

**DE JURE NEXUS LAW JOURNAL**

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**ANURAG SONI VS. STATE OF CHHATTISGARH****Introduction**

There is an age-old heinous crime that is still prevalent in the world, even in this modern era of technology, where people debate feminism and women's empowerment. Every day, we read about a case of some kind of violence against women in the headlines of every newspaper. Every day, we come across various types of cases involving women, such as rape, molestation, harassment, violence, and each situation brings a new face of inhumanity to the crimes. This is a straightforward case of deception and stealing to fulfil a person's desire. In such situations, the judiciary's position in serving justice becomes critical.

**Bench**

Honourable Justice M.R. Shah and Honourable Justice L. Nageshwar Rao.

**Facts**

The Prosecutrix was a resident of Koni, Bilaspur, who was studying Pharmacy in Bhilai, and the Appellant, Anurag Soni, was a junior doctor at the Maalkharoda Government Hospital.

The Prosecutrix had known the Appellant since 2009 and they had been involved since then. Both the families were aware that the Appellant was the one who proposed marriage to the Prosecutrix.

The Appellant expressed his willingness to meet the Prosecutrix on April 28, 2013, and as a result, on April 29, 2013, at 7:25 a.m., she boarded the train 'Durg Danapur Express' and arrived at Sakti station. Only the Accused Appellant took her from there to his house in Maalkharoda, where she remained from 2 p.m. on April 29, 2013, to 3 p.m. on April 30, 2013.

During her stay at the Accused Appellant's home, he attempted to have a physical relationship with her and expressed his intention to have sexual intercourse with her. Following the Prosecutrix's repeated denials, she agreed to have sexual intercourse under the promise of marriage.

On the 30th of April, 2013, the Accused Appellant told the Prosecutrix to leave and agreed that he would talk to his parents about their marriage on the 1st or 2nd of May, 2013.

Both, the Accused Appellant and the Prosecutrix, arrived in Bilaspur by train on April 30, 2013, at about 6 p.m., and from there, a friend named Umashankar took them on his motorcycle to the house of the Prosecutrix's friend, Mallika Humne, and the Accused Appellant returned.

The Prosecutrix took the train from Bilaspur to Bhilai the next morning. The Prosecutrix was asked by the Accused Appellant not to tell anyone about their sexual relationship.

The Prosecutrix then repeatedly inquired of the Accused Appellant about the marriage between May 2nd and May 5th, 2013 but received no response.

As a result, on May 6, 2013, the Prosecutrix eventually informed her family about what had happened between her and the Accused Appellant, and the Prosecutrix's family went to the Accused Appellant's village in Kharod to tell his family about the incident.

Both the Prosecutrix and the Accused Appellant's families settled on their union.

Even after both families paid daily visits to each other's homes, the Accused Appellant kept the Prosecutrix and her family in the dark about his marriage to another woman, Priyanka Soni, on June 21, 2013.

The Accused Appellant left the village even after the panchayat verdict. As a result, the Prosecutrix filed a First Information Report in the Maalkharoda Police Station under Section 376 of the Indian Penal Code<sup>1</sup> against the Accused.

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<sup>1</sup> Indiantkanoon.org. 2021. *Section 376 in The Indian Penal Code*. [online] Available at: <<https://indiantkanoon.org/doc/1279834/>> [Accessed 17 April 2021].

The case was tried in Sessions Court due to the First Information Report. It was on the basis of this ruling that the Accused was found guilty and sentenced to ten years in prison under Section 376 of the Indian Penal Code.

He appealed to the High Court of Chhattisgarh, feeling aggrieved and disappointed with the learned Session Court's decision.

The appeal was rejected by the High Court, which upheld the Session Court's decision.

The Accused, vexed and unhappy with the High Court's ruling, filed an appeal with the Supreme Court, claiming that the charge against him was baseless.

### **Explanation**

The prosecution had been successful in proving the argument that the Accused never wanted to marry the Prosecutrix from the start. He made a false promise to the Prosecutrix to marry her, and on the basis of that false promise, he had a sexual relationship with the Prosecutrix. The Prosecutrix initially refused, but eventually agreed, relying on the Accused's false guarantee that he would marry her. As a result, her consent may be considered a consent based on misconception under Section 90 of the Indian Penal Code<sup>2</sup>, and such a consent would not absolve the Accused of the charge of rape and an offence under Section 376 of the Indian Penal Code. While the Accused claims that the Prosecutrix and his family members were aware that his marriage to Priyanka Soni was already set, and that the Prosecutrix and her family members tried to pressurise the Accused to marry the Prosecutrix despite this, it is important to note that the Accused had not proven this. Even if it were true, such a claim would not be credible given the circumstances and evidence available. In this case, the Prosecutrix was a well-educated girl who was studying pharmacy. As a result, it is hard to believe that despite knowing that the Appellant's marriage is set with another lady – Priyanka Soni – she and her family will proceed to pressurise the Accused to marry and the Prosecutrix will agree to physical relations. The Prosecutrix claimed in her deposition that she originally refused to agree to a physical relationship, but that after the Appellant promised to marry her and she relied on that commitment, she consented to a physical relationship with the Appellant Accused. Even under

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<sup>2</sup> Indiankanoon.org. 2021. *Section 90 in The Indian Penal Code*. [online] Available at: <<https://indiankanoon.org/doc/1742535/#:~:text=Section%2090%20in%20The%20Indian%20Penal%20Code&text=90.,given%20under%20fear%20or%20misconception.&text=%E2%80%94if%20the%20consent%20is%20given,consent%3B%20or%20Consent%20of%20child.>> [Accessed 17 April 2021].

Section 114A of the Indian Evidence Act<sup>3</sup>, which was subsequently added, there is a presumption, and the Court shall conclude that she consented to the physical relationship with the Accused based on the Accused's promise to marry her. As previously stated, the Accused's promise to marry the Prosecutrix was false from the start, and the Accused had no intention of marrying the Prosecutrix since his marriage with Priyanka Soni was already set long ago. Despite this, he continued to make false promises and alluded the Prosecutrix to give her consent for marriage. In light of the facts and circumstances of the case, as well as the law established by this Court in its rulings, both Courts have correctly concluded that the Prosecutrix's consent was based on a misunderstanding of the facts and, as a result, the same cannot be called consent, and the Accused has been charged with rape under Section 376 of the Indian Penal Code. Both Courts correctly found the Accused guilty of violating Section 376 of the Indian Penal Code. Now, the Accused Appellant's submission that the Accused married Priyanka Soni on June 10, 2013, and that as a result, the Accused should not be convicted, cannot be admitted. The prosecution was effective in presenting compelling evidence that the Accused had no intention of marrying the victim from the outset, that he had ulterior motives, and that he had made a false pledge solely to fulfil his desire. The Prosecutrix would not have agreed to have a sexual relationship with the Accused if the Accused had not made a false commitment to marry her. It was an obvious case of fraud and cheating. As previously stated, the Prosecutrix's consent was based on a factual misunderstanding. These kinds of accidents are becoming more common these days. Such acts are a disgrace to humanity. Rape is society's most morally and physically reprehensible abuse, an attack on the victim's body, mind, and privacy. While a murderer kills the physical frame of the victim, a rapist degrades and defiles the spirit of a vulnerable victim, as this Court has stated in a series of decisions. Rape reduces an individual because it shakes their very soul. By no means can a rape victim be called an accomplice. Rape leaves a permanent scar on the life of the victim. Rape is a crime against the entire society and violates the human rights of the victim. Being the most hated crime, the rape is tantamount to a serious blow to the supreme honour of a person and offends both their esteem and dignity. Therefore, merely because the Accused had married another lady, it is no ground not to convict the Accused Appellant of the offence punishable under Section 376 of the Indian Penal Code. The Accused Appellant is required to face the repercussions of his crime. Both Courts correctly found the Accused Appellant guilty of

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<sup>3</sup> Indiankanoon.org. 2021. *Section 114A in The Indian Evidence Act, 1872*. [online] Available at: <<https://indiankanoon.org/doc/1586025/>> [Accessed 17 April 2021].

violating Section 376 of the Indian Penal Code. The Appellant Accused's conviction under Section 376 of the Indian Penal Code is upheld. Because of the facts and circumstances of the case, as well as the appeal of the learned counsel appearing on behalf of the Appellant Accused, the Court sentence of ten years rigorous imprisonment was reduced to seven years rigorous imprisonment, which was the minimum penalty prescribed at the time of the crime under Section 376 of the Indian Penal Code.

### **Ratio Decidendi**

The Supreme Court concluded that the Prosecutrix and the Appellant were having an affair and that the Appellant had formed a sexual relationship with the Prosecutrix based on the false promise of marrying her after hearing both sides of the story and questioning the witnesses. The accused's actions clearly demonstrate that he had no intention of marrying the Prosecutrix. When the two families were about to marry, he ran away. Without telling the prosecutor, he married Priyanka Soni. Priyanka Soni revealed that they had been in talks about their marriage for a year before they married. And though he had a sexual relationship with the Prosecutrix, the Appellant had plans to marry Priyanka Soni, as shown by this. As a result, the Court decided that the prosecution had proven its case against the Appellant.

Furthermore, the accused said that the Prosecutrix and her family members were already aware of his engagement to Priyanka Soni and were forcing him and his family to marry her. However, the Appellant was unable to establish this argument.

Taking into account all of the facts and conditions, the Supreme Court affirmed the Sessions Court's decision, ruling that the accused never intended to marry the Prosecutrix. From the beginning, he was deceiving her. In order to develop a sexual relationship with her, he made the false promise of marrying her. Since the Prosecutrix gave her consent on the basis of a false promise, the consent will not be considered under Section 90 of the Indian Penal Code, and the accused will be charged with rape under Section 376. The Court ruled that this was a simple

case of fraud and cheating. Furthermore, the fact that both the Prosecutrix and the Appellant have gone on with their lives is meaningless and cannot be taken into account.

The accused was found guilty under Section 376 of the Indian Penal Code, but the sentence was reduced to seven years. The Court ruled that since both the victim and the accused are married to someone else, the accused cannot be released. An offender must still bear the repercussions of his actions. Rape, on the other hand, is a crime against humanity. A rape victim experiences not only physical but also mental damage.

### Comments

This case establishes a new standard for interpreting case law. It relies on the facts and circumstances of the case because there are no clear precedents to justify it. Women are not viewed fairly in our culture to men. If a woman loses her virginity before marriage, the orthodox people in our society used to blame her, but not the men. The Court concentrates on the facts of the case, finding that a simple breach of promise by the accused Appellant to Prosecutrix to fulfil his desire is illegal in the eyes of the law and utterly unreasonable in today's society. The consent was not given voluntarily; it was obtained by deception. It shields the woman from being questioned about her character.

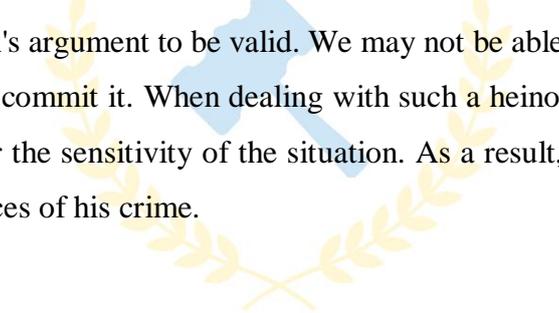
The problem that has been brought up in this case is not new. Various High Courts have previously issued rulings on the subject. The Supreme Court has also taken a position on the issue. However, Anurag Soni's decision has discussed this question more explicitly and precisely. The Court used Section 114A of the Indian Evidence Act, which orders the Court to believe the Prosecutrix's argument is valid. The burden of evidence had previously been placed on the defence, but this decision overturned that decision. The case paved the way for a new understanding of Section 376 of the IPC, broadening its scope.

Though the decision has been criticised, it will appear correct when viewed in the sense in which it was delivered. Consent is the most important factor in any relationship, and if it is founded on deception or fraud, it can damage a girl not only physically but also emotionally.

When making a decision, all aspects of the storey are considered. And now it will be important to see if this is the end of the matter or if any further pronouncements will be made.

### **Conclusion**

Rape is the most morally reprehensible and shameful crime that affects the victim's body, mind, and privacy. It degrades and defiles women's lives and leaves lasting scars. Such crimes undermine the victim's self-esteem and dignity in society, as well as women's dominance. This case has paved the way for a modern understanding of Section 376 of the Indian Penal Code and the explicit application of Section 114A of the Indian Evidence Act, which orders the Court to believe the Prosecutrix's argument to be valid. We may not be able to prevent crime, but we can prosecute those who commit it. When dealing with such a heinous crime, it is the Court's responsibility to consider the sensitivity of the situation. As a result, the convicted Appellant must face the consequences of his crime.



# De Jure Nexus

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