



CNR: KAHC010264872025

NC: 2026:KHC:48004
WP No. 12082 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 12082 OF 2025 (GM-RES)

BETWEEN:

MR.CHANDRA SHEKHAR Y.,
S/O Y.VENKATESHWARA RAO,
AGED ABOUT 42 YEARS,
PERMANENT RESIDENT OF
PLOT NO.159,
GREEN PARK AVENUE,
MEDCHAL ROAD,
NH7, JEEDIMETLA,
SECUNDERABAD - 500 067
EMAIL ID-ycs5882@gmail.com
MOBILE -+91-737883757

...PETITIONER

(BY SMT.H.R.RENUKA, ADVOCATE FOR
SMT. UTTARA VELAPALLY, ADVOCATE)

AND:

1. STATE OF KARNATAKA
MICO LAYOUT POLICE STATION,
REPRESENTED BY SPP
BENGALURU CITY - 560 001.

Digitally signed by
RAKESH S.
HARHAR
Location: High
Court of
Karnataka,
Dharwad Bench



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2. XXXXX
XXXXX
XXXXX

...RESPONDENTS

(BY SMT.DEEPTHI ALVA, HCGP FOR R-1;
SRI ANAND MUTTALLI, ADVOCATE FOR R-2)

THIS WP IS FILED UNDER ARTTICLES 226 AND 227 OF CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS, PRAYING TO-A. ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING THE FIR DATED 25.12.2024, IN CRIME NO.0475/2024 REGISTERED BY RESPONDENT NO.1 (ANNEXURE H SERIES); B. ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING THE CRIMINAL PROCEEDINGS OF CRIME NO.475/2024, ENTIRE PROCEEDINGS PENDING ON THE FILE OF THE HON'BLE CHIEF METROPOLITAN MAGISTRATE, BENGALURU, FOR THE OFFENCE ALLEGED UNDER SECTION 69 OF THE BHARATIYA NYAYA SANHITA, 2023 (ANNEXURE J); C. GRANT COSTS OF THIS PROCEEDINGS.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner is before the Court, calling in question proceedings in crime No. 475 of 2024 registered for offences punishable under Section 69 of the BNS.



2. Heard Smt H.R.Renuka, learned counsel appearing for petitioner, Smt. Deepthi Alva, learned High Court Government Pleader appearing for respondent No.1 and Sri Anand Muttalli, learned counsel appearing for respondent No.2.

3. Facts in brief, germane, are as follows:

The petitioner is the accused, the second respondent the complainant. The two, more or less of the same age, meet on a dating application "Bumble". Post the meeting on Bumble, they separately meet, the meeting blossoms into relationship, the relationship into getting into physical relationship as well. The relationship goes on for 2 years. It is the averment in the petition that the petitioner and the respondent no.2 were virtually living together. In the course of the relationship, the complainant in the complaint narrates that she also became pregnant and had to abort the child as per the directions of the petitioner. The relationship between the two turns sour. The allegation then crops up that the petitioner for 2 years from July 2022 to the date of registration of the complaint on 25-12-2024 has had physical relationship with the complainant on the promise of marriage. The deceit comes about when he



breaches the said promise. Therefore, the complainant walks to the jurisdictional police to register a complaint for offence under Section 69 of the BNS which becomes a crime in Crime No. 475 of 2024. Petitioner was taken into custody and remains there for about 15 days and then is granted bail. The registration of the crime is what has driven the petitioner to this Court in the subject petition.

4. The learned counsel Smt. H.R.Renuka appearing for the petitioner would vehemently contend that the entire relationship between the two was on consensus. The petitioner was in the course of getting divorce from the marriage which was subsisting and it was granted only on 17-02-2025 long after the registration of the complaint. The complainant very well knew that the petitioner was married and there cannot be any consensual act on the promise of marriage. With regard to the complainant getting pregnant or otherwise, the learned counsel submits, that would not become an act of rape or an offence under Section 69 as is held by the Apex Court in plethora of judgments.



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5.1. The learned counsel for the 2nd respondent/complainant would however refute the submissions in contending that the complaint is registered only on 25-12-2024 and there is an interim order of stay granted by the co-ordinate bench on 24-04-2025. Therefore, the learned counsel submits that the investigation, in the case at hand in the least must be permitted to be conducted, as the ingredients of Section 69 are on the face of it present in the case at hand.

5.2. The learned counsel for the complainant taking this Court through the statement of objections would contend that the petitioner has undoubtedly by deceitful means had physical relationship with the complainant. It may be a different circumstance that the two have travelled together all over and therefore there is breach of promise of marriage.

6. The learned High Court Government Pleader, Smt. Deepthi Alva would also refute the submissions of the counsel for the petitioner in contending that there must be investigation in the least in the case at hand, as the facts would call for an investigation. It is open to the petitioner to avail of any remedy as is available in law.



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7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts, link in the chain of events, the meeting of the petitioner and the complainant, the development of friendship between the two and the friendship blossoming into consensual physical relationship are all a matter of record. The journey of this relationship begins when they meet on a dating application called Bumble and travels through 26 months, at which point in time it transpires that the petitioner had made all efforts before the relationship could turn sour, for the marriage to be taken place between the two, as the family members of the petitioner were all aware of the relationship. It does turn sour at a later point in time on manifold reasons. Therefore, it cannot be a case where the petitioner without an intention to marry, but promising to marry, has had sexual relationship with the complainant. After the relationship turns sour on such consensual acts, the complainant registers the complaint. Since the entire issue has



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now triggered from the registration of the complaint, I deem it appropriate to notice the complaint. It reads as follows:

"To,

The Station House Officer,
Mico Layout Police Station,
16th Main Rd, Lakshmi Layout,
MCHS Colony, BTM 2nd Stage,
BTM Layout, Bengaluru, Karnataka 560076

From,

XXXX
XXXX
XXXX
XXXX

Subject: Complaint against Chandra Shekar for having sexual intercourse with me on the pretext of a false promise of marriage and abandoning me after I got conceived.

-
1. I am XXXXXXXXXXXX. I am an ambitious entrepreneur, the founder and CEO at XXXXXX, a ready-to-eat gourmet meals brand. I met one Mr. Chandra Shekar Y, on an online dating application named 'Bumble' and after meeting each other for several months, we entered into a romantic relationship by the end of 2022 and have maintained our romantic relationship for about one and a half year since then. Chandra Shekar used to work as Sr. Director Global sourcing at GE Aerospace, and had been living in Bangalore for the past 6 years.
 2. Before entering a romantic relationship, when I initiated the conversation about marriage and having children, Chandra Shekhar told me that he was also looking to settle down and start a family with me in Bangalore very shortly. Believing that I will be



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starting a family with Chandra Shekhar I agreed to have a physical relationship with him.

3. Whenever, Chandra Shekhar initiated any physical relationship and sexual intercourse, I had consented only believing his promise that we both will eventually get married to each other and start a family together. That time he had categorically told me that he was divorced without any child and his divorce had happened in 2020 (during covid). But after a few months of having romantic and physical relationship with him, I found out that Chandra Shekhar had a child, a daughter born out of his previous marriage. When I confronted him with this information, he told me that his ex-wife has been very cunning and has given him no access of the daughter since she was 4 months old. He pretended to be a victim and told me he wants to only focus on his future from hereon. Believing his words, I continued to have physical and romantic relationship with him.
4. In the month of March 2024, I got pregnant with Chandra Shekhar and when I informed him about my pregnancy and told him that we should get married, he was taken aback insisting me to get the child aborted. When I confronted Chandra Shekar, I came across the biggest shock - I found out that Chandra Shekhar was still not legally divorced from his first wife. I was shocked and shattered because Chandra Sekhar had hidden this information from me. When I confronted Chandra Shekhar with this information, he told me that he made a mistake of hiding this fact, and forced me to abort the child. When I questioned him why he made me pregnant if he was not yet divorced, he had no explanation but only insisted on me having the baby aborted.
5. When I had told him that I wanted to have this baby and that he had promised me that he would start a family with me which was only why I had agreed for having any physical relationship and sexual intercourse with him, he told me that I can raise the baby as a single mother and that he will not accept



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the baby. I even contacted his father and informed him of Chandra Shekhar's sudden change in behavior and even his father promised me to get us married when the divorce came through, however told me that we should no longer be seen together and I need to take care of the baby my myself alone in Bangalore. Due to all the stress and trauma caused by Chandra Shekar, I had to suffer a miscarriage and lost my baby in April 14th.

6. I kept contacting Chandra Shekhar and his father to make both our families meet in the first week of October 2024 but both Chandra Shekhar and his father completely ignored me. During this, I found out that Chandra Shekhar had shifted back to Hyderabad. When I confronted him on him shifting back to Hyderabad, he gave me false promises that he will come back to me. Chandra Shekar had promised me that he would start a family with me and had a physical relationship and sex intercourse with me and made me pregnant. But now Chandra Shekar has abandoned me and blocked me on all communications. Even Chandra Shekar's father was aware of our relationship and even Chandra Shekar's father has stopped responding to me and has been ignoring my phone calls and messages requesting to meet my family.
7. Due to the actions of Chandra Shekar, I have suffered a constant mental harassment and have suffered an abortion. Chandra Shekar had promised to marry me and start a family with me and had sexual intercourse with me but has now stopped all the communications with me. He has willfully concealed that he was already married, has a child from his previous relationship. Chandra Shekar, not having legally terminated his previous marriage was fully aware that he could not marry me, from the beginning of our relationship. Chandra Shekar kept lying to me to get close to me and have sexual intercourse with me. He was also aware of my long desire to be a mother and therefore to get married soon. Despite which Chandra Shekar has used deceitful means to have sexual intercourse with me



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by making false promise to marry me. Under these circumstances, I request you to take action against Chandra Shekar for cheating me and making me believe that he will marry me and having sexual intercourse with me.

Yours sincerely
Sd/-"

The allegation up to paragraph 5 of the afore-quoted complaint is that they were all hunky-dory, but the relationship began to wither away from October 2024 and later the petitioner is said to have blocked the complainant from calls, ghosted her and scene zoned her and later did not make any effort to call back. It is in this backdrop the complaint is registered. Whether this backdrop could become the foundation for registration of a crime for offence punishable under Section 69 of the BNS is required to be considered.

9. One string that runs through the complaint is that the complainant and the petitioner have had consensual acts for over 26 months. The relationship sustained for 26 months, this in the considered view of the Court cannot be out of deceit. If the promise of marriage were to be breached, it would not take 26 months for the complainant to get to know the deceit of the



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petitioner. Jurisprudence is replete with the law elucidated by the Apex Court interpreting Section 376 read with 420 of the IPC, which were also cases where the offence of rape had sprung on the breach of promise of marriage. Therefore, the offence of cheating as well had been alleged.

10.1. The Apex Court in the case of **MANISH YADAV v. STATE OF UTTAR PRADESH**¹, has held as follows:

" "

14. In our opinion, it is clearly discernible that both the appellant and the complainant were major and thus, both were competent enough to make rational decisions. As per the statement of the complainant (supra), their initial physical relations were consensual in nature, and without there being any promise of marriage being offered by the appellant. While it can be said that initially the relationship between the complainant and appellant had developed on the basis of mutual attraction and affection, the same cannot by any stretch of imagination fall within the ambit of a relationship flowing from a promise to marry.

15. The criminal jurisprudence on the scope of 'consent' in cases where sexual intercourse took place on the promise of marriage has been well established through a catena of judgments by this Court. In *Uday v. State of Karnataka*⁸, this Court acquitted the accused based on the reasoning that the prosecutrix, a mature college student, consented to sexual intercourse with the accused of her own free

¹ 2025 SCC OnLine SC 363



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will. The Court found that she was fully aware of the consequences of her actions and held that her consent was not based on any misconception of fact. In *Uday* (supra), the Court noted that:

"21. It therefore appears that the consensus of judicial opinion is in favour of the view that the consent given by the prosecutrix to sexual intercourse with a person with whom she is deeply in love on a promise that he would marry her on a later date, cannot be said to be given under a misconception of fact. A false promise is not a fact within the meaning of the Code. We are inclined to agree with this view, but we must add that there is no straitjacket formula for determining whether consent given by the prosecutrix to sexual intercourse is voluntary, or whether it is given under a misconception of fact. In the ultimate analysis, the tests laid down by the courts provide at best guidance to the judicial mind while considering a question of consent, but the court must, in each case, consider the evidence before it and the surrounding circumstances, before reaching a conclusion, because each case has its own peculiar facts which may have a bearing on the question whether the consent was voluntary, or was given under a misconception of fact. It must also weigh the evidence keeping in view the fact that the burden is on the prosecution to prove each and every ingredient of the offence, absence of consent being one of them."

(emphasis supplied)

16. This Court, in the case of *Deepak Gulati v. State of Haryana*⁹, while discussing the nature of the 'consent' in cases where sexual intercourse occurs on the promise of marriage, distinguished between a mere 'breach of promise' and 'not fulfilling a false promise'. The Court held as follows:

"21. Consent may be express or implied, coerced or misguided, obtained



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willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives, and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accused; and whether the consent involved was given after wholly understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was mala fide, and that he had clandestine motives.

24. Hence, it is evident that there must be adequate evidence to show that at the relevant time i.e. at the initial stage itself, the accused had no intention whatsoever, of keeping his promise to marry the victim. There may, of course, be circumstances, when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. The "failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term "misconception of fact", the fact must have an



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immediate relevance". Section 90 IPC cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, **unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her.**"

(emphasis supplied)

17. Moreover, in *Deelip Singh v. State of Bihar*¹⁰, the Court acquitted and set aside the conviction of the accused while holding that while there was a breach of promise to marry, it was not a case of false promise to marry. The relevant extract is produced hereinunder:

"35. The **remaining question is whether on the basis of the evidence on record, it is reasonably possible to hold that the accused with the fraudulent intention of inducing her to sexual intercourse, made a false promise to marry.** We have no doubt that the accused did hold out the promise to marry her and that was the predominant reason for the victim girl to agree to the sexual intimacy with him. PW 12 was also too keen to marry him as she said so specifically. **But we find no evidence which gives rise to an inference beyond reasonable doubt that the accused had no intention to marry her at all from the inception and that the promise he made was false to his knowledge. No circumstances emerging from the prosecution evidence establish this fact. On the other hand, the statement of PW 12 that "later on", the accused became ready to marry her but his father and others took him away from the village would indicate that the accused might have been prompted by a genuine intention to marry which did not materialise on account of the pressure exerted by his family elders. It seems to be a case of breach of promise to marry rather than a case of false promise to marry.** On this aspect also, the observations of this Court in *Uday* case [(2003) 4 SCC 46 : 2003 SCC (Cri) 775 : (2003) 2 Scale 329] at para 24 come to the aid of the appellant."

(emphasis supplied)



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18. Applying the above principle to the case at hand, it is clearly discernible that in the present case, the complainant had agreed to indulge in intimate relations with the appellant on the accord of her own desires and not on the basis of any false promise of marriage made by the appellant. Therefore, while the present case may involve a breach of promise, it does not constitute a case of an inherently false promise to marry. Based on the circumstances, it cannot be concluded that the appellant obtained the complainant's consent to engage in a physical relationship under the pretext of a false promise of marriage."

10.2. The Apex Court in the case of **SAMADHAN v. STATE OF MAHARASHTRA²**, has held as follows:

"....

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.**

....

27. In this regard, it becomes relevant to refer to the decision of this Court in the case of *Mahesh Damu Khare v. State of Maharashtra*, (2024) 11 SCC 398,

² 2025 SCC OnLine SC 2528



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("Mahesh Damu") wherein the following observations were made:

"27. In our view, if a man is accused of having sexual relationship by making a false promise of marriage and if he is to be held criminally liable, any such physical relationship must be traceable directly to the false promise made and not qualified by other circumstances or consideration. **A woman may have reasons to have physical relationship other than the promise of marriage made by the man, such as personal liking for the male partner without insisting upon formal marital ties.**

28. **Thus, in a situation where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical relationship was purely because of the alleged promise made by the appellant to marry her.** Thus, unless it can be shown that the physical relationship was purely because of the promise of marriage, thereby having a direct nexus with the physical relationship without being influenced by any other consideration, it cannot be said that there was vitiation of consent under misconception of fact."

(underlining by us)

28. We find that the present case is not a case where the appellant lured respondent No. 2 solely for physical pleasures and then vanished. The relationship continued for a period of three long years, which is a considerable period of time. They remained close and emotionally involved. In such cases, physical intimacy that occurred during the course of a functioning relationship cannot be retrospectively branded as instances of offence of rape merely because the relationship failed to culminate in marriage.

29. This Court has, on numerous occasions, taken note of the disquieting tendency wherein failed or broken relationships are given the colour



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of criminality. The offence of rape, being of the gravest kind, must be invoked only in cases where there exists genuine sexual violence, coercion, or absence of free consent. To convert every sour relationship into an offence of rape not only trivialises the seriousness of the offence but also inflicts upon the accused indelible stigma and grave injustice. Such instances transcend the realm of mere personal discord. The misuse of the criminal justice machinery in this regard is a matter of profound concern and calls for condemnation.

30. In *Prashant v. State of NCT of Delhi*, (2025) 5 SCC 764, this Court speaking through one of us (Nagarathna, J.) observed that a mere break-up of a relationship between a consenting couple cannot result in the initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marriage. The relevant portion is extracted as under:

"20. In our view, taking the allegations in the FIR and the charge-sheet as they stand, the crucial ingredients of the offence under Section 376(2)(n)IPC are absent. A review of the FIR and the complainant's statement under Section 164CrPC discloses no indication that any promise of marriage was extended at the outset of their relationship in 2017. Therefore, even if the prosecution's case is accepted at its face value, it cannot be concluded that the complainant engaged in a sexual relationship with the appellant solely on account of any assurance of marriage from the appellant. The relationship between the parties was cordial and also consensual in nature. A mere break up of a relationship between a consenting couple cannot result in initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marital relationship. Further, both parties are now married to someone



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else and have moved on in their respective lives. Thus, in our view, the continuation of the prosecution in the present case would amount to a gross abuse of the process of law. Therefore, no purpose would be served by continuing the prosecution."

(underlining by us)

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.

32. Upon a careful consideration of the record in the present case, we are unable to discern any material that would warrant the invocation of Section 376(2)(n) of the IPC. **The facts of the present case unmistakably indicate that it is a classic instance of a consensual relationship having subsequently turned acrimonious.**

....

34. The FIR is conspicuously silent as to any specific allegation that the appellant had either forcibly taken or compelled respondent No. 2 to accompany him to the hotel, nor does it disclose any circumstance



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suggesting deceit or inducement on the part of the appellant to procure her presence there. Therefore, **the only logical inference that emerges is that respondent No. 2, of her own volition, visited and met the appellant on each occasion.** It is also borne out from the record that whenever the appellant brought up the subject of marriage, respondent No. 2 herself opposed the proposal. In such circumstances, the contention of respondent No. 2 that the physical relationship between the parties was premised upon any assurance of marriage by the appellant is devoid of merit and stands unsustainable.

....

37. The said finding of the High Court, however, fails to appreciate that **a plain reading of the FIR in question itself reveals that the relationship between the parties was, in fact, consensual, inasmuch as respondent No. 2 met the appellant whenever he expressed a desire to meet her. Furthermore, respondent No. 2, being a major and an educated individual, voluntarily associated with the appellant and entered into physical intimacy on her own volition.** It is also pertinent to note that, at the relevant time, the marriage of respondent No. 2 was subsisting. In light of the foregoing circumstances, **even upon a bare reading of the material on record, it is manifest that the relationship between the parties was consensual, and therefore, the absence of an express statement to that effect in the memo of application, as emphasised in the impugned order, cannot be held against the appellant when the same can be otherwise clearly discerned.**

38. At this stage it is material to refer to the decision of this Court in *Mahesh Damu*, wherein the following observations were made:

"29. It must also be clear that for a promise to be a false promise to amount to misconception of fact within the meaning of Section 90IPC, it must have been made from the very beginning with an intention to deceive the woman to persuade her to have a physical



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relationship. Therefore, if it is established that such consent was given under a misconception of fact, the said consent is vitiated and not a valid consent. In this regard we may refer to *Deepak Gulati v. State of Haryana* [*Deepak Gulati v. State of Haryana*, (2013) 7 SCC 675 : (2013) 3 SCC (Cri) 660], in which it was held as follows : (SCC pp. 682-84, paras 21 & 24)

"21. Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives, and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accused; and whether the consent involved was given after wholly understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the



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accused was mala fide, and that he had clandestine motives.

XXX

24. Hence, it is evident that there must be adequate evidence to show that at the relevant time i.e. at the initial stage itself, the accused had no intention whatsoever, of keeping his promise to marry the victim. There may, of course, be circumstances, when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. The 'failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term "misconception of fact", the fact must have an immediate relevance'. Section 90 IPC cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her."."

10.3. The Apex Court in the case of **PRAMOD KUMAR NAVRATNA v. STATE OF CHHATTISGARH**³, holds as follows:

"....

16. 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

³ 2026 SCC OnLine SC 154



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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. **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.**

17. At the outset, we refer to the ratio in the case of *Naim Ahamed v. State (NCT of Delhi)*, (2023) 15 SCC 385 whereby this Court had decided a similar matter, wherein allegedly, the prosecutrix had also given her consent for a sexual relationship with the accused-appellant therein, upon an assurance to marry. The prosecutrix, who was herself a married woman having three children, had continued to have such a relationship with the accused-appellant, at least for about five years till she gave the complaint. In the conspectus of such facts and circumstances, this Court had observed as under:

"21. The bone of contention raised on behalf of the respondents is that the prosecutrix had given her consent for sexual relationship under the misconception of fact, as the accused had given a false promise to marry her and subsequently he did not marry, and therefore such consent was no consent in the eye of the law and the case fell under Clause Secondly of Section 375 IPC. In this regard, it is pertinent to note that there is a difference between giving a false promise and committing breach of promise by the accused. In case of false promise, the accused right from the beginning would not have any intention to marry the prosecutrix and would have cheated or deceived the prosecutrix by giving a false promise to marry her only with a



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view to satisfy his lust, whereas in case of breach of promise, one cannot deny a possibility that the accused might have given a promise with all seriousness to marry her, and subsequently might have encountered certain circumstances unforeseen by him or the circumstances beyond his control, which prevented him to fulfil his promise. So, it would be a folly to treat each breach of promise to marry as a false promise and to prosecute a person for the offence under Section 376. As stated earlier, each case would depend upon its proved facts before the court."

18. It has been time and again settled by this Court, that the mere fact that the parties indulged in physical relations pursuant to a promise to marry will not amount to a rape in every case. An offence under Section 375 of the IPC could only be made out, if promise of marriage was made by the accused solely with a view to obtain consent for sexual relations without having any intent of fulfilling said promise from the very beginning and that such false promise of marriage had a direct bearing on the prosecutrix giving her consent for sexual relations. The issue for consideration is whether, given the facts and circumstances of the case and after examining the FIR, the High Court was correct in refusing to quash the ongoing criminal proceedings against the accused-appellant arising out of FIR No. 213/2025 dated 06.02.2025 and the Chargesheet No. 269/2025.

....

22. The Courts have to be extremely careful and cautious in identifying the genuine cases filed under Section 376(2)(n) of the IPC by identifying the essential ingredients to constitute the said offence i.e. there should be a promise of marriage made by the accused solely with a view to obtain consent for sexual relations and without having any intent of fulfilling said promise from the very beginning, and that such false promise of marriage had a direct bearing on the prosecutrix giving her consent for sexual relations. Such genuine cases that deserve prosecution of the accused must be clearly demarcated from the litigation that arises



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from the cases of consensual relationships between consenting adults going acrimonious on account of dispute and disagreement or a future change of mind. In view of the aforesaid settled position of law, the respondent No. 1-State and the complainant-respondent No. 3 has failed to place any material on record to show how the accused-appellant on the subsequent meetings managed to repeatedly coax and dupe the complainant-respondent No. 3 into having physical relations with him on the false pretext of marriage considering the fact that within initial meetings, both parties were aware about the marital status of the victim and therefore it cannot be, by any stretch imagination said that the consent of the complainant-respondent No. 3 has been vitiated or obtained on fraud and misrepresentation made by the accused-appellant.

23. At this stage, it is material to refer to the decision of this Court in *Mahesh Damu Khare v. State of Maharashtra*, (2024) 11 SCC 398, wherein the following observations were made:

"29. It must also be clear that for a promise to be a false promise to amount to misconception of fact within the meaning of Section 90 IPC, it must have been made from the very beginning with an intention to deceive the woman to persuade her to have a physical relationship. Therefore, if it is established that such consent was given under a misconception of fact, the said consent is vitiated and not a valid consent. ..."

24. On a perusal of the allegations made in the present case, it is an admitted fact that the complainant-respondent No. 3, within the first initial meetings told the accused-appellant that she was a married woman with divorce proceedings pending before the Family Court. Therefore, in the same breath, she cannot be allowed to claim and allege that she was also coaxed by the accused-appellant into having a physical relationship with him on the false pretext of marriage as the two facts cannot stand together on the same plane and



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simultaneously as both are antagonistic and antithetical to each other. In our opinion, the facts of the present case clearly indicate a consensual relationship gone sour whereas both the parties should have exercised restraint and should have refrained from involving the State into their personal relationship turning rancour.

25. At this juncture, it is important to place reliance upon the observations in *Prashant v. State of NCT of Delhi*, (2025) 5 SCC 764, wherein this Court speaking through one of us (Nagarathna, J.) observed that a mere break-up of a relationship between a consenting couple cannot result in the initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marriage. Furthermore, this Court in *Samadhan v. State of Maharashtra*, 2025 SCC OnLine SC 2528 through one of us (Nagarathna, J.) observed that this Court has, on numerous occasions, taken note of the disquieting tendency wherein failed or broken relationships are given the colour of criminality. The offence of rape, being of the gravest kind, must be invoked only in cases where there exists genuine sexual violence, coercion, or absence of free consent. To convert every soured relationship into an offence of rape not only trivialises the seriousness of the offence but also inflicts upon the accused indelible stigma and grave injustice. Such instances transcend the realm of mere personal discord. The misuse of the criminal justice machinery in this regard is a matter of profound concern for the judiciary already facing a heavy load and calls for condemnation.

26. In this regard, it would be apposite to rely on the judgment in the case of *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 ("*Bhajan Lal*") with particular reference to paragraph 102 therein, where this Court observed thus:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code



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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.

xxx

(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.

xxx

(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."



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27. On a careful consideration of the aforementioned judicial dictum, we find that the offence alleged against the accused-appellant herein is not made out at all. In fact, we find that the allegation of rape on false pretext of marriage even when taken on its face value, does not amount to an offence of rape and hence not liable for punishment under Section 376(2)(n) of the IPC in the instant case and therefore, the judgment of this Court in the case of *Bhajan Lal* squarely apply to the facts of these cases. Therefore, it is neither expedient nor in the interest of justice to permit the present prosecution emanating from the FIR and consequent Sessions Case No. 89/2025 to continue."

10.4. The Apex Court in the case of **SHAILESHBHAI GOVINDBHAI MAKWANA v. STATE OF MAHARASHTRA**⁴, has held as follows:

"....

18. A careful perusal of the records indicates that:-

(i) Both parties were aware that they were earlier married to different spouses;

(ii) The complainant at a point when her divorce was not finalized put up a matrimonial advertisement;

(iii) Admittedly, for over a period of 04 years, the parties travelled together and established a physical relationship;

(iv) The physical relationship which the complainant states to have been forceful was on 17.10.2017;

⁴ SLP (Crl.) No.2260/2026, disposed on 20.04.2026



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(v) Admittedly, even after 17.10.2017 parties travelled together and had a physical relationship;

(vi) No complaint of the incident of 17.10.2017, about the forcible sexual intercourse and the unnatural sex was lodged till 09.02.2021.

19. In the above background, the question is whether the appellant under a promise of marriage deceived the respondent? In the light of the admitted facts, parties had knowledge that they were married to some other spouse earlier and the admitted fact is that before obtaining a divorce the respondent-complainant gave a matrimonial advertisement and before finalization of divorce had sexual relationship and never complained of any force by the appellant for 04 years.

20. We are of the opinion that this was not a case where a promise of marriage resulted in appellant deceiving the complainant. Parties have happily cohabited together between 2017 and 2020 and, thereafter, the relationship soured.

21. In Mahesh Damu Khare v. State of Maharashtra and Anr. (2024) 11 SCC 398 this Court held as under: -

"26. The complainant had taken the plea that the appellant had physical relationship with her against her consent by making a false promise that he would marry her. In this regard, it has to be considered whether making a false promise to marry amounts to an offence. If a false promise of marriage is made to a woman by a man, thus deceiving the woman leading her to engage in sexual relations, it may amount to misconception of fact, in which case the consent given by the woman may be vitiated. In this regard one may refer to the decision of this Court in Naim Ahamed v. State (NCT of Delhi) [Naim Ahamed v. State (NCT of Delhi), (2023) 15 SCC 385] : (SCC p. 398, para 21)



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"21. The bone of contention raised on behalf of the respondents is that the prosecutrix had given her consent for sexual relationship under the misconception of fact, as the accused had given a false promise to marry her and subsequently he did not marry, and therefore such consent was no consent in the eye of law and the case fell under the Clause — Secondly of Section 375IPC. In this regard, it is pertinent to note that there is a difference between giving a false promise and committing breach of promise by the accused. In case of false promise, the accused right from the beginning would not have any intention to marry the prosecutrix and would have cheated or deceived the prosecutrix by giving a false promise to marry her only with a view to satisfy his lust, whereas in case of breach of promise, one cannot deny a possibility that the accused might have given a promise with all seriousness to marry her, and subsequently might have encountered certain circumstances unforeseen by him or the circumstances beyond his control, which prevented him to fulfil his promise. So, it would be a folly to treat each breach of promise to marry as a false promise and to prosecute a person for the offence under Section 376."

27. In our view, if a man is accused of having sexual relationship by making a false promise of marriage and if he is to be held criminally liable, any such physical relationship must be traceable directly to the false promise made and not qualified by other circumstances or consideration. A woman may have reasons to have physical relationship other than the promise of marriage made by the man, such as personal liking for the male partner without insisting upon formal marital ties.

28. Thus, **in a situation where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical**



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relationship was purely because of the alleged promise made by the appellant to marry her. Thus, unless it can be shown that the physical relationship was purely because of the promise of marriage, thereby having a direct nexus with the physical relationship without being influenced by any other consideration, it cannot be said that there was vitiation of consent under misconception of fact."

22. We are also not convinced with the reasoning of the High Court that the quash petition was not maintainable, especially, because in the present case the earlier petition was withdrawn without any discussion on the merits. Further when we have examined the facts and found that the offence alleged is not made out, we feel it will not be just to throw out the petition on maintainability. We say so on the special facts of this case."

If the facts obtaining in the case at hand are considered on the bedrock of the principles laid down by the Apex Court, the unmistakable inference would be that the acts between the petitioner and the complainant, which even according to the complaint were all on consensus, cannot be termed to be a deceit when the relationship breaks. Therefore, permitting investigation even in the case of hand would become an abuse of the process of the law.

11. In this regard, it becomes apposite to refer to the judgment of the Apex Court in the case of **STATE OF**



HARYANA v. BHAJAN LAL⁵, wherein the Apex Court holds as follows:

" "

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.

⁵ (1992) Supp (1) SCC 335



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(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."

(Emphasis supplied at each instance)

In the light of the afore-narrated facts and elucidation of law, to prevent miscarriage of justice, I deem it appropriate to excise my jurisdiction under Section 528 of the BNSS and obliterate the crime against the petitioner.



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12. For the aforesaid reasons, the following:

ORDER

- (i) Writ Petition is **allowed**.
- (ii) Entire proceedings in Crime No.475 of 2024 pending before the Chief Metropolitan Magistrate, Bengaluru stands quashed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

bkp