



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 800 OF 2025

Rohan Vinod Chandak)
 Age : 25 years, Occ : Student)
 R/o – Ranapratap Chawk, Ozar,)
 Taluka : Niphad, District – Nashik) ...Applicant

Vs.

1. The State Of Maharashtra)
 through PI at the instance of Adgaon)
 Police Station, to be served through)
 The office of the Learned Public)
 Prosecutor, High Court at Mumbai)
2. XYZ)
 Age-26 Years, Occ – Makeup Artist)
 R/O- Second Floor, Krushna Heights,)
 Near Dawe Farsan, Old Adgaon Naka)
 Panchawati, Taluka, District – Nashik) ...Respondents

Mr. Pratik Kalantri for the Applicant.
 Mr. Ajay Patil APP, for the Respondent-State.

**CORAM : A. S. GADKARI AND
 RAJESH S. PATIL, JJ.**

RESERVED ON : 29th July 2025.

PRONOUNCED ON : 20th August 2025.

JUDGMENT (Per : RAJESH S. PATIL, J.) :-

1) By this Application filed under Section 528 of the Bharatiya Nyaya Suraksha Sanhita, 2023, the Applicant is seeking quashing of First Information Report (FIR) No.172 of 2025, dated 24th May 2025, registered with Adgaon Police Station, Nashik, for the offence punishable under Section 69 of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS').

2) Heard, Mr. Pratik Kalantri, learned Advocate for the Applicant and Mr. Ajay Patil, learned APP for the Respondent No.1 – State. Perused the entire records produced before us.

3) In the FIR it has been alleged by the first informant/victim that, she was married with one Mr. Prem Kasat on 18th January 2020. However, there were disputes between her and her husband and they started living separately. It is further alleged that, in the month of January 2024, she received a friend's request on a social media App 'Instagram', from a person named Mr. Rohan Chandak (Applicant). As both of them had common friends, the first informant accepted the request and later she became aware that, the Applicant herein is a close relative of her. As communication between them increased, their interaction progressed and their friendship turned into an affair. It is further alleged that, the Applicant was well aware that, the first informant was a married lady and was having troubles in her marriage life and hence, she was living separately from her husband. It is further alleged that, the Applicant proposed the first informant and expressed his intention to marry her. As they frequently met, on one such meeting while the Respondent No.2 and the Applicant were travelling in a car, the Applicant insisted on having sex with the Respondent No.2. The Respondent No.2 avoided having any kind of physical intimacy with the Applicant, but the Applicant insisted upon having physical relations as he informed the Respondent No.2 that, as they are going to get married soon,

she should trust him and on the said pretext, he had physical relations with the Respondent No.2. Thereafter, on few occasions he had sex with the Respondent No.2. As their relationship continued, the Respondent No.2 reminded the Applicant about his promise to get married to her. The Respondent No.2, then by Court proceedings got separated from her husband on 12th June 2024.

3.1) However, after the said separation, as the Respondent No.2 reminded the Applicant about they getting married, he started avoiding the said questions. Respondent No.2 thereafter visited the shop of the Applicant at Chandani Chowk, Ozar, on 15th May 2025, to meet the Applicant. However, at that time, the Applicant's father, mother and sister visited the said shop and without any discussion started abusing the Respondent No.2, so also they started physically assaulting the Respondent No.2. The Respondent No.2 was also threatened with dire consequences of she being killed. Accordingly, the Respondent No.2 registered FIR against the parents and sister of the Applicant, on 15th May 2025, for the offences punishable under Sections 115, 352, 351(2)(3) of the BNS. The Respondent No.2 also thereafter lodged, on 24th May 2025, an FIR with Adgaon Police Station, Nashik, for the offence punishable under Section 69 of the BNS against the present Applicant.

4) It is contended by the Applicant that, the Respondent No.2 while her marriage was subsisting, has willingly entered into physical

relationship with the Applicant, therefore, she cannot raise a plea about there was a false promise to marriage. It is not the case of the first informant that, she was intoxicated with any kind of drink while the Applicant and the first informant had a sexual relation. Hence, the first informant was fully knowing the consequences of entering into a physical relationship with the Applicant that also at the time when her marriage with her husband was subsisting. So also, there is a delay in filing the FIR and there is no explanation offered for the said delay. The Applicant is just 26 years of age and has a life ahead of him to be lived. Therefore, such an FIR against him will ruin his life. It is nothing but an afterthought of the Respondent No.2 in lodging the FIR, hence, the same should be quashed and set aside.

5) Per contra, learned APP submitted that, present Applicant being aware that, the Respondent No.2 was a married lady, has entered into physical relationship with her on the false pretext of getting married and after having entered into physical relationship on number of occasions, has refused to get married to her. It is an admitted fact that, the Applicant and the Respondent No.2 entered into physical relationship and only after a promise was made by the Applicant of getting married with her, she has obtained divorce from her husband. Therefore, a clear case under Section 69 of the BNS has been registered, as the Applicant is now refusing to marry with the Respondent No.2. At this stage, the FIR cannot be quashed

and present Application requires to be dismissed.

6) Admittedly, the Applicant was aware that, the first informant is a married lady, therefore, before entering into a physical relationship with a married lady, he should have been aware what would be the consequences. As per record itself, it can be seen that, much later after the Applicant and the first informant getting into the physical relationship, the first informant has obtained a divorce from her first marriage and then tried to persuade the Applicant to marry with her.

7) Section 69 of the BNS, which compared to the old Act i.e. Indian Penal Code (IPC) is a newly inserted section, reads as under:-

“Section 69. Sexual intercourse by employing deceitful means, etc.-

Whoever, by deceitful means or making by promise to marry to a woman without any intention of fulfilling the same, and has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

8) Considering the wordings of this Section, in our view, at this *prima facie* stage, the offence punishable under Section 69 of BNS are made out. Even before present FIR is filed, there is one more FIR filed against the parents and sister of the present Applicant, who according to the first informant had physically abused her.

- 9) The Supreme Court in the cases of (i) *State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors.*, AIR 1992 SC 604, (ii) *Rajeev Kourav vs. Baisahab & others*, (2020) 3 SCC 317, and (iii) *Kaptan Singh vs. State of Uttar Pradesh and others*, (2021) 9 SCC 35, has held that, exercise of powers under Section 482 of the Code of Criminal Procedure to quash the proceedings is an exception and not a rule. Appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure.
- 10) Similarly, in the case of *CBI vs. Aryan Singh*, AIR 2023 SC 1987, the Supreme Court has held that, while exercising the power under Section 482, the High Court should not conduct a mini trial.
- 11) After considering the contents of FIR and the various documents on record, we are satisfied that it constitutes the ingredients of the alleged offence. Also taking into account the law as laid down by the Supreme Court in the judgments referred above, we find that there is no merit in the present Application and the same deserves to be dismissed.
- 12) In view of the above , present Application stands dismissed.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)