



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1763 OF 2025 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY WOMEN POLICE STATION,
CHAMARAJANAGAR DISTRICT,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU.

...APPELLANT

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

AND:

1. SRI. ULLAS
S/O GOVINDEGOWDA,
AGED ABOUT 28 YEARS,
R/AT MOODURU MOODALA KOPPALU,
(M. KOPPALU),
GOWDAGERE HOBLI,
HUNASOORU TALUK,
MYSURU DISTRICT-570 001.
2. SMT. PUTTALAKSHMAMMA
W/O NAGARAJU,
AGED ABOUT 43 YEARS,
R/O UPPARA STREET,
HANDRAKALLI MOLE VILLAGE,



CHAMARAJANAGARA-571 313,
KARNATAKA

...RESPONDENTS

(BY SRI. PADMANABHA J., ADVOCATE FOR R1;
RESPONDENT NO.2 SERVED AND UNREPRESENTED)

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 07.12.2024 PASSED BY THE LEARNED ADDITIONAL DISTRICT AND SESSIONS JUDGE, FTSC-1, CHAMARAJANAGARA IN S.C.NO.176/2021, ACQUITTING THE RESPONDENT - ACCUSED OF THE CHARGED OFFENCES PUNISHABLE UNDER SECTIONS 363, 376 OF IPC AND 4(1), 6 OF POCSO ACT, 2012 OF THE INDIAN PENAL CODE; (B) SET ASIDE THE JUDGMENT AND ORDER DATED 07.12.2024 PASSED BY THE LEARNED ADDITIONAL DISTRICT AND SESSIONS JUDGE, FTSC-1, CHAMARAJANAGARA IN S.C.NO.176/2021, INSOFAR AS ACQUITTING THE RESPONDENT - ACCUSED FOR CHARGED OFFENCES PUNISHABLE UNDER SECTIONS 363, 376 OF IPC AND 4(1), 6 OF POCSO ACT, 2012 OF THE INDIAN PENAL CODE; (C) CONVICT AND SENTENCE THE RESPONDENT-ACCUSED FOR THE CHARGED OFFENCES PUNISHABLE UNDER SECTIONS 363, 376 OF IPC AND 4(1), 6 OF POCSO ACT, 2012 OF THE INDIAN PENAL CODE, 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 has preferred this appeal against the judgment of acquittal passed by the trial Court for the offences punishable under Section 376 of IPC and Section 4(1) and 6 of the POCSO Act.

2. Heard the learned High Court Government Pleader for the State, learned counsel Sri Padmanabha J., appearing for respondent No.1 and perused the material on record.

3. Charges were framed against the accused for the offences punishable under Section 363, 376 of IPC and Section 4(1) and 6 of the POCSO Act.

4. It is the case of the prosecution that, despite knowing that the victim girl was a minor, the accused kidnapped her on 22.07.2021 from KSRTC Bus stand, Mysuru, with a promise of marriage and took her to Hoysala Nagara, Hassan, wherein he confined her in House



No.137 and committed penetrative sexual assault on her against her will at 10.30 p.m., on 23.07.2021.

5. Appreciating the evidence and material on record, the trial Court came to the conclusion that the prosecution has established the charge under Section 363 of IPC and accordingly, convicted the accused for the said offence and acquitted him of the offences punishable under Sections 376 of IPC and Section 4(1) and 6 of the POCSO Act.

6. According to prosecution, the date of birth of the victim is 04.02.2004 and therefore, she was a minor aged about 17 years, 7 months and 18 days at the time of incident. In order to prove her age, prosecution got examined PW.4 and got marked Ex.P20, Ex.P21 and Ex.P39. Dental examination of the victim was conducted, wherein PW6 issued Ex.P23 estimating the age of the victim as 16½ years – 17½ years. Based on the said evidence, the trial Court accepted the date of birth of the



victim as 04.02.2004 and answered point No.1 in the 'affirmative' that the prosecution has proved that the victim was a child as defined under Section 2(d) of the POCSO Act.

7. Insofar as the charges levelled under Section 376 of IPC and Section 4(1) and 6 of the POCSO Act are concerned, the victim examined as PW1, while giving her statement before the learned Magistrate under Section 164 Cr.P.C., has not at all whispered that she was subjected to penetrative sexual assault. The said statement of the victim is marked as Ex.P14.

8. Learned High Court Government Pleader contended that the statement at Ex.P14 is not a substantive piece of evidence and therefore, evidence of the victim girl adduced before the Court has to be accepted. He contended that in her deposition she has clearly stated that the accused after kidnapping her took her to Hassan on 23.07.2021 at about 6.00 p.m., and



went to the house of his friend and inspite of her resistance, committed forcible sexual intercourse on her.

9. According to the victim she was subjected to forcible penetrative sexual assault by the accused on 23.07.2021. Her medical examination was conducted by the Doctor – PW12 on 26.07.2021. Her statement as per Ex.P14 was recorded by the learned Magistrate on 31.07.2021. In Ex.P14, she has not at all stated that the accused has committed forcible penetrative sexual assault on her. Ex.P5 is issued by PW.12 after receiving the FSL report. He has opined that there was no evidence of physical injury/genital injury. No spermatozoa or seminal stains were found in the article collected during investigation. PW.12 has opined that there was no evidence of recent sexual intercourse but sexual violence cannot be ruled out. The said medical evidence is not conclusive to hold that there was sexual intercourse.



10. In view of the discrepancy in the evidence of PW1 as she did not allege in Ex.P14 that the accused has not committed forcible penetrative sexual assault on her, the trial Court has acquitted the accused of the charges under Section 376 of IPC and Section 4(1) and 6 of the POCSO Act, extending the benefit of doubt.

11. It is the cardinal principle in criminal jurisprudence that presumption of innocence of the accused is reinforced by an order of acquittal. The Appellate Court, in such a case, would interfere only for very substantial and compelling reasons. There are no such reasons to disturb the finding of acquittal recorded by the trial Court.

12. Insofar as Section 363 of IPC, the accused was convicted and sentence to undergo S.I. for 3 years and to pay fine of Rs.15,000/- in default, to undergo S.I., for 3 months. As the accused was in custody from 26.07.2021 to 07.12.2024, period of custody undergone by him was



given set off. The said finding has become final as no appeal is preferred by the accused.

For the foregoing reasons, the appeal is ***dismissed.***

I.A.No.1/2026 is dismissed.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

HB
List No.: 1 Sl No.: 5