

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1763 OF 2019 (A)

BETWEEN:

STATE OF KARNATAKA
BY DY.SP.P.VIRAJPET SUB DIVISION
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-1

...APPELLANT

(BY SRI SUHAS GOWDA M., H.C.G.P.)

AND:

NOORERA DALI @ DALU
S/O. LATE MACHAIAH
AGED ABOUT 69 YEARS
FARMER
BELLURU VILLAGE
HUDIKERI POST, VIRAJPET TALUK
KODAGU DISTRICT-571 218

...RESPONDENT

(BY SRI S. T. BIKKANNAVAR, ADVOCATE)

Digitally signed
by
SHARADAVANI
B

Location: HIGH
COURT OF
KARNATAKA

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C BY THE
SPP FOR THE STATE PRAYING TO GRANT LEAVE TO APPEAL
AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED
04.04.2019 PASSED BY THE COURT OF II ADDITIONAL

DISTRICT AND SESSIONS JUDGE, KODAGU-MADIKERI, SITTING AT VIRAJPET IN SPL.CASE NO.8/2018 ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 341, 354(A) AND 506(2) OF IPC AND SECTIONS 3(1)(r), 3(1)(s), 3(1)(w)(i) AND 3(2)(v-a) OF SC/ST(POA) ACT AND SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL DATED 04.04.2019 PASSED BY THE COURT OF II ADDITIONAL DISTRICT AND SESSIONS JUDGE, KODAGU-MADIKERI, SITTING AT VIRAJPET IN SPECIAL CASE NO.8/2018, ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 341, 354(A) AND 506(2) OF IPC AND SECTIONS 3(1)(r), 3(1)(s), 3(1)(w)(i) AND 3(2)(v-a) OF SC/ST(POA) ACT AND ALSO CONVICT AND SENTENCE THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 341, 354(A) AND 506(2) OF IPC AND SECTIONS 3(1)(r), 3(1)(s), 3(1)(w)(i) AND 3(2)(v-a) OF SC/ST(POA) ACT.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 24.08.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE B.PRAMOD

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE B.PRAMOD)

The present appeal is filed by the State challenging the judgment of acquittal dated 04th April, 2019 passed in Special Case No.8 of 2018 by the II Additional District and Sessions Judge, Kodagu-Madikeri (sitting at Virajpet) for the offences punishable under Sections 341, 354(A), 506(2) of IPC and Sections 3(1)(r), 3(1)(s), 3(1) (w)(i) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'SC/ST (POA) Act of 1989') and prayed to convict the accused/respondent.

2. Heard Sri Suhas Gowda M., learned HCGP for appellant-State and Sri S.T.Bikkannavar, learned counsel for the respondent.

3. The factual matrix of the case of prosecution before the Trial Court is that on 04.09.2017 at 4:30 p.m., the informant-victim was going in front of the house of the

accused from Hoskeri Paisary towards Belluru village through a public road. When she came in front of the gate of the house of the accused, situated at Belluru village, the accused, who was standing there, spoke to the informant and asked her whether she would come to his estate for work. Thereafter, he called her near his gate by holding her hand, dragged her inside the gate of his house, caught hold of her, and with an intention to outrage her modesty, pressed her chest. When the victim shouted loudly, the accused, who learnt that she would not co-operate, threatened her by showing a gun kept there, stating that he would kill her if she disclose the same to others. The accused also abused her in taking her caste and caused criminal intimidation showing the gun that he would kill her.

4. Based on the complaint, a case was registered for the offences punishable under Sections 341, 354(A), and 506(2) of the Indian Penal Code, and Sections 3(1)(r), 3(1)(s), and 3(1)(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The

matter was referred to the Special Court, and charge sheet materials were also supplied. The accused did not plead guilty and claimed to be tried.

5. The prosecution, in order to prove its case, examined seven witnesses as PW1 to PW7, got 16 documents marked as Exhibit P1 to Exhibit P16, and also marked one material object as MO1. The statement of the accused was also recorded under Section 313 of the Code of Criminal Procedure. The accused did not choose to lead any defense evidence.

6. The Trial Court, after appreciating both oral and documentary evidence, was of the opinion that, in view of the testimony of PW.1, the victim testimony is contrary to the case of prosecution and also her own complaint. The eyewitness evidence of PW.3 has not corroborated with the prosecution case. It is noted in paragraph 26 that PW.3 evidence is not trustworthy and that there is rivalry between PW.3 and the accused. PW.3, being the sole witness, has not deposed anything regarding the chudidar

top of the victim being torn at the time of the incident. The Trial Court in paragraph No.20 has further noted that the claim of the victim that she was wearing the same chudidar (MO1) for three days, that she was in the hospital, and that she had changed the same only after coming home after spending three days in the hospital, is not believable.

7. The Trial Court, after considering the material available on record, including the evidence of PW.1(victim), PW.2 (Doctor), PW.3 (sole eye witness), and PW.6 (IO), acquitted the accused. Being aggrieved by the order of acquittal, the State has preferred this appeal.

8. It is the contention of the learned Counsel for the appellant-State that the Trial Court has not properly appreciated the deposition of PW.2, the Doctor, who examined the victim. The said Doctor deposed that the nature of injuries and the age of the injuries were of recent nature. It is argued that unnecessary weightage was placed on the deposition of the eyewitness PW.3. It is

contended that in view of the circumstantial evidence, the Trial Court ought to have considered the evidence of the eyewitness coupled with the medical evidence, but erred in acquitting the accused. Hence, the counsel for appellant prayed this Court to allow appeal by setting aside the judgment of acquittal.

9. Per contra, the learned counsel appearing for the respondent-accused would vehemently contend that there was rivalry between PW.3 and the accused. Hence, the evidence of PW.3 could not be taken into consideration. It is also contended that the victim took treatment in a hospital far away hospital, though treatment was available at the nearest place, and that there was a contradiction in the statement of the victim recorded under Section 161 of the Code of Criminal Procedure and in her evidence.

10. Having heard the learned counsel for the respective parties and having perused the material on record, the points that would arise for our consideration of this Court are:

i. Whether the Trial Court has committed an error in acquitting the accused for the offences punishable under Sections 341, 354(A), 506(2) of IPC and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i) of SC/ST (POA) Act, 1989 and whether it requires interference of this Court to convict the respondent by reversing the judgment of acquittal?

ii. What Order?

Regarding Point No.1:

11. There is a contradiction in the statement of PW.1 recorded under Section 161 and in the evidence deposed before the court. In her evidence, PW.1 stated that the chudidhar top was torn during the incident. Thereafter, she went to the Hospital at Virajpet, and she wore the same top for three days and then lodged the complaint. It is stated that no bloodstains were present on the clothes. However, PW.2, the Doctor, has deposed that there is a possibility of bloodstains on the clothes, and the injuries sustained by the victim did not require admission to the Hospital. Exhibit P6, the wound certificate, shows that the injuries sustained by the victim are simple in

nature, and for such injuries, there is no need for admission to the Hospital for three days.

12. PW.3, the eyewitness, admits that he has known the accused for ten years and that the accused is a retired Army official. PW.3 further admitted that he is a member of Dalita Sangarsha Samithi.

13. PW.6 admits that Virajpet Hospital is about one hour distance from the place of the incident and that there are many Government Hospitals nearby.

14. The testimony of PW.1 contradicts the prosecution case, and the eyewitness evidence of PW.3 has not corroborated the prosecution case. PW.3, who claims to be the eyewitness and had given evidence in Spl.C.No.15 of 2009 against the accused, wherein the accused was acquitted, and since then PW.3 is not in talking terms with the accused. The admission of PW.4 also shows that the accused and PW.3 are not in taking terms; there is a dispute between them regarding the coolie amount.

15. PW.1, the victim, for a simple injury, claims to have taken admission to the Hospital and, after three days, lodged the complaint, which creates a doubt. That apart, in MO.1, there are no bloodstains. PW.2, the Doctor, in his evidence, has clearly stated that for the nature of injuries sustained, bloodstains could have occurred on the MO.1. However, MO.1 does not indicate any such bloodstains. The claim of the victim that she had worn the torn chudidar for three days while she was admitted to the Hospital and, after lodging the complaint, the same was handed over to the police.

16. PW.3, the sole eyewitness, has not supported the case of the prosecution, and he has not spoken anything regarding the chudidar top. The victim in the Section 161 statement had not stated that the chudidar top was torn in the incident. However, she has deposed that the accused pressed her chest and the chudidar top was torn. If her chudidar top was really torn at the time of the incident, she could not have continued wearing the same dress for three days, especially when she was in the

hospital. There is no corroboration in respect of the prosecution case as PW.1, the victim's testimony, is contrary to the prosecution case, and PW.3, the eyewitness, has not corroborated it.

17. There is contradiction in the statement of PW.1-victim recorded under Section 161 Cr.PC and in the oral evidence before the Court. In the evidence of PW.1, she has stated that chudidhar top was torn in the incident. Thereafter, she has joined the Hospital at Virajpet, and she has worn the same top for 3 days and has lodged the complaint. It is stated that bloodstains were not present on the clothes. However, PW.2-Doctor has stated that there is possibility of bloodstain clothes and the injuries sustained by the victim did not require admission to the Hospital. Exhibit P6-wound certificate shows that the injuries sustained by the victim is simple in nature and for such injuries, there is no need for admission to the Hospital for 3 days and an attempt is made to exaggerate the incident and without any reason admitted in the hospital for 3 days. The PW.3 also having grudge against

accused since earlier also deposed against him and the same is emerged in the evidence.

18. The prosecution must prove the guilt of the accused beyond a reasonable doubt. The test is not one of probability, but one of certainty. Where there is a contradiction in the evidence of the witnesses, and the testimony of the prosecution witnesses is not corroborated, and where there is a contradiction in the evidence of the prosecution own witnesses, the Trial Court is well within its discretion to acquit the accused. An appellate court should not lightly interfere with the finding of the Trial Court where the acquittal is based on a careful evaluation of the evidence on record. The benefit of the doubt must be given to the accused, and the acquittal should not be set aside merely because a different conclusion could possibly be drawn from the evidence.

19. The Trial Court, after evaluating the evidence of PW.1 (the victim), whose testimony was found to be contradictory to the prosecution case, and PW.3 (the sole

eyewitness), who failed to corroborate the prosecution version regarding key details such as the torn chudidhar top, acquitted the accused. The medical evidence (PW.2) also did not conclusively support the prosecution narrative, as the injuries were found to be simple in nature and did not necessitate a three-day hospital admission. The contradictions in the victim statement under Section 161 and her oral testimony further weakened the case of prosecution. The acquittal was therefore a result of the Trial Court careful appreciation of the evidence, and the benefit of the doubt was rightly given to the accused. The State appeal fails to establish that the acquittal was perverse, irrational, or unsupported by the evidence on record.

20. In view of the above discussion, and in consideration of the material on record, including the evidence of the witnesses as discussed hereinabove, we find that no sufficient grounds are established to interfere with the judgment of acquittal rendered by the Trial Court.

Accordingly, we answer Point No. 1 in the negative and proceed to pass the following:

ORDER

Appeal is **dismissed**.

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

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

MKM