HC-KAR

NC: 2026:KHC:17423-DB
CRL.A No. 2072 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 2072 OF 2025 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY CIRCLE INSPECTOR OF POLICE,
BELTHANGADY CIRCLE,
VENOOR,
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

...APPELLANT

(BY SMT. RASHMI JADHAV, ADDITIONAL SPP (P/H))

Digitally signed by LAKSHMI T
Location: High Court of Karnataka

AND:

ARAVINDA @ ABHI
AGED ABOUT 28 YEARS,
S/O. RAVI POOJARY,
R/AT ANARUGUDDE MANE,
PERI HOSANAGADY VILLAGE,
PERINJE POST,
BELTHANGADY TALUK-574 214.

...RESPONDENT

THIS CRL.A. IS FILED U/S.378(1) (3) CR.P.C., PRAYING TO: (A) GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 16.11.2023 PASSED IN SPL.C.NO.29/2023 ON THE COURT OF LEARNED ADDITIONAL

DISTRICT AND SESSIONS JUDGE, FTSC-II(POCSO) D.K., MANGALURU, THEREBY ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTION 376(2)(n) AND 506 OF IPC AND UNDER SECTION 6 OF THE POCSO ACT; (B) SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL DATED 16.11.2023 PASSED IN SPL.C.NO.29/2023 ON THE COURT OF LEARNED ADDITIONAL DISTRICT AND SESSIONS JUDGE, FTSC-II(POCSO) D.K., MANGALURU, THEREBY ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTION 376(2)(n) AND 506 OF IPC AND UNDER SECTION 6 OF THE POCSO ACT; (C) CONVICT AND SENTENCE THE RESPONDENTS - ACCUSED FOR THE AFORESAID OFFENCES IN ACCORDANCE WITH LAW.

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 VENKATESH NAIK T

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

The State has preferred this appeal challenging the judgment of acquittal dated 16.11.2023 passed by the Court of Additional District and Sessions Judge, FTSC-II, (POCSO), DK, Mangaluru in Spl.C.No.29/2023, wherein respondent/accused was acquitted of the offences punishable under Section 376(2) and 506 of IPC.

2. Even though the impugned judgment was passed on 16.11.2023, the instant appeal is preferred on 13.10.2025 with an inordinate delay of 587 days, after deducting the limitation period of 90 days.

3. I.A.No.1/2025 is filed under Section 5 of the Limitation Act to condone the delay along with the affidavit filed by the in-charge Deputy Director of Prosecution (Litigation-1), Office of O.O., the Director of Prosecutions and Government Litigations, Bengaluru. It is stated that the file was required to be passed through so many Officers and Sections in the Office and Government Secretariat before passing an order to prefer an appeal against the impugned judgment and in the said process delay has occurred and the delay is not intentional but for bonafide reasons.

4. On merits, it is the case of prosecution that accused and the minor victim in this case was neighbours and they were in close intimacy and chatting through mobile phones. In the third week of January 2022, the

accused took the victim to hillock situated near their house and committed penetrative sexual assault despite her resistance. Further, when she was alone in her house, he repeated such acts, pursuant to which she became pregnant.

5. According to the prosecution victim was subjected to penetrative sexual assault by the accused for the last time on 01.09.2022 when she was 5 months pregnant.

6. The victim was examined as PW.1. Her age according to the prosecution is 17 years 7 months as it relied on Exs.P9 and P10 i.e., the School certificate and the certified copy of Admission Register. The Date of Birth of the victim is mentioned as 17.06.2004. As per prosecution, the date of incident is in the 3rd week of January 2022 and the victim was subjected to penetrative sexual assault for the last, by the accused on 01.09.2022, when she was 5 months pregnant. The said fact was

missing in Ex.P7 i.e., the statement of the victim recorded under Section 164 Cr.P.C.

7. The learned Sessions Judge having regard to the evidence given by the victim before the Court and her previous statements, opined that the testimony of the victim is not consistent with previous statements which creates doubt in the credibility of the victim. Hence, to find corroboration to the testimony of the victim, examined the medical documents.

8. In this case, the prosecution has conducted DNA profiling report marked through the I.O. During investigation, the blood samples of the accused, the victim and the child born to the victim were collected for DNA profiling. Exs.P18, P19 and P20 are the identification forms and forwarding notes pertaining to collection of blood. Ex.P21 is the DNA profiling report. The scientific expert, after subjecting the blood samples to DNA profiling has given opinion that the victim is the biological mother of the

child, but the accused was excluded from being the biological father of the child.

9. Learned Additional SPP contended that merely because the DNA analysis report which absolves the accused itself is not a ground to acquit him. Reliance was placed on the judgment in ***ABC v. State by T.N.Pura Police Station*** reported in ***2022 LiveLaw (Kar)*** to contend that the DNA test cannot be said to be a conclusive evidence with regard to the allegations made against the accused, but the said test can be induced as a corroborative evidence.

10. Learned Sessions Judge has taken into consideration the above contention raised by the prosecution. However, the trial Court has found ample number of discrepancies with respect to the evidence of PW.1. Firstly, testimony of PW.1 is not consistent with the previous statements. The DNA analysis report which is the prosecution documents shows that the accused is not the person responsible for the pregnancy of the victim. The

trial Court has relied on a judgment of this Court in ***Dadakhalandar v. State of Karnataka (Crl.A No.100162/2015 D.D. 23.02.2017)***, wherein it is held that "when DNA result is in favour of the accused and the accused at the earliest point of time denies his sexual contact with the victim and readily cooperates by providing blood samples for DNA profiling, which depicts conduct of the accused and under such doubtful circumstances, benefit has to be given to the accused. The chances that the complaint is lodged for the purpose of coercing the accused to marry the victim girl cannot be easily overruled."

11. Even in the present case, the trial Court has found from the evidence on record that the family members of the victim made efforts to convince the accused to marry the victim which he had refused. The DNA test was conducted at the instance of prosecution and the accused readily offered his blood samples for DNA test without any resistance. The victim's inconsistent testimony

before the Court was compared with other statement on record and after assigning reasons, the trial Court has come to the conclusion that the victim's testimony throws doubt on the prosecution allegation that the accused committed the act of sexual assault and therefore, in such a doubtful circumstance, benefit of doubt shall be given in favour of the accused. The trial Court has further observed that when the prosecution has failed to prove the alleged act of the accused, the question of rebutting the presumption under Section 29 and 30 of the POCSO Act by the accused does not arise.

12. We are of the view that the reasons assigned by the trial Court for acquitting the accused are neither perverse or illegal. The Criminal Appeal is preferred against the judgment of acquittal. In view of the judgment of acquittal, the innocence of the accused is reinforced. There are no compelling grounds to reverse the judgment. Hence, we proceed to pass the following:

ORDER

Appeal is ***dismissed.***

Consequently, I.A.No.1/2025 is dismissed.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

HB
List No.: 1 Sl No.: 8