

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP(Cr1.)No.12663/2022)

PRITHIVIRAJAN

APPELLANT(S)

VERSUS

THE STATE REP BY THE INPECTOR
OF POLICE & ANR.

RESPONDENT(S)

O R D E R

1. Leave granted.
2. Heard learned counsel for the appellant and the State. The respondent no.2 has not turned up in spite of service of notice.
3. An FIR bearing Crime No.1/2019 was filed against the appellant by the respondent police based on a complaint lodged by the respondent no.2 (prosecutrix) for the offences punishable under Sections 417, 376 & 506 Part I of the Indian Penal Code (for short "IPC") alleging that the appellant had established sexual relations with her on the pretext of marriage.
4. The entire case of the prosecution is that the appellant is being charged, inter-alia, under Section 376 of the IPC for the reason that the appellant had given false promise of marriage to the prosecutrix and thus obtained her consent for sexual relationship but later backed out of his promise, and for that reason it is a case of rape. The logic given here is that in case there is no consent then it would

be rape as defined under section 375 of IPC. In order to prove that there is no consent usually reliance on section 90 of IPC is also taken.

Section 90 of IPC is as follows:

90. Consent known to be given under fear or misconception- A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or
Consent of insane person- if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or
Consent of child- unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

The prosecution would thus like to prove that because of the 'misconception', consent was given and hence it is a case of rape.

5. On the other hand, learned counsel for the appellant argued that this is not a case of rape but of consensual relationship, and hence deserves to be quashed. In order to strengthen this submission, he relied upon several cases.

These are:

- i. Sonu Vs State of Uttar Pradesh, 2021 SCC Online SC 181.
- ii. Maheshwar Tigga Vs. State of Jharkhand, (2020) 10 SCC 108.
- iii. Pramod Suryabhan Pawar Vs. State of Maharashtra, (2019) 9 SCC 608.
- iv. Dr. Dhruvram Murlidhar Sonar VS. State of Maharashtra, (2019) 18 SCC 191.
- v. Kaini Raja Vs. State of Kerala, (2013) 9 SCC 113.
- vi. Deepak Gulati Vs. State of Haryana, (2013) 7 SCC

675.

vii. K.P. Thimmappa Gowda Vs State of Karnataka,
(2011) 14 SCC 475.

viii. Deelip Singh Vs. State of Bihar, (2005) 1 SCC
88.

ix. Uday Vs State of Karnataka, (2003) 4 SCC 46.

x. Rahul Sasi Vs State of Kerala, 2021 SCC OnLine
Ker 4370.

6. This Court has time and again reiterated that only because physical relations were established based on a promise to marry, it will not amount to rape. For the offence of rape to be attracted, the following conditions need to be satisfied: first, the accused promised to marry the prosecutrix solely to secure consent for sexual relations without having any intention of fulfilling said promise from the very beginning; second, that the prosecutrix gave her consent for sexual relations by being directly influenced by such false promise of marriage. [See: *Pramod Suryabhan Pawar v. The State of Maharashtra and Ors.* (2019) 9 SCC 608; *Mahesh Damu Khare v. The State of Maharashtra and Ors.* 2024 SCC OnLine SC 347]

7. The instant case is one of consensual relationship between the appellant and prosecutrix. Even otherwise, it does not appear from the record that the initial promise to marry allegedly made by the appellant was false to begin with. Perusal of FIR itself suggests that the alleged promise to marry could not be fulfilled by the appellant due to intervening circumstances. Consequently, the relationship ended because of which the present FIR came to be

registered. Under these circumstances, letting the appellant face trial would be nothing short of an abuse of the process of the Court. This cannot be permitted.

8. Hence, we allow this appeal and set aside the order of the High Court dated 29.06.2022.

9. Accordingly, the criminal proceedings arising out of FIR bearing Crime No.1/2019 registered for the offences punishable under Sections 417, 376 & 506 Part I of the IPC, are hereby quashed.

10. Pending application(s), if any, shall stand disposed of.

..... J.
(SUDHANSHU DHULIA)

..... J.
(K. VINOD CHANDRAN)

New Delhi;
January 20, 2025.

ITEM NO.31

COURT NO.13

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 12663/2022

[Arising out of impugned final judgment and order dated 29-06-2022
in CRLP No. 2408/2019 passed by the High Court of Judicature at
Madras]

PRITHIVIRAJAN

Petitioner(s)

VERSUS

THE STATE REP BY THE INPECTOR OF POLICE & ANR.

Respondent(s)

Date : 20-01-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) Mr. S. Nagamuthu, Sr. Adv.(NP)
Mr. M.p. Parthiban, AOR
Mr. Bilal Mansoor, Adv.
Mr. Shreyas Kaushal, Adv.
Mr. S. Geyolin Selvam, Adv.
Mr. Alagiri K, Adv.
Mr. P.v.k. Deivendran, Adv.

For Respondent(s) Mr. D.kumanan, AOR
Ms. Deepa S, Adv.
Mr. Sheikh F Kalia, Adv.
Mr. Veshal Tyagi, Adv.
Mr. Chinmay Anand Panigrahi, Adv.
Ms. Shagufa Khan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The present appeal is allowed in terms of the signed order,
which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(NIRMALA NEGI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
ASSISTANT REGISTRAR