



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 15.09.2025

+ **CRL.A. 191/2019**

STATE (GOVT OF NCT)Appellant
Through: Mr. Pradeep Gahalot, APP for State
with SI Lucky Lama.

versus

MIKAEL C WILLIAMSRespondent
Through: Mr. B.P. Agarwal and Mr. Ramesh
Chand, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal has been instituted assailing the judgment dated 05.11.2015 passed by the ASJ, Special Fast Track Court, Saket Courts, South District, New Delhi, in SC No. 49/2015 arising out of FIR No. 119/2013 registered at Police Station Malviya Nagar, Delhi whereby the respondent/accused was acquitted of the offences punishable under Sections 376, 417 and 377 of the Indian Penal Code. The leave to appeal was granted vide order dated 18.02.2019.

It is noted that earlier, the complainant had preferred CRL.L.P. 75/2016 assailing the same judgment of acquittal. However, the said petition came to be dismissed for non-prosecution by this Court vide order dated 18.02.2019.

2. The case of the prosecution before the trial court was that in March 2012, the respondent/accused befriended the prosecutrix through a common



friend and thereafter elicited her consent to have sexual intercourse on the alleged false promise of marriage. It was alleged that between April 2012 and March 2013, the parties were in a live-in relationship, initially at house 'X', and thereafter at house 'Y'. The prosecutrix, aged about 29 years at the time, claimed that the respondent had physical relations with her on the assurance of marriage, and further alleged incidents of unnatural sex. She alleged a miscarriage in October 2012, and later beatings and intercourse on 20.11.2012. A quarrel took place on 16.03.2013, during which she claimed that the accused sprayed insecticide in her mouth leading to a 100-number call and his departure from the house. The accused was arrested on 16.04.2013 and medically examined.

3. To substantiate its case, the prosecution examined eight witnesses. The prosecutrix, examined as PW-5, reiterated the allegations in detail and produced prescriptions and reports with respect to her health ailments at the relevant time, though several material allegations such as the first act being forcible and unnatural sex were absent from her complaint exhibited as Ex. PW-5/A and MLC exhibited as Ex. PW-5/B. PW-1 SI Deep Chand deposed to the arrest of the accused at Gurgaon and his potency test being conducted at AIIMS. PW-7 W/SI *Santosh Chauhan*, the IO, deposed that she received the complaint, got the FIR registered, prepared the site plan, arranged the prosecutrix's medical examination and later the accused's, and got her statement under Section 164 Cr.P.C. recorded; she admitted that allegations of unnatural sex were absent prior to that stage. PW-6 *Dr. Hansraj* proved the MLC of the accused (Ex. PW-6/A) and found no incapacity for performing sexual intercourse. PW-8 *Dr. Varnit* proved the MLC of the prosecutrix, recording a one-year live-in relationship with multiple acts of



intercourse, the last on 10.03.2013, but without mention of unnatural sex. The rest of the witnesses were formal in nature and deposed about the various aspects of investigation.

In his examination under Section 313 Cr.P.C., the respondent denied the allegations, asserting that the parties were in a consensual live-in relationship and that he always intended to marry her and her family members had also visited them. He examined one defence witness, Ms. *Sushmita Halder*, who was the co-worker of the respondent as DW-1. She deposed that the prosecutrix had willingly shifted in with the accused, had earlier been under psychiatric care, and frequently altered her versions before police. She denied the alleged incident of 18.03.2012 and stated that the prosecutrix herself had shown interest in cohabiting with the respondent. In cross-examination, she admitted that the prosecutrix had told her she was pregnant, but volunteered that the prosecutrix later said she had miscarried due to an accident.

4. Learned APP for the State argued that the Trial Court erred in discarding the testimony of the prosecutrix and failed to appreciate that the respondent never intended to marry her, as evidenced by his repeated postponement of marriage.

5. *Per contra*, Learned Counsel for the Respondent supported the acquittal, submitting that the relationship was consensual throughout, that the prosecutrix was a mature and educated woman who knowingly entered into a live-in relationship, and that the allegations of false promise and unnatural sex were improvements not borne out from her initial complaint.



6. The Trial Court, after going through the testimonies and evidence placed on record, found that the accused had indeed proposed marriage to the prosecutrix in April 2012 and thereafter introduced her to his family, friends, and colleagues as his fiancée. He invited her to live with him, and even made arrangements for her when she was pregnant. These actions showed that he did not make a false promise from the outset, but rather that his later failure to marry was at most a breach of promise. The court observed that the prosecutrix, a 29-year-old educated woman with a graduation in economics and four years of law study, who had been living independently in Delhi since 2004, was mature and intelligent enough to understand the consequences of entering into a live-in relationship and consenting to sexual relations, and her own testimony revealed that she considered the accused as her husband, introduced him as such to her family and neighbours, and stayed with him voluntarily for about a year despite alleging violence and quarrels. The court highlighted contradictions between her complaint, her Section 164 Cr.P.C. statement, and her deposition, especially regarding the first alleged incident of rape in May 2012 and her claims of bleeding, forced intercourse, and subsequent hospital visits, none of which were mentioned in her initial complaint; similarly, allegations of unnatural sex were absent in her first complaint and MLC and surfaced later, which were treated as improvements and not credible. The court concluded that the prosecutrix's consent to sexual relations was not obtained under misconception of fact or deception, but was voluntary as part of the live-in relationship, and that the accused could not have known or believed that her consent was given solely on account of a promise to marry, particularly since both portrayed themselves as husband and wife and continued



intimacy over time showed it was not only the promise that induced consent. The court further observed that the relationship between the prosecutrix and the accused was turbulent, marked by frequent quarrels, which reflected temperamental incompatibility rather than criminal conduct. In these circumstances, it held that the prosecution had failed to prove beyond reasonable doubt that the accused had compelled the prosecutrix into sexual relations, that her consent was vitiated by a false promise of marriage, or that he had engaged in forced carnal intercourse without her consent. Consequently, the court acquitted the accused of all charges under Sections 417, 376, and 377 IPC.

7. A sexual relationship sustained over a considerable length of time between two adults, particularly when coupled with circumstances of cohabitation as a live-in couple, raises a presumption of valid and informed consent. The Supreme Court in Pramod Suryabhan Pawar v. State of Maharashtra reported as **(2019) 9 SCC 608**, made it clear that a promise of marriage would vitiate consent only if, at the very inception, it was made without any intention of being fulfilled and solely to induce the prosecutrix into sexual relations. A subsequent failure or inability to marry, without more, cannot be treated as a false promise. Similarly, in Deepak Gulati v. State of Haryana reported as **(2013) 7 SCC 675**, the Court drew a vital distinction between a mere breach of a promise and a false promise, holding that an accused can be convicted of rape only if the court concludes that his intention was *mala fide* from the very beginning and motivated by clandestine purposes. Applying these settled principles to the present case, the relationship between the prosecutrix and the accused was not a short-lived encounter but rather a live-in relationship extending for nearly one



year, during which the prosecutrix herself admitted to addressing and projecting the accused as her husband and residing with him as such. Their continued co-habitation, despite alleged quarrels and disputes, reinforces the inference that the physical relationship was entered into voluntarily and not merely on account of a misrepresentation. The observations of the Supreme Court in Ravish Singh Rana v. State of Uttarakhand reported as **(2025) SCC OnLine SC 1055**, fortify this conclusion, where the Court held that in cases of long-drawn live-in relationships, the presumption must be that the relationship was consensual, the Court observed as under:

“14. In the instant case also, we find that the relationship between the appellant and the second respondent (the informant) was spread over two years. Further, they not only admit of having physical relations with each other but also of living together in a rented accommodation as a live-in couple. In our view, if two able-minded adults reside together as a live-in couple for more than a couple of years and cohabit with each other, a presumption would arise that they voluntarily chose that kind of a relationship fully aware of its consequences. Therefore, the allegation that such relationship was entered because there was a promise of marriage is in the circumstances unworthy of acceptance, particularly, when there is no allegation that such physical relationship would not have been established had there been no promise to marry.

15. Moreover, in a long drawn live-in relationship, occasions may arise where parties in that relationship express their desire or wish to formalize the same by a seal of marriage, but that expression of desire, or wish, by itself would not be indicative of relationship being a consequence of that expression of desire or wish. A decade or two earlier, live-in relationships might not have been common. But now more and more women are financially independent and have the capacity to take conscious decision of charting their life on their own terms. This financial freedom, inter alia, has led to proliferation of such live-in relationships. Therefore, when a matter of this nature comes to a court, it must not adopt a pedantic approach rather the Court may, based on the length of such relationship and conduct of the parties, presume implied consent of the parties to be in such a relationship regardless of their desire or a wish to convert it into a marital bond.

16. In that view of the matter, in our considered view, the long-drawn relationship of the appellant and the second respondent including the



circumstance of their living together and cohabiting with each other, that too, in a separate rented accommodation, would give rise to a presumption that their relationship was based on a valid consent.

17. The settlement agreement, dated 19.11.2023, which is not disputed by the second respondent, points out that the parties had been in love. In such circumstances, we are of the view that on ground of refusal to marry, the appellant cannot be subjected to prosecution for the offence of rape. The other allegations of assault and abuse have not been supported by any material particulars. Even the alleged sexual assault on 18.11.2023 is negated by the recital in the settlement agreement that parties love each other.”

Further, in Prashant v. State of NCT of Delhi reported as (2025) 5 SCC 764, the Supreme Court reiterated that the mere breakup of a consensual relationship cannot transform it into an offence of rape, for what begins as consensual intimacy between adults cannot retrospectively be criminalized merely because the relationship did not culminate in marriage. The present case is squarely covered by these principles.

8. The law pertaining to double presumption of innocence operating in favour of an accused at the appellate stage after his acquittal by the Trial Court is fortunately a settled position, no longer *res integra*. A gainful reference may be made to the Supreme Court’s decision in *Ravi Sharma v. State (NCT of Delhi)*, reported as (2022) 8 SCC 536, wherein it was observed, as hereunder:

“8. ...We would like to quote the relevant portion of a recent judgment of this Court in Jafarudheen v. State of Kerala [Jafarudheen v. State of Kerala, (2022) 8 SCC 440] as follows : (SCC p. 454, para 25)

“25. While dealing with an appeal against acquittal by invoking Section 378CrPC, the appellate court has to consider whether the trial court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the



accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.””

9. At this juncture, it is also deemed apposite to refer to the decision of the Supreme Court in Anwar Ali v. State of H.P., reported as **(2020) 10 SCC 166**, wherein it has been categorically held that the principles of double presumption of innocence and benefit of doubt should ordinarily operate in favour of the accused in an appeal to an acquittal. The relevant portions are produced hereinunder:

“14.1. In Babu [Babu v. State of Kerala, (2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179] , this Court had reiterated the principles to be followed in an appeal against acquittal under Section 378 CrPC. In paras 12 to 19, it is observed and held as under: (SCC pp. 196-99)

“ ...

13. In Sheo Swarup v. King Emperor [Sheo Swarup v. King Emperor, 1934 SCC OnLine PC 42 : (1933-34) 61 IA 398 : AIR 1934 PC 227 (2)] , the Privy Council observed as under: (SCC Online PC: IA p. 404)

‘... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses.’

...

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.



(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.'

10. On a holistic appraisal of the material on record, and guided by the principles laid down in the judgments cited, this Court finds that the deposition of the prosecutrix does not inspire confidence. Her testimony suffers from material contradictions and improvements when compared to her initial complaint and her statement under Section 164 Cr.P.C., particularly in respect of the allegations of forcible sexual intercourse and of unnatural sex which followed thereafter, both of which were conspicuously absent in her first version but introduced subsequently. These inconsistencies substantially erode the credibility of her account. It also stands established from her own evidence that she continued to reside with the accused in a live-in relationship for nearly a year, during which period she addressed him and projected him as her husband, and physical relations were admitted to have taken place throughout. In such circumstances, it cannot be said that her consent was vitiated by any false promise of marriage. The evidence instead reflects that the relationship was marred by quarrels and police interventions arising from differences. In the absence of clear, consistent and cogent evidence, and the prosecution having failed to discharge the burden of proving the charges beyond reasonable doubt, the accused is entitled to the benefit of doubt.

11. In view of the above, this Court finds no reason to interfere with the finding of acquittal recorded by the Trial Court. The appeal filed by the State is accordingly dismissed.



2025:DHC:8355



12. A copy of this judgment be communicated to the Trial Court and Jail superintendent concerned.

MANOJ KUMAR OHRI
(JUDGE)

SEPTEMBER 15, 2025

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