



2026:AHC:54816

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 7938 of 2025

Abhishek Chaudhary

.....Revisionist(s)

Versus

State of U.P. and another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Om Prakash Singh
Counsel for Opposite Party(s)	:	G.A., Shravan Kumar Pandey, Shyam Narain Pandey

In Chamber

Reserved on 13.02.2026

Delivered on 18.03.2026

HON'BLE MRS. GARIMA PRASHAD, J.

1. Counter affidavit and rejoinder affidavit have been filed. Pleadings are complete.
2. Heard Mr. Dinesh Kumar Gupta, learned counsel, holding brief of Mr. Om Prakash Singh, learned counsel for the revisionist, learned Additional Government Advocate for the State and Mr. Shravan Kumar Pandey, learned counsel appearing for the respondent no.2.
3. The present criminal revision has been filed challenging the order dated 11.09.2025 passed by the learned Additional Sessions Judge/Fast Track Court, Kanpur Nagar in S.T. No. 184 of 2025 arising out of Case Crime No. 228 of 2024 under Sections 376 and 506 I.P.C., Police Station Babupurva, District Kanpur Nagar

whereby the discharge application moved by the revisionist under Section 227 Cr.P.C. has been rejected.

4. Brief facts of the case are that an F.I.R. was lodged by the prosecutrix on 13.08.2024 alleging therein that she had met the revisionist at Care Hospital, Chakeri where the revisionist was working. According to the F.I.R., the revisionist had developed relations with her on the promise of marriage. It has been alleged that the revisionist had introduced her to his parents and family members and their relationship continued for about three years. It is further alleged that the revisionist induced the prosecutrix to enter into physical relations on the assurance that he would marry her and had also taken jewellery and money from her. According to the F.I.R., the revisionist thereafter refused to marry the prosecutrix and told her that he would marry some other girl. It has further been alleged that on 30.05.2024 the revisionist had taken the prosecutrix to Welcome Hotel near Jhakarkati Bridge where he tried to kill her by strangulating her from which she escaped and thereafter threatened her that she would not get justice anywhere.

5. Pursuant to the said F.I.R., the prosecutrix was medically examined at Dufferin Hospital, Kanpur and her statement was recorded under Section 183 B.N.S.S. wherein she reiterated the allegations made in the F.I.R. During investigation the statements of three persons connected with Welcome Hotel were also recorded under Section 180 B.N.S.S. The Investigating Officer thereafter submitted charge-sheet dated 29.09.2024 under Sections 376 and 506 I.P.C. and cognizance was taken by the concerned Magistrate on 12.11.2024. The revisionist thereafter moved an application for discharge under Section 227 Cr.P.C. on 03.04.2025 stating that no case under Sections 376 and 506 I.P.C. is made out against him. The said application has been rejected by the learned Additional

Sessions Judge by the impugned order dated 11.09.2025 which has been assailed in the present revision.

6. Learned counsel for the revisionist submits that the entire case is false and has been instituted with mala fide intentions. It is submitted that the revisionist is working as ICU Incharge at Country Hospital, Koyala Nagar, Kanpur Nagar where the sister of the prosecutrix was working. The prosecutrix used to visit the said hospital and she had introduced herself as a medical representative working for Astha Medical and had developed acquaintance with the revisionist. Learned counsel further submits that the prosecutrix had requested an amount of Rs.10,000/- from the revisionist stating that she was being blackmailed by someone and the revisionist had given her the said amount since her sister was also working in the same hospital. It is submitted that the said amount was never returned and when the revisionist demanded the money back, the prosecutrix and her sister began threatening him.

7. Learned counsel further submits that the prosecutrix belongs to the Muslim religion whereas the revisionist belongs to the Hindu religion. It is submitted that when the prosecutrix started asking for marriage, the revisionist clearly expressed his inability to marry the prosecutrix on account of religious differences. It has been submitted that the prosecutrix insisted that the revisionist should convert his religion and perform Nikah with her, which the revisionist refused. It is submitted that thereafter relations between the parties became strained and the prosecutrix started threatening the revisionist that she would implicate him in a criminal case.

8. Learned counsel for the revisionist submits that the revisionist had submitted a written complaint dated 02.08.2024 before the Commissioner of Police, Kanpur Nagar informing the authorities about the threats being extended by the prosecutrix and her sister. It

is submitted that only after coming to know about the said complaint, the prosecutrix lodged the present F.I.R. on 13.08.2024 and therefore the F.I.R. is nothing but a counterblast to the complaint made by the revisionist.

9. Learned counsel further submits that the incident alleged in the F.I.R. is stated to have taken place on 30.05.2024 whereas the F.I.R. has been lodged on 13.08.2024 and there is an unexplained delay of more than two months in lodging the F.I.R. It is submitted that such delay casts serious doubt upon the prosecution story.

10. Learned counsel has further drawn attention of the Court to the statements of the Manager of Welcome Hotel namely Avinash Kumar and the owner of the hotel namely Utsav Gupta recorded during investigation. It is submitted that both these witnesses have clearly stated that the revisionist had not visited the hotel on 30.05.2024 which is the date on which the alleged incident is said to have taken place. The entry register of the hotel has also been produced during investigation which does not show the presence of the revisionist in the hotel on the said date.

11. Learned counsel for the revisionist has further referred to the medico legal case report dated 14.08.2024 wherein the prosecutrix herself has stated that she had been in a relationship with the revisionist for the past three years and had physical relations with him on the basis of promise of marriage. It has been submitted that the medical report does not reveal any injury on the body of the prosecutrix nor does it indicate any evidence of recent sexual activity.

12. Learned counsel further submits that the Call Detail Records available in the case diary show that the prosecutrix was present at Kidwai Nagar which is about five kilometres away from the

Welcome Hotel and therefore the allegation that she was present in the said hotel on the date of the alleged incident is not supported by the material on record.

13. Learned counsel therefore submits that even if the entire material collected during investigation is taken on its face value, the same does not disclose the commission of any offence under Sections 376 or 506 I.P.C. and the learned trial court has erred in rejecting the discharge application of the revisionist.

14. Learned counsel for the prosecutrix has opposed the revision and submitted that the relationship between the parties was based upon a promise of marriage and the prosecutrix had consented to physical relations only on the assurance that the revisionist would marry her. Reliance has been placed upon the judgment of the Supreme Court in *Pramod Suryabhan Pawar vs. State of Maharashtra, (2019) 9 SCC 608* wherein it has been held that consent obtained on a false promise of marriage amounts to consent obtained under misconception of fact.

15. I have considered the submissions advanced by learned counsel for the parties and have perused the material brought on record.

16. At the stage of consideration of discharge under Section 227 Cr.P.C., the Court is required to examine whether the material available on record gives rise to a grave suspicion against the accused regarding the commission of the offence alleged. If the material placed on record does not disclose the essential ingredients of the offence alleged, the accused is entitled to be discharged.

17. In the present case it is admitted by the prosecutrix herself that she had been in a relationship with the revisionist for nearly three years and that the physical relations between them were consensual. The allegation of rape in the present case is founded upon the

allegation that the revisionist had made a promise to marry the prosecutrix.

18. The Supreme Court in *Pramod Suryabhan Pawar (supra)* has held that in order to constitute rape on the basis of a promise to marry it must be shown that the promise was false from the very beginning and was made only with the intention of inducing the prosecutrix to enter into a sexual relationship. Recently, the Hon'ble Supreme Court in *Biswajyoti Chatterjee v. State of West Bengal, 2025 SCC OnLine SC 741* has reiterated that a consensual relationship between two adults, where a possibility of marriage may exist, cannot be construed as a false pretext to marry merely because the relationship subsequently breaks down. The Court has observed that criminal law cannot be used to convert every failed relationship into an offence of rape unless it is shown that the promise to marry was false from the inception and was made solely to exploit the prosecutrix.

19. The material available on record in the present case does not prima facie indicate that the alleged promise was false from the inception. On the contrary, the material on record indicates that the parties were involved in a long standing relationship extending over a period of three years and the dispute between them appears to have arisen subsequently.

20. The record further indicates that the prosecutrix belongs to the Muslim religion whereas the revisionist belongs to the Hindu religion and the revisionist had expressed his inability to marry the prosecutrix on account of religious differences. It has also come on record that the prosecutrix had insisted that the revisionist should convert his religion and perform Nikah with her which the revisionist refused. Such circumstances indicate that the disagreement between the parties arose subsequently on account of

differences relating to marriage and religious conversion and cannot prima facie lead to an inference that the revisionist had made a false promise of marriage from the very inception of the relationship.

21. It is also significant that the revisionist had submitted a written complaint before the Commissioner of Police, Kanpur Nagar on 02.08.2024 regarding the threats being extended by the prosecutrix and the present F.I.R. has been lodged thereafter on 13.08.2024. This circumstance lends support to the contention of the revisionist that the F.I.R. may have been lodged as a counterblast to the complaint made by him.

22. Apart from the allegation relating to promise of marriage, the prosecutrix has also alleged that the revisionist had taken her to Welcome Hotel on 30.05.2024 and attempted to kill her by strangulation. However, the statements of the Manager and the Owner of the Welcome Hotel recorded during investigation do not support the presence of the revisionist in the hotel on the said date. The entry register of the hotel also does not contain any entry showing the presence of the revisionist on 30.05.2024.

23. The medical report of the prosecutrix does not reveal any injury on her body nor does it show any evidence of recent sexual activity. The Call Detail Records relied upon by the revisionist also indicate that the prosecutrix was located at Kidwai Nagar which is about five kilometres away from the Welcome Hotel at the relevant time.

24. In view of the aforesaid circumstances, even if the entire material collected during investigation is accepted at its face value, the same does not disclose the essential ingredients of offences under Sections 376 or 506 I.P.C. The material available on record does not give rise to a grave suspicion against the revisionist so as to justify the framing of charges.

25. The learned Additional Sessions Judge while rejecting the discharge application has failed to properly appreciate the material available on record and has mechanically proceeded to reject the application without considering the legal principles governing cases of alleged rape on the basis of promise to marry.

26. In the facts and circumstances of the present case, continuation of the criminal proceedings against the revisionist would amount to misuse of the criminal process and unnecessary harassment of the accused.

27. The criminal revision is accordingly allowed. The order dated 11.09.2025 passed by the learned Additional Sessions Judge/Fast Track Court, Kanpur Nagar in S.T. No. 184 of 2025 rejecting the discharge application of the revisionist is hereby set aside. The application filed by the revisionist under Section 227 Cr.P.C. is allowed and the revisionist is discharged from offences under Sections 376 and 506 I.P.C. in Case Crime No. 228 of 2024, Police Station Babupurva, District Kanpur Nagar.

(Garima Prashad,J.)

March 18, 2026

Sachin Mishra