



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL REVISION PETITION NO.200132 OF 2024

(397(Cr.PC)/438(BNSS))

BETWEEN:

1. SUGURESH S/O AMARGUNDAPPA
@ AMARESH SALMANI,
AGE: 43 YEARS,
OCC: LEGAL PRACTITIONER,
R/O LINGASUGUR,
LINGASUGUR,
DIST: RAICHUR-584101.
2. FAKIRAPPA
S/O VEERANNA PATTANASHETTAR,
AGE: 42 YEARS,
OCC: BUSINESSMAN,
R/O KUSHTAGI,
TALUK: KOPPAL-583277.

...PETITIONERS

(BY SRI NITIN R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY LINGASUGURU P.S.,
RAICHUR DISTRICT,
(THROUGH THE ADDL. SPP,
HIGH COURT OF KARNATAKA
AT KALABURAGI-585102)



2. SOUBHAGYA W/O MALLIKARJUN,
AGE: 48 YEARS, OCC: HOUSE WIFE,
R/O GURUGUNTA ROAD,
NEAR GADIYAR CHOWK, LINGASUGUR,
RAICHUR DISTRICT – 584 101.

...RESPONDENTS

(BY SRI JAMADAR SHAHABUDDIN, HCGP FOR R1;
SRI VEERESH M., Advocate FOR R2)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 (1) OF CR.P.C (OLD), UNDER SECTION 438 (1) OF BNSS (NEW), PRAYING TO A) CALL FOR THE RECORDS FROM THE SPL.C. (P) NO.1177/2022 (OLD), NEW NUMBER SPL.C.5140/24 PENDING BEFORE THE III ADDL. DISTRICT AND SESSIONS JUDGE, RAICHUR, SITTING AT SINDHANUR ITINERARY AT LINGASUGUR AND SET ASIDE THE ORDER DATED 20.04.2024, AND SET ASIDE THE ORDER FOR FRAMING OF CHARGES AGAINST PETITIONER HEREIN AND ORDER FOR DISCHARGING THE PETITIONERS/ACCUSED NOS.3 AND 4 OF THE ALLEGED OFFENCES BY ALLOWING THIS CRIMINAL REVISION PETITION.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA



ORAL ORDER

Heard learned counsel for the revision petitioners, learned High Court Government Pleader appearing for respondent No.1/State and learned counsel for respondent No.2.

2. Petitioners 3 and 4 have filed this revision petition seeking the following reliefs:

"WHEREFORE, the Petitioners respectfully pray that this Hon'ble Court be pleased to

- a) *Call for the records from the Spl. C. (P) No.1177/2022 (old), New Number Spl.C.5140/24 pending before the III Addl. District and Sessions Judge, Raichur, Sitting at Sindhanur at Lingasugur and set aside the order dated 20.04.2024, and set aside the order for framing of charges against petitioner herein and order for discharging the Petitioners/Accused Nos.3 and 4 of the alleged offences by allowing this Criminal Revision Petition, in the interest of justice.*



b) Grant such other relief/s as this Hon'ble court be pleased to deems fit in the circumstances of the case."

3. The learned counsel for the petitioners would submit that the order of taking cognizance and issuance of process against the petitioners and dismissing the discharge application is opposed to law, facts, circumstances and probabilities of the case on hand. The learned Trial Judge failed to peruse the final report and discharge application properly and erred in not averting to the material available on record in favour of the petitioners. There is glaring inconsistency between the first information report and further statement of the complainant with regard to the role of the petitioners and material circumstances. The complainant has stated in her written first information that 15-20 unknown persons accompanied the named accused persons to her house and all of them abused and assaulted the inmates of the house. In the process, they have torn the Saree and the



clothes worn by the complainant and her daughters. The Mob also kidnapped the husband of the complainant and assaulted him and the female witnesses. However, in her statement recorded under Section 161 of the Code of Criminal Procedure (for short, 'Cr.P.C.'), she has stated that 15-20 persons did not come to her house on 19.07.2022 and her husband was also not kidnapped. The other prosecution eyewitnesses, including the independent witnesses have corroborated the second version of the complainant. This material inconsistency goes to the root of the prosecution case, thereby the Trial Judge erred in taking cognizance of the offences against the petitioners.

4. It is further submitted that the statements of the prosecution witnesses allege that only accused 1 and 2 assaulted the female victims and in the process, they torn their wearing apparels. Their statements are silent against the petitioners and no specific overt act is attributed to them. Mere presence at the spot does not make them guilty of any criminal charge against them unless they



were the members of unlawful assembly with a common intention.

5. It is further contended that mere bald and omnibus statements of the witnesses shall not fasten with criminal liability against those who were said to be present at the spot for some reason unless they shared the common intention of the mob to achieve their object. The learned Trial Judge ought not to have taken cognizance of the offences under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POSCO Act'), since no ingredients of the alleged offences are made out against the petitioners. Absolutely, there are no materials to constitute the offences under Sections 7 and 11 of POCSO Act.

6. It is further submitted by the learned counsel for the petitioners that there are civil disputes between some of the accused and the complainant in connection with the partition of immovable properties. There was a compromise decree between petitioner No.1 and the



family members of the complainant. In spite of it, the complainant and her family members were not ready to satisfy the compromise decree. She was due of some amount to one of the accused and she failed to repay the amount. Accordingly, the complainant is successful in converting the civil dispute into criminal case by filing a false complaint against the petitioners. This is manifestly evident from the inconsistent statements of the complainant and the witnesses with regard to the materials allegation made in the first information report.

7. It is further submitted that petitioner No.1 is a legal practitioner at Lingasugur bar. He has no bad antecedents. He has a good track record in his profession. Moreover, he is a younger brother of the complainant's husband and one of the victims of the case and is the uncle of minor daughter of the complainant. No allegation of any sexual intent or act is alleged against him. Likewise, no allegation of overt act is attributed to petitioner No.2. Thus, the Trial Judge erred in taking cognizance of the



offences punishable under the Special Act and also under the Penal Code. The accused party also filed a counter complaint against the complainant and others in the instant case and investigation is still pending.

8. Learned counsel for the petitioners would further submit that the petitioners had previously filed a petition before this Court under the same provisions to quash the FIR in Criminal Petition No.201118/ 2022. Vide order dated 03.11.2022, this Court permitted the petitioners to withdraw the petition, granting them liberty to challenge the chargesheet, if filed, against them. Accordingly, the petitioners renewed their prayer for quashing the entire proceedings pending against them before the Trial Court. Subsequently, the petitioners filed another petition in Criminal Petition No.200500/2024, wherein this Court stayed the proceedings before the Trial Court for a period of 15 days from the date of disposal of the petition, to enable the petitioners to challenge the discharge order passed by the learned Sessions Judge on



the application filed under Section 227 of the Cr.P.C. On all these grounds, he prays to allow this petition.

9. Learned counsel for respondent No.2 and learned High Court Government Pleader would submit that, the impugned order passed by the Trial Court is in accordance with law and facts and there are no grounds to interfere in this regard. Hence, sought for dismissal of petition.

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

- 1) Whether the Trial Court is justified in rejecting the application for discharge against these petitioners for the offence punishable under Sections 8 and 12 of the POCSO Act?
- 2) Whether the Trial Court is justified in holding that there are *prima facie* materials to proceed against the accused



for the offences punishable under Sections 143, 147, 448, 323, 354, 504 and 506 read with Section 149 of IPC?

3) What order?

11. My answer to the above points are as under:

Point No.1 : in the Negative

Point No.2 : in the Affirmative

Point No.3 : As per final order

Regarding Point No.1:

12. With regard to offence under Sections 8 and 12 of the POCSO Act, lodged against the present petitioners who are accused Nos.3 and 4 are concerned, it is relevant to mention here as to the provision of Sections 7, 8, 11 and 12 of POCSO Act. The same read thus:

"7. Sexual assault.—Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.



8. Punishment for sexual assault.—Whoever, commits sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.

11. Sexual harassment.—A person is said to commit sexual harassment upon a child when such person with sexual intent,— (i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or (ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or (iii) shows any object to a child in any form or media for pornographic purposes; or (iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or (v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or (vi) entices a child for pornographic purposes or gives gratification therefore. Explanation.—Any question which involves "sexual intent" shall be a question of fact.

12. Punishment for sexual harassment.—Whoever, commits sexual harassment upon a child shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine."



13. It is stated in the complaint that, the age of the victim child was 17 years at the time of commission of offence. To prove the same, the Investigating Officer has not produced the Birth Certificate, SSLC Marks Card or Ossification Test Certificate as required under Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The Investigating Officer has also not complied with the mandatory provisions of Section 34 of POCSO Act. The Investigating Officer has also not complied with the mandatory provisions of Section 164A of Cr.P.C. Since the Investigating Officer has not complied with the aforesaid provisions of POCSO Act, and also the Cr.P.C., it is not possible to come to the conclusion that the victim was child as defined under Section 2(d) of POCSO Act as on the date of commission of offence.

14. In the complaint, the complainant has not stated anything against these petitioners as to the sexual assault and sexual harassment said to have been committed by the petitioners. Even under Section 164(5)



of Cr.P.C. the victim (child) has not deposed anything against the present petitioners as to the alleged sexual assault and sexual harassment as defined under Section 7 and 11 of the POCSO Act.

15. On careful examination of the entire prosecution papers, I do not find any materials to frame charge against the present petitioners for commission of offence under Sections 8 and 12 of POCSO Act. For the aforesaid reasons, the Trial Court is not justified in holding that there are *prima facie* materials to frame charge against the present petitioners, who are accused Nos.3 and 4. Hence, I answer point No.1 in the Negative.

Regarding Point No.2:

16. With regard to the other offences i.e. 143, 147, 448, 323, 354, 504, 506 read with Section 149 of IPC are concerned, in Column No.17 of the charge-sheet it is stated as under:



“ಮಾನ್ಯ ಘನ ನ್ಯಾಯಾಲಯ ಹಾಗೂ ಅಂಗಸಗೂರು ಪೊಲೀಸ್ ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ ಅಂಗಸಗೂರು ಪಟ್ಟಣದ ಈ ದೋಷಾರೋಪಣ ಪತ್ರ ಕಾಲಂ ನಂ.14 ರಲ್ಲಿ, ನಮೂದಿಸಿದ ಸಾಕ್ಷಿ ನಂ.04 ರವರ ಮನೆಯಲ್ಲಿ ದಿನಾಂಕ:19.07.2022 ರಂದು ರಾತ್ರಿ 10.30 ಗಂಟೆಗೆ ಈ ದೋಷಾರೋಪಣ ಪತ್ರ ಕಾಲಂ ನಂ.12 ರಲ್ಲಿ ನಮೂದಿಸಿದ ಆರೋಪಿ ನಂ.01 ರಿಂದ 05 ನೇದ್ದವರು ಕೂಡಿಕೊಂಡು ಸಾಕ್ಷಿ ನಂ.04 ರವರ ಮನೆಯಲ್ಲಿ, ಅತೀಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿ ಸಾಕ್ಷಿ ನಂ.01 ರವರಿಗೆ ಲೇ ಸೂಳೆ ನಾವು ಕೊಟ್ಟ ಹಣ ಕೊಡು ಅಂತಾ ಅವಾಚ್ಚ ಶಬ್ದಗಳಿಂದ ಬೈದಾಡಿದಾಗ, ಈ ದೋಷಾರೋಪಣ ಪತ್ರ ಕಾಲಂ ನಂ.14 ರಲ್ಲಿ, ನಮೂದಿಸಿದ ಸಾಕ್ಷಿ ನಂ.05 ರಿಂದ 07 ನೇದ್ದವರು ಕೂಡಿ ಬಿಡಿಸಲು ಹೋದಾಗ ಸಾಕ್ಷಿ ನಂ.01 ಫಿರ್ಯಾದಿದಾರಳ ಅಪ್ರಾಪ್ತ ವಯಸ್ಸಿನ ಮಗಳಾದ ಸಾಕ್ಷಿ ನಂ.05 ಶರಣಮ್ಮ ವಯಾ:17 ವರ್ಷ ಇವಳಿಗೆ ಆರೋಪಿ ನಂ.01 ಮತ್ತು 02 ರವರು ಕೂಡಿ ಆಕೆಯ ಮೈ ಕೈ ಮುಟ್ಟಿ , ಕುತ್ತಿಗೆ ಹಿಡಿದು, ಕೈಯಿಂದ ದೂಕಿದ್ದು, ಅದೇ ರೀತಿ ಸಾಕ್ಷಿ ನಂ.06 & 07 ರವರಿಗೂ ಕೂಡ ಕೈ ಹಿಡಿದು ಎಳೆದಾಡಿ, ಕುತ್ತಿಗೆ ಹಿಡಿದು ನೂಕಾಡಿದ್ದು ಮತ್ತು ಸಾಕ್ಷಿ ನಂ.01 ಇವರಿಗೆ ಹಣ ಕೊಡದೆ ಇದ್ದರೆ ನಿಮ್ಮನ್ನು ಜೀವ ಸಹಿತ ಬಿಡುವುದಿಲ್ಲಾ ಅಂತಾ ಜೀವದ ಬೆದರಿಕೆ ಹಾಕಿದ್ದು ಮತ್ತು ಈ ಜಗಳ ಬಿಡಿಸಿಕೊಳ್ಳಲು ಹೋದ ಸಾಕ್ಷಿ ನಂ.04 ರವರಿಗೆ ಆರೋಪಿ ನಂ.01 ರಿಂದ 05 ನೇದ್ದವರು ಕೂಡಿಕೊಂಡು ಕೈಗಳಿಂದ ಮೈ ಕೈಗೆ ಹೊಡೆದು ಹಾಗೂ ಕಾಲಿನಿಂದ ಒದ್ದು ಒಳಪೆಟ್ಟುಗೊಳಿಸಿದ್ದು ಹಾಗೂ ಎಲ್ಲಾ ಆರೋಪಿತರು ಸೇರಿಕೊಂಡು ನಾವು ಕೊಟ್ಟ ಹಣವನ್ನು ವಾಪಾಸ್ ಕೊಡದಿದ್ದರೆ ನಿಮಗೆ ಜೀವ ಸಹಿತ ಬಿಡುವುದಿಲ್ಲವೆಂದು ಜೀವದ ಬೆದರಿಕೆ ಹಾಕಿದ್ದು ತನಿಖೆಯಿಂದ ಸಾಬೀತಾಗಿದ್ದು ಇರುತ್ತದೆ.”

17. The Investigating Officer has recorded the statement of the complainant, victim, and eyewitnesses



i.e. CWs.5 to 9 and police have also conducted mahazar. On perusal of these prosecution papers, at this stage, there are *prima facie* materials to proceed against the present petitioners to frame the charge against them for the aforesaid offences. The Trial Court has properly appreciated the materials on record in this regard. Hence, there are no grounds to interfere with the impugned judgment passed by the Trial Court. Accordingly, I answer Point No.2 in the Affirmative.

Regarding Point No.3:

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

ORDER

- (i) The petition is ***partly allowed***.
- (ii) The order passed by the III-Addl. Dist. & Sessions Judge, Raichur, sitting at Sindhanur, itinerary sitting at Lingasugur, in Special Case



No.5140/2024 dated 20.04.2024 is ***partly set aside.***

- (iii) Consequently application filed by petitioner Nos.1 and 2/accused Nos.3 and 4 under Section 227 of Cr.P.C. is ***partly allowed.***
- (iv) Petitioner Nos.1 and 2/accused Nos.3 and 4 are discharged from the offences punishable under Sections 8 and 12 of POCSO Act.
- (v) The order passed by the Trial Court in respect of framing of charge against the accused for the offence punishable under Sections 143, 147, 448, 323, 354, 504, 506 read with Section 149 of IPC is confirmed.

Registry is directed to send a copy of this order to the Trial Court.

**Sd/-
(G BASAVARAJA)
JUDGE**