



CNR: KAHC010247412019

NC: 2026:KHC:44774-DB
CRL.A No. 1506 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.1506 OF 2019

BETWEEN:

1. THE STATE OF KARNATAKA
BY BELAKAVADI @ PASANNA POLICE STATION
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001.

...APPELLANT

(BY SRI. SPP)

Digitally signed
by DEVIKA M

Location: HIGH
COURT OF
KARNATAKA

AND:

1. MAHADEVASWAMY @ PRASANNA
S/O MAHADEVAIAH
AGED ABOUT 26 YEARS,
R/O KARGALLI, SOSALI HOBLI
T. NARASIPURA TALUK
MYSURU DISTRICT-571 124.
2. PUTTABASAVIAH
S/O LATE JOGIGOWDA
AGED ABOUT 50 YEARS
R/AT 1ST CROSS
BHOVI COLONY



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BASAVESHWARANAGAR
BENGALURU.

...RESPONDENTS

(BY SRI. MAHADEVA SWAMY P., ADVOCATE FOR R1;)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF CR.PC PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE IMPUGNED JUDGMENT AND ORDER OF ACQUITTAL DATED 24.04.2019 PASSED BY THE I ADDITIONAL SESSIONS AND SPL. JUDGE, MANDYA, IN SPL.CASE (POCSO) NO.93/2016 THEREBY ACQUITTING THE RESPONDENT/ ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 366A, 344, 376 OF IPC AND SECTION 4 OF POCSO ACT.

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)

Heard Sri Suhas Gowda M., learned High Court Government Pleading appearing for the State and Sri Mahadeva Swamy P., learned counsel for respondent No.1. The defacto-complainant is served and unrepresented.

2. The factual matrix of case of the prosecution is that on 14.03.2016 at about 12.45 p.m., the accused kidnapped the victim girl from her school situated at Doddabuhalli Village and



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so also, the allegation is that having kidnapped the girl, who is a minor, confined the victim girl till 24.03.2016 for a period of 11 days and so also, took the victim girl to different places. Ultimately, on 23.03.2016, took her to Tower in Barachukki Falls, Kollegal Taluk and taking advantage that none was present in the said tower, the accused subjected her for sexual act. Hence, invoked the offences under Sections 366-A, 344 and 376 and Section 4 of POCSO Act. The accused was secured and he did not plead guilty and claims the trial.

3. Hence, the prosecution examined the witnesses as P.W.1 to P.W.19 and got marked the documents Ex.P1 to Ex.P22 and M.O.1 to M.O.18 are marked.

4. The Trial Court considered the evidence of P.W.1, P.W.4, who is the father and P.W.2 and P.W.3, who are the teachers of the particular school where the victim girl was studying and the evidence of Doctors P.W.10 and P.W.11, medical report before the Court is that there is no sign of recent sexual act, but hymen was absent. The clothes which was seized were subject to FSL and the FSL report is negative and considering all these material available on record comes to



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the conclusion that the prosecution failed to prove that the victim was a minor. Since, the prosecution only relies upon the document of Ex.P4 i.e., School Admission Extract, comes to the conclusion that the evidence of the victim girl and other evidence on record not inspires the confidence of the Court and acquitted the accused.

5. Sri Suhas Gowda M., learned High Court Government Pleader appearing for the State in his argument would vehemently contend that the Trial Court committed an error and though there was delay of 3 days in lodging the complaint and invariably, the father of the complainant will not lodge the complaint when the minor girl is missing. However, missing complaint was given on 17.03.2016 and case was registered in Crime No.37/2016 for the offence punishable under Sections 366, 344 and 376(2)(h) of IPC and Sections 4 and 6 of POCSO Act. He would vehemently contend that the Trial Court committed an error in disbelieving the case of prosecution, particularly failed to appreciate the evidence of P.W.1-victim. The non-appreciation of evidence and material on record amounts to miscarriage of justice. He would further



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contend that in the instant case, although P.W.1 has not supported the case of prosecution, the Trial Court failed to take note of the fact that the evidence of victim alone is sufficient to bring home the guilt of the accused and her evidence is very clear that accused himself took her to different places from 14.03.2016 to 23.03.2016 and ultimately, he has succeeded in subjecting her for sexual act taking advantage of lonely place and the evidence of the victim girl is sufficient to convict the accused. Hence, it requires interference.

6. Per contra, Sri Mahadeva Swamy P., learned counsel for respondent No.1 would submit that the victim girl has not supported the case of prosecution and she has only deposed with regard to she was taken to different places, but not deposed with regard to subjecting her for sexual act. The counsel also would vehemently contend that evidence of P.W.10 is very clear that there is no recent sign of sexual act and there is no injuries either in the private part or all over the body, except deposing that hymen was not intact. The counsel would vehemently contend that the fact that she was subjected to sexual act is not supported by medical evidence. The counsel



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also vehemently contend that she is a minor. To show that she is a minor, nothing is placed on record, except the document of Ex.P4 and the same also cannot be relieved, since the same is not a Birth Certificate or matriculation record or first admission record. The counsel would vehemently contend that on considering overall material available on record, there is no ingredients of offence of kidnapping and subjecting her for sexual act and even to prove the factum that she was subjected to sexual act for the offence under Section 4 of the POCSO Act.

7. Having heard Sri Suhas Gowda M., learned High Court Government Pleading appearing for the State and Sri Mahadeva Swamy P., learned counsel for respondent No.1. and also considering the material available on record, the points that would arise for consideration of this Court are:

- (i) Whether the Trial Court committed an error in acquitting the accused for the offences invoked against him and whether it requires interference of this Court converting the same for conviction from acquittal?



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(ii) What order?

Point No.(i):

8. Having heard the respective counsels and also on perusal of the material on record, the specific allegations made against the accused is kidnapping of the victim girl. Having perused the material on record, it is very clear that she herself accompanied the accused and there is no ingredients of kidnapping. So also to prove the fact that she is a minor, only produced the document of Ex.P4. No doubt, the same discloses the date of birth as 22.05.2001, but this document pertains to admission for 8th standard and not the admission to the school at the first instance and not produced any Matriculation Certificate or Birth Certificate. In view of the judgment of the Apex Court in the case of **P. YUVAPRAKASH v. STATE REP. BY INSPECTOR OF POLICE** passed in **CrI.A.No.1898/2023**, wherein also discussion was made with regard to Section 34 of POCSO Act as well as Section 94 of Juvenile Justice (Care and Protection of Children) Act, 2015 and comes to the conclusion that unless those documents are marked, the same cannot be



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relied upon and the same has to be proved by examining the witnesses.

9. The third limb of argument before this Court is that she was subjected to sexual act, that too on 23.03.2016, but when the victim was taken to the Doctor, who has been examined as P.W.10, the victim girl was subjected to examination on 25.03.2016, on examination, the Doctor says that hymen was absent, but no external injuries either in the private part or all over the body and Ex.P12-FSL report is negative and seminal stains were not detected in Article Nos.2, 3, 4, 5, 6, 7, 11, 12, 13 and 14 and so also, no spermatozoa were detected in Article Nos.8, 9 and 10. The evidence of the Doctor is very clear that she had changed the clothes and also made the statement that already washed her clothes. Hence, this material also not supports the case of prosecution. In the document Ex.P1-report of the Doctor, the opinion is given that clinically there is no recent or old injuries on body or genitalia indicating forceful sexual intercourse, but hymen is not intact.

10. Having taken note of oral evidence and documentary evidence of Ex.P1, even though an allegation is



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made that she was subjected to sexual act on 23.03.2016, considering the evidence of the Doctor P.W.10, the oral evidence is inconsistent and within 2 days of alleged sexual act, she was examined. But, no recent sign of subjecting her for sexual act and no injuries on the private part and no injuries on the body of the victim. When such being the material available on record, even though P.W.1 says that she was subjected to sexual act taking advantage of lonely place, the same is not supported by evidence of the doctor, though hymen was not intact and hymen will not be intact for several reasons. Under the circumstances, we do not find any ground to come to a conclusion that it is a case for conviction as against the acquittal. The age of the victim is also not proved and the medical evidence is against the evidence of P.W.1 and FSL report also not supports the case of prosecution. The records clearly disclose that she accompanied the accused from 14.03.2016 to 24.03.2016 and the very incident of subjecting her for sexual act is not corroborated by medical evidence. Hence, the benefit of doubt goes in favour of the accused and the Trial Court rightly extended the same in favour of the



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accused. Therefore, we do not find any ground to come to an other conclusion to reverse the finding of the Trial Court from acquittal to conviction. Accordingly, we answer point No.(1) as 'negative.

Point No.(ii):

11. In view of the discussion made above, we pass the following:

ORDER

The appeal is dismissed.

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

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

ST
List No.: 1 Sl No.: 20