



CNR: KAHC010093052019

NC: 2026:KHC:46473-DB
CRL.A No. 603 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.603 OF 2019

BETWEEN:

1. STATE OF KARNATAKA,
BY POLICE INSPECTOR,
BELTHANGADI CIRCLE, BELTHANGADI,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-560001.

...APPELLANT

(BY SRI.SUHAS GOWDA M., HCGP)

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by DEVIKA M

Location: HIGH
COURT OF
KARNATAKA

AND:

1. RAMESH POOJARI,
S/O LATE SIDDAPPA POOJARI,
AGED ABOUT 40 YEARS,
R/AT JANATHA HOUSE, GURIPALLA,
BARAYA KANYADI VILLAGE,
BELTHANGADI TALUK-574214.
2. YOGESH,
S/O ANNI POOJARI,
AGED ABOUT 40 YEARS,
R/AT GURUKRIPA, KAGINAKONDA
NIDUVALE POST, MARKALA VILLAGE,
MUDIGERE TALUK-577132.



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3. RAMESH K.S.,
S/O LATE SOMAIAH POOJARI,
AGED ABOUT 46 YEARS,
R/AT AREKUDIKE MAKKI HOUSE,
NIDUVALE VILLAGE AND POST,
MUDIGERE TALUK,
CHIKKAMAGALURU DISTRICT-577132.
(DEFACTO COMPLAINANT)

(AMENDED VIDE COURT ORDER DATED 22.03.2024)
...RESPONDENTS

(BY SMT. POOJA KATTIMANI, ADVOCATE FOR
SRI. DINESH KUMAR RAO K., ADVOCATE FOR R1 AND R2;
SMT. VEENA T.N., ADVOCATE FOR R3)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF CR.P.C PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 27.04.2018, PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS (SPECIAL JUDGE), D.K., MANGALURU, IN SPL.CASE NO.50/2015, DATED 27.04.2018 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 376 AND 506 OF IPC AND SECTIONS 5 AND 6 OF POCSO ACT, AGAINST RESPONDENT NO.1/ACCUSED NO.1 FOR THE OFFENCE PUNISHABLE UNDER SECTION 506 OF IPC AGAINST THE RESPONDENT NO.2/ACCUSED NO.2.

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



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CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

Heard the learned High Court Government Pleader appearing for the appellant/State and the learned counsel for respondent Nos.1 and 2. The learned counsel for respondent No.3 is absent.

2. This appeal is filed against the judgment and order of acquittal dated 27.04.2018 passed in Spl.Case No.50/2015 acquitting accused Nos.1 and 2 for the offences punishable under Sections 376 and 506 of IPC and Sections 5 and 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for short) and prayed this Court to convict and sentence both the accused.

3. The factual matrix of the case of the prosecution is that as per the complaint Ex.P.1 made by the victim girl/P.W.1, who is aged about 17 years, an allegation is made that accused No.1 subjected her for sexual act in total for three days and hence, the offence under Section 376 of IPC and Sections 3, 4



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and 12 of POCSO Act was invoked against accused No.1. The offence under Section 506 of IPC was also invoked that accused No.1 after committing the rape on the victim girl threatened her that she should not disclose this matter to anyone else. The offence under Section 506 of IPC is invoked against accused No.2 that he had caused the life threat to the father of P.W.1 i.e., P.W.3 not to lodge any complaint. The accused No.2 was enlarged on bail by granting anticipatory bail and accused No.1 was also on bail subsequently and both of them pleaded not guilty and claimed the trial. Hence, the prosecution relies upon the evidence of P.W.1 to P.W.16 and documentary evidence of Exs.P.1 to 16. The documents of Exs.D.1 to 4 are also marked, but no M.Os. are seized and marked before the Trial Court.

4. The Trial Court having considered the material available on record and also the evidence of P.W.1 victim girl, P.W.2 and P.W.3 parents of victim, P.W.4 wife of accused No.1 and P.W.7 friend of the victim girl through Facebook and having assessed both oral and documentary evidence available on record, comes to the conclusion that the evidence of the prosecution witnesses not inspires the confidence of the Court



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and comes to the conclusion that a false complaint is foisted against accused No.1, since he had advised P.W.1 not to indulge in the act of messaging P.W.7. P.W.1 was repeatedly caught by P.W.4 when she was messaging to P.W.7. The evidence of P.W.7 is also clear that accused No.1 had advised him not to continue contact with P.W.1 victim girl as she was not pursuing her education properly and when she came in contact with him, her education is very poor and the same is admitted by P.W.7. The Trial Court considering overall evidence available on record, comes to the conclusion that not a case for conviction. The Trial Court even extracted the admission on the part of the Investigating Officer P.W.13, who conducted the investigation that accused had denied the allegation as well as made the statement that when the mobile phone of P.W.1 was snatched, a false complaint was given. The Trial Court taking note of overall evidence on record, comes to the conclusion that the submissions made on behalf of the defence deserves acceptance and hence, acquitted the accused.

5. Being aggrieved by the said judgment of acquittal, the present appeal is filed by the State.



6. The learned High Court Government Pleader appearing for the appellant/State would vehemently contend that the finding given by the Trial Court is erroneous. Even though P.W.1 was extensively cross-examined, nothing contrary has been put forth. The Trial Court fails to consider the evidence of P.W.1 to P.W.4 in a proper perspective and committed an error in not considering the medical report Ex.P.13, which clearly discloses that there are signs suggestive of forceful penetration of vagina. The Trial Court failed to consider the medical report and comes to an erroneous conclusion. The Trial Court ought to have invoked Section 114A of the Indian Evidence Act when sexual intercourse by the accused is proved by placing on record Ex.P.13 and hence, the very approach of the Trial Court is erroneous.

7. Per contra, the learned counsel for respondent Nos.1 and 2 brought to the notice of this Court the discussion made by the Trial Court, particularly with regard to the victim girl P.W.1 fell in love with P.W.7 and the same was objected by P.W.4 and accused No.1 and they advised her and snatched the mobile from her. The learned counsel brought to the notice of



this Court that the Trial Court taken note of the evidence of P.W.1 in paragraph No.28 and paragraph No.29 with regard to snatching of the mobile by accused No.1 and his wife P.W.4. The learned counsel also brought to the notice of this Court the answers elicited from the mouth of P.W.7 during cross-examination. The Trial Court discussed in detail that P.W.1 had taken the mobile from P.W.7 and P.W.7 only provided two mobiles to the victim P.W.1. The learned counsel also brought to the notice of this Court the discussion made by the Trial Court in paragraph No.33. The Trial Court in paragraph No.38 taken note of that when accused No.1 and his wife P.W.4 objected P.W.1 and snatched the mobile, P.W.1 decided to foist a false case against accused No.1. In paragraph Nos.40 and 42 detailed discussion was made by the Trial Court and admission on the part of P.W.13 is also taken note of in paragraph No.50.

8. Having heard the learned High Court Government Pleader appearing for the appellant/State as well as the learned counsel for respondent Nos.1 and 2 and also considering the material available on record, the points that would arise for the consideration of this Court are:



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- (i) Whether the Trial Court committed an error in acquitting accused Nos.1 and 2 for the offences invoked against them and whether it requires interference of this Court?
- (ii) What order?

Point No.(i):

9. Having perused the material available on record, the sum and substance of the case of the prosecution is that accused No.1 subjected P.W.1 victim girl for sexual act for a period of three days continuously. But the material on record discloses that there was a delay of six days in lodging the complaint. It is important to note that the Trial Court has taken note of that even though such alleged crime has taken place for a period of three days continuously according to P.W.1, in an usual course she went to the college and attended the college. The material collected by the Investigating Officer Ex.P.13 discloses that she was subjected to sexual act. But there is no material before the Court that accused No.1 only subjected her for sexual act. The evidence of P.W.4, who is none other than the sister of P.W.1 is very clear that P.W.1 was



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in touch with P.W.7. P.W.7 also categorically admits that accused No.1 advised him not to continue contact with P.W.1 and that she is not performing well in education after she came in contact with him. It is also clear that P.W.7 only gave two mobiles to P.W.1 and she was in constant touch with P.W.7. It is also emerged during the course of evidence that both accused No.1 and his wife P.W.4 having found the victim girl was in constant touch with P.W.7 have snatched the mobile from P.W.1. P.W.3 also gave the admission to that effect. It is also important to note that the Trial Court having perused the entire material available on record, comes to the conclusion that P.W.1 foisted a false case against accused No.1 even though P.W.1 was staying in the house of accused No.1 for her education. Accused No.1 had accommodated P.W.1 in his house to pursue her education and when accused No.1 and his wife P.W.4 found that she was always in mobile, advised her and snatched the mobile and the same was taken note of by the Trial Court in detail.

10. It is also important to note that there are three contradictory versions of P.W.1 with regard to the alleged



incident. P.W.1 has tendered opposing and conflicting three versions of alleged rape in her complaint, before the doctor, in her 164 statement and her evidence before this Court and hence, the Trial Court in paragraph No.25 comes to the conclusion that the evidence of P.W.1 is unreliable and she would keep changing her version to suit her convenience. The Trial Court also taken note of the evidence of P.W.7, who was in constant touch with P.W.1. On perusal of cross-examination of P.W.1 and her friend P.W.7, it comes to light that the entire episode revolves around a subject matter involving use of mobile phones by P.W.1 and its usage with boys she has befriended. The Trial Court also taken note of in paragraph No.27 that P.W.1 in her cross-examination stated that while she came to Ujire to study PUC, she did not have a mobile phone and she got it in the month of November and the same was given to her by her friend Madhu P.W.7, a resident of Bengaluru, whom she affirms having befriended through Facebook and says having received from him two mobile phones, two sim cards, the number of which surprisingly she is unaware. When all these materials are available before the



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Court, the evidence of P.W.1 not inspires the confidence of the Court. P.W.2 and P.W.3 are the parents of P.W.1. The version of P.W.1 is different and contradictory to each other and at every stage she makes a statement and gives different version.

11. The Trial Court also taken note of the conduct of P.W.1 that she also befriended with a person named Venkatesh @ Chethan Gowda, who works in a bar when she was just in high school. P.W.1 goes missing when she went to Moodigere College and a complaint was lodged in this regard by her father P.W.3. P.W.1 claims before the Baloor Police to have been married to said Venkatesh @ Chethan Gowda and asserts to have attained 19 years of age and expresses her desire of leading life with the said person. The same was taken note of by the Trial Court in paragraph No.36. When P.W.1 was pursuing her education at Ujire, she befriended P.W.7. The Trial Court taking note of all these materials on record, comes to the conclusion that it is not a case for invoking the offence under Sections 376 and 506 of IPC and Sections 5 and 6 of POCSO Act against accused No.1 and Section 506 of IPC against accused No.2. The very evidence available on record



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not inspires the confidence of the Court considering the evidence of P.W.1 to P.W.4, P.W.7 and P.W.13 Investigating Officer. The very conduct of the victim is unreliable and hence, we do not find any ground to come to a other conclusion. Hence, we answer the point in the negative.

Point No.(ii):

12. In view of the discussions made above, we pass the following:

ORDER

Appeal is dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

**Sd/-
(B.PRAMOD)
JUDGE**

MD
List No.: 1 Sl No.: 7