

KACM010029172023



**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE AT CHIKKAMAGALURU**

Dated this the 6th day of July, 2026

PRESENT

Sri. RAVINDRA HEGDE, M.A., LL.M.,
Prl. District & Sessions Judge,
Chikkamagaluru

CRIMINAL APPEAL No.215/2023

APPELLANT

State by N.R. Pura police
(Reptd.by Public Prosecutor,
Chikkamagaluru)

-Vs-

RESPONDENT:

Sri. Kumara Naika,
S/o. Rama Naika
ASI, Aged about 45 years,
N.R.Pura Police station,
Native of V.L Nagar, Kadur,
Chikkamagaluru District.
(Rep. By Sri: BMLG., Adv.)

ORDER

This appeal is filed by the State under section 378 of Cr.P.C. challenging the judgment of acquittal dt: 28.07.2023 passed in C.C. No. 662/2018 by the Civil Judge and JMFC, N.R.Pura (for short Trial Court), acquitting the accused for the offences punishable under Sections 354(A)(i)(ii), 323, 506 and 509 of IPC.

2. The appellant is the complainant/State and respondent is the accused. For the sake of convenience, parties are referred to by their respective ranks as appeared before the trial court.

3. The C.P.I, N.R. Pura circle submitted charge sheet against the accused for the offences punishable under Sections 354(A)(i)(ii), 323, 506 and 509 of IPC alleging that on 23.03.2018 at about 2.00 p.m., at Kanuru village, accused had visited the house of CW.1 for the purpose of collecting information with respect to election. It is alleged that when CW.1 signed the relevant document and was returning the pen, accused caught hold of her hand, pulled her towards him, made unwelcome advances and explicit sexual overtures by asking her for a kiss. During the incident, the accused allegedly held her hands and caused simple injuries near both wrists with his fingernails and thereby accused attempted to outrage the modesty of CW.1. It is alleged that CW.1 managed to escape from the accused and came out of the house, accused again gestured to her and called upon

her to cooperate in sexual activity and when she resisted, accused allegedly gave her life threat if she were to disclose the incident to anyone and thereby committed the aforesaid offences.

4. After taking cognizance, trial Court issued summons to the accused, who appeared through his counsel and pleaded not guilty. The prosecution in order to prove its case, got examined 13 witnesses as PWs 1 to 13, got marked 18 documents at Ex.P1 to P18. During the course of prosecution evidence, accused got marked Ex.D1 and D2 in the statement of PW.4 and PW.9 respectively.

5. After completion of the evidence of prosecution, statement of accused under section 313 Cr.P.C. was recorded and accused denied all the incriminating circumstances appeared against him in the evidence of the prosecution. He has not lead any defence evidence .

6. Trial Court after hearing learned A.P.P and learned counsel for the accused, acquitted the

accused of the alleged offences vide impugned judgment dt: 28.7.2023.

7. Being aggrieved by the said judgment, State has preferred present appeal on the ground that the impugned judgment is not maintainable either in law or on facts. The trial court has failed to properly appreciate the oral and documentary evidence while acquitting the accused. It is stated that PW.1/complainant had consistently supported the prosecution case and there was no material to suggest any motive for falsely implicating the accused. It is stated that Trial Court failed to appreciate that the incident had occurred within a private premises where the availability of independent eyewitnesses was naturally limited. The Court also overlooked the fact that PW.1, a married woman, had no reason to lodge a false complaint at the cost of her dignity and reputation and that the complaint was lodged promptly after the incident, ruling out any possibility of fabrication. It is stated that the testimony of PW.1 stood corroborated by the medical evidence of PW.6,

the prompt medical treatment received by the victim, evidence of the mahazar witness, circumstantial witnesses, official witnesses and the investigating officers. It is stated that trial court has not properly appreciated the evidence of PW.2 to 13 in its right perspective and come to a wrong conclusion in acquitting the accused. It is stated that the impugned judgment of acquittal passed by the trial court is erroneous, perverse and liable to be set aside and prayed to convict the accused.

8. Pursuant to service of notice, respondent/accused appeared through his counsel and resisted the appeal.

9. Along with the appeal, appellant has filed I.A.No.I under Sec.5 of the Limitation Act, seeking condonation of delay of 29 days in preferring the present appeal and the same was allowed by this Court vide order dt: 27.6.2024 by condoning the delay in preferring the appeal.

10. Trial Court record secured.

11. Heard both sides and perused the record.

12. Now, the points that arise for my consideration are :

(1) Whether the trial Court has not properly appreciated the evidence on record and came to wrong conclusion that the prosecution has not proved the guilt of the accused?

(2) Whether the impugned judgment of acquittal passed by trial Court is illegal, erroneous and calls for interference by this court?

(3) What Order?

13. My answer to above points are:

Point No.1: In the negative

Point No.2: In the negative

Point No.3: As per final order for the following.-

REASONS

14. **Points No.1 and 2:** Both these points are taken together for discussion, to avoid repetition.

15. This is the appeal preferred by the appellant/State challenging the judgment of acquittal

passed by the trial court, acquitting the accused for the offences punishable under section 354(A)(i)(ii), 323, 506 and 509 of IPC.

16. The prosecution case, in brief, is that on 23.03.2018 at about 2.00 p.m., accused visited the house of CW.1 at Kanuru Village for the purpose of collecting information relating to the election. It is alleged that after CW.1 signed the relevant document and was returning the pen, accused caught hold of her hand, pulled her towards him and made unwelcome sexual advances and explicit sexual overtures by asking her for a kiss. It is further alleged that the accused held both her hands and caused simple injuries near her wrists with his fingernails, thereby attempting to outrage her modesty. According to the prosecution, CW.1 managed to escape from the accused and came out of the house, but the accused again gestured towards her and asked her to cooperate in sexual activity. When she resisted, accused allegedly threatened her with dire consequences if she disclose the incident to anyone and thereby committed the aforesaid offences.

17. Before the Trial Court, the prosecution in order to prove its case, has got examined PWs 1 to 13, got marked Ex.P1 to P18 documents. During the course of prosecution evidence, accused got marked Ex.D1 and D2.

18. The complainant has given evidence as PW1, wherein she has stated that PW3 is her husband and PW11 is her brother. She has stated that her husband is working as driver and children are going to school. She has stated that on 23.03.2018 her husband had gone to Udupi on his work and children had gone to school and she was alone in the house. She has stated that in front of the gate of their house, there is a Anganavadi. She has stated that at about 01.30 pm she has seen 2 to 3 police persons standing near the Anganavadi and she thought that they have come for some work and she was doing her work in the house after closing the door. At about 2.00 p.m, she has seen the accused coming towards her house by opening the Gate. She has stated that accused was known to her as he had earlier come

there in connection with their dispute with neighbour Vijay. By seeing accused coming she opened the door and came outside. She has stated that Accused by informing that he has come in connection with the election, has removed his shoe and came inside the house and told her that he is collecting information regarding the election and she has to sign. She has stated that she also came inside the house and saw the papers in which PW9 had already signed and then she signed those papers by keeping it on the table in the corner of the hall and when she was returning the paper, accused caught hold of her both hands and pulled and asked her to give a kiss and to co-operate for sex. Then she came out of the house by pushing the accused and while getting herself free from the accused, the nails of the accused have caused injuries to her and when she came out of the house, accused was still inside the house and he made signal to her to come inside and also told that as he had helped them in the previous dispute regarding the compound, she has to hear his words. She has stated that when she told that she would inform this incident to her

husband and brother, the accused has given her life threat. She has stated that as her husband had gone to Udupi, she talked to him immediately after incident over phone and on his return, after discussing with him, she the lodged the complaint as per Ex.P1. She has stated that police took her to the hospital wherein she has been treated. She has also stated that on 25.03.2018 police came to the spot and drawn the mahazar and took photographs. She has also stated that she was taken to Magistrate and before the learned Magistrate, she has given statement as per Ex.P3 and explained the incident.

19. In the cross examination for the accused, PW.1 has stated that her mother's house is at a distance of about 1.00 km from her house. She has stated that the Anganavadi which is in front of her house after the road was open on that day and PW9 Anganvadi teacher was present on that day. She has denied that from the Anganavadi, any person coming to her house could be seen and she has stated that only if seen from the windows of the Anganavadi, one

can see the person coming to their house. She has stated that there were two police and 2-3 persons and she cannot say who are those persons. She has stated that as neighbours had gone for work, nobody was present in the neighbouring houses. She has stated that in respect of compound, there was a quarrel with neighbour Vijay about one year back and on that incident complaint was also given. She has stated that they had given the complaint and she has admitted that the accused had enquired and has solved the issue. She has stated that when the accused had come regarding that incident, he had not misbehaved with her. She has stated that when she came out of the house after the incident, she has not informed about the incident to anyone and has also not informed Anganavadi teacher and she has informed about the incident only to her husband. She has stated that she was informed that PW4 who is a cook at the school for mid day meals has seen the accused coming to her house. She has stated that she was not aware about this earlier and therefore she has not mentioned the same in the complaint. She

has said that when the accused went inside the house and made a sign to her to come inside, she has not informed to the school teacher and also Anganavadi teacher. She has stated that she has seen that area and found that there were no other persons. She has admitted that she had no difficulty to go near Anganvadi but she feared about her dignity. She has stated that PW13 Ravi is brother of her husband. The witness has stated that she came to the police station at around 8.30 to 09.00 p.m. along with her husband and PW.13 . She has stated that before they going to police station, Dy.S.P, Koppa had come near the house at about 07.00 p.m. after her husband came and asked about the incident. She has stated that at that time no writing was made. The witness has stated that she has not mentioned about visit of Dy.S.P in her complaint. She has said that she was there in the police station upto 12.30 to 01.00 p.m. Questions are asked about Ex.P5 statement given by her before the magistrate. She has admitted that she has stated in her statement that accused has told her that neighbours have given complaint against her and he

has come to enquire about the same. The same is not mentioned in the complaint given to the police. She has stated that in Ex.P5, she has mentioned that her brother has made a call to SP of Chikmagalur. She has stated that SP has not enquired her. She has admitted that no one is knowing about accused coming inside her house and going out of the house. She has stated that as it was in the afternoon, nobody has seen her. She has stated that except to her husband, she has not informed about the incident to anyone. The witnesses has admitted that they had encroached the land belonging to Vijay and had put up fence and regarding this there was a dispute between them and accused had come and settled the matter. The witnesses has denied that as they had encroached the land belonging to Vijay and put up fence and this accused by getting the property measured made them to remove the encroachment, she is having enmity towards the accused. She has denied that no such incident has taken place.

20. PW.4 Vijay is stated to be the witness who has seen the accused going towards the house of PW.1. He has stated that on 23.03.2018 when he was in the school wherein he is working as a cook, accused had come near the school at about 01.30 p.m., in connection with the election matter and stated that even CW6 and CW9 were present. He has stated that the accused by opening the gate of the house of PW1 which is in front of the school has gone inside. He has said that later he came to know about the incident in which the accused is said to have misbehaved with PW1 and regarding that PW1 has given complaint. In the cross-examination for the accused, he has stated that he is working in the school from about 14 years and he has stated that accused came near the school at about 2.00 p.m. He has stated that accused has not taken their signature and he has seen the accused going till the gate of the house of PW1. He has stated that he came to know about the complaint given by PW1 in the night at 09.00 p.m. He has admitted that the SP of Chikamagaluru had called him for enquiry and he has

given statement before by him as per Ex.D1 which was confronted to him.

21. PW.3- Deepak is husband of the complainant and he has stated that he was informed by PW1 at about 02.15 p.m., on 23.03.2018 about accused misbehaving with her. He has stated that on the said day in the evening at about 07.00 p.m. he came back and discussed with PW1 and also his brother CW7. He has stated that he was informed by PW1 about the incident which took place at about 02.00 p.m. He has stated that then they all went to police station and lodged complaint and PW1 has taken treatment in the hospital. In the cross-examination, PW.3 has stated that earlier there was dispute about the encroachment made by them while putting the gate in the property of Vijay and the accused by getting the property measured has resolved the dispute by getting fence erected between the properties. He has stated that between 2.00 to 2.15 p.m, he has received call from PW.1 and stated that he came around 5.45 to 06.00 p.m. to the house

and stated that before that, she had informed about the incident to her mother.

22. PW.13-Ravi is the brother of PW3, who has stated that at about 02.30 p.m. on 23.03.2018, PW1 has made a phone call to him and stated about accused misbehaving with her and has stated that PW1 has informed him that her husband had gone on duty. She has stated that on the same day he came to the house of PW1 and by that time PW3 had also come and then she again explained about the incident and then after discussion, PW1 has given the complaint. In the cross-examination, he has admitted that he has not seen the incident. He has said that there is one house on the side of the house of PW1. He has stated that he do not know whether PW1 has informed her parents about the incident.

23. PW.9 Kalavathi is teacher of Aanganvadi which is in front of the gate of the house of the complainant. PW9 has stated that the accused had come to make enquiry regarding any electoral issues like corruption and she had signed the said document.

She has stated that on the next day, she came to know about the incident in which the accused entered the house of PW1 and misbehaved with her. In the cross-examination, she has admitted that the Police Inspector had called her to Chikkamagaluru for enquiry wherein she has stated that the gate of the house of PW1 was locked and her statement was confronted to her and on she admitting the same, it is marked as Ex.D2. PW.11 -Vinod is the relative of PW1 who has stated that he came to know about the incident after 2 days.

24. PW.2- Rathnakara is witness to the mahazar, who has stated about drawing of mahazar on 25.03.2018. In the cross-examination, he has stated that himself and CW3 were near the bus stand and the police had called them and then they went and mahazar was drawn in their presence and photo was also taken.

25. PW.5-Srinivas is the PDO who has given report as per Ex.P7 regarding the house of PW.1. PW.6-Dr.Ramachandrappa has given evidence

regarding the wound certificate given as per Ex.P8 on treating PW.1.

26. PW.7-Lakshmangowda is the Head Constable who has stated that on 23.3.2018 the PSI had deputed the accused for collecting pre-election information and accused had gone to Keremane Village for collecting the information and had gone to the house of PW1 for taking the signature. He has stated that regarding the incident alleged by PW1 complaint was given and has stated that the file pertaining to information collected by the accused regarding the election he has produced the same as per Ex.P9 and P10. He has stated that the accused had taken signature of the villagers on that report.

27. PW.10 -Balasubramanya is the Sector Officer for eight booths, with regard to 2019 Election and stated that accused was also deputed with him. He has stated that on 23.03.2018 he was appointed as a nodal officer for conducting Gramasabha in Kanoor Village and in this regard, accused by stating that he will get information from other place had gone and

later in the evening he gave the report and said report is at Ex.P10. He has stated that later he came to know about the incident from some other persons. He has stated that he cannot identify the accused.

28. PW.8 – Sudhakar, PSI has stated about registering against the accused in Crime No.34/2019, at 11.00 p.m, on receiving complaint. he has also stated that he has arrested the accused and produced him before the Magistrate. PW.12 Jagannath is the I.O who has stated about the investigation done in the case and submission of the charge sheet.

29. Ex.P1 is the complaint and Ex.P11 is the FIR. The mahazar drawn at the spot is produced at Ex.P2 and the photos taken at the time of mahazar are marked as Ex.P3 and P4. The statement of PW1 given before the learned Magistrate is marked as Ex.P5. The report of the PDO, stating that there is no records in the office regarding the house standing in the name of the PW1 or her husband is marked as Ex.P7. The wound certificate is marked as Ex.P8. The notice and the report submitted by the accused in

respect of the work entrusted to him regarding election are marked as Ex.P9 and P10. The CDR is marked as Ex.P15. Ex.P16 to P18 are the documents pertaining to earlier dispute between the family of the complainant and their neighbour regarding encroachment and putting of fence regarding which complaint was given and accused is stated to have enquired and resolved the issue. The statement given by PW4 and PW9 in D.E. against the accused are marked as Ex.D1 and D2 by confronting to these witnesses.

30. On looking to all these materials produced by the prosecution before the trial court, PW.1 complainant is the only witness to depose about the incident. Other witnesses viz. her husband -PW.3, her husband's brother PW.13 and her relative PW.8 are all the witnesses who have heard about the incident from PW.1. After the alleged incident, PW1 is stated to have informed her husband PW3 at about 2.00 to 02.15 p.m since he was not in Town and he came only in the evening. After discussing with PW3 and also

PW13, the complainant is said to have gone to the police station and then lodged complaint as per Ex.P1 at about 10.00 p.m. PW.3 in his cross examination has stated that he came to the house by 5.45 to 6.00 p.m. and PW1 has stated that he came around 7.45 p.m. PW1 in her cross -examination has stated about Dy.S.P visiting her house after her husband coming back to the house. In the cross-examination, PW1 has stated that she has informed about the incident to Dy.S.P when he came at about 7.00 p.m. to the house but no writing was made. Therefore though the Dy.S.P had come to the house of PW1 on the same day evening at about 07.00 p.m. and the incident was also explained to him, no formal complaint was taken and registered immediately. Since higher officer Dy.S.P had also visited the house of PW1 as per her evidence and she has also stated about the same in her statement even before the learned Magistrate as per Ex.P5, delay in registering of the complaint and lodging FIR at 22.00 p.m. raises doubt. Since Dy.S.P had visited the house and incident was informed to him, immediately complaint could have been

registered. PW1 in her statement given before the learned Magistrate as per Ex.P5 has stated that her brother had informed the SP of Chikmagaluru over phone about the incident. In the cross examination, she has stated that it is not her elder brother, but it is the elder brother of her husband who is Ravi i.e. PW13. However PW13 has not stated anything about he informing the SP of Chikmagaluru about the incident. At the same time the evidence of PW1 discloses that on the say of SP, Dy.S.P has visited their house, with whom she has informed about the incident. With all these, there is considerable delay in lodging the complaint. The incident is stated to have taken place at 2.00 p.m. and the complainant has informed her husband at about 2.15 p.m. and she has informed about the incident to her husband's brother PW13 who made a phone call to SP, Chikmagaluru and after that the Dy.S.P , Koppa had visited the house of PW1 and the incident was informed to him still the formal complaint is registered only at 10.00 p.m. Therefore, there was

sufficient scope for making improvement while giving complaint.

31. As stated above, PW.1 is the only witness to the incident. As rightly argued by the learned Public Prosecutor, as the incident is said to have taken place inside the house of PW1 and her husband and children were also not there in the house and she was alone, there cannot be any other witness who could see the incident. However, this accused is known to PW1 and also her husband. It is stated by PW1 that she know the accused as he had earlier resolved their dispute with the neighbour regarding encroachment and putting up fence.

32. PW1 has stated that two policemen had come and they were standing in front of the school and only accused came by opening the gate and when she also came out, the accused by removing his shoe has entered inside the house and then asked her to sign on the paper and when she signed and was giving it back, the accused pulled her hands and made some unwanted movements etc. and then she came out.

However, the evidence of PW4 shows that he has seen the accused entering the house of PW1. If that is so, when PW1 came out of the house, after misbehaviour of the accused, this PW4 would have seen the PW1 coming out of the house as the incident did not take much time and it was within few minutes. Moreover, PW1 has admitted that earlier this accused had come to the spot with regard to their previous complaint regarding encroachment and putting fence etc. and the dispute with the neighbour and at that time the accused had not misbehaved with her. The accused is aged about 48 years at the time of the incident and is working as ASI and appears to have put in considerable years of service in the police department. The prosecution has not placed any material to show any previous such conduct of the accused in discharge of his duties. It is stated that Departmental Enquiry was also conducted against the accused. The result of such enquiry is also not made known to the court. In the said Departmental Enquiry, this PW4 and PW9 are stated to have given statement as per Ex.D1 and D2. PW4 has stated in his statement

at Ex.D1 that he does not know the accused and said that if he was knowing him, he would have talked to him on 23.03.2018 itself. In Ex.D1, he has not stated about the accused going to the house of PW1. In the statement given by PW9 as per Ex.D2, she has stated that the accused had come to collect information and he has asked her to put signature regarding his visit and she has put the signature and she has stated that the accused asked her as to whether anybody is there in the opposite house and she told that the gate is locked and there is no one. So the presence of PW1 in the house itself on that day is not stated by PW9 in her statement given in the departmental enquiry against the accused.

33. There is only evidence of PW1 with regard to the incident that is said to have taken place within the four walls of the house. PW1 not giving complaint immediately and even after coming out of the house not screaming for help or not complaining about this incident or against the accused immediately before the persons present there in the Anganwadi or the

school raises doubt about the happening of the incident stated in the complaint. Moreover, as stated by PW1, accused is known to them and he had earlier resolved their dispute. However, the evidence of PW1 and also her husband PW3 show that PW1 and her husband had encroached the land of their neighbour Vijay and in that regard, accused had come to the spot and measured the property and made them to remove the encroachment. It is suggested to PW1 that regarding this, she was having enmity with the accused. Though the witnesses have denied the said suggestion, possibility of any such enmity cannot be ruled out, as complainant was made to part with a portion of the property which is stated to have been encroached and the gate was fixed and accused by measuring the property, is stated to have resolved the issue and got removed the encroachment. Therefore, only on the evidence of PW1, in the facts and circumstances of the present case, allegation against the accused is not established beyond reasonable doubt. The evidence of other witnesses regarding the mahazar drawn and other part of the investigation

would be relevant only if the happening of the incident as stated by PW1 could be accepted. For the reasons stated above, the prosecution has failed to establish the happening of the incident through the only witness PW1.

34. By looking to the fact that the PW1 is a Public Officer who has put in considerable years of service and there are no such materials placed before the court to show any such previous incidents against this Public Servant, the evidence of PW1 is to be carefully considered. Even as admitted by PW1 in the previous incident though PW1 had enquired and resolved the issue, there is no allegation about such misbehaviour against him in the previous incident. On considering all these aspects, the prosecution has failed to establish the happening of the incident as stated in the complaint beyond all reasonable doubt.

35. The trial Court by considering all these has come to right conclusion that the charge levelled against the accused is not proved beyond reasonable doubt and as such accused is entitled for acquittal

and accordingly acquitted the accused. Now in the present appeal also on re-appreciation of entire evidence on record, this Court could not come to a different conclusion than the conclusion to which the trial Court had arrived.

36. The learned counsel for the respondent/accused has relied on the decision of the Division bench of Hon'ble High Court of Karnataka reported in **2026(2) KCCR 1213 (DB) between State of Karnataka versus Vasu**. In this decision, the Hon'ble High Court has considered a decision of the Hon'ble Supreme Court in **Chandrappa V. State of Karnataka, (2007)4 SCC 415**, wherein the Hon'ble Supreme Court has expounded the legal position regarding the scope of interference in an appeal against an acquittal. In the said judgment, which is quoted in the decision of the Hon'ble High Court, in paragraph 42, it is held:

" ***

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

(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”

As held in this decision, the accused is having benefit of an acquittal given by the trial Court. There is also a presumption of innocence under fundamental principles of criminal jurisprudence. Therefore, interference in such an acquittal by the appellate court could be only in deserving cases. In the present case, on re-appreciation of evidence, this Court has also found that the evidence of PW1 do not prove the commission of offence by the accused beyond reasonable doubt. As such, no grounds urged in this appeal has merit and there are no grounds to interfere with the judgment of acquittal passed by the trial Court. Accordingly, points No.1 and 2 are answered in the negative.

37. **Point No.3**: For the discussions made on above point, following order is passed:

ORDER

The appeal filed by the appellant/ State under section 378 of Cr.P.C. is dismissed.

The impugned judgment of acquittal dt: 28.07.2023 passed by the Trial Court in C.C No:662/2018 acquitting the accused for the offences punishable under Sections 354(A)(i)(ii), 323, 506 and 509 of IPC is confirmed.

Send back TCR, along with copy of this judgment.

(Typed to my dictation by Stenographer Grade-I directly on the computer, after corrections, signed and then pronounced by me in the open Court on this the 6th day of July, 2026).

Sd/-
(RAVINDRA HEGDE)
Principal District & Sessions Judge,
Chikkamagaluru.

Rag/-