IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.122 OF 2014

BETWEEN:

SATISHA @ SATHYA
S/O SUBRAMANI,
AGED ABOUT 27 YEARS, COLLIE,
R/O HOSAGANGUR VILLAGE,
TARIKERE TALUK,
CHICKMAGALUR DISTRICT-577101.
(NOW IN JUDICIAL CUSTODY)

...APPELLANT

(BY SRI. VIGNANANDHA C., ADV.)

AND:

STATE BY LINGADHALLI POLICE,
LINGADHALLI, TARIKERE TALUK,
CHICKMAGALUR DISTRICT-577101.

…RESPONDENT

(BY SRI. B. LAKSHMAN, HCGP)

THIS CRL.A IS FILED U/S 14(A)(2) OF SC/ST (POA) ACT PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION SENTENCE DATED 16.12.2013 PASSED BY THE I ADDL. DIST. AND S.J., CHIKMAGALUR IN S.C.NO.60/2010 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 417,376 AND 306 OF IPC AND ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 12.12.2025 AND COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

The appellant has preferred this appeal against the judgment of conviction and order of sentence passed by the First Additional Sessions Judge, Chikkamagaluru, in Sessions Case No. 16/2010 dated 16.12.2013.

2. The parties herein are referred to as per their rank they had before the trial Court.

3. The brief facts leading to this appeal are that, the Circle Inspector of Police, Tarikere Circle, Chikkamagaluru District laid a charge sheet against the accused for the offence under Sections 376, 417 and 306 IPC.

4. It is alleged by the prosecution that the accused is known to the family of deceased Kum. Kavitha. She fell in love with the accused Sathisha, and he promised to marry her. In that pretext, he used to have sexual intercourse with the victim frequently, as a result, she became pregnant and requested the accused to marry her, but accused refused to marry her. On frustration, the victim, being 17 years old girl lit fire herself by pouring

Kerosene committed suicide and thereby accused committed the offences punishable under Sections 376, 417 and 306 of IPC.

5. After filing the charge sheet, the case was registered in CC No.461/2010. Thereafter case was committed to the court of Sessions which was registered in SC No.60/2010. The accused was released on bail on 28.06.2010. Charges were framed against the accused for the alleged offences. Same was read over and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

6. To prove the guilt of the accused, twelve witnesses were examined as PW1 to PW12. 27 documents were marked as Exhibit P1 to PW27. Four material objects were marked as MO1 to 4. On closure of prosecution side evidence, Statement of the accused under Section 313 of Cr.PC was recorded. Accused has denied the evidence of prosecution witnesses. However, he did not choose to lead any defence evidence on his behalf.

7. Having heard the arguments of both sides, trial Court has convicted the accused for the offence was

punishable under Section 417, 376 and 306 IPC and passed a sentence for a period of 7 years for the commission of offence under Section 376 IPC with fine of Rs.5,000/-. Accused is sentenced to undergo SI for a period of 4 years for the offence under Section 306 IPC and to pay a fine of Rs. 5,000/-. The accused is also sentenced to undergo for a period of three months for the offence under Section 479 IPC. Being aggrieved by this Judgment of Conviction and Order on Sentence, the appellant has preferred this appeal.

8. The learned counsel for the appellant would submit that judgment of conviction and sentence for all the offences in virtually based on no evidence and is not in accordance with law. The attempt to commit suicide was on 25.01.2010 at 09.30 a.m. Injured was taken first Tharikere Govt. Hospital, then shifted to Mc-Gann Hospital, Shivamogga. None of the witnesses have immediately reported the matter to the police. Prosecution fails to produce any medical records from the hospital to show as to what was the history given at the time of admission of the injured to the hospital. Witnesses

to whom the injured is said to have made allegations against the appellant, have not informed the police immediately. Only after the miscarriage of the fetus, on 31.01.2010, statement of the deceased has been alleged to have taken as per Exhibit P13 on 31.01.2010. On that basis, case has been registered. This delay is not even tried to explained by the prosecution. There was no certificate by the Doctor-PW12 in whose presence Exhibit P13 is allegedly recorded to say that the deceased was in a fit to condition to give any statement when Exhibit P3 was recorded. This goes very much against the case of the prosecution. Dying declaration was therefore very suspicious and could not have been relied upon to convict the accused. The evidence of PWs1 to 6 to the complicity of the accused is too general, hearsay and untrustworthy as there are no direct witnesses to any fact. Their evidence is just conjunctures. The learned trial judge has wholly erred in accepting their evidence. Further it is submitted that the DNA report-Exhibit P22 clearly shows that appellant was not the biological father of the fetus of the deceased and this goes to the root of the matter, i.e.

the appellant and deceased were loving each other; that appellant used to have sexual intercourse with her and that he later refused to marry her. Hence, the deceased tried to commit suicide which was awaited by the appellant.

9. The learned judge has actually ignored the facts which led to the impugned judgment of conviction and has resulted in serious miscarriage of justice. The evidence about the appellant and deceased loving each other and appellant having sexual intercourse with her frequently is very bald and the learned Trial Judge has totally erred in not appreciating this fact. The investigation is defective as the reasons for delay in submitting FIR, alleged intimacy of the deceased and appellant, leading to their having sexual relationship are not investigated properly, there is no proper evidence to constitute the alleged commission of offences. On all these grounds, it is sought to allow the appeal.

10. The learned High Court Government Pleader, Sri. B. Lakshman would submit that the trial court has properly appreciated the evidence and record in its proper

perspective and there are no grounds to interfere with the impugned judgment of conviction and order of sentence passed by the trial Court and sought for dismissal of the appeal.

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

1. Whether the trial Court is justified in convicting the accused for the commission of offence under Sections 376, 417 and 306 IPC?

2. What order?

Regarding Point No.1:

12. I have examined the materials placed before this court.

13. The genesis of the case arose out of the complaint/dying declaration given by the deceased as per Exhibit P13. which reads as under:

"ನಾನು ಈ ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿರುತ್ತೇನೆ. ನಮ್ಮ ತಂದೆ ತಾಯಿಯವರಿಗೆ ಒಟ್ಟು 4 ಜನ ಮಕ್ಕಳು ಮೂರು ಹೆಣ್ಣು ಒಂದು ಗಂಡು. ನಾನು ಎರಡನೇ ಮಗಳು. ನನ್ನ ಅಕ್ಕನಿಗೆ ಅರಸಿಕೆರೆ ಶಿವಕುಮಾರ್ ರವರೊಂದಿಗೆ ಈಗ್ಗೆ ಸುಮಾರು ಎರಡು ವರ್ಷಗಳ ಹಿಂದೆ ಮದುವೆ ಮಾಡಿಕೊಟ್ಟಿದ್ದಾರೆ. ನಾನು ಹೋದ ವರ್ಷ ಅಂದರೆ 2009ನೇ ಸಾಲಿನಲ್ಲಿ ಎಸ್. ಎಸ್. ಎಲ್.ಸಿ ಪರೀಕ್ಷೆ

ಬರೆದಿದ್ದು ಗಣಿತ ಪತ್ರಿಕೆ ಫೇಲ್ ಆದ್ದರಿಂದ ಈಗ ಪುನಃ ಪರೀಕ್ಷೆ ಕಟ್ಟಿರುತ್ತೇನೆ. ಈಗ್ಗೆ ಸುಮಾರು ಎಂಟು ತಿಂಗಳ ಹಿಂದಿನಿಂದ ನಮ್ಮ ಊರಾದ ಹೊಸಗಂಗಾರು ವಾಸಿ ಸುಬ್ರಮಣ್ಯ ರವರ ಮಗ ಸತೀಶ್ ರವರೊಂದಿಗೆ ಪ್ರೀತಿಸುತ್ತಿದ್ದು ಅವನು ಸಹ ನನ್ನನ್ನು ಪ್ರೀತಿಸುತ್ತಿದ್ದ. ಹೀಗೂರುವಾಗ ನನಗೆ ಸತೀಶನು ಮದುವೆ ಮಾಡಿಕೊಳ್ಳುವುದಾಗಿ ನಂಬಿಸಿ ಆಗಾಗ್ಗೆ ಸಂಭೋಗ ಮಾಡುತ್ತಿದ್ದ. ನಾನು ಸಹ ಮದುವೆಯಾಗುವುದಾಗಿ ಹೇಳಿದ್ದನೆಂದು ನಂಬಿ ಅವನು ಹೇಳಿದಂತೆ ಕೇಳುತ್ತಿದ್ದೆ. ಕಳೆದ ವರ್ಷ 2009ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ ತಿಂಗಳ ಕೊನೆಯ ವಾರದಲ್ಲಿ ನಮಗೆ ಮುಟ್ಟಾಗಿದ್ದು ನಂತರದಲ್ಲಿ ನನಗೆ ಮುಟ್ಟಾಗಿರಲಿಲ್ಲ. ಹೊಟ್ಟೆಯೂ ಸಹ ಸ್ವಲ್ಪ ದಪ್ಪವಾಗುತ್ತಾ ಬಂದಿತ್ತು. ಈಗ್ಗೆ 18 ದಿನಗಳ ಹಿಂದೆ ನಾನು ಮನೆಯಲ್ಲಿದ್ದಾಗ ನನ್ನ ತಾಯಿ ಲಕ್ಷ್ಮಿ ರವರು ನನ್ನ ಹೊಟ್ಟೆ ನೋಡಿ ನೀನು ಈಗ ಮೂರು ನಾಲ್ಕು ತಿಂಗಳಿಂದ ನೀರು ಹಾಕೊಂಡಿಲ್ಲ ಹೊಟ್ಟೆ ಬೇರೆ ದಪ್ಪವಾಗುತ್ತಿದೆ ಏಕೆ? ಎಂದು ಕೇಳಿದರು. ನಾನು ಅವರಿಗೆ ಏನು ಉತ್ತರ ಕೊಡದೆ ಸುಮ್ಮನಾದೆ. ನಂತರ ನನಗೂ ಸಹ ಅನುಮಾನ ಬರತೊಡಗಿ ನನ್ನ ಹೊಟ್ಟೆ ದಪ್ಪವಾಗುತ್ತಿದ್ದರಿಂದ ಹಾಗೂ ವಾಂತಿ ಮಾಡುವಂತೆ ಆಗುತ್ತಿದ್ದರಿಂದ ನಾನು ಗರ್ಭಿಣಿ ಯಾಗಿರುವೆನೆಂದು ತಿಳಿದುಕೊಂಡೆನು ಈ ವಿಚಾರವನ್ನು ನಾನು ನನ್ನ ತಂದೆ, ತಾಯಿಯವರ ಬಳಿಯಾಗಲಿ ಸತೀಶ್ ನ ಬಳಿಯಾಗಲಿ ಈ ವಿಚಾರ ಹೇಳಿರಲಿಲ್ಲ. ಆದರೂ ಮನಸ್ಸು ತಾಳದೆ ಸತೀಶನ ಬಳಿ ನಾನು ಹೋಗಿ ನನ್ನನ್ನು ಆದಷ್ಟು ಬೇಗ ಮದುವೆ ಮಾಡಿಕೋ ಎಂದು ಕೇಳಿದ್ದಕ್ಕೆ ಅವನು ಮದುವೆಯಾಗಲು ನನ್ನನ್ನು ನಿರಾಕರಿಸಿದನು ಇದರಿಂದ ನನಗೆ ಮನಸ್ಸಿಗೆ ತುಂಬಾ ಬೇಸರವಾಗುತ್ತಿದ್ದು ದಿನಾಂಕ 25.01.2010ರಂದು ಬೆಳಗ್ಗೆ ಸುಮಾರು 9:30 ಗಂಟೆಯಲ್ಲಿ ನಮ್ಮ ತಂದೆ, ತಂಗಿ, ತಮ್ಮ ಹೊರಗೆ ಹೋದಾಗ ನಾನು ತಾಯಿ ಪಾತ್ರ ತೊಳೆಯಲು ಹೋದಾಗ ಮನೆಯಲ್ಲಿಟ್ಟಿದ್ದ ಸೀಮೆಎಣ್ಣೆ ಕ್ಯಾನ್ ತೆಗೆದುಕೊಂಡು ಮೈ ಮೇಲೆ ಸೀಮೆಎಣ್ಣೆ ಸುರಿದುಕೊಂಡು ಬೆಂಕಿ ಹಚ್ಚಿಕೊಂಡೆನು. ಇದರಿಂದ ನನ್ನ ತಲೆ ಕೂದಲು ಎರಡು ಕಣ್ಣು ಹಾಗೂ ಅದರ ಸುತ್ತಲಿನ ಭಾಗ ಮತ್ತು ಎರಡು ಕಾಲುಗಳ ಪಾದಗಳನ್ನು ಹೊರತು ಪಡಿಸಿ ಉಳಿದ ಶರೀರದ ಎಲ್ಲಾ ಭಾಗವು ಸುಟ್ಟು ಗಾಯವಾಗಿರುತ್ತದೆ. ನಾನು ಬೆಂಕಿ ಉರಿ ತಾಳಲಾರದೆ ಕೂಗಿಕೊಂಡಾಗ ನನ್ನ ತಾಯಿ ಓಡಿ ಬಂದು ಮೈಯಿಗೆ ನೀರು ಹಾಕಿ ಕೆಡಿಸಿದರು ಅವರು ಸಹ ಕೂಗಾಡುತ್ತಿದ್ದರಿಂದ ಪಕ್ಕದ ಮನೆ ಅಣ್ಣಪ್ಪ, ಮಾವ ಮಹೇಶ, ಚಿಕ್ಕಮ್ಮ ಮಂಜುಳಾ ಹಾಗೂ ಊರಿನ ಜನರು ಬಂದರು. ನನಗೆ ತಾಗಿದ್ದ ಬೆಂಕಿ ನಂದಿಸಿ ತರೀಕೆರೆ ಆಸ್ಪತ್ರೆಗೆ ಸೇರಿಸಿದ್ದು ಅಲ್ಲಿಂದ ಶಿವಮೊಗ್ಗ ಮೆಗನ್ ಆಸ್ಪತ್ರೆಗೆ

ಚಿಕಿತ್ಸೆಗೆ ಸೇರಿಸಿರುತ್ತಾರೆ ನಾನು ಚಿಕಿತ್ಸೆ ಪಡೆಯುತ್ತಿರುವಾಗ ದಿನಾಂಕ 30 1 2010 ರಂದು ಸಂಜೆ 5:30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಾನು ಧರಿಸಿದ್ದ ಗರ್ಭವ ಹೊರ ಹೋಗಿರುತ್ತೆ ಆಗ ವೈದ್ಯರು ನಮ್ಮ ತಂದೆ ತಾಯಿಯವರಿಗೆ ವಿಚಾರ ತಿಳಿಸಿದ್ದು ನಮ್ಮ ತಂದೆ ತಾಯಿಯವರಿಗೆ ನಾನು ಮೇಲಿನ ವರ್ಗ ಅಂದರೆ ನಮ್ಮ ಊರಿನ ಸತಿ @ ಸತೀಶ್ ಈತನೊಂದಿಗೆ ಪ್ರೀತಿ ಮಾಡುತ್ತಿದ್ದು ಆ ಸಂದರ್ಭದಲ್ಲಿ ನನಗೆ ಮದುವೆ ಮಾಡಿಕೊಳ್ಳುವುದಾಗಿ ನಂಬಿಸಿ ಸಂಭೋಗ ಮಾಡುತ್ತಿದ್ದನೆಂದು ಹಾಗೂ ನಮ್ಮಿಬ್ಬರಲ್ಲೂ ದೈಹಿಕ ಸಂಬಂಧ ಇರುವ ವಿಚಾರ ತಿಳಿಸಿ ಈಗ ನನಗೆ ಮದುವೆಯಾಗಲು ನಿರಾಕರಿಸುತ್ತಿದ್ದನೆಂದು ತಿಳಿಸಿದೆ. ಈ ವಿಚಾರದಲ್ಲಿ ಪೋಲಿಸಿಗೆ ದೂರು ಕೊಡಬೇಕೆಂಬುದು ನನಗೆ ತಿಳಿದಿರಲಿಲ್ಲ, ನನ್ನ ತಂದೆ ತಾಯಿಯವರಿಗೂ ಸಹ ದೂರು ಕೊಡಲು ತಿಳುವಳಿಕೆ ಇರುವುದಿಲ್ಲ. ಈ ದಿನ ಲಿಂಗದಹಳ್ಳಿ ಪೊಲೀಸರು ಮೆಗನ್ ಆಸ್ಪತ್ರೆಗೆ ಬಂದಾಗ ಹೇಳಿಕೆ ನೀಡಿರುತ್ತೇನೆ ನನ್ನನ್ನು ನಂಬಿಸಿ ಸಂಭೋಗ ಮಾಡಿದ ಸತೀಶನ ಮೇಲೆ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕೋರುತ್ತೇನೆ."

14. Though the alleged incident took place on 25.01.2010, no complaint is filed against the accused till 31.01.2010. Only on 31.01.2010, police officer has recorded the statement of the victim in the presence of Medical Officers-PW9 and PW12. The Investigating Officer has not collected the case sheet maintained by the concerned Hospital. PW2-Chandarappa has not whispered anything as to the history of admission of this victim on 25.01.2010.

15. In Exhibit P13, there is no reference of shara by the concerned doctor whether the accused was fit to give statement or not.

16. PW12 has stated that he has informed the police that injured was in a fit condition to give statement.

17. The Head Constable, who was examined as PW8, has recorded the dying declaration and he has deposed that in the presence of Rudramurthy he has recorded the statement as per Exhibit P13.

18. Dr. Chandrappa examined as PW12 has put his signature on Exhibit P13, which is marked as Exhibit P13(d).

19. Dr.Rudramurthy examined as PW10, has deposed regarding the post-mortem conducted by him as per Exhibit P20. He has not put his signature on time of declaration.

20. PW8 has not recorded the statement of the victim in the presence of Dr. Chandrappa. The DNA report Exhibit P22 and 24 reveals that the accused Satisha @ Sathya is not the biological father of the foetus sent in Item No.2. Satisha @ Sathya S/o Subramanya, sample

blood sent in Item No. 1 is excluded from being the biological father and source of DNA of the foetus sent in Item No. 2. Therefore, the DNA report Exhibits P22 and P24 is inconsistent with the statement of the victim statement of the victim as per Exhibit P13.

21. The investigating officer has submitted the charge sheet against the accused before receiving FSL from Bengaluru. In the charge sheet it is noted that the Investigating Officer has not received FSL report from DNA Center. The Investigating Officer had received this FSL report and DNA report from the concerned, as per Exhibit P22 and P24.

22. The Investigating Officer examined as PW9, has also deposed the same in his evidence. The Investigating has not explained anything in his evidence as to the DNA report-Exhibits P22 and P23 which is against the case of the prosecution. If really the Investigating Officer had received this Exhibits P22 and P24, he would not have filed this charge-sheet against the accused. Even after receiving this DNA report, the Investigating Officer has not taken any steps.

23. The delay of 6 days in recording the dying declaration of the complainant and though the non production of the case sheet pertaining to the deceased Kavitha and non-furnishing proper explanation as to the delay in filing the complaint and the non production of the certificate issued by the medical officer as to the condition of the deceased, whether she is fit to give statement or not and DNA report, which is contrary to the contents of dying declaration Exhibit P13, will create reasonable doubt about the alleged incident. Considering the facts and circumstances of this case and also keeping in the mind the decisions of the Hon'ble Apex Court in the case of ***Panneerselvam v. State of Tamil Nadu*** reported *in* ***(2008)17 SCC Cases 190*** and in the case of ***Phulel Singh v. State of Harayana*** reported in ***(2023)10 SCC 268*** relied by the learned counsel for the appellant, I am of the opinion that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt. The trial Court has failed to appreciate the evidence on record in proper perspective.

24. On a re-appreciation/reconsideration and re-examination of the entire materials on record, I do not find any cogent, convincing, clinching, corroborative, trustworthy evidence to convict the accused for the alleged offences. Accordingly, I answer Point No.1 in the negative.

Regarding Point No.2:

25. For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

i) Appeal is allowed.

ii) Judgment of conviction and order on sentence passed by the I Addl. Sessions Judge, at Chikmagalur in Sessions Case No.60/2010 dated 16.12.2013, is set aside.

iii) Accused/appellant is acquitted of the offence under Section 417, 376 and 306 of Indian Penal Code.

iv) The trial Court is directed to return the fine amount, if any, deposited by the accused.

Registry is directed to send the copy of this judgment along with Trial Court records to the concerned Court.

Sd/-
(G BASAVARAJA)
JUDGE

lnn/kbm