the prosecution failed to prove the allegations beyond reasonable doubt. The sole testimony of PW.1 is found insufficient. Additionally, the medical evidence did not support the victim's statement. The Trial Court acquitted the accused.

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



5. Learned counsel for the State argues that the prosecution had proved the victim's age to be under 18 years and therefore, any consent to a sexual assault or act is not considered as legal consent. It is contended that if the trial Court had properly considered the evidence of PW.1-the victim, PW.2-the victim's mother and PW.11-doctor who examined the victim and issued medical certificate at Ex.P9, the prosecution's case stands established. The Trial Court's failure in appreciating the evidence correctly led to an incorrect acquittal, resulting in miscarriage of justice.

6. Learned senior counsel appearing for the accused submits that the prosecution has failed to prove the case beyond reasonable doubt, pointing to several lapses in the investigation, including unclear evidence regarding the victim's age. Learned counsel emphasized discrepancies in the time line, such as 7 days delay in lodging the complaint, and conflicting statement from the witnesses. It is submitted that the prosecution has not accurately portrayed the events and the version favouring the accused should be accepted, especially since two possible interpretations



existed. It is pointed out that PW.1 initially stated about one Praveen and later on the accused has been implicated.

7. In response to the delay, learned counsel for the State argues that the delay in lodging the complaint should not be considered a significant factor in cases like this. The delay should not undermine the prosecution's case in this particular situation.

8. Counsel for the victim argues and supports the arguments advanced by the State.

9. We have given our anxious consideration to the contentions urged by the learned counsel for the parties and perused the material on record.

10. The victim-PW.1 testified that she was aged 14 years and going to school by walk. While walking back and forth from school, a man named Praveen would shout and tease her. One day, Praveen sent a blank messages to her grand mother's mobile. When she called back, it was revealed that the message was from Praveen. After that the



accused started to send messages to her grand mother's phone and since her grand mother could not read and write, the victim would read the messages. One day, the accused sent a message saying he liked her, and the victim responded expressing that she liked him too. On 11.10.2013 the victim testified that the accused approached her near the school. They talked and went to Harihar temple. The victim also mentioned that, prior to 11.10.2013, the accused had taken her to his relative's house, where his elder sister was present, and they had conversation. During that time, the accused mother arrived and told the victim that the accused was already married and had children. She instructed the victim to leave and not stay there. The following day of 11.10.2013, the accused called the victim and suggested they would go to Durgamma Temple. While they were there, the accused's father called him and he replied that he would return soon. The accused's mother upon seeing them together told the victim's grand parents that the accused was already married and she should not be associating with him. Later that day, the victim had gone to the temple, her



grand father went to the school, but he could not find her, so he filed a complaint, stating that she had gone with the accused.

11. The accused's father then called him to inform that police were looking for the victim and instructed him to take her to the police station. The accused did so and police advised the victim not to go with him again, sending her back to her parents.

12. On 31.10.2013, at around 3.30 p.m. when the victim was at home with her mother in Shamanur, she called the accused and accused told her to meet at the Railway Station. Without informing her mother, she went to Davanagere railway station, where the accused was waiting. The accused then took her with an intention to marry her and booked a room. On the said night, the accused did not come to the room. On the night of 01.11.2013, the accused came to the room, committed sexual assault despite the victim's resistance. The victim in her evidence narrated the incident explaining that the accused forcibly assaulted her.



She testified that the accused had behaved in such a manner only once. On the next day morning, the accused left the room and only returned the following evening. This pattern continued for 4 to 5 days. On 05.11.2013, the accused took her to Davanagere railway station in the evening, left her there, did not return afterwards. While at the railway station, the victim stated that she considered returning home but feared being scolded by her mother and grand-parents. So, instead she took an auto rickshaw to go to hostel. Later that night she returned to the railway station. Next day, the victim went to the KSRTC bus stand. While standing near the bus stand, she saw the accused along with his grand-mother, the accused pointed her to his grand-mother, and together the accused and his grand-mother took the victim to the police station. In her cross-examination, the victim admitted that grand parents informed her mother that she was spending time with Praveen, Yatish and some others. This is why her mother had called her back to their home in Shamanur on 31.10.2013. She also stated that she spent two days on railway platform, spending some time there and



sometime in the room, which contradicted the earlier testimony in the chief-examination. PW.1 admitted that it was the accused and his grand mother who took her to the police station.

13. PW.4 spoke that victim's grand father informed him that the accused had taken the victim on her way back from school. He is a witness to Ex.P2 which involves the room where the accused allegedly committed the offence.

14. PW.6 is the grand-father of the victim deposed that the victim was living with them and he had advised the accused on 31.10.2013 to stop his behaviour as he was already married. Further, he deposed that on 07.11.2013, when the victim was near the flower shop run by her grandmother, he called PW.2 to file a complaint. This statement contradicts the testimony of PW.1 and PW.2, their statement does not align with the specific detail about the victim being near the flower shop and the grand father calling for the complaint to be filed.



15. The sole testimony of PW.1 is in contradiction, rather than being consonance with other testimonies and evidence. There are inconsistencies and contradictions between her testimony and the statement provided by other witnesses, namely PWs.2, 4 and 6. These discrepancies weaken the reliability and trustworthiness of the victim's statement, making it difficult for her sole testimony to serve as the sole basis for conviction. Another contradiction in the testimony of PW.1 is that initially she claims that Praveen teased her and sent messages, but later she suddenly implicated the accused as the one sending messages and being in contact with her. Her testimony suggests that for four days, the accused was coming and going, but there is no indication that she was detained in a room with no access to outside world. According to her evidence, on 31.10.2013 the accused walked out of the room and did not return that night, on 01.11.2013 he returned and she states that there was sexual intercourse despite her objections. After that the accused left but returned in the evening bringing food, and this continued for three days. On 05.11.2013 he allegedly



dropped her at Davangere railway station and left. The victim's testimony contains several inconsistencies and contradictions, which significantly weaken its reliability. On 05.11.2013, when the victim had an opportunity to escape, she claims she didn't, stating that she was scared of returning to her parents or her grand parents. Later on 07.11.2013 she went to bus stand, but the reason for being there is not clearly explained, she saw the accused and his grand mother, who then took her to the police station. However, presenting the accused at the police station in this manner, especially after the complaint had been lodged, raises doubt about the trustfulness of the victim's statement. Further more when the victim's statement is compared with the testimony of other witnesses, contradiction emerges. Given this contradiction and the lack of consistent reliable evidence from the prosecution, the testimony of PW.1 is not trustworthy. The prosecution has failed to provide coherent and credible evidence to substantiate the serious allegations against the accused. Therefore, the sole testimony of the victim cannot be used as reliable basis for conviction.



16. PW.11 is the senior doctor who examined the victim girl. She stated that there is no external injuries found on the body of the victim girl. The radiologist report suggests that the victim girl to be 17 to 20 years old. PW.11 who issued Ex.P9 opined that there is no recent sexual intercourse. The testimony of PW.1 does not align with the medical evidence either.

17. The present appeal is against the order of acquittal, the general rule is that the appellate Court should not disturb unless there is clear and compelling reason to do so. There is a presumption of innocence of the accused and the appellate Court will give the benefit of doubt to the accused unless there is strong case for reversal of the acquittal. The trial Court's decision does not appear to be unreasonable for the appellate Court to overturn the acquittal. The prosecution has failed to prove beyond reasonable doubt that the accused committed any offence under Section 366 of IPC, Section 4 of the POCSO Act. We have not much said about the age of the victim girl as the



question of assessing the age would arise only when there is any sexual assault proved against the accused. For the reasons stated, we pass the following:

ORDER

Criminal appeal is hereby ***dismissed***.

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

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

MBM
List No.: 1 Sl No.: 1