



CNR: KAHC010694822024

NC: 2026:KHC:42057
CRL.A No. 2283 of 2024
C/W CRL.A No. 2238 of 2024

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 06TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE S RACHAIAH
CRIMINAL APPEAL NO. 2283 OF 2024 (C)
C/W
CRIMINAL APPEAL NO. 2238 OF 2024**

IN CRL.A No. 2283/2024

BETWEEN:

MR. NASIR HYDER @ NASIR,
S/O. SHEIK BAHADUR,
AGED ABOUT 37 YEARS,,
R/AT NO.6/2, 3RD CROSS,
VIVEKANANDA NAGAR,
BENGALURU - 560 033.

...APPELLANT

(BY SRI. VIVEK SUBBAREDDY, SENIOR ADVOCATE FOR
SRI. PRASANNA KUMAR P. DAROJI, ADVOCATE)

AND:

STATE OF KARNATAKA BY
PULAKESHINAGAR POLICE STATION ,
BENGALURU - 560 005,
REP BY S.P.P.,
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.

...RESPONDENT

(BY SRI. S. JAVEED, HCGP)

THIS CRL.A IS FILED U/S 374(2) CR.PC (FILED U/S 415(2) BNSS) BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION DATED 21.10.2024 AND ORDER OF SENTENCE AND FINE DATED 23.10.2024 PASSED BY THE LEARNED LIII ADDL. CITY CIVIL AND SESSIONS SPECIAL JUDGE, BENGALURU, IN S.C.NO.1320/2014 C/W 907/2016 AND FURTHER BE PLEASED TO ACQUIT THE APPELLANT U/S 376, 364-A, 395, 506 R/W 149 OF IPC.



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IN CRL.A NO. 2238/2024

BETWEEN:

SHAFIQ AHMED @ SHAFIQ,
S/O. SYED RAFIQ AHMED,
AGED ABOUT 36 YEARS,
R/AT 198, 1ST FLOOR
VII CROSS, III STAGE,
PILLANNA GARDEN,
BENGALURU – 560 045.

...APPELLANT

(BY SRI. VIVEK SUBBAREDDY, SENIOR ADVOCATE FOR
SRI. PRASANNA KUMAR P. DAROJI, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
PULAKESHINAGAR POLICE STATION
BENGALURU - 560 005.
REP. BY S.P.P.,
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.

...RESPONDENT

(BY SRI. S. JAVEED, HCGP)

THIS CRL.A IS FILED U/S 374(2) CR.PC BY THE
ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE
THE JUDGMENT OF CONVICTION DATED 21.10.2024 AND
ORDER OF SENTENCE AND FINE DATED 23.10.2024
PASSED BY THE LEARNED LIII ADDL. CITY CIVIL AND
SESSIONS SPECIAL JUDGE, BENGALURU, IN
S.C.NO.1320/2014 C/W 907/2016 AND FURTHER BE
PLEASED TO ACQUIT THE APPELLANT U/S 376, 364A, 395,
506 R/W 149 OF IPC.

THESE CRIMINAL APPEALS HAVING BEEN HEARD AND
RESERVED ON 21.07.2026, COMING ON FOR
PRONOUNCEMENT OF JUDGMENT, THIS DAY, THE COURT
MADE THE FOLLOWING:-



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CORAM: HON'BLE MR. JUSTICE S RACHAIAH

CAV JUDGMENT

1. These criminal appeals have been filed by the appellants, who are arraigned as accused Nos.1 and 2, being aggrieved by the judgment of conviction dated 21.10.2024 and order on sentence dated 23.10.2024 passed in S.C.No.1320/2014 c/w S.C.No.907/2016 on the file of the LIII Addl. City Civil and Sessions Special Judge at Bengaluru, wherein these appellants have been convicted for the offences punishable under Sections 376, 364A, 395, 506 r/w 149 of Indian Penal Code (for short 'IPC').
2. The ranks of the parties will be considered henceforth as per their rankings before the Trial Court.

Factual matrix of the case:

3. The case of the prosecution is that on 10.07.2014, PWs.1 and 2, who are the victim and her friend, had been to have dinner at KFC Hotel, Brigade Road, Bengaluru. After having dinner, at around 12.15 p.m., P.W.2 proceeded to



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drop P.W.1 near her house, in his Honda Civic Car bearing No.KA-02-MS-909 through Spencer Road. There, P.W.2 stopped his car and they were talking with each other. In the meantime, the accused persons came in a white Skoda Fabia car bearing No.KA-01-MJ-8433 near the car of P.W.2 and pulled both PWs.1 and 2 out of the car and pushed them to the backseat of the car. Accused No.1 sat next to P.W.1, accused No.2 sat next to P.W.2, accused No.3 sat in the driver's seat and accused No.4 sat next to the driver's seat. It is further alleged that the accused No.1 introduced himself as police and they were taking both PWs.1 and 2 to the police station. When the victim asked accused Nos.1 to 4 to leave them, it is alleged that the accused demanded a sum of Rs.50,000/- to leave them.

4. The accused No.1, who was sitting on the left side of P.W.1, asked the victim to co-operate with him and started behaving indecently with P.W.1. Though the victim begged accused No.1 to leave her, he did not heed her words. It is further alleged that accused No.1 asked



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accused No.3 to drive the vehicle. Accordingly, accused No.3 drove the vehicle. Accused No.5 was following the vehicle of the P.W.2 in a Skoda Fabia car, which belongs to the accused No.1.

5. It is further alleged that the accused persons took the car of PWs.1 and 2 to Frazer town and they travelled many places and lastly, they stopped the car near railway track and it is alleged that accused No.2 pulled P.W.2 out of the car and accused No.3 placed a blade cutter on the neck of P.W.2 and threatened him that he would not leave if he shouted for help. Accused No.1 made the victim to sit in the car and asked her to conduct oral sex. In the meantime, it is alleged that he bit the breast of the victim, pinched her, thereby causing injury to her and he smooched her with his lips and asked her to lick his nipples etc. Later, accused Nos.2 and 3 brought P.W.2 to the car and accused No.2 forced P.W.2 to give Rs.50,000/-. When P.W.2 said that he had no money, accused No.2 took away Rs.2,000/- cash and one watch that was worn by P.W.2 and accused Nos.1 to 5



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threatened PWs.1 and 2 to leave the spot. Thereafter, a complaint came to be registered against accused No.1 and others. The respondent - Police have registered a case, conducted investigation and submitted the charge sheet.

6. In order to prove the case of the prosecution, the prosecution examined 18 witnesses as PWs.1 to 18 and got marked 21 documents as Exs.P1 to P21 and also got identified nine material objects and marked them as M.Os.1 to 9. On the contrary, certain documents were got marked by the accused as Exs.D.1 to D.18. The documents Exs.C1 and 2 were also got marked for the Court. The Trial Court, after appreciating both oral and documentary evidence on record, convicted the accused for the aforesaid offences.
7. Heard learned Senior Counsel Sri. Vivek Subbareddy for Sri Prasanna Kumar P. Daroji, learned counsel for the appellants and Sri S. Javeed, learned High Court Government Pleader for the respondent – State.



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8. The submission of the learned Senior Counsel for the appellants is that the judgment of conviction and order on sentence passed by the Trial Court is erroneous and contrary to the evidence on record. Therefore, the same is liable to be set aside.
9. It is further submitted that there are a number of contradictions in the evidence of P.Ws.1 and 2 in respect of the alleged incident. There are clear admissions in their evidence that accused No.1 had not forced P.W.1 to have oral sex and there is a delay in lodging the complaint and also identity of the accused is also doubtful.
10. It is further submitted that the seizure of materials, namely, T-shirt, jeans pant, bra and undergarment of P.W.1 under Ex.P2, has not been proved as P.W.16, who is stated to be the witness to the said mahazar, has turned hostile.
11. It is further submitted that seizure of the car of P.W.2 on 17.07.2014 has not been proved as P.W.5 has turned



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hostile. When the seizure of the car is not proved, taking some samples in the car appears to be unimaginable and therefore, the said seizure becomes redundant.

12. It is further submitted that the evidence of P.W.4 would indicate that articles M.O.1 to 4 were lying in the police station in an unsealed condition. Such being the fact, acting on the said articles to prove the case of the prosecution appears to be unnatural.
13. It is further submitted that the FSL report, which is marked as Ex.P21, has been marked through P.W.18 - author of said report, who stated that, on examination of the T-shirt, he was unable to identify whether the said T-shirt was of either a male or a female. Such being the fact, manipulation of those items in the police station cannot be ruled out.
14. It is further submitted that recovery of a single hair from the car of P.W.2, alleged to have belonged to accused No.1 cannot be believed as the car was allegedly in the police custody for about 2 to 3 days prior to the said



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alleged recovery. Moreover, accused No.1 was also in police custody. Hence, there is a possibility of manipulation of the hair in order to implicate accused No.1 in a false case.

15. It is further submitted that P.W.1 stated in her evidence that she had noted the car number after the incident. However, according to her, she noted the car number as KA-03-MJ-8483. On the other hand, the police have seized the car bearing number KA-01-MJ-8483, which is unimaginable and unnatural. Therefore, the said contradiction has not properly been dealt with by the Trial Court, which resulted in passing the impugned judgment, which is required to be set aside.
16. It is further submitted that the Trial Court has failed to deal with the delay in filing the FIR. As per the averments of the complaint, the alleged incident had occurred on 11.07.2014. However, FIR came to be registered on 14.07.2014 at about 2.30 p.m. There is a



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delay of three days in lodging the complaint, which is fatal to the case of prosecution.

17. It is further submitted that the probative value of the DNA report is seriously doubtful as there was a delay of 26 days in sending the articles to the DNA test. On overall facts and circumstances of the case, the Trial Court has committed a grave error in appreciating the evidence with regard to both the incident of forcing P.W.1 to have oral sex with accused No.1 and also the identity of all other accused. Therefore, interference with the findings of the Trial Court is necessary and the appeals may be allowed and the appellants may be ordered to be acquitted for the offences stated *supra*. Making such submissions, the learned Senior Counsel for the appellants prays to allow the appeals.
18. *Per contra*, learned High Court Government Pleader for the respondent - State vehemently justified the judgment of conviction and order on sentence passed by the Trial Court. The Trial Court, on appreciating both oral and



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documentary evidence on record, mainly evidence of PWs.1 and 2 who are victims, opined that the delay in lodging the FIR has been explained properly. The identification parade conducted by the authority and identification of the accused and the overt acts of each accused have been explained properly and the Trial Court has analyzed it with due diligence. In addition to that, the Trial Court has appreciated the evidence of all the witnesses properly without leaving any room for doubt and sentenced the accused as stated *supra*. Thus, there is no infirmity in the findings given by the Trial Court. Therefore, the appeals are liable to be dismissed. Making such submissions, learned High Court Government Pleader prays to dismiss the appeals.

19. Having heard learned counsel for the respective parties and on perusal of the findings of the Trial Court in rendering the conviction, it is relevant to re-appreciate the evidence of all the witnesses to arrive at a conclusion as to whether the findings of the Trial Court are justifiable or not. In order to do the said exercise, it is relevant to



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advert the evidence of PWs.1 and 2, who are the material witnesses to the incident. Prior to advert to the evidence of PWs.1 and 2, it is relevant to state the facts in brief for better understanding.

20. On 10.07.2014, P.W.1 had been to KFC Hotel along with P.W.2 to have dinner. After having dinner, P.W.2 intended to drop P.W.1 to her house. When they were going to the house of P.W.1 through Spencer Road, Bengaluru, they stopped the vehicle and were talking with each other. Having noticed the said incident, it is alleged that accused Nos.1 to 5 came in a white Skoda Fabia car and disguised themselves as policemen and entered into the car of P.W.2 forcibly. Accused Nos.2 and 3 pulled PWs.1 and 2 out of the car and pushed them to the backseat of the car. Accused Nos.1 and 2 sat along with them in the backseat. Accused Nos.3 and 4 were sitting in the first row of the car. All the accused demanded a sum of Rs.50,000/- to leave PWs.1 and 2. When P.Ws.1 and 2 expressed their inability, the accused No.1 instructed accused No.3 to take the car towards the police



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station. Under the guise of taking the car to the police station, they wandered around Bengaluru and stopped the said car in one place. Accused No.1 started misbehaving with P.W.1. Accused No.4 took out P.W.2 from the car. Accused No.3 put a cutter knife on the neck of P.W.2 and asked him to keep quiet. In the meantime, it is alleged that accused No.1 asked P.W.1 to have oral sex with him. It is alleged that she had completed the said act and thereafter, P.Ws.1 and 2 were asked to go out of the scene of occurrence. A complaint came to be registered on 14.07.2014 after a lapse of three days.

21. P.W.1, being the victim, stated in her evidence that she was studying in M.A. Communication at Manipal School of Communication, Manipal University, Udupi. She had been to have dinner at KFC Hotel, Bengaluru. After finishing dinner, she was proceeding towards her house in the car of P.W.2. Around 11.45 p.m., she was sitting in the car along with P.W.2 in front of the gate of her house. In the meantime, one white Skoda Fabia car came near them and all the four persons in the car got down from the car



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and tried to unboard P.W.2 from the car. She further stated that the persons had introduced themselves as policemen and asked PWs.1 and 2 to give Rs.50,000/- to leave them. She asked the name of one of the persons. He stated his name as Nasir Hyder and he started touching her. Though she resisted the said touch, he started molesting her and threatened her that she should keep quiet, or else she would be killed. It is further stated in her evidence that she was forced to have oral sex and also she had been subjected to molestation in the car. However, in the cross-examination, she admitted that she had not produced any document to show that she had been to KFC Hotel to have dinner. Further, she admitted in her evidence that she could not give the description of the place where her car had been parked. She further admitted that she had not stated in her complaint that accused No.1 had forced her to have oral sex and asked her to swallow the ejaculation. She further admitted that, even in her statement recorded under



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Section 164 of Cr.P.C, she did not state the said facts before the learned Magistrate.

22. The evidence of this witness is not clear and lacks clarity in respect of the alleged incident and also the identity of the accused. She admitted in her cross-examination that the photographs of these accused were being telecasted in the media. As such, she could identify them easily in the identification parade. The said aspect is fatal to the case of the prosecution since the alleged incident had occurred at odd hours. Except the evidence of PWs.1 and 2, none of the independent witnesses have been secured by the Investigating Officer to substantiate the case.
23. Though P.W.1 stated in her evidence that the car of P.W.2 was parked near her apartment and they were talking with each other, the fact remains that the Investigating Officer did not take any CCTV footages nor secured the security guard as a witness to the said proceeding. On overall reading of the evidence of P.W.1, it gives that there are some ambiguities and



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inconsistencies in respect of the alleged offence and also the identity of accused persons. Therefore, in my considered view, appreciation of the evidence of P.W.1 by the Trial Court appears to be unnatural and not in consonance with the evidence on record. Therefore, the evidence of P.W.1 is not trustworthy and unreliable.

24. P.W.2 is stated to be the friend of P.W.1. He has reiterated the facts of the case as stated in his statement made before the police. According to him, after the incident, he did not choose to lodge a complaint and was waiting to identify the car, the number of which he had noted. After noticing the said car within the jurisdiction of Frazer Town, he chose to lodge a complaint with the help of P.W.1.
25. On going through the evidence of both PWs.1 and 2, both did not recognize any of the accused immediately after the incident. Even though P.W.1 stated in her evidence that she asked the name of accused No.1 and he disclosed his name as Nasir Hyder, she did not lodge a



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complaint immediately after the incident by mentioning his name. However, a complaint came to be registered after P.W.2 identified the car and its registration number. Again, there are inconsistencies in the registration number of the car. P.W.1 is stated to have noted the car number as KA-03-MJ-8483 in which the accused persons had come and got down near their car. However, P.W.2 identified the Skoda Fabia car bearing its registration No.KA-01-MJ-8483. This creates a doubt in respect of involvement of the accused persons and the alleged car.

26. The Trial Court mainly relied on the identification parade. P.W.17 conducted the test identification parade on 06.09.2014 and asked both PWs.1 and 2 to identify the accused Nos.1 to 5. P.W.1 has stated in her evidence that on 13.07.2014, she was asked to come to the police station to identify accused No.1. Later, again she was called by P.W.17 to identify accused Nos.1 to 5 in the prison, which is certainly considered as insignificant for the reason that, once P.W.1 had seen accused No.1 in the police station, calling again to identify him in the prison



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appears to be a mockery. Even P.W.1 stated in her evidence that before lodging the complaint, the pictures of accused Nos.1 to 5 were being telecasted through the media thereby she recognised them in the identification parade. Such being the case, the identification of accused No.2 loses its significance. The main allegation made against accused No.2 is that he had accompanied accused No.1 on the date of the alleged incident. However, his identity is doubtful. Therefore, the involvement of accused No.2 appears to be unnatural. However, the Trial Court rendered conviction without any basis or evidence on record. Therefore, the conviction in respect of both accused Nos.1 and 2 cannot be sustained.

27. There are a number of improvements made in the evidence of P.W.1 in respect of the alleged incident. However, those improvements had not been considered by the Trial Court while appreciating the evidence.
28. When a particular question was put to P.W.1 in her cross-examination that, "Are you aware of the name of Nazeer



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Hyder on 11.07.2014, 12.07.2014 and 13.07.2014?", she replied that, she came to know the name of accused No.1 only after she was taken to the police station to identify accused No.1. This is a very crucial point to be considered. However, the Trial Court failed to take note of the said fact.

29. As regards the DNA report is concerned, P.W.18 who was working as the Assistant Director, Madivala, Bengaluru, stated in his evidence that he had conducted examination on the items sent to him by the Investigating Officer and submitted his report as per Ex.P21. He has stated in his evidence that he had conducted the test to detect spermatozoa in seminal stains; however, he had not specifically used the word "spermatozoa". He further stated that in Article No.5, DNA has not been detected and also item No.5 – T-shirt whether it belongs to a male or female. P.W.18 admitted that he had not done any Master's Degree in Forensic DNA; however, he has studied subjects and meteorologist during Master's Degree in M.Phil and Ph.D. Though he admitted that he



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has not studied Forensic DNA, relying on the said report appears to be unnatural and the Trial Court ought to have discarded the DNA Report.

30. As regards seizure of T-shirt and jeans pant are concerned, P.W.7 who is stated to be the witness to Ex.P8 has turned hostile and not supported the case.
31. Though Ex.P6 indicates that P.W.4, on 19.07.2014, on examination of the car of the victim, recovered a hair strand in the rear seat of the car and a swab of stain found on the rear seat of the car, the evidence of PWs.1, 2 and 4 shows that the car was in the police station from 17.07.2014 and it was got inspected two days later. However, the accused No.1 was in judicial custody since 14.07.2014 i.e., five days prior to conducting investigation on the car. Moreover, mahazar has not been drawn in respect of the recovery of alleged hair strand of accused No.1. Such being the case, relying on the DNA report and acting upon it appears to be unnatural and not reliable.



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32. Thus, on reading the evidence of PWs.1, 2, 4 and 18, who are the material witnesses to the incident, it can easily be inferred that the Trial Court has committed a grave error in appreciating the evidence of witnesses stated supra. Hence, the findings of the Trial Court in appreciating the evidence are not proper and the same is liable to be set aside.

33. In the light of the observations made above, I proceed to pass the following:

ORDER

- i) Both the Criminal Appeals are *allowed*.
- ii) The judgment of conviction dated 21.10.2024 and order on sentence dated 23.10.2024 passed against the appellants / accused Nos.1 and 2 in S.C.No.1320/2014 c/w S.C.No.907/2016 on the file of the learned LIII Addl. City Civil and Sessions Special Judge at Bengaluru, is set aside.



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- iii) The appellants / accused Nos.1 and 2 are acquitted for the offences punishable under Sections 376, 364A, 395, 506 r/w 149 of Indian Penal Code.
- iv) Registry is directed to communicate this order to the concerned jail authority. The jurisdictional Jail Authority is directed to release the accused No.1 / appellant in Crl.A.No.2283/2024 forthwith, if he is not required in any other case.
- v) Bail bonds executed, if any, stand cancelled.
- vi) Pending IA's., if any, do not survive for consideration and the same are disposed of.

**Sd/-
(S RACHAIAH)
JUDGE**

BSS
List No.: 1 Sl No.: 55