



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 200228 OF 2024

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

BETWEEN:

AJAY S/O REVANSIDDAPPA HOSAMANI
AGE: 21 YEARS, OCC: STUDENT
R/O VAZRAGAON VILLAGE, TQ: KALAGI
DIST: KALABURAGI

...APPELLANT

(BY SRI. AVINASH A. UPLOANKAR., ADVOCATE)

AND:

THE STATE THROUGH
SULEPETH POLICE STATION
DIST: KALABURAGI
NOW REPRESENTED BY ADDL. SPP
HIGH COURT OF KARNATAKA
KALABURAGI BENCH-585107

...RESPONDENT

(BY SRI.GOPALKRISHNA B. YADAV, HCGP)

THIS CRL.A IS FILED U/S.374 (2) OF CR.P.C (OLD)
U/SEC. 415 OF BNSS (NEW) PRAYING TO CALL FOR RECORDS
AND EXAMINE THE RECORDS IN SESSIONS CASE NO.
208/2022 AND SET ASIDE THE JUDGMENT PASSED BY THE
LEARNED V ADDITIONAL DISTRICT AND SESSIONS JUDGE
(SPL. COURT) KALABURAGI FOR CONVICTING THE APPELLANT
BY ITS JUDGMENT DATED 16.07.2024 AND SENTENCING HIM
ON 18TH JULY 2024, FOR THE OFFENCES PUNISHABLE U/SEC.
354-A AND 323 OF IPC.





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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The appellant has preferred this appeal against the judgment of conviction dated 16.07.2024 and order on sentence dated 18.07.2024 passed Sessions Case No.208/2022 by the V Additional District Court and Sessions Judge (Special Court) Kalaburagi.

2. The parties are referred to the same rank as they had before the trial Court.

3. The brief facts leading to this appeal are that:

The Circle Inspector of Police, Sulepeth, submitted the charge sheet against the accused for the offences under Sections 354-D, 376(2)(n), 323, 324, 450, 504 and 506 of the Indian Penal Code. It is alleged by the prosecution that in view of previous acquaintance with the accused during college days, he started stalking and



following the victim. On 23.04.2022 at about 11 am, when she was in the house, he trespassed therein and promised to marry, then forcibly committed rape on her. Further, on 25.04.2022 at about 10 am, again he came to her house and promised to marry, took her to a land near Venkateshwar Temple at Sugur village and again committed sexual assault against her will. Further, it is alleged that he took the complainant to Hyderabad to the house of CW.16 with the help of CW.13 and CW.14, wherein again he committed rape on her repeatedly against her will. Then on 18.05.2022 at about 9.30 pm during night hours, he picked up a quarrel with the victim, abused her in filthy language and made an attempt to cut her neck with a knife. When she tried to escape, she sustained an injury to her left ring finger. Again on 19.05.2022 at 8.30 pm during night hours, the accused assaulted her on her right ear with his hands and caused injuries, then decamped from the house leaving the victim there only. Thereafter, CW.13 sent the victim to her native



place Vajragaon, but the accused did not agree to marry, thereby committing the offence.

4. After investigation, the IO submitted the chargesheet against the accused, and the case was registered in C.C.No.1053/2022. The case was committed to the Court of Sessions and was registered in S.C.No.208/2022. The accused was enlarged on bail. On hearing the charges, the trial Court framed the charges for the alleged commission of offences; the same was read over and explained to the accused. Having understood the same, the accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, in all 20 witnesses were examined as PW1 to PW.20, 30 documents were marked as Exhibit P1 to Exhibit P30. One material object was marked as MO.No.1. The statement under Section 164 of Cr.P.C. was marked as Ex.C1. On closure of prosecution evidence, the statement under Section 313 of Cr.P.C. was recorded. The accused has totally denied the



incriminating evidence appearing against him. However, he did not choose to lead any defence evidence on his behalf.

6. Having heard the arguments on both sides, the trial Court has acquitted the accused for the commission of offences under Sections 354-D, 450, 376(2)(n), 324, 504 and 506 of the IPC and accused is convicted for the offence punishable under Sections 354-A and 323 of IPC and sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.45,000/- for the offence under Section 354-A of the IPC. Further, the accused is sentenced to undergo simple imprisonment for a period of 6 months and to pay a fine of Rs.1,000/- for the offence under Section 323 of the IPC, with default sentences. Being aggrieved by this judgment of conviction and order of sentence, the appellant has preferred this appeal.



7. The learned counsel for the appellant has urged the following grounds to allow this appeal, which are as under:

i. That the impugned judgment and order of conviction and sentence recorded by the learned Trial Judge is contrary to law, facts and evidence on record. Hence the same is liable to be set aside.

ii. That, the reason assigned by the leaned Trial Judge while passing the impugned judgment and order of conviction and sentence are erroneous and as such he has slipped into an error and passed the impugned judgment, order of conviction and sentence, resulting in substantial miscarriage of justice to the case of appellant.

iii. That, in-spite of there being number of omission and contradiction the trial court has wrongly appreciated the evidences on record.

iv. That, the evidence of Pw-15 Dr. Vijayakumar states that on 22-07-2022 at about 7 pm victim came to the hospital with a history of assault along with her brother,



on examination he found healed cut wound was present on left ring finger, accordingly he issued Ex.P.19 wound certificate. Though he admits that he has neither made entry in the MLC register such injury could be caused if sharp substance came to contact while doing house hold work. Inspite of this material the trail court convicted U/sec.323 of IPC.

v. That, alleged assault on victim by the appellant with hands and M.O. 1-knife has taken place within four walls of the house. Though none of the witnesses have seen the incident.

vi. That, when the trail court has categorically held that the parties are consensual and para 45 comes to conclusion that offences U/sec.376 IPC as no proved, convicting for 354-A of IPC is bad in law.

vii. That, in absence of any corroboration of any independent witnesses and relying only on the evidence of victim and family members trail court judgment is bad in law.



8. On all these grounds sought for allowing of this appeal.

9. As against this, the learned High Court Government Pleader would submit that there are no grounds to interfere with the impugned judgment of conviction and order of sentence passed by the trial Court. He further submits that the State has not preferred any appeal against the acquittal of the accused for the commission of offence under Sections 354-D, 450, 376(2)(n), 324, 504 and 506 IPC. Accordingly, he sought for dismissal of the appeal.

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

- (a) Whether the trial Court is justified in convicting the accused for the offence under Sections 354-A and 323 of IPC?
- (b) What order?



11. My answer to the above points are:

Point No.1: In the Negative:

Pointe No.2: As per final order.

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

Regarding Point No.1:

13. The Investigating Officer has submitted the charge sheet against the accused for the commission of offence under Sections 354-D, 376(2)(n), 323, 324, 450, 504 and 506 of IPC. To prove the guilt of accused, the prosecution has examined 20 witnesses as PWs.1 to 20 and exhibited 30 documents as Exs.P1 to 30. The trial Court has acquitted the accused for the commission of offence under Sections 354-D, 450, 376(2)(n), 324, 504 and 506 IPC. However, trial Court has convicted the accused for the offence under Sections 354-A and 323 of IPC.



14. In paragraph No.45 of the impugned judgment, the trial Court has observed as under:

"45. So in the case on hand though remaining particulars of the offence under Section 376 of IPC are not proved, but the conditions requisite for offences in respect of Section 354-A along with Section 323 of IPC minor offences in the place of 376(2)(n) and Section 324 of IPC are being satisfied."

15. However, in paragraph No.47, the trial Court has observed as under:

"47. So there is a chain of link in the evidence of the prosecution witnesses and their evidence which has not been shaken during the cross examination. So in these circumstances only inference would be that accused has involved in the crime. The aforesaid material evidence form a complete link in the chain to arrive at the guilt for the offence under Section 354-A and 323 of IPC."

16. In this regard, I have examined the entire materials of record.

17. Ex.P1, the complaint filed by the victim reveals that on 18.05.2022, the accused attempted to commit



murder of the victim with knife. When the victim prevented the same, she has received the injuries on her left hand and finger. In the complaint, she has stated that the victim has taken treatment in the hospital on 25.02.2022. The wound certificate at Ex.P-19 reveals that she has taken treatment, wherein the doctor has stated that he examined the victim on 22.07.2022 with the history of assault two months back.

18. In the evidence of PW.1, she has not stated that she has taken treatment on 22.07.2022. Hence, absolutely there is no cogent and convincing evidence to prove the offence under Section 323 of IPC. With regard to the offence under Section 354-A of IPC is concerned, the trial Court has not framed the charge against the accused for the offence under Section 354-A IPC. However, without assigning any proper reasons, the trial Court has convicted the accused for the offence under Section 354-A of IPC. On careful examination of the entire materials on record, I do not find any cogent, convincing, clinching evidence to



convict the accused for the offence under Section 354-A of IPC.

Point No.2:

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

ORDER

- (a) The Criminal Appeal is allowed.
- (b) The judgment of conviction dated 16.07.2024 and order on sentence dated 18.07.2024 passed in Sessions Case No.208/2022 by the V Additional District and Sessions Judge (Spl. Court) Kalaburagi, is hereby set aside.
- (c) The accused is acquitted for the offence punishable under Sections 354-A and 323 of IPC.
- (d) The bail bond of appellant/accused shall stand cancelled;



- (e) The trial Court is directed to refund the fine amount, if any in deposit, to the appellant/accused;

Registry is directed to send the trial Court records along with the copy of this Judgment to the concerned Court.

Sd/-
(G BASAVARAJA)
JUDGE