



IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Criminal Misc. Application No.274 of 2020

Sachin Kumar Singh Chauhan

.... Applicant

Versus

State of Uttarakhand and another Respondents

Present:-

Mr. Rajendra Dobhal, learned Senior Counsel assisted by Mr. Prince Chauhan, learned counsel for the applicant.

Mr. Sandeep Sharma, learned AGA along with Ms. Rangoli Purohit, learned Brief Holder for the State.

Mr. Mahesh Pant, learned counsel for respondent no.2.

Hon'ble Siddhartha Sah, J. (Oral)

By means of the present criminal misc. application under Section 482 of the Code of Criminal Procedure, the applicant has sought quashing of the charge-sheet filed under Section 376 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in Special Sessions Trial No. 446 of 2019, the cognizance order dated 04.12.2019, as well as the entire proceedings of Special Sessions Trial No. 446 of 2019, pending before the court of the Special Sessions Judge, Udham Singh Nagar.

2. Facts, in brief, are that an FIR was lodged by respondent no. 2, alleging that she belongs to the Scheduled Caste community. Respondent no. 2 further alleged that she was posted as Patwari/Revenue



Inspector at Dhumkot. In the year 2013, she developed a friendship with the applicant. On 01.01.2014, the complainant was called by the applicant to his house for sharing notes. It is alleged that the applicant raped her. As per the FIR, when the complainant wished to report the matter to the police, the applicant promised love and marriage. The applicant allegedly established sexual relations with the complainant on the pretext of marriage. Thereafter, the applicant allegedly refused to marry her on the ground that the complainant belonged to the Scheduled Caste community. On 06.08.2019, the applicant allegedly used caste-related words against her. With these allegations, FIR No. 0240 of 2019 dated 17.09.2019 was lodged against the present applicant at Police Station Jaspur, District Udham Singh Nagar.

3. The aforesaid FIR led to the filing of a charge sheet by the Investigating Officer against the applicant under Section 376 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. On the basis of the aforesaid charge sheet, the Special Sessions Judge, Udham Singh Nagar, vide order dated 04.12.2019, took cognizance against the applicant under the aforesaid provisions and summoned him to face trial.

4. Assailing the aforesaid charge sheet and summoning order, learned Senior Counsel has drawn the attention of the Court to the FIR lodged by respondent no. 2 and, while taking the Court through the contents of the FIR, submits that from a bare perusal of the FIR, it is clear that the relationship between the applicant and respondent no. 2 was consensual. He further submits that the allegations of establishing physical relations on



the false pretext of marriage, even if accepted at face value, do not constitute any offence.

5. Learned Senior Counsel for the applicant also takes the Court through the statement of the victim recorded under Section 164 Cr.P.C. and submits that the said statement is in consonance with the FIR. He further submits that the victim and the applicant had been friends since 2013 and that she had herself gone to the house of the applicant in the year 2014. It is further contended on behalf of the applicant that respondent no. 2 is a mature lady and is in service, and therefore was well aware of the consequences of the relationship she was having with the applicant.

6. Learned Senior Counsel also draws the attention of this Court to Annexure No. 3 of the counter affidavit filed by respondent no. 2, which is a love letter sent by the applicant to respondent no. 2. Thus, learned Senior Counsel submits that the relationship entered into between the applicant and respondent no. 2 arose out of a love affair between them and cannot be termed as a forcible act on the part of the applicant. He further submits that the record clearly reveals that the applicant and respondent no. 2 had been friends since the year 2013, and it was only in the year 2019, when the applicant refused to marry respondent no. 2, that the FIR came to be lodged.

7. Learned Senior Counsel, in support of his arguments, relies upon the judgment of this Court passed in Criminal Misc. Case No. 686 of 2020, *Lalit Mohan Joshi vs. State of Uttarakhand & Anr.*, dated 05.06.2026. He also relies upon the judgment of a



Coordinate Bench of this Court in *Shubham Kumar vs. State of Uttarakhand & Anr.*, passed in C-482 No. 1554 of 2022 on 18.05.2026. Another judgment relied upon by learned Senior Counsel for the applicant is that of the High Court of Delhi in *Dr. Avdesh Kumar vs. State of NCT of Delhi and Another*, passed in CRL.M.C. No. 3 of 2025 on 12.01.2026. He submits that there was a consensual romantic relationship between the applicant and respondent no. 2 spanning from 2013 to 2019, which subsequently turned sour and was thereafter given a colour of criminality.

8. Learned Senior Counsel for the applicant while referring to the love letter annexed along with the counter affidavit would refer to certain portion of Delhi High Court judgment as under:-

“.....
whose authenticity is not in dispute, indicate mutual affection, voluntary interaction, and continued communication even after the alleged incident. The conduct of the prosecutrix, both prior to and subsequent to 03.04.2023, does not prima facie support the allegation that the physical relationship was established against her will or without her consent.”

9. While referring to the judgment of this Court in *Lalit Mohan Joshi (supra)*, learned Senior Counsel for the applicant submits that: ‘there is no allegation in the FIR that when the appellant promised to marry the complainant, it was done in bad faith or with the intention to deceive her.’



10. Also referring to the judgment of the Coordinate Bench of this Court passed in Shubham Kumar (supra), learned Senior Counsel for the applicant would submit that: *‘general and vague allegations have been levelled against the applicant regarding making physical relations on the false pretext of marriage and these allegations are not corroborated by any evidence.’*

11. Referring to the judgment of the Hon’ble Apex Court in the case of Ravish Singh Rana v. State of Uttarakhand and another, reported in 2025 SCC OnLine SC 1055, reference was made to paragraphs 15 and 16 of the judgment, which are extracted herein below for ready reference:-

“15. Moreover, in a long drawn live-in relationship, occasions may arise where parties in that relationship express their desire or wish to formalize the same by a seal of marriage, but that expression of desire, or wish, by itself would not be indicative of relationship being a consequence of that expression of desire or wish. A decade or two earlier, live-in relationships might not have been common. But now more and more women are financially independent and have the capacity to take conscious decision of charting their life on their own terms. This financial freedom, inter alia, has led to proliferation of such live-in relationships. Therefore, when a matter of this nature comes to a court, it must not adopt a pedantic approach rather the Court may, based on the length of such relationship and conduct of the parties, presume implied consent of the parties to be in such a relationship regardless of their desire or a wish to convert it into a marital bond.



16. *In that view of the matter, in our considered view, the long-drawn relationship of the appellant and the second respondent including the circumstance of their living together and cohabiting with each other, that too, in a separate rented accommodation, would give rise to a presumption that their relationship was based on a valid consent.”*

12. Reference also needs to be made to the judgment of the Hon’ble Apex Court in the case of *Sonu @ Subhash Kumar v. State of Uttar Pradesh and Another*, reported in (2021) 18 SCC 517, wherein the Hon’ble Supreme Court held that: *‘there is no allegation to the effect that the promise to marry given to the second respondent was false at the inception. On the contrary, it would appear from the contents of the FIR that there was a subsequent refusal on the part of the appellant to marry the second respondent which gave rise to the registration of the FIR. On these facts, we are of the view that the High Court was in error in declining to entertain the petition under Section 482 Cr.P.C. on the basis that it was only the evidence at trial which would lead to a determination as to whether an offence was established.’*

13. Reference also needs to be made to another judgment of the Hon’ble Supreme Court in the case of *Nitin B. Nikhare v. The State of Maharashtra & Anr.*, passed in SLP (Crl.) No. 1889/2024, which arose out of an FIR registered under Sections 376(2)(n) and 417 of the IPC and Sections 3(1)(r)(w)(i)(ii), 3(2)(v), and 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, wherein at para nos.7, 8 & 9 the Hon’ble Supreme Court held as under:-



“7. From a perusal of the record, it is clear that this was a case of a consensual relationship from the beginning. Even if the case of the prosecutrix is accepted, it does not appear that the initial promise to marry was in bad faith. It was only the subsequent circumstances that prevented fulfilment of alleged false promise to marry. Resultantly, the relationship turned sour which has given rise to the present FIR. Further, in view of the material on record, we do not see this as a case where provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act can be attracted.

8. Hence, the entire criminal proceedings initiated against the appellant are nothing but an abuse of the process of law. In our opinion the High Court should have exercised its inherent power under Section 482 of the Code of Criminal Procedure to quash the proceedings.

9. For the reasons stated above, we allow this appeal and set aside the order of the High Court dated 19.10.2023 and quash the criminal proceedings arising out of FIR bearing Crime No.646 of 2021 registered at Lonikand Police Station, Pune for the offences punishable under sections 376(2)(n) and 417 of the IPC and sections 3(1)(r)(w)(i)(ii), 3(2)(v) & 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.”

14. Reference also needs to be made to another judgment of the Hon’ble Supreme Court in the case of *Jothiragwan v. State Rep. by the Inspector of Police and Another*, reported in 2025 SCC OnLine SC 628, wherein the Hon’ble Supreme Court held that: ‘in all the three



instances it was the allegation that, the intercourse was on threat and coercion and there is no consent spoken of by the victim, in which case there cannot be any inducement found, on a promise held out. The allegation of forceful intercourse on threat and coercion is also not believable, given the relationship admitted between the parties and the willing and repeated excursions to hotel rooms. On a reading of the statements made by the victim before the Police, both the First Information Statement and that recorded later on, we are not convinced that the sexual relationship admitted by both the parties was without the consent of the victim. That they were closely related and were in a relationship is admitted by the victim". And in that background, the Hon'ble Supreme Court came to the conclusion that: 'this is precisely a case where the High Court should have interfered in exercise of its inherent and extraordinary powers under Section 482 of the Cr. P.C. These proceedings cannot go on. Hence, we direct that the proceedings initiated at the instance of the complainant which are presently going on before Sessions Judge (Mahila Court), Erode in S.C. No. 49 of 2022, be hereby quashed.'

15. Per contra, learned counsel for the State would submit that, as per the FIR, there was first a forcible rape and thereafter a promise to marry. He would further submit that the prosecutrix has supported the prosecution case in her statements recorded under Sections 161 and 164 of the Cr.P.C.

16. Learned counsel for respondent no. 2/informant, Mr. Mahesh Pant, Advocate, would refute all the submissions made on behalf of the learned Senior Counsel for the applicant and has taken the Court to



paragraph 25 of the counter affidavit filed by respondent no. 2, which is extracted herein below for ready reference:-

“25- That in reply to the contents of paragraph no. 22 of the affidavit filed in support of criminal misc. application, it is respectfully submitted that the same pertains to the legal pronouncement given by the Hon'ble Apex Court and as such the same will be replied at the time of the argument before the Hon'ble Court. However, in reply thereto it is submitted here that the Hon'ble Apex Court in the case of Anurag Soni Versus State of Chhattisgarh in Criminal Appeal No. 629 of 2019 (Arising out of SLP (Crl.) No. 618 of 2019) vide order dated 09.04.2019 well discussed all three cases those are mentioned by the applicant in his affidavit "Dhruvaram Murlidhar Sonar, Deepak Gulati and Shivashankar" and thereafter has held as hereunder:-

"18. How is "consent" defined? Section 90 IPC defines consent known to be given under "fear or misconception" which reads as under:-

'90. Consent known to be given under fear or misconception:- A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear or injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception;'

Thus, if consent is given by the prosecutrix under a misconception of fact, it is vitiated.

19. In the present case, the accused had sexual intercourse with the prosecutrix by giving false



assurance to the prosecutrix that he would marry her. After she got pregnant, he refused to do so. From this, it is evident that he never intended to marry her and procured her consent only for the reason of having sexual relations with her, which act of the accused falls squarely under the definition of rape as he had sexual intercourse with her consent which was consent obtained under a misconception of fact as defined under Section 90 IPC. Thus, the alleged consent said to have been obtained by the accused was not voluntary consent and this Court is of the view that the accused indulged in sexual intercourse with the prosecutrix by misconstruing to her his true intentions. It is apparent from the evidence that the accused only wanted to indulge in sexual intercourse with her and was under no intention of actually marrying the prosecutrix."

11.1. Even in Deepak Gulati it was observed that the accused can be convicted for rape if the court reaches the conclusion that the intention of the accused was mala fide, and that he had clandestine motives."

17. Therefore, considering the aforesaid facts and circumstances of the case and considering the laid down by this Court in the aforesaid decisions, we are of the opinion that both the courts below have rightly held that the consent given by the prosecutrix was on misconception of fact and, therefore, the same cannot be said to be a consent so as to excuse the accused for the charge of rape as defined under Section 375 IPC. Both the courts below have rightly convicted the accused for the offence under Section 376 IPC."

19. As observed hereinabove, the consent given by the prosecutrix was on misconception of fact. Such



incidents are on increase nowadays. Such offences are against the society. Rape is the most morally and physically reprehensible crime in a society, an assault on the body, mind and privacy of the victim. As observed by this Court in a catena of decisions, while a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of a helpless female. Rape reduces a woman to an animal, as it shakes the very core of her life. By no means can a rape victim be called an accomplice. Rape leaves a permanent scar on the life of the victim. Rape is a crime against the entire society and violates the human rights of the victim. Being the most hated crime, rape tantamounts to a serious blow to the supreme honour of woman, and offends both her esteem and dignity. Therefore, merely because the accused had married with another lady and/or even the prosecutrix has subsequently married, is no ground not to convict the appellant-accused for the offence punishable under Section 376 IPC. The appellant-accused must face the consequences of the crime committed by him."

17. Learned counsel for respondent no. 2 would thus submit that, though consent was given, the same was under a misconception of fact. He would further submit that the accused had promised to marry respondent no. 2, and on that promise, he established physical relations with her. He also submitted that the applicant first raped respondent no. 2 and thereafter stated that he would marry her. He would further submit that, while exercising powers under Section 482 of the Cr.P.C., the Court cannot enter into factual controversies, and disputed questions of fact cannot be adjudicated upon in the present application. He would rely upon the judgment of the Hon'ble Supreme Court in



the case of *Anurag Soni v. State of Chhattisgarh*, reported in (2019) 13 SCC 1, and has drawn the attention of this Court to paragraphs 11.1, 17, 18, and 19. He would submit that the consent of respondent no. 2 was obtained under a misconception of fact within the meaning of Section 90 of the IPC; hence, it is a clear case of rape, and no indulgence can be granted in the exercise of powers under Section 482 of the Cr.P.C.

18. On going through the record, it is evident that there was a consensual relationship between the applicant and respondent no. 2, which admittedly continued for a period of six years. Even as per the FIR itself, respondent no. 2 lodged the FIR only when she came to know that the applicant was going to marry someone else.

19. On considering the rival submissions of the learned Senior Counsel for the applicant on one side and the learned State Counsel as well as learned counsel for respondent no. 2 on the other side, the key question that falls for determination before this Court is whether, on the admitted facts and documents on record, respondent no. 2 entered into a physical relationship with the applicant under a misconception of fact or not, and whether it was an outright consensual relationship. The further question is whether, in the facts and circumstances of the case, Section 376 of the IPC would be attracted.

20. From a bare perusal of the FIR, it is clear that the victim/respondent no. 2 admits that she is working as a Revenue Sub-Inspector. The applicant and respondent no. 2 became friends in the year 2013, and



thereafter there are allegations of forcible sexual relations, followed by a promise of marriage and, ultimately, refusal to marry her, which led to the registration of the FIR. From the narration of the aforesaid facts, it is clear that there existed a long relationship of almost six years. The applicant had admittedly been meeting respondent no. 2 and had established physical relations with her repeatedly during the said period.

21. Learned Senior Counsel for the applicant had submitted that respondent no. 2 is a mature lady and is in service, and that she knew the consequences of entering into physical relations. He would submit that she had entered into the said relationship out of her own free will; hence, the offence alleged is not made out against the applicant.

22. In this background, reference may be made to the judgments of the Hon'ble Supreme Court in the cases of *Sonu @ Subhash Kumar v. State of Uttar Pradesh and Another*, *Nitin B. Nikhare v. The State of Maharashtra & Anr.*, *Ravish Singh Rana v. State of Uttarakhand and Another*, and *Jothiragwan v. State Rep. by the Inspector of Police and Another* & the judgment of the High Court of Delhi in *Dr. Avdesh Kumar vs. State of NCT of Delhi and Another* as well as the judgment of the Coordinate Bench of this Court in *Shubham Kumar v. State of Uttarakhand & Anr.*, and the judgment of this Court in *Lalit Mohan Joshi v. State of Uttarakhand & Anr.*. It is evident from the aforesaid judgments that the Hon'ble Supreme Court has held that, in cases involving a consensual relationship between the accused and the prosecutrix, where the initial promise to marry does not appear to



have been false and the promise could not be fulfilled due to intervening circumstances, and the relationship subsequently ended, resulting in the registration of an FIR, compelling the accused to face trial would amount to an abuse of the process of law. In the aforesaid cases, either the FIRs or the criminal proceedings were quashed by the Hon'ble Supreme Court.

23. On the other hand, insofar as the judgment of the Hon'ble Supreme Court in *Anurag Soni* (supra), relied upon by learned counsel for respondent no. 2, is concerned, the same is not attracted to the factual matrix of the present case, inasmuch as the consent given by the victim does not appear to have been obtained under a misconception of fact. From the record, it is clear that respondent no. 2 is a mature lady, is in service, and was fully aware of the consequences of entering into a physical relationship with a man. Moreover, the relationship continued for a considerable period of about six years, and it was only when the applicant refused to marry respondent no. 2 that the FIR came to be lodged at her behest.

24. In view of the facts and circumstances of the case and the settled law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove, it is evident that the FIR lodged by respondent no. 2 amounts to an abuse of the process of law. Consequently, the proceedings culminating in the filing of the charge sheet and the summoning order cannot be permitted to continue. Therefore, allowing the proceedings to continue against the applicant would amount to an abuse of the process of law. This Court is, therefore, of the view that the present case is a fit one for exercising its inherent



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jurisdiction under Section 482 of the Cr.P.C. to secure the ends of justice.

25. In view of the facts and circumstances of the case, the present Criminal Miscellaneous Application under Section 482 of the Cr.P.C. deserves to be allowed.

26. Consequently, the charge sheet filed under Section 376 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in Special Sessions Trial No. 446 of 2019, the cognizance order dated 04.12.2019, as well as the entire proceedings of Special Sessions Trial No. 446 of 2019, pending before the court of the Special Sessions Judge, Udham Singh Nagar, are hereby quashed.

27. The present Criminal Miscellaneous Application under Section 482 of the Cr.P.C. is, accordingly, allowed.

(Siddhartha Sah, J.)
12.06.2026

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