

Shri. Adrush S/O Vithal Shiravtti ... vs The State Of Karnataka on 5 February, 2025

Author: Hemant Chandangoudar

Bench: Hemant Chandangoudar

- 1 -

NC: 2025:KHC-D:2250
CRL.P No. 102920 of 2024

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 5TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO. 102920 OF 2024 (482(Cr.PC)/528(BNSS))

BETWEEN:

1. SHRI. ADRUSH,
S/O VITHAL SHIRAVTTI @ RUDRA @ RUDRESH,
AGE. 22 YEARS, OCC. COOLIE,
H.NO. 107, VANTAMURI,
JANATA PLOT, BELAGAVI CITY 590017.
2. SHRI VITHAL,
S/O. RAMACHANDRA SHIRAVTTI,
AGE. 48 YEARS, OCC. COOLIE,
H.NO. 107, VANTAMURI,
JANATA PLOT, BELAGAVI CITY-590017.
3. SMT DURGAMMA,
W/O. VITHAL SHIRAVTTI,
AGE. 40 YEARS, OCC. COOLIE,
H.NO. 107, VANTAMURI,
JANATA PLOT, BELAGAVI CITY-590017.

BK
MAHENDRAKUMAR

Digitally signed by B K
MAHENDRAKUMAR

Location: High Court of
Karnataka, Dharwad

Bench

Date: 2025.02.07

15:50:23 +0530

4. SMT YALLAMMA,

W/O. BABU KERE @ TEKOL,
AGE. 35 YEARS, OCC. COOLIE,
H.NO. 107, VANTAMURI,
JANATA PLOT, BELAGAVI CITY-590017.

...PETITIONERS

(BY SRI. S.M. MUCHHANDI AND SRI. S.B.PATIL, ADVOCATES)

AND:

1. THE STATE OF KARNATAKA,
THE POLICE INSPECTOR,
MALMARUTI POLICE STATION,
DIST. BELAGAVI 590017,

-2-

NC: 2025:KHC-D:2250
CRL.P No. 102920 of 2024

REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
HIGH COURT OF KARNATAKA,
AT DHARWAD BENCH 580011.

2. SMT MANJULA,
W/O. SHANKAR HEGGANAYAK,
AGE. 47 YEARS, OCC. ANGANAWADI SUPERVISOR
C/O. CDPO, OFFICE, SHIVAJI NAGAR,
BELAGAVI-590017.

...RESPONDENTS

(BY SRI. T.HANUMAREDDY, AGA FOR R1)
(R2 - SERVED)

THIS CRIMINAL PETITION IS FILED U/SEC. 482 OF CR.P.C
(U/SEC. 528 OF BNSS,) SEEKING TO CALL FOR THE RECORDS IN
SPL. CASE NO. 588/2023 PENDING ON THE FILE OF HON BLE
ADDL. DISTRICT AND SESSIONS JUDGE FTSC-1 BELAGAVI AT
BELAGAVI AND ALLOW THE PETITION FILED BY THESE
PETITIONERS/ ACCUSED NO. 1 TO 4 BY QUASHING THE ENTIRE
CHARGESHEET FILED IN SPL.CASE NO. 588/2023 (MALMARUTI P.S.
CRIME NO. 102/2023 U/SEC. 5(J)(II), 5(I), 6 OF POCSO ACT AND
SECTION 376(2)(n) OF IPC AND SEC. 9 AND 11 OF PROHIBITION
OF CHILD MARRIAGE ACT PENDING TRIAL ON THE FILE OF ADDL.
DISTRICT AND SESSIONS JUDGE FTSC-1 BELAGAVI.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

1. The petitioners/accused Nos. 1 to 4 have been charge- sheeted for the offences punishable under Section 376(2)(n) of the Indian Penal Code, 1860, Sections 5(j)(ii), 5(l), and 6 of the Protection of Children from Sexual Offences Act, 2012, and under Sections 9 and 11 of the Prohibition of Child Marriage Act.

NC: 2025:KHC-D:2250

2. The prosecution alleges that accused No.1 is the son of accused Nos. 2 and 3, and accused No.4 is the mother of the survivor. The prosecution further alleges that these accused solemnized the marriage of the survivor with accused No.1, fully knowing that the survivor was a minor at the time. Following the marriage, accused No.1 had sexual intercourse with the minor, resulting in her pregnancy. When the survivor sought medical examination, the doctor, upon determining her minor status, reported the same to the police. After investigation, the police filed a charge sheet, stating that the marriage of the survivor to accused No.1 took place when she was a minor, and, therefore, the petitioners/accused are alleged to have committed the offences as mentioned above.

3. The petitioners/accused Nos. 1 to 4, the survivor, and her child are present before this Court.

4. Learned counsel for the petitioners has filed a memo, dated 05.02.2025, along with a Joint Affidavit of the petitioners/accused Nos. 1 to 4 and the survivor. In the Joint Affidavit, the petitioners/accused Nos. 1 to 4 and the survivor state that the marriage between accused No.1 and the survivor was performed due to ignorance of the law. The Joint Affidavit further states that from this marriage, a male child was born on 03.12.2023. The survivor and the child are dependent on the petitioner for their livelihood, and there are no other means of support. It is stated that if the criminal proceedings are allowed to continue, it would result in incarceration, causing more misery and NC: 2025:KHC-D:2250 agony to the survivor, rather than serving the ends of justice. The Joint Affidavit is placed on record.

5. Learned Additional Government Advocate for respondent No. 1, the State, submits that the alleged offences are heinous and constitute a crime against society. Therefore, the alleged offences cannot be compounded, and the petition should be dismissed.

6. As of today, the survivor is over 18 years of age, and the accused is over 24 years old. The object of the POCSO Act is to protect minors from sexual abuse, not to criminalize the consensual relationship between two adolescents who engaged in consensual sexual intercourse without fully understanding the consequences. The petitioner and the survivor come from a lower socio-economic background, with limited access to information and knowledge, which deprived them of understanding the potential consequences of engaging in consensual sexual intercourse. While it is true that engaging in consensual intercourse with a minor is an offence under the POCSO Act,

considering the facts and circumstances of this case, and in the interest of justice, it would be appropriate to quash the impugned proceedings. Continuing the proceedings in this case would lead to a miscarriage of justice to the survivor.

7. In light of the above, the impugned criminal proceedings are hereby quashed.

NC: 2025:KHC-D:2250

8. Hence, I pass the following:

ORDER

i) Accordingly, the criminal petition is allowed.

ii) The impugned criminal proceedings in Spl. Case.

No.588/2023 pending on the file of Additional District & Sessions Judge FTSC-I, Belagavi, is hereby quashed.

iii) This order is subject to registration of the marriage of accused No.1 with the survivor before the jurisdictional Sub-Registrar within a period of three months from today.

Sd/-

(HEMANT CHANDANGOUDAR) JUDGE KMS Ct:vh