

HIGH COURT FOR THE STATE OF TELANGANA

CRIMINAL PETITION No.13846 of 2026

Between :

M. Uday Krishna Reddy S/o. Srinivasulu,
Aged about 33 years, Occ: IPS Officer Trainee,
SVP Natinal Police Academy,
Shivarampally, Hyderabad.
R/o.Woolapalle, Singarayakonda,
Prakasam District, Andhra Pradesh

....Petitioner/Accused

VERSUS

The State of Telangana
Represent through the Public Prosecutor,
High Court for the State of Telangana,
At Hyderabad and another

... Respondents

DATE OF ORDER PRONOUNCED: 09.09.2026

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

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 the fair copy of the Judgment? Yes/No

J. SREENIVAS RAO, J

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

+ CRIMINAL PETITION No.13846 of 2026

% Dated 09.09.2026

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At Hyderabad and another

... Respondents

! Counsel for Petitioner : Mr. G. Ashok Reddy

^ Counsel for Respondents :Mr. Mayur Mundra, for respondent No.2

< GIST:

> HEAD NOTE:

? CITATIONS:

1. 2025 SCC OnLine SC 2372
2. 2024 SCC OnLine Mad 3319
3. 2025 SCC OnLine SC 1783
4. (2023) 6 SCC 742
5. (2015) 2 SCC 90
6. 2025 SCC OnLine SC 2219
7. 2026 SCC OnLine Bom 2736
8. 2017 SCC OnLine Hyd 99
9. 2025 SCC OnLine Kar 17687

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO****CRIMINAL PETITION No. 13846 of 2026**
(CNR No.HBHC010573532026)**DATE: 09.09.2026****Reserved on: 01.09.2026****Pronounced on : 09.09.2026****Uploaded on : .09.2026****Between :**

M. Uday Krishna Reddy

....Petitioner/Accused

AND

The State of Telangana and another

....Respondents

: O R D E R :

This Criminal Petition has been filed by the petitioner/accused, aggrieved by the order, dated 17.08.2026, passed by the learned III Additional Junior Civil Judge-cum-XXV Additional Judicial Magistrate of First Class, Ranga Reddy District at Rajendranagar (for short, 'the trial Court') in CrI.M.P.No.461 of 2026 in Crime No.824 of 2026 of Attapur Police Station, Hyderabad, whereby the petition filed by the prosecution under Section 52 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS') seeking permission to the Investigating Officer to produce the petitioner before the competent Government Hospital for medico-legal examination for potency test, was allowed.

2. Brief facts of the case:

2.1. Respondent No.2/*de facto* complainant/victim, lodged a complaint before the Inspector of Police, Attapur Police Station, Hyderabad, and the same was registered as Crime No.824 of 2026 for the offences under Sections 74, 75, 77, 78, 79, 127(2), 115(2) and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (for short, 'the BNS') and Sections 66-E and 67-A of the Information Technology Act, 2008. Based on the statement of respondent No.2 and other witnesses and after obtaining permission from the trial Court, the Investigating Officer added the other offences of Section 64(1) read with 63(b)(iii) and 109 of the BNS and took up further investigation. During pendency of the investigation, the prosecution filed CrI.M.P.No.461 of 2026 before the trial Court, under Section 52 read with 187 of the BNSS, seeking permission to the Investigating Officer to produce the petitioner before the competent Government Hospital for medico-legal examination for potency test. The learned trial Court allowed CrI.M.P.No.461 of 2026. Aggrieved by the above said order, the petitioner filed the present criminal petition.

3. Heard Mr. G. Ashok Reddy, learned counsel for the petitioner, Mr. L. Ravichander, learned Senior Counsel representing Mr. Mayur Mundra, learned counsel for respondent No.2, and Mr. Palle Nageswara Rao, learned Public Prosecutor appearing on behalf of respondent No.1/State.

4. Submissions of learned counsel for the petitioner:

4.1. Learned counsel for the petitioner submitted that respondent No.1/prosecution filed CrI.M.P.No.461 of 2026 invoking the provision of Section 52 read with 187 of the BNSS seeking permission to permit the Investigating Officer to produce the petitioner before the competent Government Hospital for medico-legal examination for potency test and the same is not maintainable under law on the ground that the crime has been registered against the petitioner for the offence under Section 64(1) read with 63(b)(iii) of the BNS and other offences and the entire case of the prosecution is that the petitioner committed the offence of digital penetration/rape against respondent No.2. In such circumstances, the trial Court ought not to have allowed the petition.

4.2. He further submitted that the learned trial Court, without considering the contentions raised by the petitioner in the counter and without assigning any reasons, allowed the petition only on the ground that the allegations levelled in the complaint and the statement of respondent No.2/victim are grave in nature and the Investigating Agency is having right to collect every incriminating material against the petitioner. Especially, the prosecution has not assigned any reasons as to how the potency test is required and how it will help the prosecution case. In the absence of any reasons,

much less specific reasons, the learned trial Court allowed the petition and the same is contrary to law.

4.3. He further submitted that the prosecution had earlier filed CrI.M.P.No.449 of 2026 on 30.07.2026 for grant of police custody of the petitioner for seven days for recovery of mobile phone and also to conduct a potency test. The learned trial Court rejected the prayer for police custody of the petitioner in conducting the potency test by giving specific reasons and granted other relief, by its order dated 05.08.2026, and the said order has become final. Thereafter, the prosecution filed CrI.M.P.No.461 of 2026 seeking the same relief and the learned trial Court allowed the said petition, through impugned order dated 17.08.2026, it amounts to review the earlier order, dated 05.08.2026, and the same is contrary to law.

4.4. He further submitted that a potency test is not mandatory in each and every case involving an allegation of rape. Section 52 of the BNSS expressly envisages that such an examination may be conducted where there are reasonable grounds for believing that it will afford evidence regarding the commission of the offence. He also submitted that in the present case, no specific nexus has been demonstrated by the prosecution between the proposed medical examination and the particular offence under investigation. The

mere existence of an allegation of a sexual offence, by itself, cannot substitute the statutory requirement of establishing such a nexus.

4.5. He further submitted that the entire case of the prosecution is that the petitioner has committed the offence of digital penetration/rape against respondent No.2/victim and there is no allegation of penile penetration. In such circumstances, the potency of the petitioner has no relevancy or evidentiary nexus with the allegation of digital penetration and the impugned order passed by the learned trial Court is contrary to law and the same is liable to be quashed.

4.6. In support of his contentions, learned counsel relied upon the following judgments:

1. **R. Rajendran v. Kamar Nisha and others¹;**
2. **Kajendran, J v. Superintendent of Police Cuddalore and others²; and**
3. **Vikram Bakshi and others v. R.P. Khosla and another³.**

5. Submissions of learned Public Prosecutor :

5.1. Learned Public Prosecutor submitted that the petitioner has committed the grave offence. There are specific allegations levelled in

¹ 2025 SCC OnLine SC 2372

² 2024 SCC OnLine Mad 3319

³ 2025 SCC OnLine SC 1783

the complaint as well as in the statement of respondent No.2 recorded under Section 161 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.)/180 of the BNSS, against the petitioner. Therefore, the potency test of the petitioner is very much required and it will determine the capability of the petitioner to perform sexual act. The application filed by the prosecution before the trial Court seeking to permit the Investigating Officer to produce the petitioner for medico-legal examination before the competent Government Hospital for potency test is very much maintainable.

5.2. The learned trial Court, after considering the contentions of the respective parties and the material available on record, rightly allowed the petition by giving cogent reasons, by its order dated 17.08.2026. He further submitted that the order dated 05.08.2026 passed by the learned trial Court in CrI.M.P.No.449 of 2026 denying to grant custody of the petitioner for potency test is not a bar to file the present petition under Section 52 read with 187 of the BNSS.

5.3. He further submitted that the medical examination of the petitioner is permissible under Section 52 of the BNSS, as the statement of respondent No.2/victim discloses forcible sexual assault and the proposed examination will relevant medical/scientific evidence regarding the alleged offence. The learned trial Court has

rightly allowed the petition i.e., CrI.M.P.No.461 of 2026, and there are no grounds to interfere with the impugned order.

5.4. In support of his contentions, he relied upon the following judgments:

1. **Chotkau v. State of Uttar Pradesh**⁴;
2. **Siva Vallabhaneni v. State of Karnataka & Anr.**⁵;
and
3. **Rahul Agarwal v. The State of West Bengal & Anr.**⁶

6. Submissions of learned Senior Counsel appearing on behalf of respondent No.2:

6.1. Learned Senior Counsel submitted that respondent No.2/*de facto* complainant/victim lodged a complaint on 18.07.2026. Based on her complaint, Crime No.824 of 2026 has been registered against the petitioner for the purpose of investigation. The prosecution filed CrI.M.P.No.461 of 2026 seeking relief to permit the Investigating Officer to produce the accused/petitioner before the competent Government Hospital for medico-legal examination for potency test and the learned trial Court has rightly allowed and passed the impugned order dated 17.08.2026 and the same is in accordance

⁴ (2023) 6 SCC 742

⁵ (2015) 2 SCC 90

⁶ 2025 SCC OnLine SC 2219

with law. There are no grounds to interfere with the impugned order passed by the learned trial Court.

Analysis:

7. Having considered the rival submissions made by the respective parties and upon perusal of the material available on record, it reveals that based upon the complaint lodged by respondent No.2 dated 18.07.2026, Crime No.824 of 2016 has been registered against the petitioner initially for the offences under Sections 74, 75, 77, 78, 79, 127(2), 115(2) and 351(2) of the BNS and Sections 66E and 67A of the I.T. Act, 2008, and subsequently based on the statement of respondent No.2/victim and after obtaining necessary orders from the learned trial Court, added the offences under Sections 64(1) r/w 63(b)(iii) and 109 of the BNS.

8. The record discloses that on 30.07.2026 the prosecution has filed a petition in CrI.M.P.No.449 of 2026 seeking police custody of the petitioner for a period of seven (7) days to collect the cell phone containing SIM and also to conduct the potency test on the petitioner. The learned trial Court declined to grant the relief of police custody of the petitioner for the purpose of conducting a potency test on the ground that the prosecution had not specifically mentioned any reason for conducting potency test on the petitioner and also had not mentioned the reasons as to how the same would

help the case of the prosecution, except stating that the potency test was pending. In respect of the other relief, the learned trial Court granted police custody of the petitioner for a period of two (2) days for recovery of cell phone containing SIM with certain conditions, by its order dated 05.08.2026.

9. The record further reveals that the prosecution has filed CrI.M.P.No.461 of 2026 on 07.08.2026 invoking the provisions of Section 52 read with Section 187 of the BNSS to permit the Investigating Officer to produce the petitioner before the competent Government Hospital for medical examination for potency test. In the said petition, the prosecution has stated that the Investigating Officer is entitled to collect all scientific and medical evidence that may assist in presenting complete and accurate factual records before the Court. It is further stated that basing on the allegations levelled in the complaint as well as the statement of respondent No.2, the potential test is very much essential. Therefore, medical examination of the petitioner is necessary for a fair, complete and scientific investigation. On the very same day, i.e., on 07.08.2026, the prosecution has filed another petition i.e., CrI.M.P.No.465 of 2026, for grant of police custody for four days to recover the mobile phone and the suicide note and the said petition was allowed on 17.08.2026 and granted two days police custody for recovery of i-Phone and original suicide note with certain conditions.

10. Respondent No.2 filed a counter in CrI.M.P.461 of 2026 stating that the prosecution had earlier filed CrI.M.P.No.449 of 2026 seeking police custody of the petitioner to conduct the potency test and for other reliefs and the learned trial Court, by its order dated 05.08.2026, rejected the relief relating to conducting the potency test on the petitioner and the above said petition is not maintainable under law, especially the prosecution has not assigned any reasons or explained as to how the potency test would helpful to the case of the prosecution, as the case of prosecution relates to digital penetration/rape and not penile penetration/rape.

11. The learned trial Court allowed the petition through impugned order on the ground that the allegations levelled in the complaint against the petitioner are grave in nature and the investigating agency has all the rights to collect every incriminatory material against the petitioner by relying upon the principle laid down by the High Court of Bombay in **Mr.Alfred Fernandes v. The State**⁷ and this Court in **Naveen Krishna Bothireddy v. State of Telangana and another**⁸.

12. The Inspector of Police, W.P.S., Charminar Zone, Hyderabad, filed counter, wherein it is stated that subsequent to the impugned order, the Investigating Officer filed CrI.M.P.No.501 of 2026 before

⁷ 2026 SCC OnLine Bom 2736

⁸ 2017 SCC OnLine Hyd 99

the trial Court seeking to rectify the clerical error in CrI.M.P.No.461 of 2026 dated 17.08.2026 by substituting the words 'FSL, Hyderabad' with 'Osmania Medical College & Osmania General Hospital, Hyderabad' and the said petition was allowed in part on 20.08.2026, however, a copy of the order was received by the Investigating Officer on 21.08.2026. Due to the same, the potency test could not be conducted on 20.08.2026 pursuant to the order dated 17.08.2026 passed in CrI.M.P.No.461 of 2026. Thereby, the Investigating Officer was constrained to file a fresh petition on 25.08.2026 *vide* CrI.M.P.No.505 of 2026 seeking to allot/fix a fresh date for conducting potency test on the petitioner and the same is pending.

13. It is relevant to mention that the specific case of the prosecution is that there was an allegation against the petitioner of digital penetration/rape on the victim. Pursuant thereto, the offences under Sections 64(1) r/w 63(b)(iii) and 109 of the BNS were added against the petitioner in addition to the other offences under Sections 74, 75, 77, 78, 79, 127(2), 115(2) and 351(2) of the BNS and Sections 66E and 67A of the I.T. Act, 2008. The prosecution earlier filed petition *vide* CrI.M.P.No.449 of 2026 seeking police custody of the petitioner for a period of seven (7) days to collect the cell phone containing SIM and also to conduct a potency test on the petitioner. The learned trial Court declined to grant the relief of police custody of the petitioner for the purpose of conducting the potency test on the

ground that the prosecution has not specifically mentioned any reason for conducting potency test of the petitioner and also has not assigned the reasons as to how the same would help the case of prosecution, by its order dated 05.08.2026.

14. The prosecution filed CrI.M.P.No.461 of 2026 without assigning any reasons, much less specific reasons as to why the potency test of the petition is required nor made any changed circumstances and also not assigned the reasons as to how the said test would help the case of the prosecution, especially the case of the prosecution is digital penetration. In the absence of same, the learned trial Court allowed the petition on the ground that the allegations in the complaint are grievous in nature and the Investigating Agency is having right to collect every incriminatory material against the petitioner/accused.

15. In **Kajendran** (*supra*), the High Court of Madras held that male potency testing must not be insisted upon as a routine requirement in cases involving sexual offences, including POCSO cases or offences against women. Neither the police nor the Subordinate/Special Courts should treat a potency test as a condition precedent for registering, investigating, or proceeding with a sexual-offence case. The prescribed medical Standard Operating Procedure must be strictly followed. Police personnel and Courts dealing with such cases

shall not insist upon conducting a potency test unless it is specifically warranted by the facts and circumstances of the particular case.

16. In **R. Rajendran** (*supra*), the Hon'ble Apex Court held that DNA testing cannot be directed routinely merely because it is legally permissible or may establish a biological relationship or collateral fact, as it seriously intrudes upon bodily autonomy, privacy, personal liberty and dignity under Article 21. Such testing must satisfy the threefold test of legality, legitimate aim and proportionality and be supported by genuine and compelling necessity. There must be a direct, demonstrable and proximate nexus between the DNA examination and the offence under investigation. Where the matter can be determined through other evidence, or privacy and dignity interests outweigh the investigative benefit, DNA testing should not be ordered. Sections 53 and 53A Cr.P.C. cannot be used for speculative purposes; scientific techniques must be relevant, necessary and proportionate, consistent with Articles 20(3) and 21.

17. It is also relevant to mention that in **Archana Patil v. State of Karnataka**⁹, the High Court of Karnataka held that in cases involving sexual offences, a male potency test cannot be insisted upon or conducted as a matter of routine. The mere raising of an allegation or

⁹ 2025 SCC OnLine Kar 17687

defence regarding the accused's potency does not, by itself, warrant such testing or justify interference with the criminal proceedings. The question of potency, where genuinely relevant, must be determined on the basis of the evidence adduced during trial, and a potency test may be resorted to only where there exists a specific and compelling necessity for the same. Therefore, routine or mechanical conduct of potency tests is impermissible.

18. In **Vikram Bakshi and Others** (*supra*), the Hon'ble Apex Court held that Criminal Courts are generally barred under Section 362 CrPC from reviewing or altering their own judgments or final orders once signed, except for correction of clerical or arithmetical errors or where such power is expressly conferred by law. However, a limited power of procedural recall may be exercised in exceptional circumstances, such as want of inherent jurisdiction, fraud or collusion, a mistake of the Court causing prejudice, or non-service/death of a necessary party resulting in non-representation of the estate. Such power cannot be invoked where the ground was available during the original proceedings or to circumvent the statutory bar. Section 362 Cr.P.C. must therefore be applied strictly, maintaining the distinction between permissible procedural recall and impermissible substantive review.

19. The common principle emerging from **Kajendran** (*supra*), **R. Rajendran** (*supra*), and **Archana Patil** (*supra*), is that medical or scientific examinations of an accused, including potency and DNA tests, cannot be ordered routinely or mechanically. Such examinations must be based on the facts and circumstances of the particular case and satisfy the requirements of relevance, necessity and proportionality, while safeguarding the accused's privacy, bodily autonomy, personal liberty and dignity under Article 21 of the Constitution. In particular, potency testing is not a mandatory requirement in sexual-offence cases and cannot be insisted upon merely because an allegation or defence relating to potency has been raised. Likewise, DNA testing cannot be ordered for speculative or collateral purposes and must have a direct and demonstrable nexus with the offence under investigation. Where the issue can be determined through other evidence, or where there is no genuine and compelling necessity, such examinations ought not to be directed. Thus, the three judgments emphasize that scientific and medical tests must be case-specific, legally justified, genuinely necessary and proportionate, and cannot be used as a routine investigative measure.

20. In **Chotkau** (*supra*), the Hon'ble Apex Court held that under Section 53A Cr.P.C., the prosecution is expected to avail itself of the statutory procedure, including collection of material for DNA

profiling. The failure of the prosecution to subject the accused to such medical examination, particularly where DNA or other scientific evidence could have provided significant corroboration, may constitute a serious lapse and, depending upon the facts of the case, may give rise to an adverse inference against the prosecution. Such failure assumes greater significance where the ocular evidence is doubtful, unreliable or suffers from material contradictions, and may be fatal to the prosecution case where the omitted scientific evidence could reasonably have assisted in establishing the charge.

21. In **Siva Vallabhaneni** (*supra*), the Hon'ble Apex Court held that the accused is expected to cooperate with the Court and the investigating process, including submitting to a lawful medical examination where such examination is required in accordance with law. Unjustified non-cooperation or refusal by the accused to comply with a lawful direction of the Court may, depending upon the facts and circumstances of the case and the applicable statutory provisions, justify the drawing of an adverse inference against the accused. At the same time, any observation made by a Court while considering a petition for quashing is ordinarily confined to the limited purpose of deciding that petition and should not be treated as a final determination on the merit; any subsequent application for discharge must be considered independently by the trial court.

22. In **Rahul Aarwal** (*supra*), the Hon'ble Apex Court held that obtaining handwriting, signatures, fingerprints, or voice samples from a person for the purposes of investigation does not, by itself, amount to testimonial compulsion or violate the constitutional protection against self-incrimination under Article 20(3). Such samples are in the nature of physical or evidence and do not constitute the person being compelled to give evidence against himself. The sample itself does not incriminate the person; it becomes incriminating only when compared with other material or evidence collected during investigation. Therefore, a Magistrate is empowered, in accordance with the applicable statutory provisions, to direct the furnishing of such samples for investigation, notwithstanding the protection against self-incrimination.

23. The above-mentioned judgments relied upon by the learned Public Prosecutor are not applicable to the facts and circumstances of the present case on the ground that the prosecution earlier filed CrI.M.P.No.449 of 2026 for custody of the petitioner for potency test and other relief and the learned trial Court declined the relief of custody of the petitioner for potency test, by its order dated 05.08.2026, and thereafter the prosecution filed CrI.M.P.No.461 of 2026 for the same relief, without assigning any reasons, much less specific reasons as to how conducting the potency test on the petitioner is necessary or relevant for the purpose of further

investigation, especially the specific case of the prosecution is that the alleged offence involves digital penetration/rape.

24. The learned Trial Court relied upon the judgments, in **Mr.Alfred Fernandes** (*supra*), the High Court of Bombay held that “if the act were limited to digital penetration, it falls within the meaning of ‘rape’” and in **Naveen Krishna Bothireddy** (*supra*), this Court held that the power to direct a potency examination is based on Sections 53, 53-A and 54 of the Cr.P.C., which provide statutory authority for medical examination, and further held that “potency test is not unconstitutional.” However, in the present case, there is no dispute that digital penetration falls within the meaning of rape, nor any dispute regarding Sections 53, 53-A and 54 of the Cr.P.C. or the proposition that the statutory provision authorising a potency test is not unconstitutional. The specific case of the petitioner is that when the entire case of the prosecution is digital penetration/rape on respondent No.2, how the potency test would help the prosecution.

25. It is already stated *supra* that the prosecution initially filed CrI.M.P.No.449 of 2026 on 30.07.2026 for grant of police custody of the petitioner for seven days for recovery of mobile phone and to conduct a potency test and the learned trial Court declined to grant the relief of police custody of the petitioner for the purpose of conducting a potency test on the ground that the prosecution had not

specifically mentioned any reason for conducting potency test on the petitioner and also had not mentioned the reasons as to how the same would help the case of the prosecution, by its order dated 05.08.2026. Thereafter, the prosecution filed CrI.M.P.No.461 of 2026 seeking permission to the Investigating Officer to produce the petitioner before the competent Government Hospital for medico-legal examination for potency test, without assigning any reasons, much less specific reasons as to why the potency test of the petitioner is required and how the same would help the prosecution case and also not assigned any changed circumstances. In the absence of the same, the learned trial Court allowed the said petition on 17.08.2026 only on the ground that the allegations levelled in the case are grave in nature and the investigation agency has all rights to collect every incriminating material against the petitioner. The reason assigned by the learned trial Court is contrary to principles laid down in **Kajendran, R. Rajendran, and Archana Patil** (*supra*). Hence, the impugned order dated 17.08.2026 passed by the learned trial Court in CrI.M.P.No.461 of 2026 is liable to be set aside, and accordingly set aside.

26. In the result, the criminal petition is allowed. It is needless to mention that this order will not preclude the prosecution from filing an appropriate petition, if the necessity arises, in accordance with law.

Miscellaneous applications, pending if any, shall stand closed.

J. SREENIVAS RAO, J

Date: 09.09.2026

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