

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

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**Criminal Petition No.331 OF 2021**

Between:

Venkat Uday Teja Ganti

... Petitioner

And

State of Telangana,  
Rep. by the Station House Officer,  
P.S.Bachupally and another.

... Respondents

DATE OF JUDGMENT PRONOUNCED:

22.08.2023

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER**

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? Yes/No

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*K.SURENDER, J*

**\* THE HON'BLE SRI JUSTICE K. SURENDER**

**+ CRL.P. No.331 of 2021**

% Dated 22.08.2023

# Venkat Uday Teja Ganti

... Petitioner

And

\$ State of Telangana,  
Rep. by the Station House Officer,  
P.S.Bachupally and another

... Respondents

**! Counsel for the Petitioner:** Sri V.Ravi Kiran Rao

**^ Counsel for the Respondents:** Public Prosecutor for R1  
Sri G.Sanjeeva Reddy for R2

**>HEAD NOTE:**

**? Cases referred**

<sup>1</sup> (2019) 3 Supreme Court Cases (Cri) 903

<sup>2</sup> (2020) 3 Supreme Court Cases (Cri) 672

<sup>3</sup> 2022 LiveLaw (SC) 649

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL PETITION No.331 OF 2021****ORDER:**

1. The petitioner is aggrieved by registration of FIR No.778 of 2020 dated 18.12.2020 by the Bachupally Police Station. The said FIR was registered on the basis of the complaint of the 2<sup>nd</sup> respondent.

2. In the written complaint by 2<sup>nd</sup> respondent dated 17.12.2020, it is mentioned that she worked in HSBC in the year 2017 and met the petitioner. Both the petitioner and 2<sup>nd</sup> respondent were in physical relation in the year 2019. Petitioner is refusing to marry after having sex over a period of time. Petitioner further blamed her for his attempt to suicide stating that contraceptive pills were not taken resulting in her pregnancy. The said attempt was made on 21.03.2019. After recovery, again petitioner and 2<sup>nd</sup> respondent were in physical relation. However, the petitioner failed to commit himself for marriage. On 08.12.2020, both petitioner and 2<sup>nd</sup> respondent attended Bharosa centre at Gachibowli for counseling. On the said date, petitioner and his family members assured that they

would meet the 2<sup>nd</sup> respondent's family to discuss about marriage. However, the petitioner and his family members were making excuses and never met the parents of the 2<sup>nd</sup> respondent. Her number was also blocked. The 2<sup>nd</sup> respondent went to the residence of petitioner on 17.12.2020, but the petitioner and others refused to meet her. Since petitioner was delaying the marriage issue and had sex over a period of time promising marriage, complaint was filed to investigate into the issue.

3. Having received the complaint, the police registered the case. On 02.02.2021, this Court granted stay of all further proceedings including arrest of the petitioner.

4. Sri V.Ravi Kiran Rao, learned Senior Counsel appearing on behalf of the petitioner would submit that the 2<sup>nd</sup> respondent is in the habit of filing such complaints. In the year 2014, she filed complaint against one Raghavendra on the very same grounds stating that he had physical relation and thereafter refused to marry her. The said complaint was filed on 23.12.014. She also filed another complaint on 14.03.2022 against one K.Kiran

Reddy stating that since June, 2021 to December, 2021 he had physical relation and he refused to marry her.

5. Learned Senior Counsel further submitted that none of the ingredients of any of the Sections 376 or 420 of IPC are made out in the complaint. There were whatsapp messages exchanged between the 2<sup>nd</sup> respondent and the petitioner reflecting that the 2<sup>nd</sup> respondent had provoked the petitioner to have sexual intercourse with her. In the absence of any allegation that she was forced to engage in sexual intercourse, an offence of rape is not made out. It is also not mentioned in the complaint that a false promise was made to develop physical relation with the 2<sup>nd</sup> respondent, as such, an offence under Section 420 of IPC is not made out.

6. Senior Counsel further argued that on 08.12.2020 itself, petitioner had addressed a complaint to the police, for which GD entry was made. Complaint of the petitioner clearly states that the 2<sup>nd</sup> respondent has forced herself on to him and she was blackmailing him. However, the said complaint was not

registered. As seen from the circumstances, false case is made out for which reason, proceedings have to be quashed.

7. In support of his contentions, learned Senior Counsel relied on the judgment of Hon'ble Supreme Court in the case of **Pramod Suryabhan Pawar v. State of Maharashtra**<sup>1</sup>, wherein it was held that under Section 482 of Cr.P.C, the High Court has inherent powers to act *ex debito justitiae*, to do real and substantial justice. While dealing with the case of rape, the Hon'ble Supreme Court held as follows:

“18. To summarise the legal position that emerges from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act.”

8. He also relied on the judgment of Hon'ble Supreme Court in the case of **Dr.Dhruvaram Murlidhar Sonar v. State of Maharashtra and others**<sup>2</sup>, wherein it was held that a conscious decision of a victim to involve in sexual relation with the accused

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<sup>1</sup> (2019) 3 Supreme Court Cases (Cri) 903

<sup>2</sup> (2020) 3 Supreme Court Cases (Cri) 672

without pressure, offence of rape is not made out. The Hon'ble Supreme Court further held that if the accused had made promise with sole intention to seduce prosecutrix to indulge in sexual acts, such an act would amount to rape. However, if the victim agrees to have sexual intercourse on account of her love and passion for accused and not solely on account of misconception created by accused and on account of circumstances, the accused was unable to marry, such cases have to be treated differently.

9. In **Mandal Deepak Pawar v. The State of Maharashtra and another**<sup>3</sup>, the Hon'ble Supreme Court was dealing with the case of rape where the parties have chose to have physical relation without marriage for considerable time and the complaint was filed after three years. Relying on the judgment of **Pramod Suryabhan Pawar's** case (supra), criminal proceedings were quashed.

10. On the other hand, learned counsel appearing on behalf of the 2<sup>nd</sup> respondent would submit that every case has to be

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<sup>3</sup> 2022 LiveLaw (SC) 649

treated differently and on the circumstances of the case, admittedly, petitioner had induced the 2<sup>nd</sup> respondent with a promise to marry and had physical relationship. In the said circumstances, when there was misconception, which was created by the petitioner herein, the acts amount to an offence punishable with rape and cheating.

11. It is not in dispute that the 2<sup>nd</sup> respondent had filed two FIRs one on 23.12.2014 alleging that the accused therein had physical relation with her with a promise to marry and thereafter, refused to marry her. After the present complaint also, complaint was filed on 14.03.2022 by the 2<sup>nd</sup> respondent against the accused therein stating that the accused had physical relation with her from June, 2021 to December 2021.

12. As seen from the complaints made by the 2<sup>nd</sup> respondent, she was having physical relation with the accused mentioned in three FIRs. Similar allegations are made in all the three complaints that the accused had promised to marry and for the said reason, they were in physical relationship.



13. The 2<sup>nd</sup> respondent was working in a Bank and also an artist and model, according to her complaint. Several WhatsApp messages are filed by the counsel for the petitioner, reflecting that 2<sup>nd</sup> respondent had induced the petitioner into having physical relationship and forced him. However, it has to be considered whether the complaint makes out a case against the petitioner for the offence of rape as alleged.

14. In the complaint, it is stated that she knew the petitioner in the year 2017 while she was working in HSBC Bank. In the year 2019 they had physical relation and the petitioner attempted suicide for the reason of the 2<sup>nd</sup> respondent not taking contraceptive pills. The said attempt was made on 21.03.2019. Again after his recovery, both were in physical relationship in the month of September, 2019. From her complaint, except using the words 'cheated' and 'having sex' with the petitioner, the incidents narrated did not make out that the petitioner had in any manner induced the 2<sup>nd</sup> respondent into having physical relationship with him. It is stated by the 2<sup>nd</sup> respondent that she loved him and also they were in physical relation. However, the petitioner used

her for sex and refused to marry her or commit himself to marry. Thereafter, attempts to marry did not materialize.

15. As seen from the complaint dated 14.03.2022, the 2<sup>nd</sup> respondent alleged that she had physical relation with the accused therein, who is an Aircraft Maintenance Engineer from June, 2021 to December, 2021. In the said complaint also, she was physically involved and when she asked for commitment of marriage, the accused therein did not marry her. Similar allegation was made against the accused in FIR No.544 of 2014 stating that she had physical relation on the promise that he would marry her.

16. In the back ground of two complaints being made against two different persons, one prior to the complaint and one after the present complaint, it cannot be said that the 2<sup>nd</sup> respondent was induced or cheated into having a physical relation. No doubt, it may be that all the three accused in three different cases promised to marry her. However, though complaint was lodged in 2014 regarding the relationship with the accused therein, she again entered into physical relationship with this petitioner and

another person thereafter. Under these peculiar circumstances it cannot be said that the 2<sup>nd</sup> respondent was forced or deliberately induced into having sex with the petitioner.

17. The 2<sup>nd</sup> respondent had engaged in sexual relation with the petitioner consensually. As seen from her complaint, it cannot be said that consent was based on any misconception of fact. It is not the case that the only reason for having physical relation was promise to marry. Even in the complaint, the 2<sup>nd</sup> respondent stated that the petitioner attempted suicide for the acts of the 2<sup>nd</sup> respondent herein.

18. Under similar circumstances, the Hon'ble Supreme Court in **Pramod Suryabhavan Pawar's case (supra)** and also **Mandal Deepak Pawar's case (supra)**, had quashed the FIR. In the present case also, there was consensual physical relationship between adults and the marriage did not happen. There is nothing to remotely suggest that petitioner had induced the 2<sup>nd</sup> respondent though she was unwilling for sexual relation with him and only after an assurance of marriage, believing such assurance, 2<sup>nd</sup> respondent had a physical relation. None of the

ingredients of either section 376 or section 420 of IPC are made out.

19. In view of above discussion, proceedings against the petitioner in FIR No.778 of 2020 dated 18.12.2020 pending before Bachupally Police Station are hereby quashed.

20. Criminal Petition is allowed. Consequently, miscellaneous applications, if any, shall stand closed.

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**K.SURENDER, J**

Date: 22.08.2023

Note: LR copy to be marked.

B/o.kvs

**THE HON'BLE SRI JUSTICE K.SURENDER**

**CRIMINAL PETITION No.331 OF 2021**

**Dt.22.08.2023**

kvs