

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Criminal Petition No.11316 of 2017

Between:

Varthya Shanker and another Petitioners

AND

State of Telangana rep. by its P.P. and another ... Respondents

DATE OF JUDGMENT PRONOUNCED: 21.06.2018

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

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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 Lordship wish to
see the fair copy of the Judgment? Yes / No

U. DURGA PRASAD RAO, J

*** THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

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Between:

Varthya Shanker and another Petitioners

AND

State of Telangana rep. by its P.P. and another ... Respondents

! Counsel for Petitioners : Sri D.Bhaskar Reddy

^ Counsel for Respondent No.1 : Public Prosecutor (Telangana)

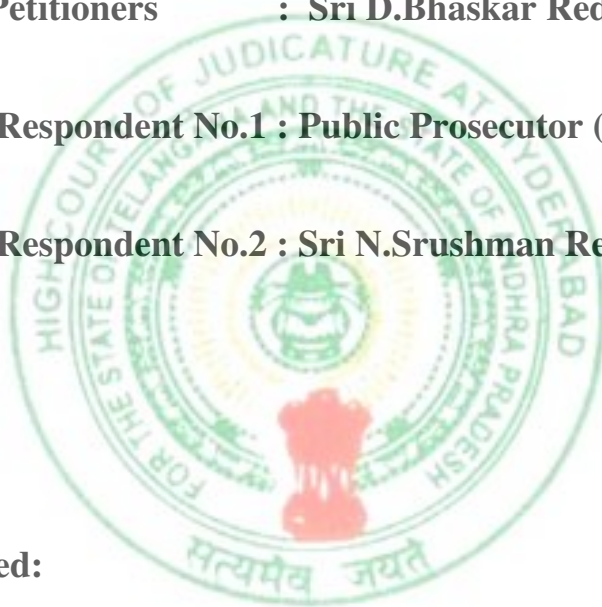
^ Counsel for Respondent No.2 : Sri N.Srushman Reddy

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> Head Note:

? Cases referred:

1) 2014 (2) ALT (CrI) 171 (AP)



HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**CRIMINAL PETITION No.11316 of 2017****ORDER:**

This petition is filed by the petitioners/A1 and A2 under Section 482 Cr.P.C seeking to quash the proceedings against them in C.C.No.394 of 2017 on the file of I Additional Judicial First Class Magistrate, Nizamabad registered for the offences under Sections 417, 420 and 109 IPC.

2) Brief facts of the case are that complainant was working as Computer Operator at TVS Show room Nizamabad. Whiles, on 18.04.2017 the caste elders of complainant approached A1 who was working as MEO of Kalther Mandal and settled the marriage of complainant with A1 and engagement was also performed as per their caste tradition. Thereafter, on 21.04.2017 when the caste elders went to Madwar Thanda where A1 is residing for fixing the marriage date, A1 with the connivance of his uncle—A2 expressed his unwillingness to marry the complainant, quarreled and abused them in filthy language. Basing on the said complaint, the police of Nizamabad II Town PS registered a case in Cr.No.46 of 2017 under Sections 417, 420 and 109 IPC and after investigation laid charge sheet and case was registered as C.C.No.394 of 2017 on the file of I Additional Judicial First Class Magistrate, Nizamabad.

3) Heard.

4) Seeking quashment of proceedings, learned counsel for petitioners/A1 and A2 would submit complaint allegations do not show any inducement made by the petitioners to constitute the offence under Section 415 IPC. He submits that in case of cheating the intention to cheat must be in existence from inception which is lacking in the present case and mere making promise and subsequent failure to keep the same does not amount to cheating. He would also submit that it is not the case of complainant that on the false promise of marriage, either the petitioner induced the complainant to have sexual intercourse with him or demanded and obtained any dowry or valuable articles from her family members. He thus submitted that a false case is foisted against the petitioners and if it is allowed to continue, it would amount to abuse of process of law. On this aspect he relied upon the decision of this Court reported in *M.Giriprasad v. K.Munikrishna Reddy*¹. He thus prayed to allow the petition.

5) Learned Additional Public Prosecutor opposed the petition and stated as the matter is coming up for framing of charges, the petition may be dismissed.

6) On perusal of the FIR, charge sheet and the statements of the witnesses, this Court finds force in the contention of the petitioners. It is not the case of complainant that on the false pretext of marriage, the 1st petitioner/A1 has either induced her to have sexual intercourse with him

¹ 2014 (2) ALT (CrI) 171 (AP)

or obtained dowry and other paraphernalia from her parents. In that view, even if the compliant allegations are true, mere failure to keep up the promise will not come within the ambit of cheating.

7) In similar circumstances, in **M.Giriprasad**'s case (1 supra), this Court held thus:

“Para-5: The complaint does not show any inducement made by the petitioners for presenting the gold ornaments to A1. The complaint only shows that both parties agreed for the marriage of LW3-Thulasi and A1 and the engagement function took place on 10.06.2012. Therefore, from the facts, it can be understood that basing on the promise made by the petitioners, the de facto complainant celebrated the engagement function and also spent some amount under the impression that his daughter's marriage will be performed with A1. Subsequently, for the reasons best known to him, A1 did not agree to marry LW 3-Thulasi, the daughter of the de facto complainant.

Para-6: I am of the considered view that the act complained of would not attract any criminal offence. Letdown from a promise to marry does not in any way attract the offence under Section 420 of IPC. Further, merely because A1 received some gold ornaments presented by the de facto complainant it does not constitute an offence of criminal breach of trust. It appears from the complaint allegations that the de-facto complainant incurred some expenditure under the impression that his daughter's marriage would be performed with A1 on a date agreed upon by both parties. Subsequently, however, as A1 was not willing to marry LW3-Thulasi, the daughter of the de facto complainant, the marriage could not be performed. The de facto complainant since acted on the promise made by the petitioners, more particularly, that of A1, if he had really incurred any expenditure based on the assurance of the petitioners, he can recover the

same by way of damages which remedy lies in civil law. I do not think any criminal offence is made out against the petitioners warranting prosecution against them.

8) It is needless to emphasize the case on hand, stands on the same footing. Therefore, the continuation of criminal proceedings as argued, would amount to abuse of process of the Court.

9) Accordingly Criminal Petition is allowed and proceedings in C.C.No.394 of 2017 on the file of I Additional Judicial First Class Magistrate, Nizamabad are quashed against petitioners/A1 and A2.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Date: 21.06.2018

Note: L.R.Copy to be marked YES /NO
(b/o)
Murthy

U. DURGA PRASAD RAO, J

