



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 366 OF 2026 (A)

BETWEEN:

STATE OF KALASA POLICE
CHIKKAMAGALURU,
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

...APPELLANT

(BY SMT. RASHMI PATEL, HCGP (P/H))

AND:

1. NAIMUDDIN
S/O JUNAB,
AGED 27 YEARS,
R/O GUMMAN KHAN ESTATE,
KALASA HOBLI AND TALUK,
CHIKKAMAGALURU DISTRICT-577 124.

NATIVE OF T KIRAKARA, SIPAZAR POST,
MANGALADOYI TALUK,
DARANG DISTRICT, ASSAM-784 145.

2. SRI. MATALAP
S/O MAJIBAR,
AGED ABOUT 42 YEARS,
PERMANENT RESIDENCE
AT PUTHIMARI CHAARI VILLAGE,

Digitally
signed by
ANJALI M
Location:
High Court
of Karnataka



MANGALADOI TQ.,
DARANG DISTRICT,
ASSAM STATE-784 525.

PRESENTLY RESIDING AT
GUMMANAKHAN ESTATE,
MARASANIGE VILLAGE,
KALASA TALUK,
CHIKKAMAGALURU DISTRICT-577 124.

...RESPONDENTS

THIS CRL.A IS FILED U/S 378(1)(3) OF CR.P.C. (U/S 419(1) AND (3) OF BNSS), PRAYING TO: (A) GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 16.10.2025 IN SPL.C(P) NO.75/2024 PASSED BY ADDITIONAL DISTRICT AND SESSIONS JUDGE, FTSC-I, CHIKKAMAGALURU, ACQUITTING THE RESPONDENT NO.1 - ACCUSED OF THE CHARGED OFFENCES PUNISHABLE UNDER 137(2), 127(3) AND 64(2)(m) OF BNS AND SECTION 6 OF POCSO; (B) SET ASIDE THE JUDGMENT AND ORDER DATED 16.10.2025 IN SPL.C(P) NO.75/2024 PASSED BY ADDITIONAL DISTRICT AND SESSIONS JUDGE, FTSC-I, CHIKKAMAGALURU, ACQUITTING THE RESPONDENT NO.1 - ACCUSED OF THE CHARGED OFFENCES PUNISHABLE UNDER 137(2), 127(3) AND 64(2)(m) OF BNS AND SECTION 6 OF POCSO; AND (C) CONVICT AND SENTENCE THE RESPONDENT NO. - ACCUSED FOR THE CHARGED OFFENCES PUNISHABLE UNDER 137(2), 127(3), 64(2)(m) OF BNS AND SECTION 6 OF POCSO, BY ALLOWING THE APPEAL.



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 is preferred by the State against the judgment of acquittal dated 16.10.2025 passed by the Court of Additional District and Sessions Judge FTSC-I, Chikkamagaluru in Spl.C.(P).No.75 of 2024, wherein the learned Sessions Judge has acquitted the respondent/accused of the offences punishable under Sections 137(2), 127(3) and 64(2)(m) of Bharatiya Nyaya Sanhita, 2023 (for short, "BNS") and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, "POCSO Act").

2. Heard the learned High Court Government Pleader and perused the material on record, including the impugned judgment of the trial Court.



3. In brief, it is the case of prosecution that the accused has kidnapped the minor victim from her lawful guardianship on 05.08.2024 and wrongfully confined her at the labour quarters of Kerehaklu Estate situated at Chendugodu Village of Aldur till 06.08.2024 and further, wrongfully confined her on 07.08.2024 at the labour quarters of Bailugudda Estate situated near Gullanpete of Aldur and during the said period, repeatedly committed aggravated penetrative sexual assault on her.

4. The prosecution relied on Ex.P27 to establish that the victim was a minor as on the date of commission of the offence. PW12 is the medical officer, who conducted the age determination test, as there was no birth extract issued by the competent authority or any school record substantiating the age of the victim. As per Ex.P27, the age of the victim was estimated between 15 to 17 years. The trial Court accepted Ex.P27 to hold that the victim is a child as defined under Section 2(1)(d) of the POCSO Act, as there was no contrary evidence led by the



defence to impeach the credibility of the said medical report at Ex.P27.

5. The prosecution has relied on the evidence of the victim, examined as PW2 and the medical evidence in order to establish the charges levelled against the accused. According to prosecution, the accused kidnapped the victim from her lawful guardianship on 05.08.2024 and wrongfully confined her till 07.08.2024 and during the said period committed aggravated penetrative sexual assault on her.

6. According to the victim - PW2, on 05.08.2024, accused kidnapped her with a promise of marriage and telling that her father is looking for her and then took her to the house of his sister (CW10) and wrongfully confined her at the labour quarters of Kerehaklu Estate and then took her to the labour quarters of Bailugudda Estate and repeatedly committed aggravated penetrative sexual assault on her.



7. PW1 is the victim's father, who, after noticing his daughter missing from the house, lodged a missing complaint. Later, the victim was traced along with the accused and on enquiry, she informed that the accused abducted her with a promise of marriage and wrongfully confined her in his sister's house at Kerehaklu Estate and also at the labour quarters of Bailugudda Estate and repeatedly committed penetrative sexual assault.

8. The medical examination of the victim was conducted by PW11. He issued the medical report - Ex.P22. As per the said report, there were no external injuries on her body, however, the hymen was not intact. PW11 has opined that there was no evidence suggestive of recent forceful sexual intercourse.

9. It is contended by the learned HCGP that in view of the victims' evidence supported by the medical evidence, the prosecution has established the charges levelled against the accused and therefore, the trial Court



was not justified in acquitting him, holding that the charges are not proved. She contended that the evidence of the prosecution witnesses is credible, reliable and trustworthy and therefore, the judgment of acquittal has resulted in miscarriage of justice.

10. In this case the prosecution has examined two independent witnesses, i.e., PW9 and PW10, but they have not supported the case of prosecution. However, it is well established that the evidence of the prosecutrix alone is sufficient if found credible, reliable and consistent to convict the accused and corroboration is not necessary.

11. If the evidence of the victim - PW2 is carefully examined, at one stage she has stated that she was abducted by the accused with a false promise of marriage and at another breath she has stated that she was abducted under the pretext that her father was looking for her. In her statement recorded under Section 183 of BNSS, she has given a different version, stating that



accused called her to Marasanige under the pretext of offering some eatables and took her to Mudigere under the pretext of gifting her clothes. The trial Court has noticed these contradictions and held that the evidence of the victim does not appear to be convincing. Further, perusal of the evidence of the victim does not indicate that she was forced or induced or lured by the accused. Her evidence does not establish that she was forcibly taken by the accused as alleged by the prosecution.

12. From the material on record including the evidence of the complainant, victim's father, it is evident that the victim has voluntarily left her house. The trial Court has held that victim has made a conscious decision to leave her house and therefore, the allegation that the accused has kidnapped her from her lawful guardianship is not probalised with cogent evidence.

13. According to prosecution, the accused initially took the victim to the house of his sister (CW.10) at the



labour quarters of Kerehaklu Estate. CW10 is not examined by the prosecution. None of the witnesses from the vicinity of Kerehaklu Estate nor Bailugudde Estate are cited as witnesses or examined in order to corroborate the evidence of the victim as regards to her wrongful confinement. It is not the case of prosecution that during her stay or during her confinement, she made any efforts to inform the matter to others or tried to escape. Hence, the trial Court has come to the conclusion that the evidence tendered by the victim-PW2 does not appear to be convincing enough to establish her claim that she was wrongfully confined by the accused at the said estates.

14. Insofar as the allegations that the accused has repeatedly committed penetrative sexual assault on the victim on multiple occasions, the trial Court has come to the conclusion that the evidence of the victim does not inspire confidence and falls short of credibility so as to rely upon her sole testimony. Hence, sought corroboration from medical evidence. We have noticed that the medical



evidence does not suggest any forcible sexual assault. No external injuries were found on the person of the victim. As per FSL report at Ex.P46, no vaginal secretions were detected in MO.1 to MO.3, the clothes of the accused. Further, as per the history furnished to the doctor in Ex.P22, the victim fell in love with the accused and went and stayed with him.

15. In this case, the sole evidence of PW2 i.e., the victim is not trustworthy so as to act upon, without any corroboration. The medical evidence does not fully corroborate the version of PW2. It does not establish the guilt of the accused beyond reasonable doubt.

16. The learned Session Judge, having appreciated the entire evidence and material on the record, has acquitted the accused, extending the benefit of doubt. This being an appeal preferred against the judgment of acquittal, the accused has a double benefit. The presumption of innocence in his favour is reinforced. The



judgment of the trial Court does not suffer from illegality or perversity. Hence, the appeal is ***dismissed***.

Consequently, IA No.1/2026 is dismissed.

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

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

AM/HB
List No.: 1 Sl No.: 13