



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 3RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL APPEAL NO. 200301 OF 2025 (U/S 14 (A))

BETWEEN:

1. AVINASH S/O. VAJRAPPA HOLI
AGE 34 YEARS, OCC BUSINESS
R/O REVENASIDESHWARA NILAYA
KOSNOOR ROAD,
KALABURAGI-585105.
2. INDRABAI W/O. VAJRAPPA HOLI
AGE 60 YEARS, OCC HOUSEHOLD
R/O REVENASIDESHWARA NILAYA
KOSNOOR ROAD KALABURAGI-585105.
3. AKHILA W/O ANAND HOLI
AGE 38 YEARS, OCC. HOUSEHOLD
R/O REVENASIDESHWARA NILAYA
KOSNOOR ROAD,
KALABURAGI-585105.
4. AISHWARYA D/O VAJRAPPA HOLI
AGE 29 YEARS, OCC STUDENT
R/O REVENASIDESHWARA NILAYA
KOSNOOR ROAD,
KALABURAGI-585105.

Digitally signed by
SHIVAJEE A
DATTATRAYA UDAGI
Location: HIGH
COURT OF
KARNATAKA

...APPELLANTS

(BY SRI. CHAITANYAKUMAR CHANDRIKI.,ADVOCATE)



AND:

1. THE STATE OF KARNATAKA
KALABURAGI CITY WOMEN PS
THROUGH REPRESENTED BY
ADDL SPP HIGH COURT OF KARNATAKA
KALABURAGI-585107.
2. PRIYANKA D/O. SHANKARRAO BHOGANALLI
AGE 33 YEARS, OCC PRIVATE EMPLOYEE TQ
AFZALPUR, R/O BHOGNALLI,
DIST KALABURAGI.
NOW R/O AT ASIN APARTMENT
KALABURAGI-585102.

...RESPONDENTS

(BY SRI GOPAL KRISHNA B. YADAV, HCGP FOR R1;
SRI SUJATA R. SUGUR, ADV. FOR R2)

THIS CRL.A IS FILED U/SEC. 14-A OF SC/ST (PA) ACT, PLEASED TO SET ASIDE THE IMPUGNED ORDER DATED 10.09.2025 PASSED BY THE II ADDL DISTRICT AND SESSIONS JUDGE AT KALABURAGI IN SPECIAL CASE (SC/ST NO. 91/2024) CONSEQUENTLY BE PLEASED TO DISCHARGE THE APPELLANT NO. 1 FOR THE OFFENCES PUNISHABLE UNDER OF U/SEC 64(2)(m), 318(2), 88, 352 R/W BNSS 3(1)(R)(S), 3(1)(w) , 3(2)(v) OF SC/ST PA ACT 1989 AND DISCHARGE THE APPELLANT NO. 2 TO 4 FOR THE OFFENCE PUNISHABLE U/SEC 131, AND 352 R/W SEC 3(5) OF BNS 2023 PENDING ON THE FILE OF II ADDL DISTRICT AND SESSIONS JUDGE AT KALABURAGI IN SPECIAL CASE (SC/ST NO. 91/2024) IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K



ORAL JUDGMENT

This appeal is filed under Section 14A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [for short, 'the SC/ST (POA) Act'] to set aside the impugned order dated 10.09.2025 passed by the II Addl. District and Sessions Judge at Kalaburagi (hereinafter referred to as 'learned Special Judge') in Special Case (SC/ST) No.91/2024 and consequently to discharge appellant No.1 for the offences punishable under Sections 64(2)(m), 318(2), 88 and 352 r/w Section 3(5) of BNS and Sections 3(1)(r)(s), 3(1)(w) and 3(2)(v) of SC/ST POA Act and discharge appellant Nos.2 to 4 for the offences punishable under Sections 64(2)(m), 318(2), 88 and 352 r/w Section 3(5) of BNS and Sections 3(1)(w) and 3(2)(v) of SC/ST POA Act in Special Case (SC/ST) No.91/2024, pending on the file of learned Special Judge.

2. The factual matrix of the case is that, in the year 2021, the complainant/respondent No.2 was working in Hyundai Showroom, Kapanur and residing along with



her grand-mother. On 04.02.2021, accused No.1 introduced himself by expressing his love towards respondent No.2 and also promised that he would marry her. Upon such promise, accused No.1 had sexual intercourse on her. Later, she also consented for such act and they both were sexually active for a period of four years. In the meantime, she became pregnant and also got aborted.

3. On 07.07.2024 at about 04:00 p.m., respondent No.2 along with CWs.10 to 12 had been to the house of accused No.1 at Pooja Colony. At that time, accused Nos.2 to 4-parents and sisters of accused No.1, have stoutly denied to perform the marriage of accused No.1 with respondent No.2, as they belong to different community. When respondent No.2 questioned the same, accused No.3 assaulted and threatened her by stating that, if she marry her brother, she would get divorce within a month. As such, the complaint has been lodged by respondent No.2 before the respondent-Police on



11.09.2024 against the appellants, which was registered in Crime No.93/2024 for the offences punishable under Sections 64(2)(m), 88, 352 and 318(2) r/w Section 3(5) of BNS 2023 and Sections 3(1)(r)(s), 3(1)(w), 3(2)(v) of SC/ST POA Act. Subsequently, the respondent-Police completed the investigation and laid charge sheet against the appellants by arraying them as accused Nos.1 to 4 for the aforementioned offences before the Special Court. Based on the same, the learned Special Judge took cognizance of the offences. Hence, the appellants/accused filed an application under Section 250 of BNSS, seeking discharge from the charges leveled against them.

4. On assessment of the charge sheet materials, the learned Special Judge partly allowed the application by discharging accused Nos.2 to 4 for the offences punishable under Sections 3(1)(r) and 3(1)(s) of SC/ST POA Act. Aggrieved by the same, the appellants have filed this appeal.



5. Heard learned counsel for appellants, learned High Court Government Pleader for the respondent No.1-State and learned counsel for respondent No.2.

6. Apart from urging several contentions, learned counsel for the appellants primarily contended that on perusal of the complaint and charge sheet materials, absolutely no case has been made out against these appellants for the offences they have been charge sheeted. According to him, respondent No.2-victim being a major, aged about 33 years, had consensual sex with accused No.1 and they both were sexually active for a period of four years. Further, nowhere in the charge sheet materials it is forthcoming that the appellants with an intention, knowing full well that respondent No.2 belongs to the Schedule Caste, insulted her caste and committed the act.

7. The complaint and other averments clearly reveal that initially the appellant-accused No.1 was not aware about her caste. The allegation against accused



No.1 and others is that they committed the offences under the Provisions of SC/ST (POA) Act, only when she visited the house of accused No.1 along with CWs.10 to 12. In such circumstance, both the offences under BNS and the provisions of SC/ST (POA) Act, do not attracts against the appellants. Accordingly, he prays to allow the appeal.

8. Learned counsel appearing for respondent No.2 opposed the appeal by contending that the statement of victim, CWs.10 to 12 clearly disclose that accused Nos.1 to 4, not only abused the victim by mentioning her caste, they also made an attempt to assault her. She further contended that accused No.1 had committed forcible sexual intercourse on the victim continuously for a period of four years. In such circumstances, both the offences under the provisions of BNS and SC/ST (POA) Act attracts against the appellants. Accordingly, he prays to dismiss the appeal.

9. Learned HGGP also opposed the appeal on the ground that, now the charge sheet has been laid against



the appellants, since there is a limited scope of discharge. Accordingly, he prays to dismiss the appeal.

10. I have given my anxious consideration both on the submission made by the learned counsel for respective parties and the complaint and other materials available on record.

11. As could be gathered from records, it is not in dispute that the appellant-accused No.1 and complainant-respondent No.2, were in love and both were sexually active for a period of four years. In the complaint, the statement of the victim clearly discloses that she was a consenting party and voluntarily had sexual act with accused No.1, since accused No.1 promised to marry her. Learned counsel for the appellants relied on the judgment of Hon'ble Apex Court in the case of ***Mahesh Damu Khare Vs. The State of Maharashtra and Another***, in Special Leave Petition (CRL.)No.4326/2018, wherein the Hon'ble Apex Court by referring catena of judgments at



paragraph No.27 held that the Police shall not entertain the tendency of lodging the complaint wherein failed or broken relationships have given the colour of criminality. Though, the offence of rape being of the gravest kind must be invoked only in cases where there exists genuine sexual violence, coercion or absence of free consent. To convert every relationship into an offence of rape not only travels the seriousness of the offence but also inflicts upon the accused an indelible stigma and a grave injustice.

12. Applying the above principles to the case on hand, it is evident that, long standing relationship between accused No.1 and respondent No.2 is totally consensual and when accused No.1 has also not obtained any such consent by coercing respondent No.2, the offences charge sheeted under the provisions of BNS do not attracts against him. The other offences alleged in the charge sheet under the Provisions of SC/ST POA Act is concerned, according to CWs.10 to 12, they witnessed the said incident which was caused in the house of accused No.1



and not within the public view. As such, the Provisions under SC/ST (POA) Act does not attract against them.

13. The Hon'ble Apex Court in the case of ***Hitesh Verma Vs. State of Uttarakhand and Another, (2020) 10 SCC 710***, held that the offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the Society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either indignities, humiliations or harassment.



Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that respondent No.2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that respondent No.2 is member of Scheduled Caste.

14. The another key ingredient of the provision is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as *Swaran Singh & Ors. v. State through Standing Counsel & Ors.* The Court had drawn distinction between the expression "public place" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn



would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view. The Court held as under:

"28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a "chamar") when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place". A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies."

15. In the instant case, as discussed supra, the alleged incident was not caused in a public place and the appellant No.1/accused No.1 neither obtained the consent by coercion or threat nor competed sexual intercourse on



respondent No.2 to belittle her caste. As such, the provisions of SC/ST (POA) Act are also not applicable against the appellants and accused No.1 has not committed the act in order to humiliate the caste of respondent No.2 by knowing fully that she belongs to SC/ST. As such, the provisions of SC/ST Act are also not applicable against the appellants. No doubt the revisional power has to be exercised sparingly with cautious manner when there is a *prima facie* case not made out in the entire charge sheet materials. Hence, continuation of proceedings against the accused/appellants is abuse of process of Court. In such circumstances, in my considerate view, the accused have made out a ground for discharge. Hence, the following:

ORDER

- i. The Criminal Appeal is ***allowed***.
- ii. The order dated 10.09.2025 passed in Special Case (SC/ST) No.91/2024 by the II Addl. District and Sessions Judge, Kalaburagi is hereby set aside.



- iii. The appellants/accused Nos.1 to 4 are discharged from the charges leveled against them in Special Case (SC/ST) No.91/2024 (arising out of Crime No.93/2024, registered by Women Police, Kalaburagi City) pending on the file of II Addl. District and Sessions Judge, Kalaburagi.

Sd/-
(RAJESH RAI K)
JUDGE