



CNR: KAHC010229212019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF SEPTEMBER, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1448 OF 2019 (A)

BETWEEN:

STATE OF KARNATAKA
THROUGH KOLLEGALA
RURAL POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-01

...APPELLANT

(BY SRI SUHAS GOWDA M., H.C.G.P.)

AND:

1. KANAKARAJU
SON OF SIDDAIYAN
AGED ABOUT 30 YEARS

PERMANENT PLACE
NO.4/423, 4TH WARD
AJJANAHALLI VILLAGE AND POST
PENNAGAM TALUK
DHARMAVARAM DISTRICT
TAMILNADU-636 810

Digitally signed
by
SHARADAVANI
B

Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:47844-DB
CRL.A No. 1448 of 2019

CNR: KAHC010229212019

PRESENT RESIDENT
NO.10, SRIMURUGA R. CHIPS SHOP
KODAMBALLI BUS STATION
KODAMBALLI KOYIMED
BUS STAND ROAD
CHENNAI
TAMILNADU-629 175

2. CHINNARAJAMMA
WIFE OF KUPPANNA
HALEKOTE VILLAGE
SATTEGALA JAGERI
KOLLEGAL TALUK
CHAMARAJANAGARA

(VIDE ORDER DATED 22.04.2022)

...RESPONDENTS

(BY SRI PARAMESWARAPPA C., ADVOCATE FOR R-1;
R-2 IS SERVED AND UNREPRESENTED)

THIS CRL.A. IS FILED U/S.378(1)(3) CR.P.C BY THE S.P.P FOR THE STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 13.11.2018 ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, CHAMARAJANAGAR IN SPL.C.NO.26/2016 ACQUITTING THE ACCUSED/RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 363, 366 AND 376(n) OF IPC AND READ WITH SECTIONS 4, 5(1), 6 AND 12 OF POCSO, 2012 AND SET ASIDE THE AFORESAID JUDGMENT AND ORDER DATED 13.11.2018 ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, CHAMRAJANAGARA IN SPL.C.NO.26/2016 ACQUITTING THE ACCUSED/RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 363, 366 AND 376(n) OF IPC AND READ WITH SECTIONS 4, 5(1), 6 AND 12 OF POCSO ACT, 2012 AND ALSO CONVICT AND SENTENCE



CNR: KAHC010229212019

THE ACCUSED/RESPONDENT FOR THE OFF
SPL.C.NO.26/2016 ACQUITTING THE
ACCUSED/RESPONDENT FOR THE OFFENCES PUNISHABLE
UNDER SECTIONS 363, 366 AND 376(n) OF IPC AND
READ WITH SECTIONS 4, 5(1), 6 AND 12 OF POCSO ACT.

THIS APPEAL, COMING ON FOR 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. Suhas Gowda M, learned High Court
Government Pleader appearing for the appellant-State and
Sri.C.Parameshwarappa, learned appearing for the
accused-respondent No.1. The respondent No.2 though
served, has remained unrepresented.

2. This appeal is filed against the judgment and
order of acquittal order dated 13.11.2018 passed by the
trial Court in S.C. No.26/2016 on the file of Principal
District and Sessions Judge, Chamrajanagara, praying this



CNR: KAHC010229212019

NC: 2026:KHC:47844-DB
CRL.A No. 1448 of 2019

Court to set aside the judgment of acquittal and convict the accused and sentence him.

3. The factual matrix of the case of the prosecution is that:

a) Victim girl, who is aged about 17 years was kidnapped on 26.09.2015 and she was subjected to sexual act on 01.07.2015 and she was taken to Tamilnadu and accused-respondent No.1 called the complainant on her mobile and informed her that he has kidnapped her daughter and taken her to Tamilnadu and further, he has kept her in captivity in his own house till 01.07.2015.

b) Based on the statement of victim girl, a case was registered in Crime No.124/2015 for the offences punishable under Sections 363, 366, 376(n) r/w 34 of IPC, 4, 6 and 12 of POCSO Act, 2012 (for short "POCSO Act"). The police also investigated the matter and filed the charge sheet and accused-respondent No.1 was secured



CNR: KAHC010229212019

**NC: 2026:KHC:47844-DB
CRL.A No. 1448 of 2019**

before the trial court and did not plead guilty and claimed the trial.

c) The prosecution in order to prove the case against the accused, examined witnesses as PWs.1 to 4, got marked documents as per Exhibits P1 to P19 and the material objects as MOs. 1 to 4. The trial Court having considered the material on record, comes to the conclusion that prosecution has not proved the case both in respect of the age of the victim girl by producing any reliable documents and the victim girl herself has not supported the case of the prosecution and also taken note of Section 164 of Cr.P.C., statement made before the learned Magistrate, wherein also she did not make any complaint against the accused. Though she was subjected to medical examination, doctor has also not given any opinion and the same is subject to the FSL report. Even after the FSL report also no final opinion was obtained by the Investigating Officer. Having considered all these



CNR: KAHC010229212019

materials, trial Court comes to the conclusion that prosecution has failed to prove the case and acquitted the accused. Being aggrieved by the acquittal judgment, the present appeal is filed by the State.

4. Learned HCGP appearing for the appellant-State in his arguments would vehemently contend that trial Court fails to appreciate the evidence of PW.1 who is the victim, a minor girl and she has categorically stated about the heinous offence committed by the accused. He would contend that complaint at Ex.P9 is very clear. Nothing worthwhile has been elicited in the cross-examination of PW.1. He further contends that victim has turned hostile to the case of the prosecution and trial judge committed an error that although the victim has turned hostile, the medical evidence and other documentary evidence supported the case of the prosecution.

5. Learned HCGP further contends that prosecution has got marked the Study Certificate at



CNR: KAHC010229212019

Ex.P13. As per the Study Certificate, the date of birth of the victim is 10.05.1998 and she was aged about 17 years when subjected to sexual act. The trial Court ought to have considered Sections 29 and 30 of POCSO Act, where there is a presumption. He submits that when the POCSO Act is enacted to provide legal protection to the children, the trial Court fails to consider the very object of the enactment. Hence, he prays this Court to set aside the judgment of acquittal.

6. Learned counsel Mr.Parameswarappa C., appearing for accused-respondent No.1 would vehemently contend that very statement made by the victim girl before the learned Magistrate under Section 164 of Cr.P.C. is also very clear that she was not subjected to any sexual act. This deposition of the victim girl does not inspire the confidence of the Court that in her evidence also, she has not stated anything. He also contended that when the victim girl was subjected to medical examination and there



CNR: KAHC010229212019

**NC: 2026:KHC:47844-DB
CRL.A No. 1448 of 2019**

is no any report that she was subjected to sexual act and the medical report was kept pending till receipt of final FSL report and FSL report which is marked before the Court is also not positive and states that seminal stains are not found, even though clothes of the victim was seized. The trial Court also taken note of all these materials and when there is no medical evidence and also when there is no corroborative piece of evidence of PW.1 and though examined PWs.2 to 4 and their evidence also cannot be believed and they are the mother and aunts of the victim and hence, the trial Court has not committed any error.

7. Having heard the learned counsel appearing for the State as well as counsel appearing for the accused-respondent No.1 and on re-appraisal of both oral and documentary evidence on record, the points that would arise for the consideration of this Court are:

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



CNR: KAHC010229212019

NC: 2026:KHC:47844-DB
CRL.A No. 1448 of 2019

*punishable under Sections 363, 366, 376(n) r/w
34 of IPC, 4, 6 and 12 of POCSO Act, 2012 and,
whether it requires interference of this Court?*

ii) What order?"

Point No.(i):

8. The very complaint given on 29.06.2025 by the parents of the victim girl that the accused has kidnapped their daughter. The victim girl in her statement under Section 164 Cr.P.C., before the learned Magistrate stated that she had been to her friend's house and so also the same is reiterated before the Court when she was examined as PW.1. She has also not supported the case of the prosecution and apart from that, the medical records show that she was subjected to medical examination by the doctor, but doctor has not been examined. However, the prosecution relies upon the document at Ex.P2, which is very crystal clear. In the opinion portion it is mentioned that *opinion pending for want of Chemical Analysis Report.*



CNR: KAHC010229212019

9. Having perused the Chemical Analysis Report which is marked before the Court as Ex.P10, even though clothes belong to the victim, and vaginal smear swab and urethral swab were collected and sent to the expert, opinion is very clear that the seminal stain was not detected in Item Nos. 1, 2, 3, 4, 6 and 7. So also in Item No. 5-vaginal smear, spermatozoa was also not detected. Having considered the medical evidence as well as RFSL report is also negative. So also in respect of the underwear-Ex.P11 is marked, seminal stain was not detected.

10. Having considered the evidence of PW.1-victim, though examined other witnesses as PW.2 to 4 mother and other relatives, when the victim did not depose before the Magistrate as well as before the trial Court when she was examined, she did not support the case of the prosecution. In the absence of medical evidence and FSL report, the question of convicting the accused does not



CNR: KAHC010229212019

arise. The trial Court has taken note of all these materials available before it and rightly comes to the conclusion that no case is made out to convict the accused and rightly acquitted and no perversity is found and no miscarriage of justice.

11. The trial Court also took note of the date of birth Certificate which is marked as Ex.P9 and no doubt the same discloses but for data per this 10.05.1998, but, this Certificate was issued by the St. Francis Assisi PU College, Kollegala, Chamanarajanagara District, either it is not a birth certificate or first admission record or matriculation. When she was pursuing the PUC, ought to have relied upon the matriculation certificate and the same is also not relied upon.

12. In that light, this Court also likes to rely upon the judgment of the Apex Court in ***P. YUVAPRAKASH vs State, REP. BY INSPECTOR OF POLICE***, reported in ***2023 INSC 676***, has held that to determine a victim's



CNR: KAHC010229212019

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 examination are relevant for consideration. No such material is placed before the Court. 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. The age of the victim girl is also not proved. Hence the said judgment is also aptly applicable to the case on hand, the prosecution has failed to prove the age of the victim and so also with regard to the ingredients of



CNR: KAHC010229212019

NC: 2026:KHC:47844-DB
CRL.A No. 1448 of 2019

the offences which have been invoked for the offence under Sections 363, 366, 376(n) r/w 34 of IPC, 4, 6 and 12 of POCSO Act, 2012. Therefore, we answer the point as ***Negative***.

Point No.(ii):

13. In that view of the matter, we pass the following:

ORDER

Appeal is ***dismissed***.

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

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

BSV
List No.: 1 Sl No.: 12