



CNR: KAHC010237302021

NC: 2026:KHC:36755
CRL.A No. 1013 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL APPEAL NO. 1013 OF 2021 (C)

BETWEEN:

RAJANNA @ RAJACHARI
S/O LATE NARAYANACHARI
AGED 55 YEARS
R/AT GANGADHAR HOUSE
NEAR BUS STOP
CHANNANAYAKANAPALYA
NAGASANDRA POST
BANGALORE - 73

... APPELLANT

(BY SRI.SAMPANGI RAMAIAH N.S., ADVOCATE)

AND:

THE STATE BY PEENYA POLICE
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA,

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



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HIGH COURT BUILDING
BENGALURU – 560 001

...RESPONDENT

(BY SRI. M.V.ANOOPKUMAR, ADDL.SPP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) CR.P.C. PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION DATED 27.04.2018 AND ORDER OF SENTENCE DATED 02.05.2018 PASSED BY THE LIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-55), SITTING IN CHILD FRIENDLY COURT, BENGALURU URBAN DISTRICT IN SPL.C.C.NO.115/2015, CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 376(2) OF IPC AND SECTION 6 OF POCSO ACT.

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

CORAM: HON'BLE MR JUSTICE S RACHAIAH



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S RACHAIAH)

1. This criminal appeal is filed by the appellant/accused seeking to set aside the judgment of conviction dated 27.04.2018 and order on sentence dated 02.05.2018 passed in Spl.C.C. No.115/2015, on the file of the LIV Addl. City Civil and Sessions Judge (CCH-55), sitting in Child Friendly Court, Bengaluru Urban District for the offences punishable under Section 376(2) of IPC and Section 6 of POCSO Act, 2012.

2. The rank 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 the accused was residing in a house at Seenappa Vatara situated near Chennanayakana Palya, Peenya, Bengaluru. The victim, who was aged about 5 years old, was playing in front of her house situated in the same locality. The accused on the pretext of giving her chocolates, took her inside his



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house and committed an act of sexual assault by inserting his finger into the vagina of the victim girl. As a result, she sustained a bleeding injury. Therefore, a complaint was registered by the mother of the victim.

4. Based on the said complaint, the respondent - police have registered a case, conducted investigation and submitted the charge sheet.
5. In order to prove the case of the prosecution, the prosecution examined as many as 14 witnesses as PWs.1 to 14, got marked 18 documents as Exs.P.1 to 18 and also 9 material objects identified and marked as M.Os. 1 to 9. The Trial Court, after appreciating both oral and documentary evidence on record, recorded the conviction against the accused for the aforesaid offences.
6. Heard learned counsel Sri. Sampangi Ramaiah N.S., learned counsel for the appellant and Sri.Anoopkumar, learned Addl. SPP for respondent No.1- State.
7. The submission of learned counsel for the appellant is that the Trial Court has committed error in arriving at a



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conclusion that the appellant has committed the offence of sexual assault, which is against to the evidence on record. Therefore, the same is liable to be set aside.

8. It is further submitted that the victim has not stated on oath before the Court that she had been subjected to sexual assault. In the absence of the evidence of the victim, the Trial Court ought not to have convicted the appellant based on the evidence of hearsay witnesses.
9. It is further submitted that though the Doctor who conducted medical examination of the victim, opined that the hymen was torn and bloodstains were found on the vagina of the victim, however, that would not be sufficient to arrive at a conclusion that the appellant had committed sexual assault on the victim. The opinion expressed by the Doctor cannot be termed as conclusive proof. Therefore, the judgment of conviction passed by the trial Court is liable to be set aside. Making such submissions, learned counsel for the appellant prays to allow the appeal.



10. *Per contra*, Sri. Anoopkumar, learned Addl. SPP for the respondent - State, vehemently justified the judgment of conviction and order on sentence and stated that the accused had committed heinous offence against a minor girl who is aged about five years. Merely because, she has not given her evidence before the Trial Court, that would not take away the case of the prosecution. The evidence of other witnesses is consistent in respect of the incident and the evidence of the Doctor clearly corroborated the evidence of the complainant. The Trial Court having considered the evidence on record opined that the appellant is guilty of the said offences. Therefore, the findings of the Trial Court may be upheld and the appeal has to be dismissed. Making such submissions, learned Addl. SPP prays to dismiss the appeal.
11. Having heard learned counsel for the respective parties and on perusal of the findings of the Trial Court, it appears from the record that the accused is a resident of the same locality, wherein the victim was residing. Further, it appears that the complainant and her husband



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used to go to their respective works in the garment unit. The mother-in-law of the complainant also used to go to do housekeeping work. However, the father-in-law of the complainant was staying at home.

12. It is further stated that the victim used to go to Anganwadi and returning home around 3:00 p.m. On 19.11.2014, the complainant returned home at about 6:30 p.m. and she learnt from her mother-in-law that the victim who is her daughter had been subjected to sexual assault by the appellant. On hearing the same information, she verified the victim and noticed blood on the private part of the victim. Thereafter, she took the victim to the hospital for treatment and thereafter, she lodged a complaint against the appellant.
13. Now, it is relevant to advert the evidence of all the witnesses for the purpose of re-appreciation.
14. P.W.1, who is the mother of the victim has supported the case of the prosecution and reiterated the contents of the complaint in a verbatim. She had been subjected to



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cross-examination; however, nothing has been elicited to discredit her evidence. It is needless to state that she is the hearsay witness.

15. P.W.2, who was working as a Anganwadi worker supported the case of the prosecution as a witness to the spot mahazar.
16. P.W.3, who is the victim, however she was not able to depose before the Court regarding the incident. Hence, she had been given up.
17. P.W.4 is a Doctor who conducted the examination of the accused submitted the report as per Ex.P.3 and supported the case of the prosecution.
18. P.W.5 is a Doctor who conducted the examination of the victim and submitted her report as per Ex.P.4 and supported the case of the prosecution.
19. P.W.6 is the father-in-law of P.W.1. He stated in his evidence that he was informed from the victim that the



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accused raised the victim up and dropped her to the ground. Consequently, the victim had sustained injuries.

20. P.W.7 is the mother-in-law of P.W.1. She also did not support the case of the prosecution in respect of the alleged sexual assault. However, she has deposed that the appellant/accused raised the victim up and dropped her to the ground. Consequently, the victim had sustained bleeding injuries on her private part.
21. P.W.8 who is the neighbour of P.W.1, has turned hostile and not supported the case of the prosecution. However, she has stated in her evidence that the accused was taking the victim into his house.
22. P.W.9 who was working as a Head Constable of the respondent-Police Station, deposed in respect of the work carried out during investigation. According to him, he collected materials from hospital and from the FSL and submitted to the Investigating Officer.



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23. P.W.10 who was working as a Police Constable stated in his evidence that he had been deputed to trace the accused. According to him, he along with his team apprehended the accused on 20.11.2014 and produced him before the Investigating Officer.
24. P.W.11 who was working as PSI of the respondent-Police Station, recorded the statement of the victim as per Ex.P.10.
25. P.W.12 who was working as a Police Constable accompanied the victim to go to Saptagiri Medical Hospital for medical examination.
26. P.W.13 who was working as a Police Inspector, conducted investigation and submitted the charge sheet.
27. P.W.14 who was working as a Senior Scientific Officer submitted his reports as per Exs.P.16 and 17 and supported the case.
28. On going through the evidence of all these witnesses, there are inconsistencies in the evidence of P.Ws.1, 6,



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and 7 in respect of the alleged incident. As per the evidence of P.W.1, the accused had inserted his finger into the vagina of the victim, as a result of which, the victim had sustained injury on her vagina and blood was discharged. However, the evidence of P.Ws.6 and 7 would indicate that the appellant had raised the victim up and dropped her to the ground. Consequently, the victim had sustained bleeding injury on her private part. Even though the Doctor opined that the victim had been subjected to sexual assault, the same is not a conclusive proof in respect of the said incident.

29. Having considered the inconsistencies between the evidence of P.Ws.1, 6 and 7 and also non-examination of the victim, it creates doubt in respect of the said incident. Moreover, the victim immediately after incident given her statement before the learned Magistrate under Section 164 of Cr.P.C., wherein she has stated that the complainant had raised her up and dropped her to the ground. Consequently, she sustained injuries on her private part. Such being the fact, the Trial Court ought to



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have considered this inconsistencies and should have extended the benefit of doubt to the appellant/accused. Having not considered the same, resulted in passing the impugned judgment, which is liable to be set aside.

30. 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 dated 27.04.2018 and order on sentence dated 02.05.2018 passed in Spl.C.C. No.115/2015 by the LIV Addl. City Civil and Sessions Judge (CCH-55), sitting in Child Friendly Court, Bengaluru Urban District for the offences punishable under Section 376 of IPC and Section 6 of POCSO Act, 2012 is set aside.
- iii) The accused is acquitted for the offences punishable under Sections 376(2) of IPC and Section 6 of POCSO Act.



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iv) Bail bonds executed, if any, stand cancelled.

Sd/-
(S RACHAIAH)
JUDGE

JS/NR
List No.: 1 Sl No.: 31