



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 261 OF 2026 (A)

BETWEEN:

THE STATE OF KARNATAKA BY
BAGALUR POLICE STATION
REP. BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU.

...APPELLANT

(BY SMT. N. ANITHA GIRISH, HCGP.)

AND:

1. SHIVASHANKAR,
S/O GANGAPPA
AGED ABOUT 29 YEARS,
R/AT HULIKUNTE VILLAGE,
GOWRIBIDUNAR TALUK,
CHIKKABALLAPURA DISTRICT.
NOW RESIDING MARENAHALLI VILLAGE,
JALA HOBLI, YELAHANKA TALUK.
2. SMT SORAJAMMA
W/O BASSAPPA
AGED ABOUT 38 YEARS
RESIDING AT BANDA ROAD,
MARENAHALLI VILLAGE,
JALA HOBLI, YELAHANKA TALUK,
BANGALORE, KARNATAKA.

...RESPONDENTS

(R1 AND R2 ARE SERVED AND UNREPRESENTED.)



THIS CRL.A IS FILED U/S 378(1) AND (3) CR.PC BY THE SPP AND CR.PC PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE IMPUGNED JUDGMENT AND ORDER DATED 23.07.2025 PASSED IN SPL.CASE NO. 198/2022 ON THE FILE OF THE ADDITIONAL SESSIONS JUDGE-FTSC-III, BENGALURU RURAL DISTRICT ACQUITTING THE RESPONDENTS/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 363,376, OF IPC AND SECTIONS 6 OF THE POCSO ACT, 2012 AND ETC.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

and

HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

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

The State has preferred this appeal, being aggrieved by the judgment of the trial Court acquitting the accused of offences punishable under Section 363 and 376 of Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. We have heard the learned High Court Government Pleader for State and perused the materials on record.

3. There is a delay of 112 days in preferring the appeal. IA.No.I/2026 is filed to condone the delay, along



with memorandum of facts of the learned High Court Government Pleader, explaining the reasons for the delay.

4. On going through the reasons assigned, we find that the delay in preferring the appeal is due to administrative reasons and therefore, we are satisfied with the reasons assigned therein. Hence, the delay in preferring the appeal is condoned.

5. We have heard the learned High Court Government Pleader on the merits of the case. She contended that there is ample evidence on record, which clearly establishes the charges levelled against the accused. In this case, the victim as well as her mother has supported the case of prosecution and it is the clear evidence of the victim that the accused used to follow her to the school and he kidnapped her, took her to temple and to Tamil Nadu, wherein he repeatedly committed sexual intercourse. She further contended that Ex.P8 is the study certificate issued by the Headmaster, examined as PW4 wherein the date of birth of the victim is clearly



mentioned as 20.11.2007. Therefore, the prosecution has proved that the victim was a minor as on the date of incident. Hence, she contended that the reasons assigned by the trial Court for acquitting the accused are not in accordance with law.

6. It is the case of the prosecution that the accused, knowing fully well that the victim girl was a minor, used to follow her and talk with her when she was going to school. He used to tell her that he was in love with her and both of them should elope somewhere and get married. On 31.08.2021 at 05.30 p.m., he kidnapped her and took her to the house of one Rajanna in Krishnagiri District of Tamil Nadu, where he confined her and repeatedly committed penetrative sexual assault on her. Further on 18.12.2021, he took her to the house of one Manjunatha and even there he repeatedly committed penetrative sexual assault on her.

7. The trial Court framed charges against the accused for the offences punishable under Section 363 and



376(3) of Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

8. In order to establish the case of the prosecution, in all, 12 witnesses were examined, 26 documents and 8 material objects were marked. The trial Court, based on the oral and documentary evidence, came to the conclusion that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and accordingly, acquitted him of all the charges.

9. To establish that the accused has committed an offence under the POCSO Act, it is the initial burden of the prosecution to prove that the victim girl was a minor as on the date of the offence. The prosecution has got marked Ex.P8 - Study Certificate issued by the Head Master, Government Higher Primary School, Marenahalli, where the victim was studying. As per the said document, the date of birth of the victim is 20.11.2007. If the same is taken into consideration, the victim was below 14 years.



10. The trial Court has appreciated the evidence of PW4, who issued Ex.P8. PW4 has deposed that he has issued the said certificate on the basis of the admission register. However, except the said certificate issued on the letter head of the school, no other documents are produced, including the admission register. PW4 has stated that he is not aware as to on what basis the date of birth of the victim girl was entered in the admission register and he does not know whether the birth certificate of the victim girl was taken or not, at the time of her admission. It is his further evidence that, one Muninarasimhappa was the in charge Headmaster when the victim girl was admitted to first standard in his school. Further, the victim's mother examined as PW2 has deposed that her daughter was born in the house and her date of birth was entered in Anganawadi while admitting to the Anganawadi. It is her further evidence that, when her daughter was taken to the hospital, she got her date of birth registered. However, no such documents are



collected or produced before the Court. Hence, the trial Court has rightly held that there is no evidence to the effect that on what basis the date of birth was mentioned in the school register and it would be incumbent upon prosecution to produce the birth certificate of the victim girl as contemplated under Section 94(2)(ii) of the Juvenile Justice (Care and Protection of Children) Act, 2015.

11. The above finding is supported by the decision of the Hon'ble Apex Court on which the trial court placed reliance, in the case of *P. Yuvaprakash vs. State Rep. by Inspector of Police* reported in (2024) 17 SCC 684.

12. In so far as the charges levelled against the accused regarding kidnapping and committing aggravated penetrative sexual assault on the victim are concerned, the victim is examined as PW1. In her evidence adduced before the Court, she has stated that the accused used to meet her on the way to her school and visit her school,



telling her that he was in love with her and on 30.08.2021, he took her to Anjaneya Swamy Temple situated in Yelahanka and from there took her to Majestic and then to Hosur of Tamil Nadu and kept her in the house of one Rajanna, wherein he committed sexual assault on her. However, her evidence is contrary to the statement given before the learned Magistrate under Section 164 of Cr.P.C wherein, a different version is given. She has stated that one Rajanna, PW5 had provided job to her and the accused. She was residing in the house of Rajanna and was sleeping near Rajanna's wife. Accused and Rajanna were sleeping in separate rooms and she worked in Rajanna's hotel for three months. Thereafter, both of them left the work and accused worked as a tractor driver belonging to one Manjanna, who gave them room and vessels to prepare food. Adjacent to the said room, an old lady was residing and she used to sleep with her after having dinner.



13. The victim in her cross-examination has clearly admitted that she has given statement before the learned Magistrate as above. Hence, at the earliest point of time, when the victim's statement was recorded by the Judicial Magistrate, she had not even whispered that she was kidnapped or she was subjected to penetrative sexual assault by the accused. Hence, the evidence of the victim before the Court does not inspire the confidence of the court.

14. Ex.P15 is the medical certificate of the victim girl issued by PW7-Medical Officer. The doctor has opined that there is no evidence of ejaculating type of sexual offence and stated that no obvious external injuries were noticed. Even in the FSL report marked as Ex.P18, seminal stains and the spermatozoa were not detected. Thus, the medical evidence is not helpful to the prosecution, as it does not corroborate the version of PW1.

15. This is an appeal preferred against the judgment of Acquittal. We have carefully examined the



materials on record. We find that the reasons assigned by the trial Court do not suffer from any illegality or perversity. In view of the judgment of acquittal, the presumption of innocence in favour of the accused is reinforced. There is no merit in the appeal. Accordingly, the following:

ORDER

IA No.1/2026 is allowed.

The appeal is ***dismissed***.

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

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

KBM,HB
List No.: 1 Sl No.: 8