



CNR: KAHC010162162019

NC: 2026:KHC:44962-DB
CRL.A No. 1061 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1061 OF 2019

BETWEEN:

1. THE STATE OF KARNATAKA
RURAL POLICE, SAGAR
REPRESENTD BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001.

...APPELLANT

(BY SRI. MOHAMMED AYUB ALI, SPP)

AND:

1. MANJUNATHA @ MANJU @ GUNDA
S/O ESHWARA
AGED JABOUT 25 YEARS
LABOURER,
R/O KEREKOPPA VILALGE
SAGAR TALUK
SHIVAMOGGA DISTRICT-577 401.

2. KUMARI MADHURA K.S.,
D/O SOMAPPA K.N.
AGED ABOUT 27 YEARS
RESIDING AT
KEREKOPPA BHEEMANAKONE
SAGARA TALUK,
SHIVAMOGGA DISTRICT.

...RESPONDENTS

(BY SRI. PRASAD B.S., ADVOCATE FOR R1;
RESPONDENT NO.2 IS SERVED AND UNREPRESENTED)

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by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



**NC: 2026:KHC:44962-DB
CRL.A No. 1061 of 2019**

CNR: KAHC010162162019

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 DATED 27.10.2018, ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE AND SPECIAL JUDGE, SHIVAMOGGA IN S.C.NO.13/2015, ACQUITTING THE ACCUSED/RESPONDENTS FOR THE OFFENCE PUNISHABLE UNDER SECTION 376(1) OF IPC AND SECTION 4 OF POCSO ACT.

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

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 Sri. Mohammed Ayub Ali, learned Additional SPP for the appellant and Sri. Prasad B. S., learned counsel for respondent No.1.



CNR: KAHC010162162019

2. This appeal is filed against judgment of acquittal passed for the offence punishable under Section 376(2)(f)(i) of IPC and Sections 3 and 4 of POCSO Act.

3. The factual matrix of case of the prosecution is that the complainant victim was studying in II PUC in Rupashree P. U. College at Heggodu during the year 2014 and she used to go to college in the morning 9.00 a.m. and was returning after the college time at 3.00 p.m. On 28.10.2014, as usual, she went to college in the morning and she was returning at 3.00 p.m. along with her friend Arpita and her friend went on her way to her house near the field bund. The victim proceeded in the mud road towards her house. While she was proceeding on the said mud road in between Bheemanakone and Kerekoppa Village, through the forest and at about 3.15 p.m., the accused, resident of her village came in the motorcycle from her behind, and crossing her, he stopped the bike at a distance. He returned towards the victim and restrained her in the mud road. She was alone and being afraid, tried to escape from him. However, he stopped her and forcibly dragged holding her bag into the forest about 80 feet inside of the forest. He pulled her



NC: 2026:KHC:44962-DB
CRL.A No. 1061 of 2019

CNR: KAHC010162162019

leg and she fell down and he subjected her for sexual act. As a result, she fell unconscious and somehow, at about 3.30 p.m., she recovered and thereafter, she was putting her clothes, came to the mud road. At that time, her cousin brother Ashoka was coming on the road and she revealed the incident to him. Then, he took the victim to her house and she revealed the incident to her sister and also to parents and thereafter, they went to the police station and gave the complaint and Police have registered the case and she was taken to the hospital for medical examination. The accused was arrested on 29.10.2014 and he was also subjected to medical examination. The Police have conducted the mahazar and recorded the statement of prosecution witnesses and after completion of the investigation, filed the charge sheet. The accused was secured and he did not plead guilty and claims the trial.

4. Hence, the prosecution examined the witnesses P.W.1 to P.W.13 and got marked the documents Ex.P1 to Ex.P16(c). M.O.1 to M.O.6 are also seized. On closure of the prosecution evidence, the accused was subjected to 313



CNR: KAHC010162162019

statement and thereafter, accused did not lead any defence evidence.

5. The Trial Court having considered the material available on record, particularly the evidence of victim, who gave the statement before the learned Magistrate under Section 164 which is marked as Ex.P3, also considered the medical evidence as well as FSL report and considering the evidence of father and brother P.W.2 and P.W.4 and also evidence of P.W.7 and P.W.8, comes to the conclusion that there are material contradictions in the evidence of P.W.1 and the documents Ex.P1 and Ex.P3 as to the presence of the accused at the place of incident and dragging and gagging the mouth of the victim. The Trial Court also comes to the conclusion that the medical evidence not supports the case of the prosecution and there were no external injuries for subjecting the victim for sexual act. Hence, acquitted the accused. Being aggrieved by the order of acquittal, the present appeal is filed by the State.

6. Sri Mohammed Ayub Ali, learned Additional SPP for the State would vehemently contend that incident has taken



CNR: KAHC010162162019

**NC: 2026:KHC:44962-DB
CRL.A No. 1061 of 2019**

place between 3.00 to 3.30 p.m. and immediately, the victim was taken to her cousin brother's house and intimation was given to her sister as well as parents. The complaint was given and immediately, the victim was taken to the hospital and she was subjected to medical examination and Ex.P3 is the 164 statement and both in 164 statement and also before the Court, she has supported the case of prosecution. But, Trial Court committed an error in disbelieving the evidence of P.W.1, P.W.2 and P.W.3 as well as the medical evidence. He also tried to convince this Court that very examination report is very clear that Doctor has taken note that of the fact that on that day itself, she had her menstruation and as a result, there was blood stains. But, the evidence of the Doctor is very clear that there were no external injuries and the same cannot be a ground to acquit the accused. The evidence is not properly considered by the Trial Court and in a case of heinous offence under POCSO Act, the Trial Court ought to have considered the evidence in a proper perspective believing the evidence of the victim and the same is not done.



CNR: KAHC010162162019

7. Per contra, Sri Prasad B.S., learned counsel for respondent No.1 would submit that when the alleged incident had taken place, on the same day, when the victim was taken to the hospital, the Doctor examined the victim and there was no sign of subjecting her for sexual act. The FSL report with regard to seizure of clothes is also negative. Apart from that, medical evidence with regard to subjecting her for sexual act is also negative and so also, there was no external injuries found and even if she is dragged into the forest area to the extent of 80 to 100 feet, naturally she would sustained injuries. The evidence is very clear that the place of incident is slippery and uneven and the same is not proved. Hence, the Trial Court rightly taken note of the same and acquitted the accused and no grounds are made out to reverse the finding.

8. Having heard Sri Mohammed Ayub Ali learned Additional SPP for the State and Sri Prasad B.S., learned counsel for respondent No.1 and considering the material on record, the points that would arise for consideration of this Court are:



CNR: KAHC010162162019

- (i) Whether the Trial Court committed an error in acquitting the accused for the offences invoked against him and whether the order of acquittal requires interference of this Court?
- (ii) What order?

Point No.(i)

9. Having heard the respective counsels and also on perusal of the material on record, it is very clear that sum and substance of case of the prosecution is that on 28.10.2014, an incident has taken place in between 3.00 to 3.30 p.m. It is also the case of the prosecution that victim was dragged in a remote place, that too, a forest area and the accused subjected her for sexual assault. When the victim girl was taken to the hospital, the Doctor examined her and when she was subjected to medical examination with the doctor-P.W.5, she discloses that she was subjected to menstruation on the very same day and Doctor also noticed that there was blood in the private part. But, there was no sign of injuries on her private part and also no sign of subjecting her for sexual act and there were no



CNR: KAHC010162162019

external injuries. Apart from that, her clothes were also subjected to FSL and FSL report is 'negative'.

10. When such being the case and also with regard to the age is concerned, she is aged about 17 years 11 months. But, document at Ex.P8 i.e., School Certificate is marked. The Trial Court has discussed even definition of Section 2(1)(d) of POCSO Act in paragraph No.26 and the very conclusion of the Trial Court that victim she is a child without properly examining the document of Ex.P8 is erroneous, in view of judgment of the Apex Court in Court in **P. YUVAPRAKASH v. STATE REP. BY INSPECTOR OF POLICE** passed in **CrI.A.No.1898/2023**.

11. In order to prove the age of the victim also, there must be relevant document, in view of Section 34 of POCSO Act as well as Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Apart from that, when there was no material before Court that she was subjected to sexual act and no external injuries and FSL report is also negative and the very incident of subjecting her for sexual act by the accused is not proved. No doubt, 164 statement is recorded before the learned Magistrate, the evidence available before the



CNR: KAHC010162162019

Court is not consistent with regard to subjecting her for sexual act by the accused and there is no sign of subjecting her for sexual act. Even though P.W.1 victim girl supported the case of prosecution and the same not inspires the confidence of the court and the evidence of the Doctor P.W.5 as well as FSL report and other material not supports the case of prosecution. Hence, the Trial Court rightly acquitted the accused and it does not require any interference of this Court.

12. The judgment of the Apex Court in **MALLAPPA AND OTHERS v. STATE OF KARNATAKA** reported in **(2024) 3 SCC 544** is very clear that if the finding of the Trial Court is perverse, then only the Court can interfere with findings to reverse the judgment of acquittal into conviction and unless the same is found in the reasoning of the Trial Court, question of entertaining the appeal for acquittal and converting the same for conviction does not arise. We have perused the evidence of the prosecution consciously and nothing is found to come to an other conclusion. Hence, we do not find any ground to reverse the order of acquittal into conviction and we answer point No.(i) as 'negative'.



CNR: KAHC010162162019

NC: 2026:KHC:44962-DB
CRL.A No. 1061 of 2019

Point No.(ii)

13. In view of the discussion made above, we pass the following:

ORDER

The appeal is ***dismissed.***

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

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

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List No.: 1 Sl No.: 18