



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 2197 OF 2025 (A)

BETWEEN:

STATE BY WOMEN POLICE
CHIKKAMAGALURU,
REPTD. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU - 560 001.

...APPELLANT

(BY SRI. RAHUL RAI K., HCGP)

AND:

1. SANJAY H. L.
S/O LOKESH GOWDA H.M.
AGED ABOUT 20 YEARS
R/A HIREBIDARE, HOSAPETE,
THOGARIHANKAL POST,
CHIKKAMAGALURU - 577 101.
2. KRISHNAMURTHY
S/O NAGAYYA,
AGED ABOUT 45 YEARS,
R/AT MALALURU VILLAGE,
AMBALE HOBLI,
CHIKKAMAGALURU DISTRICT -577 101.

...RESPONDENTS

(R1 AND R2 ARE SERVED AND UNREPRESENTED)

THIS CRL.A. IS FILED U/S.378(1)(3) OF CR.P.C. (419(1)
AND (3) OF BNSS) PRAYING TO A. GRANT LEAVE TO APPEAL



AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 05.03.2025 PASSED IN SPL.C(P) NO.6/2024 BY THE ADDL DISTRICT AND SESSIONS JUDGE, FTSC I AT CHIKKAMAGALURU, THEREBY ACQUITTING THE ACCUSED RESPONDENT OF THE OFFENCE P/US/ 376(2)(n) OF IPC R/W SEC.6 OF POCSO ACT AND SEC.3(1)(w)(i)(ii),3(2)(v) AND 3(2)(va) OF SCS/T (POA) ACT.

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 State is in appeal against the judgment of acquittal dated 05.03.2025 passed by the Court of the Additional District and Sessions Judge, FTSC-I, at Chikkamagaluru, in Spl.C.(P)6/2024, wherein, the accused / respondent is acquitted of the offences punishable under Section 376(2)(n) of IPC read with Section 6 of the POCSO Act and Section 3(1)(w)(i)(ii), 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



2. There is delay of 137 days in preferring the appeal. I.A.No.1/2026 is filed to condone the delay.

3. We have heard the learned High Court Government Pleader for the State and perused the trial Court records, to consider the case on merits.

4. In a nutshell, the case of the prosecution is that, accused a year prior to 07.12.2023 has repeatedly committed aggravated penetrative sexual assault on the victim, a minor girl belonging to scheduled caste and impregnated her and thereby committed the charged offences.

5. In order to establish the charges leveled against the accused, the prosecution in all, examined 11 witnesses and got marked 33 documents.

6. The Trial Court, vide impugned judgment, on appreciation of the oral and documentary evidence on record, was pleased to acquit the accused, holding that the victim and other material prosecution witnesses have



turned hostile and the prosecution was unable to establish the primary facts in support of the charges against the accused and the presumption available under Section 29 and 30 of the POCSO Act would not operate against him. Further that the prosecution has also not established that the accused has intentionally sexually assaulted her and he had the knowledge that the victim belongs to Schedule Caste or Scheduled Tribe.

7. Assailing the impugned judgment, learned High Court Government Pleader would contend that, in this case, though the victim and her mother have not supported the case of prosecution, the DNA test report categorically establishes that the accused is the biological father of the foetus and the said DNA report being conclusive evidence, the charges leveled against the accused are proved beyond reasonable doubt. He contended that the prosecution has also got marked Ex.P10 birth certificate of the victim issued by the school authorities to prove that she was a minor as on the date of



commission of offence and Ex.P11, the document to show that she belongs to Adi-Karnataka caste, which comes under Scheduled Castes.

8. We have perused the entire trial Court records.

9. The victim who is examined as PW.1, has completely turned hostile and not supported the case of prosecution. Though she has admitted her signature in Ex.P.1-complaint, she has stated that the accused has not committed any sexual assault on her and not stated anything before the police. She has also stated that she did not give consent for medical examination.

10. Victim's parents examined as PWs.2 and 5 have also turned hostile and not supported the prosecution case. There is nothing worthwhile elicited in their cross examination to prove the allegations made against the accused.

11. PWs.3 and 6 are the close relatives of the victim. PW.4 is an independent witness. However, they



are hearsay witnesses and their evidence is not helpful to the prosecution case.

12. It is the contention of the learned High Court Government Pleader that in this case, DNA report establishes that the accused is the biological father of the foetus which was collected and therefore, it is a material evidence to establish the charges leveled against the accused.

13. The trial Court relying on a decision in the case of **Sri. Paramesha V/s. State of Karnataka**, reported in **2020 SCC OnLine Kar 5221** has held that the scientific evidence in the form of DNA test report although confirms the paternity of the accused and the victim as parents of foetus, however, it cannot be the sole criteria to hold the accused guilty. In the said decision it is held that, it is highly unsafe to rely upon the sole DNA test to convict the person on the basis of the said DNA report.



14. We have carefully examined the DNA report which is marked as Ex.P29 and also perused the evidence of the scientific officer, examined as PW.11.

15. PW.11 has deposed that she received foetus on 13.12.2023 and separated the DNA and subjected to DNA profile examination. She has further sated that on 29.02.2024 she received two other articles containing the sample blood of the victim and the accused. On conducting the DNA analysis she issued the reports, Ex.P27 and Ex.P29, as per which accused is the biological father of the product of conception (foetus).

16. A perusal of the evidence of the Investigating Officer-PW.9, goes to show that the blood samples were collected from victim and the accused on 23.01.2024 and subjected to PF.No.2/2024 and sent to RFSL, Bengaluru, for DNA examination. However, the said samples were received by PW.11 on 29.02.2024, which is after more than 1 month and 6 days. It is not forthcoming from the



evidence of PW.9 as to where the samples were kept after it was collected and how the blood samples were preserved. The doctor who collected the said blood samples is also not examined. In that view of the matter, it is highly unsafe to rely on the sole DNA test report to convict the accused.

17. Insofar as the age of the victim is concerned, the prosecution has relied on Ex.P10, issued by the school authority. Though PW.9-Investigating Officer has stated that he has collected the SSLC marks card, no such document is marked in evidence. Ex.P10 is only a letter issued by the Head Master of the school, stating that the victim is aged 17 years, without even mentioning her date of birth. The Head Master of the school is also not examined. Hence, it cannot be said that the prosecution has established beyond reasonable doubt that the victim was a child as defined under Section 2(d) of the POCSO Act, 2012.



18. Even though the prosecution has got marked Ex.P11, to prove the caste of the victim, since the charges under the POCSO Act are not proved, it cannot be held that the accused has committed the offence under the SC/ST (POA) Act. Further, it is also not established that the accused had the knowledge that the victim belongs to a member of SC or ST or intentionally committed sexual assault on her.

19. The Judgment of the trial Court does not suffer from any illegality or perversity and no interference is called for. Hence, the appeal is ***dismissed***.

I.A.No.1/2026 is dismissed.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(G BASAVARAJA)
JUDGE**