



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

CRIMINAL APPLICATION (APL) NO.1001 OF 2021

APPLICANT(S) : 1) **Rakesh s/o Dyaneshwar Suryawanshi,**
Aged 24 years, Occ. : Service,
(Gunner in Army Camp Leh Laddhak
(Jammu & Kashmir) in a Indian Army)
permanent R/o Tukaram Maharaj Mandir,
Dahiwal, Nashik, Tq. & Dist. Nashik,
presently posted in Army Camp Leh
Laddhak.

..VERSUS..

NON-APPLICANT(S) : 1) **State of Maharashtra,**
through Police Station House Officer,
Police Station Ganeshpeth, Nagpur City,
Tq.& Dist. Nagpur.
2) **Kavita Jaiprakash Bashine,**
Aged About-22 years, Occupation -Nurse,
Permanent R/o Sirsoli, P.S. & Tq.
Mohadi, Dist Bhandara.

Mr. U.K. Bisen, Advocate for Applicant/s.
Ms Shamsi Haider, APP for the non-applicant/State

CORAM : **ANIL S. KILOR AND PRAVIN S. PATIL, JJ.**

DATE : **7th May, 2025**

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.

2. **Rule.** The Rule is made returnable forthwith. Heard

finally by consent of learned counsel for the respective parties. None appears for the non-applicant No.2, though served long back.

3. This is an application filed under Section 482 of the CrPC for quashing and setting aside the First Information Report (FIR) No.99 of 2021 dated 18.03.2021, registered with Police Station Ganeshpeth, Dist. Nagpur, for the offence punishable under Section 376(1) of the IPC.

4. It is the case of the prosecution that the non-applicant No.2 on 18.03.2021 lodged a report in the police station, alleging therein that the applicant made a false promise of marriage and established physical relations with her. It is further stated that when she was pregnant, the applicant asked her to abort the child, and therefore, she took some pills for the said purpose. It is alleged that after the abortion, when she asked about marriage, the applicant started avoiding her and told her that after the marriage of his elder brother, he would perform the marriage. Since he started to avoid her, she lodged the complaint.

5. In the statement recorded under Section 164 of the CrPC, the non-applicant No.2 maintained the said allegations; however, it is stated that she asked the brother and sister of the applicant for marriage; thereupon, they told her that it was not possible.

6. In the above-referred facts, we have heard the learned counsel for the applicant and the learned APP.

7. The learned counsel for the applicant submits that there was no false promise of marriage, and it is not the case that the applicant refused to marry her. He submits that the complaint itself says that the applicant promised to marry her, but after the marriage of his elder brother. He submits that the complaint was lodged only because the non-applicant No.2 felt that the applicant was avoiding her. He therefore submits that it is not the case of misconception under which the physical relations were established. He therefore submits that since this is a case of a consensual relationship, no offence attracts as alleged. He, therefore, pays for quashing the FIR in question.

8. On the other hand, the learned APP strongly

opposed the application and submits that it is a case of false promise, underwhich the applicant established physical relations with complainant, and subsequently he started avoiding her, and that was the cause to file the complaint.

9. Having heard the learned counsel for the respective parties, after going through the record and the FIR, it is evident that though it is the case of the complainant that she allowed the applicant to establish physical relations with her because of his promise of marriage, nowhere she has stated that he refused to marry her subsequently.

10. On the contrary, the complaint discloses a fact that when she asked for marriage after the abortion, the applicant told her that he would marry her after the marriage of his elder brother. It is a common knowledge that in Hindu tradition, elder members of family are given significant priority and respect. Elders are often given priority in serving food and being greeted. This is seen as a way to show respect and honour. Therefore, if the applicant said that he would perform marriage with the non-applicant No.2 after his elder brother's

marriage, there is no wrong in it.

11. In the matter at hand, the reason, that is stated in the complaint for lodging the report, is not that the applicant refused to marry her, but the reason was that he started avoiding the complainant.

12. Even the statement, recorded under Section 164 of the CrPC, speaks about the intentions of the applicant to marry her. The Statement under Section 164 of the CrPC discloses the fact that the complainant spoke with the brother and sister of the applicant, who expressed that the marriage between the applicant and the non-applicant No.2 is not possible.

13. Thus, considering the above referred facts, it can be seen that there was no false promise of marriage since its inception and in absence of such a false promise, it cannot be said that a consent to establish physical relations was given by the complainant under misconception.

14. In the circumstances, it is evident that the relations between the applicant and the non-applicant No.2 were consensual in nature, and it was with the consent of the non-

applicant No.2. Thus, the offence, as alleged, does not attract against the applicant in this case. Therefore, we are of the considered view that this is a fit case for quashing and setting aside the FIR against the applicant. Accordingly, we pass the following order:

- (i) The application is **allowed**.
- (ii) The the First Information Report (FIR) No.99 of 2021 dated 18.03.2021, registered with Police Station Ganeshpeth, Dist. Nagpur, for the offence punishable under Section 376(1) of the IPC, is hereby quashed and set aside, against the present applicant.

Rule accordingly.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)