



IN THE HIGH COURT OF UTTARAKHAND AT

NAINITAL

Criminal Misc. Application No.356 of 2024

Mukammil Ahmed Applicant

Versus

State of Uttarakhand & Anr. Respondents

Presence:-

Mr. Mohd. Alauddin, learned counsel holding brief of Mr. Subhash Chand Burman, learned counsel for the applicant.

Mr. Rakesh Kumar Joshi, learned, learned A.G.A. assisted by Mr. Manoj Bhatt, learned Brief Holder for the State.

Mr. T. P. S. Takuli, learned counsel for the 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 impugned charge-sheet dated 15.09.2023, summoning order dated 19.12.2023 as well as the entire proceedings of Criminal Case No.6977 of 2023 (Crime No.284 of 2023), 'State vs. Mukammil Ahmed' under Sections 376, 504 & 506 of IPC, Police Station Vikas Nagar, District Dehradun pending in the court of learned Chief Judicial Magistrate, District Dehradun.

2. The facts necessary for the adjudication of the present application under Section 482 of the Cr.P.C., are as follows:



- (i) The respondent No.2 lodged an FIR on 01.08.2023 at P.S. Vikas Nagar, Dehradun with the allegations that the complainant is a divorcee lady and in May 2021 she came in contact with the applicant through matrimonial site Shaadi.com. After the contact, they used to spend time together and decided to marry and she had full faith on applicant but applicant never introduced her with his parents. In July 2021, the applicant called the complainant to meet at Valley Tower Mussoorie road near Zoo Park, and on the pretext of marriage with complainant, the applicant made physical relations.
- (ii) It is alleged that thereafter the applicant started to make excuses for marriage and on every Sunday, he used to call the complainant and on the pretext of marriage used to make physical relations in different hotels and ultimately the applicant refused to marry, and lastly on 06.06.2023, the applicant made a phone call and refused for marriage, abused and threatened the complainant with dire consequences.
- (iii) In pursuance to the aforesaid FIR, investigation ensued and culminated in filing of the charge sheet against the applicant on 15.09.2023. On the



basis of the charge sheet, the trial court took cognizance and summoned the applicant to face trial vide order dated 03.11.2023.

3. Assailing the aforesaid charge sheet and the cognizance order, learned counsel for the applicant would submit that the applicant has been falsely implicated in the instant case and has been made a scapegoat.

4. Perusal of the FIR shows that there is inordinate and unexplained delay in lodging the FIR. No specific date, place and time of the alleged incident is mentioned.

5. Perusal of the FIR itself shows that it is an admitted fact that whatever physical relations were made between the parties (though not admitted to the applicant), the same were made on the consent of respondent No. 2 and it is alleged that the same were made on the pretext of marriage. Now it has been settled by the Hon'ble Supreme Court in catena of decisions that the physical relations between the parties made in anticipation of marriage with the consent of both the parties, cannot be termed as an offence under Section 376 of IPC only on the eventuality that the marriage could not be solemnized in future due to certain circumstances. It is further the case of the applicant that as per the supplementary medical report, no definite opinion has been given about any sexual assault. The statement of the



complainant under Section 164 of Cr.P.C. also reveals that the alleged physical relations were made with the consent of complainant/respondent No.2, and thus there are no ingredients of Section 376 of the IPC.

6. The applicant has also taken a ground that the present matter is a case of honey trap, wherein the respondent No.2 along with her one associate Saddam implicated the applicant in the present case. The respondent No.2 is a divorced lady having a child, through matrimonial website came in contact with the applicant and told herself as unmarried lady and concealed the fact that she is a divorcee. Regarding the blackmailing and extortion from the applicant, the applicant moved an application under Section 156(3) Cr.P.C. before the CJM, Saharanpur. It is further the case of the applicant that the respondent No.2 has allured the applicant by concealing her identity (being a widow and mother of a child), but introduced herself to be an unmarried girl and offered for marriage through a matrimonial website and when the applicant came to know the reality of respondent No. 2, he refused for marriage and demanded his money which was given by him to respondent No. 2 as an extortion, the present FIR has been lodged by respondent No.2 to pressurize the applicant.

7. In support of his case, learned counsel for the applicant has placed reliance upon a judgment of Hon'ble



Supreme Court in the case of “Sonu alias Subhash Kumar vs. State of Uttar Pradesh and Another” reported in 2021 SCC OnLine SC 181 and has particularly drawn the attention of the Court to paragraph nos. 7 and 8 thereof. Paragraph nos.7 and 8 of the said judgment are extracted hereunder for ready reference:

“7. On the basis of the rival submissions and with the assistance of the counsel, we have perused the FIR. The FIR specifically records that the second respondent had developed a friendship with the appellant and that he had assured that he would marry her. The FIR then records that the appellant and the second respondent developed a physical relationship which spread over a period of one-and-a-half years, during the course of which the second respondent conversed with the parents and sister of the appellant. It has been alleged in the FIR that the parents of the appellant were agreeable to the couple getting married. As a matter of fact, the appellant returned to his hometown at Jhansi on 5-1-2018 when he had made a phone call to her stating that she should come and visit him so that they can get married. On travelling to Jhansi at the behest of the appellant, the second respondent was informed by the father of the appellant that the appellant did not wish to marry her. The contents of the statement under Section 164CrPC also indicate that the second respondent had “voluntarily developed relationship of husband-wife with him”. The second respondent has then stated that “now, he and his family members are refusing to marry with me”. The second respondent has further stated that “my sole grievance is that Sonu is refusing to marry with me”.

8. The contents of the FIR as well as the statement under Section 164CrPC leave no manner of doubt that, on the basis of the allegations as they stand, three important features emerge:

- (i) The relationship between the appellant and the second respondent was of a consensual nature;*
- (ii) The parties were in the relationship for about a period of*



one and a half years; and

(iii) Subsequently, the appellant had expressed a disinclination to marry the second respondent which led to the registration of the FIR.

Placing reliance upon the said judgment of the Hon'ble Supreme Court, learned counsel for the applicant submitted that the relationship between the applicant and respondent No.2 was consensual in nature and the parties were in a relationship for around of two years. However, when the applicant showed his disinclination for marriage, the respondent no.2 has led to the registration of the FIR. Learned counsel for the applicant would submit that the marriage was refused when real facts came to the knowledge of the applicant, hence the FIR has been lodged as a measure of coercion.

8. *Per contra*, learned counsel for respondent No.2, Mr. T. P. S. Takuli would submit that the respondent no.2 is a divorced lady who was living in Dehradun and was teaching in a school. Through a matrimonial website, she met the applicant. The applicant assured her that he would marry her and on the false pretext of marriage, given by the applicant, she got ready to enter into a physical relationship with the applicant.

He would further submit that the applicant used to take cash from her and return it to her online. When the



applicant denied to marry her, respondent No.2 lodged the FIR.

9. Learned counsel for the applicant, drawing attention of the Court to the statements of the victim under Section 164 of Cr.P.C., would submit that in her statements recorded under Section 164 of Cr.P.C., the informant/respondent No.2 has fully corroborated the FIR allegations. Even the sister of the respondent no.2, in her statements under Section 161 of Cr.P.C., has supported the prosecution case.

He would lastly submit that it is only in trial that it has to be conclusively proved whether the relation between the applicant and respondent No. 2 was made on the false pretext of marriage or not, and the same cannot be adjudicated in proceedings under Section 482 Cr.P.C.

10. Learned counsel for the State, Mr. Rakesh Kumar Joshi, learned AGA, would submit that the informant has supported the prosecution case and therefore there is no scope for interference under Section 482 of Cr.P.C.

11. Having heard learned counsel for the parties and going through the record, it is evident from the FIR version itself and the statements of the victim under Section 164 of CrPC, that the applicant got in touch with respondent No. 2 from the matrimonial website in the month of May 2021.



Admittedly, the respondent No.2 entered into a love relationship and respondent No. 2 agreed to meet the applicant; and from the month of July 2021 to June 2023, the applicant and the informant had been in a relationship, which is borne out from the FIR itself. The contention as raised by the learned counsel for the applicant would be that the relationship between the applicant and respondent No.2 was consensual in nature, whereas the learned counsel for respondent No.2 would submit that though it was consensual in nature, but the consent was obtained on the false pretext of marriage. Therefore, in the present case, what needs to be examined is whether the consent was under the false pretext of marriage or whether it was a purely consensual relationship.

12. In the judgment of the Hon'ble Supreme Court in the case of Sonu @ Subhash Kumar, the Hon'ble Supreme Court has relied upon the prior judgment of the Hon'ble Supreme Court in the case of "Pramod Suryabhan Pawar vs. State of Maharashtra and Another" reported in (2019) 9 SCC 608, wherein it is held that a breach of promise cannot be said to be a false promise.

13. In the instant case, the long-drawn relationship would lead to the inescapable conclusion that there was no misconception of fact, inasmuch as the respondent No.2 had been accompanying the applicant to a hotel in Dehradun,



where physical relationship came to be made between the two of them.

14. In this regard, the judgment of the Hon'ble Supreme Court in *Jothiragawan vs. State Rep. by the Inspector of Police and Anr.*, reported in 2025 SCC OnLine SC 628, is also relevant. In the said case, while noticing that the victim had accompanied the accused to hotels on three occasions, the Hon'ble Supreme Court observed that the allegations of threat and coercion compelling the victim to have sexual intercourse with the accused were not borne out by the circumstances. The Hon'ble Supreme Court further noted that, even after the first and second instances, the victim did not exercise caution and again accompanied the accused to hotel rooms. Accordingly, the Hon'ble Supreme Court concluded that the criminal proceedings initiated against the accused were nothing but an abuse of the process of the Court. The relevant paragraphs 12 and 13 thereof are extracted hereinunder for ready reference:-

“12. 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. The allegation is also of threat and coercion



against the victim, to have sexual intercourse with the accused, which even as per the victim's statement was repeated thrice in the same manner, when she willingly accompanied the accused to a hotel room. The victim had also categorically stated that after the first incident and the second incident she was mentally upset, but that did not caution her from again accompanying the accused to hotel rooms.

13. Having heard both sides in this case, we have absolutely no doubt in our mind that the criminal proceedings initiated against the present appellant are nothing but an abuse of process of the court. 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. It is also useful to refer to another judgment of the Hon'ble Supreme Court in the case of 'Ravish Singh Rana v. State of Uttarakhand and Another', reported in 2025 SCC OnLine SC 1055, particularly paragraph nos.13, 14, 15 and 16 thereof, wherein the Hon'ble Supreme Court has come to the conclusion that the relationship between the accused and the informant was spread over more than two years,



therefore, the allegation that such relationship was entered because there was a promise of marriage in the circumstances is unacceptable. In the present case also, the relationship has spread over more than two years. Hence, it cannot be said that it was on the false pretext of marriage. The relevant paragraph nos.13, 14, 15 and 16 thereof are extracted hereinunder for ready reference:-

***“13.** In Sonu @ Subash Kumar v. State of Uttar Pradesh [(2021) 18 SCC 517] this Court quashed the FIR and the proceedings arising therefrom upon noticing that (1) relationship between appellant and the second respondent was of consensual nature; (2) parties were in relationship for a period of one-and-a-half years; and (3) subsequently, appellant had expressed disinclination to marry the second respondent which led to registration of FIR.*

***14.** In the instant case also, we find that the relationship between the appellant and the second respondent (the informant) was spread over two years. Further, they not only admit of having physical relations with each other but also of living together in a rented accommodation as a live-in couple. In our view, if two able-minded adults reside together as a live-in couple for more than a couple of years and cohabit with each other, a presumption would arise that they voluntarily chose that kind of a relationship fully aware of its*



consequences. Therefore, the allegation that such relationship was entered because there was a promise of marriage is in the circumstances unworthy of acceptance, particularly, when there is no allegation that such physical relationship would not have been established had there been no promise to marry.

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.”

16. Though there are other contentions that are raised on behalf of the learned counsel for the applicant, however, those are not adverted to at this moment.

17. Having considered all the facts and circumstances of the case and also considering the judgments of the Hon'ble Supreme Court in the cases of Sonu @ Subhash Kumar, Ravish Singh Rana and Jothiragawan, it is quite evident that the alleged relationship so made between the applicant and the informant/respondent No.2 cannot be termed as being entered into only on the false pretext of marriage rather, they were consensual in nature, spread over a period of time; and only when the applicant showed his disinclination to marry the respondent No. 2, the respondent No. 2 lodged the FIR.

18. In such view of the matter, the further proceedings of the criminal case would be an abuse of process of law and to prevent the abuse of process of law, the power under Section 482 of the CrPC needs to be invoked.

19. Thus, the present criminal misc. application under Section 482 of the Cr.P.C. deserves to be allowed.



20. Consequently, the impugned charge-sheet dated 15.09.2023, summoning order dated 19.12.2023 as well as the entire proceedings of Criminal Case No.6977 of 2023 (Crime No.284 of 2023), 'State vs. Mukammil Ahmed' under Sections 376, 504 & 506 of IPC, Police Station Vikas Nagar, District Dehradun pending in the court of learned Chief Judicial Magistrate, District Dehradun, are hereby quashed.

21. The present criminal misc. application under Section 482 Cr.P.C. is, accordingly, allowed.

(Siddhartha Sah, J.)

20.08.2026

Akash