



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JUNE, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.1402 OF 2024 (A)

BETWEEN:

STATE BY
INSPECTOR OF POLICE,
HIRIYUR RURAL POLICE STATION,
CHITRADURGA DISTRICT,
REPTD. BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU - 560001.

...APPELLANT

(BY SRI. VIJAYA KUMAR MAJAGE, SPP-II.)

AND:

1. NINGANNA
S/O CHANDRAPPA,
AGED ABOUT 24 YEARS,
2. CHANDRAPPA
S/O BHEEMANNA KOLAR,
AGED ABOUT 57 YEARS
3. SHARANAMMA
S/O CHANDRAPPA,
AGED ABOUT 47 YEARS
4. MARILINGA
S/O CHANDRAPPA,
AGED ABOUT 32 YEARS



5. SHARANAKUMARA
S/O CHANDRAPPA,
AGED ABOUT 21 YEARS

ALL ARE R/AT YERAGOL VILLAGE AND POST,
YADAGIR TALUK, YADAGIR-585201.

6. KAVITHA
W/O KUMARANAİK,
AGED 38 YEARS,
R/AT NEAR SIDDAGANGA PU COLLEGE,
DOMBARAHALLI,
MADANAYAKANAHALLI,
BENGALURU TOWN,
DASUDI UMLANAİKANA TANDA,
CHIKKANAYAKANAHALLI TALUK,
TUMKUR DISTRICT,
BANNAJE, UDUPI - 576101.

...RESPONDENTS

(BY SRI. TUMBIGI PRABHUGOUDA BASAVANTARAYAGOUDA,
ADVOCATE FOR R1 TO R5,
SRI. ABHISHEK K., ADV. FOR R6/DE-FACTO COMPLAINANT)

THIS CRL.A IS FILED U/S 378(1)(3) CR.P.C BY THE SPP
FOR THE STATE PRAYING TO GRANT LEAVE TO APPEAL
AGAINST THE IMPUGNED JUDGMENT AND ORDER DTD
31.01.2024 PASSED BY THE HON'BLE COURT OF SPL.II ADDL.
DISTRICT AND SESSIONS JUDGE, CHITRADURGA IN SPL.C
(POCSO) NO.193/2022 ACQUITTING THE
ACCUSED/RESPONDENTS FOR THE OFFENCE P/U/S
354D,376(2)(n),366 R/W 34 OF IPC AND SEC.4,6,12,17 OF
POCSO ACT AND SEC.9,10,11 OF PROHIBITION OF CHILD
MARRIAGE ACT AND SEC.3(1)(w)(i)(ii) 3(2)(v)OF SC/ST (POA)
ACT ETC.

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 G BASAVARAJA

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE G BASAVARAJA)

State has preferred this appeal against the judgment of acquittal dated 31st January, 2024 passed in Spl.C.(POCSO) No.193/2022 by the Special II Additional District & Sessions Judge, Chitradurga (for short hereinafter referred to as "trial Court").

2. Brief facts leading to this appeal are that, Hiriyr Police filed charge sheet against the accused for the offence punishable under Sections 354-D, 376, 366-A read with Section 34 of Indian Penal Code, Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act, 2012 (for short hereinafter referred to as "POCSO Act"), Sections 9 and 10 of Prohibition of Child Marriage Act, 2006 and Section 3(1)w)(i)(ii) of the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.



3. It is alleged by the prosecution that on 26th July, 2022 at about 2.00 pm, the accused, kidnapped the victim, with an intention to compel her for marriage against her will and took her to Ramalingeshwara temple in Sunkanuru village of Chittapura Taluk on 27th July, 2022 and married her with the assistance of accused 2 to 5. It is further alleged that on 27th July, 2022, in the house of Hanumanthappa in Sunkanuru village, accused No.1 committed sexual intercourse upon the victim, who belongs to Scheduled Caste. Thus, the accused have committed the aforesaid offences.

4. To prove the case, prosecution in all, examined 21 witnesses as PWs.1 to 21, 32 documents were marked as Exhibits and 15 material objects were marked as MOs.1 to 15. During the course of cross-examination of PW1, eight documents were marked as Exhibits D1 to D8. Having heard the arguments on both sides, the trial Court has acquitted the accused. Being aggrieved by the



impugned judgment of acquittal, State has preferred this appeal.

5. We have examined the material placed before us. It is the case of the prosecution that the victim was minor as on the date of alleged incident and the date of birth of the victim is 06th April, 2005. To substantiate this, prosecution has produced Exhibit P23-copy of School Admission Register (ಶಾಲಾ ದಾಖಲಾತಿ ನಕಲು). Prosecution has also examined PW16-Ravi, Teacher in Government Lower Primary School, Handiganadu, Hosadurga Taluk. During his cross-examination, he has clearly admitted that he does not know, as to on what basis, the victim got admitted to the school and he was not the Teacher at the time of admission of victim to the school. He has also clearly admitted that Exhibit P23 is not the certified copy of the School Admission Register.

6. PWs.2 and 3-parents of the victim, have not whispered as to the date of birth or actual age of the



victim as on the date of alleged incident. Investigating Officer has not collected the birth certificate or the SSLC Marks card of the victim. Investigating Officer has also not explained anything for non-production of the above said documents. Ossification certificate is also not obtained by the Investigating Officer to ascertain the exact age of the victim. Observing all these aspects, the trial Court has rightly held that the prosecution has not produced the document as required under Section 94 of Juvenile Justice (Care of Protection of Children) Act, 2015 relying upon the decision of the Hon'ble Supreme Court in the case of YUVA PRAKASH v. STATE reported in 2023 SCC ONLINE SC 846. Accordingly, prosecution has failed to prove that the victim was minor as on the date of alleged incident as defined under Section 2(d) of POCSO Act, 2012. When the prosecution has failed to prove that the victim was minor as on the date of alleged incident, it cannot be said that offences under Sections 9, 10 and 11 of Prohibition of Child Marriage Act, 2006 can be invoked.



7. With regard to offence punishable under Sections 366-A, 376 and 354-D read with Section 34 of Indian Penal Code and offences under the provisions of Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are concerned, the victim has clearly deposed in her evidence that she and accused No.1 were in love with each other and they were roaming about in different places. Exhibit P15-medical report issued by the duty Doctor of Government Hospital, Hiriyur, reveals that the history was given by the victim that the accused No.1 and victim met as neighbours six months back and they used to meet once a month. On 26th July, 2022, the accused No.1 forcibly took the victim to an unknown village in Yadgir and they got married in a Temple with the help of family members of the accused. They were together for two days. They had two times intercourse in two days. After two days, victim's uncle came and took her to home. Medical evidence reveals that there is no suggestive recent sexual assault or exposure. The Forensic Science Laboratory report also reveals that there is no evidence to say that the accused No.1 had committed sexual assault on the victim. No seminal stains were detected in Items No.1, 3, 4



and 5 as per Exhibit P25. Skin tissue was not detected in Item No.2. There is delay of two days in filing the complaint. Prosecution has not furnished proper explanation as to delay in filing the complaint. On careful scrutiny of the entire evidence on record, absolutely there are no cogent, corroborative, convincing or trustworthy evidence placed by the prosecution. Taking into consideration all these aspects, the trial Court has rightly observed that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt.

8. Even on re-evaluation of the entire evidence on record, we do not find any error, illegality or legal infirmity in the impugned judgment of acquittal. Resultantly, appeal being devoid of merit, stands dismissed at the stage of Admission itself.

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

**Sd/-
(G BASAVARAJA)
JUDGE**

Inn
List No.: 1 Sl No.: 6