



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 350 OF 2026 (A)

BETWEEN:

THE STATE OF KARNATAKA,
THROUGH THE DEPUTY SUPERINTENDENT
OF POLICE,
BANTAWALA SUB DIVISION,
BANTAWALA, D.K. DISTRICT
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560001.

...APPELLANT

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

AND:

1. PUNITH
AGED ABOUT 26 YEARS
S/O: NEELAPPA POOJARY
R/AT KODIBAILU HOUSE, MANCHI VILLAGE,
BANTAWALA TALUK, D.K.DISTRICT.
2. JAYA NAYAK
AGED ABOUT 63 YEARS,
S/O: SUBBA NAYAK
R/AT: KUNTURU HOUSE,
MANCHI VILLAGE AND POST,
BANTAWALA TALUK, D.K.DISTRICT.

...RESPONDENTS

(BY SRI. AJAY PRABHU, ADV. FOR R1,
R2 SERVED AND UNREPRESENTED.)



THIS CRL.A IS FILED U/S 378 CR.PC (FILED U/S 419 OF BNSS) BY THE SPP FOR THE STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED: 06.11.2024 PASSED IN SPL.C. NO.165/2023 BY ADDITIONAL DISTRICT AND SESSIONS JUDGE-F.T.S.C-1 AT D.K., MANGALURU, THEREBY ACQUITTING THE ACCUSED/ RESPONDENT NO.1, THE OFFENCES PUNISHABLE UNDER SECTIONS 376(2)(n), 447, OF IPC, SECTION 6 OF POCSO ACT, AND 3(1)(w)(i) AND 3(2)(v), 3(2)(v-a) OF SC/ST (POA) ACT AND ETC.

THIS APPEAL, COMING ON FOR HEARING ON INTERLOCUTORY APPLICATION, 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)

This appeal is preferred by the State against the judgment and order dated 06.11.2024 passed by the Court of Additional District and Sessions Judge, FTSC-I, (Special Court for POCSO cases), D.K., Mangaluru, in Spl.C No.165/2023.

2. Vide impugned judgment, the trial Court has acquitted the accused of the charges leveled against him under Sections 447 and 376(2)(n) of Indian Penal Code,



Sections 6 and 15 of Protection of Children from Sexual Offences Act, 2012 and Section 3(1)(w)(i), 3(i)(w)(ii), 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989.

3. There is a delay of 382 days in preferring the appeal. IA No.1/2026 is filed to condone the delay supported by the memorandum of facts.

4. Heard learned HCGP for State and learned counsel for respondent No.1/accused.

5. Respondent No.2 is served but unrepresented.

6. The learned counsel for respondent No.1 has filed statement of objections to IA.No.1/2026.

7. It is the case of the prosecution that, the accused being fully aware that the victim is a minor aged below 17 years and she is a member of scheduled caste, got acquainted with her and started to contact her through Snapchat App using his mobile phone number 7996569398. On 13.05.2023 at 11.30 p.m. and on



10.06.2023 at 11.00 p.m., with sexual intent, he trespassed into her house situated at Kunturu House, Manchi village, Dakshina Kannada and committed penetrative sexual assault on her repeatedly.

8. The trial Court has acquitted the accused mainly on the ground that the victim as well as her parents have turned hostile to the case of prosecution and the ingredients of the offences charged are not proved and further, the prosecution has miserably failed to establish the basic foundation and facts. The trial Court has held that it is not safe to rely on the testimony of the victim to convict the accused, as she has given different versions.

9. Learned HCGP has contended that in this case, the victim has conceived and as per the DNA report, the accused is the biological father of the fetus. Further, the prosecution has collected the certificate from the school where the victim studied, wherein it is clear that the date of birth of the victim is 15.04.2006 and therefore, she was minor as on the date of incident. He contended that the



trial Court has not given sufficient opportunity to the prosecution to adduce the evidence of all the witnesses and therefore, the judgment of acquittal has resulted in miscarriage of justice.

10. We have perused the records available to see as to whether there are sufficient grounds to interfere with the impugned judgment of acquittal passed by the trial Court.

11. According to the prosecution, the victim was a minor as on the date of incident. The trial Court, after recording the evidence of the victim and her parents, as well as, the doctor who examined the victim, proceeded to pass the judgment. We find that the evidence of the Headmaster who is said to have issued the study certificate, as well as other witnesses, are not recorded, as the said witnesses are not examined.

12. It is the contention of the learned High Court Government Pleader that in the statement recorded under Section 164 Cr.P.C., the victim has supported the case of prosecution and even in her chief-examination she has



corroborated the said version given before the learned Magistrate under Section 164 Cr.P.C. A perusal of the evidence of the victim, we find that in the cross-examination, the victim has categorically denied the prosecution case. She has stated that as per the say of the police, she has given statement before the learned Magistrate, marked as Ex.P6.

13. From the trial Court records, we have noticed that except the letter issued by the Headmaster of the School, there is no other document collected by the investigation officer in proof of Date of Birth of the victim. In the letter dated 08.08.2023 issued by the Headmaster, the Date of Birth of the victim is mentioned as 15.04.2006. As per the said letter, based on the school register, the Date of Birth was mentioned. However, no school register was collected. Admittedly, the victim was studying in the second year Pre-University course. The investigation officer could have collected the SSLC marks card or could have ascertained the age of the victim,



conducting medical examination. However, no such attempts are made. Hence, the prosecution has failed to establish beyond reasonable doubt that the victim was a minor as on the date of the incident or she was subjected to penetrative sexual assault as against her wish.

14. It is well settled that, the presumption of innocence of the accused is reinforced by an order of acquittal. The Appellate Court, in such a case, would interfere only for substantial and compelling reasons. No compelling grounds are made to reverse the judgment of acquittal passed by the trial Court.

Appeal is ***dismissed.***

I.A.No.1/2026 is dismissed.

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

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