



CNR: KAHC010222722019

NC: 2026:KHC:44738-DB
CRL.A No. 646 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.646 OF 2019 (A)

BETWEEN:

STATE BY KOLLEGALA RURAL POLICE STATION
CHAMARAJANAGARA
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 001

...APPELLANT

(BY MR. MOHAMMED AYUB ALI, ADDITIONAL S.P.P.)

AND:

RAVI @ KENCHA
S/O. MARISWAMY
AGED ABOUT 23 YEARS
UTHAMBALLI HOBLI
KOLLEGALA TALUK
CHAMARAJANAGARA DISTRICT-571 440

...RESPONDENT

(BY SRI SHIVA PRASAD Y. S., ADVOCATE, (ABSENT))

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C BY THE
STATE P.P. FOR THE STATE PRAYING TO GRANT LEAVE TO
APPEAL AGAINST THE JUDGMENT AND ORDER DATED
14.11.2018 IN SPL.C.NO.66/2016 PASSED BY THE I PRINCIPAL

Digitally signed
by
SHARADAVANI
B

Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010222722019

DISTRICT AND SESSIONS JUDGE, CHAMARAJANAGAR, ACQUITTING THE RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 366 AND 506 OF IPC AND SECTIONS 8, 11(iv) READ WITH SECTION 12 OF POCSO ACT AND THE SPP/STATE PRAYS THAT THE ABOVE ORDER OF ACQUITTAL MAY BE SET ASIDE AND CONVICT AND SENTENCE THE RESPONDENT-ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 366 AND 506 OF IPC AND SECTIONS 8, 11(iv) READ WITH SECTION 12 OF POCSO ACT, 2012.

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)

This appeal is filed by the State as against the judgment of acquittal passed by I Additional District and Sessions Judge, Chamarajanagara, for the offences punishable under Sections 366 and 506 of IPC and Sections 8, 11(iv) r/w 12 of POCSO Act, 2012.

2. Brief factual matrix of the case of the prosecution is that:



CNR: KAHC010222722019

**NC: 2026:KHC:44738-DB
CRL.A No. 646 of 2019**

a) The PW.1-victim girl was staying in her grandfather's house and pursuing her education at S.V.K. Collage and studying 1st PUC. She used to travel from Uthamballi to Kollegala. The accused, who is also the resident of Uthamballi following the victim girl and both of them become friends and also went to Shivanasamudra twice or thrice, but, he did not subject her for sexual act. That on 21.07.2016 at about 08.30, when she went to the College, the accused took the victim girl to go to the temple in Shivanasamudra in his motorcycle and again took her to the Forest Department to see the view, wherein he made an attempt to kiss her and when she refused to the said act and started proceeding further, he forcibly hugged her and attempted to commit sexual act and also caused the threat. Hence, offences punishable under Sections 366 and 506 of IPC and Sections 8, 11(iv) r/w Section 12 of POCSO Act, 2012 are invoked against the accused.



CNR: KAHC010222722019

**NC: 2026:KHC:44738-DB
CRL.A No. 646 of 2019**

b) The accused was secured before trial Court and he did not plead guilty and claims trial, and hence prosecution examined witnesses as PWs.1 to 6 and also got marked Exs. P1 to P19(a). The accused did not lead any defence evidence. Except motorbike - MO.1, no other material object was marked. The trial court having considered The evidence of victim girl who has been examined as PW1 and also taken note of 164 Cr.P.C., statement made before the learned Magistrate Court in terms of Ex.P7 and also the medical report at Ex.P6, there is no any sign of subjecting the victim girl to sexual act and also taken note of the document of Ex.P12 which is marked in order to prove her date of birth and only this document is admission record of 1st PUC and no other document is placed before the Court to prove her age and in order to prove the other offences also there was no material available before the Court. Hence, the trial Court came to the conclusion that prosecution failed to prove the case against the accused.



CNR: KAHC010222722019

c) The trial Court also took note of the delay of four days in lodging the complaint. Since the very case of prosecution is that at the time of the subjecting the victim girl her for sexual favour by the accused, the relatives of the victim were also present. They came and informed the same to the parents, but, there was a delay in lodging the complaint and hence comes to the conclusion that the evidence does not inspire the confidence of the Court. Being aggrieved by the said acquittal, the present appeal is filed by the State.

3. Learned Addl. SPP in his arguments vehemently contend that trial Court has not properly considered the evidence available on record and though there was a delay in lodging the complaint and the same was not delay when the sexual favour was sought by the accused and the delay is natural. Even though trial Court has failed to appreciate the evidence of the victim who has been subjected to sexual assault, stands on the same footing,



CNR: KAHC010222722019

as the evidence of injured victim stands on entire pedestal of truthfulness and trial Court ought to have considered the same.

4. Learned Addl. SPP also submits that the trial Court clearly erred in considering the case of the prosecution evidence corroborated by the independent witnesses, even though PWs.2, 3, 4 and 8 have supported the motive of the accused and clearly deposed about kidnapping the victim girl and thereafter mahazar has been conducted with regard to kidnapping and trial Court has erroneously discarded the material evidence and acquitted the accused.

5. Having heard the learned Addl.SPP appearing for the State and also having perused the entire material on record, the points that would arise for the consideration of this Court are as under:

"i) Whether the trial Court committed an error in acquitting the accused for the offences



CNR: KAHC010222722019

NC: 2026:KHC:44738-DB
CRL.A No. 646 of 2019

*p/u/s 366 and 506 of IPC and Sections 8, 11(iv)
r/w Section 12 of POCSO Act, 2012?*

ii) What order?"

Point No.(i):

6. Sri. Mohammed Ayub Ali, learned Addl. SPP particularly points out to the document of Ex.P12-admission record in support of his arguments. Having perused Ex.P12, which is an admission record of the victim girl to 1st PUC and except Ex.P12, no other document is placed before the Court in order to prove her age. The trial Court has categorically held that in order to accept victim as minor, the documents such as Birth Certificate or Matriculation Certificate or first admission records are necessary. But in the case on hand, except the admission document of victim, that too of first PUC at Ex.P12, no other document is placed on record. Hence, in order to prove the fact that she is a minor in view of Section 34 of POCSO Act, as well as JJ Act of 1994, the same is not proved.



CNR: KAHC010222722019

**NC: 2026:KHC:44738-DB
CRL.A No. 646 of 2019**

7. The second limb of argument of the arguments of learned Addl. SPP is that the trial Court committed an error in not accepting the evidence of the victim girl and having perused the materials on record i.e., the very complaint and also the deposition of the victim, it is very clear that she had accompanied the accused to a particular place and the same does not satisfy the ingredients of the Section of 366 of IPC for kidnapping. She has also accompanied the accused voluntarily with him and though the sexual harassment is pleaded, the same does not inspire the confidence of the Court. The very statement is very clear that accused has made an attempt to kiss her, but, she did not allow him and she was moving further and at that time, forcibly he made an attempt to commit sexual assault. In order to substantiate the same also , there is no any positive evidence before the Court.

8. Learned Addl. SPP contends that though the other independent witnesses have also supported the case



CNR: KAHC010222722019

of prosecution and having perused the material available on record particularly from the document at Ex.P6, it is very clear that she was not subjected to any sexual act and so also no any injuries are found and apart from that, Ex. P7 - Section 164 Cr.P.C., statement is also otherwise true and though she says that an attempt of sexual act was made, but there is no any such proof.

9. The Hon'ble Supreme Court in ***P. YUVAPRAKASH vs State, REP. BY INSPECTOR OF POLICE***, reported in ***2023 INSC 676***, has held that to determine a victim's age under Section 34 of the POCSO Act as well as Section 94 of the Juvenile Justice Act, 2015, wherein it has held that the same is relevant and applicable to consider the age of the victim. It comes to the conclusion that the document of Matriculation or Date of Birth Certificate or Equivalent Certificate from the relevant Corporation or Municipality are relevant for consideration. No such material is placed before the Court.



CNR: KAHC010222722019

NC: 2026:KHC:44738-DB
CRL.A No. 646 of 2019

It has further held in paragraph No.22 that the provisions of POCSO Act will not be applicable in this case. In absence of those particular documents is concerned the charges leveled against the accused under Section 6 of POCSO Act as well as Section 10 of the Prohibition of Child Marriage Act cannot be sustained. The findings of the courts below, i.e. conviction and sentence imposed are set aside by considering this material on record by the Appellant.

10. Further, the Hon'ble Supreme Court in the case of **RAJESH PRASAD V. STATE OF BIHAR**, reported in **2022 (3) SCC 471**, while considering the material and approach or reasoning of the High Court, if it is perverse, where incontrovertible evidence has been rejected by the High Court, based on suspicion and surmises which are rather unrealistic, at paragraph 31.2.1 of the judgment, has observed thus:

"31.2.1. *Where the approach or reasoning of the High Court is perverse:*

(a) Where incontrovertible evidence has been rejected by the High Court based on



CNR: KAHC010222722019

suspicion and surmises, which are rather unrealistic. [State of Rajasthan v. Sukhpal Singh, (1983) 1 SCC 393 : 1983 SCC (Cri) 213 : AIR 1984 SC 207]] For example, where direct, unanimous accounts of the eyewitnesses, were discounted without cogent reasoning. [State of U.P. v. Shanker 1980 Supp SCC 489 : 1981 SCC (Cri) 428]]

- (b) Where the intrinsic merits of the testimony of relatives, living in the same house as the victim, were discounted on the ground that they were "interested" witnesses. [State of U.P. v. Hakim Singh [State of U.P. v. Hakim Singh, (1980) 3 SCC 55 : 1980 SCC (Cri) 534 : AIR 1980 SC 184]]*
- (c) Where testimony of witnesses had been disbelieved by the High Court, on an unrealistic conjecture of personal motive on the part of witnesses to implicate the accused, when in fact, the witnesses had no axe to grind in the said matter. [State of Rajasthan v. Sukhpal Singh, (1983) 1 SCC 393 : 1983 SCC (Cri) 213 : AIR 1984 SC 207]]*
- (d) Where dying declaration of the deceased victim was rejected by the High Court on an irrelevant ground that they did not explain the injury found on one of the persons present at the site of occurrence of the crime. [Arunachalam v. P.S.R. Sadhanantham] (1979) 2 SCC 297 : 1979 SCC (Cri) 454]]*
- (e) Where the High Court applied an unrealistic standard of "implicit proof" rather than that of "proof beyond*



CNR: KAHC010222722019

NC: 2026:KHC:44738-DB
CRL.A No. 646 of 2019

reasonable doubt" and therefore evaluated the evidence in a flawed manner. [State of U.P. v. Ranjha Ram, (1986) 4 SCC 99 : 1986 SCC (Cri) 374]]

(f) Where the High Court rejected circumstantial evidence, based on an exaggerated and capricious theory, which were beyond the plea of the accused; [State of Maharashtra v. Champalal Punjaji Shah, (1981) 3 SCC 610 : 1981 SCC (Cri) 762]] or where acquittal rests merely in exaggerated devotion to the rule of benefit of doubt in favour of the accused. [Gurbachan Singh v. Satpal Singh, (1990) 1 SCC 445 : 1990 SCC (Cri) 151]]

(g) Where the High Court acquitted the accused on the ground that he had no adequate motive to commit the offence, although, in the said case, there was strong direct evidence establishing the guilt of the accused, thereby making it unnecessary on the part of the prosecution to establish "motive". [State of A.P. v. Bogam Chandraiah, (1986) 3 SCC 637 : 1986 SCC (Cri) 357 : AIR 1986 SC 1899] "

11. Having considered the document at Exs.P6 and 7 also, it is not a case for reversal and the principles laid down in the judgments of Hon'ble Supreme Court in *RAJESH PRASAD and P. YUVAPRAKASH supra*, regarding reversal from acquittal to conviction and, consideration of



CNR: KAHC010222722019

NC: 2026:KHC:44738-DB
CRL.A No. 646 of 2019

age of the victim girl as minor the principles are laid down and there is no any such perversity in giving the finding for acquittal by trial Court.

12. Under the circumstances, we do not find any grounds to reverse the finding of the trial Court and hence the prosecution has not made out any case and answered the point as ***negative***.

Point No.(ii):

13. Accordingly, we pass the following:

ORDER

Appeal is ***dismissed***.

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE