



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1697 OF 2025 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY AJJAMPURA POLICE STATION,
CHIKKAMAGALURU,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU.

...APPELLANT

(BY SRI. RAHUL RAI, HCGP.)

AND:

1. SRI. SUNIL
S/O RAJAPPA,
AGED ABOUT 28 YEARS,
R/O DANDURU VILLAGE,
AJJAMPURA TALUK,
CHIKKAMAGALURU DISTRICT-577101.
2. SRI SACHIN
S/O GOVINDAPPA
AGED ABOUT 27 YEARS,
COOLIE WORK,
R/O DANDURU VILLAGE,
AJJAMPURA TALUK,
CHIKKAMAGALURU DISTRICT.



3. MANJU
S/O SRI. NAGAPPA,
AGED ABOUT MAJOR,
DANDURU VILLAGE,
SHIVANI HOBLI,
AJJAMPURA TALUK,
CHIKKAMAGALURU DISTRICT-577101.

...RESPONDENTS

[CAUSE TITLE AMENDED VIDE COURT ORDER DATED: 11.12.2025.]

(BY SRI. PRADEEP K. S., ADV. FOR R1 & R2,
SRI. SHIVARAJ N. ARAI, ADV. FOR R3.)

THIS CRL.A IS FILED U/S 378(1)(3) CR.PC (FILED U/S 419(1 AND 3) BNSS) BY THE SPP OR THE STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 29.08.2024 PASSED BY THE LEARNED ADDL.DISTRICT AND SESSIONS JUDGE FTSC-1 AT CHIKKAMAGALURU IN SPL.C(P) NO.122/2022, ACQUITTING THE RESPONDENT - ACCUSED NO.1 OF THE CHARGED OFFENCE P/U/S 366 R/W 34 OF IPC SEC.342,376(2)(i) AND 506 OF IPC AND SEC.6 OF POCSO ACT AND ALSO ACCUSED NO.2 FOR THE OFFENCE P/U/S 366(A) R/W 34 OF IPC AND SEC.17 OF POCSO ACT AND ETC.

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)

The State has preferred this appeal against the judgment dated 29.08.2024 passed by the Court of the Addl. District and Sessions Judge FTSC-1, Chikkamagaluru in Spl.C.(P). No.122/2022, wherein accused No.1 is acquitted of the offences punishable under Section 366 read with Section 34 of IPC, Sections 342, 376(2)(i) and 506 of IPC and Section 6 of POCSO Act and accused No.2 is acquitted of the offences punishable under Section 366(A) read with Section 34 of IPC and Section 17 of POCSO Act.

2. The factual matrix of the prosecution case is that, on 15.07.2022 at 11.00 a.m., accused Nos.1 and 2 in furtherance of the common intention and amongst them accused No.1 threatening the minor victim girl aged about 17 years that he will commit suicide if she did not accompany him, kidnapped her from the lawful guardianship and took her to Pandimatti Village and



thereafter to Kerebilachi Village to the house of CW12 and CW13 and wrongfully confined her in the said house and committed aggravated penetrative sexual assault on her. Further on 16.07.2022, accused No.1 took her to the house of CW14 and CW15 at Kereshettyhalli, where he wrongfully confined her.

3. The trial Court, on appreciation of the evidence and material on record, came to the conclusion that the prosecution has failed to prove the age of the victim, as per the dictum laid in the case of P. YUVAPRAKASH v. THE STATE REP. BY INSPECTOR OF POLICE (2023 SCC ONLINE SC 846) and further held that the veracity of the evidence tendered by PW1 is not qualitative so as to believe her testimony and the evidence of other prosecution witnesses fail to account for the alleged criminal acts of the accused. Hence, extending the benefit of doubt in favour of the accused, the trial Court proceeded to acquit them of the charges leveled against them.



4. The learned HCGP for appellant and the learned counsel appearing for respondent No.2/defacto complainant, contended that the prosecution has placed sufficient evidence in the form of documentary as well as oral, to establish that the victim was a minor as on the date of incident. They contended that the prosecution has got examined PW15 and PW16-Headmasters of the school where the victim studied and got marked Exs.P32 and P34-study certificates of the victim wherein her date of birth is mentioned as 23.09.2004. They further contented that maternal uncle of the victim namely PW2 lodged the complaint-Exhibit P6 reporting missing of the victim and after securing her, her medical examination was conducted, which also supports the case of prosecution. They contended that the victim has supported the prosecution case and therefore, the trial Court was not justified in recording an order of acquittal.

5. According to the prosecution, the date of birth of the victim is 23.09.2004. The prosecution has got



marked Ex.P32 and P34 through PW15 and PW16. The said documents are the study certificates of the victim. According to PW15 and PW16 on the basis of the Register maintained in the school, the certificates were issued. However in the cross-examination they have admitted that they are not aware as to on what basis the entry regarding the date of birth of the victim was made in the school Register. The school Register is also not produced and marked.

6. According to PW16, on the basis of the transfer certificate, the date of birth was mentioned in the school register. The transfer certificate was also not collected by the Investigating Officer. PW16 has further stated in the cross-examination that he is unable to say whether any documents were collected at the time of the victim's admission to the first standard.

7. The learned Judge has relied on the judgment in P.YUVAPRAKASH case, wherein it is held that, "wherever the dispute with respect to the age of a person



arises in the context of her or him being a victim under the POCSO Act, the courts have to take recourse to the steps indicated in Section 94 of the JJ Act. The three documents, in order of which the Juvenile Justice Act requires consideration is that, the concerned court has to determine the age by considering the following documents.

"(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board".

8. Hence, the trial Court has held that in the absence of the birth certificate and the ossification test of the victim, it cannot be held with certainty based upon the



certificates at Exs.P32 and Ex.P34 that the victim is a minor, born on 23.09.2004.

9. The evidence of the victim, in the chief-examination and cross-examination throw a reasonable doubt in the mind of the Court to believe her testimony that she was either forcibly kidnapped or subjected to forcible penetrative sexual assault. In Ex.P3-statement of the victim recorded under Section 164 of Cr.PC, she has not at all stated that the accused committed penetrative sexual assault on her. Further, as per the history furnished by the victim before the Doctor examined as PW7, she was in love with the accused for the past 4 years.

10. Having perused the material on record, we are of the view that the prosecution has failed to establish that the victim was a minor as on the date of commission of the offence and she was subjected to forcible penetrative sexual assault. Further, the defence has got marked Ex.D1-portion of the further statement of the victim wherein she has stated that she was in love with accused



No.1 and went with him, after her parents came to know about their relationship.

11. This appeal is preferred against the judgment of the acquittal passed by the trial Court. In view of acquittal of the accused, the presumption of innocence in his favour is reinforced. There are no compelling reasons to interfere with the impugned judgment and reverse the finding recorded by the trial Court. Hence, we proceed to pass the following:

ORDER

Appeal is **dismissed**.

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

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