

**Reserved on : 18.09.2025**  
**Pronounced on : 25.10.2025**

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25<sup>TH</sup> DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

**BETWEEN:**



... PETITIONER

(BY SRI ATHREYA C. SHEKAR, ADVOCATE)

**AND:**

- 1 . STATE OF KARNATAKA BY  
KONANAKUNTE POLICE STATION,  
BENGALURU  
REPRESENTED BY HCGP,  
HIGH COURT COMPLEX,  
BENGALURU – 560 001.

2 . MS. XXXXXXXXXX  
 XXXXXXXXXX  
 XXXXXXXXXX  
 XXXXXXXXXX  
 XXXXXXXXXX

... RESPONDENTS

(BY SRI B.N.JAGADESHA, ADDL.SPP FOR R-1;  
 R-2 SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING READ WITH SECTION 528 OF BHARITHIYA NAGARIK SURAKSHA SANHITHA, 2023 TO QUASH THE FIR IN CR.NO. 306/2024 (ANNEXURE-A) AND COMPLAINT (ANNEXURE-B) FILED BY THE R-2, REGISTERED BY THE R-1 POLICE AGAINST THE PETITIONER WHICH IS NOW PENDING AS CC NO. 34011/2024 ANNEXURE-D ON THE FILE OF THE XXX ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU FOR THE ALLEGED OFFENCE PUNISHABLE UNDER SECTION 64 OF BHARATHIYA NYAYA SANHITA 2023.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 18.09.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

### **CAV ORDER**

The petitioner is before this Court calling in question proceedings in C.C.No.34011 of 2024 pending before the XXX Additional Chief Metropolitan Magistrate, Bengaluru arising out of

Crime No.306 of 2024 registered for offence punishable under Section 64 of the Bharatiya Nyaya Sanhita ('BNS'), 2023 for rape.

2. **Sans prolixity**, the essential narrative is as follows: -

**The petitioner and the 2<sup>nd</sup> respondent are drawn together in the labyrinth of modern social media, become acquainted through the virtual corridors of the dating application 'Bumble' and thereafter, nurtured their acquaintance for over years through the exchange of images and conversations upon the platform of Instagram. On the morning of 11-08-2024, the two resolve to meet in person. After partaking of a meal at a restaurant – Plan-B on BEL road, proceed to a hotel, an OYO Flagship hotel, where physical intimacy is alleged to have ensued. After the night, on the next day i.e., on 12-08-2024 the petitioner drops the complainant back to her apartment. On 13-08-2024, the following day, moved by certain physical discomfort, gets herself examined at Ramaiah hospital and comes to know that she is a victim of sexual assault. She goes to the Police Station on 13-08-2024 and**

lodges a complaint, which becomes a crime in Crime No.306 of 2024 for offence punishable under Section 64 of the BNS which punishes for commission of rape. The petitioner then gets arrested, police conduct investigation and file a final report against the petitioner arraigning him as the sole accused in C.C.No.34011 of 2024. It is the filing of the charge sheet that drives the petitioner to this Court in the subject petition.

3. Heard Sri Athreya C. Shekar, learned counsel appearing for the petitioner and Sri B.N. Jagadeesha, learned Additional State Public Prosecutor appearing for respondent No.1. Respondent No.2, though served, remained unrepresented.

4. The learned counsel appearing for the petitioner would vehemently contend that social media platform meeting results in several activities. Petitioner and complainant met in Bumble dating app and continued to exchange photographs, video and chats on Instagram. The photographs and chats would clearly demonstrate falsity of the claim of the complainant. The Investigating Officer has deliberately not made that a part of the charge sheet. It is,

therefore, a memo along with documents is filed before the Court. The learned counsel would further submit that they are all purely consensual acts between the petitioner and the complainant who is active on bumble, a dating app for long time. He would seek quashment of proceedings.

5. The learned Additional State Public Prosecutor representing the State would vehemently refute the submissions in contending that the petitioner has indulged in sexual assault on the complainant. It cannot be termed as a consensual sex. Even in case of sex on promise of marriage, BNS punishes. Though this is not a case of promise of marriage, whether it was a consensual or not, is a matter of trial. He would, therefore, seek dismissal of the petition, contending that the petitioner should come out clean in a full-blown trial.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The factual canvass is narrow, the entire issue being rooted in the complaint dated 13-08-2024. The complainant avers that she withdrew her consent midway, but the petitioner nevertheless proceeded. Therefore, I deem it appropriate to notice the complaint. It reads as follows:

"13-08-24

"To  
Police Inspector  
Konanakunte Police Station  
Bangalore

From:

XXXXXXXXXX,  
XXXXXXXXXX,  
XXXXXXXXXX,  
XXXXXXXXXX,  
XXXXXXXXXX,

Subject: Sexual Assault Incident involving Sampras  
Anthony (7337625635)

Dear sir,

I am writing to formally lodge a complaint regarding an incident of sexual assault done by Sampras Anthony on 11<sup>th</sup> August.

I met Sampras on a dating app (Bumble) a approximately a year ago. Recently, we got back in touch on Instagram and decided to meet in person on 11<sup>th</sup> of August, he picked me up from my apartment and took me to an Oyo room OMD Flagship Green Residency (Room 304) which we reached around 7:30 P.M. Shortly after settling in, Sampras began to seduce me into sexual intercourse, which I instantly withdrew my consent for. I explicitly informed him not to continue further. Despite my

repeated objections and clear instructions to not proceed further, Sampras refused to listen. He continued to engage in sexual intercourse disregarding my express withdrawal of consent.

I repeatedly requested him to stop and continuously questioned his motives despite which he persisted in having sex against my will.

The next morning, Sampras proceeded to drop me back to my apartment at 7:30 A.M. shortly after which I began experiencing stomach pain. When the pain worsened, I decided to visit Ramaiah hospital to get a medical test done, on 13<sup>th</sup> Aug 2024.

I request that this matter be taken seriously and investigated thoroughly. I am prepared to cooperate fully with any legal action that may be necessary, and I expect appropriate action to be taken against the perpetrator.

Thank you for your attention to this grave issue."

It is the case of the complainant that she met the petitioner on a dating app called 'Bumble' a year ago and they got back in touch on Instagram and decided to take a room on 11-08-2024. It is the complaint that the petitioner began to seduce her to sexual intercourse, consent for which was withdrawn by her. It is her case that she informed the petitioner that she would not like to continue further. In spite of it, the petitioner indulged in sexual intercourse. The next morning, the petitioner has dropped her back to the apartment and thereafter she experienced stomach pain and because of stomach pain she gives a complaint, is what the

complaint narrates. The police after investigation file a charge sheet. The summary of the charge sheet as obtaining in column No.17 reads as follows:

“17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ

ಈ ದೋಷರೋಪಣಾ ಪಟ್ಟಿಯ ಕಾಲಂ ನಂಬರ್ 12 ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಎ-1 ಆರೋಪಿಯು ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಡೇಟಿಂಗ್ ಆಫ್ ನಲ್ಲಿ ಪರಿಚಯವಾಗಿದ್ದು, ಎ-1 ಆರೋಪಿ ಮತ್ತು ಸಾಕ್ಷಿ-1 ರವರು ಪರಸ್ಪರ ಭೇಟಿ ಮಾಡುವ ಉದ್ದೇಶ ಹೊಂದಿದ್ದು ಅದರಂತೆ ಎ1 ಆರೋಪಿಯು ಸಾಕ್ಷಿ-1 ರವರನ್ನು ದಿನಾಂಕ 11.08.2024 ರಂದು ಸುಮಾರು 19.30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಕೋಣನಕುಂಟೆ ಪೊಲೀಸ್ ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ ಜಂಬೂಸವಾರಿದಿಣ್ಣೆಯ ಒಯೋ ಪ್ಲಾನ್ ಸಶಿಫ್ ಗ್ರೀನ್ ರೆಸಿಡೆನ್ಸಿಯ 3 ನೇ ಮಹಡಿಯಲ್ಲಿರುವ ಕೊಠಡಿ ಸಂಖ್ಯೆ 304 ಕ್ಕೆ ಕರೆದುಕೊಂಡು ಬಂದಿದ್ದು, ನಂತರ ಎ-1 ಆರೋಪಿಯು ಸಾಕ್ಷಿ-1 ರವರ ಇಚ್ಛೆಗೆ ವಿರುದ್ಧವಾಗಿ ಲೈಂಗಿಕ ಸಂಭೋಗ ಮಾಡಿ ಅತ್ಯಾಚಾರ ಮಾಡಿರುವುದು ತನಿಖೆಯಿಂದ ಧೃಢಪಟ್ಟಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ ಎ-1 ಆರೋಪಿಯು ಮೇಲ್ಕಂಡ ಕಲಂಗಳ ರೀತ್ಯಾ ಶಿಕ್ಷಾರ್ಹ ಅಪರಾಧವೆಸಗಿರುತ್ತಾನೆಂದು ದೋಷರೋಪಣಾ ಪಟ್ಟಿ.

ನಿವೇದನೆ : ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ನೊಂದ ಮಹಿಳೆ ಮತ್ತು ಆರೋಪಿಯಿಂದ ವಶಪಡಿಸಿಕೊಂಡ ಆರ್ಟಿಕಲ್ ಗಳನ್ನು ಮತ್ತು ಆರೋಪಿಯ ಮಾದರಿ ರಕ್ತವನ್ನು ಡಿ.ಎನ್.ಎ ಪರೀಕ್ಷೆಗೆ ಎಫ್.ಎಸ್ ಎಲ್ ಕಚೇರಿ, ಮಡಿವಾಳ ಗೆ ಕಳುಹಿಸಿದ್ದು ವರದಿ ಬಂದ ನಂತರ ಕಲಂ, 193(9) ಬಿ.ಎನ್ ಎಸ್ ಎಸ್ ರಲ್ಲಿ ಹೆಚ್ಚುವರಿ ದೋಷಾರೋಪಣೆ ಪಟ್ಟಿಯನ್ನು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ನಿವೇದಿಸಿಕೊಳ್ಳಲಾಗುವುದು.”

Prior to filing of the charge sheet, the statement of the complainant was recorded. It is specific case of the petitioner that the Investigating Officer has deliberately ignored the chats between the petitioner and the complainant, as over a year the petitioner and the complainant were in touch with each other on Instagram and has placed a memo along with chats. The chats are not in good



taste nor can be reproduced in the course of the order. It would only indicate that the acts between the petitioner and the 2<sup>nd</sup> respondent/complainant are all consensual.

8.1. The Apex Court, in the case of **DR. DHURVARAM MURLIDHAR SONAR v. STATE OF MAHARASHTRA**<sup>1</sup>, has held as follows :

".... ....

**20.** With this factual background, the Court held that the girl had taken a conscious decision, after active application of mind to the events that had transpired. It was further held that at best, it is a case of breach of promise to marry rather than a case of false promise to marry, for which the accused is prima facie accountable for damages under civil law. It was held thus : (*Deelip Singh [Deelip Singh v. State of Bihar, (2005) 1 SCC 88 : 2005 SCC (Cri) 253]* , SCC p. 106, para 35)

"35. The remaining question is whether on the basis of the evidence on record, it is reasonably possible to hold that the accused with the fraudulent intention of inducing her to sexual intercourse, made a false promise to marry. We have no doubt that the accused did hold out the promise to marry her and that was the predominant reason for the victim girl to agree to the sexual intimacy with him. PW 12 was also too keen to marry him as she said so specifically. But we find no evidence which gives rise to an inference beyond reasonable doubt that the accused had no intention to marry her at all from the inception and that the promise he made was false to his knowledge. No circumstances emerging from the prosecution evidence establish this fact. On the other hand, the statement of PW 12 that "later on", the accused became ready to marry her but

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<sup>1</sup> (2019) 18 SCC 191

his father and others took him away from the village would indicate that the accused might have been prompted by a genuine intention to marry which did not materialise on account of the pressure exerted by his family elders. It seems to be a case of breach of promise to marry rather than a case of false promise to marry. On this aspect also, the observations of this Court in *Uday case* [*Uday v. State of Karnataka*, (2003) 4 SCC 46 : 2003 SCC (Cri) 775] at para 24 come to the aid of the appellant."

**21.** In *Deepak Gulati v. State of Haryana* [*Deepak Gulati v. State of Haryana*, (2013) 7 SCC 675 : (2013) 3 SCC (Cri) 660] , the Court has drawn a distinction between rape and consensual sex. This is a case of a prosecutrix aged 19 years at the time of the incident. She had an inclination towards the accused. The accused had been giving her assurances of the fact that he would get married to her. The prosecutrix, therefore, left her home voluntarily and of her own free will to go with the accused to get married to him. She called the accused on a phone number given to her by him, to ask him why he had not met her at the place that had been pre-decided by them. She also waited for him for a long time, and when he finally arrived, she went with him to a place called Karna Lake where they indulged in sexual intercourse. She did not raise any objection at that stage and made no complaints to anyone. Thereafter, she went to Kurukshetra with the accused, where she lived with his relatives. Here too, the prosecutrix voluntarily became intimate with the accused. She then, for some reason, went to live in the hostel at Kurukshetra University illegally, and once again came into contact with the accused at Birla Mandir there. Thereafter, she even proceeded with the accused to the old bus-stand in Kurukshetra, to leave for Ambala so that the two of them could get married at the court in Ambala. At the bus station, the accused was arrested by the police. The Court held that the physical relationship between the parties had clearly developed with the consent of the prosecutrix as there was neither a case of any resistance nor had she raised any complaint anywhere at any time, despite the fact that she had been living with the accused for several days and had travelled with him from one place to another. The Court further held that it is not possible to apprehend the circumstances in which a charge of deceit/rape can be levelled against the accused.

**22.** Recently, this Court, in *Shivashankar v. State of Karnataka* [*Shivashankar v. State of Karnataka*, (2019) 18 SCC 204] , disposed of on 6-4-2018, has observed that it is difficult to hold that sexual intercourse in the course of a relationship which has continued for eight years is "rape", especially in the face of the complainant's own allegation that they lived together as man and wife. It was held as under : (*Shivashankar case* [*Shivashankar v. State of Karnataka*, (2019) 18 SCC 204] , SCC p. 205, para 4)

"4. In the facts and circumstances of the present case, it is difficult to sustain the charges levelled against the appellant who may have possibly, made a false promise of marriage to the complainant. It is, however, difficult to hold sexual intercourse in the course of a relationship which has continued for eight years, as "rape" especially in the face of the complainant's own allegation that they lived together as man and wife."

**23.** Thus, there is a clear distinction between rape and consensual sex. The court, in such cases, must very carefully examine whether the complainant had actually wanted to marry the victim or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. There is also a distinction between mere breach of a promise and not fulfilling a false promise. If the accused has not made the promise with the sole intention to seduce the prosecutrix to indulge in sexual acts, such an act would not amount to rape. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused and not solely on account of the misconception created by accused, or where an accused, on account of circumstances which he could not have foreseen or which were beyond his control, was unable to marry her despite having every intention to do. Such cases must be treated differently. If the complainant had any mala fide intention and if he had clandestine motives, it is a clear case of rape. The acknowledged consensual physical relationship between the parties would not constitute an offence under Section 376 IPC.

24. In the instant case, it is an admitted position that the appellant was serving as a Medical Officer in the Primary Health Centre and the complainant was working as an Assistant Nurse in the same health centre and that she is a widow. It was alleged by her that the appellant informed her that he is a married man and that he has differences with his wife. Admittedly, they belong to different communities. It is also alleged that the accused/appellant needed a month's time to get their marriage registered. The complainant further states that she had fallen in love with the appellant and that she needed a companion as she was a widow. She has specifically stated that "as I was also a widow and I was also in need of a companion, I agreed to his proposal and since then we were having love affair and accordingly we started residing together. We used to reside sometimes at my home whereas sometimes at his home". Thus, they were living together, sometimes at her house and sometimes at the residence of the appellant. They were in a relationship with each other for quite some time and enjoyed each other's company. It is also clear that they had been living as such for quite some time together. When she came to know that the appellant had married some other woman, she lodged the complaint. It is not her case that the complainant has forcibly raped her. She had taken a conscious decision after active application of mind to the things that had happened. It is not a case of a passive submission in the face of any psychological pressure exerted and there was a tacit consent and the tacit consent given by her was not the result of a misconception created in her mind. We are of the view that, even if the allegations made in the complaint are taken at their face value and accepted in their entirety, they do not make out a case against the appellant. We are also of the view that since the complainant has failed to prima facie show the commission of rape, the complaint registered under Section 376(2)(b) cannot be sustained.

25. Further, the FIR nowhere spells out any wrong committed by the appellant under Section 420 IPC or under Section 3(1)(x) of the SC/ST Act. Therefore, the

**High Court was not justified in rejecting the petition filed by the appellant under Section 482 CrPC."**

(Emphasis supplied)

8.2. The Apex Court, earlier to the case of **DR.DHRUVARAM MURLIDHAR SONAR** *supra*, in the case of **TILAK RAJ v. STATE OF HIMACHAL PRADESH**<sup>2</sup>, has held as follows:

"... .."

17. The evidence as a whole, including the FIR, testimony of the prosecutrix and the MLC report prepared by the medical practitioner clearly indicates that the story of the prosecutrix regarding sexual intercourse on false pretext of marrying her is concocted and not believable. In fact, the said act of the appellant seems to be consensual in nature. The trial court has rightly held thus:

"23. If the story set up by the prosecutrix herself in the court is to be believed, it does come to the fore that the two were in a relationship and she well knew that the accused was duping her throughout. Per the prosecutrix, she had not succumbed to the proposal of the accused. Having allowed access to the accused to her residential quarter, so much so, even having allowed him to stay overnight, she knew the likely outcome of her reaction. Seeing the age of the prosecutrix which is around 40 years, it can be easily inferred that she knew what could be the consequences of allowing a male friend into her bedroom at night.

24. The entire circumstances discussed above and which have come to the fore from the testimony of none else but the prosecutrix, it

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<sup>2</sup> (2016) 4 SCC 140

cannot be said that the sexual intercourse was without her consent. The act seems to be consensual in nature.

25. It is also not the case that the consent had been given by the prosecutrix believing the accused's promise to marry her. For, her testimony itself shows that the entire story of marriage has unfolded after 5-1-2010 when the accused was stated to have been summoned to the office of the DSP. Prior to 5-1-2010, there is nothing on record to show that the accused had been pestering the prosecutrix for any alliance. The prosecutrix has said a line in her examination-in-chief, but her cross-examination shows that no doubt the two were in a relationship, but the question of marriage apparently had not been deliberated upon by any of the two. After the sexual contact, some talk about marriage had cropped up between the two. Thus, it also cannot be said that the consent for sexual intercourse had been given by the prosecutrix under some misconception of marriage."

18. As far as the conviction of the appellant under Sections 417 and 506, Part I IPC is concerned, a close scrutiny of evidence of the prosecutrix (PW 2) along with other prosecution witnesses is done by this Court. Section 417 IPC prescribes punishment for the offence of cheating as defined under Section 415 IPC. Section 415 IPC reads thus:

**"415. Cheating.**—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'.

*Explanation.*—A dishonest concealment of facts is a deception within the meaning of this section."

19. The ingredients required to constitute the offence of cheating have been discussed by this Court

in *Ram Jas v. State of U.P.* [*Ram Jas v. State of U.P.*, (1970) 2 SCC 740 : 1970 SCC (Cri) 516] as under : (SCC p. 743, para 3)

- “(i) there should be fraudulent or dishonest inducement of a person by deceiving him;
- (ii) (a) the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or
- (b) the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and
- (iii) in cases covered by (ii)(b), the act or omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.”

20. A careful reading of the evidence on record clearly shows that there is no evidence against the appellant from which it can be conclusively inferred by this Court that there was any fraudulent or dishonest inducement of the prosecutrix by the appellant to constitute an offence under Section 415 IPC. For conviction of the appellant for the abovesaid offence, it is important that all the necessary ingredients constituting an offence under the said section must be proved beyond reasonable doubt. In the instant case, the appellant cannot be convicted for the offence of cheating punishable under Section 417 IPC as the prosecution has failed to prove all ingredients of the said offence beyond reasonable doubt.

21. Further, Section 506 IPC prescribes punishment for the offence of criminal intimidation as defined under Section 503 IPC. Section 503 IPC reads thus:

**“503. Criminal intimidation.**—Whoever threatens another with any injury to his person,



reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

*Explanation.*—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.”

**22.** A reading of the evidence on record in the light of the aforesaid legal provision in Section 503 shows the insufficiency of evidence to hold the conviction of the appellant for the offence of criminal intimidation punishable under Section 506, Part I IPC.

**23.** From the aforesaid, it is clear that the evidence of the prosecution is neither believable nor reliable to bring home the charges levelled against the appellant. We are of the view that the impugned judgment and order passed by the High Court is not based on a careful reappraisal of the evidence on record by the High Court and there is no material evidence on record to show that the appellant is guilty of the charged offences i.e. offence of cheating punishable under Section 417 IPC and offence of criminal intimidation punishable under Section 506, Part I IPC.”

(Emphasis supplied)

**9. The Apex Court, in the afore-quoted judgments, has etched with clarity, the nuanced distinction between consensual intimacy and the grave allegation of rape. A relationship born of mutual volition, even if it founders in disappointment, cannot, save in clearest of cases, be transmuted into an offence under the criminal law. If the**



present prosecution were permitted to meander into a trial, it would be nothing but a ritualistic procession towards miscarriage of justice and indeed become an abuse of the process of the law.

10. For the aforesaid reasons, the following:

**ORDER**

- (i) Writ Petition is allowed.
- (ii) FIR in Crime [REDACTED] and consequential proceedings in [REDACTED] pending before the XXX Additional Chief Metropolitan Magistrate, Bengaluru stand quashed.

**Sd/-  
(M.NAGAPRASANNA)  
JUDGE**

bkp  
CT:MJ