



2026:AHC:48942

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL REVISION No. - 4189 of 2025**

Sachin Kumar And 3 Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite  
Party(s)

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| Counsel for Revisionist(s)    | : | Mohd. Afzal              |
| Counsel for Opposite Party(s) | : | G.A., Manisha Chaturvedi |

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**Court No. - 87**

**HON'BLE ABDUL SHAHID, J.**

1. Heard learned counsel for the revisionists, learned A.G.A. for the State and Ms. Manisha Chaturvedi on behalf of the opposite party no. 2.
2. The present criminal revision has been filed by the revisionists against the impugned order dated 25.07.2025 passed by the learned Additional District and Sessions Judge/Special Judge (POCSO Act)-1, Ghaziabad, in Session Trial No. 256 of 2025 (State vs. Sachin Kumar) under Sections 376 and 506 I.P.C., Police Station Ankur Vihar, District Ghaziabad, arising out of Case Crime No. 369 of 2024.
3. The genesis of the case is that the alleged offence is stated to have occurred on 03.07.2019. The F.I.R. was lodged on 03.10.2024 under Sections 376 and 506 I.P.C. by opposite party no. 2/complainant/victim against three named persons, namely: (1) Sachin Kumar, (2) the brother-in-law (Jeeja) of Sachin Kumar, and (3) Sangeeta.
4. It is alleged that a boy named Sachin, son of Preetam Singh, has been known to the victim since her college days. They have been residing together since 2016. The victim has alleged that Sachin, on the false promise of marriage, established a physical relationship with her since 2019. It is further alleged that he was selected as a Sub-Inspector in U.P. Police in the year 2023. Thereafter, whenever the victim requested him to marry her, he used to assure her that he would marry her after some time on one pretext or another. However, when she again requested him to marry her, he refused. It is further alleged that he lastly established physical relations with her on 27.07.2024 at Prima Hotel.

5. It is further alleged that when the family members of the victim attempted to talk to him, his brother-in-law and sister Sangeeta threatened the victim with money and even death. The victim, therefore, requested that a case under serious sections be registered against the said boy, his brother-in-law, and his sister, and that legal action be taken against them.

6. Learned counsel for the revisionists submitted that there was no false promise of marriage. Both the parties are major and were in a consensual relationship. They had been residing with each other since 2016. It is further submitted that the alleged occurrence is said to have taken place on 03.07.2019, whereas the F.I.R. has been lodged in the year 2024. It is alleged that when the accused refused to marry the victim, opposite party no. 2 lodged the F.I.R. on the ground of a false promise of marriage. It is submitted that no offence has been committed by the revisionists. Learned counsel for the revisionists has relied upon the medical examination report of the victim dated 03.10.2024 of Joint Hospital, Loni, Ghaziabad, wherein she refused to undergo medical examination.

7. Learned counsel for the revisionists has further relied upon the statement of the victim recorded under Section 180 B.N.S.S., wherein she stated that Sachin had been studying with her in college since 2016. They became friends, and he established physical relations with her on the false promise of marriage since 2019. It was further stated that after he got a job as U.P. Sub-Inspector, he continued to establish physical relations with her and also provided her with birth control pills, but later refused to marry her. Thereafter, the supplementary statement of the victim was recorded, wherein she stated that she had known Sachin since 2015 and he had sexually exploited her since 2016. She further stated that after he got a job in the U.P. Police in the year 2023, he committed rape with her four more times. She also stated that he called her to Lucknow on 23.09.2024 and refused to marry her. In the supplementary statement, she further added that thereafter his brother-in-law Surendra Kumar, who works in the Railways, his sister Sangeeta, who works in the Delhi Police, Sachin's mother Sumitra, and his maternal uncle's son Pappu came to her house and threatened to kill her and attempted to influence her by offering money.

8. In her statement under Section 183 B.N.S.S., she further stated that she has known Sachin since 2016 and has been in a relationship with him since 2019. She stated that he made a false promise of marriage to her, due to

which they had physical relations several times. She further stated that both of them were preparing for competitive examinations and therefore did not disclose this relationship to their families. She further stated that the last physical relationship took place on 27.07.2024, after which Sachin told her that he did not want to continue the relationship. She also stated that Sachin's family members came and threatened her. She further alleged that Sachin's sister, who is working in the Delhi Police, threatened her over the phone and pressured her to remove Sachin's name from the F.I.R. and accept money in exchange for remaining silent. She further stated that Sachin was selected in the year 2023 and is posted at Lucknow. She also went there. He allegedly took her phone and deleted all their chats, messages, and photographs and created undue pressure upon her.

9. After completion of the investigation, the charge sheet has been filed. Accused Sachin has been charge-sheeted under Sections 376 and 506 I.P.C., and accused Sumitra, Sangeeta, and Surendra have been charge-sheeted under Section 506 I.P.C.

10. Learned counsel for the revisionists has submitted that the revisionists have not committed any offence and are entitled to be discharged. It is submitted that no offence has been committed by the revisionists. The relationship between the victim and revisionist no. 1, Sachin, was consensual. Both were major at the relevant time and, therefore, no offence has been committed by him.

11. Learned counsel for the revisionists has relied upon the law laid down by the Hon'ble Supreme Court in ***Pramod Suryabhan Pawar vs. State of Maharashtra*, (2019) 9 SCC 608**, wherein the Hon'ble Supreme Court, while deciding a petition under Section 482 Cr.P.C., explained the concept of "consent" in relation to Section 375 I.P.C.

12. Learned counsel for the revisionists has further relied upon the law laid down by the Hon'ble Supreme Court in ***Naim Ahamed vs. State (NCT of Delhi)*, Reportable Criminal Appeal No. 257 of 2023, decided on 30.01.2023**. In the said case, the criminal appeal was decided where the appellant Naim had been convicted. However, in the present matter, the discharge application has been rejected and the criminal revision is to be considered only on the point of illegality or perversity in the impugned order, keeping in view the limited scope of revisional jurisdiction. Hence the revisionists are not entitled to get the benefit of **Pramod (supra) and Naim**

(supra).

13. Learned counsel for the revisionists has further relied upon the law laid down by the Hon'ble Supreme Court in ***Lallu Yadav vs. State of Uttar Pradesh and others, 2024 INSC 782***, wherein the matter is related with criminal writ petition and under section 482 Cr.P.C.

14. Learned counsel for the revisionists has also relied upon the law laid down by the Hon'ble Supreme Court in ***Maheshwar Tigga vs. State of Jharkhand, (2020) 10 SCC 108***, wherein the appeal against conviction was decided by the Hon'ble Supreme Court. However, in the present matter, the revision is to be decided only on the limited question of illegality, material irregularity, or perversity in the impugned order, on the question of discharge.

15. Learned counsel for opposite party no. 2 has submitted that the discharge application has been rightly rejected by the learned trial court. Learned counsel for opposite party no. 2 has relied upon paragraph 9 of the impugned order, wherein it has been observed that at the stage of framing of charges, meticulous appreciation of the evidence is not required. It has further been submitted that the victim has stated that there were consistent physical relations between the parties for the last 3–4 years on the promise of marriage. Whether the promise of marriage was actually made or not, and whether it was the sole reason for the intimate relationship, are matters which can only be determined after completion of the evidence and its appreciation during trial. The question of consent, whether the act was against her will, without her consent, or with her consent, are material questions of fact which can only be decided after appreciation of the evidence. The basic question, in an offence under Section 376 I.P.C. is whether the act was against her will, without her consent, with her consent, or when she was unable to give consent. These are questions of fact which are required to be adjudicated during the trial.

16. After a detailed investigation, the charge sheet has been filed against the revisionists. There are serious allegations made by the complainant/victim against the revisionists. The question of consent, the alleged false promise of marriage, or whether the relationship was consensual are matters which can only be finally determined after the collection and appreciation of the evidence. A meticulous examination of the merits of the case at this stage is neither appropriate nor justifiable.

17. In the present case, the F.I.R. has been lodged under sections 376 and 506 I.P.C. against the revisionist no. 1/Sachin Kumar who is the main accused and against Sangeeta and brother-in-law of Sachin Kumar. Sachin Kumar and victim/opposite party no. 2 were having relationship with each other since 2019. Whereas, they were known to each other since their college time from the year 2016. According to the allegations, on the assurance of the marriage, Sachin Kumar has consistently committed rape with her and sexually exploited to her but ultimately refused to marry. Whereas, she has not made any allegation in the F.I.R. against the revisionist no. 2 (Smt. Sumitra) who is the mother of Sachin Kumar in the said F.I.R.

18. The said F.I.R. was lodged on 03.10.2024, whereas the victim had known revisionist no. 1, Sachin Kumar, since 2016, and they had been in a physical relationship since 2019. Even on the date of lodging of the F.I.R., she did not know the name of Sachin's brother-in-law and merely referred to him as the brother-in-law of Sachin. The main allegation made by the complainant/opposite party no. 2 is against Sachin Kumar. There is no allegation in the F.I.R. against revisionist no. 2, Sumitra, who is the mother of revisionist no. 1, Sachin Kumar. The allegations against the remaining two accused persons are also vague in nature, as no specific date or time has been disclosed regarding the alleged threats extended to her. The victim is neither illiterate nor uneducated; rather, she is a literate and educated lady and a resident of the metropolitan city of Ghaziabad.

19. In her supplementary statement, she further stated that thereafter Sachin's brother-in-law Surendra Kumar, who works in the Railways, his sister Sangeeta, who works in the Delhi Police, Sachin's mother Sumitra, and his maternal uncle's son Pappu came to her house, threatened to kill her, and attempted to influence her by offering money. However, even in her supplementary statement, she did not disclose any specific date, time, or place when such threats were allegedly extended to her. Even after detailed investigation, the charge sheet has been filed only under Section 506 I.P.C. against revisionist nos. 2, 3 and 4. There appears to be inconsistency and improvement in the statements of the victim/opposite party no. 2 from the time of lodging of the F.I.R. till the filing of the charge sheet against the revisionists. Her statements regarding the allegations against revisionist nos. 2, 3 and 4 lack consistency and specificity.

20. The material dispute, if any, appears to be between the

complainant/opposite party no. 2 and revisionist no. 1, Sachin Kumar. The other accused persons are family members of Sachin Kumar, who appear to have been implicated in the present offence without any substantial or corroborative evidence. There is no mention of any specific date or time when they allegedly threatened her or intimidated her with threats to her life. Evidence of such nature does not appear to be available on record against revisionist nos. 2, 3 and 4. The learned trial court has discussed in detail the role of revisionist no. 1, Sachin Kumar, in the alleged offence; however, no substantial findings have been recorded while rejecting the discharge applications of revisionist nos. 2, 3 and 4.

21. The Supreme Court in **Sanjay Kumar Rai Vs. State of U.P. and another; 2022 (5) SCC 720** by Three Judges Bench,(Authored by Hon. Surya Kant, J) held as under:-

*"12. At the outset, we may note that the High Court has dismissed the Criminal Revision on the ground of lack of jurisdiction under section 397 of Cr.P.C. The High Court did not examine the issue in detail to find out whether the continuation of proceedings will amount to abuse of process of law in this case. The impugned order cites the decision of this Court in Asian Resurfacing (supra) wherein it was noted as under:*

*"Thus, we declare the law to be that order framing charge is not purely an interlocutory order nor a final order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Sections 397 or 482 Cr.P.C.or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. Thus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to re- appreciate the matter."*

*13. It appears to us that while limiting the scope of a criminal revision to jurisdictional errors alone, the High Court apparently underappreciated the Judgment in Asian Resurfacing (supra). We say so at least for two reasons. First, the material facts in the abovesited case dealt with a challenge to the charges framed under the Prevention of Corruption Act, 1988 ("POCA"). The*

*cited judgment itself enlightens that not only is POCA a special legislation, but also contains a specific bar under Section 19 against routine exercise of revisional jurisdiction. Second, This Court in Asian Resurfacing (Supra) while expressing concern regarding the need to tackle rampant pendency and delays in our criminal law system, followed the ratio laid down in an earlier decision in Madhu Limaye V. State of Maharashtra as can be seen from the following extract: "*

*27. Thus, even though in dealing with different situations, seemingly conflicting observations may have been made while holding that the order framing charge was interlocutory order and was not liable to be interfered with under Section 397(2) or even under Section 482 CrPC, the principle laid down in Madhu Limaye [Madhu Limaye V. State of Maharashtra, (1977) 4 SCC 551: 1978 SCC (Cri) 10] still holds the field. Order framing charge may not be held to be purely an interlocutory order and can in a given situation be interfered with under Section 397(2) CrPC or 482 Cr.P.C. or Article 227 of the Constitution which is a constitutional provision but the power of the High Court to interfere with an order framing charge and to grant stay is to be exercised only in a exceptional situation."*

*14. In Madhu Limaye (supra), this Court authoritatively held:-*

*"9... Sometimes the revisional jurisdiction of the High Court has also been resorted to for the same kind of relief by challenging the order taking cognizance or issuing processes or framing charge on the grounds that the Court had no jurisdiction to take cognizance and proceed with the trial, that the issuance of process was wholly illegal or void, or that no charge could be framed as no offence was made out on the allegations made or the evidence adduced in Court.*

*10. ....Even assuming, although we shall presently show that it is not so, that in such a case an order of the Court taking cognizance or issuing processes is an interlocutory order, does it stand to reason to say that inherent power of the High Court cannot be exercised for stopping the criminal proceeding as early as possible, instead of harassing the accused up to the end? The answer is obvious that the bar will not operate to prevent the*

*abuse of the process of the Court and/or to secure the ends of justice. The label of the petition filed by an aggrieved party is immaterial.*

*15. The correct position of law as laid down in Madhu Limaye (supra), thus, is that orders framing charges or refusing discharge are neither interlocutory nor final in nature and are therefore not affected by the bar of Section 397 (2) of CrPC. That apart, this Court in the abovesaid cases has unequivocally acknowledged that the High Court is imbued with inherent jurisdiction to prevent abuse of process or to secure ends of justice having regard to the facts and circumstance of individual cases. As a caveat it may be stated that the High Court, while exercising its aforesaid jurisdiction ought to be circumspect. The discretion vested in the High Court is to be invoked carefully and judiciously for effective and timely administration of criminal justice system. This Court, nonetheless, does not recommend a complete hands off approach. Albeit, there should be interference, may be, in exceptional cases, failing which there is likelihood of serious prejudice to the rights of a citizen. For example, when the contents of a complaint or the other purported material on record is a brazen attempt to persecute an innocent person, it becomes imperative upon the Court to prevent the abuse of process of law.*

*16. Further, it is well settled that the trial court while considering the discharge application is not to act as a mere post office. The Court has to sift through the evidence in order to find out whether there are sufficient grounds to try the suspect. The court has to consider the broad probabilities, total effect of evidence and documents produced and the basic infirmities appearing in the case and so on. [ Union of India V. Prafulla Kumar Samal].Likewise, the Court has sufficient discretion to order further investigation in appropriate cases, if need be. It is also held that discharge is a valuable right provided to the accused."*

22. It is held by the Hon'ble Supreme Court in **Dr. Anand Rai Vs. State of Madhya Pradesh and another; 2026 INSC 141**. In paragraph no. 21 it held as under:-

*"Before parting with the matter, it is observed that at the stage of*

*framing of charge or considering discharge, the Court is not dealing with an abstract legal exercise. It is dealing with real people, real anxieties, and the real weight of criminal prosecution. Judicial responsibility at this stage calls for care, balance, and an honest engagement with the facts on record. The power to frame a charge is not meant to be exercise by default or out of caution alone. When the material placed before the Court, take at the face value, does not disclose the ingredients of an offence, the law expects the Court to have the clarity and courage to say so and to keep such a case aside."*

23. In view of the facts, reasons and circumstances mentioned hereinabove, revisionist nos. 2, 3 and 4 are entitled to be discharged and are hereby discharged. The impugned order dated 25.07.2025 is modified to that extent accordingly. However, the proceedings against revisionist no. 1, Sachin Kumar, shall continue and shall be decided expeditiously, in accordance with law.

24. With these observations and findings, the revision is partly allowed accordingly.

25. Ms. Manisha Chaturvedi has been appointed by the High Court Legal Services Committee in this case to represent the opposite party no. 2/victim. She shall be paid a sum of Rs. 15,000/- towards her fees for assistance in this case.

**March 10, 2026**  
K.K. Maurya

**(Abdul Shahid,J.)**