



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.609 OF 2025

APPLICANT : **Pranay s/o Suresh Bondre,**
Aged about 30 Yrs, Occ- Business,
R/o. Kiran Nagar, Paratwada, Tah.
Achalpur Dist : Amravati.
Accused No.1: (Relationship with
Complainant – Not related)

..VERSUS..

NON-APPLICANTS : 1. **State of Maharashtra,** Through its
Police Station Officer, Police Station
Paratwada, Taluka – Achalpur, Dist :
Amravati.
2. **XYZ** through Police Station Officer,
Police Station Paratwada, Tq. Achalpur,
Dist : Amravati.
Complainant (Relationship with Applicant –
Not related)

Mr N. S. Khubhalkar, Advocate for Applicant.
Mr N. Joshi, APP for Non-Applicant/State.
Mr S. I. Ghatte, Advocate for Non-Applicant No.2.

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 10th OCTOBER, 2025.

PRONOUNCED ON : 7th NOVEMBER, 2025.

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

. Heard.

2. **Admit.** Heard finally with the consent of learned counsel for the parties.

3. The applicant has approached this Court by filing the present application under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash and set aside the First Information Report dated 04.08.2018, registered as Crime No. 0266 of 2018 at Police Station Paratwada, District Amravati (Rural), for the offences punishable under Sections 376, 376 (2) (n), 417 read with Section 34 of the Indian Penal Code, 1860 and further offences punishable under Sections 3(1)(W)(i)(ii), 3(2)(va) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The applicants have further prayed to set aside the Charge-sheet bearing No.142 dated 18.11.2019, before the learned Additional Sessions Judge, Achalpur.

4. It is the case of the non-applicant No.2 and as per the contents of the First Information Report, that on 19.11.2016, the non-applicant No.2 met the applicant for the first time at a fast food stall, whereupon the applicant initiated a conversation and

both became acquainted. The said acquaintance gradually developed into a love affair. It is further stated that the applicant was then a student of Kamalabai Gawai College, Darapur, and was residing on rent in a house situated behind Deshmukh Plot, Shegaon Naka, Amravati. The non-applicant No.2 used to frequently visit the applicant at his rented house.

5. It is further alleged that in April - 2018, the applicant took the non-applicant No.2 to Paratwada to meet his mother. Post this, the non-applicant No.2 again visited the applicant's residence at Paratwada where she met his mother and sister and they all had lunch together. It is alleged that when the mother and sister of the applicant went out, the applicant established physical relations with the non-applicant No.2. Thereafter, it is stated that, on several occasions, the applicant established physical relations with the non-applicant No. 2 on the pretext of marriage.

6. It is further alleged that the mother and sister of the applicant were aware that the applicant and the non-applicant No. 2 were intending to get married, as well as of the fact that the non-applicant No.2 belonged to the Buddhist community. It is further

alleged that the applicant misrepresented himself to be a member of the Buddhist community and based on such misrepresentation, the non-applicant No.2 consented to the proposed marriage.

7. It is further alleged that in June - 2018, the non-applicant No.2 conceived pregnancy which was confirmed through a pregnancy test conducted at a hospital situated in Yashoda Nagar, Amravati. The non-applicant No.2 has stated in the report that she does not recollect the name of the hospital, but can identify it if shown. It is further alleged that upon learning about the pregnancy, the applicant informed his mother, who called the couple to her home at Paratwada. Upon their arrival, the applicant's mother allegedly administered three pills to the non-applicant No.2, resulting in a miscarriage.

8. It is further alleged that at that very moment, the applicant's mother disclosed to the non-applicant No.2 that they belonged to 'Koshti' community and therefore, marriage between the applicant and the non-applicant No.2 could not be solemnized due to caste difference. As the non-applicant No.2 was unwell, she returned to Amravati.

9. It is lastly alleged that despite the assurance of a court marriage given by the applicant, he failed to fulfil the said promise and has not returned thereafter. It is the complaint of the non-applicant No.2 that the applicant established physical relations with her on the false pretext of marriage and thereby deceived the non-applicant No.2 and engaged in sexual behaviour.

10. We have heard Mr. N. S. Khubhalkar, learned counsel for the applicant, Mr. Nikhil Joshi, Additional Public Prosecutor for the non-applicant No.1/State and Mr. Siddhant Imam Ghatte, learned counsel for the non-applicant No.2.

11. Learned counsel for the applicant submits that the allegations forming the foundation of the First Information Report do not make out any *prima facie* case and are false, improbable, and malicious. It is further stated that the applicant hails from a well-respected and culturally rooted family and has no antecedents of criminal record of any kind prior to the present First Information Report.

12. It is submitted by the learned counsel for the applicant that the non-applicant No.2 being a major and educated woman running her own dance classes was fully competent to make informed decisions about her personal and intimate relationships and has admitted to voluntarily engage in a romantic association with the applicant. There is no material to show that the applicant never made a false promise of marriage and that her consent for the sexual act was obtained through such promise. The learned counsel submits that even if such promise is assumed, the same would not constitute deception within the meaning of Section 417 of the Indian Penal Code, 1860.

13. The learned counsel further submits that there exist apparent contradictions between the First Information Report dated 04.08.2018 and the statement of the non-applicant No.2 recorded on 05.08.2018. It is pointed out that while in the First Information Report, the non-applicant No.2 stated that the first instance of sexual intercourse occurred in April - 2018 at the applicant's house in Paratwada, in her subsequent recorded statement, she stated that the first instance took place on

17.12.2016. It is the submission of the learned counsel that such contradictions reveal that allegations are an afterthought and a concocted version of events.

14. The learned counsel for the applicant further submits that the non-applicant No.2 willingly continued the relationship for a period of about two years from 2016 to 2018, during which she voluntarily engaged in physical relations with the applicant on several occasions. It is the submission of the learned counsel that such conduct negates the very essence of a 'sexual offence'. Such conduct demonstrates that the allegations are motivated and made with an ulterior motive.

15. The learned counsel submits that the non-applicant No.2's allegations regarding caste-based discrimination and offences under the Scheduled Caste and the Scheduled Tribe (Prevention of Atrocities) Act, 1989, are baseless as there is no allegation in the First Information Report that the applicant committed any offence against the non-applicant No.2 solely on account of her caste and the caste of the non-applicant No.2 does not in itself constitute an offence under the said Act. To

substantiate this, the learned counsel places reliance on the judgment of the Hon'ble Supreme Court in the case of *Hitesh Verma vs. State of Uttarakhand* reported in [(2020) 10 SCC 710] wherein, it is stated that the said act cannot be invoked in the absence of specific caste-based targeting.

16. It is further submitted that there is an unexplained and substantial delay in lodging the First Information Report. The alleged incidents are said to have occurred between 2016 and 2018, whereas the complaint was lodged only in August - 2018. Such undue delay in filing the First Information Report casts doubt on the veracity of the allegations raising a possible false implication of the applicant.

17. It is further submitted by the learned counsel that the medico-legal and forensic reports do not corroborate the allegations of sexual assault or coercion. The forensic analysis of the non-applicant No.2's clothing, bodily samples and other material exhibits yielded negative results. This further discredits the claims made by the non-applicant No.2 in the First Information Report and the recorded statement.

18. It is lastly submitted that the applicant was granted anticipatory bail by a Division Bench of this Court vide order dated 26.06.2019 in Criminal Appeal No.728 of 2018, upon due consideration of the fact that the allegations lacked sufficient substance to warrant custodial interrogation.

19. On the other hand, the learned Additional Public Prosecutor vehemently opposed the submissions of the counsel for the applicant. It is submitted that upon registration of the First Information Report, the investigating agency commenced investigation and subsequently filed the charge sheet bearing No. 142 on 18.11.2019.

20. The learned Additional Public Prosecutor further submits that the statement of the victim clearly discloses that the applicant established physical relations with her under a false promise of marriage and later refused to fulfil the same. The learned Additional Public Prosecutor further submits that the present application does not fall within any of the seven categories enumerated by the Hon'ble Supreme Court in the case of *State of*

Haryana vs. Bhajan Lal reported in [AIR 1992 SC 604], and is therefore liable to be rejected in the interest of justice.

21. In the backdrop of these submissions, we have perused the First Information Report alleging commission of offences punishable under Sections 376, 376(2)(n) and 417 read with Section 34 of the Indian Penal Code, 1860 and further offense punishable under Sections 3(1)(W)(i)(ii), 3(2)(va) and 3(2)(5) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

22. In light of these facts, we have perused the FIR and the consequent charge-sheet filed by the investigating agency after completion of the investigation. As can be seen from the record, the non-applicant No.2 shown to be aged about 30 years. It is thus clear both are major and adults and therefore, they are able to understand the consequences of action taken by them. The incident complained of ranges from the period from 2016 to 2018 i.e. more particularly 19.11.2016. Thus, for a span about two years, the parties were in relationship. However, since the applicant rescinded from the promise of marriage, this has prompted the

non-applicant No.2 to file the present complaint. Moreover, the statement recorded by the investigating agency during the course of investigation of Dr. Rashmi Rishikesh Nagalkar clearly states that she had not undergone any test more particularly to confirm her pregnancy. The said doctor also states that there is no record of non-applicant No.2 undergoing any test in her hospital. Thus, the conduct of non-applicant No.2 raises a suspicion. It would therefore be clear that the controversy in the matter has to be adjudicated in the backdrop of this conduct.

23. Furthermore, in the oral report by the non-applicant No.2 on 04.08.2018, she has not made any allegation that the applicant has promised to marry her. This is a material omission. However, on the very next day i.e. on 05.08.2018, the non-applicant No.2 makes substantial improvement in her statement. The authenticity of the statements therefore raises a serious doubt.

24. In view of these facts, we are of the considered opinion that the relationship was nothing but consensual in nature between two major persons. The concept of 'consent' has been elaborated by the Hon'ble Supreme Court in the case of *Pramod Suryabhan*

Pawar vs. State of Maharashtra and another, (2019) 9 SCC 608,

which reads as under :

“16. Where the promise to marry is false and the intention of the maker at the time of making the promise itself was not to abide by it but to deceive the woman to convince her to engage in sexual relations, there is a “misconception of fact” that vitiates the woman’s “consent”. On the other hand, a breach of a promise cannot be said to be a false promise. To establish a false promise, the maker of the promise should have had no intention of upholding his word at the time of giving it. The “consent” of a woman under Section 375 is vitiated on the ground of a “misconception of fact” where such misconception was the basis for her choosing to engage in the said act. In Deepak Gulati vs. State of Haryana, (2013) 7 SCC 675, this Court observed:

“21. ... There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accused; and whether the consent involved was given after wholly understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently.

24. Hence, it is evident that there must be adequate evidence to show that at the relevant time i.e. at the initial stage itself, the accused had no intention whatsoever, of keeping his promise to

marry the victim. There may, of course, be circumstances, when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. The “failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term “misconception of fact”, the fact must have an immediate relevance”.Section 90 IPC cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, “unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her.”

(Emphasis supplied)

17. *In Uday vs. State of Karnataka, (2003) 4 SCC 46, the complainant was a college going student when the accused promised to marry her. In the complainant’s statement, she admitted that she was aware that there would be significant opposition from both the complainant’s and accused’s families to the proposed marriage. She engaged in sexual intercourse with the accused but nonetheless kept the relationship secret from her family. The court observed that in these circumstances the accused’s promise to marry the complainant was not of immediate relevance to the complainant’s decision to engage in sexual intercourse with the accused, which was motivated by other factors: (SCC P.58, Para 25)*

“25. There is yet another difficulty which faces the prosecution in this case. In a case of this nature two conditions must be fulfilled for the application of Section 90 IPC. Firstly, it must be shown that the consent was given under a misconception of fact. Secondly, it must be proved that the person who obtained the consent knew, or had reason to believe

that the consent was given in consequence of such misconception. We have serious doubts that the promise to marry induced the prosecutrix to consent to having sexual intercourse with the appellant. She knew, as we have observed earlier, that her marriage with the appellant was difficult on account of caste considerations. The proposal was bound to meet with stiff opposition from members of both families. There was therefore a distinct possibility, of which she was clearly conscious, that the marriage may not take place at all despite the promise of the appellant. The question still remains whether even if it were so, the appellant knew, or had reason to believe, that the prosecutrix had consented to having sexual intercourse with him only as a consequence of her belief, based on his promise, that they will get married in due course. There is hardly any evidence to prove this fact. On the contrary, the circumstances of the case tend to support the conclusion that the appellant had reason to believe that the consent given by the prosecutrix was the result of their deep love for each other. It is not disputed that they were deeply in love. They met often, and it does appear that the prosecutrix permitted him liberties which, if at all, are permitted only to a person with whom one is in deep love. It is also not without significance that the prosecutrix stealthily went out with the appellant to a lonely place at 12 o'clock in the night. It usually happens in such cases, when two young persons are madly in love, that they promise to each other several times that come what may, they will get married..." (Emphasis supplied)

18. To summarise the legal position that emerges from the above cases, the "consent" of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the "consent" was vitiated by a "misconception of fact" arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false

promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act."

25. Furthermore, as far as the offences punishable under Section 3 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act are concerned, no *prima facie* material is on record to incriminate the applicant. We are therefore of the view that the matter squarely falls within the laid down parameters of the judgment in the case of *State of Harayana and others vs. Ch. Bhajan Lal and others, 1992 AIR 604*, which read as under :

“1)

2)

3)

4)

5) *Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

6)

7) *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."*

26. In view of the above discussion, we pass the following order :

ORDER

- i) Criminal application is **allowed**.
- ii) The First Information Report No.0266 of 2018 registered with Police Station Paratwada, District Amravati (Rural), for the offences punishable under Sections 376, 376 (2)(n), 417 read with Section 34 of the Indian Penal Code, 1860 and further offences punishable under Sections 3(1)(W)(i)(ii), 3(2)(va) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is quashed and set aside. Consequently, charge-sheet bearing No.142 dated 18.11.2019 as also Special Case No.1152 of 2019 are quashed and set aside.
- iii) No order as to costs.

(NANDESH S. DESHPANDE, J.) (URMILA JOSHI-PHALKE, J.)