



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 1255 OF 2026

Azim Raj Mohammad Manjare,
Aged 46 years, Occ. Private Job,
R/o. Naigaon, Akola, Tah. & Dist. Akola.

... APPLICANT

// VERSUS //

1. The State of Maharashtra through
Police Station Officer, Police Station
Ramdaspath, Akola, Tah. & Dist. Akola.

2. XYZ (Victim)/Complainant in
Crime No. 356/2025 through
its P. S. Ramdaspath, Akola,
Tahsil and District Akola.

... NON-APPLICANTS

Shri J. B. Gandhi, Advocate for applicant.

Mrs H. N. Prabhu, AGP for non-applicant no.1/State.

Mrs. Anuprita Mishrikotkar, Advocate (appointed) for non-applicant
no.2.

CORAM :- M. W. CHANDWANI, J.

DATED :- 28.08.2026

ORAL JUDGMENT :-

Heard.

2. The learned counsel appointed for non-applicant no.2
tendered across the bar affidavit-cum-reply on behalf of non-applicant
no.2, which is taken on record.

3. **Admit.** Heard finally by consent of the learned counsels for the parties.

4. By the present application filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) the applicant is seeking quashing of First Information Report (FIR) No.356/2025 registered with Police Station Ramdaspath, Akola for the offence punishable under Section 69 of the Bharatiya Nayaya Sanhita, 2023 (BNS), consequent charge-sheet no. 36/2026 and the proceeding bearing RCC No.332/2026 pending on the file of the Chief Judicial Magistrate First Class, Akola.

5. The brief facts of the case, as per the FIR, are as under:-

i) The complainant/non-applicant no.2 is a widow, having a 16 years old daughter from her deceased husband- Mohd. Arif Mohd. Haroon. The complainant had to lodged a report against one Siddhesh Dong, a resident of Kurla, Mumbai. The applicant met the complainant at Akola District Court and told her that he will assist the complainant in lodging the complaint against Siddhesh. Thereby, the applicant assisted the complainant in lodging the said complaint against Siddhesh at Mumbai. It is alleged by the complainant in the FIR that since then they became friends. Thereafter, their friendship turned into love relationship. The applicant assured the complainant

that he will support the complainant and her daughter. The applicant proposed the complainant for marriage, they started residing in a rented Flat at Akola where they established physical relationship. Out of the said relationship, one baby girl was born to them.

ii) It is alleged that, when the complainant asked the applicant to marry her, he avoided her and also neglected the complainant and her daughter, he eventually stopped coming to the Flat. Thereafter, in the Police Station also, the applicant promised to marry the complainant and later on he stopped talking to her. Therefore, on the complaint lodged by the complainant, the aforesaid offences came to be registered against the applicant.

6. The learned counsel for the applicant vehemently submitted that the complainant is a major and mature woman already having one daughter from her deceased husband. She lived with the applicant for more than two years, and was in a continued physical relationship for that passage of time with the applicant. Therefore, there is no question of the applicant having sexual intercourse with the complainant by deceitful means i.e. on the pretext of false promise of marriage. According to him, the physical relationship between the applicant and the complainant were consensual as she took conscious decision to stay with the applicant. They were in live-in-relation

therefore, no offence under Section 69 of the BNS is made out against the applicant. Hence, the present FIR and the consequent proceedings are nothing but an abuse of process of law.

7. *Per contra*, the learned APP appearing for the State assisted by learned counsel appointed for the complainant objected the application on the ground that the applicant proposed the complainant for marriage and thereafter did not perform marriage with the complainant. A baby girl is born out of this relationship and the applicant is her father. The applicant did not marry the complainant and established sexual intercourse with the complainant by deceitful means therefore, sought rejection of the application.

8. To appreciate the arguments of the learned counsel for the respective parties, it will be appropriate to reproduce Section 69 of the BNS, which contemplates punishment for sexual intercourse by deploying deceitful means. Section 69 of the BNS reads thus:

“69. Sexual intercourse by employing deceitful means, etc.
Previous Next Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Explanation.— “deceitful means” shall include inducement for, or false promise of employment or promotion, or marrying by suppressing identity.”

The above Section criminalized sexual intercourse obtained through deceitful means in circumstances where the act does not constitute rape. The provision applies where a person has sexual intercourse with a women either by employing deceitful means or by making a promise to marry her without having any intention at the time of making such promise, to fulfill it.

The expression “deceitful means” has been given an inclusive meaning and specifically covers a false promise of employment or promotion, inducement and marrying a women after suppressing one’s identity. Thus, the provision seeks to penalize sexual intercourse which is procured by deliberate deception or on a dishonest promise, while keeping such conduct distinct from the offence of rape. A crucial aspect of the provision is that, in a case involving a promise to marry, the relevant question is whether the accused had no intention of fulfilling the promise when it was made, rather than merely whether the promise was subsequently not fulfilled.

Thus, the offence under Section 69 of the BNS caters to such acts which would not amount to rape as envisaged under Section 64 of the BNS (definition of rape) and is attracted towards a person who, by deceitful means or by making a false promise to marry to a woman without intention of fulfilling the same, had sexual intercourse with a women.

9. As per the FIR, the complainant got acquainted with the applicant and resided with him in a rented Flat for more than two years where physical relationship were established between them. Rather, a baby girl is born out of the said relationship. Perusal of the FIR as well as the statement of the complainant reveals that the applicant proposed the complainant for marriage and she accepted the said proposal. For attracting Section 69 of the BNS, the sexual intercourse should be a direct result of a false promise to marry. The charge-sheet indicates that complainant, a widow and the mother of a child, lived with the applicant for more than two years and the physical relationship between complainant and the applicant were established multiple times over those years. She kept mum for throughout the good time. Rather, the allegation does not depict that the complainant agreed to establish physical relationship with the applicant only on the count of promise of marriage. If at all the initiation of physical relationship was on the promise of marriage and she felt deceived by the applicant then why she continued and maintained the relation for a couple of years.

10. Evidently, the applicant and the complainant resided together in a rented accommodation as a married couple. If two able minded adults are residing together and cohabit with each other for a couple of years, it suggests that both of them have voluntarily chosen

that kind of relationship being fully aware of its consequences. The overview of the facts depicted from the charge-sheet makes it clear that the relationship between the applicant and the complainant was consensual in nature. Besides this, the physical relationship between them continued for over two years. In such circumstances, it can be inferred that the complainant gave valid consent for initiating and maintaining physical relationship with the applicant that spanned over more than two years and a baby girl is born out of said relation.

11. No doubt, the applicant and the complainant are biological parent of a baby girl born out of the said relationship and the applicant does not deny paternity of the child. Nonetheless, it will not help the prosecution to maintain the present FIR and consequent proceedings. The whole thrust in the FIR appears to be that the applicant neglected the complainant and her daughter and failed to maintain them. The complainant may initiate other proceedings and avail legal remedy available to her under the law for their maintenance, if any, but the prosecution cannot allowed to be continued for this reason. The continuation of the prosecution is an abuse of process of the Court. Therefore, a case is made out for exercising the inherent power of the Court.

12. A reference can be made to the decision of the Supreme Court in the case of *State of Haryana and others Vs. Bhajan Lal and others [1992 Supp (1) SCC 335]*, wherein the principles of law relating to the exercise of extraordinary power under Article 226 of the Constitution of India to quash the FIR were discussed and it has been held that such power can be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice. In paragraph 102 of the report, their Lordships laid down the broad principles where such power under Article 226 of the Constitution/Section 482 of the CrPC should be exercised, which are as under:—

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do

not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

13. In view of the above discussion, the FIR and the consequent proceedings are required to be quashed by exercising the inherent powers of this Court. Hence, I proceed to pass the following order:-

i) The application is allowed.

ii) FIR No. 356/2025 registered with Police Station Ramdaspath, Akola for the offence punishable under Section 69 of the BNS, consequent charge-sheet no. 36/2026 and proceeding bearing

RCC No.332/2026 pending on the file of Chief Judicial Magistrate First Class, Akola is hereby quashed and set aside.

14. The fees of the learned counsel appointed to represent the complainant/non-applicant no.2 shall be quantified as per the Rules.

RR Jaiswal

(M. W. CHANDWANI, J.)