



2026:DHC:8872



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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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**Date of Decision: 01.10.2026**

# CNR No. DLHC010192182026

+ **CRL.M.C. 3414/2026**

HONEY TOKAS

.....Petitioner

Through: Mr. Satish Kumar Dabas, Mr. Harish Dabas and Mr. Sandeep Singh Nainwal, Advs.

versus

THE STATE (NCT OF DELHI) AND ANR .....Respondents

Through: Mr. Hemant Mehla, APP for State along with Mr. Naved and Mr. Mayank Chaudhary, Advs.  
SI Amisha Kumari, PS Safdarjung Enclave, ND.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The petitioner, *via* the present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeks quashing of FIR No. 0346/2021, dated 02.12.2021, registered at P.S. Safdarjung Enclave, New Delhi, under Section 376 of the Indian Penal Code, 1860 (hereinafter "*IPC*").
2. Subsequently, after the chargesheet was filed, Ld. ASJ, Special Fast Track Court, South District, *vide* order dated 02.06.2022, in Case No. 169/2022, framed charges against the petitioner under Sections 376(2)(n)/420/506/509 of the IPC.



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3. It is pointed out that the trial in respect thereof is underway, wherein the testimony of the complainant/respondent no. 2 is in the process of being recorded, and the next date of hearing for cross-examination of the complainant/respondent no. 2 is fixed for 03.12.2026.

4. The petitioner principally contends that the relationship between the petitioner and the complainant/respondent no. 2 was consensual, and that their marriage could not take place due to certain family and subsequent unforeseen circumstances.

5. It is also urged by the petitioner that the failure to fulfil a genuine promise of marriage cannot give rise to criminal liability under Section 376 of the IPC. The petitioner also disputes other allegations forming the subject matter of the prosecution.

6. The well-settled legal position distinguishes a promise of marriage that was dishonest when made, and a genuine promise that could not be subsequently fulfilled, and Section 376(2)(n) of the IPC only penalises the former. The Supreme Court in **Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 SCC 608**, while approvingly citing **Deepak Gulati v. State of Haryana, (2013) 7 SCC 675**, reiterated this position and observed:

**“16. Where the promise to marry is false and the intention of the maker at the time of making the promise itself was not to abide by it but to deceive the woman to convince her to engage in sexual relations, there is a “misconception of fact” that vitiates the woman's “consent”. On the other hand, a breach of a promise cannot be said to be a false promise. To establish a false promise, the maker of the promise should have had no intention of upholding his word at the time of giving it. The “consent” of a woman under Section 375 is vitiated on the ground of a “misconception of fact” where such misconception was the basis for her choosing to engage in the said act.**



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18. To summarise the legal position that emerges from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act.”

(emphasis supplied)

7. The Supreme Court in **Pramod Suryabhan Pawar (Supra)** also relied on **Anurag Soni v. State of Chhattisgarh, (2019) 13 SCC 1**, wherein the apex Court ruled on the contours of Section 376(2)(n) of the IPC in the following terms:

“12. The sum and substance of the aforesaid decisions would be that if it is established and proved that from the inception the accused who gave the promise to the prosecutrix to marry, did not have any intention to marry and the prosecutrix gave the consent for sexual intercourse on such an assurance by the accused that he would marry her, such a consent can be said to be a consent obtained on a misconception of fact as per Section 90 IPC and, in such a case, such a consent would not excuse the offender and such an offender can be said to have committed the rape as defined under Section 375 IPC and can be convicted for the offence under Section 376 IPC.”

(emphasis supplied)

8. As per the above *dicta*, the complaint under Section 376 of the IPC requires that (i) the promise must have been false at its inception and (ii) the same must have directly induced the consent in question. Accordingly, a mere failure to marry does not by itself vitiate consent and cannot successfully bring the allegation of Section 376 of the IPC. This understanding can be buttressed by the Supreme Court’s ruling in **Pramod Kumar Navratna v. State of Chhattisgarh, (2026) 6 SCC 629**:



**“23. The courts have to be extremely careful and cautious in identifying the genuine cases filed under Section 376(2)(n)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 from the cases of consensual relationships between consenting adults going acrimonious on account of dispute and disagreement or a future change of mind.”**

(emphasis supplied)

9. It is pertinent to note that the petitioner has neither disputed the fact of making the promise of marriage nor refuted the failure to fulfil the same. This can be noticed from the averment of the petitioner, which is reproduced hereinbelow:

**“6. That a bare perusal of the FIR, Complaint, Statement u/s 164 Cr.P.C. reveal that it is case of consensual relationship whereby *two consenting adults entered into a relationship but the relation could not culminate into marriage due to some family and other unforeseen problems. It is not a case of false promise* on behalf of Accused/Petitioner as the relationship continued for 5 long years and the Complainant has admitted in her complaint that the Petitioner was loving and caring for her at all times.”**

(emphasis supplied)

10. Accordingly, what remains disputed are two factors: (a) whether the promise was made with dishonesty, and (b) whether such promise was the deciding factor for the complainant to give her ‘consent’ for sexual intercourse. However, this Court is well aware that the examination with respect to these factors has to be done in a limited manner at this stage.

11. The Supreme Court in ***State of Haryana v. Bhajan Lal***, 1992 Supp (1) SCC 335, while discussing the legal position on the quashing of FIR by



the High Court under its inherent powers, held:

*“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.*

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*(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.*

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*(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.*

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*(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)

12. Furthermore, it would be beneficial to reproduce the observations made in ***R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21***, wherein the Supreme Court, while commenting on the powers of the High Court to quash FIR, noted:



**“Cases may also arise where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not. In such cases it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused person.”**

(emphasis supplied)

13. Considering the above *dicta*, this Court, at this stage, is proscribed from entertaining any evidence from the accused, and is rather compelled, in the interests of justice, to consider only the allegations made in the FIR to examine whether the disputed factors are *prima facie* made out. That is, the Court is not called upon, at this stage, to determine which of the competing factual accounts is ultimately correct.

14. In this limited context, this Court is of the view that the present FIR clearly alleges that not only did the accused make a promise to marry with a dishonest intention but also that the complainant entered into a sexual relationship relying on this promise. The extracts from the FIR are reproduced below to exhibit the same:

**“... Initially I did not know his *dishonest and cruel mental mind to utilized me in terms of financial physical needs to fulfill his Desired.* Honey Singh Tokas was so connected to me by his extra-ordinary Love care understanding affection and concern towards me and assured me that he is everything for me and *assured me that he will marry me* and promised me that he will introduced to his parents. His shown cared love understanding made me believed that what ever he used to say and ask me to do I obeyed him without realizing *his malafide intention for his sexual desirous* ... *Initially are physical intimacy took place when he assured me that he will marry me* ...”**

(emphasis supplied)

15. Since the requirements of Section 376 of the IPC are *prima facie*



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made out by the FIR, the ground of ‘absurd and improbable’ allegations in the FIR, mentioned in ***Bhajan Lal (Supra)***, is automatically ruled out. It must be clarified that the admission in the FIR, regarding the loving and caring behaviour of the accused towards the complainant, does not render the allegations in the FIR absurd because the *mala fide* intention behind such behaviour and the promise to marry is not ruled out by the complainant.

16. It is also urged in the petition that the complainant/respondent no. 2 lodged the FIR because of the non-repayment of her alleged loan amount, *i.e.*, financial reasons. This can only be examined by this Court under the scope of ground (7) laid down in ***Bhajan Lal (Supra)***, *i.e.*, 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.

17. The Supreme Court in ***Pardeep Kumar Kesarwani v. The State of Uttar Pradesh, 2025 SCC OnLine SC 1947***, while dealing with a similar ground, laid down the following guidelines:

“20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, *i.e.*, **the materials is of sterling and impeccable quality?**

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, *i.e.*, the material is sufficient to reject and overrule the factual assertions contained in the complaint, *i.e.*, **the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.**

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material



is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal – proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused.”

(emphasis supplied)

18. In view of the above *dictum*, it can be concluded that the Petitioner has not furnished any materials to refute the allegations made in the FIR, or to support his counter-allegations in the petition. Therefore, the assertion of vengeance or ulterior motive, merely because of the existence of a simultaneous allegation of cheating, cannot be accepted on the conjecture of the petitioner. In other words, the allegation of ulterior motive is not supported by material of ‘sterling and impeccable quality’. Furthermore, this may be justifiably refuted by the prosecution during the trial. Therefore, the answers, at least for steps one and three prescribed in ***Pardeep Kumar Kesarwani (Supra)***, are in the negative. Since the above dictum requires *all* the answers in the affirmative, this Court cannot quash the FIR on the assertions of the petitioner.

19. Regarding step four in ***Pardeep Kumar Kesarwani (Supra)***, this Court is of the opinion that the trial is necessary in the present case because submissions concerning the nature of the relationship, the circumstances in which the assurances of marriage were made, and the reasons why the marriage could not take place involve disputed questions of fact. The same



would require an assessment of the parties' communications, conduct, and other evidence in their proper context. Such an exercise is appropriately left to the Trial Court, which is seized of the matter and before which the evidence is presently being adduced.

20. Since this Court is not persuaded that the proceedings can be terminated without undertaking such an evidentiary assessment, forwarding the matter for trial would not amount to abuse of process of law. Necessarily, the parties will have full opportunity to advance their respective cases before the trial Court. Accordingly, step four mentioned in ***Pardeep Kumar Kesarwani (Supra)*** is answered in the negative.

21. This Court in ***Devesh Bhardwaj v. State and Another, 2025 SCC OnLine Del 1201***, while dealing with the same offence, passed the following direction:

**“9. In the present case, the allegations made by the complainant are serious in nature and raise questions that cannot be adjudicated at this stage. Whether the petitioner had, in fact, misled the complainant into believing that he would marry her and had induced her to obtain a divorce on the strength of such promises, or whether the relationship between them was purely consensual from the outset, are issues that cannot be adjudicated in a petition under Section 482 of the Cr. P.C. Furthermore, there are specific allegations that after she had obtained divorce from her husband on assurance of marriage by the petitioner, thereafter on false promise of marriage on 27.03.2018, when she had been divorced, he had established sexual relations with her. Thus clearly, she was divorced on 27.03.2018, at the instance and assurance of petitioner and after divorce, he had again on the assurance of marrying her, made physical relations with her.”**

(emphasis supplied)

22. It will also be worth quoting ***Kanishk Sharma v. State of NCT of Delhi, 2025 SCC OnLine Del 1755***, wherein this Court noted:



“14. Given these circumstances, the allegations against the petitioner necessitate a full trial, as they disclose a prima facie case of sexual exploitation under false assurances, making the quashing of the FIR unwarranted at this stage.

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18. In light of the petitioner's specific assurances of marriage, the complainant's consent to the physical relationship was premised on a legitimate expectation of marriage. If it is established that the petitioner never intended to marry her from the outset, such consent would be vitiated under Section 90 IPC as one obtained under misconception of fact, thereby attracting liability under Section 375 IPC for rape. The facts of the present case, coupled with the legal position laid down in Anurag Soni v. State of Chhattisgarh (supra), establish that the allegations warrant judicial scrutiny through trial.

19. Given the prima-facie material on record and the gravity of the allegations, this Court finds no justification for quashing the FIR at this stage.”

(emphasis supplied)

23. Furthermore, the view of this Court in *Divyansh Bajpai v. State (Govt. of NCT of Delhi)*, 2025 SCC OnLine Del 547, can also be taken note of:

“50. The intention of the petitioner at the time of making the alleged promise remains a matter of dispute and cannot be conclusively determined at this stage. It is a factual question that requires evidence to be tested during trial. While the allegations raise a prima facie case warranting further judicial scrutiny, the Court, at this juncture, cannot definitively conclude that the petitioner acted with mala fide intent.”

(emphasis supplied)

24. This Court is therefore not inclined to entertain the present petition.

25. The same is accordingly dismissed.

26. The petitioner shall be at liberty to raise all permissible contentions in accordance with law before the trial Court.

SACHIN DATTA, J

OCTOBER 1, 2026/cl/vk