

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE G. BASAVARAJA

CRIMINAL APPEAL NO.2334 OF 2025

BETWEEN:

MURALI
S/O NARAYANAPPA
AGED ABOUT 32 YEARS
R/AT MOTHI NAGAR
IN FRONT OF MALBAR SQUARE
NEAR MARKET
BENGALURU 560 032

...APPELLANT

(BY SRI RAJATH, ADVOCATE)

AND:

STATE OF KARNATAKA
BY PARAPPANA AGRAHARA
REP. B Y THE STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
AMBEDKAR VEEDHI
BENGALURU – 560 001

...RESPONDENT

(BY SRI B. LAKSHMAN, HCGP)

THIS CRL.A. FILED UNDER SECTION 374(2) OF CRPC (U/S 415(2) OF BHARATIYA NAGARIK SURAKSHA SANHITA, 2023) PRAYING TO SET ASIDE THE ORDER OF CONVICTION AND SENTENCE DATED 23.08.2024 PASSED IN SC NO.448/2017 WHEREBY THE APPELLANT WAS CONVICTED FOR THE OFFENCE P/U/S 376(1), 450, 323, 506-b OF IPC; AND ETC.

IN THIS PETITION ARGUMENTS BEING HEARD, JUDGMENT RESERVED ON 06.02.2026, COMING ON FOR "PRONOUNCEMENT OF ORDERS", THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE G. BASAVARAJA

CAV JUDGMENT

1. The appellant has preferred this appeal against the judgment of conviction and order on sentence dated 23rd August, 2024 passed in SC No.448 of 2017 by the LIII Additional City Civil & Sessions Judge, Bengaluru (for short "the trial Court").
2. For the sake of convenience, the parties herein are referred to as per their rank and status before the trial Court.
3. Brief facts leading to this appeal are that, the Police Inspector, Parappana Agrahara Police Station, submitted the charge sheet against the accused Nos.1 and 2 for commission of offences under Sections 450, 341, 323, 397, 376, 506-B and 176 of the Indian Penal Code.
4. It is alleged by the prosecution that the complainant was residing in Sri. Venkat Naveen Women PG which was being run by the second accused and situated at 2nd Stage Electronic City,

falling within the jurisdiction of Parappana Agrahara Police Station. The complainant, who was working in TCS, was residing in the said PG from 18th August, 2016. On 25th August, 2016 at 2.00 am, the complainant returned to the PG after her work. As the room-mate of the complainant (CW.2) had gone for work, the complainant who had head-ache took pain killer and slept without locking the door of the room. At 2.30 am, when the complainant was in a drowsy state, the accused No.1 entered the room. The complainant asked him in Tamil as to who he was? at that time, accused kept a knife on the throat of the complainant. When the complainant tried to shout, accused threatened that he would kill her.

5. Accused asked for money and the complainant told him that she had only Rs.200/- and that she would give whatever she had. He asked for more money for which the complainant informed him in Tamil that she would give her ATM card. Accused focused torch light near the throat of the complainant and stuffed bed sheet into the mouth of the complainant. He then dragged her by her hair and locked the

door. He then took her near the bathroom and switched on the light. He held the face of the complainant under the light. Later, he pushed the complainant to the cot and kissed her on her face. He tried to remove her night pant and asked her to remove the same. When the complainant refused the same and tried to escape from the place, accused threatened her with the knife and removed his elastic track pant. He pushed the complainant on the bed and fell on her. He squeezed the hands and body of the complainant and forcefully raped her. He once again threatened to kill her with the knife, kissed her body and once again attempted to rape her. Thus, the accused No.1 is stated to have committed offences punishable under Sections 450, 341, 323, 397, 376 and 506-B of IPC. The Accused No.2 who is the owner of the PG where the victim was residing, did not inform the incident to the police or any public servant despite having information about the same. Thus, the second accused is stated to have committed offence punishable under Section 176 of IPC.

6. After filing the charge sheet, case was registered in Crime No.368 of 2016. Thereafter, the case was committed to the Court of Sessions and was registered as SC No.448 of 2017. Since the date of arrest, accused No.1 is in custody, accused No.2 was released on bail. The charges framed against the accused for the alleged offences and same was read over and explained to the accused Nos.1 and 2. Accused No.2, who is the owner of the PG accommodation, has pleaded guilty for the charges levelled against him and he was sentenced to pay a fine of Rs.500/-. In default of payment of fine, he shall undergo simple imprisonment for 2 days and he has paid the fine amount. Accused No.1 pleaded not guilty and claimed to be tried.

7. To prove the guilt of the accused in all, thirteen witnesses were examined as PW1 to 13; 24 documents were marked as Exhibits P1 to P24 and sixteen material objects were marked as MO1 to 16.

8. On closure of prosecution side evidence, statement of the accused under Section 313 of the Code of Criminal Procedure

was recorded. The accused has totally denied the evidence of prosecution witnesses, however, he did not choose to lead the defence evidence on his behalf.

9. Having heard the arguments on both sides, trial Court has convicted the accused for the offence under Sections 376(1), 323, 450 and 506-B of IPC and passed a sentence to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.1,00,000/-. The accused was further sentenced undergo rigorous imprisonment for a period of 2 years and pay fine of Rs.50,000/- for the offence punishable under section 450 of the IPC. The accused No.1 is also convicted for the offence under Section 323 of the IPC and sentenced to undergo simple imprisonment for a period of 3 months and to pay a fine of Rs.1,000/-. The accused No.1 is also convicted for the offence under Section 506-B of the IPC and sentenced to undergo simple imprisonment for a period of 1 year and to pay a fine of Rs.1,000/-. Further, the trial court has passed an order that under Section 428 of Cr.PC the accused No.1 shall be entitled for a period of set-off in respect of the period spent by him in

judicial custody from 05th September, 2016 till date. Being aggrieved by the judgment of conviction and order of sentence, the appellant had preferred this appeal.

10. Sri Rajath, learned counsel for the appellant would submit that the impugned order of conviction and sentence passed by the trial Court are against the law, procedure and facts of the case. The learned Sessions Judge erred in holding that the appellant is guilty of the alleged commission of offences. It is also submitted that the learned Sessions Judge has erred in believing the uncorroborated version of the prosecution. It is submitted that the case was registered against one Uday and that there is two days delay in filing the complaint. The charge sheet is filed against the accused Murali. Even under Section 164 of the Cr.PC, the victim has stated the name of the accused as Uday and DNA report was filed after filing the charge sheet, after lapse of 10 months. The contents of Exhibit P1 itself is doubtful and recording of evidence has begun almost after lapse of over 6 years from the date of filing the final report, which by itself, has violated the sanctity of trial.

11. PW4-Dr. Sujatha, clearly stated that hymen of the victim was not intact and there was no history of sexual assault on the victim. Despite there is delay of two days in lodging the complaint, it is evident that the alleged assault is said to have been caused on the face of the evidence of doctor, which goes to prove the contrary. The collection of blood samples in criminal cases is valid only if it follows the prescribed legal procedures, which may include oversight by a magistrate or registered medical practitioner. In the present case, blood sample which is imperative to trace and confirm the identity of the appellant herein, was said to have been taken on 16th November, 2016. Final report is filed on 22nd November, 2016, which would only demonstrate that entire procedure of collecting and matching blood samples was only to implicate the appellant and not to ascertain the truth. The learned Sessions Judge failed to appreciate the evidence and materials on record and to note that the prosecution has failed to prove the case beyond all reasonable doubt. On all these grounds, he sought for allowing this appeal.

12. Alternatively, the learned counsel would submit that, if the Court comes to the conclusion that the order of conviction passed by the trial Court is in accordance with law, the sentence passed by the trial Court may be modified as the trial Court has passed an order to run the sentence consecutively and further he would submit that accused is not in a position to pay fine amount as imposed by the trial Court. In the trial Court, the accused was represented through Legal Aid Counsel. The present appeal itself is filed after lapse of more than a year. The accused is in judicial custody for more than 9 years and 5 months. On all these grounds, he sought for modification of sentence.

13. As against this, the learned High Court Government Pleader Sri. B Lakshman, would submit that the trial Court has properly appreciated the materials on record in accordance with law and facts. Though the name of the accused is different in the FIR and the charge-sheet, the victim has identified the accused in the test identification parade. Accordingly, he sought for dismissal of the appeal.

14. Having heard the arguments on both sides and on perusal of materials placed before this Court, the following points would arise for my consideration:

- i) Whether the trial Court is justified in convicting the accused for the offences punishable under Sections 450, 323, 376 and 506-B of the IPC?
- ii) Whether the appellant is entitled for modification of sentence?
- iii) What order?

Regarding Point No.1:

15. I have carefully examined the materials placed before this Court. Inspector, Parappana Agrahara Police Station, has laid charge-sheet against the accused for the offence punishable under Sections 450, 323, 376, 506-B and 176 of Indian Penal Code. The trial Court has convicted the accused for the offence under Sections 450, 323, 376 and 506-B of Indian Penal Code.

16. The Genesis of the case arise from the complaint filed by P1 victim as per exhibit P1 in which it is stated as under:

"Regarding rape by unknown person in PG

As I was staying in the above-mentioned PG from 18/8/2016 and I was working in TCS as system administrator my shift timing afternoon 2:30 p.m. to 12:00 a.m. on 25/08/2016 morning I was in severe headache and slept at 2:00 a.m. after duty time I did not lock the door my friends shift gets over at 5:00 a.m. and room cleaning people also come at 7:00 a.m. I informed about this to my friend and slept at around 2:30 a.m there was knife on my neck he was not letting me to shout. At first I thought It was my PG owner. He torched the light over my neck by snatching for jewels I don't have he asked for money and I said I have only 200 Rs and by keeping knife on my neck he locked the door he was dark at the time. I can push or try to attack him because he was fatty one. Then he pulled me over bathroom with bed sheet on my mouth and knife on my neck and he hold my hand back to see my face by switching on the light after that he pushed me towards my bed and raped. If I shout also he tries to stab me and I talked with him friendly to go that my friend will come and said him to come tomorrow at 2:00 a.m. so no one will be there. After half and hour he went from my room and suddenly I locked door and I informed my friends. Before I inform my friends I feel I was bleeding lightly due. to I got wound. I was conscious at the time I can identify that guy. He said his name is Uday and from near PG and came by terrace.

Delayed compliant is because I was stressed and I was finding the help of people who are staying at Bangalore. So I came to give complaint today. Please consider it as a confidential. Please take necessary action against that culprit."

17. The complaint was filed on 27th August, 2016 at 19.30 hours. On the basis of the complaint, case was registered in Crime No.368 of 2016 against accused Uday for commission of offence punishable under Sections 450, 323, 376, 506-B and 176 of Indian Penal Code and FIR was submitted the court on 27th August, 2016 at 11.00 pm as per Exhibit P8. After registration of the case, police have visited the spot and conducted spot panchanama on 28th August, 2016 as per Exhibit P3 in the presence of Panchas. Police have also contacted seizure panchanama as per Exhibit P4. The investigating officer has obtained medical certificate from the medical officer and recorded the statement of witnesses and submitted charge-sheet.

18. To substantiate the case, prosecution has examined victim as PW1. She has deposed in her evidence as follows:

"I was working as System Administrator in TCS Company, Bengaluru during 2016. At that time I stayed in the Venkateshwara Naveen Ladies PG at Eletronic City. C.W.2 is my roommate at PG. C.W.3 is neighbor in the PG. C.W.4 is my coileague. In the night of 25th and in the morning of August 26. 2016 my shift closed at 12 in the midnight. I came to PG at 12.30 am. My roommate was not in the room she was on duty and she was supposed to return to PG at 5 am. I had severe head ache and took a tablet and slept, at 1 am. At that time I did not closed the door because C.W.2 was to come to the room and for her convenience I did not locked. It was usual procedure we were following. Around 2.30 am I noticed torch light on my face. I opened my eyes and found somebody standing near the door holding torch on left hand and knife with right hand. I asked hiin in Tamil Anna yar". Accused kept knife on my neck and told me not to shout and asked money. I told that I had Rs.200/- cash and ATM and I will give it to him and leave me. That money was not sufficient for him. So he pulled me to the bathroom and switched on bathroom light and saw my face. I also saw his face. I covered my mouth with my bed sheet on the bed. Then he locked room door. Till that time he had holding knife on my neck. He pulled me to the bed and asked me to remove my 3% pant. He told something in Kannada as remove cloth. Then he forced me to remove pant and pressed my breast strongly and raped me. I could not shout since Accused was holding

knife on my neck. Again he started to kiss me again and again but I resisted. I found that, he was drunk at that time. Then I started friendly conversation with him due to fear and to escape from any harm. I told him that, my friend will be coming to room now and to go away and come on next day 2 am. I asked by smiling his name and he told as Uday. Then he asked my name and I told as Ramya. Later he asked me whether he has to come tomorrow pakka and pulled my hair and went away.

2. Then I locked the door and tried to call C.W.3 who was in next room and asked her to lock her room door. At 5 am C.W.2 came to my room and I revealed her everything. After discussing with my friends I lodged complaint at 7 pm on 27.8.2016. I was under fear and panic and not knowing the police station and I was new to the place. Hence, there was delay in filing complaint."

19. The complaint is marked as Exhibit P1. Further, she has deposed as to the mahazar conducted by the Police as per Exhibits P2 and P3 and also seizure of MOs1 to 6. Further, she has deposed that she gave her statement under section 164 of CRPC after fifteen days of filing the complaint. And after one month after lodging the complaint, police called her to the Central Jail, Bengaluru. She went there and identified the

accused in test identification parade on the basis of colour, height, and other physical identity which she remembered.

20. PW2-Soudhamini, has deposed in her evidence as follows:

"I was working as System Administrator in TCS Company. Bengaluru during 2016. At that time I stayed in the Venkateshwara Naveen Ladies PG at Eletronic City. I know P.W.1. she is my roommate in the PG. C.W.3 is neighbor in the PG. My shift starts from 7 pm and closes at 5 am in the morning. In our room in the PG we used to not to close the door in the night because I was to come to the room at 5 am and for my convenience and also for cleaning purpose door did not locked. It was usual procedure we were following. On 26.8.2016 after finishing my shift duty at 5 am I came to my room and I found that P.W.1 was standing in the door and crying and revealed me about the rape committed on her on the same day at 2.30 am. After discussing with our friends, PW1 lodged complaint at 7 PM on 27.08.2016. Police has enquired me about the incidence."

21. PW3-Arjun Unnikrishnan has deposed as to the mahazar contacted by the police as per Exhibit P3, and also seizure of blanket MO1.

22. PW1-Dr Sujatha has deposed that on 27th August 2016 at 10:30 pm, CW1 came with the history of sexual assault and has deposed as to the examination of the victim. She has opined that there is no recent sexual assault on the body of the victim and she has deposed as to material objects MO1 to 14.

23. PW5-Sakappa said to be the attester to mahazar Exhibit P4, has not supported the case of prosecution.

24. PW6-Dr. Pradeep Kumar, has deposed in his evidence as to the issuance of medical certificate pertaining to the accused.

25. PW7-Dr Chennegondappa Dyamagondappa Kalasagowda, Chief Medical Officer, has deposed that on 16th November 2016, he has taken the sample blood of accused No.1 and handed over the same to the Police.

26. PW8-S.H. Shivakumar, General Manager, KSTDC who was then Tahsildar, has deposed as to the test identification parade and issuance of a report as per Exhibit P7.

27. PW-Babu, Sub-Inspector of Police and PW10 Prashant Babu, Police Inspector have deposed as to their respective investigation.

28. PW11-Dr. Deepa has deposed in her evidence as to issuance of Forensic Science Laboratory report as per Exhibit P23.

29. PW120-L Purushottam, Assistant Director and Technical Manager, Forensic Science Laboratory, Bangalore has deposed in his evidence as to the examination of articles 1 to 13 and issuance of certificate Exhibit P24.

30. PW13-Krishna Kumar B.K., has deposed as to his part of investigation.

31. On careful examination of material evidence of PWs1 to 4, Exhibit P23 FSL report, Exhibit P22 DNA report, it is clear that there is sufficient evidence to constitute the alleged commission of offence.

32. The name of accused is Murali. At the time of filing FIR, his name is shown as Uday. Even in the statement under

Section 164 of Code of Criminal Procedure made by the victim as per Exhibit P21, the victim has stated that the name of the accused was Murali. When he was asked about his name he said that his name is Uday. But after arrest of the accused, it is alleged by the prosecution that the name of the accused is Murali. The accused Murali has been identified by the victim. Therefore, mere say of the accused that his name is Uday, at the time of filing FIR, does not mean that accused Murali has not committed any offence. PW1 has clearly stated that after committing rape, the accused was continuously kissing the victim. Then she started conversation with him. He was continuously coming to her and rape her again and again. Then she told him to come next day, stating that door will not be latched. Then also he was not leaving. Then she asked the name of the accused. He said his name as Uday. Accused, might have told his name as Uday in order to avoid his original identity. But subsequently police have arrested and then the accused identified by the victim. Therefore, in this regard, the arguments advanced on behalf of the accused/appellant cannot be accepted. The trial court has properly appreciated the

materials on record in proper perspective and had come to the conclusion that accused has committed the alleged offence.

33. On examination and re-appreciation of the entire evidence on record independently, I do not find any factual or legal error in the impugned judgment of conviction passed by the trial court. Hence, I answer Point No.1 in the affirmative.

Regarding Point No.2:

34. With regard to modification of sentence is concerned, the trial Court has passed the sentence against the accused as under:

"Acting under section 235(2) of CRPC, accused No.1 is hereby by convicted for the offence punishable under section 376(1) Of IPC and sentenced to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.1,00,000/- in default, to undergo simple imprisonment for a period of one year, which shall run consecutively.

Accused No.1 is hereby convicted for the fence punishable under section 450 of IPC and sentenced to undergo imprisonment for a period of 2 years and to pay a fine of Rs.50,000/- in default, to undergo simple

imprisonment for a period of six months which shall run consecutively.

Accused No.1 is hereby convicted for offence punishable under section 323 of Indian penal code and sentenced to undergo simple imprisonment for a period of 3 months and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for period of one month which shall run concurrently.

Accused No.1 is hereby convicted for the films, punishable intersection 506-B of IPC and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for a period of three months, which shall run concurrently.

Acting under Section 428 of CRPC, accused No.1 shall be entitled for a period of set off in respect of the period spent by him in custody from 59 2016 till Date (7 years, 11 months, and 18 days).

Out of the final amount of Rs.1,50,000/- is ordered to be paid to the victim after the amount is deposited to the state. Further, the victim, Lady is entitled to compensation under NALSA's compensation scheme. Office to send a copy of his judgment to the DLSA for suggesting appropriate compensation payable to the victim.

MO5-knife is ordered to be confiscated to the state after the appeal period. MO1 to M4, M6 to 16 are considered worthless and ordered to be destroyed after the appeal period.

Free copy of the judgment shall be supplied to the accused No.1.

Office to send the conviction warrant to the superintendent, Central prison, Parappana Agrahara, Bangalore for enforcement."

35. It is submitted by the learned counsel for the appellant that the accused hails from poor family and even was not in a position to prefer an appeal. Even after lapse of one year from the date of judgment, it was only through legal aid council. This appeal was instituted and the accused is in individual custody for more than nine years six months. The accused is not in a position to pay fine amount as imposed by the trial court. Considering all these litigating circumstances, he sought to pass a sentence only for a period of 10 years and pass the order to run the sentence concurrently. Considering the submission of the legal aid council for the appellant/accused and also the financial status of the accused and period of detention already undergone

by the accused, it is just proper to modify the sentence imposed by the trial court. Accordingly, I answer point number two, partly in the affirmative.

Regarding Point No.3:

36. For the reasons aforestated and discussions, I proceed to pass the following:

ORDER

- i) Appeal is allowed in part;
- ii) Judgment of conviction dated 23rd August, 2024 passed in SC No.448 of 2017 by the LIII Additional City Civil & Sessions Judge, Bengaluru, is confirmed;
- iii) Sentence dated 23rd August, 2024 passed in SC No.448 of 2017 by the LIII Additional City Civil & Sessions Judge, Bengaluru, is modified as under:

- a. Accused/appellant shall undergo rigorous imprisonment for a period of ten years and to pay fine of Rs.1,000/- for the offence under Section 376(1) of IPC;
- b. Accused/appellant shall undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1,000/- for the offence punishable under Section 450 of IPC;
- c. Accused/appellant shall undergo Simple Imprisonment for a period of three months and to pay fine of Rs.1,000/- for the offence under Section 323 of IPC;
- d. Accused/appellant shall undergo simple imprisonment for a period of one year and to pay fine of Rs.1,000/- for offence under Section 506-B IPC;
- e. All the sentences shall run concurrently;

- f. Accused/appellant is entitled for set-off for the period of detention already undergone in judicial custody as per Section 428 of Cr.PC;
- iv) Registry to send the copy of this judgment along with trial Court records to the concerned Court;
- v) Registry is directed to send the copy of the modified conviction warrant as per modification of sentence passed by this Court to the Superintendent, Central Prison, Parappana Agrahara, Bengaluru;
- vi) Registry is also directed to send copy of this judgment free of cost to the Superintendent, Central Prison, Parappana Agrahara with a direction to furnish the same to the accused, as accused is in judicial custody;
- vii) Victim is entitled for compensation under NALSA's Compensation Scheme as ordered by the trial Court. Registry to send the copy of this

judgment to the Member Secretary, District
Legal Services Authority, Bangalore (Urban)
District to award suitable compensation to the
Victim under Victim Compensation Scheme.

Sd/-
(G. BASAVARAJA)
JUDGE

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