



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 1509/2025

MR. KAILASHDAS S/O
PRITAMDAS SARBA alias MR.
KAILASH S/O PRITAMDAS
PANAKA, Aged 43 Years,
Occupation Labour, resident of 17,
Ghoghari Raiyat Village, Tahsil-
Ghansour, District- Seoni, Madhya
Pradesh

... APPLICANT

...VERSUS...

1. THE STATE OF MAHARASHTRA,
Through Police Station Officer,
Police Station Hinganghat,
District - Wardha
(Maharashtra State)
2. SAVITRI KUWARSINGH UIKEY
Crime No. 1068/2018, Police
Station – Hinganghat, Wardha

...NON-APPLICANTS

Shri C.J. Dhruv, Advocate for applicant
Ms S.S. Dhote, APP for non-applicant No.1/State
Shri N.R. Jadhav, Advocate for non-applicant No.2

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

RESERVED ON : 10.10.2025
PRONOUNCED ON : 06.11.2025

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

Heard. **Admit.** Heard finally with the consent of learned Counsel for both the parties.

2. This is an application filed by the applicant seeking quashing of the First Information Report No. 1068/2018, dated 21.07.2018, registered with the non-applicant No.1, Police Station Hinanghat, District Wardha, for the offences punishable under Sections 376(2)(n) of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and also, the final report/charge-sheet No. 231/2018, dated 30.10.2018, registered with the non-applicant No.1, Police Station Hinanghat, District Wardha, for the offences punishable under Sections 376(2)(n) and 506 of the Indian Penal Code and Sections 3(1)(w)(i)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, as also the Criminal Trial before the Additional Sessions Judge, Hinganghat vide Spl. (Atro) C. No. 09/2018.

3. It is the case of the non-applicant No.2, and as can be seen from the First Information Report in question that the non-applicant No.2 is a labourer who has migrated to Hinganghat from her village in Madhya Pradesh, in search of work, and joined a contractor named Imran Ansari for the construction of Nagar Parishad building. It is further stated that the contractor made arrangements for all the labourers to reside in another building in Cotton Market in Hinganghat. The applicant, while working in the said Nagar Parishad building, came in contact with the non-applicant No.2, and after a few days they started to reside together as husband and wife. It is further stated in the First Information Report that the applicant subjected the non-applicant No.2 to sexual intercourse on the pretext of marriage on multiple occasions. On 12.06.2018, the applicant left for his village for the purpose of paddy sowing, stating that he would return within five days. However, subsequently, the non-applicant No.2 found that she was pregnant. Furthermore, when the applicant did not return, the non-applicant No.2 on 21.07.2018, lodged the First Information Report as stated above for the offences punishable under various sections. On 30.10.2018, charge-sheet No. 231/2018, was filed in the matter.

The present application is being filed for quashing of the First Information Report and the consequent charge-sheet filed by the Investigating Agency, on completion of investigation.

4. We have heard Shri C.J. Dhruv, learned Counsel for the applicant, Ms S.S. Dhote, as also, learned Additional Public Prosecutor for the non-applicant No.1/State, and Shri N.R. Jadhav, learned Counsel for the non-applicant No.2.

5. Shri Dhruv, the learned Counsel for the applicant states that the parties to the matter have amicably settled the matter and accordingly an affidavit is filed by the non-applicant No.2, in the present matter. He further submits that even otherwise, no offence as contemplated under the sections stated supra is made out from the meaningful reading of the First Information Report. We have personally verified the contents of the affidavit from the parties who were present before us and have been identified by their respective Counsel on 10.10.2025.

6. Learned Additional Public Prosecutor, however, opposes the

contentions made by the learned Counsel for the applicant and states that mere settlement between the parties cannot be a reason to quash the First Information Report and the consequent charge-sheet.

7. Learned Counsel for the non-applicant No.2, Shri Jadhav, however, fairly submits that the matter has been settled and prays for quashing of the First Information Report and the charge-sheet.

8. In light of these submissions, we have perused the material on record. As can be seen from the said, the First Information Report was lodged on 21.07.2018. It is noteworthy to mention that the applicant is 43 years of age, while the non-applicant No.2 is 21 years of age. Thus, both of them are adults, major, and are able to understand the consequences of entering into and continuing the live-in relationship. It is a matter of record that the non-applicant No.2 has filed an affidavit, wherein, she has made the following averments.

“5. I have voluntarily entered into a complete and amicable settlement with the Applicant without any coercion, pressure, threat, or undue influence

whatsoever. I am an adult of sound mind and have taken this decision after full deliberation with my family and after receiving legal advice. The settlement is genuine and made in good faith.

6. *I clarify that the relationship between me and the Applicant was consensual in nature based on mutual affection and consent between two adults. The physical intimacy was with my full knowledge and voluntary consent without any force, coercion, or misrepresentation. The complaint arose from emotional distress when the Applicant left for his village, coupled with the discovery of my pregnancy.”*

9. True it is that the offences complained of are non-compoundable in nature, but as stated by the Hon’ble Apex Court in the judgment of ***Pramod Suryabhan Pawar Vs. State of Maharashtra and another, (2019) 9 SCC 608***, after exhaustively dealing with the case laws related to the subject, this Court held 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 this Court observed: (SCC pp. 682-84, paras 21 & 24)

"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."

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."

10. It is thus the dictum of the Hon'ble Apex Court that, even if, the offences are non-compoundable that would not deter this Court from exercising powers available under Section 482 of the Criminal Procedure Code, for quashing the proceedings, if the contingencies are mentioned therein are present. In the present case, looking at the age of the parties and more particularly the allegations, we are of the considered view that the relationship is between two adults and major persons who are able to understand the consequences of any act or omission to be done by them. Thus, the only inevitable conclusion is that the relationship was of a consequential nature. The fact is amplified by the affidavit in reply, filed on record by the non-applicant No.2. It would, therefore, be an exercise in futility to continue the proceedings any further, as there are no chances of conviction, in view of no objection by the complainant. It would

therefore be a fit case to exercise inherent jurisdiction under Section 482 of the Criminal Procedure Code, (Section 528 of the Bhartiya Nagrik Suraksha Sanhita), and to quash the proceedings, as the continuance would amount to nothing but an abuse of process of the Court. It can, however, be seen that the entire police machinery and the Investigating Agency have spent their valuable time and efforts in filing a charge-sheet in the matter by recording the statements of the witnesses and collecting other material on record. It would be therefore, in the interest of justice to impose costs on the applicant and the non-applicant No.2, to compensate the Investigating Agency. We therefore, proceed to pass the following order :

ORDER

- i) The application is allowed.
- ii) The First Information Report No. 1068/2018, dated 21.07.2018, registered with the non-applicant No.1, Police Station Hinanghat, District Wardha, for the offences punishable under Sections 376(2)(n) of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989, and also, the final report/charge-sheet No. 231/2018, dated 30.10.2018, registered with the non-applicant No.1, Police Station Hinanghat, District Wardha, for the offences punishable under Sections 376(2)(n) and 506 of the Indian Penal Code and Sections 3(1)(w)(i)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, as also the Criminal Trial before the Additional Sessions Judge, Hinganghat vide Spl. (Atro) C. No. 09/2018, are hereby quashed and set aside, subject to payment of cost of Rs.20,000/-, each by the applicant and the non-applicant No.2, within two weeks from the date of this order.

iii) The cost is to be paid to the C.M. relief fund, within two weeks from the date of this order, and the compliance be reported to this Court accordingly.

11. The application is disposed of.

(NANDESH S. DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

Jayashree..