



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

CRIMINAL APPEAL No.100105 OF 2016 (C)

BETWEEN:

RAMESH S/O NINGAPPA OLEKAR
AGE: 32 YEARS, OCC: AGRICULTURIST,
R/O: KELAGONDA VILLAGE,
TQ: BYADGI, DIST: HAVERI.

...APPELLANT

(BY SRI. HANUMANTHAREDDY SAHUKAR, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY CPI OF KAGINALE POLICE STATION,
BYADGI CIRCLE, TQ: BYADGI, DIST: HAVERI,
REPRESENTED BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, DHARWAD.

...RESPONDENT

(BY SRI. JAIRAM SIDDI, HCGP)



THIS CRIMINAL APPEAL IS FILED U/S 374(2) OF CR.P.C. SEEKING TO SET ASIDE ORDER OF CONVICTION DIST:20.02.2016 AND ORDER OF SENTENCE DT. 24.02.2016 IN SC. NO 59/2012 FOR THE OFFENSE PUNISHABLE UNDER SEC. 363 AND 366 OF IPC PASSED BY THE 2ND ADDL. DIST. AND SESSIONS JUDGE AT HAVERI SITTING AT RANEBENNUR, AND ACQUIT THE APPELLANT FOR THE OFFENCES PUNISHABLE UNDER SEC. 363 AND 366 OF IPC, BY ALLOWING THE ABOVE APPEAL AS PUNISHABLE FOR WITH COST, IN THE INTEREST OF JUSTICE.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT IS DELIVERED THEREIN AS UNDER:



ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE V.SRISHANANDA)

Heard Sri Hanumanthareddy Sahukar, learned counsel for the appellant and Sri Jairam Siddi, learned High Court Government Pleader for the respondent.

2. Accused No.1 who has suffered an order of conviction in S.C No.59/2012 dated 20.02.2016 passed by the II Additional District and Sessions Judge, Haveri, sitting at Ranebennur, for the offence punishable under Sections 363 and 366 of Indian Penal Code is the appellant.

3. The sentence passed by the learned Trial Judge reads as under:

"The accused person is hereby Convicted for the offence punishable under Section 366 of IPC with simple imprisonment for a period of 5 years with a fine amount of Rs.5,000/- and in default to pay the fine amount, he shall undergo simple imprisonment for a period of one year.

Acting under Section 428 of Cr.P.C. I hereby ordered that the period of detention already undergone by the accused person shall be given in set off.



Acting under Section 357(A) of Cr.P.C., the victim girl is hereby directed to approach the concerned District Legal Services Authorities in seeking compensation amount.

MO No.1 to 5 are worthless objects are ordered to be destroyed after the appeal period is over.

The order regarding releasing of MO No.6 i.e., Katma auto bearing registration No.KA/27/4412 is hereby made as absolute.

Serve the free copy of the judgment to the accused person forthwith."

4. Facts in the nutshell which are utmost necessary for disposal of the present appeal are as under:

A complaint came to be lodged by father of the victim girl on 27.11.2011 with Kaginele Police Station, Haveri District, reporting the missing of his daughter. Police registered the case in Crime No.102/2011 for the offence punishable under Sections 143, 147, 366A read with Section 149 of the Indian Penal Code and investigated the matter.

5. During the course of investigation, appellant/accused No.1 and the victim girl were traced. Complainant was summoned to



the police station and there was an enquiry to the victim girl as to what happened.

6. At that juncture the victim girl stated that all the accused persons had hatched the plan and abducted her. Later on, accused No.1 had physical relationship with her.

7. Thereafter, investigation was completed and charge sheet came to be filed for the offences punishable under Section 363, 366, 417, 493, 366A along with Section 376 IPC.

8. Presence of the accused persons were secured and charges were framed. All the accused persons pleaded not guilty. Therefore, trial was held.

9. In order to bring home the guilt of the accused persons, as many as 26 witnesses were examined as PWs-1 to 26 and 41 documentary evidence were placed on record which were exhibited and marked as Exs.P-1 to P-47 besides marking six material objects were marked as M.Os.1 to 6, which included a three wheeler Katma auto bearing registration No.KA- 27/4412 which was used for abducting the victim girl.



10. After due trial, accused Nos. 2 to 5 were acquitted for all the offences. But accused No.1 was alone convicted for the offence punishable under Sections 363 and 366 IPC and was acquitted for the offence under Sections 376 and 417 IPC.

11. State did not choose to file any appeal against the Order of acquittal of accused No.1 for the offence under Sections 376 and 417 IPC, so also, acquittal of other accused persons for all the offences.

12. It is the first accused who has filed the present appeal challenging the conviction and sentence insofar as offence under Sections 363 and 366 IPC.

13. Sri Hanumanthareddy Sahukar, learned counsel would contend that appellant/accused No.1 was innocent of the offences alleged against him and in fact, there was a love affair between the appellant as well as the victim girl. The entire story as is woven by the prosecution is nothing but imaginary story and therefore the State did not choose to file any appeal against the acquittal of the accused Nos. 2 to 5 for all the offences and did not choose to challenge the acquittal of the appellant for the



offence under Sections 376 and 417 IPC. Therefore, sought for allowing the appeal.

14. He would further contend that when there is an order of acquittal for the offence under Section 376 IPC, there cannot be conviction for the offence under Sections 363 and 366 IPC *simplicitor* and sought for allowing the appeal.

15. He would also contend that in the event this Court upholding the order of conviction, the custody period already undergone by the appellant for a period of five months eighteen days be treated as period of imprisonment by enhancing the fine amount reasonably.

16. *Per contra*, Sri Jairam Siddi, learned High Court Government Pleader, supports the impugned judgment and sought for dismissal of the appeal.

17. He would further contend that admittedly the victim girl was a minor as on the date of her kidnap. Therefore, removing the victim girl from the lawful custody of her custodians viz., parents, would complete the offence under Sections 363 and 366



IPC, though appellant is acquitted for the offence under Section 376 IPC and thus sought for dismissal of the appeal.

18. Insofar as the alternate submission is concerned, Sri Siddi would contend that Appellant is not entitled for any lenience or mercy only on the ground that the victim girl is now married, so also the accused, and thus sought for dismissal of the appeal in *toto*.

19. Having heard the arguments of both sides, following points would arise for consideration.

(i) Whether the material on record would be sufficient enough to sustain the conviction of the appellant for the offence under Sections 363 and 366 IPC?

(ii) Whether the impugned judgment is suffering from legal infirmity or perversity and thus calls for interference?

(iii) Whether the sentence needs modification?



(iv) What order?

20. **REGARDING POINT NOS.(i) TO (iii)**: In the case on hand, fact of the victim girl taken from the lawful custody of her parents by the accused No. 1 in MO-6/auto rickshaw stands established by placing cogent and convincing evidence on record.

21. Admittedly, victim girl was a minor as on the date of the incident. No doubt, there is a slight delay in lodging the missing complaint. But in the complaint itself there is an explanation for the delay that the complainant kept searching for the victim girl and when she was not found missing, complaint came to be lodged belatedly.

22. However, during the course of investigation, investigation agency was able to trace the accused No.1 and the victim girl and her statement has been recorded.

23. However, before the Court, victim girl failed to depose about the forcible sexual intercourse by accused No.1.

24. Therefore, the trial Judge rightly exercised discretion and acquitted the appellant for the offence under Sections 376 and



417 IPC. Detailed discussion carried out in the impugned Judgment while acquitting the remaining accused persons and, State having not preferred any appeal against the Order of acquittal insofar as accused Nos.2 to 5 and order of acquitting the appellant for the offence under Sections 376 and 417 IPC itself establishes that the impugned judgment is based on sound reasoning and with logical conclusion.

25. Therefore, order of conviction of the Appellant for the offence under Section 363 and 366 IPC needs no interference even after re-appreciating the material evidence on record.

26. Having said so, taking note of the fact that the incident has occurred when victim girl and appellant/accused No.1 were in the young age and only on the ground that the victim girl was a minor, conviction order came to be passed for the offence under Section 363 and 366 IPC against accused No.1.

27. Taking note of the fact that the victim girl is now married and well settled and so also the appellant, custody period already undergone by the appellant if treated as period of imprisonment by enhancing the fine amount in a sum of Rs.50,000/- which can



be paid as compensation to the victim girl, ends of justice would be met.

28. In view of the foregoing discussion point No.(i) is answered in affirmative, point No.(ii) in the negative and point No.(iii) partly in the affirmative.

29. **REGARDING POINT No.(iv):** In view of the finding of this Court on point Nos.(i) to (iii) as above following:

ORDER

- (i) Appeal ***allowed in part.***
- (ii) While maintaining the conviction of the appellant/accused No.1 for the offence punishable under Sections 363 and 366 IPC, custody period already undergone by him is treated as period of imprisonment by enhancing the fine amount in a sum of Rs.50,000/- payable on or before 31.03.2026.



- (iii) On receipt of the enhanced fine amount entire amount shall be paid as compensation to the to the victim girl through the complainant who is the father of the victim girl, under due identification.
- (iv) Failure to pay the enhanced fine amount the order of sentence stands restored automatically.
- (v) Office is directed to return the Trial Court Records with copy of this order forthwith for issue of modified conviction warrant.

Sd/-
(V.SRISHANANDA)
JUDGE

KAV paragraphs 1 to 3
kcm paragraphs 4 till end
CT-CMU
LIST NO.: 1 SL NO.: 116