



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 4690 OF 2025

Mr. Satish Maruti Pawar,
Age : 45 Years, Occu : Service,
R/o. Dandeghar Panchgani,
Tal. Mahableshwar, Dist. Satara.

...PETITIONER

VERSUS

1. The State of Maharashtra
Through the Police Inspector,
Panchgani Police Station, Dist. Satara.

2. XYZ

...RESPONDENTS

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Mr. Satyavrat Joshi (Through V.C.) a/w Mr. Sairaj Suryawanshi and Mr. Vaibhav Halake, Advocate for the Petitioner.

Mr. Anand S. Shalgaonkar, APP for Respondent – State.

Mr. D. V. Sutar a/w Ms. Reshma J. Adnaik, Advocate for Respondent No.2.

Mr. I. A. Mulani, H.C., Panchgani Police Station, Satara.

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CORAM : ABHAY J. MANTRI, J.

DATE : AUGUST 27, 2026

ORAL JUDGMENT :

1. The Petitioner has invoked Section 482 of the Code of Criminal Procedure, 1973 (for short “*Cr.P.C.*”) to quash the First Information Report bearing Crime No. 294 of 2024 registered with Panchgani Police Station, Dist. Satara, for the offences punishable under Sections 312, 323, 376(2)(n), 504 and 506 of the Indian Penal Code, 1860 (for short “*IPC*”) and the filing of the charge-sheet pursuant to the said FIR, which was registered as R.C.C. No.07/2025.

2. Heard. **Rule.** Rule made returnable forthwith and heard finally with the consent of learned counsel for the respective parties. I have perused the record, more particularly the FIR, statement of the Victim (informant) recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “**BNSS**”), medical reports, the statement of Mr. Shivaji Nanvare, the statement of Dr. Ajendra Tarage, as pointed out by the learned APP, and the charge-sheet.

3. On 14th December 2024, the informant lodged the report stating that she is married, has a 6-year-old son, and resides separately from her husband. She is working as a teacher. She was acquainted with the Petitioner since her childhood. The Petitioner is a Police Inspector. She knows him from her childhood. She further alleged against the Petitioner that in December 2022, they met in Panchgani and thereafter frequently called and chatted. On 31st December 2023, for the first time, she had a physical relationship with him at Panchgani under the false pretext of marriage. The relationship was continued till January 2024. However, a dispute arose between them when he refused to marry her, and she therefore lodged an FIR. It is also alleged that the Petitioner had forcible sexual intercourse with her against her will and without her consent. Based on the said report, a crime was registered against the Petitioner vide Crime No. 294 of 2024 with

the Panchgani Police Station, Dist. Satara, for the offences punishable under Sections 312, 323, 376(2)(n), 504, and 506 of the IPC. As such, the Petitioner, feeling aggrieved by the registration of the FIR, has preferred this Writ Petition to quash and set aside it.

4. During the pendency of the Petition, the Investigating Officer has filed the charge-sheet before the learned Trial Court; therefore, the Petitioner has amended his prayer clause to that extent.

5. The learned counsel for the Petitioner has vehemently contended that the physical relationship between the Petitioner and the informant was consensual and, to demonstrate the same, he has taken me through the FIR and the statements of the informant recorded under Section 183 of the BNSS. He contended that, on a bare perusal of the FIR and the statement, it reveals that the physical relationship between the Petitioner and the informant was consensual, and it cannot be said that the same was committed against her will and without her consent. As such, the ingredients of Section 376(2)(n) of the IPC are not attracted against him. He further submitted that the informant and the Petitioner knew each other very well since their childhood; therefore, the question of forcibly committing sexual intercourse with her against her will and without her consent does not arise. He further canvassed that the informant had suo motu taken pills to get an abortion on their own; therefore,

the question of application of Section 312 of the IPC does not arise against the Petitioner. As such, he urged to quash and set aside the FIR and filing of the charge-sheet pursuant to the FIR to the extent of Sections 376(2)(n) and 312 of the IPC, and the other sections are non-cognizable offences.

6. To buttress his submissions, he has relied upon the judgment of the Hon'ble Supreme Court in *Samadhan s/o Sitaram Manmothe Vs. State of Maharashtra and Another*¹ and drew my attention to paragraph Nos. 20 to 29 and 31 and submitted that the facts in the case in hand and the facts in the said judgment are identical and, therefore, the law laid down by the Hon'ble Supreme Court in the said judgment squarely applies to the case in hand. Similarly, he has placed reliance on the judgment of this Court in *Sachin s/o Shantaram Potude Vs. The State of Maharashtra and Another*² and pointed out paragraph Nos. 2 and 5 of the said judgment and submitted that, in view of the mandate laid down in both the judgments, the FIR and charge-sheet be quashed to the extent of Sections 376(2)(n) and 312 of the IPC and urged for allowing the Petition in the above terms.

8. It is pertinent to note that the learned APP does not dispute that in the statements of the informant recorded under Section 183 of the BNSS, the informant has not alleged that the Petitioner had a physical relationship with her against her will or without her consent. On a query, the learned APP

¹ Criminal Appeal No.5001 of 2025 dated 24th November 2025

² Criminal Application (APL) No.191 of 2024 dated 14th June 2018

failed to point out any document to indicate that the Petitioner had committed a forcible sexual relationship with the informant. He has pointed out the statements of one Mr. Shivaji Nanvare and Dr. Ajendra Tarage and submits that, despite the Petitioner and the informant being married to their respective spouses, they continued their physical relationship, and the informant herself underwent an abortion; therefore, he has submitted to the order of the Court.

9. *Per contra*, Mr. Sutar, learned counsel appearing for Respondent No. 2/victim, strenuously opposed the Petition on three grounds, *firstly*, contending that on a bare perusal of the FIR, it reveals that the Petitioner had established a physical relationship with the informant against her will and without her consent. *Secondly*, he canvassed that since inception, the intention of the Petitioner was fraudulent and, therefore, without obtaining the consent of the victim, he had committed sexual intercourse with her under the false pretext of marrying her, and thereby he had played a fraud on the informant. *Thirdly*, he tried to advance the argument that, being a Police Officer in a fiduciary capacity, the Petitioner established the physical relationship with her. Lastly, he submitted that this is at a preliminary stage and it would not be proper to scrutinise the material on record; but all the material can be scrutinised after the evidence adduced by the prosecution; therefore, he urged that the Petitioner has failed to make out a case to invoke inherent jurisdiction of this Court and hence urged for dismissal of the

Petition.

10. Having heard the rival contentions of the learned counsel for the respective parties and gone through the record, as pointed out by them, at the outset, prima facie, it appears that there is a discrepancy in the FIR as well as the statement of the informant recorded under Section 183 of the BNSS on the following three grounds:

i) In the statement under Section 183 of the BNSS, the victim has not stated anywhere that the Petitioner had established a physical relationship with her against her will or without her consent. Still, the averments made in the statement recorded under Section 183 of the BNSS, prima facie, categorically indicate that the relationship between the Petitioner and the victim was consensual, as they had known each other since childhood. Therefore, to that extent, the discrepancy appears in the FIR. The statement of the victim was recorded under Section 183 of the BNSS. Therefore, the allegations made in the FIR create a doubt about the allegations that the Petitioner has established a physical relationship with her against her will and consent.

ii) The second discrepancy appears in the statement of the victim recorded under Section 183 of the BNSS and the FIR regarding the allegation that he had established a physical relationship with her at Panchgani under the false pretext of marriage; in the statement, nowhere did she state the

same. second

iii) The third discrepancy appears in the statement of the victim recorded under Section 183 of the BNSS, and the FIR regarding the allegation about the cause for filing the FIR.

11. Apart from that, it appears from the supplementary statement dated 01st January 2025 given by the informant to the Investigating Officer that she wants to withdraw the complaint, as the same was filed due to a misunderstanding of the facts and therefore urged to stop further investigation. She had also filed an application along with her notarised statement before the Investigating Officer. Thereafter, she has given a supplementary statement before the learned Magistrate under Section 183 of the BNSS, stating that, due to a misunderstanding, she had given the supplementary statement to the Police on 01st January 2025, stating that she did not want to proceed with the said FIR and requested them to close the investigation. However, she stated that she wanted to proceed with the said complaint again. The said statements also prima facie indicate that the informant had no grudge against the Petitioner and, therefore, requested the Investigating Officer to stop the investigation or close the complaint.

12. While dealing with the rival contentions, it is necessary to take into account the material facts that the Petitioner is married and has two

children. Similarly, the informant is also married and has one son, namely Rudra, aged 6 years, and she resides separately from her husband. However, her marriage is still subsisting. Both are married persons. The aforesaid facts themselves indicate that the informant as well as the Petitioner are married persons. So, without obtaining a divorce from their respective spouses, they couldn't marry each other. Similarly, paragraph No. 1 of the FIR indicates that the informant has known the Petitioner since her childhood, as they both belong to the same village. It further appears from the FIR and the statement that between December 2022 and January 2024, they established sexual relations with each other multiple times. Until then, the victim had no grudge or grievance against the Petitioner; only when the Petitioner refused to marry the informant or when she knew that the Petitioner had relations with other girls also did she lodge the FIR.

13. While determining the controversy in question, it would be appropriate to reproduce paragraph Nos. 21 to 25 and 31 of the judgment of the Hon'ble Supreme Court in *Samadhan (supra)*, which read as under:

“21. Section 376(2)(n) of the IPC provides for enhanced punishment in cases where rape is committed repeatedly on the same woman. It mandates rigorous imprisonment for a term of not less than ten years, which may extend to life imprisonment for the remainder of the person's natural life. The object of this provision is to address aggravated instances of sexual assault where the offence is not a single incident but has occurred repeatedly on the same victim. The expression “repeatedly” employed in the provision is of significance. It contemplates more than one act of sexual assault, committed at different points in time on the same victim. Courts have consistently interpreted this phrase to mean a series of acts

that are separate in nature and not a continuation of a single transaction.

22. *In genuine cases under Section 376(2)(n) of the IPC, the pattern is usually unmistakable; it is an initial act of sexual assault, followed by multiple acts under fear, pressure, captivity, or continued deceit, often when the woman is rendered vulnerable and unable to escape the situation.*
23. *In the present case, a bare perusal of the FIR and the statement on record reveals that respondent No.2 met the appellant, who is a practising advocate, for the first time in reference to a case which was instituted by respondent No.2 against her husband. Thereafter, they exchanged numbers and regularly kept in touch. Over a passage of time, respondent No.2 and the appellant developed a close relationship and started meeting each other frequently. During this time, they established sexual relations multiple times between 12.03.2022 to 20.05.2024. The appellant contends that during the course of their relationship, not once did respondent No.2 file a complaint regarding the alleged non-consensual sexual relations, and it is inconceivable that the appellant would force himself upon her for so many years without there being any protest or complaint from the side of respondent No.2. Notably, it was only in August of 2024 when the appellant refused to fulfil respondent No.2's demand of payment of Rs.1,50,000/- that the instant criminal case came to be instituted against the appellant.*
24. *Another question which arises for consideration is whether the appellant engaged in physical relationship with respondent No.2 based on a deception or a false promise to marry.*
25. *The allegation of rape in the present case hinges entirely on respondent No.2's claim that appellant established physical relations with her on false pretext of marriage. It is alleged by the appellant that respondent No.2 opposed the idea of marriage whenever the appellant broached the said idea; however, the appellant kept on insisting possibly this was because her first marriage was in subsistence. It is, however, not clear as to why, despite being opposed to the idea of marriage, respondent No.2 continued to meet the appellant and indulged in physical relations with him even though she was already married.*

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31. *This Court is conscious of the societal context in which, in a country such as ours, the institution of marriage holds deep social and cultural significance. It is, therefore, not uncommon for a woman to repose complete faith in her partner and to consent to physical intimacy on the assurance that such a relationship would culminate in a lawful and socially recognised marriage. In such circumstances, the promise of marriage becomes the very*

foundation of her consent, rendering it conditional rather than absolute. It is, thus, conceivable that such consent may stand vitiated where it is established that the promise of marriage was illusory, made in bad faith, and with no genuine intention of fulfilment, solely to exploit the woman. The law must remain sensitive to such genuine cases where trust has been breached, and dignity violated, lest the protective scope of Section 376 of the IPC be reduced to a mere formality for those truly aggrieved. At the same time, the invocation of this principle must rest upon credible evidence and concrete facts, and not on unsubstantiated allegations or moral conjecture.”

14. Likewise, it would be appropriate to reproduce paragraph Nos. 2 and 5 of the judgment of this Court in *Sachin (supra)*, which read as under:

“2. On 13.11.2014, this Court granted Rule and passed an interim order, which is reproduced below;

“Coram: B.R. Gavai & V.M. Deshpande, JJ.

Dated: November 13, 2014.

1. Rule.
2. Heard Mr. Firdos Mirza, learned counsel for the applicant and Mr. A.B. Moon, learned counsel for the non-applicant no.2.
3. Taking into consideration the allegations in the first information report on its face value, it would reveal that it is the case of the first informant that she and the applicant were working in the same office. She had left her husband and was residing with her son. The applicant knowing this, has developed intimacy with her and induced her to have sexual relationship with him. The applicant also used to take her at various places including Bor Dharan and Shegaon for having sexual contacts with her. The wife of the applicant, having knowledge of the same, came to the house of the first informant and created a scene. It is the case of the first informant that, having done this, the applicant himself addressed a notice to the first informant and, as such, being mentally and physically oppressed, she has lodged the first information report.
4. It could thus be undisputedly seen from the version of the first informant herself that when the applicant made a false promise to her of marriage, she was having a subsisting marriage, and so also the applicant was having a subsisting marriage.
5. In that view of the matter, we find that the applicant has made out a case for grant of interim relief. There shall be interim relief in terms of prayer clause (a ii).
6. Mr. R.S. Nayak, learned APP waives notice for non-applicant no.1 and Mr. A.B. Moon, learned counsel waives notice for non-applicant no.2.

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5. *There is no dispute that the complainant-respondent No.2 had developed physical relations with the applicant at several places and at several times. Shri Moon, the learned counsel appearing for the Non-applicant No. 2, admits that the Non-applicant No. 2 was a married woman on the date on which the applicant-accused is said to have developed a physical relationship with her and that her marriage subsisted as on all those dates. Keeping aside the fact that the complainant was not knowing that the applicant was married, it was not expected of her to be in physical relationship with the person other than the husband, particularly when she herself was a married woman and her marriage subsisted on such dates. The ratio of the decision of the Apex Court in Prashant Bharti's case squarely applies to the facts of the present case to hold that the assertion made by the non-applicant no. 2/complainant that she was induced to a physical relationship by the applicant-accused on the basis of a promise to marry her stands irrefutably falsified."*

15. Thus, it prima facie appears that the facts in the case in hand and in *Samadhan (supra)* are identical and, therefore, the law laid down by the Hon'ble Supreme Court in the said judgment is squarely applicable to the case in hand. Similarly, the observations made in *Sachin (supra)* are also squarely applicable to the facts of the present case.

16. Having considered the above discussion and having gone through the record, I do not find substance in the arguments advanced by the learned counsel appearing for Respondent No. 2 that, since inception, the intention of the Petitioner was fraudulent and, therefore, without obtaining the consent of the victim, he had committed sexual intercourse with her under the false pretext of marrying her. Thereby, he had played a fraud on the

informant. However, the informant nowhere in her statement recorded under Section 183 of the BNSS before the learned Magistrate has stated that the Petitioner has established a physical relationship with her against her will or without her consent or that he has obtained the consent by fraud, or he had committed sexual intercourse with her under the false pretext of marrying her. Still, her statement, prima facie, indicates that the relationship between them was consensual; therefore, I do not find substance in his contentions in that regard.

17. Secondly, his contention was that being the Police Officer, and in a fiduciary capacity, he has established the relationship, but I do not find any substance in this contention, as in the FIR itself, the informant has stated that she has known the Petitioner since her childhood.

18. The third submission of the learned counsel for Respondent No.2 is that it is a preliminary stage and, at the time of evidence, all the points can be considered. However, prima facie, the learned counsel appearing for Respondent No. 2 or the learned APP failed to point out from the entire charge sheet how the ingredients of Sections 376(2)(n) and 312 of the IPC are attracted against the Petitioner. Moreover, the Medical Certificate/Report doesn't support the victim's allegations in the FIR; therefore, I do not find substance in their contentions in that regard. On the

contrary, prima facie, it appears that the act complained of in the FIR occurred within the contours of the relationship that was, at the time, voluntary and willing. That means the relationship between them was consensual. Similarly, there are no documents produced on record to demonstrate that the Petitioner administered the pills to the informant to get an abortion. On the contrary, it reveals that the informant, suo motu, underwent an abortion.

19. In the light of the above discussion, it reveals that the Petitioner has made out a prima facie case to invoke the inherent powers of this Court under Section 482 of the Cr.P.C. to quash the offences punishable under Sections 376(2)(n) and 312 of the IPC in the FIR as well as in the charge-sheet. Thus, it is apparent that the Petitioner has made out a case to invoke the inherent jurisdiction of this Court.

20. Consequently, *the Petition is partly allowed in terms of amended prayer clause (a), to the extent of quashing the FIR and charge-sheet regarding Sections 312 and 376 (2) (n) of the IPC*. Accordingly, I hereby quash and set aside the Regular Criminal Case No.07 of 2025 in connection with Crime No. 294 of 2024 registered with Panchgani Police Station for the offences punishable under Sections 312 and 376(2)(n) of the IPC and to that extent, the said offences also stand quashed from the FIR and the charge-sheet.

21. Rule is partly made absolute in the above terms.
22. Inform the concerned Court accordingly.

(ABHAY J. MANTRI, J.)