



CNR: KAHC010187482014

NC: 2026:KHC:42678  
CRL.A No. 257 of 2014

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10<sup>TH</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE S RACHAIAH**

**CRIMINAL APPEAL NO. 257 OF 2014 (C)**

**BETWEEN:**

A M MAHESH

S/O LOKAPPA

AGED ABOUT 23 YEARS

R/O ANAPANAHALLI

NONAVINAKERE HOBLI

TIPTUR TALUK

TUMKUR DISTRICT

...APPELLANT

(BY SRI. SUNIL KUMAR S., ADVOCATE)

**AND:**

THE STATE OF KARNATAKA

BY THE POLICE OF

Digitally  
signed by  
SUSHMA  
LAKSHMI  
B S  
Location:  
High Court  
of  
Karnataka



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NONAVINAKERE POLICE STATION

TIPTUR TALUK

TUMKUR DISTRICT – 572 101

...RESPONDENT

(BY SRI. S. JAVEED, HCGP)

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THIS CRIMINAL APPEAL IS FILED UNDER SECTION  
374(2) CR.P.C PRAYING TO SET ASIDE THE ORDER  
DATED:26.3.14 PASSED BY THE V ADDL. DIST. AND  
SESSIONS JUDGE COURT, TIPTUR IN S.C.NO.294/12 -  
CONVICTING THE APPELLANT/ACCUSED FOR THE  
OFFENCE P/U/S 366-A AND 376(2)(f) OF IPC.

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH



**CNR: KAHC010187482014**

**ORAL JUDGMENT**

1. This criminal appeal is filed by the appellant/accused, being aggrieved by the judgment of conviction and order on sentence dated 26.03.2014 passed in S.C.No.294/2012 by the V Additional District and Sessions Judge, Tiptur, for the offences punishable under Sections 366A and 376(2)(f) of Indian Penal Code (for short, 'IPC').
2. The ranks of the parties will be considered henceforth as per their rankings before the Trial Court.

**Factual matrix of the case:**

3. The case of the prosecution is that on 17.6.2012 at about 11.00 a.m., the accused induced prosecutrix, who is aged about four years, and took her on his TVS XL Super Heavy Duty vehicle to the hut situated at Sy.No.215/1 of Nonavinakere village and committed sexual assault on her. Hence the complaint. Based on the complaint, the respondent - police have registered a case, conducted investigation and submitted the charge sheet.



4. In order to prove the case of the prosecution, the prosecution examined thirteen witnesses as PWs.1 to 13 and got marked 26 documents as Exs.P1 to P26 and also got three material objects identified and marked as M.Os.1 to 3. The Trial Court, after appreciating both oral and documentary evidence on record, recorded the conviction against the accused for the aforesaid offences.
5. Heard learned counsel Sri Sunil Kumar S., learned counsel for the appellant and Sri S. Javeed, learned High Court Government Pleader for the respondent – State.
6. The submission of the learned counsel for the appellant is that the conviction rendered by the Trial Court is contrary to the evidence on record and also against to the settled principle of law. Therefore, the same is liable to be set aside.
7. It is further submitted that the evidence of P.W.8 would indicate that victim was attending the Anganawadi class from 18.06.2012 to 21.06.2012 on usual course. The alleged incident had occurred on 17.06.2012. The victim



**CNR: KAHC010187482014**

was taken to Jenukal hospital on 18.06.2012. However, either the victim or her mother has not disclosed the incident of rape to the Doctor. On 23.06.2012, the fact of alleged rape was disclosed to P.W.7 and a case came to be registered on 24.06.2012. The delay of one week to disclose the fact of rape is fatal to the case of prosecution. However, the same has not been considered by the Trial Court.

8. It is further submitted that the Trial Court committed an error in relying on the evidence of interested witnesses and rendered the conviction, which is improper and not appropriate. Therefore, the same is liable to be set aside. Making such submissions, the learned counsel for the appellant prays to allow the appeal.
9. *Per contra*, learned High Court Government Pleader for the respondent - State vehemently justified the judgment of conviction passed by the Trial Court and submitted that the conviction rendered by the Trial Court is appropriate for the reason that the accused, who was aged about 23



**CNR: KAHC010187482014**

years as on the date of incident, induced a minor girl and committed sexual assault, which is unethical and also opposed to the Indian Society. Committing the crime against children and women are required to be regulated by giving a strong message to the public at large by way of rendering conviction. Therefore, the judgment of conviction has to be upheld in order to secure the ends of justice to the victim. Making such submissions, learned High Court Government Pleader prays to reject the appeal.

10. Having heard learned counsel for the respective parties and also on perusal of the findings of the Trial Court, the Trial Court mainly relied on the evidence of PWs.1, 3, 5 to 8 and arrived at a conclusion that the accused had committed heinous offence on the victim.
11. In this context, it is relevant to refer evidence of P.W.1., who is the father of the victim. He has not supported the case of the prosecution. Therefore, he has been treated as hostile and conducted cross-examination by the



**CNR: KAHC010187482014**

prosecutor. However, nothing has been elicited to substantiate that the victim had been subjected to rape by the accused.

12. P.W.3 is the victim, aged about 5 years. She has stated in her evidence that she has not seen the accused and she has not accompanied him at any point of time. She has been treated as hostile and conducted cross-examination. Nothing has been elicited to support the case of prosecution.
13. P.W.4 is the mother of the victim. She has turned hostile and not supported the case. Even though she had been subjected to cross-examination by learned Prosecutor and also the defence counsel, she withstood the same and not supported the case of the prosecution.
14. P.W.5 is the grandmother of the victim, also not supported the case of the prosecution.
15. However, the Trial Court relied on the evidence of PWs.2, 6 and 7 who are the Medical Officers and rendered the



CNR: KAHC010187482014

NC: 2026:KHC:42678  
CRL.A No. 257 of 2014

conviction, which is improper and erroneous. Therefore, the conviction rendered by the Trial Court is improper and inappropriate. Hence, the same is liable to be set aside.

16. In the light of the observations made above, I proceed to pass the following:

ORDER

- i) The Criminal Appeal is *allowed*.
- ii) The judgment of conviction and order on sentence dated 26.03.2014 passed in S.C.No.294/2012 by the V Additional District and Sessions Judge, Tiptur, is set aside.
- iii) The accused is acquitted for the offences punishable under Sections 366A and 376(2)(f) of IPC.
- iv) Registry is directed to communicate this order to the concerned jail authority. The jurisdictional Jail Authority is directed to release the accused / appellant forthwith, if he is not required in any other case.
- v) Bail bonds executed, if any, stand cancelled.



**NC: 2026:KHC:42678**  
**CRL.A No. 257 of 2014**

**CNR: KAHC010187482014**

vi) Pending I.A., if any, does not survive for consideration and the same is disposed of.

**Sd/-**  
**(S RACHAIAH)**  
**JUDGE**

Bss  
List No.: 1 Sl No.: 45