

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JUNE, 2022

BEFORE

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO.3596/2018

BETWEEN:

SHIVU @ SHIIV KUMAR

...PETITIONER

(BY SRI RAGHAVENDRA GOWDA K., ADVOCATE FOR  
SRI MOHAN KUMAR D., ADVOCATE)

AND:

1. STATE OF KARNATAKA  
BY KONANUKUNTE POLICE STATION,  
BANGALORE,  
REPRESENTED BY STATE PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA,  
BANGALORE-560 001.

2.

...RESPONDENTS

(BY SRI S. VISHWAMURTHY, HCGP FOR R-1;  
R-2 IS SERVED BUT UNREPRESENTED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF  
THE CODE OF CRIMINAL PROCEDURE, PRAYING TO QUASH THE

COMPLAINT, FIR AND ENTIRE PROCEEDINGS IN S.C.NO.282/2018 FILED BY THE RESPONDENT NO.2 ON THE FILE OF CCH-17 CITY COURT COMPLEX, BENGALURU REGISTERED IN CRIME NO.452/2017 BY THE RESPONDENT KONNAKUNTE POLICE STATION AGAINST THE PETITIONERS FOR THE OFFENCE P/U/S 417, 376, 313, 341, 354, 509, 506 R/W 34 OF IPC AND SECTION 3(1)(xi) OF SC/ST (POA) ACT AND ETC.

THIS CRIMINAL PETITION COMING ON FOR HEARING, THE COURT MADE THE FOLLOWING:

### O R D E R

The police after investigation submitted a charge sheet for the offences punishable under Sections 417, 376, 313, 341, 354, 509, 506 read with Section 34 of IPC and Section 3(1)(xi) of SC and ST (Prevention of Atrocities) Act, 1989 alleging that the petitioner - accused No.1 by promising to marry CW1 had sexual intercourse with CW1 and when she was pregnant, she was forced to terminate the pregnancy at the instance of accused No.1.

2. The learned Sessions Judge took the cognizance of the aforesaid offences and issued process to the petitioner - accused No.1. Taking exception to the same, this petition is filed.

3. I have examined the submissions of the learned counsel for the parties.

4. A FIR was lodged by the 2nd respondent alleging that two years prior to the lodging of FIR, the petitioner - accused No.1 and CW1 were in love with each other and the accused No.1 forcibly had sexual intercourse with CW1 and when she was pregnant, the petitioner - accused No.1 forced her to terminate the pregnancy. It was further alleged that after having sexual intercourse with CW1 on three to four occasions, the petitioner - accused No.1 started to avoid her and on 22.7.2017 she attempted to commit suicide. Since the petitioner - accused No.1 came to the hospital and promised to marry CW1, CW1 did not lodge FIR against the petitioner - accused No.1. Thereafter, his friends i.e. other accused threatened her and outraged her modesty. The police after investigation submitted a charge sheet for the aforesaid offences.

5. The Apex Court in the case of Sonu @ Subhash Kumar -vs- State of Uttar Pradesh and another reported in 2021 SCC Online SC 181 by referring to the decision in the case of Pramod Suryabhan Pawar -vs- State of Maharashtra reported in (2019) 9 SCC 608 at para-11 has held that in the absence of

allegation that promise to marry was false promise at the inception, 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. In the present case, there is no allegation that promise made to the 2nd respondent was false at the inception. Charge sheet material does not disclose that the petitioner by using force or by assaulting has outraged the modesty of the victim so as to constitute the offence punishable under Section 3(1)(xi) of Atrocities Act. Hence, in the absence of any essential ingredients so as to constitute the offences alleged against the petitioner- accused No.1, the filing of charge sheet against the petitioner - accused no.1 is without any substance. Accordingly, I pass the following:

ORDER

- i) Criminal petition is allowed;
- ii) The impugned proceeding in SC No.282/2018 pending on the file of the CCH-17, City Court Complex, Bangalore City, insofar as it relates to accused No.1 is hereby quashed.

Sd/-  
JUDGE