NC: 2025:KHC-K:3639
CRL.RP No. 200083 of 2021

HC-KAR

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 03RD DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION No.200083 OF 2021

(397(Cr.PC)/438(BNSS))

BETWEEN:

STATE OF KARNATAKA,
THROUGH WOMEN POLICE STATION,
DISTRICT RAICHUR.

…PETITIONER

(BY SMT. ARATI PATIL ,HCGP)

AND:

DR. SIDDESHKUMAR S/O DR. RAMKRISHNA SHETTY
AGE:51 YEARS, OCC: DOCTOR,
R/O. H.NO. 33, 'SAIKRUPA', HRB LAYOUT,
OPP. MAHILA SAMAJAM, JAIL ROAD,
DIST. RAICHUR-584101.

…RESPONDENT

(BY SRI. BABURAO MANGANE, ADVOCATE)

Digitally signed by SUMITRA SHERIGAR
Location: HIGH COURT OF KARNATAKA

THIS CRL.RP IS FILED U/S 397 R/W 401 OF CR.P.C PRAYING TO ALLOW THE REVISION PETITION CALL FOR RECORDS AND SET ASIDE THE ORDER DATED 13.11.2020 PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, RAICHUR IN SESSIONS CASE NO.85/2019 AND CONSEQUENTLY PASS ANY OTHER ORDER DEEMS FIR IN THE FACTS AND CIRCUMSTANCES OF CASE.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

(PER: HON'BLE MR. JUSTICE V SRISHANANDA)

Heard Smt. Arati Patil, learned High Court Government Pleader on behalf of the petitioner and Sri Baburao Mangane, learned counsel for the respondent.

2. The State is in revision challenging the Order passed by the District Judge in Special Case No.85/2019 dated 13.11.2020 whereby, application filed on behalf of the respondent who was accused seeking discharge from the case came to be allowed.

3. Facts of the case in brief which are utmost necessary for disposal of the present petiton are as under:

Upon the complain lodged by the victim lady, Raichur East Circle Women Police Station registered a case for the offence punishable under Sections 420, 376, 323, 342 and 506 of the Indian Penal Code.

4. The gist of the complaint averments would reveal that in the guise of marrying the victim lady, respondent had physical

relationship with the victim lady on several occasions. However, after sexually exploiting the victim lady, respondent failed to marry her which resulted in filing the complaint.

5. On receipt of the complaint, police thoroughly investigated the matter and filed the charge sheet. Respondent appeared before the Trial Court and filed an application under Section 227 of the Code of Criminal Procedure seeking discharge, *inter alia* placing reliance on number of judgments to canvas that mere promise to marry and failing to keep up the promise would not attract offence under Section 419 or 420 or under 376 of the Indian Penal Code, as there is no element of forcible sexual intercourse.

6. It is also contended that the victim lady being major, question of forcible sexual intercourse would not arise, as it is consensual act and in the absence of any earlier complaint with regard to forcible sexual intercourse, there cannot be any charge under Section 376 of the Indian Penal Code. Thus sought for allowing the application filed under Section 227 of the Code of Criminal Procedure.

7. State opposed the application by filing detailed objections.

8. Learned Trial Judge heard the arguments of both sides and after considering the rival contentions of the parties wherein the dictum of Hon'ble Supreme Court in various decisions are relied on by the accused, formed a definite opinion that mere breach of promise to marry a woman would not *ipso facto* attract the offence either under Section 417 and 420 or 376 of the Indian Penal Code, and allowed the application.

9. Same is called in question in this Revision Petition by the State on the following grounds:

- *That, the Order passed by the learned II Addl. District and Sessions Judge, Raichur is perverse.*
- *That, the impugned Order of discharge passed by the II Addl. District and Sessions Judge, Raichur is contrary to the facts, law and material on record. As such, same is liable to be set aside.*
- *It is further contended that victim approached the accused for her treatment and he lured her by stating that his relationship with his wife is not cordial and thereafter took her to Chennai and raped her against her wish and so also regularly*

visiting the victim's house every day and used to spent about 2-3 hours with her and promised to marry her but later refused to marry her and thereby sexually exploited the victim the victim under the false promise and the investigation officer has collected sufficient material to proceed with the trial of the case against the accused.

- *That the photographic produced by the prosecution established the intimate relationship between the accused and first information and investigation officer has visited the hotel where they stayed together at Chennai and has collected the documents which proves that both the accused and first information stayed in the hotel and the accused has shown his address as Bombay, which established dishonest intention on the part of the accused. It was further argued that word 'consent' is defined u/S. 376 (2) of I.P.C and the contents of the complaint reveals that first information had refused to maintain relationship with the accused but the accused induced her by promising to marry her and later had forcible sexual relationship with her and later refused to marry her which is sufficient to attract the offence of rape and whether there was consensual sex or not is to be decided only after trial."*

10. Smt.Arati Patil, learned High Court Government Pleader reiterating the grounds urged in the petition, vehemently

contended that the intention of the respondent to exploit the victim lady sexually is very clear inasmuch as the he never intended to marry her and under such circumstances, principles of law enunciated in the decisions relied upon by the respondent would not have been made applicable to the facts of the case and sought for allowing the petition.

11. *Per contra*, Sri Baburao Mangane, learned counsel representing the respondent contended that the physical relationship was never forcible sexual intercourse but it was one of consent as the victim lady is a major. Some reasons that made the breakup of the relationship between the parties has been mis-utilized by the complainant to file a false case which is rightly appreciated by the learned Trial Judge in the light of the principles of law enunciated by the Hon'ble Apex Court and therefore sought for dismissal of the petition.

12. In the light of the arguments put forward by the learned counsel for the parties, this Court perused the material on record meticulously.

13. On such perusal of the material on record, it is seen that the victim lady was made aware of the status of the respondent.

14. As could be seen from the material on record there was also a specific statement made by the respondent with victim lady and despite such information given to her there was physical relationship.

15. No doubt when the relationship was not continued further there were certain differences and there was also an attempt to commit suicide by the victim lady.

16. Learned Trial Judge while considering the these factual aspects did place reliance on the judgment of the Hon'ble Apex Court in the case of ***Deepak Gulati vs. State of Haryana*** reported in ***AIR 2013 SC 2071*** wherein Their Lordships have clearly ruled that there is vast and clear distinction between the words 'rape' and 'consensual sex' in the case where there is promise to marry.

17. It is also ruled by the Hon'ble Apex Court that in such circumstances the Trial Court is required to carefully examine

whether accused had actually expressed his intention to marry the victim lady or had any *malafide* motive and made false promise to the victim lady only with an intention to have physical relationship.

18. On close reading of the complaint and charge sheet material, learned Trial Judge did not notice any one such bad intention of the accused and therefore accused came to be discharged from the case.

19. There is no other material on record which would be sufficient enough to form a different opinion by this Court.

20. Under such circumstances, no case is made out to interfere with the impugned order in the revisional jurisdiction.

21. Hence the following:

ORDER

Petition ***dismissed*** .

Sd/-
(V SRISHANANDA)
JUDGE

kcm
List No.: 1 Sl No.: 66
CT:PK