



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 6TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

CRIMINAL APPEAL NO. 100019 OF 2021

(374(CR.PC)/415(BNSS))

BETWEEN:

SRI. MANJUNATH S/O NAGYA SIDDI
AGE. 54 YEARS, OCC. COOLIE,
R/O. BILKI, SONARJADDI,
NOW AT ARATIBAIL,
YELLAPUR, DIST. KARWAR-581329.

...APPELLANT

(BY SRI. AMOGH B. JOSHI, ADVOCATE FOR
SRI. S.L. MATTI, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY THE YELLAPUR POLICE STATION,
YELLAPUR-581359,
R/BY ADDL. SPP,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH, DHARWAD.

...RESPONDENT

(BY SRI. JAIRAM SIDDI, HCGP)

THIS CRIMINAL APPEAL IS FILED U/S 374(2) OF CR.P.C., SEEKING TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE PASSED BY THE ADDL. DISTRICT AND SESSIONS JUDGE-FTSC-I, U.K. KARWAR, (SPECIAL COURT FOR TRIAL OF CASES FILED UNDER POSCO ACT) , IN SPECIAL CASE NO.27/2019 DATED 22/10/2020, CONVICTING THE APPELLANT FOR THE OFFENCES PUNISHABLE U/S 6, 8 OF POSCO ACT AND 376 AND 506 OF IPC SENTENCED TO UNDERGO RIGOROUS IMPRISONMENT FOR 12 YEARS AND TO PAY FINE OF RS.10,000/- FOR THE OFFENCE PUNISHABLE U/S 6 OF POSCO ACT AND U/S 376 IPC. IN DEFAULT OF PAYMENT OF FINE AMOUNT HAS UNDERGO SI FOR 6 MONTHS FURTHER HE SENTENCED





TO UNDERGO SIMPLE IMPRISONMENT FOR 3 YEARS AND TO PAY FINE OF RS.1,000/- FOR THE OFFENCES PUNISHABLE U/S 8 OF POSCO ACT AND IN DEFAULT OF PAYMENT OF FINE AMOUNT, ACCUSED HAS TO UNDERGO SIMPLE IMPRISONMENT FOR 10 DAYS. FURTHER HE SENTENCED SIX MONTHS SIMPLE IMPRISONMENT FOR THE OFFENCE U/S 506 OF IPC, IN THE INTEREST OF JUSTICE.

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

ORAL ORDER

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

1. Heard Sri Amogh B. Joshi, for Sri S.L.Matti, learned counsel for the appellant, and Sri Jairam Siddi, learned High Court Government Pleader for the respondent.

2. The appellant is the accused who has suffered an order of conviction in Special Case No.27/2019 for the offences punishable under Sections 6 and 8 of the Protection of Children from Sexual Offences Act (for short, "the POCSO Act") and Sections 376 and 506 of the Indian Penal Code (for short, "the IPC"). He has been sentenced as under:

3. The facts of the case, which are necessary for the disposal of the present appeal, are as follows:



A complaint was lodged by the mother of the victim girl at Yallapur Police Station alleging that, in the month of June 2019, the complainant, her husband, and their two minor daughters had gone to Ramahebbar Garden situated at Arthibail of Yallapur Taluk, where they had set up a temporary house in the garden. The younger daughter (the victim girl), aged about 6 years, was studying in the first standard at a nearby school in Idagundi. As she was unwell, she had not attended school for about 2 to 3 days and was staying at home.

4. When the matter stood thus, on 14.03.2019, the husband of the complainant and the accused had gone for agricultural operations in the garden land. They returned home for lunch in the afternoon and thereafter stayed in the house.

5. At about 6.00 p.m., the accused informed the complainant that he was proceeding to Idagundi for the purchase of groceries. At that juncture, the complainant



stated that she was also in need of certain grocery items and therefore handed over a bag along with money. The victim girl accompanied the accused to the grocery shop, and they returned home at about 7.30 p.m.

6. At about 8.30 p.m., the victim girl went outside to attend the nature call and did not return. When the complainant went in search of her, she was found lying on the ground. Complainant, out of anxiety, enquired as to what had happened.

7. At that juncture, the victim girl stated that she was unable to urinate properly and was experiencing severe pain. With the help of a torch, the complainant examined the private parts of the victim girl and noticed swelling and redness.

8. On further enquiry, victim girl revealed that when accused took her to fetch grocery, he took her into the forest and committed forcible sexual intercourse with



her, then told her that the incident should not be revealed to anybody.

9. Based on the said complaint, Yallapur Police registered a case in the early hours of 15.03.2019 in Crime No.44/2019, conducted a thorough investigation, and filed the charge sheet.

10. The presence of the accused was secured and charges were framed. Accused pleaded not guilty; therefore, the trial was held.

11. In order to bring home the guilt of the accused, the prosecution examined twelve witnesses as PW-1 to PW-12 and marked twenty-six documents, which were exhibited as Exs.P-1 to P-26, and produced four material objects, namely, a towel, a shirt, a lungi, and the nikkar of the accused.

12. After completion of the prosecution evidence, the statement of the accused, as contemplated under Section



313 of the Code of Criminal Procedure (for short, "the CrPC"), was recorded, wherein the accused denied all the incriminating circumstances and materials found against him.

13. He did not offer any explanation nor adduce any evidence in his defence. In other words, he wholly denied the incident.

14. Thereafter, the learned Trial Judge heard the arguments of the parties, convicted the accused, and sentenced him as referred to supra.

15. Being aggrieved by the same, the appellant has filed the present appeal on the following grounds:

- *"That, the Judgment of Conviction and Order for Sentence passed by the Hon'ble Addl. District & Sessions Judge FTSC 1 U.K. Karwar, (Special Court For Trial Of Cases Filed Under Posco Act), is not in accordance with law, and same is liable to be set aside by acquitting the appellant herein,*
- *That, the prosecution has failed to established the guilt of the accused beyond all reasonable doubt,*



- *That, the Spl. Judge has not considered the cross examination of each witnesses. In the Judgment only chief examination is referred, same resulted into miscarriage of justice.*
- *That, the Spl. Judge has not considered the social status of both parties. Admittedly accused is doing coolie work, the economically is not sound. The victim and victim mother and father also are also doing coolie work. They are also economically not sound. The mother of victim asked the accused for money and he has refused to pay the money. In this background a false case was registered. This fact has not properly appreciated by the Spl. Judge.*
- *That, there is a delay in filing the complaint, incident was happened on 14/03/2019 between 6.00 P.M. to 7.30 P.M. The complaint was filed on 15/03/2019 at 1.15 A.M. There is no proper explanation regarding delay in filing the complaint.*
- *As per the version of the mother of the victim, the complaint was filed on same day, but the FIR discloses complaint was filed on 15/03/2019. The Investigation Officer has not properly explained contradiction in filing the complaint.*
- *That, no doubt, it is the case of sexual harassment upon the 6 years girl. In the same time it has to be looked into whether is there any materials to show that, the accused is the responsible for the injuries sustained by the victim girl.*



- *The POSCO Act come into force on 16/08/2019, so provisions of POSCO Act not applicable to present case, but the Spl. Judge has referred the POSCO provision.*
- *That, viewed from any angle the order of conviction is not sustainable. The interference of this Hon'ble Court is very much essential as order of conviction is against the existing state of affairs.*

16. Sri Amogh B. Joshi, learned counsel for the appellant, appearing on behalf of Sri S. L. Matti, learned counsel for the appellant, reiterating the grounds urged in the appeal memorandum, vehemently contended that the learned Trial Judge wrongly convicted the accused based on the improper and unreliable testimony of the victim girl, and prayed for allowing the appeal.

17. He further contended that the material evidence on record is hardly sufficient to sustain an order of conviction under Sections 6 and 8 of the POCSO Act, and therefore, sought for allowing the appeal.

18. He also contended that there was a delay in lodging the complaint, inasmuch as the alleged incident



occurred on 14.03.2019 between 6.00 p.m. and 7.30 p.m., whereas the complaint was lodged only at about 1.15 a.m. on 15.03.2019, which raises serious doubt on the credibility of the prosecution case, and therefore, he sought for allowing the appeal.

19. *Per contra*, Sri Jairam Siddi, learned High Court Government Pleader would support the impugned judgment by contending that in the case on hand, acquaintance of the parents of the victim girl has been misused by the appellant and in the guise of taking the victim girl for grocery shopping, utilising the loneliness has committed a brutal act of forcible sexual intercourse on a 6-year-old girl and therefore, the conviction is just and proper.

20. He would further contend that in the absence of any previous enmity or animosity nurtured by the mother of the victim girl, why would a false case get filed against an accused is a question that remains unanswered and sought for dismissal of the appeal.



21. Having heard the arguments of both sides, this Court perused the material on record meticulously.

22. On such perusal of the material on record, the following points would arise for consideration:

- i. Whether the material evidence placed on record by the prosecution successfully establishes all ingredients to attract the offence under Section 6 and 8 of the POCSO Act and Sections 376 and 506 of IPC?
- ii. Whether the impugned judgment is suffered from legal infirmity or perversity and thus calls for interference?
- iii. Whether the sentence is excessive?
- iv. What order?

Regarding Points (i) and (ii):-

23. Perusal of the material evidence on record, it is crystal clear that accused and the father of the victim girl were together have discharged the work of the coolie in the Hebbar's garden land situated in Artibail. In that regard,



father of the victim girl and accused along with the mother of the victim girl used to visit the agricultural operations together.

24. On 14.03.2019 also both father of the victim girl and the accused had been to the agricultural operations to the Hebbar's garden land and returned home in the afternoon and had lunch and they were resting. Victim girl was in the house on that day on account of her ill-health and did not attend the school. In the evening hours, accused told the mother of the victim girl that he is going to Idagundi Village for purchase of some groceries. At that juncture, mother of the victim girl also wanted some groceries and handed over a bag with money to accused.

25. Accused took the victim girl along with him for the purpose of purchase of groceries. It is about 08.30 p.m., victim girl went outside the house for attending the nature call, but did not return to the home.



26. Being anxious about the incident, mother of the victim girl went outside and saw victim girl had fallen on the ground.

27. On enquiry, victim girl admittedly told the mother that she is having irritation and huge pain in her private part. Mother of the victim girl with the help of a torch has examined the private part of the victim girl and noted that there was swelling with redness near the private part.

28. On further enquiry, victim girl revealed the accused committing the forceful sexual intercourse with the victim girl. Immediately she was taken to the Yallapur Police Station and police registered the case based on the complaint in the early hours of 15.03.2019.

29. Incident which came to the light at 08.30 p.m. and on enquiry and reaching Yallapur Police Station from Artibail, the time spent is acceptable inasmuch as the police have registered the case at 01.15 a.m. Medical examination



of the victim girl has also taken place and medical examination report marked at Ex.P8 and final opinion marked at Ex.P11 would sufficiently corroborate the complaint averments and oral testimony of the victim girl.

30. In Exhibit P11, doctor has opined after receipt of the FSL report that victim girl had suffered forcible penetration into her private part.

31. Why would a six-year-old girl falsely implicate the accused in the incident is a question that remains unanswered.

32. Further, mother of the victim girl had allowed the accused to stay in their house and has fed him in the afternoon by cooking the food.

33. Under such circumstances, it is nothing but the greed and lust of the accused which resulted in the brutal act on a young girl of six years which is unpardonable and unacceptable to the civilized society.



34. There is no defence on behalf of the accused except suggesting to the prosecution witnesses that a false case has been foisted on behalf of the accused.

35. Pertinently accused had the benefit of suspension of sentence in yet another rape case and during the interregnum of the suspension of sentence, accused has committed another act of rape that too on a minor girl.

36. These aspects of the matter while taken into consideration in a cumulative manner, this Court does not find any perversity or illegality in the finding recorded that accused is guilt of the aforesaid offences. Hence Point No.(i) is answered in the affirmative and Point No.(ii) is answered in the negative.

Regarding Point No.(iii):

37. Accused is a habitual rapist. In fact, he suffered an order of conviction in S.C.No.5039/2017 which was subject matter of appeal before this Court in Criminal Appeal No.100014/2022.



38. Since he has committed a forcible sexual intercourse on a six-year-old girl, in the absence of any appeal by the State, there cannot be any further enhancement of the sentence, this Court does not find any reasons whatsoever to interfere with the awarding of the sentence. Hence, Point No.(iii) is answered in negative.

Regarding Point No.(iv):

39. In view of finding on Points No.(i) to (iii), following:

ORDER

- i. Appeal is meritless and hereby dismissed.
- ii. It is made clear that the accused is required to undergo the sentence in this case after the period of sentence ordered in S.C.No.5039/2017 on the file of I Addl. District AND Sessions Judge, U.K. Karwar Sitting at Sirsi.

**Sd/-
(V.SRISHANANDA)
JUDGE**

AC_para 1 to 18
CLK_para19 to end