



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 65 OF 2026 (A)

BETWEEN:

THE STATE BY
VENURU POLICE STATION,
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

...APPELLANT

(BY SMT. RASHMI PATEL, HCGP)

AND:

1. SRI. SANDESH
S/O RONI,
AGED ABOUT 25 YEARS,
R/AT THUMBEGUDDE HOUSE,
NARAVI VILLAGE, BELTHANGADY TALUK,
DAKSHINA KANNADA DISTRICT-574 211.
2. SMT. RATHNA
W/O LATE CHANDAPPA,
AGED ABOUT 40 YEARS,
OCCUPATION: KOOLI,
R/AT NARAVI GRAMA,
BELTHANGADI TALUK-574 211.

...RESPONDENTS



THIS CRL.A IS FILED U/S 378(1)(3) OF CR.P.C PRAYING TO: (A) GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER DATED 26.10.2024 IN THE COURT OF THE ADDL. DISTRICT AND SESSIONS JUDGE/FTSC-II, (POCSO), D.K., MANGALURU THEREBY ACQUITTING THE ACCUSED/RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 376(2) OF IPC & 6 OF THE POCSO ACT, 2012; (B) SET ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 26.10.2024 IN SPL.C.NO.98/2023 PASSED BY THE ADDL. DISTRICT AND SESSIONS JUDGE/FTSC-II, (POCSO), D.K., MANGALURU, THEREBY ACQUITTING THE ACCUSED/RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 376(2) OF IPC & SEC. 6 OF THE POCSO ACT, 2012 BY ALLOWING THIS APPEAL; (C) CONVICT AND SENTENCE THE ACCUSED/RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 376(2) OF IPC & SEC. 6 OF POCSO ACT, 2012 IN ACCORDANCE WITH LAW.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

This appeal preferred by the State is directed against the judgment of acquittal dated 26.10.2024 passed by the Court of the Additional District and Sessions Judge/FTSC-II (POCSO) D.K., Mangaluru in Spl.C.No.98/2023.



2. The charges were framed against the accused for the offences punishable under Section 376(2)(n) of IPC and Section 6 of POCSO Act, 2012. The trial Court vide impugned judgment was pleased to acquit the accused, hence this appeal.

3. We have heard Smt. Rashmi Patel, learned High Court Government Pleader for the State and perused the material on record.

4. It is the case of prosecution that the accused being the neighbour resident of the minor victim girl, got acquainted with her and became friendly with her. On 3rd Sunday of December 2022 at about 11 a.m., he came near victim's house and by seducing her, told her to come near a hillock situated at Thumbegudde of Naravi Village, Belthangady Taluk. When she went to the said place, by promising that he will marry her, committed penetrative sexual assault against her will. Again in the month of January 2023, he committed the similar act with her twice



and again on 05.03.2023, he repeated the said act in the same place, due to which she became pregnant.

5. It is the specific case of prosecution that the accused by seducing the victim girl, a minor aged about 17 years, subjected her to repeated penetrative sexual assault, due to which she became pregnant and thereby committed the charged offences. In order to establish that the victim was a minor as on the date of incident, the prosecution has got examined the school records such as, study certificate-Ex.P7, certified copy of admission application-Ex.P8, copy of Birth Certificate-Ex.P9 and school admission Register-Ex.P10. PW5, the in-charge headmaster of Govt. Higher Primary School, Naravi, was examined in support of the above documents. As per the Birth Certificate and the school records, date of birth of the victim is 06.03.2006. The trial Court has taken into consideration the above documents wherein it is seen that the victim studied from I to VIII standard. From the evidence of PW5 and the documents furnished in support



of the proof of date of birth of the victim, the trial Court has come to the conclusion that the victim was a minor aged 17 years as on the date of commission of the offence. The said finding is in favour of the prosecution.

6. Insofar as the charge framed against the accused for the offence punishable under Section 376(2)(n) of IPC and Section 6 of POCSO Act is concerned, the prosecution has mainly relied on the evidence of the victim, her mother and the DNA report issued by PW13.

7. Learned High Court Government Pleader contended that in this case, the DNA profile results of product of conception is consistent with having come from the offspring of victim and the accused. The same matched with the DNA profile results of blood samples of victim and accused, which confirms that the accused is the biological father of the product of conception and the victim is the biological mother and therefore, the prosecution has proved the charges levelled against the accused beyond reasonable doubt. She contended that the



reasons assigned by the trial Court for acquitting the accused by discarding the DNA report, has resulted in miscarriage of justice.

8. In this case, the victim is examined as PW1. As could be seen from the material on record, when the victim missed her menstruation in the month of April 2023, she informed the matter to her grandmother, who suggested her to get examined at a hospital. Hence on 10.04.2023, she went to Govt. Hospital, Belthangady, where the doctor after conducting urine pregnancy test (UPT) informed her that she is pregnant. The doctor then informed the matter to the police and thereafter, the police visited the house of the victim and recorded her first information statement, based on which FIR was registered.

9. PW3, Dr. Rashmi N., is the Medical Officer who collected the blood samples of the accused and victim and handed over the same to the I.O. PW7, Dr. Lekha M.B., is the Medical Officer at Lady Goschen Hospital, Mangaluru, who examined the victim and issued medical report and



also conducted medical termination of pregnancy (MTP) and collected the expelled product of conception of victim and handed it over for DNA analysis. PW9 is the police constable who went to the hospital and collected the expelled product of conception of the victim from the doctor and handed over the same to the I.O/PW10. PW13 is the Scientific Officer, DNA section Bengaluru, who extracted the DNA from the said samples sent for analysis and issued the DNA analysis report.

10. Before appreciating the DNA report, it is pertinent to mention that in this case the victim as well as her mother examined as PW1 and PW2 have completely turned hostile to the prosecution case. The victim girl in her deposition has denied any friendship or relationship with the accused. She has categorically denied that she had any physical relationship with the accused. She has also denied having lodged any complaint against him. She has stated that she gave statement before the Magistrate as per the say of police. Though she was cross examined



by the Public Prosecutor, there is nothing worthwhile elicited in her evidence. Similarly, victim's mother examined as PW2 has also turned hostile and not supported the case of prosecution.

11. In light of the above, the only material which is available to prove the charges levelled against the accused is the DNA report issued by PW13.

12. According to PW13, on 18.04.2023, he received a sealed article from the police personnel, by name Harish V., which contained the product of conception said to have been collected from the victim. On 15.05.2023, he received two more sealed articles through Police Constable, by name Santhosh. Article No.1 contained the blood sample of the accused and Article No.2 contained the blood sample of the victim. He extracted DNA from all three biological samples. The DNA was quantified and amplified and then the products were separated on genetic analyzer instrument. According to PW.13, as per the results, he came to the opinion that the DNA profile results



of product of conception sent in Item No.1 is consistent with having come from the offspring of the victim and the accused and the same matched with the DNA profile results of blood samples of the victim and the accused. He has issued the report - Ex.P25 stating that the accused is the biological father and the victim is the biological mother of the product of conception.

13. Before the trial Court, the defence raised serious questions regarding handling of the product of conception and blood samples. The trial Court found that those questions were not suitably answered by the witnesses, including the Investigating Officer, thereby giving room for manipulation in the said process of collecting and sending the blood samples till the process of extracting DNA profile and its analysis.

14. The evidence of prosecution witnesses, including the Scientific Officer, do not reveal as to the collection of the product of conception and transportation of the blood samples in a safe method. Further, no



mahazars were drawn while receiving the sample. Hence, the trial Court has held that the prosecution has not discharged the initial burden of proving the guilt of the accused for the offences charged against him so as to raise the presumption available under Sections 29 and 30 of the POCSO Act.

15. The learned Sessions Judge has relied on a decision reported in **2020 (3) KCCR 1704** in the case of **Nagappa V/s. State of Karnataka**. It is relevant to extract paragraphs 26 to 28 of the said judgment:

"26. The only material which is available before the Court is that of the opinion of PW.19, the DNA test report as per Ex. P16. The DNA test is an impact of the modern scientific and technological revolution. No doubt this new technology can be used as an effective tool in crime detection. To prove the case of the prosecution the DNA technology as a latest tool of forensic science, is the by-product of modern genetic science. Many Courts not only in India even in United States have relied upon and have accepted it as admissible evidence. However, by close reading of the material through which the scientific result is going to be taken, the entire process of procuring the DNA evidence is controlled by human agencies



i.e., Investigating Officers and forensic scientists, there is ample chance of manipulation, tampering of such evidence by corrupt officers or scientist which needless to say highly prejudices the accused persons. Even preservative methods adopted are not properly brought on record. In that light, prosecution has to establish corroboration to such evidence and its truthfulness error free, accurate, unbiased and correct testing.

27. No doubt Article 20(3) of the Constitution of India, if it is contended that the accused is not bound to give the blood test, however, in order to have an investigation, the Investigating Officers or the Court can direct him to give the blood for DNA sample. Merely because he has given the consent for taking the blood, then under such circumstances, the report which has been given cannot be accepted as a gospel truth. When there is ample chance of tampering, then under such circumstances it is going to be highly prejudice the accused persons. The science may be infallible, but human action, which controls the result of the scientific forensic examination, is always fallible and there is probability of manipulation and tampering with the scientific evidence.

28. Keeping in view the above said facts, I am of the considered opinion that it is highly unsafe to rely upon the sole DNA test to convict the person on the basis of the said test. There must be a unique balance between



scientific evidence and human evidence. Therefore, existing value based criminal justice system cannot be done away with and as such, a susceptible balance has to be struck between the modern system based on scientific and technological knowledge and our existing value based system. It should be remembered that the law directly deals with the basic complex human problems, which are not of mathematical precision and the fate of every case depends upon its own factual matrix."

16. Even in the present case, the only material which is available, in view of the hostility of the victim, is the DNA report-Ex.P25, as per which the accused is the biological father of the product of conception of the victim. However, the preservative methods adopted for the samples and the transportation of the product of conception as per medical protocol is not properly brought on record. In such an event, the prosecution has to establish the corroboration to such evidence and its proof.

17. In the above decision, this Court has held that there is ample chance of manipulation and tampering of such evidence, which may prejudice the accused. The



process of collecting the blood samples, their transmission and examination by the concerned Scientific Officer must be in a fair manner and the process should be beyond doubt. The procedure followed should not give any room for any doubt. The trial Court, having examined the evidence of the material witnesses in support of the DNA report, was of the opinion that solely based on the uncorroborated testimony of the expert, it is not safe to convict the accused and hence, the trial Court acquitted the accused. There is no other corroborative evidence to reverse the judgment.

18. The Hon'ble Apex Court, in its judgment in the case of ***Chandrappa and others -v- State of Karnataka*** reported in ***(2007) 4 SCC 415***, while laying down the general principles regarding powers of the Appellate Court while dealing in an appeal against an order of acquittal, was pleased to observe at paragraph Nos.42(4) and 42(5) as below:



"42(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial Court.

42(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court."

19. In the case of **Sudershan Kumar -v- State of Himachal Pradesh** reported in **(2014) 15 SCC 666**, while referring to Chandrappa's case (supra), the Hon'ble Apex Court at paragraph No.31 of its judgment was pleased to hold that, it is the cardinal principle in criminal jurisprudence that presumption of innocence of the accused is reinforced by an order of acquittal. The Appellate Court, in such a case, would interfere only for very substantial and compelling reasons.



20. In the case of ***Jafarudheen and others -v- State of Kerala*** reported in ***(2022) 8 SCC 440***, at paragraph No.25 of its judgment, the Hon'ble Apex Court was pleased to observe as below:

"25. While dealing with an appeal against acquittal by invoking Section 378 Cr.P.C, the appellate Court has to consider whether the trial Court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate Court has to be relatively slow in reversing the order of the trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

21. We find no error or illegality in the findings recorded by the trial Court.

22. For the foregoing reasons, we proceed to pass the following:



ORDER

- i) The appeal is ***dismissed***.
- ii) In view of the dismissal of the appeal,
I.A. No.1 of 2026 also stands ***dismissed***.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**