HC-KAR

NC: 2026:KHC:63601
CRL.A No. 1586 of 2026

CNR: KAHC010647832026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1586 OF 2026 (U/S 14(A) (2))

BETWEEN:

1. M.SHALAM VALI @ SHALAM VALI
S/O KHAJA JUSSAIN
AGED ABOUT 24 YEARS,
R/AT GORAM PET VILLAGE,
DEVADURGA TALUK,
RAICHUR DISTRICT,
KARNATAKA-584111

...APPELLANT

(BY SRI. GIRISH R.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY THIRUMALASHETTIHALLI PS

NOW REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001.

2. SMT. DEVAMMA
W/O BASAVARAJU GOWDER,
AGE 40 YEARS,
R/AT YALAGUNDA VILLAGE,
LINGASURU TALUK,
RAICHUR-600445.

...RESPONDENTS

(BY SRI. K. NAGESHWARAPPA, HCGP. FOR R1,
V/O DATED: 29.10.2026 SRI. NUMAIR FAROOQ, AMICUS CURIAE FOR R2.)

Digitally signed by
LAKSHMINARAYAN N
Location: High Court
of Karnataka

HC-KAR

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CRL.A. FILED U/S 14(A)(2) OF SC/ST (POA) ACT, 2015 BY THE ADVOCATE FOR THE APPELLANT/S PRAYING THAT THIS HONBLE COURT MAY BE PLEASED TO ALLOW THE PRESENT APPEAL, SET ASIDE THE ORDER DATED 03-09-2026 PASSED BY THE HON'BLE ADDITIONAL DISTRICT AND SESSIONS JUDGE, FTSC-II, BENGALURU RURAL DISTRICT, BENGALURU, IN CRL. MISC. NO.1356/2026, AND ENLARGE THE APPELLANT ON REGULAR BAIL IN SPL.C. NO.798/2026 (CRIME NO.42/2026), BY THIRUMALASHETTY P.S. PENDING ON THE FILE OF THE HON'BLE ADDITIONAL DISTRICT AND SESSIONS JUDGE, FTSC-II, BENGALURU RURAL DISTRICT, BENGALURU, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 137(2), 69 AND 64(2) OF BNS 2023, SEC. 4(1), 5(L), 6 AND 12 OF POCSO ACT 2012, SEC. 3(1)(w) OF THE SC ST (POA) ACT 1989, AND SEC. 9 OF THE PROHIBITION OF CHILD MARRIAGE ACT, 2006.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. The appellant has preferred this appeal against the order dated 03.09.2026 passed in Crl.Misc.No.1356/2026 by the Addl. District and Sessions Judge, FTSC-II, Bengaluru Rural District, Bengaluru (for short, 'the trial Court').

2. Despite service of notice, respondent No.2 remained absent and unrepresented. Hence, Sri Numair Farooq is appointed as Amicus Curiae for respondent No.2.

3. I have heard the arguments of learned counsel for the appellant Sri Girish R, the learned High Court Government Pleader Sri K Nageshwarappa for respondent No.1 and Amicus Curiae Sri Numair Farooq for respondent No.2.

4. On the basis of the complaint filed by Smt. Devamma, mother of the complainant, Thirumalashetti Police have registered the case in Crime No.42/2026 against the unknown accused, for the offence under Section 137(2) of The Bharatiya Nyaya Sanhita (BNS), 2023. On 26.05.2026 accused was arrested by the Investigating Officer and was produced before the Court and he was remanded to judicial custody. Till this day, the accused is in judicial custody. Application was filed on behalf of the accused under Section 483 of BNSS, 2023. Same came to be rejected by the trial Court vide order dated 03.09.2026 passed in Crl.Misc.No.1356/2026. Being

aggrieved by the said order, the appellant has preferred this appeal.

5. The learned counsel for the appellant would submit that the appellant has not committed any offence as alleged against him. But there is a material divergence between the statements of minor girl before the police and learned Magistrate regarding the very inception of the alleged occurrence. Before the police, victim has described as to discussion with the Appellant concerning apprehended opposition at home, followed by their departure together in a hired car. Before the learned Magistrate, however, she has alleged that the Appellant came while she was sleeping outside the house, covered her mouth, restrained her hand and forcibly put her into a car, in which another person was present. The difference between a departure allegedly preceded by discussion and an alleged forcible removal is substantial and bears directly upon the prosecution account, to prove, how the

incident commenced. Further, it is submitted as to the delay in filing the complaint and the accused is not required for further investigation. On all these grounds, it is sought for allowing the appeal.

6. On careful examination of the materials placed before this Court, it is clear that on the basis of missing complaint, the concerned police have registered the case in Crime No.42/2026 for the offence under Section 137(2) of BNS, 2023 and after thorough investigation, the IO has submitted the charge sheet against the accused for the commission of alleged offence under Sections 137(2), 69, 64(2) of BNS, 2023; Sections 4(1), 5(l), 6, 12 of POCSO Act, 2012; Sections 3(1)(w) of the SC & ST (POA) Amendment Act, 2015 and Section 9 of the Child Marriage Act.

7. On perusal of the materials placed before this Court, at this stage, there are *prima facie* materials to constitute the commission of alleged offences. The

submission of the learned counsel for the appellant may be considered only after full-fledged trial. Considering the nature and gravity of offence, I do not find any legal or factual error in the impugned order passed by the learned Special Judge. Hence, I proceed to pass the following:

O R D E R

Appeal is **dismissed**.

The Registry is directed to pay an amount of Rs.5,000/- to the Amicus Curiae, Sri Numair Farooq.

Sd/-
(G BASAVARAJA)
JUDGE

DHA
List No.: 1 Sl No.: 27