



CNR: KAHC010622112025

NC: 2026:KHC:44126-DB
CRL.A No. 1906 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1906 OF 2025

BETWEEN:

1. STATE OF KARNATAKA
BY GONIBEEDU P.S., CHIKKAMAGALURU
REP. BY ITS STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001.

...APPELLANT

(BY SRI. SUHAS GOWDA M., HCGP)

AND:

1. NANDAN S/O KUMAR
AGED ABOUT 21 YEARS
R/O CHINNIGA-JANNAPURA VILLAGE
GONIBEEDU HOBLI, MUDIGERE TALUK
CHIKKAMAGALURU DISTRICT-577 101.
2. SUMITRA W/O MAHESH
AGED ABOUT 25 YEARS
R/AT CHINNIGA JANNAPURA VILLAGE
GOIBEEDU HOBLI, MUDIGERE TALUK
CHIKKAMAGALURU-577101

...RESPONDENTS

(BY SRI. PAVAN KUMAR, ADVOCATE FOR R1;
SRI. NAGENDRA B., ADVOCATE FOR R2 - ABSENT)

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF CR.PC (419(1) AND (3) OF BNSS) PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 27.02.2025 PASSED IN SPECIAL C.(P) NO.32/2024 BY ADDL. DISTRICT AND SESSIONS JUDGE, FTSC-I AT CHIKKAMAGALURU, THEREBY ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 366, 342, 376AB OF IPC AND SECTION 6 OF POCSO ACT, 2012 AND TO SET ASIDE THE JUDGEMENT OF ORDER OF ACQUITTAL DATED 27.02.2025 PASSED IN SPL.C (P) NO.32/2024 BY ADDL. DISTRICT AND SESSIONS JUDGE, FTSC-I AT CHIKKAMAGALURU, THEREBY ACQUITTING THE RESPONDENT/ ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 366, 342, 376AB OF IPC AND SECTION 6 OF POCSO ACT, 2012 AND CONVICT AND SENTENCE THE ACCUSED RESPONDENT FOR THE AFORESAID OFFENCES IN ACCORDANCE WITH LAW.

THIS APPEAL COMING ON FOR ADMISSION THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

This matter is listed for admission. We have heard learned High Court Government Pleader for the appellant. Sri. Pavan Kumar, learned counsel for respondent No.1. Sri Nagendra B., learned counsel for respondent No.2 authorized by HCLSC is absent.



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2. This appeal is filed challenging the judgment of acquittal passed in Special Case (P) No.32/2024 dated 27.02.2025 on the file of Additional District and Sessions Judge-FTSC-I at Chikkamagaluru.

3. The factual matrix of case of the prosecution is that on 16.02.2024 at 12.00 p.m., the accused has enticed the victim aged 10 years 2 months offering fruits and chocolates, abducted her with sexual intent and took her to his house situated at Chinniga-Jannapura Village, Gonibeedu Hobli of Mudigere Taluk, where he has wrongfully confined the victim and sexually assaulted her. Based on the complaint of mother, the Police registered the case and investigated the matter and after completion of the investigation, filed the charge-sheet. The accused was secured before the Court and the accused did not plead guilty and claims the trial.

4. Hence, the prosecution relies upon the evidence of P.W.1 to P.W.8 and got marked the documents Ex.P1 to Ex.P23.



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5. The Trial Court having taken note of the charges leveled against the accused and on appreciation of evidence, comes to the conclusion that evidence of P.W.1, who is the mother of victim and also the evidence of victim P.W.2, comes to the conclusion that there is discrepancy in the evidence of both P.W.1 and P.W.2 with regard to the incident is concerned. The Trial Court also taken note of evidence of the Medical Officer, who has been examined as P.W.4, wherein she says that mother has been escorted by Women Police along with victim. On enquiry, P.W.1, i.e., the mother has stated that on 14.02.2024 at 5.00 p.m. near the Estate, one Jayanna has attempted to sexually assault the victim. It is also case of the prosecution that on 25.02.2024 at 11.00 p.m., the accused has sexually assaulted the victim. On 27.02.2024, she noticed that private parts of the victim was bleeding and on 28.02.2024, she brought the victim for medical examination.

6. The Trial Court taking note of history given by mother in paragraph No.16 and the evidence of P.W.4 in paragraph No.17, comes to the conclusion that P.W.4 has given the opinion that there is nothing to suggest that victim has not



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been exposed to sexual intercourse and the medical report is at Ex.P5. On conjoint reading of evidence of P.W.1, P.W.2 and so also P.W.4 comes to the conclusion that there are material discrepancies in the evidence of prosecution which has been discussed from paragraph No.29 onwards i.e., the evidence of P.W.1, P.W.2 and medical evidence and comes to the conclusion that there is material discrepancy in not only the date and time of the alleged incident in respect of P.W.1 as well as P.W.2 and also noticed that P.W.2 admits that her brother was with her at that time in the house when the incident occurred. But, he is not cited as witness in this case and the same is observed in paragraph No.34. So also, the discrepancy in the evidence of P.W.1 and P.W.2 is discussed in paragraph No.32 and in paragraph No.37, discussed that even medical evidence also not corroborates with the evidence of P.W.1 and P.W.2, wherein at one breath, they say that incident has taken place on 16.02.2024 and again say that, it has taken place on 25.02.2024 and history given before the Medical Officer is also not consistent which is spoken to by P.W.4 and she did not find it necessary to recover any material from the person of P.W.2



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not even her undergarments. But, P.W.1 says that her clothes were given to the Medical Officer, but there is no FSL report to that effect.

7. Having taken note of all these material, the Trial Court comes to the conclusion that the evidence of prosecution does not inspire the confidence of the Court. Even, the Trial Court discussed Sections 29 and 30 of the POCSO Act regarding presumption is concerned and acquitted the accused. Being aggrieved by the acquittal, present appeal is filed before this Court.

8. The main contention of learned counsel appearing for the State is that Sessions Judge has grossly erred in acquitting the accused and failed to consider the evidence of victim girl, who has been examined as P.W.2 and evidence of P.W.1. In paragraph No.5 of the appeal memo, it is stated with regard to the age of the victim and also the medical report issued by P.W.4-Medical Officer as per Ex.P5, wherein it is found that vaginal bleeding was present. But, statement of P.W.2-victim before the learned Magistrate under Section 164 of Cr.P.C dated 05.03.2024 which came to be recorded in terms



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of Ex.P8 clearly highlights about the incident pertaining to sexual violence that took place on 16.02.2024 and the same clearly corroborates with the evidence of P.W.2-victim. The counsel referring these grounds would vehemently contend that the Trial Court has committed an error.

9. Per contra, learned counsel for respondent No.1 would vehemently contend that the Trial Court in detail taken note of inconsistencies in the evidence of P.W.1 and P.W.2, particularly with regard to the date of incident is concerned. Though, it is stated that victim revealed the sexual act on the very same day, but the incident has taken place on 16.02.2024 and the victim girl was taken to the hospital on 28.02.2024 and the history given before the Medical Officer is contrary that one Jayanna attempted to sexually assault her on 14.02.2024 at 5.00 p.m. and the other history is accused sexually assaulted her on 25.02.2004 and there is major discrepancy in the evidence of victim P.W.1 and P.W.2 and also the evidence of the Medical Officer-P.W.4, when the history was narrated. Hence, Trial Court has given the benefit of doubt in favour of the accused.



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10. Having heard learned counsel appearing for the appellant as well as learned counsel appearing for respondent No.1 and considering the material on record, when the Trial Court found inconsistency in the evidence of P.W.1 and P.W.2, particularly with regard to the incident is concerned, wherein they say that incident has taken place on 16.02.2024 and when the victim was taken to the hospital for medical examination i.e., P.W.4, history was given that one Jayanna attempted to sexually assault the victim on 14.02.2024 and once again, they say that on 25.02.2024 by the accused, even though it is the case of prosecution that the victim was sexually assaulted on 16.02.2024 and the history given is not credible before the P.W.4. Hence, the evidence of P.W.4 also not supports the case of prosecution. No doubt, when the victim was taken to the Medical Officer, it is stated that in the private part, there was bleeding, but when the incident was narrated, it is the case of the prosecution that incident has taken place on 16.02.2024, though the victim girl was taken on 28.02.2024 and the evidence of P.W.1 and P.W.2 is not consistent with each other. The medical evidence also not supports the case of prosecution,



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whether the incident was on 14.02.2024 as revealed before the Medical Officer P.W.4 i.e., by one Jayanna and he has not been arrayed as an accused. With regard to the incident on 16.02.2024 also, P.W.1 says that on the same day, she revealed the sexual assault by the accused, but the victim was taken to the hospital on 28.02.2024 and no explanation with regard to the delay from 16.02.2024 to 28.02.2024 and not even clothes of the victim was seized and there is no FSL report before the Court to substantiate the case of persecution.

11. When all these inconsistencies were taken note of by the Trial Court in appreciating the material on record, the Trial Court also in paragraph No.44 of the judgment taken note of the judgment of the Apex Court in ***State of Punjab vs. Gurmit Singh and others*** reported in ***(1986) 2 SCC 384*** that the evidence of the prosecutrix alone is sufficient, if found credible, reliable and consistent to convict the accused and corroboration is not necessary and no dispute with regard to the principles laid in the said judgment. But, in the case on hand, the evidence of the victim is not consistent, not credible



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and not reliable and the evidence of victim-P.W.2 and the evidence of P.W.1 is not consistent.

12. When such being the case, we do not find any ground to admit the appeal and question of reconsideration of material available on record does not arise and there is glaring error on the part of prosecution in considering the evidence of P.W.1 and P.W.2 and the same will not help the prosecution to reconsider the matter.

Accordingly, the Appeal is ***dismissed.***

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

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

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List No.: 1 Sl No.: 5