



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 2042 OF 2018

BETWEEN:

STATE OF KARNATAKA BY
ARASIKERE POLICE STATION,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

...APPELLANT

(BY SRI. RAHUL RAI K. HCGP.,)

AND:

1. PUTTASWAMY @ PUTTARAJA
S/O MUDDAPPA,
AGED 27 YEARS,
R/A CHIKKATHIMMANAHATTI,
PAVAGADA TALUK-561202.
2. NARASIMHARAJU @ NARASIMHA,
S/O VALASAPPA,
AGED 30 YEARS,
R/A MALLAMMANAHALLI
PAVAGADA TALUK-561 202.
3. RANGAMMA
W/O MANJUNATHA,



AGED ABOUT 35 YEARS,
R/A AMARAPURA MANDALA,
MADAKASHIRA TALUK,
ANANTHAPURA DISTRICT,
ANDHRA PRADESH-515004.

4. BABY W/o. JAYARAMAPPA,
AGED ABOUT 41 YEARS,
NAYAKA, LABOURER,
ARASIKERE VILLAGE,
PAVAGADA TALUK,
TUMAKURU, KARNATAKA.

...RESPONDENTS

(BY SRI. CHETHAN B., ADVOCATE FOR R1 TO R3;
SRI. S. JAVEED, ADVOCATE, APPOINTED AS AMICUS
CURIAE FOR R4)

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C
PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE
JUDGEMENT AND ORDER OF ACQUITTAL DATED 24.05.2018
PASSED BY THE III ADDITIONAL DISTRICT AND SESSIONS
COURT, TUMAKURU IN SPL.C.NO.64/2018, ACQUITTING THE
RESPONDENT/ACCUSED FOR THE OFFENCE P/U/S 376,
366(A), 344 AND 506 OF IPC AND SECTION 6 OF POCSO
ACT.

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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE G BASAVARAJA



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

The State has preferred the appeal against the Judgment and order dated 24.05.2018 passed by the III Additional District and Sessions Court, Tumakuru in Special Case No. 64/2018, whereby the respondents / accused Nos.1 and 2 are acquitted of the offences punishable under Section 376, 366A, 344, 506 of IPC and Section 6 of the POCSO Act.

2. Heard learned High Court Government Pleader for the State, learned counsel for respondent Nos.1 to 3 and learned Amicus Curiae for respondent No.4 / defacto complainant. Perused the evidence and material on record.

3. Brief facts: It is the case of prosecution that accused Nos.1 and 2, on 12.09.2017 at about 03.30 p.m., on Mangalavada-Arasikere road, near Mamatha hotel, kidnapped the minor victim girl (PW.3) by inducing her and took her to Rolle Village with intent that she may be or knowing that she will be forced or seduced to illicit intercourse. Accused No.1 kept her in a rented house and accused No.3 assisted him to confine the victim wrongfully in the said house. Further, she



was confined from 12.09.2017 to 23.09.2017, during which period, accused No.1 committed forcible penetrative sexual assault on her and also criminally intimidated by threatening her to take away her life.

4. The learned session Judge, on appreciation of the evidence and material on record, vide impugned judgment acquitted the accused of the charges levelled against them, holding that the prosecution has failed to establish its case beyond reasonable doubt.

5. Assailing the impugned judgment, the learned High Court Government Pleader has contended that in this case there is ample evidence to show that the victim girl was kidnapped by the accused and confined in a rented house, belonging to PW.6 and the victim has categorically deposed in her evidence about the said kidnap and wrongful confinement and also deposed that accused No.1 has repeatedly committed penetrative sexual assault on her. He contended that the victim's mother has lodged the complaint on 07.10.2017 and on 08.10.2017 the victim and the accused were traced, which shows that till then the minor victim was wrongfully confined by the accused and subjected to sexual assault. He further



contended that even in the statement recorded under Section 164 of Cr.P.C., the victim has stated about the kidnap, wrongful confinement and the sexual assault committed by the accused. He contended that the prosecution has got marked Ex.P11, the school record, in proof of the date of birth of the victim, wherein, her date of birth is mentioned as 17.10.2001 and therefore established that she was a minor as on the date of commission of the offence. He therefore contended that the trial court was not proper in acquitting the accused and sought to allow the appeal.

6. The learned amicus curiae appearing for the complainant also contended that the victim and her mother have supported the case of prosecution and there is nothing elicited in their cross-examination to disbelieve their evidence and in view of Ex.P11 and the evidence of PW.16, the Principal, who has issued the said document, the victim was a minor as on the date of incident. Hence, he sought to set aside the impugned judgment of acquittal and to convict the accused.

7. The learned counsel for respondent Nos.1 to 3 contended that the victim's evidence is not supported by medical evidence and there is discrepancy in the evidence of



the prosecution witnesses. The evidence on record do not establish that the victim was wrongfully confined. It is contended that Ex.P11 issued by PW.16 is not sufficient to prove the date of birth of the victim and there is no other document. He contended that the Trial Court having appreciated the entire evidence adduced by the prosecution has rightly acquitted the accused and this being an appeal preferred against the judgment of acquitted, there are no compelling reasons to reverse the judgment.

8. According to the prosecution, on 12.09.2017 at about 03:30 p.m., accused Nos. 1 and 2 kidnapped the minor victim and she was taken to Rolle Village. Further, accused No.1 confined her in a rented house belonging to PW.6, wherein, he repeatedly committed penetrative sexual assault on her and also threatened her to take away her life. Accused No.3 assisted him in wrongfully confining the victim.

9. Though the prosecution alleges that the victim was kidnapped on 12.09.2017, there was no complaint lodged till 07.10.2017. The victim's mother in her complaint at Ex.P2, has stated that, her daughter aged about 16 years was studying in I PUC and she went to college on 12.09.2017 but



did not return till evening. On the same night at about 09:00 p.m., the accused telephoned and informed her that he has kidnapped her daughter and he will bring her back. After 2 days he once again telephoned her stating that her daughter has gone for work and he will bring her back after Dasara festival. She has stated that since 2 years they were acquainted with the accused, who was visiting their house and on 12.09.2017 at about 03:00 p.m. accused has kidnapped her daughter and did not bring her back.

10. The conduct of victim's mother examined as PW.2 is very unnatural. Even though she was aware on 12.09.2017 itself that her daughter was kidnapped by the accused, she has not lodged any complaint till 07.10.2017. PW.15, PSI has deposed that on 08.10.2017 his staff secured both accused and the victim and produced before him and he sent the victim along with her mother. The same goes to show that both the victim and accused were together till 08.10.2017 and they were secured on that day and produced before PW.15.

11. The victim is examined as PW.3. According to her when she was returning home from the college, near one Mamatha hotel, she fainted due to dizziness and fell down.



Accused Nos.1 and 2 who were present there took her to Sivanagare. She regained conscious near Amaravathi. The accused took her to Hemavathi temple, where accused No. 2 left them in the house of Krishnappa. From there, accused No.1 took her to Rolle and confined in a rented house. She has deposed that accused No.1 by criminally intimidating, committed forcible sexual intercourse on her.

12. In a case of this nature, it is the primary duty of the prosecution to establish that the victim was a minor as on the date of incident. The prosecution is relying on Ex.P11, the document issued by the Principal, Pre University College. As per the said document, the date of birth of the victim is 17.10.2001. If the same is taken into consideration, the victim was aged about 16 years as on the date of incident. However, the defence has disputed the said document. The attention is drawn to the evidence of PW.2-mother, wherein, in the cross-examination, she has stated that when her daughter was admitted to 1st standard, her age was about 8 - 10 years. The I.O. has not collected either the birth certificate or the earliest school records pertaining to the victim. Ex.P11 is only the extract of school record issued by PW.16. Except Ex.P11 there



is no other document such as admission register etc. collected by the I.O. Though in Ex.P11 it is stated that the victim had completed 10th Standard, SSLC marks card is not produced. The prosecution has also not taken any pain to get the age of the victim estimated by ossification or radiology examination. PW.16 has only stated that he has issued Ex.P11, as per which the date of birth of the victim is 17.10.2001. He has admitted in the cross-examination that he is not aware as to the documents submitted at the time of admission of the victim to 1st standard and he is not aware as to on what basis the date of birth of the victim is recorded in the Transfer Certificate.

13. It is also worth to note that in Ex.P11 the name of the mother is shown as one Chandrakala, whereas, the name of the complainant is Baby who is examined as PW.2. Hence, a reasonable doubt arises in the mind of the Court regarding the date of birth mentioned in Ex.P11 so as to accept the same in support of proof of age of the victim. The prosecution has not established beyond reasonable doubt that the victim was a minor as on the date of incident.

14. Admittedly, the victim was with the accused from 12.09.2017 till she was secured on 08.10.2017. Even though



she has deposed that she was kidnapped and confined in a rented house and subjected to forcible sexual intercourse, there is no other corroborative piece of evidence. PW.6, owner of the house, where the victim and accused were staying, has not stated that the victim was either confined wrongfully by the accused or she had complained to him about the same. On the other hand, he has clearly deposed in the cross examination that accused was not locking the house when he was going out and the victim was freely moving around. Similarly PW.7, PW.8 and PW.9, independent witnesses have also not stated that the victim was wrongfully confined by the accused in the rented house of PW.6. The evidence of PW.8 goes to show that the victim was freely moving and used to talk with the neighbours, but she has not complained to them that she was either kidnapped or subjected to forcible penetrative sexual assault.

15. The reasons assigned by the trial Court for acquitting the accused does not suffer from any illegality or perversity. There are no compelling grounds to reverse the judgment of acquittal. Appeal is ***dismissed***.



16. The Learned Amicus is entitled to an honorarium of Rs.10,000/-, payable by the High Court Legal Services Committee.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

LDC
List No.: 1 Sl No.: 16