

KACB320006562024



**IN THE COURT OF THE II ADDITIONAL DISTRICT &
SESSIONS JUDGE CHIKKABALLAPURA, SITTING AT
CHINTAMANI**

Present:

Sri Kantharaju S.V. B.A., LL.B.
II Additional District & Sessions Judge
Chikkaballapura, Sitting at Chintamani.

Dated this the 25th day of April 2026

SESSIONS CASE No.47/2024

Complainant : The State of Karnataka by
Dibburahalli Police Station,
Chikkaballapura District.

(By Learned Public Prosecutor)

Vs

Accused: Dawood Pasha,
Son of Nazeer
Aged about 31 years,
Residing a Ganjikunte village
Shidlaghatta Taluk,
Chikkaballapura District.

(Rep. By Sri R.Ayub Khan, Advocate)

1.	Date of commission of offence	10.06.2023
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2.	Date of report of occurrence.	21.06.2023
3.	Whether the accused is on bail or in judicial custody.	On bail
4.	Date of commencement of trial.	04.06.2025
5.	Date of closing of trial.	19.02.2026
6.	Name of the complainant.	Smt.Shashikala
7.	Offences charged.	Sections 448, 376(2)(n), 506, 323 and 354 of the Indian Penal Code
8.	Opinion of the judge.	As per the final order.

: JUDGMENT :

The Circle Inspector of Police, Shidlaghatta Circle, Shidlaghatta has filed a charge sheet in Cr.No.73/2023 of Dibburahalli Police Station against the accused for the offences punishable under Sections 323, 354, 376(2)(n), 448, 506 of the Indian Penal Code and consequently, he is facing trial before this court.

2. Brief facts of the prosecution case are that, the CW.1 and CW.2 are lived in the house of Venkateshappa of Ganjikunte village, Bashettihalli Hobli, Dibburahalli, Shidlaghatta Taluk, and the accused lived next to the said house. While frequently coming and going to the

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house of the CW.1, the accused looked at the with a sexual intention. About two years ago, in the month of January the accused illegally trespassed the house of CW.1 and brought juice mixed with sleeping tablet and made the CW.1 drink it. When she was unconscious, he took her to a room and had a sexual intercourse against her will. After the CW.1 regained consciousness, she looked at her and found that she was not wearing any clothes. When she has questioned the accused why he had raped her against her will, the accused lied that he had taken the nude photos of CW.1 and threatened to send the nude photos to everyone if she told anyone about this matter. The accused illegally trespassed into the house of CW.1, when her husband CW.2 was not in the house and had sexual intercourse with her several times against her will. Similarly, on 17.05.2023 the accused also had sexual intercourse with CW.1 in the morning and then on 10.06.2023, at around 10.30 a.m. when the accused illegally trespassed the house of CW.1 and tried to have sexual intercourse with CW.1, when she did not agreed to it, the accused kicked CW.1 in the stomach and forcibly assaulted her with his hands. Later, on 17.06.2023 also when he came to have sexual intercourse with her, she was not in good health and did not agree, the accused insisted CW.1, saying that he would bring sleeping pills to her husband and put them in his food and killed him. He threatened that if she did not, she would see a fate of CW.2. He


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threatened that even though the accused did not have nude photos of CW.1, he had nude photos of her and that he would send them to everyone.

3. On the basis of complaint lodged by CW.1 dated 21.06.2023, PW.14 Krishnappa, the then Police Sub Inspector of Dibburahalli Police Station, registered the FIR as per Exp16 against the accused, for the offences punishable under Sections 323, 312, 354, 376(2)(n), 448, 506 of the Indian Penal Code.

4. Since the offence under Section 376(2)(n) of the Indian Penal Code is triable exclusively by the Court of Sessions, case has been committed to this Court. Charge sheet paper was furnished to the accused by the committal Court itself in compliance of Section 207 and 208 of Cr.P.C.

5. The accused is on bail and he is represented by a learned counsel for his defense.

6. My predecessor in the office has framed the charges against the accused for the offences punishable under Sections 323, 354, 376(2)(n), 448, 506 of the Indian Penal Code, read over and explained the same in the language known to him. He pleaded not guilty and claims to be tried. Thereupon dates were fixed for examination of witnesses and summons were issued.


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7. To prove its case, the prosecution has cited in all 18 witnesses and during the trial has examined Cws.1, CW.3, CW.4, CW.5, CW.6, CW.9, CW.10, CW.7, CW.8, CW.11, CW.12, CW.15, CW.14, CW.19, CW.17, CW.2, CW.21 and CW.20 as PW's.1 to 18 respectively. CW.18 is given by the prosecution and documents got marked at Ex.P1 to Ex.P30 and got marked material objects at M.O.1 and M.O.26. The statement under Section 313 of Cr.P.C. has been recorded and explained the same to the accused and he has denied the incriminating circumstances appearing against him. EX.D.1 was marked during the cross examination of PW.16.

8. I have heard the learned Public Prosecutor for the State and the learned defense counsel and I have perused the records.

9. After hearing the arguments, the points that arise for consideration in the disposal of this case are as follows:-

- 1) Whether the prosecution has proved beyond all reasonable doubt that on CW.1 and CW.2 are lived in the house of Venkateshappa of Ganjikunte village, Bashettihalli Hobli, Dibburahalli, Shidlaghatta Taluk, and the accused lived next to the said house. While frequently coming and going to the house of the CW.1, the accused looked at the with a sexual intention. About two years ago, in the month of January


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the accused illegally trespassed the house of CW.1, similarly on 10.06.2023 at about 10.30 a.m. thereby he has committed the offence punishable under Section 448 of the Indian Penal Code?

2) Whether the prosecution has proved beyond all reasonable doubt that on the aforesaid date, time and place, the accused brought juice mixed with sleeping tablet and made the CW.1 drink it. When she was unconscious, he took her to a room and had a sexual intercourse against her will, for several times, similarly on 17.05.2023 in the morning, thereby he has committed the offence punishable under Section 376(2)(n) of the Indian Penal Code?

3) Whether the prosecution has proved beyond all reasonable doubt that on the aforesaid date, time and place, after the CW.1 regained consciousness, she looked at her and found that she was not wearing any clothes. When she has questioned the accused why he had raped her against her will, the accused lied that he had taken the nude photos of CW.1 and threatened to send the nude photos to everyone if she told anyone about this matter and he threatened her come and sleep with him whenever he called, and on 17.06.2023 the accused tried to have sexual intercourse with CW.1, when she did not agreed to it, as she was not in good health, he advised her that she left her husband CW.1 or otherwise he would give sleeping tablets and fixed


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with food and gave it to her husband and killed him, otherwise he would finish the CW.2, even though he has not possessed the nude photos of her, thereby he has committed the offence punishable under Section 506 of the Indian Penal Code?

4) Whether the prosecution has proved beyond all reasonable doubt that on 10.06.2023 at around 10.30 a.m. when the accused tried to have sexual intercourse with CW.1, when she did not agreed to it, the accused kicked on the stomach and forcibly assaulted her with his hands, thereby he has committed the offence punishable under Section 323 of the Indian Penal Code?

5) Whether the prosecution has proved beyond all reasonable doubt that on the aforesaid date, time and place, accused given sexual harassment to CW.1, thereby he has committed the offence punishable under Section 354 of the Indian Penal Code?

6) What Order?

10. My answers to the above points are as follows:

Point No.1 : In the Negative
Point No.2 : In the Negative
Point No.3 : In the Negative
Point No.4 : In the Negative


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Point No.5 : In the Negative
Point No.6: As per final order
for the following:

REASONS

11. **Point No.1 to 5:** As these points are interconnected with each other, they are taken up together for common discussion.

12. It is seen that on the strength of the complaint lodged by PW.1 as per Ex.P.1, PW.14 the then PSI of Dibburahalli Police Station, registered the FIR as per Ex.P.16. PW.15 G.M. Lokesh, the then Head Constable 53 of Dibburahalli Police station seems to have apprehended the accused on 22.06.2023 along with CW.18 Narasimhaiah Head constable 186 as per the instruction of PW.18 at about 6.30 a.m. and produced him before the PW.18 at about 7.30 a.m. along with report as per Ex.P.17. PW.18 Nanda Kumar, the then Circle Inspector of Shidlaghatta Circle, seems to have conducted the spot mahazar as per Ex.P.2 as shown by the PW.1 in the presence of PW.4 Roshan and PW.5 Ramaiah on 22.06.2023 between 3.00 p.m. to 4.00 p.m. Further, on the same day, PW.18 has conducted the seizure mahazar of Vivo Mobile phone at the Circle Inspector Office vide at M.O.7 as per Ex.P.9 in the presence of PW.8 Prabhu and PW.9 Chennakeshava between

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12.00 to 12.45 p.m. took the photos as per Ex.P.20 from CW.18 Narasimhaiah, CHC 186 and received the Certificate under Section 64(B) of Indian Evidence Act from him as per Ex.P.21. On 05.07.2023 he has collected the house list of PW.1 from the PDO of Ganjikunte Gramapanchayath as per Ex.P.25. On 12.07.2023 Shilpa, Women Police Constable has produced the articles of accused and PW.1 at the time of medical examination, same were sent FSL for chemical examination through her on 25.07.2023, and after chemical examination she has produced before him report as per Ex.P.27 vide M.O.1 to M.O.26 and he has handed over the case file to PW.17 Srinivas, the then Circle Inspector of Police. Thereafter he has partly conducted the investigation the manner in which he laid the charge sheet against the accused as the allegations described in para 2 of this judgment.

13. It is seen that, the house where the alleged incident of forcible rape allegedly taken place sanding in the name of father in law of the victim, as can be seen from the document at Ex.P.13 and Ex.P25 are one the same documents issued by PW.12 Dyavappa, the then Panchayath Development Officer of Ganjikunte Gramapanchayath. On the recitals of the spot mahazar at Ex.P2 claims to have drawn by PW.18 gives clear


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indication of the topographical condition of the crime place. The PW.4 Roshan and PW.5 Ramaiah being the witnesses to the spot mahazar.

14. The PW.4 Roshan and PW.5 Ramaiah have turned hostile to the case of the prosecution and they have deposed that though they have identified their signature on Ex.P.2 spot Mahazar, they were signed on 22.06.2023 near a Tea shop and they did not know for the reason and they knows CW.1 and CW.2. These witnesses treated as hostile by the learned Public Prosecutor and subjected for cross examined them, nothing worth have been elicited from their mouth. Even they have denied the statements given as per Ex.P.6 and Ex.P.7.

15. Further, PW.2 Narasimhamurthy and PW.3 Praveen are the circumstantial witnesses, who in turn hostile to the case of the prosecution and they have deposed that, they know the accused and CW.1 and their houses are far from the house of CW.1 about 300 meters and 3.50 K.M. They expressed their ignorance about the case fact. These witnesses treated as hostile by the learned Public Prosecutor and subjected for cross examined them, nothing worth have been elicited from their mouth. Even they have denied the statements given as per Ex.P.4 and Ex.P.5.


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16. Further, PW.6 Byra Reddy and PW.7 Shankar are the Mobile phone extraction mahazar witnesses, they have turned hostile to the case of the prosecution and they have deposed that, though they have identified their signature on Ex.P.8 were made on 22.06.2023 in the Police Station, but they have expressed their ignorance about the voice extraction from the Mobile. Even they know the CW.1 and CW.2. These witnesses treated as hostile by the learned Public Prosecutor and subjected for cross examined them, nothing worth have been elicited from their mouth.

17. Further, PW.9 Chennakeshava is the Seizure Mahazar witness, in his evidence he has deposed that, he know the accused, when he went to the police station 2 years back on some work, the accused was also there in the Police Station. At that time M.O.7 phone was seized under Seizure Mahazar at Ex.P.9. He has identified his signature, at that time the accused stated him in that phone, nude photos of woman with in it, but photos have not shown him and he did not know the case fact. This witness treated as hostile by the learned Public Prosecutor, subjected for cross examination, nothing worth has been elicited in support of the case. This witness was cross examined by the learned counsel for the accused, during the course of cross examination it is elicited that Police have not given notice to him and not shown any photos and the contents of Ex.P.9 was not read


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over and explained to him. Thereby his evidence is not helpful to the prosecution.

18. PW.10-Dr. Bhavana, the then Medical Officer of Shidlaghatta General Hospital, seems to have examined the victim as requested by the Women Police Constable of Dibburahalli Police on 23.06.2023, report on the sexual assault of the victim. She was subjected to an examination at around 12.00 noon. When she was questioned, she said that 2 years ago, a man named Dawood Pasha gave her orange juice and made her unconscious. When she woke up after half an hour, she said that her clothes were removed and she was sexually assaulted. She was also threatened by taking nude photos of her. She said that she was sexually assaulted 2-3 times a week and robbed of money. The last time she was sexually harassed was on 15.05.2023 and that she was attempted to sexually harassed again on 10.06.2023 at that time inspite of saying that she was 2 months pregnant and he kicked her in the stomach, knocked her down and assaulted her, causing her to bleed, thereafter she was treated at Mani Venkata Reddy Hospital. On 11.06.2023, she was treated for diabetes. On 17.06.2023, the accused came to the victim's house and robbed her of money, gave her sleeping pills and told her to give them to her husband to kill her. She was scared and informed her husband about this and filed a police complaint. After the clinical examination, there were no visible injuries on her


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body. The hymen was torn. The genitals were in good condition. On the request of the police, hair, swabs, nails, and blood samples from her genitals were collected as per M.O.8 to M.O.18 and handed over to the investigating officer. After examining her, she has given report as per Ex.P.10 saying that there is a possibility of sexual assault on her and she has given a final opinion as per Ex.P.11 based on the R.F.S.L. saying that Semens were not found on victim and opined that no recent sexual act had taken place and there might have possible sexual act from the accused.

19. This witness cross examined by the learned counsel for the accused, it is elicited that there were no signs of injury on PW-1's abdomen. She said that if a pregnant woman's abdomen is attacked, heavy bleeding usually occurs within 48 hours. Minor bleeding lasts up to 5 days. **When she examined PW-1, there were no signs of miscarriage.** The police gave her the FSL report on 22-12-2023. The FSL report is 'negative'. The item number 18 is not related to PW-1. Seminal stains wound remain for last 48 hours. She has given her opinion that PW-1 did not have sexual intercourse within those 48 hours. Same was not written in her report.

20. Thereby, the admission given by the Medical Officer PW.10 given scope to doubt the testimony of PW.1


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she was aborted and taken treatment for the alleged act of the accused.

21. PW.11 Dr. Vishwa, the then Medical Officer of Shidlaghatta General Hospital, his undisputed ocular evidence and the report and certificate issued at Ex.P12 after examining the accused reveals the fact that, accused is capable of performing the sexual intercourse.

22. PW.13 Smt. Bhuvenshwari, the Scientific Officer, R.F.S.L. Bengaluru seems to have issued report as per Ex.P.14 and sample seal in respect of M.O.1 to M.O.25 with the opinion that the Seminal stains were detected on item No.18 and not detected on item No.1 to 17 and 19 to 25. Thus, needless to say that the FSL report is not helpful to the prosecution. At the same time, I do not find any wrong with the learned Prosecutor to contend that no positive report can be expected since M.O.1 to 25 have been admittedly recovered by the investigation officer more than one month after the alleged sexual assault. Therefore, I made it clear that, the negative result in the FSL report does not go to the root of the case.

23. In order to prove the charges leveled against the accused, the prosecution has examined PW.1- victim has deposed that herself, she know the accused. He lives in the house next to her with his parents and


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brothers. They used to come and go to their house often. Two years ago, her husband had gone out, the children had gone to school, and she was alone at home. At around 10.30 a.m. in the morning, the accused brought orange juice in a bottle. He asked her to drink it. Since he had brought him something many times in the past, she drank the said fruit juice without suspecting it. After consuming she was last her unconscious. At around 12.30 p.m. she regained consciousness and the accused was also in her house. She was not wearing any clothes. When she questioned the accused about it, he said that he had attraction for her, so he said that he had raped her. He threatened her that he had taken photos and videos. He threatened to show this to her husband and the villagers if she told anyone about this matter. Whenever she told him, he threatened to published it if she not co-operated in the physical contact. He used to threaten her every day and demanded money. **He robbed her of about 3 lakh rupees. He threatened her in this way and forcibly had physical contact with her many times. Due to this, she got pregnant and even though she told him about this matter, he forced her to have physical contact. When she refused, he threatened to kill her child. He kicked her in the groin and due to this she had a miscarriage and lost consciousness.** Her husband admitted her to the hospital for treatment. He came to her again and forced physical contact and told her to give her husband sleeping pills and kill him. He threatened to


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publicize the photos if she did not kill her husband within 10 days. He threatened to kill her husband himself if she did not do it. Then she told her husband the whole matter. Later, they both went to Dadibburahalli police station and filed a complaint as per ExP1. On the next day, the police came to the house and conducted spot Mahazar as per ExP2 as shown by her in the presence of PW.5 Ramaiah and PW.4 Roshan. The police recorded her statement. The police subjected her to a medical examination and took samples of several items from her. They seized the blouse, dupatta, petticoat, bra and underwear as MO1 to MO6. Later, she has given statement before the Magistrate as per ExP3.

24. During the course of cross examination of PW1 by the learned counsel for defense, she has given admission which go to the root of the case. This incident happened two years before she filed the complaint. She did not file any complaint against the accused in those two years. The accused used to rape her once in four days. She did not inform anyone about and she did not file a complaint. She did not go to the police to file a complaint because the accused was threatening her. She did not inform the accused's family for the same reason. 20-30 houses of her husband's relatives are in their village. She did not inform them either because her honor would be lost. The police wrote ExP1 on her statement. In ExP1, she told about the accused extorting Rs 3 lakh. She did not gave money and

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take it. The accused did not show her video or photos. **There is a 6 feet road next to her house. Then she know the house of the accused.** She has to go to her house through the said road. **The father of the accused complained to the Panchayat against her husband regarding the said road. Her husband claimed the said road as his land. There was a commotion about this. The father of the accused filed a complaint against them regarding this.**

25. PW.16 Manjunath being the husband of the victim has deposed that in his evidence he has deposed that, the accused lived next to his Ganjigunte house. His father, mother, elder brother and the accused lived in the accused's house. On 17.05.2023, at 10.30 am, his wife called him and informed that the accused had kicked his wife on the stomach. At that time, he had gone to work in Pulugunta village, which is 5 km from their house. He immediately came home and took his wife to Suma Nursing Home Chintamani. At that time, his wife was 3 months pregnant. His wife had an abortion because the accused kicked her. 2 years before the case was registered, the accused gave his wife orange juice at their house, after she lost consciousness, the accused removed all his wife's clothes, raped her, threatened her that he had taken her photos, and threatened that if she told her parents or her husband, he would make these photos viral, or else he would kill her husband. His wife told her that he


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threatened that whenever he called her, she should come and sleep with him. After that, he went to Diburahalli Police Station and filed a complaint. His wife told him that the accused had raped her 3 times. Her wife went to Diburahalli Police Station and filed a complaint. He had told the police about the above matters.

26. During the course of cross examination by the learned defense counsel it is elicited that on 17.06.2023, he took his wife to Suma Nursing Home. On the said day, his wife had an abortion. On 17.06.2023, he has given a complaint to the police regarding his wife's abortion. He told about it in his statement to the police. Their house and the accused's house are next to each other. There is a 6-foot road next to their house. The accused's house comes after that road, he says that the accused's house is attached to the road.

27. It is the contention of the learned public prosecutor that, the PW.1 being the victim and PW.16 being the husband of the victim, the evidence of these witnesses corroborates with each other and also the evidence of PW.10 the Doctor who has examined the PW.1 supports the case of the prosecution and prayed to convict the accused.

28. Now the question is how far the evidence of the victim and information allegedly given by the victim to


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PW. 18 so also the recitals of the complaint Ex.P1 etc. are reliable and worthy to believe? The related evidence and circumstances certainly requires the appreciation in detail to the extent. According to prosecution case, about two years ago, in the month of January the accused illegally trespassed the house of CW.1 and brought juice mixed with sleeping tablet and made the CW.1 drink it. When she was unconscious, he took her to a room and had a sexual intercourse against her will. Similarly, on 17.05.2023 the accused also had sexual intercourse with CW.1 in the morning and then on 10.06.2023, at around 10.30 a.m. and tried to have sexual intercourse with CW.1, when she did not agreed to it, the accused kicked CW.1 in the stomach and forcibly assaulted her with his hands. Further, the accused lied that he had taken her nude photos and threatened to send the nude photos to everyone if she told anyone about this matter. But, on going through the cross of PW.1 and PW.16 it creates doubt in the mind of the Court as discussed above.

29. Similarly, in the cross examination of PW.18 the Investigating Officer as follows;

2 ವರ್ಷಗಳ ಹಿಂದೆ ಜ್ಯೂಸ್ ನ್ನು ತಂದು ಕೊಟ್ಟಿದ್ದ ವಿಚಾರವಾಗಿ ಆರೋಪಿ ಕಡೆಯಿಂದ ಏನಾದರೂ ವಿಚಾರ ತಿಳಿದುಕೊಂಡು ಆ ಜ್ಯೂಸ್ ನ್ನು ಎಲ್ಲಿಂದ ತೆಗೆದುಕೊಂಡು ಹೋದ ಎಂಬ ಬಗ್ಗೆ ವಿಚಾರಣೆ ಮಾಡಿ ಸ್ಥಳಕ್ಕೆ ಹೋಗಿದ್ದೀರಾ ಎಂದರೆ ಸಾಕ್ಷಿಯು ಇಲ್ಲ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ಅದೇ ರೀತಿ ನಿಪಿ-1 ದೂರು ನೀಡುವ ಪೂರ್ವದಲ್ಲಿ ಆರೋಪಿ ಪರ್ಯಾಯದಿಂದ

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ಮನೆಗೆ ಹೋಗಿ ಬರುವುದನ್ನು ನೋಡಿದ್ದೇವೆ ಎಂಬ ಬಗ್ಗೆ ಯಾರದರೂ ಸಾಕ್ಷಿದಾರರನ್ನು ವಿಚಾರಣೆ ಮಾಡಿದ್ದೀರಾ ಎಂದರೆ ಸಾಕ್ಷಿಯು ನನ್ನ ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಆ ಬಗ್ಗೆ ತನಿಖೆ ಮಾಡಿಲ್ಲ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ಅದೇ ರೀತಿ ಆರೋಪಿ ಪರ್ಯಾದು ದಾರರಿಂದ 3 ಲಕ್ಷ ಹಣ ಪಡೆದ ಬಗ್ಗೆ ವಿಚಾರಣೆ ಮಾಡಿರುತ್ತೇನೆ. ಆ ಬಗ್ಗೆ ಆರೋಪಿ ತನ್ನ ಸ್ವಇಚ್ಛಾ ಹೇಳಿಕೆಯಲ್ಲಿ ಹೇಳಿರುತ್ತಾರೆ. ನನ್ನ ಮುಂದೆ ಆರೋಪಿ ಪ್ರಾಸಾ-1 ರವರಿಂದ ದುಡ್ಡು ಪಡೆದ ಬಗ್ಗೆ ಆತನ ಸ್ವಇಚ್ಛಾ ಹೇಳಿಕೆಯಲ್ಲಿ ಹೇಳಿಲ್ಲ ಎಂದರೆ ಸರಿ. ದಿ.17-05-2023 ರಂದು ತನ್ನ ಗಂಡ ಮನೆಯಲ್ಲಿ ಇಲ್ಲದೇ ಇದ್ದ ಸಮಯದಲ್ಲಿ ಆರೋಪಿ ಬಂದು ಹಠ ಸಂಭೋಗ ಮಾಡಿರುತ್ತಾನೆ ಎಂದು ತಿಳಿಸಿದ್ದು, ಸದರಿ ವಿಚಾರದ ಬಗ್ಗೆ ಯಾರಾದರೂ ಅಕ್ಕ ಪಕ್ಕದವರು ನೋಡಿದ್ದಾರಾ ಎಂಬ ಬಗ್ಗೆ ವಿಚಾರಣೆ ಮಾಡಿ ಸಾಕ್ಷಿದಾರರನ್ನಾಗಿ ಮಾಡಿದ್ದೀರಾ ಎಂದರೆ ಸಾಕ್ಷಿಯು ಅಗತ್ಯತೆ ಕಂಡು ಬಂದಿಲ್ಲ ಕಾರಣ ಪರ್ಯಾದಿ ಹೇಳಿರುತ್ತಾರೆ. ಆರೋಪಿಯನ್ನು ದಸ್ತಗಿರಿ ಮಾಡಿದ ನಂತರ ಆತನನ್ನು ಸ್ಥಳಕ್ಕೆ ಕರೆದುಕೊಂಡು ಹೋಗಿರುವುದಿಲ್ಲ. XXXX ಅಮಾನತ್ತು ಪಡಿಸಿಕೊಂಡಿದ್ದ ಮೊಬೈಲ್ ಫೋನ್ ನಲ್ಲಿ ಆರೋಪಿ ಮತ್ತು ಪ್ರಾಸಾ-1 ರವರಿಗೆ ಸಂಬಂಧಿಸಿದ ಯಾವುದೇ ಅಶ್ಲೀಲ ಚಿತ್ರ ಮತ್ತು ವಿಡಿಯೋ ಇರಲಿಲ್ಲ. ಆ ಬಗ್ಗೆ ವರದಿಯಲ್ಲೂ ಸಹ ಅಶ್ಲೀಲ ಚಿತ್ರ ಮತ್ತು ವಿಡಿಯೋ ಇಲ್ಲ ಎಂದು ಕಂಡು ಬಂದಿದೆ ಎಂದರೆ ಸರಿ. XXXXXನಾನು ಸೆನ್ ಪೋಲಿಸ್ ಠಾಣೆಯ ಹೆಚ್ .ಸಿ ಕೃಷ್ಣಪ್ಪ ರವರ ಹೇಳಿಕೆ ಪಡೆದುಕೊಂಡಿರುವುದಿಲ್ಲ ಕಾರಣ ನನಗೆ ಅಗತ್ಯತೆ ಕಂಡು ಬರಲಿಲ್ಲ.

30. Similarly, in the cross examination of PW.17 M.Srinivas, the another Investigating Officer deposed as follows;

ನಿಪಿ-14 ಮತ್ತು ನಿಪಿ-15 ನ್ನು ಪಡೆಯುವ ಪೂರ್ವದಲ್ಲಿ ನಿಪಿ-10 ಕಡತದಲ್ಲಿ ಇತ್ತಾ, ಎಂದರೆ ಸಾಕ್ಷಿಯು ಇತ್ತು ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ಸುಮ ನರ್ಸಿಂಗ್ ಹೋಂ. ವೈದ್ಯರು ನೀಡಿದ್ದ ವರದಿ ಆಧಾರದ ಮೇಲೆ ನೊಂದ ಮಹಿಳೆಯ ಮುಂದುವರೆದ ಹೇಳಿಕೆಯನ್ನು ನಾನು ಪಡೆದುಕೊಳ್ಳಲಿಲ್ಲ.

Moreover, as per the Ex.D.1 letter issued by Suma Nursing Home, Chintamani in relation to this case Smt. Shashikala W/o Manjunath had not taken any treatment or admitted in their hospital, therefore, the

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testimony of PW.1 and PW.16 not corroborated with the document and clear contra to the version of the prosecution.

31. The defence of the learned counsel is that, there is a dispute between the husband of the PW.1 and accused father with regard to passing of the road, same is admitted by the PW.1 in her cross examination that "The father of the accused complained to the Panchayat against her husband regarding the said road. Her husband claimed the said road as his land. There was a commotion about this. The father of the accused filed a complaint against them regarding this." Same can be viewed in the cross examination of PW.16 and due to this, there was a animosity between the accused and the husband of PW.1 by using her has filed false case against the accused alleging the aforesaid offences. Further, as seen from the evidence of PW.1 till lodging of the complaint, she was not disclosed of the act of the accused to anything including her husband or her family members. This falsifies the case of the prosecution, thus creates a doubt in the mind of the Court about the alleged rape committed by the accused.

32. Apart that, on going through the entire evidence of PW.1 indicate that, if at all there was a threat, definitely she would have disclosed the same with her husband or her family members or friends


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Further, the conduct of the PW.1 with the husband, seems to be normal. As admitted by PW.1 during her cross-examination, the repeated sexual intercourse for a considerable period was not disclosed by the prosecutrix to anybody till the alleged incident and amidst peculiar circumstance of the case, the evidence of the prosecutrix she did not lodged the complaint and non disclosure of the repeated sexual intercourse between the accused and victim is quite evident to hold that, it was consensual sex but, not the forcible intercourse or rape. Having regard to the factual discussion I am inclined to hold that, the case of the prosecution stands improbablized as the evidence on record neither constitute the essential ingredients of Section 376 of IPC. Therefore, I do not find any hesitation to say that, the prosecution has become unsuccessful to bring home the guilt of the accused for the alleged offences beyond all reasonable doubts. In other words, the accused entitled for acquittal on the ground of benefit of doubt. Therefore with these findings, I am constrained to answer **Point No.1 to 5 in the Negative.**

33. **POINT No.6:** In view of my finding on Point No.1 to 5 in the negative, I pass the following:-


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ORDER

Acting under Section 235(1) of Cr.P.C., the accused is acquitted of the offences punishable under Sections 448, 376(2)(n), 506, 323 and 354 of the Indian Penal Code.

The bail bond of the accused shall stand canceled forthwith.

The incriminating materials marked at M.O. 1 to M.O.25 being worthless are ordered to be destroyed after the completion of appeal period.

Since the alleged victim - (PW.1) and other prime witnesses have not adduced sufficient evidence to establish the alleged offences, PW.1 is not entitled for victim compensation U/Sec.357-A of Cr.P.C.

(Dictated to the Stenographer directly on computer, typed by him corrected and then pronounced by me in Open Court on this the 25th day of April, 2026)


(Kantharaju S.V.)

II Additional District & Sessions Judge,
Chikkaballapura, Sitting at Chinamani.

:ANNEXURE:**WITNESSES EXAMINED FOR THE PROSECUTION:**

PW.1	:	Shashikala
PW.2	:	Narasimhamurthy
PW.3	:	Praveena
PW.4	:	Roshan


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PW.5 : Ramaiah
PW.6 : Byrareddy
PW.7 : Shankar
PW.8 : Prabhu
PW.9 : Channakeshava
PW.10 : Dr.Bhavana
PW.11 : Dr.Vishwas
PW.12 : Dyavappa
PW.13 : Bhuvaneshwari
PW.14 : Krishnappa
PW.15 : G.M.Lokesh
PW.16 : Manjunath
PW.17 : M.Srinivas
PW.18 : Nandakumar.B.S

WITNESSES EXAMINED FOR THE DEFENCE: -

Nil.

DOCUMENTS MARKED FOR THE PROSECUTION:

Ex.P.1 : Complaint
Ex.P.1(a) (b) : Signature of PW.1, PW14
Ex.P.2 : Spot Mahazar
Ex.P.2(a) to (d) : Signature of PW.1, PW.4, PW5, PW18
Ex.P3 : 164 Statement
Ex.P.3(a) : Signature of PW.1
Ex.P.4 : Statement of PW21
Ex.P.5 : Statement of PW3
Ex.P.6 : Statement of PW4
Ex.P.7 : Statement of PW5


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Ex.P.8	:	Mobile seizure mahazar
Ex.P.8(a) to (c)	:	Signature of PW6, PW7 & PW18
Ex.P.9	:	Mobile phone recovery mahazar
Ex.P.9(a) to (c)	:	Signature of PW8, PW9 & PW28
Ex.P.10	:	Medical report of Victim
Ex.P.10(a)	:	Signature of PW10
Ex.P.11	:	Opinion of PW10
Ex.P.11(a) & (b):	:	Signature of PW10 and PW17
Ex.P.12	:	Impotency report
Ex.P.12(a)	:	Signature of PW11
Ex.P.13	:	House list extract
Ex.P.13(a)	:	Signature of PW12
Ex.P.14	:	FSL report
Ex.P.15	:	Sample seal
Ex.P.16	:	FIR
Ex.P.16(a)	:	Signature of PW14
Ex.P.17	:	Report
Ex.P.17(a)	:	Signature of PW15
Ex.P.17(b)	:	Signature of PW18
Ex.P.18	:	Covering letter
Ex.P.18(a)	:	Signature of PW17
Ex.P.19	:	Summoning letter
Ex.P.19(a)	:	Signature of PW17
Ex.P.20	:	Photo
Ex.P.21	:	Certificate under section 65B of Indian Evidence Act
Ex.P.21(a) & (b):	:	Signature of PW10 and CW18


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Ex.P.22	:	Photo
Ex.P.23	:	Rough spot sketch
Ex.P.23(a)	:	Signature of PW18
Ex.P.24	:	Covering Letter
Ex.P.24(a)	:	Signature of PW18
Ex.P.25	:	House list extract
Ex.P.25(a)	:	Signature of PW18
Ex.P.26	:	Acknowledgment
Ex.P.26(a)	:	Signature of PW18
Ex.P.27	:	Report
Ex.P.27(a)	:	Signature of PW18
Ex.P.28	:	Request letter
Ex.P.28(a)	:	Signature of PW18
Ex.P.29	:	Acknowledgment
Ex.P.29(a)	:	Signature of PW18
Ex.P.30	:	Report

DOCUMENTS MARKED FOR THE DEFENCE: -

Ex.D1	:	Suma Nursing home document
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MATERIAL OBJECTS MARKED FOR PROSECUTION:-

M.O.1	:	Orange colour chudidhar
M.O.2	:	Green colour pant
M.O.3	:	Green colour Duppata
M.O.4	:	Petticoat
M.O.5	:	Pant
M.O.6	:	Bra
M.O.7	:	Mobile phone


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M.O.8	:	Scalp hair
M.O.9	:	Head hair
M.O.10	:	Nail scarpings
M.O.11	:	Nail clippings
M.O.12	:	Oral swab
M.O.13	:	Two Valval swab
M.O.14	:	Two Vaginal swab
M.O.15	:	Two Anal swab
M.O.16	:	Vaginal smear
M.O.17	:	Vaginal washing
M.O.18	:	Urethral swab
M.O.19	:	Public hair
M.O.20	:	Swab
M.O.21	:	Nail clipping
M.O.22	:	Violet under wear
M.O.23	:	Violent Baniyan
M.O.24	:	White full shirt
M.O.25	:	Cement colour pant
M.O.26	:	Swab from Tip of pennis


(Kantharaju S.V.)

II Additional District & Sessions Judge,
Chikkaballapura, Sitting at Chinamani.