

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No. 360 of 2024

X.Y.Z. (Victim)	...	Appellant
V/s.		
Mangesh Namdeo Ovhal & anr.	...	Respondents.

Mr. Ganesh Bhujbal i/b Ashok M. Misal for the appellant.
Mr. Shreyas Choudhari for respondent No.1.
Smt. M.H. Mhatre, APP for the State.

**CORAM : SARANG V. KOTWAL
& S.M. MODAK, JJ.**

DATE : 21st January 2025.

P.C. :

This is an appeal against acquittal challenging the judgment and order dated 6th December 2023 passed by the Additional Sessions Judge, Pune in Sessions Case No.574/2009. By the impugned order, the original accused No.6-respondent No.1 in this appeal was acquitted from the charges of commission of offence punishable under Section 376 and 420 of IPC. The present appeal is filed by the prosecutrix-original Complainant.

2. The prosecution case is that the Appellant and Respondent No.1 were acquainted with each other from the school days. They developed friendly relationship which slowly turned into love relationship. The basic allegations of the Appellant is that the

Respondent No.1 promised to marry her and on that belief they had regular physical relations since 2007 onwards. According to the appellant ultimately he refused to marry her and, therefore, she lodged an FIR alleging those offences. The FIR was lodged on 2nd November 2008. The investigation was carried out and respondent No.1 faced the trial.

3. We have heard Mr. Ganesh Bhujbal, learned counsel appearing for the Appellant, Mr. Shreyas Choudhari, learned counsel appearing for Respondent No.1 and Smt. Mhatre, learned APP appearing for the State.

4. Learned counsel for the appellant submitted that from the evidence of Appellant who is examined as PW No.1, it is quite clear that Respondent No.1 never had intention to marry her. He made false promises only to develop physical relations with her, therefore, consent, if any, given by the Appellant was vitiated and the offence is made out.

5. Learned Counsel for Respondent No.1 submitted that Respondent No.1 had lodged an N.C. against the Appellant's brother for assaulting him in the month of October 2008 and as a counter blast, the present FIR was lodged by the Appellant. The entire evidence shows that it was purely a consensual relationship and in fact it was the Appellant who has refused to marry the Respondent No.1 and the Respondent No.1 is not at fault.

6. We have considered these submissions and we have also perused the evidence of the Appellant. There is a reference to how they developed physical relations. It is her case that Respondent No.1 had promised to marry her. Subsequently, on the pretext that his family was opposing the marriage, he refused to marry her. Therefore, according to the appellant, his intentions were not honest right from the inception of their relationship.

7. The learned Judge has considered her evidence in the proper perspective. He has considered her evidence and has discussed the same from Paragraph-14 onwards. The learned Judge had referred to the letters brought on record at Exhibits-42 to 50. There is no dispute about the letters having been sent by the Respondent No.1 to the Appellant. The contents are not in dispute. In Paragraph-16, the learned Judge has referred to the contents of the letters at Exhibit-42 in which the Respondent No.1 had clearly mentioned that the Appellant was refusing to marry him and he had expressed his displeasure over her stand. The letters also mention that Appellant was refusing to marry him only on the say of her mother. In Exhibit-43 he has reiterated that though his family was also opposed to this marriage, but ultimately the family would have had to accept their relationship. These are all significant letters against the evidence of the appellant which support the defence that it was purely a consensual relationship and there was no element of false promise to marry. These letters indicate that appellant herself was refusing to marry the Respondent No.1.

8. In this view of the matter, the learned Judge has taken a possible view, therefore, we are not inclined to interfere in the cogent reasons given by the learned trial Judge in acquitting Respondent No.1. We do not see any merit in the appeal. Therefore, the appeal is dismissed.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)