



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 2333 OF 2025

BETWEEN:

THE STATE BY
INSPECTOR OF POLICE,
WOMEN POLICE STATION,
UDUPI,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU.

...APPELLANT

(BY SRI. RAHUL RAI. K. HCGP)

AND:

1. CHARAN U. M.
S/O MALLESH,
AGED ABOUT 22 YEARS,
R/O UDAYAVARA VILLAGE,
SAKALESHPUA TALUK,
HASSAN DISTRICT, 573 201.
2. SHARADHA
W/O LATE GOPAL GANIGA,
AGED ABOUT 43 YEARS,
R/o SRI LAKSHMI GANIGA NILAYA,
KALMADI ROAD,
KOTA THATTU VILLAGE,
BRAMAHAVARA TALUK,



UDUPI DISTRICT, 576 101.

...RESPONDENTS

THIS CRL.A IS FILED U/S 378(1)(3) OF CR.PC (FILED U/S 419(1)(3) BNSS) PRAYING TO 1.GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 23.10.2024 PASSED IN SPL.C (P) NO.19/2024 ON THE FILE OF ADDL.DISTRICT AND SESSIONS JUDGE, FTSC-1 AT UDUPI ACQUITTING THE ACCUSED-RESPONDENTS FOR THE CHARGED OFFENCES P/U/S 366,376(1) OF IPC AND SEC.3(a) R/W 4 OF THE POCSO ACT 20122 AND ETC.

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 filed this appeal against the judgment and order of acquittal passed by the Court of the Additional District and Session Judge FTSC-I, Udupi, in Special Case No.19/2024, wherein the learned Special Judge has acquitted the accused / respondent of the offences punishable under Section 366, 376(1) of IPC and Section 3(a) read with Section 4 of the POCSO Act.



2. There is a delay of 279 days in preferring the appeal. I.A.No.1/2026 is filed to condone the delay. The application is accompanied by the affidavit filed by the incharge Deputy Director of Prosecution (Litigation-1), Office of the Director of Prosecution and Government Litigations, Bengaluru.

3. In the affidavit, it is stated that the file was required to be passed through many officers, sections and Government Secretariat before passing the order to prefer an appeal against the impugned judgment and therefore, the delay is not intentional, but for bona fide reasons.

4. We have heard the learned High Court Government Pleader and perused the material available on record to consider the appeal on merits.

5. It is the case of the prosecution that the accused was working in a hotel in Kota. In the month of August, 2023, he met the victim girl and proposed to her. He obtained her mobile number which was registered in her mother's name and both of them started conversing with each other. On 27.12.2023 at around 07:00 a.m., accused invited the victim to his house and convinced her to come to Brahmavara. From



there, he took her to Sakleshpura in Hassan district and in Room No. 106 of one Shabari Residency Lodge, committed forcible sexual intercourse, against her will.

6. A missing complaint was lodged by victim's mother at Kota police station, Udupi, which came to be registered in Crime No.253/2023 under Section 363 of IPC. On the next day, the victim girl returned home. Her mother took her to the police station, wherein, her statement was recorded. She was subjected to medical examination and her statement was also recorded by the learned Magistrate. On completion of investigation, charge sheet was filed against the accused.

7. The accused was tried for the offence punishable under Section 366(A), 376(1) of IPC, Section 3(a) read with Section 4 of the POCSO Act. Trial Court, on examining the oral and documentary evidence on record, vide judgment dated 23.10.2024, acquitted the accused of all the charges levelled against him.

8. The learned HCGP contended that the victim has supported the case of prosecution and her evidence coupled with the evidence of other prosecution witnesses including the



medical evidence, establishes the charges levelled against the accused. He contended that the prosecution has got marked the birth certificate-Ex.P16, wherein victim's date of birth is mentioned as 10.04.2006. The prosecution has also placed on record the school certificate in proof of her date of birth. Hence, contended that the prosecution has proved that the victim was a minor, aged below 18 years on the date of incident. Hence, contended that the trial Court has committed an error in acquitting the accused.

9. According to prosecution, on 27.12.2023 at about 07:00 a.m., the accused called the victim on the mobile phone, and asked her to come to Brahmavara. Thereafter, he kidnapped her in a bus to Sakleshpura in Hassan, and in room number 106 of Shabari Residency lodge, committed forcible sexual intercourse against her wish.

10. To prove that the victim was a minor, the prosecution, has got marked Ex.P16-birth certificate of the victim girl and examined PW.8, the Chief Officer, TMC, Kundapura. In the birth certificate, the date of birth of the victim is mentioned as 10.04.2006. PW.8 in his



cross-examination has admitted that he has not fed the data to the computer while preparing Ex.P16 and the digital signature found on Ex.P16 does not pertain to him.

11. The prosecution has also produced the school admission register, marked as per Ex.P19 and examined PW.9, the Headmaster of Higher Primary School, Giliyaru, Kota, where the victim studied. In his cross examination, PW.9 has stated that on the basis of the birth certificate of the victim girl, he has entered the date of birth in Ex.P19. He has stated that the birth certificate of the victim girl was not available in the school. He has further stated that the previous Headmaster had entered the data in the admission register, but he cannot say as to on what basis he entered the date of birth. He has further stated that prior to correction in the admission register, the year of birth of the victim girl was mentioned as 2005 and in Ex.P19, the year of birth of all the students was mentioned as 2005.

12. From the above evidence of PW.9, it is clear that before making correction in the admission register, the year of birth of the victim girl was mentioned as 2005. PW.9 has



stated that he cannot say as to on what basis, he entered the date of birth of the victim. If Ex.P16 is taken into consideration, the victim was aged about 17 years 8 months as on the date of alleged incident. However, the victim's mother examined as PW.1 has clearly stated that her daughter was aged about 19 years at the time of lodging the complaint. She has admitted that her daughter had completed her matriculation and she was going to the college. The matriculation certificate is not collected and produced. Hence, the trial Court has come to the conclusion that due to various discrepancies found in the evidence of PWs.8 and 9, it is difficult to rely on Ex.P16. In view of the evidence of victim's mother coupled with the evidence of PW.9, a serious doubt arises in the mind of the Court as to the correct date of birth and age of the victim. Hence, it cannot be held that the prosecution has established beyond doubt that the victim was a minor at the time of incident.

13. So far as the allegation of kidnap is concerned, even according to the prosecution, both the accused and the victim were acquainted with each other and they were exchanging calls and conversing with each other. On the



request of the accused, the victim girl went to Brahmavara and from there both of them travelled in a bus and went to Sakleshpura. On noticing that the victim was missing, her mother lodged a complaint, which was registered under Section 363 of IPC. The victim, who was examined as PW.2 has clearly stated that she had a love affair with the accused since 4 months and on the date of incident, she packed her clothes and went along with the accused. She travelled from Brahmavara to Sakleshpura in a public transport. The trial Court has come to the conclusion that if at all the accused forcibly took the victim girl, she would have raised hue and cry in the public transport or resisted or could have escaped.

14. The victim girl in her chief examination has stated that the accused attempted to touch her body and had sex with her once. However, in the cross-examination, she has stated that the accused has not acted against her will and not caused any trouble to her. She has further stated that as per the say of police, she gave statement before the learned Magistrate (under Section 164(5) of Cr.P.C.) that the accused attempted to commit sexual intercourse.



15. In the cross examination, victim has categorically admitted that, she has not stated anything in respect of the alleged offence committed by the appellant, before her mother. She also admitted that she has not stated before police or with any children at girls home, in respect of the alleged offence committed by the accused.

16. She also admitted that the CCTV footage shown to her was not clear and visible. She replied to the suggestions made by the learned counsel for appellant that in order to perform the marriage with the accused, she lodged the complaint against him, whereas in her 164 statement recorded before the learned Magistrate, she has stated that she does not like the accused. Hence, there is no clear and reliable testimony of the victim.

17. PW.7 the medical officer who examined the victim girl on receipt of RFSL report has given the final opinion as per Ex.P14 stating that there were no signs suggestive of vaginal penetration and there was no evidence suggestive of application of force at the time of examination.



PW.7 has admitted that the brief history of the victim girl was given by the police.

18. Ex.P34 is the FSL report, as per which, the blood stains and seminal stains, vaginal secretions and spermatozoa were not detected in the articles sent for examination. Ex.P20 FSL Report and Ex.P34 DNA Report shows that neither the spermatozoa nor blood of the accused were found on the articles collected. Hence, the trial Court has come to the conclusion that the reports would not help the prosecution to prove the guilt of the accused.

19. The learned Sessions judge having appreciated the oral and documentary evidence on record has held that the evidence on record does not inspire the confidence of the Court to believe that the accused has committed the offence and the victim was aged below 18 years, the victim has voluntarily gone out of the house with her own will and there was no force or inducement on the part of the accused, there was love affair between the accused and the victim girl, there is no medical evidence to substantiate the allegation of rape, FSL report also negatives the contention of the prosecution, hence, the benefit



of doubt goes to the accused and the prosecution has failed to establish the case against him.

20. This is an appeal preferred against the judgment of acquittal. The reasons assigned by the trial Court for acquitting the accused cannot be said to be either perverse or illegal. In view of the Judgment of acquittal, the presumption of innocence in favour of the accused gets reinforced and further bolstered.

21. The Hon'ble Apex in the case of ***Chandrappa and others -vs- State of Karnataka***, reported in ***(2007) 4 Supreme Court Cases 415***, while laying down the general principles regarding powers of the Appellate Court while dealing in an appeal against an order of acquittal, was pleased to observe at paragraph 42(4) and paragraph 42(5) as below:

"42(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured



acquittal, the presumption of innocence is further reinforced, reaffirmed and strengthened by the trial Court.

42(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court.”

22. For the aforesaid reasons and discussion, we proceed to pass the following:

ORDER

Appeal is ***dismissed***, consequently, I.A. No.1/2026 is dismissed.

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

**Sd/-
(VENKATESH NAIK T)
JUDGE**

LDC
List No.: 1 Sl No.: 6