

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

+ CRIMINAL APPEAL No.745 of 2010

% Dated 28.11.2025

Baddam Prashanth Reddy S/o B.Nagender
Reddy, aged: 24 years, occ: Student and
Teacher in Vikas High School R/o H.No.4-5-
09, Mushk Mahal, Attapur.

....Appellant

VERSUS

\$ State of A.P., through Public Prosecutor,
High Court of A.P., Hyderabad.

... Respondent

! Counsel for the appellant : Mr.Rajagopallavan Tayi

^ Counsel for Respondent : Mr. M.Vivekananda Reddy, Asst.P.P.

< GIST:

> HEAD NOTE:

? CITATIONS:

1. (2023) 19 SCC 221
2. (2023) 19 SCC 221
3. 2018 SCC OnLine Del 8259
4. (2025) 8 SCC 545

**IN THE HIGH COURT FOR THE STATE OF
TELANGANA AT HYDERABAD**

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL APPEAL No.745 of 2010

Date: 28.11.2025

Between:

Baddam Prashanth Reddy

....Appellant

vs.

State of A.P., through Public Prosecutor,
High Court of A.P., Hyderabad.

....Respondent

JUDGMENT:

This Criminal Appeal has been filed by the appellant/accused, aggrieved by the judgment passed by the Special Sessions Judge for SC & ST (POA) Act, 1989, Ranga Reddy District at L.B.Nagar, dated 07.06.2010, in S.C.No.163 of 2008, where under, the appellant/accused was found guilty for the offence under Section 377 of the Indian Penal Code, 1860 (for short 'IPC'), convicted and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,000/- and in default of payment of fine, he shall undergo simple imprisonment for a period of one month.

2. For the sake of convenience, the parties herein are referred to as they were arrayed before the trial Court.

3. **The case of the prosecution in nutshell:**

3.1 The *de facto* complainant lodged a complaint on 23.07.2007 at 22-00 hours with the Police, Rajendranagar Police Station stating that his son Master Korani Rajesh, aged about 12 years, is studying 7th class in Vikas High School, Budvel. He is sending his son to the Tuition Master Baddam Prashanth Reddy, who is giving tuition to various students at the rented room at Budvel village nearby to their house, for the last one week for taking tuition in Maths, Science and English. On 21.07.2007 evening accused subjected his son to anal sex and threatened to effect his failure in 7th class, if he revealed the facts to anybody, for which his son kept quiet and when suffered from immense pain in his stomach, he told about the incident to his friend Master Suman s/o Mohan, who in turn informed the above incident to the complainant's wife and knowing the same through her, he confirmed the occurrence by asking his victim son. Immediately, he accompanied by the victim visited the place of tuition and found that the accused Prashanth Reddy was absconding. Hence, he requested to take necessary action against the accused for his indulgence in subjecting his son to abnormal sex. Basing on the said complaint, Crime No.705 of 2007 was registered for the offence under Section 377 of IPC and the Investigating Officer after conducting

investigation filed charge sheet and the learned Magistrate, took cognizance of the same and numbered it as PRC No.17 of 2008 and committed the case to the learned Special Judge-cum-Metropolitan Sessions Judge, has taken the case on file under Sections 377 and 506 of IPC and Section 3(2)(v) of the SCs/STs (POA) Act, 1989. On constitution of the Court of Special Sessions Judge for SC & ST (POA) Act, Ranga Reddy District at L.B.Nagar, this case was transferred to the said Court.

3.2. On behalf of the prosecution, PWs.1 to 9 were examined and Exs.P1 to P8 and MO.1 got marked. On behalf of defence, no witnesses were examined and no document was marked.

3.3. Learned Special Sessions Judge after taking into consideration the oral and documentary evidence on record and after hearing the parties, convicted the accused for the offence under Section 377 of IPC and sentenced as stated above. Aggrieved by the same, accused has preferred the present appeal.

4. Heard Sri Rajagopallavan Tayi, learned counsel appearing for the appellant, and Sri M. Vivekananda Reddy, learned Assistant Public Prosecutor, appearing for respondent-State.

5. Submissions of the learned counsel for the appellant:

5.1 Learned counsel submitted that the appellant/accused has

not committed the alleged offence levelled against him and the trial Court without properly considering the oral and documentary evidence on record erroneously convicted the accused for the offence under Section 377 of IPC. Especially the prosecution has miserably failed to prove the guilt of the accused beyond reasonable doubt and the ingredients of the offence under Section 377 of IPC do not attract.

5.2 He further submitted that in the absence of any iota of evidence, the appellant has committed the offence as alleged by PW.1 in the complaint, especially PW.2 was not referred for medical examination and PW.6 in his evidence specifically deposed in the evidence that he has not given information about the cause of injuries. In spite of his advise, PW.2 refused for admission for medical examination. In the absence of medical examination, solely relying upon the testimony of PW.2 and also Ex.P3 Potency Certificate issued by PW.7, the trial Court convicted the accused and the same is contrary to the settled principles of law.

5.3 He further submitted that there are several discrepancies in the evidence of PWs.1 to 5. PW.1 in his complaint/Ex.P1, stated that his son has informed about the alleged incident, whereas PW.3, who is mother of PW.2, stated in her evidence that PW.2's friend Suman informed about the alleged incident. He also

submitted that neither the prosecution nor the learned Special Sessions Judge has followed the procedure as contemplated under Section 118 of the Evidence Act, 1872 while recording the statement either under Section 161 Cr.P.C. or while recording the deposition of PW.2 and the same is mandatory on the ground that PW.2 victim is a minor boy.

5.4 He further submitted that the trial Court solely relied upon the circumstantial evidence and convicted the appellant. The impugned judgment passed by the trial Court is contrary to the settled principles of law and the same is liable to be set aside and the accused is entitled for acquittal for the offence under Section 377 of IPC.

5.5 In support of his contentions, he relied upon the judgment of the Hon'ble Apex Court in **Pradeep v. The State of Haryana**¹.

6. Submissions of learned Assistant Public Prosecutor:

6.1 *Per contra*, learned Assistant Public Prosecutor submitted that the trial Court after evaluating the oral and documentary evidence on record has rightly convicted the accused for the offence under Section 377 of IPC by giving cogent reasons. There are no grounds to interfere with the impugned judgment passed by the

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learned Special Sessions Judge. Hence, the appeal is liable to be dismissed.

Analysis:

7. Having considered the rival submissions made by the respective parties and on perusal of the material available on record, it reveals that even according to the prosecution, the alleged offence has taken place on 21.07.2007, whereas PW.1, who is none other than the father of PW.2, lodged complaint on 23.07.2007. PW.1 has not given any specific reasons for the delay in lodging the complaint. Learned counsel for the appellant has rightly pointed out that in the copy of the complaint, the name of the victim/PW.2 was mentioned as 'K.Kenny', whereas PW.2/victim name was 'Korani Rajesh'. He stated in his evidence that PW.2 informed about the said incident after one day of the incident. It is also relevant to mention that PW.1 in his cross-examination specifically admitted that when the police referred his son/PW.2 to Government Hospital for treatment, PWs.1 and 2 refused to get treatment. PW.3 in her evidence stated that she came to know about the said incident through PW.4 Suman, who is close friend of PW.2. Learned counsel for the appellant has rightly pointed out that there are discrepancies in the evidence of PWs.1, 3 and 4.

8. It is very much relevant to mention that the learned Special

Sessions Judge solely relied upon the testimony of PW.2 and Ex.P3 Potency Certificate of the accused, came to a conclusion that the accused has committed the offence against PW.2. Especially, in the absence of any other evidence including medical evidence, it is already stated *supra* that PW.2 refused for medical examination in spite of PW.6, who is a Government Doctor referred for medical examination. PW.1 also admitted in his evidence that when the police referred PW.2 for treatment to Government Hospital, he and PW.2 refused to get treatment. PW.6 in his evidence specifically stated that it is not possible to give opinion about the cause of injuries in the absence of medical examination. In spite of the same, the learned Special Sessions Judge simply relied upon the testimony of PW.2 and Ex.P3 Potency Certificate and convicted the accused.

9. The record further discloses that the prosecution as well as the trial Court has not followed the mandatory procedure as prescribed under the provisions of Section 118 of the Indian Evidence Act, 1872, especially PW.2/victim is a minor boy at the time of commission of offence.

10. In ***Pradeep v. State of Haryana***², the Hon'ble Supreme Court reiterated that under Section 118 of the Evidence Act, 1872

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a child witness is competent to depose only if the trial Court first satisfies itself, through a proper preliminary inquiry, that the child understands the questions put to him, can give rational answers, and appreciates the duty of speaking the truth. The Hon'ble Supreme Court stressed that the Judge must record this opinion, preferably along with the preliminary questions and answers. Although Section 4 of the Oaths Act, 1969 permits children less than 12 years to give evidence without oath, the obligation under Section 118 applies irrespective of age and further held that while corroboration of a child witness is not mandatory, prudence requires careful scrutiny, as children are susceptible to tutoring. The Hon'ble Supreme Court found that the trial Judge conducted only a superficial competency assessment and failed in his duty. Upon independently examining the minor's testimony and noted inconsistencies, lack of corroboration, and investigative lapses, making the possibility of tutoring plausible. The testimony did not inspire confidence, and it was held that a conviction cannot safely rest solely on such uncorroborated and unreliable evidence.

11. The above said judgment is squarely applicable to the present case, as the trial Court similarly failed to conduct the mandatory competency assessment of the child witness under Section 118 of the Evidence Act and the conviction here rests solely

on the uncorroborated testimony of a minor whose capacity was not properly tested, making it unsafe to sustain the conviction.

12. In ***State of NCT of Delhi v. Dharmender***³, the High Court of Delhi held that the trial Court's acquittal in a case of aggravated penetrative sexual assault on a 10 years old child was legally unsustainable. The High Court observed that the victim had been correctly assessed as a competent witness under Section 118 of the Indian Evidence Act, having demonstrated the ability to understand questions and provide coherent and reliable answers, and his testimony was further corroborated by medical and parental evidence. The trial Court nevertheless ignored this material and wrongly doubted the child's age, despite unchallenged school records admissible under Section 35 of the Evidence Act. It has also failed to follow the procedure mandated by Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2016 and did not invoke its powers under Section 311 of the Code of Criminal Procedure, 1973 and Section 165 of the Evidence Act to address any doubt regarding age. The High Court characterised the trial Court's approach in this serious Protection of Children from Sexual Offences Act matter as casual and contrary to settled principles.

³ 2018 SCC OnLine Del 8259

13. Subsequently, in ***State of Madhya Pradesh v. Balveer Singh***⁴, the Hon'ble Supreme Court clarified and strengthened the legal standards governing child testimony under Section 118 of the Evidence Act. The Hon'ble Supreme Court held that a child is a competent witness once the trial Court conducts and records a preliminary interaction to ensure that the child understands the questions and can give rational answers. It emphasized that corroboration is not a statutory requirement but only a rule of prudence, and that a credible, untutored, and confidence inspiring child witness can, by itself, sustain a conviction. The Hon'ble Supreme Court further held that allegations of tutoring must be supported by foundational facts, and that Courts must assess the child's demeanor and voluntariness with heightened scrutiny.

14. In the case on hand, the trial Court relied solely on the testimony of minor PW.2 and the Ex.P3 Potency Certificate, without conducting a preliminary competency assessment under Section 118 of the Indian Evidence Act or recording any such interaction, and both the victim and his father refused medical examination despite referral by PW.6, who is a Government Doctor, resulting in absence of crucial corroborative evidence. Further, there are unexplained delay in lodging the complaint and

⁴ (2025) 8 SCC 545

discrepancies in the testimonies of other witnesses, which cast doubt on the reliability of the evidence on record. As held in ***Dharmender supra***, a trial Court must assess a child witness's competence and consider corroborative material and procedural safeguards, while the Hon'ble Supreme Court in ***Balveer Singh supra***, clarified that a child's testimony must be credible, voluntary, and untutored, and any allegation of tutoring must be found on evidence. In view of these lapses, the evidence relied upon by the trial Court is materially deficient, making the conviction legally unsustainable.

CONCLUSION:

15. For the foregoing reasons, this Court is of the considered view that the prosecution has miserably failed to prove the charge under Section 377 of IPC against the accused beyond reasonable doubt and the impugned judgment, dated 07.06.2010, passed by the trial Court convicting the accused for the offence under Section 377 of IPC is liable to be set aside and the accused is entitled for acquittal.

16. In the result, the Criminal Appeal is allowed and the judgment passed by the learned Special Sessions Judge for SC & ST (POA) Act, 1989, Ranga Reddy District at L.B.Nagar, dated 07.06.2010, in S.C.No.163 of 2008 convicting the accused for the

offence under Section 377 of IPC is set aside and the appellant/accused is acquitted for the said offence and his bail bonds shall stand discharged.

As a sequel thereto, miscellaneous applications, if any, pending in this petition stand closed.

JUSTICE J.SREENIVAS RAO

Date: 28.11.2025

Note: L.R. copy to be marked.

pgp