

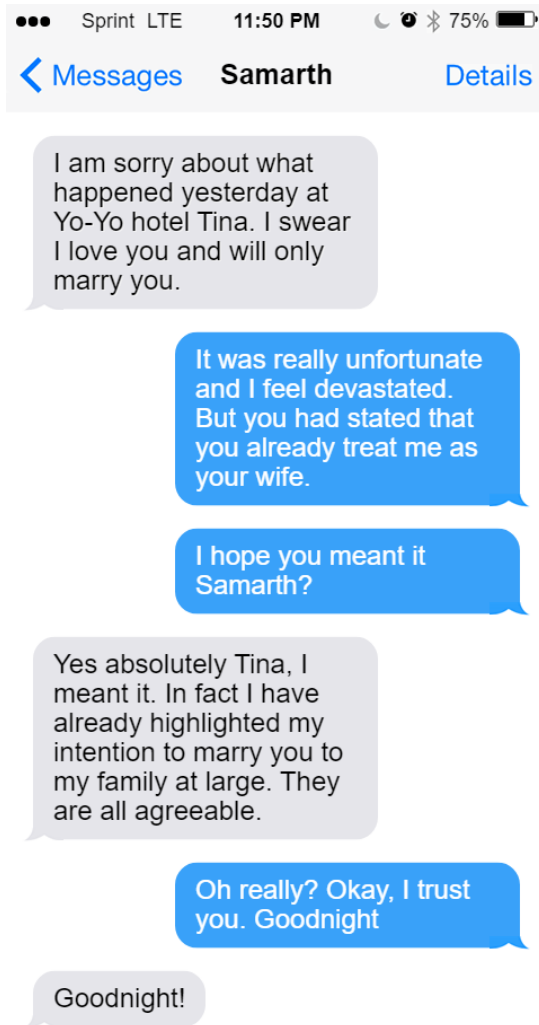
Rajiv Gandhi National University of Law, Punjab  
11<sup>th</sup> RGNUL National Moot Court Competition, 2023

*In the form of a Trial Advocacy*

**Facts**

1. Tina and Samarth are citizens of Telhi (The laws of Telhi are analogous to that of India). They met each other while pursuing LL.M at the University of Telhi in the year 2015 and became close friends. They spent a quality time together and eventually fell in love with one another. Since both Tina and Samarth were residing with their respective families, overtime, both families interacted frequently and got to know each other well. They met for occasional family dinners and regularly exchanged greetings on special occasions and festivals.
2. Tina firmly believed in the sanctity of marriage and had on one occasion told Samarth that she would indulge in intercourse only after the solemnisation of their marriage. Samarth, however, initially insisted that marriage being uncertain, she should not insist on a ‘formal relation’ especially given that they were “really close” and that the families already know each other. They communicated through several social media applications, shared private moments and often went on vacations lasting several days. On 27<sup>th</sup> June, 2016, however, towards the end of their LL.M programme, both Tina and Samarth checked into a hotel namely YO-YO Hotel, Telhi with an intent to celebrate the successful completion of the LL.M Programme. After they both consumed liquor, Samarth while holding Tina’s hands, had forcible sexual intercourse with her. Upon her objection, Samartha told her that “Tina, you are mine and I already treat you like a wife. Don’t panic, we will marry soon”. Tina while unhappy with this act, accepted Samarth’s words about accepting her as his wife, and consequently accepted her fate.

3. Thereafter, they became sexually active with each other. They met frequently until one day Samarth and Tina had a fight after Tina saw Samarth holding another woman's hand at a conspicuous restaurant in Central Telhi. Upon confrontation, Samarth stated that he was merely trying to comfort an old friend who had recently undergone a traumatic experience. Following this incident, Tina and Samarth started to drift apart slowly. Nevertheless, on 1<sup>st</sup> December, 2016, the parents of both Tina and Samarth met and discussed the possibility of a '*roka* ceremony,' so as to formalise the intention of both the parties to stop their search for a prospective groom and bride for their wards, respectively. On 10<sup>th</sup> December 2016, however, Samarth called Tina to tell her that he wanted to call the relationship off as he was done with her suspicions and "doubting habits".
  
4. Tina was shocked and appalled. She blocked Samarth on all social media platforms. On 24<sup>th</sup> December 2016, Tina decided to register an FIR pertaining to Criminal Breach of Trust and Rape on the "false pretext of marriage". Tina stated that Samarth had raped her on the false pretext of marriage in June 2016 in tune with the abovementioned facts and had continued the said sexual relations with her till December 2016 with the promise to marry her. She further stated that in hindsight he did not intend to marry her and she felt that her consent was induced through fraud and coercion. Tina produced certain whatsapp chats in evidence before the IO. Her chat with Samarth dated 28<sup>th</sup> June, 2016 is as follows:-



5. Following the registration of FIR bearing No. 411/2016 at PS Telhi Central, a statement u/s 164 Cr.P.C. was recorded before the jurisdictional Magistrate where Tina, in addition to the content of the FIR and the facts as highlighted hereinbefore, added that “the families also wanted us to get married and promised to marry us when Samarth opened his law office and became independent”. She further stated that Samarth’s father, Mr. Rajeshwar, had met her to tell her that “this was just a phase and that they will ensure that they both get married” and therefore the father should also be punished for hatching a conspiracy with his son.
6. Accordingly, a chargesheet u/s 173 Cr.P.C. was filed before the Sessions Court of Central Telhi – without arrest (i.e. no arrest was made in the matter and the accused was bound down u/s 41A of the Cr.P.C. to join investigation). Vide order

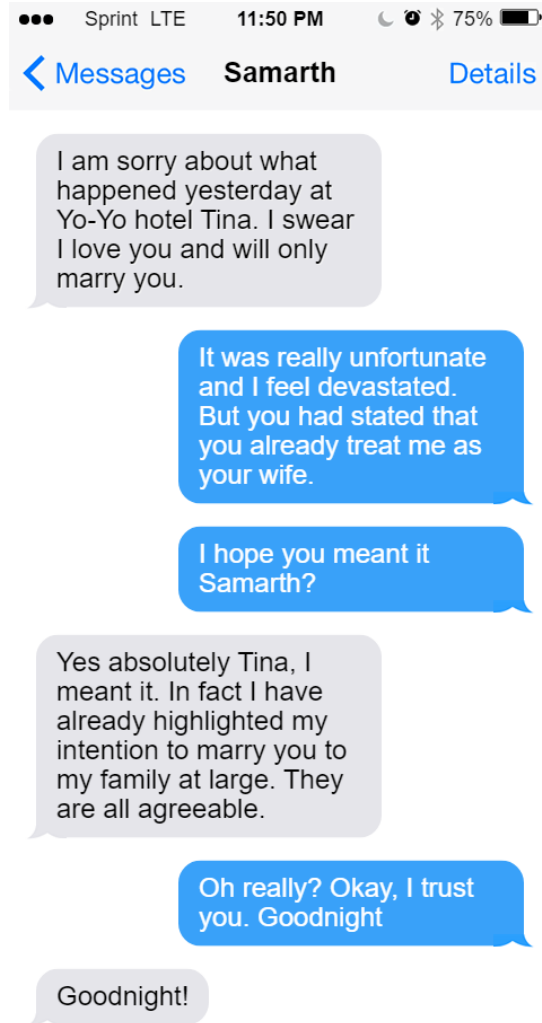
dated 03.02.2017, the Sessions Court framed charges u/s 406 and 376 IPC observing that Tina's consent was possibly induced through cheating and coercion and that it *prima facie* appears to be a fit case for trial. The Trial Court observed that it also *prima facie* appears that Samarth merely wanted sexual relations and never intended to marry her in the first place.

7. The Statements of several witnesses were annexed to the Final Report in the form of a Chargesheet. Statements of PW1 u/s 161 and 164 CrPC are Tina's confirmation of the content of the FIR and her 164 CrPC Statement in terms of the facts provided above. Tina's brother Rohit in his 161 Cr.P.C. statement as PW2 stated that he would always see Tina and Samarth talk on phone and hang out together. He further stated that the entire family had no doubt or reason to disbelieve that both are in a serious relationship and looked forward to getting married. He also stated that Tina has now been shattered and is seeking treatment for depression. PW3 Dr. Simi from TIMS, Hospital who had examined Tina stated that "Hymen was torn" and no physical injury reported or seen objectively. IO also recorded the statement of Mr. Rajeshwar (DW2), the father of the accused Samarth, who stated that Samarth loved Tina from the bottom of his heart and wanted to marry her until the relationship started to turn sour owing to Tina's conduct. Samarth (DW1) also stated the same in his statement and stated that he wanted to reconcile things with Tina, however, he was blocked on all platforms. She had even deleted her photos from social media profiles. He really loved her and during this intervening period did not get married to anyone else. He further stated that had he not been serious, he would have married someone else by now. He ensured that their families had met. IO also recorded the statement of the YO-YO Hotel manager (DW3) who stated that they both checked in on 27<sup>th</sup> June 2016 and checked out on 28<sup>th</sup> June 2016. He further stated they did not hear any fights or sounds that could have alarmed them nor did the room service report anything suspicious. They both checked out on time, however, the CCTV footage of the hotel is not available as the camera was not operational for the want of repair.

8. The Chargesheet having been filed and charges framed by the Court of Sessions, Central Telhi, the aforesaid witnesses are to be examined in chief and cross examined by both the prosecution and the defence. Prosecution is to examine in chief PW-1 the Complainant, PW-2 Tina's brother Rohit and PW-3 Dr Simi from TIMS, Hospital, whereas the Defence will examine Samarth as DW1, his father Rajeshwar as DW2 and Manager of the YO-YO Hotel Rahul as DW-3 and proceed with the Final arguments accordingly.
  
9. The medical report from TIMS hospital, Whatsapp Chat and the statements of PW-1,2 & 3 along with the statements of DW1, 2 and 3 are annexed herewith for the purposes of examination in chief and cross examination.

-End of Proposition-

## ANNEXURE – 2



Dr. Simi  
(Gynecologist)

**Date:** 25-12-2016

**No.:** 23

**MEDICO LEGAL INJURY REPORT**

**Name:** Tina

**Age:** 25

**Sex:** Female

**Time of Examination:** 10.30 AM

**Brief History:**

25-year-old unmarried female. Intermittent sexual relations for six months. First intercourse dates to 27-06-2016. Hands forcibly held during intercourse.

**Opinion:**

- Hymen was torn.
- No physical injury reported or seen objectively.

S/d

Dr. Simi

(Digital Copy, Signature Not Required)

## ANNEXURE – 3

### PUBLIC WITNESS STATEMENTS

#### A. Prosecution witness 1

I, Tina, complainant in this case, state that-

Samarth and I met each other while pursuing LL.M at the University of Telhi in the year 2015 and became close friends. We used to spend a lot of time with each other. We eventually grew feelings for each other and fell in love with one another. Samarth and I used to reside with our respective families. Thereon our families also grew acquainted. Our families even used to gather for dinners and share and exchange festivities.

Both of us used to communicate on social media platforms, share private moments and often went on long vacations. I was quite firm on my belief of indulging in intercourse only after we both got married with each other and I told Samarth about it as well. However, Samarth initially insisted that marriage being uncertain, she should not insist on the 'formal relation' as they were "really close" and the families already know each other.

On 27<sup>th</sup> June, 2016, Samarth and I checked into a hotel named YO-YO hotel to celebrate the successful completion of our LL.M. Programme. Both of us consumed liquor at the hotel. Samarth held both my hands to prevent me from resisting and forced me to have sexual intercourse with him. When I objected to that verbally, he said, "*Tina you are mine and I already treat you like a wife. Don't panic we will marry soon*". I chose to believe whatever Samarth said to me that day about his promise to marry me and I had intercourse with him. Thereafter we used to have intercourse occasionally. In our WhatsApp chat dated 28 June, 2016, a day after the incident, Samarth solidified those affirmations regarding his promise to marry me.

However, one day I saw Samarth holding another woman's hand at a conspicuous restaurant in Central Telhi and we had a fight about it. Samarth explained to me that he



was merely trying to comfort an old friend who recently underwent a traumatic situation. After that fight things started to sour between Samarth and me.

On 10 December, 2016, Samarth called me and told me that he wanted to break the relationship up as he was done with my “doubting habits” and my “suspicious nature”. This came just 10 days after Samarth’s family and my family met to discuss a possible “Roka” between us. This incident shocked me greatly and I was appalled.

This is when I realized that Samarth never intended to truly marry me and decided to register a FIR pertaining to Criminal Breach of Trust and Rape on the “false pretext of marriage”. Samarth has raped me and continuously developed sexual relations with me while he had no intent to marry me. My consent was induced through fraud and coercion. Thereafter, I blocked Samarth on all platforms.

## **B. Prosecution witness 2**

I, Rohit, brother of the complainant Tina, state that-

I have seen Tina and Samarth together since they started their LLM programme at University of Telhi. My sister and Samarth were in constant touch with one another through texts or were always talking on phone and used to hang out together in Telhi quite frequently.

Our entire family had no doubt or any reason to disbelieve that Tina and Samarth were in a serious relationship and looked forward to getting married. On 28<sup>th</sup> June, 2016, my sister came back after a graduation celebration and didn’t seem like her usually chirpy self. She was quiet and seemed worried. However, she was fine the next morning.

Samarth’s decision to break the relationship with Tina has been hard, extremely hard on her. But now after since the break-up, Tina has been shattered and is seeking treatment for depression.

**C. Prosecution witness 3**

I, Dr. Simi, TIMS Hospital, state that-

On examination of the victim Tina it has been concluded that “Hymen was Torn” and no physical injury reported or seen objectively.

## ANNEXURE - 4

### DEFENCE WITNESS STATEMENTS

#### A. Defence witness 1

I, Samarth, state that-

Tina and I met in the year 2015 when we were pursuing LL.M. Programme at the University of Telhi and became close friends. We gelled well and soon started to spend a lot of time with each other even after college hours. We would hangout in Central Telhi and eventually we fell in love with each other. Both of us were residing with our respective families which are based in Central Telhi. So with time even our families started knowing each other and all of us used to get together for dinner and at festive occasions.

Tina and I used to be connected with each other throughout. We used to communicate on social media applications and go on outstation trips and vacations.

In June, 2016, we booked a room in YO-YO Hotel to celebrate our completion of LL.M. Programme. Both Tina and I had consumed liquor that day. Therefore, as we both were intoxicated it is difficult for me to recall the events of that night. However, whatever intimate actions might have occurred between us, it was via mutual consent.

I have always been very clear about the prospects of our marriage and that yes I was willing to marry her once I open my own law office and start working independently. There has not been any such explicit conversation between us as to when we wanted to indulge in sexual activities.

Nonetheless, one day Tina fought with me because she saw me holding hand of one of my female friends at a restaurant and I explained her that I was merely trying to comfort an old friend who had recently undergone a traumatic event. However, since that fight I felt that we started to drift apart from each other. She increasingly grew suspicious of

me; this habit of hers only worsened with time. Ultimately, the same started to affect the health of our relationship.

On 10 December, 2016, amidst all this tension between us which was taking a toll on me and out of annoyance, I called Tina to tell her that I wanted to end the relationship because I was done with her “suspicions” and “doubting habits”. That phone call was merely out of irritation and as such it is normal in a relationship for differences to occur overtime. Thereafter, I noticed that Tina had blocked me on all the platforms which gave me no opportunity to reconcile the things with her which I always wanted to. I also noticed that she had deleted our photos from social media platforms.

I have always been willing to marry her as I really loved her and during this intervening period did not get married to anyone else. Had I not been serious, I would have married someone else by now.

Our families also met to discuss the possible dates for the “*roka* ceremony.” Therefore, my intention to marry Tina has always been clear and I have never indulged in any non-consensual activity with Tina.

**B. Defence witness 2-**

I, Rajeshwar, father of DW1, state that-

I have been aware of Samarth`s relationship with Tina since a very long time and he was quite serious about his future with Tina.

We were always in the support of their marriage given that Samarth first will open his law office of his own and works independently as it is only thereafter that he can be prepared for the marriage related responsibilities.

Samarth loved Tina from the bottom of his heart and wanted to marry her until the relationship started to turn sour owing to Tina`s conduct. We went into utter shock after knowing that she has blocked Samarth.

**C. Defence witness 3-**

I, Rahul, manager at YO-YO hotel, state that-

Samarth and Tina checked in on 27th June 2016 and Checked out on 28th June 2016.

None of the members at the hotel heard any fights or sounds that could have alarmed them nor did the room service report anything suspicious.

They both checked out on time, however the CCTV footage of the hotel is not available on account of cameras not being operational for the want of repair.