



CNR: KAHC010387092022

NC: 2026:KHC:43388-DB
CRL.A No. 1490 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1490 OF 2022 (C)

BETWEEN:

RAMANNA @ RAMU @ CHATURI
S/O MAYANNA
AGED ABOUT 48 YEARS,
R/AT NO.846, 4TH CROSS,
DHINABANDUNAGARA,
NANDINI LAYOUT,
BENGALURU -560096.

...APPELLANT

(BY SRI. MANJUNATH M.R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
NANDINI LAYOUT POLICE STATION,
BENGALURU,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU -560001.
2. SMT. R. UMA
W/O M. RAJU,
AGED ABOUT 37 YEARS,
NO.864, 4TH CROSS,
BEHIND MUNESHWARA TEMPLE,
NEAR WATER TANK,
DHINABHANDUNAGARA,



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NANDINI LAYOUT,
BENGALURU-560096.

...RESPONDENTS

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

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION DATED 06.02.2019 AND ORDER OF SENTENCE DATED 08.02.2019 PASSED BY THE LXX ADDL. CITY CIVIL AND SESSIONS JUDGE AND SPL. JUDGE, BANGALORE IN S.C.NO.1195/2015 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 376 OF IPC AND SEC.4 OF POCSO ACT AND SEC.3(1)(xi),3(1)(xii),3(2)(v) OF THE SC/ST (POA) ACT.

THIS APPEAL, COMING ON FOR FINAL HEARING, 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)

This appeal is preferred against the judgment of conviction and sentence passed by the Court of the LXX Additional City Civil and Sessions Judge and Special Judge, Bangalore City, in S.C.No.1195/2015.



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2. Heard the learned counsel for the appellant and the learned High Court Government Pleader for the State and perused the evidence and material on record.

3. The Trial court has convicted the accused for the offences punishable under Section 376 of IPC and under Section 4 of the POCSO Act and under Section 3(1)(xi), 3(1)(xii) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. In brief, it is the case of the prosecution that the victim is a minor girl, aged about 7 years and belongs to Scheduled caste. The accused being not a member of Scheduled Caste or Scheduled Tribe, on 21.08.2015 at about 12:00 p.m. when the victim child was playing in front of her house, took her to his house on the pretext of giving chocolate, undressed her and inserted his finger in her private part. When the victim cried, he closed her mouth with his hand and also made her to touch his private part and thereby committed the aforesaid offences.



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5. The trial Court mainly relying on the evidence of the victim PW.1, coupled with the evidence of her parents examined as PWs.2 and 5 and medical evidence, came to the conclusion that the prosecution has established the charges levelled against the accused and accordingly, convicted and sentenced him.

6. It is the specific case of the prosecution that the victim belongs to Scheduled caste and the accused is not a member of Scheduled caste or Scheduled Tribe. On the date of incident i.e. on 21.08.2015 at about 12:00 p.m., when the victim child was playing in front of her house, the accused took her to his house and undressed her and sexually assaulted her by inserting his finger in her private part.

7. The complaint is lodged by the victim's mother, examined as PW.2. The complaint is marked as Ex.P6, which is dated 26.08.2015. A perusal of the complaint averments goes to show that PW.2 took her daughter to



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one Vijaya Clinic, where the doctor examined her and also informed the police. The police had also visited the said clinic and the incident was narrated to the police. However, the said information given to the police by the complainant at Vijaya clinic, is not forthcoming. As per PW.8, the Police Inspector, the complainant, PW.2 visited the police station on 26.08.2015 and lodged the complaint.

8. The prosecution has examined PW.4, the doctor of Vijaya Clinic, where the victim was taken initially and medically examined. As per PW.4, the victim complained that there was irritation in her private part and on enquiry, victim's mother informed that the person from the neighborhood had inserted his finger in her private part. Further, PW.4 has deposed that he informed the police and the police came to his clinic and recorded the statement of the victim as well as her mother. However, those statements of the victim and her mother are prior to



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lodging the complaint-Ex.P6. FIR was not registered on that basis.

9. On lodging of the complaint as per Ex.P6 on 26.08.2015 by the victim's mother, PW.8, the Police Inspector registered the case against the accused and took up the investigation. The victim was subjected to medical examination by the doctor-PW.6, who issued the certificate marked as Ex.P9. The statement of the victim was also recorded under Section 164 Cr.P.C., as per Ex.P1.

10. In this case, the age of the victim is not seriously disputed by the accused. Further, it is also not in dispute that the victim belongs to Scheduled Caste. The Tahsildar, PW.11 has issued the caste certificate-Ex.P16 pertaining to the accused as well as the victim, which shows that the victim is a member of Scheduled Caste and accused is not a member of Scheduled Caste or Scheduled Tribe.



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11. The victim was examined by the doctor PW.6 on 27.08.2015 at about 12.30 a.m. As per Ex.P9, the hymen is intact, no discharge or blood seen in the vagina. PW.6 was of the opinion that the findings are consistent with sexual interference and there is no evidence of spermatozoa. As per the history furnished to the doctor, by victim's mother, 'the child was taken to the owner's house where the accused molested her and touched her private parts. He inserted his finger in the vagina and later lied down over the child after undressing himself. There is no history suggestive of intercourse or penis insertion given. The accused has made the child to touch his private part.'

12. It is pertinent to mention that as per the evidence of PW.2, victim's mother, her daughter-PW.1 told her elder sister by name Bhavani that the accused put fingers in her private part and scratched with his fingers. Her evidence does not indicate that the victim complained to her, about the accused committing the sexual act, such



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as inserting his finger in the private part. The elder sister of the victim has not been examined. She is also not cited as a witness, in the charge sheet. Hence, from the evidence of PW.2, it is clearly seen that the victim informed about the incident to her elder sister, by name Bhavani and not disclosed the incident to her mother. It is as told by Bhavani, PW.2 has given the history before the doctor. It is also pertinent to mention that in Ex.P1, the statement of the victim recorded under Section 164 Cr.P.C., she has not stated that the accused has inserted his finger into her private part, on the other hand, she has stated that the accused touched her breast and private part, closed her mouth and undressed her and removed his underwear. She has stated that she informed the incident to her elder sister.

13. In her evidence, the victim has stated that the accused took her to his house on the pretext of removing the boxes and made her to sleep and then removed his underwear and touched her chest and the place of



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urination. Her evidence is consistent with the statement recorded under Section 164 Cr.P.C., She has nowhere stated that the accused has inserted his finger into her private part and made her to touch his private part. Hence, on a careful perusal of the oral evidence on record and the medical evidence, we are of the considered view that the case of the prosecution that the accused has inserted his finger into the private part of the victim is not established beyond doubt. However, it is established that the accused with a sexual intent, has touched victim's vagina and her chest and thereby committed an act of sexual assault, attracting the ingredients of Section 7 punishable under Section 10 of the POCSO Act, 2012 and not under Section 376 of IPC or Section 4 of the POCSO Act, 2012.

14. The trial Court has convicted the accused for the offences punishable under Sections 3(1)(xi), 3(1)(xii) and 3(2)(v) of the SC/ST (POA) Act.



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15. The incident took place on 21.08.2015. It is not the case of the prosecution that the accused has committed the offence against the victim on the ground that she belongs to Scheduled Caste. Further, there is also no material to show that the accused knew the caste of the victim. Therefore, the conviction of the accused under Section 3(2)(v) of the SC/ST Act, is not sustainable. Insofar as the conviction and the sentence passed for the offence under Section 3(1)(xi) and 3(1)(xii) of the SC/ST (POA) Act, the reasons assigned by the trial Court is in accordance with law. For the foregoing reasons, the following order is passed.

ORDER

- i) Appeal is ***partly allowed.***
- ii) The judgment and order of conviction and sentence dated 06.02.2019, convicting and sentencing the accused / appellant for the offences punishable under



Sections 376 of IPC and Section 4 of the POCSO Act and Section 3(2)(v) of the SC/ST (POA) Act, is ***set aside***.

iii) The accused / appellant is convicted for the offence under Section 7, punishable under Section 10 of the POCSO Act, 2012.

iv) He is sentenced to undergo Rigorous Imprisonment for 7 years and to pay fine of Rs.10,000/- and in default of payment of fine, shall undergo Simple Imprisonment for a period of 6 months.

v) The conviction and sentence passed for the offences punishable under Sections 3(1)(xi), 3(1)(xii) of the SC/ST (POA) Act, is ***confirmed***.

All the sentences shall run concurrently.

vi) He is entitled to the benefit of set off under Section 428 of Cr.PC., (Section 468 of the BNSS, 2023).

vii) If the accused has undergone the sentence, he shall be released, if not required in any other case.



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viii) The order passed by the Trial court to award adequate compensation to PW.1 by the DLSA, Urban, Bengaluru and Social Welfare Department is ***unaltered***.

Registry is directed to communicate this order to the Trial Court.

I.A.No.1/2026 does not survive for consideration.
Hence, ***disposed of***.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(G BASAVARAJA)
JUDGE**