



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.09.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

CrI.O.P.No.21448 of 2025

1.Sivakumar

2.Sakthivel

... Petitioners

Versus

1.The State Rep by

The Inspector of Police

AWPS Police Station

Koyambedu, Chennai – 600 107

2. XXXX (Defacto complainant)

... Respondents

PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, to call for the records relating to the FIR in Crime No.9 of 2025 on the file of the 1st respondent police and quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.R.Krishnakumar

For Respondents : Mr.K.M.D.Muhilan for R1

Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the F.I.R. in Crime No.9 of 2025, on the file of the first respondent police, for the offences punishable under Sections 69, 351(3) of BNS, 2023.

2. The crux of the allegations in the FIR are that the first accused was



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working as a driver to the defacto complainant/second respondent's father and maintained a relationship with the family as a family friend. After the demise of her father, the second respondent married one Venkat Prabhu and later obtained a divorce. The first accused as a well wisher supported her during the divorce proceedings and on the promise to marry her had sexual intercourse with her and had borrowed a sum of Rs.5 lakhs from her, the second accused who is the brother of the first accused had criminally intimidated her. Hence, the complaint was given and FIR was registered in Cr.No.10 of 2022 for the offences punishable under Sections 69, 351(3) of BNS, 2023 and now the same is sought to be quashed.

3. Now, the parties have filed a joint memorandum of compromise before this Court stating that due to intervention of well wishers, elders, relatives and after mutual discussions, both parties have realised that the matter was entirely personal in nature and continuation of criminal proceedings would only lead to unnecessary mental agony, harassment. Therefore, the parties have filed a joint memorandum of compromise, wherein, the defacto complainant expressed her no objection to quash the FIR in Cr.No.9 of 2025 against the accused. The petitioners and the de-facto complainant/R2 appeared before this Court and were identified by



M/s.K.Janaki, Sub Inspector, W35, AWPS Police Station, Koyambedu.

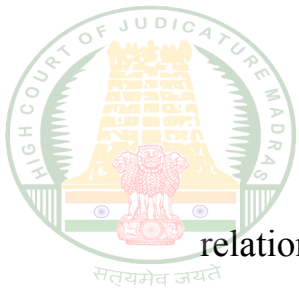
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4. Heard both sides and perused the materials placed on record. At the outset, this Court is of the view that the offences of serious nature, compounding is not permissible, however, taking note of the allegations pressed in the FIR, this Court is inclined to dispose of the matter on merits.

5. Section 69 of the Bharatiya Nyaya Sanhita, 2023 reads as follows:

"Section 69 - Sexual intercourse by employing deceitful means etc. Whoever, by deceitful means or by making promise to marry 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.

6. The very allegations raised by her indicate that she has completed Computer Science Diploma Course and had affair with the A1 and both had sexual intercourse on many occasions. Though it is alleged that A1 has deceived her by giving promise of marriage and had sexual intercourse, when the FIR carefully perused, it clearly indicates that they had sexual intercourse for multiple times. Had it been a case in which relationship developed once or twice and prosecutrix restrained the applicant for further developing physical



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relationship between them asking him to first fulfil the promise of marriage, then it would have been a case of false promise of marriage. Therefore, it cannot be stated that only because of deception played by A1, she had succumbed to such a pressure. To bring the case within the ambit of misconception of fact, there must be materials to show that bad faith or deception was present from the very inception. Whereas, the entire allegations in the FIR clearly indicate that the defacto complainant and the A1 had indulged in sexual intercourse for several times. In fact, defacto complainant also consented to have sexual intercourse for many times. In such a situation, to bring the act of A1 under the ambit of misconception of facts, there must be evidences or atleast some materials, which is not available on perusing the entire materials.

7. The very factum that they had sexual intercourse many times indicate that the alleged deception from the very inception is absent. In such a situation, it cannot be held that such consent would fall within the ambit of misconception of fact.

8. In this regard, it is relevant to rely upon the judgment of the Hon'ble Apex Court in *Pramod Suryabhan Pawar Vs. State of Maharashtra* reported in (2019) 9 SCC 608, wherein, in paragraphs 16, 21 and 23, the Hon'ble



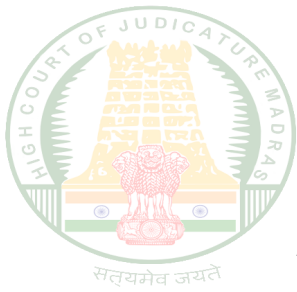
Supreme Court has held as follows:

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“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.

21. The allegations in the FIR do not on their face indicate that the promise by the appellant was false, or that the complainant engaged in sexual relations on the basis of this promise. There is no allegation in the FIR that when the appellant promised to marry the complainant, it was done in bad faith or with the intention to deceive her. The appellant's failure in 2016 to fulfil his promise made in 2008 cannot be construed to mean the promise itself was false. The allegations in the FIR indicate that the complainant was aware that there existed obstacles to marrying the appellant since 2008, and that she and the appellant continued to engage in sexual relations long after their getting married had become a disputed matter. Even thereafter, the complainant travelled to visit and reside with the appellant at his postings and allowed him to spend his weekends at her residence. The allegations in the FIR belie the case that she was deceived by the appellant's promise of marriage. Therefore, even if the facts set out in the complainant's statements are accepted in totality, no offence under Section 375 of the IPC has occurred.

23. Without entering into a detailed analysis of the content of the WhatsApp messages sent by the appellant and the words alleged to have been spoken, it is apparent that none of the offences set out above are made out. The messages were not in public view, no assault occurred, nor was the appellant in such a position so as to dominate the will of the complainant. Therefore, even if the allegations set out by the complainant with



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respect to the WhatsApp messages and words uttered are accepted on their face, no offence is made out under SC/ST Act (as it then stood). The allegations on the face of the FIR do not hence establish the commission of the offences alleged.“

9. The Hon'ble Supreme Court in *Sonu Vs. State of Uttar Pradesh* reported in *AIR 2021 SC 1405* has held in paragraphs 9 and 11 as follows:

“9. In Pramod Suryabhan Pawar (supra), while dealing with a similar situation, the principles of law which must govern a situation like the present were enunciated in the following observations:

“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...?”

11. Bearing in mind the tests which have been enunciated in the above decision, we are of the view that even assuming that all the allegations in the FIR are correct for the purposes of considering the application for quashing under Section 482 of CrPC, no offence has been established. There is no allegation to the effect that the promise to marry given to the second respondent was false at the inception. On the contrary, it would appear from the contents of the FIR that there was a subsequent refusal on the part of the appellant to marry the second respondent which gave rise to the registration of the FIR. On these facts, we are of the view that the High Court was in error in declining to entertain the petition under Section 482 of CrPC on the basis that it was only the evidence at trial which would lead to a determination as to whether an offence was established.”



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10. The Hon'ble Supreme Court in the case of *Mahesh Damu Khamre*

vs. State of Maharashtra and others reported in reported in 2024 SCC Online

3471 although considered the case of 376 IPC on a false promise of marriage but taking note of the fact and observation made by the Supreme Court it is clear that if relationship is continued for long then it cannot be presumed that the said relationship is developed due to false promise of marriage. The observation made by the Supreme Court is as under :-

"22. In our view, 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. Thus, unless it can be shown that the physical relationship was purely because of the promise of marriage, thereby having a direct nexus with the physical relationship without being influenced by any other consideration, it cannot be said that there was vitiation of consent under misconception of fact.

...

27. Thus, from the above it appears that it is more of an extra-marital affair during the aforesaid period without any insistence by the complainant for getting married to the appellant. The fact that the complainant continued to have a physical relationship for a long time without any insistence on marriage would indicate the unlikelihood of any such promise made by the appellant for marrying her and it rather indicates that the



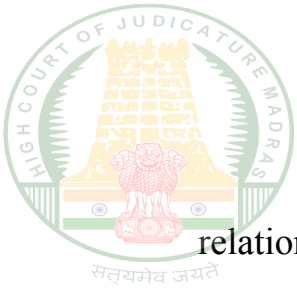
relationship was a consensual one. In our opinion, the longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a relationship based on false promise of marriage by the male partner and thus, based on misconception of fact".

11. Further, the Hon'ble Supreme Court in the case of *Bishwajyothi Chatterjee vs. State of West Bengal and another* reported in 2025 Live Law (SC) 404 has observed as to when relationship cannot be considered to be of a false promise of marriage.

"20. We find that there is a growing tendency of resorting to initiation of criminal proceedings when relationships turn sour. Every consensual relationship, where a possibility of marriage may exist, cannot be given a colour of a false pretext to marry. in the event of a fall out. It is such lis that amounts to an abuse of process of law, and it is under such circumstances, that we deem fit to terminate the proceedings at the stage of charge itself".

12. Thus it is clear from the aforesaid enunciation of law and observations made by the Hon'ble Supreme Court so as to substantiate the relationship between the parties cannot be considered to be developed on a false pretext of marriage.

13. In the present case also, considering the existing factual circumstances as has been narrated by the prosecutrix in the FIR and if the same is considered to be true at its face value, it is clear that the said



relationship is not on a false promise of marriage and as such material ingredients of Section 69 of BNS are completely missing and this relationship cannot be considered to be a relationship developed on a false promise of marriage.

14. That apart, now, the defacto complainant along with the accused have also filed joint memorandum of compromise expressing no objection in quashing the FIR as against the accused/petitioners herein. In view of the above, continuing the FIR is nothing but an abuse of process of law and a futile exercise and it is nothing but harassment of the petitioners.

N.SATHISH KUMAR, J.

15. Such view of the matter, the Criminal Original Petition is allowed and the FIR in Crime No.9 of 2025, pending on the file of the first respondent police stands quashed.

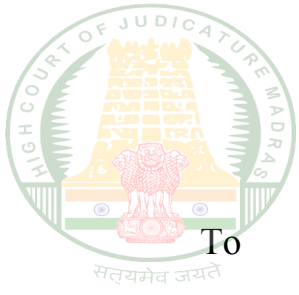
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2. The Public Prosecutor
Madras High Court.

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