



CNR: KAHC010633342025

NC: 2026:KHC:45672-DB
CRL.A No. 1949 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1949 OF 2025 (A)

BETWEEN:

STATE OF KARNATAKA
BY J. J. NAGAR POLICE STATION
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...APPELLANT

(BY MR. MOHAMMED AYUB ALI, ADDITIONAL S.P.P.)

AND:

1. MANJUNATH
S/O. NARASIMHA
AGED ABOUT 43 YEARS
R/A NO.45, 2ND CROSS
BBMP QUARTERS
V. S. GARDEN
BENGALURU
2. RASHMI
AGED ABOUT 48 YEARS
WORKING AS SOCIAL WORKER
CO-ORDINATOR, BOSCO CHILD LINE
BOSCO MANE NO.42

Digitally signed
by
SHARAD
B

Location: HIGH
COURT OF
KARNATAKA



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4TH MAIN, CHAMRAJAPETE
BENGALURU CITY
KARNATAKA-560 018

...RESPONDENTS

(BY SRI HITESH GOWDA B. J., ADVOCATE FOR R-1,
R-2 IS SERVED AND UNREPRESENTED)

THIS CRL.A. IS FILED U/S.378(1) (3) CR.P.C BY THE S.P.P FOR THE STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE IMPUGNED JUDGMENT AND ORDER DATED 02.09.2023 PASSED BY THE ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, FTSC-V, BENGALURU IN SPL.C.C.NO.516/2019 ACQUITTING THE ACCUSED/RESPONDENT FOR THE OFFENCE PUNISHABLE UNDER SECTION 376(A)(B) AND SECTIONS 4 AND 6 OF POCSO ACT AND SET ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 02.09.2023 PASSED BY THE ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, FTSC-V, BENGALURU IN SPL.C.C.NO.516/2019 ACQUITTING THE ACCUSED/RESPONDENT FOR THE OFFENCE PUNISHABLE UNDER SECTION 376(A)(B) AND SECTIONS 4 AND 6 OF POCSO ACT BY ALLOWING THIS CRIMINAL APPEAL AND ALSO CONVICT AND SENTENCE THE ACCUSED/RESPONDENT FOR THE CHARGED OFFENCE PUNISHABLE UNDER SECTION 376(A)(B) AND SECTIONS 4 AND 6 OF POCSO ACT IN ACCORDANCE WITH LAW.

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



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CORAM: HN'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 and we have heard Sri.Mohammed Ayub Ali, learned Additional SPP appearing for the State and Sri Hitesh Gowda, B.J., learned counsel appearing for the respondent.

2. The factual matrix of case of prosecution before the Trial Court is that, accused is a step father of CW2-victim girl and since from 3 years he continuously committing rape on victim girl in her house bearing No.2/3, situated at 17th Cross, 10th Main, Padarayanapura. In this regard, CW2 informed CW3 about the said sexual assault committed by the accused against her and thereafter, CW3 informed about the same to CW4. The CW4 along with CW1 enquired CW2 about the incident and CW1 gave the complaint against the accused and thereby accused committed the alleged offences. Based on the complaint, the Police have registered



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the case and after investigation, filed the charge sheet against the accused. The accused did not plead guilty and claimed to be tried.

3. Hence, prosecution in order to prove its case, examined 13 witnesses as PW.1 to PW.13 and got marked 19 documents as Exhibit P1 to Exhibit P19. The accused has not led any evidence on his behalf.

4. The Trial Court, having taken note of the nature of the evidence adduced by the victim as well as the mother that she has falsely deposed before the Court and the Trial Court extracted the evidence given by the victim in paragraph Nos.29, 30 and 31 and also taken note of the evidence of Doctor in paragraph No.39 who has been examined as PW9 and Exhibit P12-the Provisional Report of the victim marked through PW9, wherein the Doctor has mentioned that victim's hymen was intact. There was no recent sexual assault. However, taken note of the evidence of PW9, even though there was sexual intercourse, there are



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chances of hymen intact because some girls will have the elasticity of their hymen.

5. Learned Additional SPP for the State brought to the notice of this Court the evidence of PW9 and contend that when the child is below 12 years, then she has to take consent from her parents. But on that day the victim's parents did not come to the hospital when she was subjected to medical examination and the same is observed in paragraph No.39. Having considered the evidence of victim girl, mother of the victim girl and so also the evidence of the Doctor, who have not supported the case of the prosecution, do not inspire the confidence of the Court with regard to subjecting the girl for sexual act and also taken note of the age of accused as 43 years and the relationship of accused and the victim girl and further having taken note of overall evidence available on record, comes to the conclusion that prosecution has failed to prove the guilt of the accused and accordingly acquitted the accused. Being aggrieved by the same, the present appeal is preferred by the State.



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6. The main contention of the learned Additional SPP for the State is that even though medical evidence not supports the case of prosecution, the Trial Court could have considered the evidence of PW9 since there is a chances of elasticity of some girls were subjected to sexual act if hymen is intact. But it is the case of prosecution that she was subjected to sexual act for a period of 3 years that too in the very same house wherein the accused was also residing. When such being the case, the very submission of learned Additional SPP that the matter requires reconsideration cannot be accepted and if she was subjected to sexual act for a period of 3 years question of hymen intact cannot be believed.

7. The learned counsel appearing for the respondent/accused also brought to the notice of this Court that this accused is a step father and the very allegation is nothing but a false allegation and the statements are made at the instance of the mother earlier and both of them have also not supported the case of prosecution before the Court.



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Though statements are made before the police and when the same is not corroborated, question of entertaining this appeal doesn't arise. Having assessed overall evidence available on record particularly when the victim and her mother who have been examined before the Court as PW1 and PW.2 and both of them have not supported and Doctor PW9 who examined the victim girl has categorically deposed that the hymen was intact and when the specific allegation was made that she was subjected to sexual act for a period of 3 years in the very same residence and the same does not disclose anything about. The medical report is also very clear that she was not subjected to any recent sexual act.

8. The prosecution has also relied on the Exhibit P11 certified copy of age certificate issued by the victim's school and the same is also not proved in view of the judgment of the Hon'ble Apex Court in ***P. YUVAPRAKASH V/s State, REP. BY INSPECTOR OF POLICE***, reported in ***2023 INSC 676***.



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9. Having taken note of material available on record and also in view of the principle laid down by the Hon'ble Apex Court in **P. Yuvaprakash** (supra), the question of entertaining this appeal does not arise. Hence, no grounds are made out to admit the appeal considering the material on record and for reconsideration.

10. In view of the discussions made above, we pass the following:

ORDER

The appeal is **dismissed**.

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE