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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 605 OF 2024**

Shashank Shekhar Jhan	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Atal Bihari Dubey, for the applicant.

Mrs. Kranti Hiwrale, APP for respondent – State.

Mr. Rajdeep Lahiri a/w Ms. Sana Khan for respondent no.2.

Mr. Sanjay Gahag, PSI, Pairavi Adhikari, Malwani Police Station.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 25, 2025

P.C.:

1. By this revision application, the applicant has challenged the order dated 23 October 2024 passed by the learned Additional Sessions Judge below Exhibit-3 in Sessions Case No.503 of 2023. By the said order, the learned Judge rejected the application filed by the applicant seeking discharge for offences punishable under Sections 376, 323, 504 and 506 of the Indian Penal Code.

2. The case of the prosecution is that respondent no.2, the complainant, is a permanent resident of West Bengal and at the relevant time was residing at Versova, Andheri (West), Mumbai. She came in contact with the applicant through Facebook. Both of them started communicating regularly through social media and telephone. Their friendship developed into intimacy. The applicant

was working in a post-production company, whereas respondent no.2 desired to build her career in that field. The applicant assured her that he would help in shaping her career. Relying upon this assurance, she decided to come to Mumbai in April 2016.

3. On her arrival at Dadar railway station, the applicant received her. He then arranged accommodation in a one BHK flat near Malvani bus depot, Malad (West). The applicant, his sister Sugandha Jha, and respondent no.2 started residing together in the said flat. It is the allegation that the applicant expressed his intention to marry her after she settled in her career. Believing this assurance, respondent no.2 continued her stay. During this period, the applicant established physical relations with her without her free consent. When she objected, he reiterated his promise of marriage. Respondent no.2 stayed in the said flat for about 5 to 6 months, and during that time, the applicant had repeated physical relations with her.

4. Subsequently, disputes arose between respondent no.2 and the applicant's sister, which led to quarrels. On one such occasion, the applicant allegedly assaulted respondent no.2. She then went back to her native place for about 15 days. Upon her return, she found that the applicant and his sisters had shifted to Saptarshi Tower, Ekta Nagar, Malad (West). Respondent no.2 stayed with them in that flat for another 5 to 6 months, and again, the applicant continued physical relations with her.

5. In 2017, while respondent no.2 was working as an intern with Color Bar Studio, the applicant allegedly used to pick quarrels

over trivial issues and assaulted her, including at her workplace. Due to such conduct, she left the Malad flat and started staying as a paying guest at Versova after taking up employment at Aaram Nagar. After two months, the applicant apologized, promised marriage again, and requested her to resume cohabitation. On this assurance, respondent no.2 returned and started residing with him at Saptarshi Tower. At that time, the applicant's sisters were also residing in the same building.

6. According to respondent no.2, in October 2017, she went to West Bengal to celebrate Durga Puja, where she was undergoing treatment for jaundice. The applicant also visited her native place and discussed marriage with her family members. Despite the ill health of her father, the applicant compelled him and her brother to travel to his native place for further discussions. However, subsequent disputes led respondent no.2 to refuse to continue residing with the applicant in Mumbai.

7. In early 2018, respondent no.2 wished to stay as a paying guest. The applicant allegedly restrained her and insisted she should stay with him, reiterating his promise of marriage. At that place too, he established physical relations. Later, after securing employment with CH4 Studio at Santacruz, respondent no.2 along with the applicant shifted to a rented flat at Versova. Thereafter, they changed residence to Madh Jetty, where physical relations continued. Respondent no.2 became pregnant. The applicant assured her of marriage and even spoke to her family. However, disputes arose again, and it is alleged that he assaulted her and threatened her parents. After three months, she suffered a

miscarriage. In February 2019, she returned to her native place in West Bengal.

8. In June 2019, the applicant visited Kolkata, persuaded her, and stayed with her in hotels. They later visited Mumbai together. On realizing his deceitful conduct, respondent no.2 ceased communication with him. However, the applicant allegedly continued to harass her by calling her father and brother and threatening her.

9. On 3 October 2020, the applicant visited her native place and sought to take her back to Mumbai. Her family insisted that he must first confirm marriage. He agreed and both signed registration forms. On 5 October 2020, she returned to Mumbai and stayed with him at Versova. Soon after, the applicant started quarrelling and even his relatives allegedly threatened her, leading to a non-cognizable complaint being lodged. The applicant later avoided her advocate's calls regarding registration of marriage and failed to fix a date.

10. Finally, on 7 December 2020, when respondent no.2 again confronted him on the issue of marriage, the applicant allegedly assaulted her and refused to marry. She then realized that the promise of marriage made since 2016 was false and only a pretext for physical relations. Consequently, the FIR was lodged.

11. The learned Advocate for the applicant, by referring to the FIR and other material, submitted that the relationship was consensual. According to him, the complainant herself admitted that the relationship began in 2016 and continued till December

2020. He argued that there is no material to indicate that at the inception, the applicant had no intention to marry. Therefore, the essential ingredients of Section 376(2)(n) IPC are not satisfied.

12. In support of his submissions, reliance was placed on judgments of the Supreme Court in *Pramod Suryabhan Pawar v. State of Maharashtra (2019) 9 SCC 651* and *Sonu v. State of Uttar Pradesh (2021) 18 SCC 517*. In these decisions, the Court laid down the principles for exercise of powers under Section 482 Cr.P.C. while considering allegations under Section 376(2)(n). He therefore argued that the Sessions Court ought to have discharged the applicant under Section 227 Cr.P.C.

13. On the other hand, the learned Advocate for respondent no.2 contended that the applicant never intended to marry from the beginning. He exploited the complainant by luring her into a false belief of marriage. Even during the Covid period, when she insisted on registration of marriage, the applicant gave false excuses. The material on record, including witness statements, prima facie establishes offences under Sections 376, 323, 504 and 506 IPC. He therefore supported the order of the Sessions Court rejecting the discharge application.

14. I have carefully considered the submissions of both sides and examined the material placed on record. The facts reveal that the relationship between the applicant and respondent no.2 commenced in April 2016 and continued till December 2020. The complainant herself admits that she was in constant companionship with the applicant for nearly four years. During

this long span, both resided together at several places in Mumbai, travelled together, and the complainant rejoined the applicant even after temporary separations on his assurance. These circumstances, taken cumulatively, show that the relationship was not of a short-lived nature but a prolonged association.

15. The essence of Section 376(2)(n) IPC is that sexual intercourse must have been procured by a false promise of marriage where, at the inception itself, the accused never intended to marry and only used such promise as a tool to exploit the prosecutrix. If, however, the promise was made in good faith but due to later circumstances marriage did not fructify, such case would not attract the rigour of Section 376 IPC.

16. The judgments of the Supreme Court in *Pramod Suryabhan Pawar (supra)* and *Sonu v(supra)* make the law clear. It has been held that there is a vital distinction between a false promise of marriage made from inception and a breach of promise which occurs later due to circumstances beyond control. For an offence under Section 376 to be made out, the prosecution must prima facie establish that the promise was false from the very beginning.

17. Applying these principles to the present case, it is clear that there is no material to suggest that the applicant never intended to marry respondent no.2 from the very start. On the contrary, the conduct of both indicates that the relationship continued with mutual consent over a considerable period. Respondent no.2 repeatedly returned to the applicant despite earlier quarrels, which suggests that her decision to continue cohabitation was voluntary.

The allegations regarding marriage discussions with families also show that marriage was contemplated seriously, though it did not ultimately materialise.

18. Thus, the essential ingredient of a false promise of marriage from inception is not fulfilled in this case. What emerges is a failed relationship, not a case of sexual exploitation under Section 376 IPC.

19. In these circumstances, continuation of prosecution would amount to abuse of the process of law. The learned Additional Sessions Judge did not correctly apply the settled legal principles while rejecting the discharge application. The impugned order therefore cannot be sustained.

20. Hence, the following order:

ORDER

(a) Revision application is allowed.

(b) The order dated 23 October 2024 passed by the learned Additional Sessions Judge in Sessions Case No.503 of 2023 below Exhibit-3 is quashed and set aside.

(c) The applicant stands discharged from offence punishable under Sections 376, of the IPC. However trial for rest of offence shall continue in accordance with law.

(d) Rule is made absolute in the above terms.

21. The revision application is disposed of.

(AMIT BORKAR, J.)