



CNR: KAHC010309102016

NC: 2026:KHC:42052
CRL.A No. 872 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL APPEAL NO. 872 OF 2016 (C)

BETWEEN:

K S SANNA MARIYAPPA
S/O SANNA KENCHAPPA
AGE: 30 YEARS, PRESENT
YALACANAHALLI VILLAGE
KANAKAPURA MAIN ROAD
BANGALORE TOWN
BANGALORE DISTRICT
PERMANENT RESIDENT OF
MADANABHAVI VILLAGE
HONNALI TALUK
DAVANAGERE DIST-577 223
(ACCUSED BEFORE SESSIONS
COURT NOW IN JUDICIAL CUSTODY)

...APPELLANT

(BY SRI. PRASAD B S., ADVOCATE)



NC: 2026:KHC:42052
CRL.A No. 872 of 2016

CNR: KAHC010309102016

AND:

THE STATE OF KARNATAKA
BY NYAMATHI POLICE STATION
DAVANAGERE - 577 001.

...RESPONDENT

(BY SMT.RASHMI PATEL, HCGP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) CR.P.C PRAYING TO SET ASIDE THE CONVICTION DATED 12.05.2016 AND SENTENCE 13.05.2016, PASSED BY THE I ADDL. DISTRICT AND SESSIONS JUDGE, DAVANAGERE IN S.C.NO.151/2015, CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION.376, 417, 506 OF I.P.C. AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH



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ORAL JUDGMENT

This appeal has been filed by the appellant being aggrieved by the judgment of conviction and order on sentence dated 12.05.2016 and 13.05.2016, respectively passed in SC.No.151/2015 on the file of the I Additional District and Sessions Judge at Davanagere, wherein, the accused has been convicted for the offences under Section 376, 417 and 506 of the Indian Penal Code, 1860 (for short 'IPC').

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 complainant was working in a factory at Bengaluru and the accused was also working at Bengaluru. Therefore, they came in contact with each other and started loving each other. It is alleged that when C.W.1 had been to her village-Madanabavi and the accused also accompanied her to attend Jathra Mahothsav in the village. During the said stay, it is alleged that he had committed sexual intercourse on her on the pretext of



CNR: KAHC010309102016

marriage. Thereafter, on several occasions he had committed sexual intercourse on her on promising her that he would marry her. However, after sometimes, he refused to marry and threatened her with dire consequences. Hence, she lodged a complaint. Based on the said complaint, the respondent-Police have registered a case, conducted investigation and submitted the charge sheet.

4. To prove the case of the prosecution, the prosecution examined 19 witnesses as PWs.1 to 19 and got marked 21 documents as Exs.P1 to P21 and also identified 12 material objects as M.Os.1 to 12. On the contrary, defence got marked 03 documents as Exs.D1 to D3. The Trial Court after appreciating both oral and documentary evidence, convicted the appellant for the above said offences. Hence, this appeal.

5. Heard Sri.B.S.Prasad, learned counsel for the appellant and Sri.S.Javeed, learned High Court Government Pleader for the respondent-State.

6. The submission of the learned counsel for the appellant is that the judgment of conviction and order on



CNR: KAHC010309102016

NC: 2026:KHC:42052
CRL.A No. 872 of 2016

sentence passed by the Trial Court is contrary to law, evidence and probabilities of the case. Hence, the same is liable to be set aside.

7. It is further submitted that though the victim has consented for the sexual activities, subsequently, she has resiled from her consent and stated that she had been subjected to rape, which is unethical and unbelievable. If the victim had really been subjected to rape on the pretext of marriage, she should have brought the said fact to the elders or well-wishers immediately after the incident.

8. It is further submitted that the Trial Court has failed to take note of the fact of delay in lodging the complaint which is fatal to the case of the prosecution. However, the same has not been considered properly. Consequently, the impugned judgment is passed, which is required to be set aside. Making such submissions, learned counsel for the appellant prays to allow the appeal.

9. *Per contra*, learned High Court Government Pleader for the respondent-State justified the judgment of conviction



CNR: KAHC010309102016

and order on sentence passed by the Trial Court and prays to dismiss the appeal.

10. Having heard the learned counsel for the respective parties and on perusal of the findings of the Trial Court, it is relevant at this stage to refer the proposition of law in respect of the provisions under which the appellant had been convicted. The Hon'ble Supreme Court in the case of **PRAMOD SURYABHAN PAWAR VS. STATE OF MAHARASHTRA AND ANOTHER¹** held that the consent of a woman in respect of Section 375 of IPC must involve an active and reasoned deliberation towards the proposed act. To establish whether the consent was vitiated by a misconception of fact arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise given in a bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the women's decision to engage in the sexual act.

¹ (2019) 9 SCC 608



CNR: KAHC010309102016

NC: 2026:KHC:42052
CRL.A No. 872 of 2016

11. In another case namely, **MAHESH DAMUKARE VS. STATE OF MAHARASTRA²**, Hon'ble the Supreme Court held that a prolonged consensual relationship cannot be considered as vague, based on the false promise of marriage, unless the consent was vitiated by deceit from the outset.

12. On going through the dicta of the Hon'ble Supreme Court stated supra, it makes clear that **'if any sexual activities are stated to have taken place between the two consenting parties on consensual relationship for a considerable length of time that cannot be termed as a rape when such relationship had been broken on account of various other reasons'**. However, the said consent has to be obtained by the accused on the pretext of false promise of marriage and the said promise was given with an intention to deceive the woman at the ex-facie.

13. P.W.1 was working at Bengaluru in a private company and she was residing at Bommanahalli, Bengaluru. The accused was residing at Banashankari and he used to visit her house often. About 04 years back, she had been to her



CNR: KAHC010309102016

native to attend the festival, the accused had also accompanied her and expressed his willingness to marry her. The accused had committed sexual intercourse on her on several occasions. When he refused to marry her, she lodged a complaint before the respondent-Police.

14. On going through her evidence, though P.W.1 stated in her evidence that she had been subjected to rape, her evidence has not been corroborated by the independent witness or scientific or medical evidence. Under such circumstances, her evidence alone cannot be sufficient to render conviction. Of course, the conviction can be rendered even on the evidence of the prosecutrix alone, if such evidence be considered as reliable and acceptable and also such witness shall be deemed to be 'sterling witness'.

15. In the present case, the evidence of P.W.1 is not believable for the reasons that after the incident, she did not bring it to the notice of her parents or to the concerned Police. However, after a lapse of one year, she had disclosed the fact stating that she had been subjected to rape. The prosecution has not proved as to 'whether the act of rape had been



CNR: KAHC010309102016

committed by the accused or not?'. Such being the fact, it is inappropriate to accept the evidence of P.W.1.

16. Be that as it may. On going through the evidence of other witnesses, it is relevant to discuss the evidence of P.W.4 and 5. P.W.4-Neelamma is the mother of P.W.1 stated that she had learnt from her daughter that accused was intending to marry her. However, she was not informed about the alleged sexual intercourse.

17. P.W.5-Shilpa suppose to depose about the love affair between P.W.1 and the accused, however, she has turned hostile and not supported the case of the prosecution.

18. P.W.6 also supposed to depose about the love affair of the victim and the appellant, however, he has turned hostile and not supported the case of the prosecution. Similarly, P.W.7 also not supported the case of the prosecution.

19. When such being the fact, consider the evidence of P.W.1 to render the conviction, in my considered view, is erroneous and not proper. However, the Trial Court rendered the conviction based on the solitary evidence of the prosecutrix



CNR: KAHC010309102016

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CRL.A No. 872 of 2016

coupled with medical evidence is not acceptable and considered as erroneous. Therefore, the same is liable to be set aside. Hence, I proceed to pass the following:

ORDER

- i) The appeal is ***allowed***.
- ii) The judgment of conviction and order on sentence dated 12.05.2016 and 13.05.2016, respectively passed in SC.No.151/2015 on the file of the I Additional District and Sessions Judge at Davanagere is set aside.
- iii) The appellant is acquitted for the offences punishable under Sections 376, 417 and 506 of the Indian Penal Code, 1860.
- iv) Bail bonds executed, if any, stands cancelled.

**Sd/-
(S RACHAIAH)
JUDGE**