



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.782 OF 2025

Suraj Santoshrao Bahe

Vs.

State of Maharashtra, through Police Station Officer, Police Station
Rajapeth, District Amravati and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. B. Gandhe, Advocate for applicant.
Mr. N. H. Joshi, APP for non-applicant No.1/State.
Mr. S. V. Sirpurkar, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
DATED : 18/12/2025

1. Present application is preferred by the applicant for quashing of the First Information Report in connection with Crime No.146/2025 registered with Police Station Rajapeth, District Amravati for the offence punishable under Sections 64(1), 64(2)(m), 69 and 351(2) of the Bharatiya Nyaya Sanhita, 2023.

2. The crime is registered on the basis of a report lodged by the informant on an allegation that she got acquaintance with the present applicant as a colleague in the year 2019. In the year 2022, the applicant proposed her to marry, but she has refused the said proposal as the applicant is almost eight years younger to the non-applicant No.2. Thereafter also the applicant was insisting her for marriage by saying that he likes her and on 25.08.2024, the applicant took

the non-applicant No.2 to his residence by saying that his family members wanted to meet her and as there was nobody in the house, he had subjected her for the forceful sexual assault on the pretext of marriage, and thereafter on various occasions, he has developed the relationship with her and subsequently, denied to perform the marriage with her. On the basis of the said report, police have registered the crime against the present applicant.

3. During the investigation, the Investigating Officer has recorded the relevant statements of the witnesses and after completion of the investigation, he submitted charge sheet against the present applicant.

4. Heard learned counsel for the applicant, who submitted that Section 376 of IPC provides for enhanced punishment in cases where rape is committed repeatedly on the same woman. It mandates rigorous imprisonment for a term of not less than ten years which may extend to life imprisonment. He submitted that as far as the present case is concerned, admittedly, the prosecution case is that there was acquaintance between the victim and the present applicant as they were working together and the present applicant has proposed her and on the promise of marriage, he has developed relationship with her. He submitted that from the statement of the victim itself, it is apparent that it is a consensual relationship, and mere breach of promise is not sufficient to attract the offence under Section 376 of IPC. He submitted that though the alleged incident as per the allegation of the informant is of 25.08.2024 i.e. the first

incident, but since 25.08.2024 she has not made complaint and first time she has made grievance on 08.04.2025 when the marriage was not performed. He also invited our attention towards the entire investigation papers and submitted that considering the nature of the relationship and the WhatsApp chat between them, it is apparent that it is a consensual relationship between the victim and the present applicant and therefore, no offence is made out against the present applicant. In support his contention he placed reliance on the decision of **Samadhan s/o Sitaram Manmothe vs The State of Maharashtra and another** reported in **2025 LiveLaw (SC) 1137** wherein the Hon'ble Apex Court has considered its earlier decision and observed that the present case is not a case where the appellant lured respondent No.2 solely for physical pleasures and then vanished. The relationship continued for a period of three long years, which is a considerable period of time and they remained close and emotionally involved and thereby quashed the proceeding. Learned counsel for the applicant submitted that the facts of the present case and facts of the cited case are identical and the observations are squarely applicable to the present case also, in view of that the application deserves to be allowed.

5. Per contra, learned APP strongly opposed the same and submitted that on the false promise of marriage, she was subjected for the sexual assault and thereby the offence is made out against the present applicant.

6. Learned counsel for the non-applicant No.2 also reiterated the said contention and submitted that the intention

of the present applicant can be gathered from the circumstances that he has proposed her though she has refused his proposal, and thereafter subjected her for the sexual assault, and therefore, the *prima facie* case is made out against him. In view of that, the application deserves to be rejected.

7. Considering the principles laid down in the case of **State of Haryana and others Vs Bhajan Lal and others** reported in **1992 Supp. (1) SCC 335** wherein following principles / guidelines are laid down by the Hon'ble Apex Court for consideration of the application under Section 482 of Cr.P.C.

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(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) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(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."

8. The application of the present applicant requires to be considered. In the present case, the allegation of the sexual assault entirely against the present applicant on the basis that there was a promise of marriage and on the promise of marriage, he has subjected her for the sexual assault. The recitals of the FIR also shows that they got acquainted as they were working in the same office and there is a relationship since 2024. The WhatsApp chat which is also placed on record also shows that there was a communication between them to the extent that there was a promise of marriage and out of promise of marriage, there was a consent on the part of the victim. This fact aspect is considered by the Hon'ble Apex Court in cited judgement i.e. **Samadhan s/o Sitaram Manmothe vs The State of Maharashtra and another** in which the earlier of the Apex Court is referred in **Mahesh**

Damu Khare Vs. State of Maharashtra, (2024) 11 SCC 398, wherein it was observed that if a man is accused of having sexual relationship by making a false promise of marriage and if he is to be held criminally liable, any such physical relationship must be traceable directly to the false promise made and not qualified by other circumstances or consideration. A woman may have reasons to have physical relationship other than the promise of marriage made by the man, such as personal liking for the male partner without insisting upon formal marital ties. Thus, in a situation where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical relationship was purely because of the alleged promise made by the appellant to marry her.

9. Similar is the present case. In the present case also the prosecution case is not that the applicant lured the non-applicant No.2 solely for physical pleasures out of lust and then vanished. The relationship was continued between them for more than one year, which is a considerable period of time. They remained close and she was involved in a physical intimacy between that period which occurred during the course of a functioning relationship cannot be retrospectively branded as instances of offence of rape merely because the relationship failed to culminate in marriage.

10. In view of above facts and circumstances, the application deserves to be allowed. Accordingly, we proceed to pass following order:

ORDER

(i) The application is **allowed**.

(ii) The First Information Report in connection with Crime No.146/2025 registered with Police Station Rajapeth, District Amravati for the offence punishable under Sections 64(1), 64(2)(m), 69 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 and consequent proceeding arising out of the same bearing Regular Criminal Case No.1065/2025, are hereby quashed and set aside to the extent of the present applicant.

The application is disposed of.

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