



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 1669 OF 2018 (A1)

BETWEEN:

STATE OF KARNATAKA
BY GONIBEEDU POLICE,
CHIKKAMAGALURU DISTRICT,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU.

...APPELLANT

(BY SMT. RASHMI PATEL, HCGP)

AND:

1. ABDUL GHANI @ MOHAMMED GHANI @
ASHU @ GHANI
S/O IBRAHIM J.B.,
AGED ABOUT 23 YEARS,
OCC: DRIVER,
R/O: JANNAPURA VILLAGE,
GONIBEEDU HOBLI,
MUDIGERE TALUK,
CHIKKAMAGALURU DISTRICT.
2. SMT. RADHA
W/O LATE SATHYANARAYANA
AGED ABOUT 51 YEARS
R/O COLLEGE ROAD
JANNAPURA, MUDIGERE
CHIKKAMAGALURU DISTRICT-577 101.



(R2 CAUSE TITLE AMENDED VIDE COURT ORDER
DATED 27.03.2024)

...RESPONDENTS

(BY MS. TEJASWINI N., ADVOCATE FOR
SRI. GIRISH B. BALADARE, ADVOCATE FOR R1;
SRI. YATHISH S., ADVOCATE FOR R2)

THIS CRL.A IS FILED U/S. 378(1) AND (3) CR.P.C
PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE
JUDGMENT AND ORDER DATED 02.04.2018 PASSED BY THE I
ADDITIONAL SESSIONS AND SPL. JUDGE AT
CHIKKAMAGALURU IN SPL.CASE (PCSOA) NO.14/2016,
ACQUITTING THE ACCUSED/RESPONDENTS FOR THE
OFFENCE P/U/S 376 2(i)(n), 506 OF IPC AND SECTION
5(1)5(m) AND 6 OF POCSO ACT.

THIS APPEAL, COMING ON FOR HEARING, 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 02.04.2018 passed by the
Court of the I Additional Sessions and Special Judge at
Chikkamagaluru in Special Case (PCSOA) No.14/2016,
wherein the learned Sessions Judge has acquitted the



accused/respondent No.1 of the offences punishable under Sections 376(2)(i)(n), 506 of Indian Penal Code, 1860, (for short, "IPC") and Section 5(l), 5(m) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012, (for short, "POCSO Act").

2. Heard and perused the evidence and material on record.

3. It is the case of prosecution that on 29.11.2015 at 11.00 a.m., the accused took the victim girl, aged about 9 years, on his motorbike bearing No.KA-18-W-3267 from Jannapura Village, Mudigere Taluk, to a forest area in Ittigegoodu and under Mannikere Bridge, committed forcible aggravated penetrative sexual assault and further criminally intimidated her by giving life threat, showing a knife and thereby committed the charged offences.

4. In order to establish its case, the prosecution got examined PWs.1 to PW20 and got marked Exs.P1 to P39 and MOs.1 to 7. The trial Court, on appreciation of



the oral and documentary evidence on record, vide impugned judgment acquitted the accused of the charges levelled against him.

5. The trial Court came to the conclusion that except for the official witnesses, remaining witnesses, including the victim and her mother and other circumstantial witnesses have turned hostile and not supported the case of prosecution and in the said circumstances, it cannot be presumed that the accused has committed aggravated penetrative sexual assault against the victim. The trial Court has held that the prosecution has not proved the guilt of the accused beyond all reasonable doubt. Therefore, extending the benefit of doubt, acquitted him of all the charges.

6. The learned High Court Government Pleader contended that even though the victim and her mother have not supported the case of prosecution, the victim has admitted her signature in Ex.P3, i.e., the statement she



gave before the learned Magistrate under Section 164 Cr.P.C., as well as the signature in Ex.P6, the spot mahazar. She contended that Ex.P2 is the medical report of the victim issued by PW20 and the said report also confirm the sexual assault committed against the victim. She contended that even PW1 - victim's mother, who lodged complaint, has admitted her signature in Ex.P1 - complaint. Hence, she contended that there is sufficient evidence placed by the prosecution, which establishes the charges levelled against the accused. She contended that the reason assigned by the trial Court is without proper appreciation of the material placed on record. Accordingly, she sought to allow the appeal and convict the accused for the charges levelled against him.

7. *Per contra*, the learned counsel appearing for the accused/respondent No.1 contended that the victim as well as her mother have completely turned hostile and even other witnesses examined by the prosecution have given a go-bye to the prosecution's case. The medical



evidence is not conclusive. Hence, she contended that there is absolutely no material worthwhile to reverse the judgment of acquittal passed by the trial Court. She contended that the learned Special Judge has appreciated the entire evidence on record and has rightly come to the conclusion that the prosecution has not established the guilt of the accused beyond reasonable doubt. She has accordingly, sought to dismiss the appeal.

8. It is the case of prosecution that on 29.11.2015 at about 11.00 a.m., the accused took the victim girl, daughter of the complainant, a minor aged about 9 years, on his motorbike bearing registration No.KA-18-W-3267 from Jannapura to a forest area in Ittigegoodu, Mudigere Taluk and committed aggravated penetrative sexual assault on her and then threatened her at knife point not to disclose the incident to others.

9. Complaint - Ex.P1 is lodged by victim's mother, on the basis of which case was registered against the



accused and investigation was commenced and charge sheet was filed.

10. The complainant is examined as PW1. Though she has admitted her signature in Ex.P1, she has categorically stated that she has not lodged any complaint alleging that the accused has committed sexual assault on her daughter. She has stated that the police came near her house and asked her to sign on Ex.P1 and accordingly, she signed on the said document and she is unaware as to for what reason the police took her signature. She has further stated that the police have not taken her daughter to the hospital and no permission was given for conducting medical examination of her daughter. She has also stated that the police have not taken her daughter before the Magistrate and she was not at all present when the Magistrate recorded the statement of her daughter.

11. The victim, examined as PW2, has also not supported the case of prosecution. She has denied the



prosecution's case and stated that the accused has not committed any sexual assault on her and she was not taken to the hospital for examination and their permission was not taken for conducting medical examination. She has also stated that the Magistrate has not recorded her statement as per Ex.P3 and she is unaware as to the contents of the said document. Further, she has denied showing the place of incident and conducting mahazar as per Ex.P6.

12. Nothing worthwhile is elicited in the cross-examination of PW1 and PW2, which would even remotely connect the accused with the alleged crime. Even though PW2 has identified her signature in Ex.P3, i.e., her statement recorded under Section 164 Cr.P.C., the said statement itself is not a substantive evidence. It has to be corroborated by the maker and in the present case, PW2 has not corroborated the contents of Ex.P3. Hence, based on Ex.P2 or Ex.P6, it cannot be held that the charges levelled against the accused are proved.



13. In this case, the prosecution has examined PW11 and PW12 to establish that the said witnesses have seen the accused taking the victim on a motorcycle. However, both the witnesses have turned hostile. They have not supported the prosecution's case. Their evidence is also not helpful to the prosecution.

14. It is the contention of the learned HCGP that the victim was examined by the doctor - PW20 and in the report - Ex.P2, it is clearly stated that the hymen was absent and congestion in vaginal mucosa is due to sexual intercourse (assault).

15. In this case, the alleged incident took place on 29.11.2015. The complaint was lodged on 10.12.2015. The victim's medical examination was conducted on 11.12.2015. The victim was taken before the doctor with a history of sexual assault by the accused. It is stated that after the sexual assault, the victim had not revealed the incident till 09.12.2015 because of fear. In Ex.P2, it is



stated that the victim's hymen was absent and congestion in vaginal mucosa is due to sexual intercourse (assault). No external injuries were noticed on the body.

16. PW20, in his cross-examination, has admitted that if there was forcible sexual intercourse committed, there is possibility of the victim sustaining injuries. He admitted that there were no injuries on the victim's body or on her private part. The vagina was reddish in colour, but he admitted that if there were some infection, there would be possibility of redness of the private part and even if something touches the private part while playing, there is a possibility of redness. It is admitted by him that he has not stated in the report as to why there was absence of hymen and he cannot explain as to for what reason the hymen will be absent.

17. As per the testimony of PW1 and PW2, the victim was not at all taken before the doctor and no permission was given for conducting medical examination.



Even otherwise, the medical evidence is not conclusive to hold that there was sexual assault committed against the victim by the accused.

18. In this case, according to prosecution, the clothes of the victim as well as the accused were collected and they were sent to FSL for examination. The IO - PW19 has stated that he has sent the clothes of the accused as well as the victim to RFSL, Mangaluru. The FSL report is not marked in evidence. However, the learned HCGP submits that the FSL report is available on record. We have perused the same. We have noticed that the seminal stains were not detected in all the articles sent for examination.

19. It is also the case of prosecution that after committing aggravated penetrative sexual assault, the accused gave life threat to the victim, showing a knife. In this case, knife - MO4 was seized under a mahazar Ex.P25. PW15, panch witness to the said mahazar, has



not supported the case of prosecution. Moreover, the victim has not identified the said knife - MO4.

20. Prosecution has examined PW8, the School Teacher, who issued the Age Certificate of the victim marked as Ex.P18. PW8 has stated that the victim girl was studying in 4th Standard and her date of birth is 14.02.2007. Even accepting that the victim was a minor, aged about 9 years, the prosecution has failed to establish the charges levelled against the accused, as all the material witnesses, including the victim and her mother, have turned hostile and the medical evidence is not conclusive in nature.

21. This is an appeal preferred against the judgment of acquittal. Having re-appreciated the entire material on record and the reasons assigned by the learned Sessions Judge, we are of the view that the judgment of acquittal does not call for interference by this Court. Hence, the following:



ORDER

Appeal is ***dismissed***.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

AM
List No.: 1 Sl No.: 20