



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1950 OF 2025 (A)

BETWEEN:

THE STATE BY INSPECTOR OF POLICE
STATE BY KOPPA POLICE STATION,
KOPPA, CHIKKAMAGALURU,
REPTD. BY THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU - 01

...APPELLANT

(BY SRI. RAHUL RAI K., HCGP)

AND:

1. SHARATH K.V.
AGED ABOUT 32 YEARS,
S/O. VENKATESH,
R/O KOOSUGOLLI, GUNAVANTHE VILLAGE,
KOPPA TALUK,
CHIKKAMAGALURU DISTRICT - 577 101.
2. SMT. MAMATHA
W/O SUDHIR K. R.
AGED ABOUT 42 YEARS,
R/AT KOOSUGOLLI, GUNAVANTHE VILLAGE,
KOPPA VILLAGE,
CHIKKAMAGALURU DISTRICT - 577 101

...RESPONDENTS

(BY SRI. PURTHIVRAJ S., ADVOCATE FOR
SMT. SAMEEKSHA T.R., ADVOCATE FOR R1
SRI. MADHUSUDHAN J., ADVOCATE FOR R2
(AUTHORIZED BY HCLSC))



THIS CRL.A IS FILED U/S 378(1) AND (3) CR.PC PRAYING TO A. GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 19.09.2024 PASSED BY THE LEARNED ADDL.DISTRICT AND SESSIONS JUDGE, SPECIAL COURT CHIKKAMAGALURU IN SC NO.59/2023 FOR THE OFFENCES P/U/S 450, 376(2)(f) OF IPC R/W SECTION 6 OF THE POCSO ACT 2012.

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 Judgment and order dated 19.09.2024 passed by the Court of the Additional District and Sessions Judges, FTSC-1 at Chikkamagaluru, in Spl.C.(P).No.59/2023, acquitting the accused / respondent No.1 of the offences punishable under Section 450 and 376(2)(f) of IPC and Section 6 of POCSO Act, is under challenge in this appeal preferred by the State.

2. We have heard the learned High Court Government Pleader, learned counsel appearing for respondent No.1 as well as learned counsel appearing for



respondent No.2 / defacto complainant and perused the trial Court records.

3. Briefly stated, the case of the prosecution is that in the month of October, 2022, when the victim, a minor girl, was alone in her house situated at Kusugolli of Gunavanthe village, the accused trespassed into her house with an intention to sexually assault her and committed forcible aggravated penetrative sexual assault on her, as a consequence, she became pregnant and later gave birth to a female child.

4. Appreciating the oral and documentary evidence on record, the trial Court came to the conclusion that the prosecution has failed to establish the fact that the victim was a child, as defined under Section 2(1)(d) of the POCSO Act, 2012 and her age was not determined as per Section 94(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015.

5. The trial Court has further observed that in the evidence of the victim, examined as PW.1, wherein, she



has stated that she was subjected to forcible penetrative sexual intercourse, does not appear to be probable, considering the fact that the house of the accused is abutting the house of the victim and she had not revealed the incident to anyone, until she was found to be 35 weeks pregnant.

6. The learned High Court Government Pleader would contend that the prosecution has got marked Ex.P13, the certificate issued by the Principal of the Pre University College, examined as PW.6, wherein the date of birth of the victim is mentioned as 28.05.2006 and even the parents, have deposed about the date of birth of the victim. He therefore contended that the trial Court was not proper in discarding Ex.P13 and the evidence of PW.6.

7. The learned HCGP further contented that in this case the victim examined as PW.1 has supported the case of prosecution and the prosecution has also collected the medical documents pertaining to the victim, including the FSL report-Ex.P19, which clearly establishes that accused



is the biological father of the girl baby delivered by the victim.

8. Learned counsel for respondent No.2 would also contend that the trial Court has erred in discarding the acceptable evidence placed by the prosecution in proof of victim's age as well as the medical report confirming the paternity and therefore, contented that the trial Court has erroneously acquitted the accused.

9. Learned counsel for respondent No.1 contended that this is an appeal preferred against the judgment of acquittal, the trial Court based on the evidence and material on the record and after assigning valid reasons has acquitted the accused and there are no justifiable reasons to interfere with the Judgment passed by the trial Court. He thereafter, sought to dismiss the appeal.

10. It is the specific case of the prosecution that in the month of October, 2022, when the minor victim was alone in her house, the accused trespassed into her house and by threatening her, committed forcible penetrative



sexual assault, consequent to which she became pregnant and delivered a baby.

11. To establish that the victim was a child as defined under Section 2(1)(d) of the POCSO Act, 2012, it is the primary duty of the prosecution to place relevant material in proof of her age. In the case on hand, the prosecution has got marked Ex.P13, issued by PW.6, the Principal of the Pre University College. PW.6 has certified in Ex.P13 that the victim's date of birth is 28.05.2006.

12. The trial Court while appreciating the documents given in proof of victim's age, referred to Section 94(2) of J.J. Act, 2015, and observed that when there is a doubt regarding the age of the person, age has to be determined firstly on the basis of the date of birth certificate from the school or the matriculation or equivalent certificate from the concerned examination board and if no such document is available, then on the basis of birth certificate given by a Corporation or a Municipal Authority or Panchayath and in the absence of



such evidence, on the basis of ossification test or any other medical age determination test.

13. According to PW.6, the date of birth of the victim is entered in the college records on the basis of transfer certificate of the victim. However, the prosecution has not produced the said certificate. Admittedly, the victim was studying in II year P.U.C. and therefore, she has completed her SSLC, however, no SSLC marks card was produced and marked.

14. In **Satpal Singh V/s. State of haryana** reported in **(2010) 8 SCC 714**, the Apex Court has observed that an entry of date of birth as recorded in the school register is relevant and admissible in evidence under Section 35 of the Evidence Act, 1872. However, such entry would be of no evidentiary value in the absence of the material based on which the age was recorded.

15. The trial Court has also placed reliance on the judgment of the Apex Court in **Manak Chand @ Mani V/s. The State of Haryana** decided on 30.10.2023 in



Criminal Appeal. No.2276/2014, wherein, it is held that in such circumstances, the bone ossification test is mandatory so as to arrive at a reliable conclusion regarding the age of the prosecutrix.

16. In the case on hand, merely on the basis of Ex.P13, it cannot be held that the victim was a minor as on the date of commission of offence. Hence, the trial Court has rightly not relied on Ex.P13 in proof of age of the victim.

17. We have also appreciated the evidence of the victim. She has testified that the accused forced her into her house while she was washing utensils and committed penetrative sexual assault. According to her, she screamed and offered resistance. However, the incident was not revealed by her until she was found to be pregnant of 35 weeks.

18. The trial court having appreciated the evidence of PWs.1 to 4, has come to the conclusion that their evidence does not substantiate that the accused has



sexually assaulted PW.1 without her consent and even the medical report at Ex.P2 does not disclose any injuries on her body.

19. The reasons assigned by the trial Court for acquitting the accused cannot be held to be either perverse or illegal. This being an appeal preferred against the judgment of acquittal, there are no justifiable grounds to upset the findings recorded by the trial Court and reverse the acquittal judgment. Appeal is ***dismissed***.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

LDC
List No.: 1 Sl No.: 4