

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.504 OF 2018  
(Arising out of SLP(Crl.) No.454 of 2017)

SHIVASHANKAR @ SHIVA

.....APPELLANTS

VERSUS

STATE OF KARNATAKA & ANR.

....RESPONDENT

O R D E R

Leave granted.

The appellant has preferred this appeal against the impugned order dated 22-09-2016 passed by the High Court of Karnataka in Criminal Petition No.769/2016, refusing to quash the criminal proceedings in C.C. No.6820/2015 arising out of Crime No.254/2014, for the offence punishable under sections 376, 420, 323 and 506 of the Indian Penal Code (for short, the 'IPC').

The gravamen of the charge against the appellant-accused is that he has raped respondent no.2-complainant. We find from the complaint filed by the complainant that respondent no.2-complainant has lived with the appellant for period of about eight years.

Further, respondent no.2-complainant has stated that the appellant "pretended to have loved me" on the promise of marriage, that he applied the Kumkum on her forehead, and tied the Arishina thread to her neck. She further

stated that she has been treating the appellant as her husband for the past eight years, and now he is trying to escape from her and cheat her.

Though we are not here concerned with the question whether the appellant and the complainant-respondent no.1 were, in fact, married, we have no doubt that they lived together like a married couple even according to the complainant.

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.

In the circumstances, we allow this appeal, set aside the aforesaid impugned order passed by the High Court, and quash the criminal proceedings in C.C. No.6820/2015 arising out of Crime No.254/2014, initiated against the appellant.

.....J  
[S. A. BOBDE]

.....J  
[L. NAGESWARA RAO]

New Delhi;  
April 06, 2018.

ITEM NO.34

COURT NO.7

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 (Crl.) No(s).454/2017

(Arising out of impugned final judgment and order dated 22-09-2016 in CRLP No.769/2016 passed by the High Court Of Karnataka At Bengaluru)

SHIVASHANKAR @ SHIVA

Petitioner(s)

VERSUS

STATE OF KARNATAKA & ANR.

Respondent(s)

Date : 06-04-2018 This petition was called on for hearing today.  
CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. K.T.S. Tulsi, Sr. Adv.  
Mr. Ranji Thomas, Sr. Adv.  
Mr. Niraj Gupta, AOR  
Ms. Pallavi Malhotra, Adv.  
Mrs. Anshu Gupta, Adv.  
Mr. Kuber Boddh, Adv.  
Mr. Siddhant Sharma, Adv.

For Respondent(s) Ms. Nidhi, AOR

Mr. V. N. Raghupathy, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending interlocutory applications, if any, stand disposed of.

(SANJAY KUMAR-II)  
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)  
ASST.REGISTRAR

(Signed Order is placed on the file)