



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1752 OF 2025 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY ALDUR POLICE,
CHIKKAMAGALURU,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-01.

...APPELLANT

(BY SMT. N. ANITHA GIRISH, HCGP)

AND:

1. SRI. AVINASH K. POOJARI
S/O KITTU,
AGED ABOUT 32 YEARS,
R/AT ADDAMAKKI VILLAGE,
ALDUR HOBLI,
CHIKKAMAGALURU DISTRICT-577 101.
2. SMT. LAKSHMI
W/O GIRISHA,
AGE MAJOR,
R/AT ADDAMAKKI VILLAGE,
ALDUR HOBLI,
CHIKKAMAGALURU DISTRICT-577 101.

...RESPONDENTS



THIS CRL.A IS FILED U/S 378(1) AND (3) CR.PC (419 (1) AND (3) OF BNSS, PRAYING TO: (A) GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 12.11.2024 PASSED BY THE LEARNED ADDITIONAL DISTRICT AND SESSIONS JUDGE-FTSC-I, CHIKKAMAGALURU IN SPL.C(P).NO.45/2024, ACQUITTING THE RESPONDENT-ACCUSED OF THE CHARGED OFFENCES PUNISHABLE UNDER SECTIONS 376(2)(j) AND 376(2)(n) OF IPC, SECTIONS 5(j)(ii) AND 6 OF POCSO ACT AND SECTION 9 OF P.C.M. ACT; (B) SET ASIDE THE JUDGMENT AND ORDER DATED 12.11.2024 PASSED BY THE LEARNED ADDITIONAL DISTRICT AND SESSIONS JUDGE-FTSC-I, AT CHIKKAMAGALURU IN SPL.C(P).NO.45/2024, INSOFAR AS ACQUITTING THE RESPONDENT - ACCUSED FOR CHARGED OFFENCES PUNISHABLE UNDER SECTIONS 376(2)(j) AND 376(2)(n) OF IPC, SECTIONS 5(j)(ii) AND 6 OF POCSO ACT AND SECTION 9 OF P.C.M. ACT; AND (C) CONVICT AND SENTENCE THE RESPONDENT - ACCUSED FOR THE CHARGED OFFENCES PUNISHABLE UNDER SECTIONS 376(2)(j) AND 376(2)(n) OF IPC, SECTIONS 5(j)(ii) AND 6 OF POCSO ACT AND SECTION 9 OF P.C.M. ACT, BY ALLOWING THE APPEAL.

THIS APPEAL, COMING ON FOR ORDERS, 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, being aggrieved by the Judgment of acquittal dated 12.11.2024 passed by the Court of the Additional District and Sessions Judge-FTSC-I at



Chikkamagaluru in SPI.C.(P) No.45/2024, has preferred this appeal.

2. The learned Sessions Judge, vide impugned Judgment and Order has acquitted the accused/respondent of the offence punishable under Section 376(2)(j) and 376(2)(n) of IPC, Section 5(j)(ii) & Section 6 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act, 2006.

3. There is a delay of 189 days in preferring the appeal. I.A.No.1/2026 is filed to condone the delay.

4. We have heard Smt.N.Anitha Girish, learned HCGP for the State and perused the material on record.

5. It is the case of prosecution that a year prior to 5.4.2024, accused had contracted marriage with the victim at Sri Udbhava Kalabhiraweshwara Temple, Haravinagandipalya, having knowledge that she is a minor and then took her to his house and repeatedly committed



penetrative sexual assault on her and caused her pregnancy.

6. The victim who went to the hospital on 11.3.2024 was examined by the Medical Officer-PW3, PHC, Machegondanahalli, who found that she was a minor aged about 17 years and pregnant. He informed the matter to his Superiors, the Child Welfare Officer and the Taluk Health Officer and thereafter, lodged a complaint before the Aldur Police as per Ex.P7.

7. The Investigating Officer-PW14, on completion of investigation filed the charge sheet against the accused.

8. Before the trial Court, the prosecution has examined 14 witnesses and got marked 30 documents, in order to establish the charges levelled against the accused.

9. The trial Court, vide impugned judgment has acquitted the accused, holding that the prosecution was unable to lay the foundation by proving the primary facts



in respect of the charges levelled against the accused and thus, failed to establish its case beyond reasonable doubt.

10. It is the contention of the learned HCGP that the victim while giving statement before the learned Magistrate has categorically stated about the offence committed by the accused and stated that the accused is responsible for her to become pregnant. She further contended that the Gynecologist-PW7, who examined the victim has issued the medical report as per Ex.P14 mentioning that the victim was pregnant with 30 weeks. She further contended that the prosecution has also examined the Head Master of the school where the victim studied, as PW6 and he has issued the certificate marked at Ex.P12 which shows that the date of birth of the victim is 6.1.2007. She has therefore contended that the prosecution has established that the victim was a minor as on the date of incident and she was subjected to aggravated penetrative sexual assault by the accused, on



account of which, she became pregnant and therefore, the trial Court was not justified in acquitting the accused.

11. In this case, the victim examined as PW8 has turned hostile and not supported the case of prosecution. In her evidence, she has denied the statement given before the police as per Ex.P16 and also denied that the police have conducted the mahazar as per Exs.P1 and P3. She has also denied having consented for medical examination. She has stated that the statement as per Ex.P17 given before the learned Magistrate was as instructed by the police.

12. The prosecution has also examined the parents of the victim as PWs.1 and 2. The said witnesses have also turned hostile and not supported the case of prosecution.

13. As per Ex.P14 i.e., medical report issued by PW7-Gynecologist, the victim was 30 weeks pregnant.



However, there is no legal evidence to show that the accused was responsible for her pregnancy.

14. The contention of the learned HCGP that the victim has given statement before the learned Magistrate that the accused was responsible for her to become pregnant and therefore, the prosecution has established its case cannot be accepted. It is well settled that the statement recorded by the learned Magistrate is not a substantive piece of evidence. The victim has not corroborated the said statement and furthermore she has categorically stated that the said statement marked as Ex.P17 was given as instructed by the police. Hence, no credibility can be attached to the said statement at Ex.P17.

15. Though it is the case of prosecution that the victim became pregnant, it is submitted by the learned HCGP that the pregnancy was terminated. There is no medical document such as DNA report to show that the accused is responsible for victim's pregnancy.



16. Nextly, as per prosecution, the date of birth of the victim is 6.1.2007. The prosecution has got examined PW6 i.e., Head Master of the school where the victim studied. Ex.P12 is only a certificate issued by PW6. It is not forthcoming as to on what basis the said certificate was issued. The prosecution has not collected the school admission register or the birth certificate of the victim. From Ex.P12, it cannot be held that the prosecution has been able to establish the date of birth of the victim as 6.1.2007 and she was a minor on the date of incident.

17. PWs.4 and 5-Asha workers have testified that when they visited the house of the victim, they found nuptial thread on her neck and she was pregnant. That itself will not establish that the said nuptial thread was tied by the accused or the victim became pregnant on account of the act committed by the accused.

18. Viewed from any angle, the prosecution has not been able to establish the charges levelled against the accused beyond reasonable doubt. There is no illegality



committed by the trial Court in acquitting the accused. The reasons assigned for acquitting the accused are just and proper and there are no grounds to interfere with the impugned judgment. Hence, we pass the following:

ORDER

Appeal is **dismissed**. Consequently, I.A.No.1/2026 is also dismissed.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE