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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 25.02.2025*+ **CRL.M.C. 4521/2019 & CRL.M.A. 35443/2019****DEVESH BHARDWAJ**

.....Petitioner

Through: Mr. Hrishikesh Baruah, Mr.
Parth Goswami, Mr. Akshay
Kumar and Ms. Lakshmi
Walia, Advocates

versus

STATE & ANR.

.....Respondents

Through: Mr. Naresh Kumar Chahar,
APP for the State with SI
Kavish Rana, P.S. Laxmi
Nagar

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J**

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] has been filed on behalf of the petitioner, seeking quashing of chargesheet and proceedings in SC/3339/2018, arising from FIR No. 416/2018, registered at Police Station Shakarpur, Delhi, for offence punishable under Section 376 of the Indian Penal Code, 1860 [hereafter '*IPC*'].

2. Briefly stated, the facts of the present case are that on 01.09.2018, a complaint was filed by the complainant, i.e. respondent



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no. 2 herein. In her complaint, the complainant stated that she had first met the petitioner in 2007 during her college years, during which he had acted as her brother, and had gained the trust of her family members. The complainant further stated that after completing college, the petitioner had informed her that she should no longer consider him as a brother. She alleged that in October-November 2016, the petitioner had started visiting her more frequently, spending considerable time with her, and had told her that he knew her ex-husband, whom he described as not a good person. Over the period of time, they had begun meeting almost daily, and the petitioner had also shared details about his ex-girlfriend. She further stated that on 26.01.2017, the petitioner had taken her on a date and had attempted to get closer to her. On 18.02.2017, on the occasion of her birthday, the petitioner had visited her house with a bouquet and had proposed marriage. Additionally, she stated that on 01.03.2017, she and the petitioner had attended the wedding of a mutual friend. After the wedding, the petitioner had taken her to a friend's house in Indirapuram, Delhi, where he had allegedly attempted to establish physical relations with the complainant, but she had refused. The complainant also alleged in her complaint that on 25.03.2017, the petitioner had taken her to Hotel Clark Inn, Kaushambi, Delhi, and had insisted on engaging in sexual relations. She further stated that, thereafter, the petitioner had taken her to hotels, his friends' houses, and other places where they had engaged in physical relations. However, whenever she had asked him about marriage, he had sought more time. She also alleged that on 16.08.2017, they had stayed at



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Hotel Umrao, near Gurugram, where the petitioner had advised her to divorce her husband, promising that they would settle in the United States of America afterwards. She has further stated that whenever she had visited the petitioner's house, his parents had assured her that they would arrange their marriage soon. The petitioner and respondent no. 2 had prepared and studied for settling in the USA and had also given the IELTS exam for this purpose. After some time, they had changed their plan and had decided to settle in Australia and spend their matrimonial life there. On 27.03.2018, the complainant had obtained a mutual consent divorce from her husband. It is alleged that on the same day, the petitioner and complainant had met, and the petitioner had established physical relations with her in a Oyo Hotel, on the false pretext of marriage. However, on 20.05.2018, the petitioner had ultimately refused to marry her. On these allegations, the present FIR came to be registered. The statement of the complainant was recorded under Section 164 of the Cr.P.C. After completion of investigation, chargesheet was filed against the petitioner.

3. The learned counsel appearing for the petitioner contends that the petitioner, who is a young engineering professional working in a prestigious multinational company, has been falsely implicated in the present case. It is submitted that the complaint was cleverly drafted by respondent no. 2 in a manner to suggest that she was not married at the time she had started meeting the petitioner. However, the respondent no. 2 is an educated woman, who was already married at



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the relevant time. It is further argued that even if the allegations in the FIR are assumed to be true at face value, no offence under Section 376 of IPC is made out against the petitioner. A plain reading of the FIR reveals that respondent no. 2 was in a consensual relationship with the petitioner while her marriage was still subsisting. The learned counsel submits that, as per allegations in the FIR, respondent no. 2 had started engaging in sexual relations with the petitioner in March 2017, while by her own admission, she had obtained a mutual consent divorce from her husband only on 27.03.2018. This clearly indicates that respondent no. 2 was already married during the period she was in a relationship with the petitioner, and the said relationship was entirely consensual. The learned counsel further argues that respondent no. 2 has misused the legal process to blackmail the petitioner with the intention of extorting money from him. It is submitted that she had even filed a false complaint against the petitioner at his workplace, which was duly investigated by an internal committee. The said inquiry had exonerated the petitioner, finding no merit in the allegations made by respondent no. 2. This, according to the petitioner, is yet another indication of the mala fide intent behind the complaint. Lastly, it is submitted that the petitioner is innocent and that the allegations in the FIR are entirely false, baseless, and an abuse of the legal process. The learned counsel, therefore, prays for the quashing of the chargesheet and all consequential proceedings arising out of the present FIR.



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4. *Per contra*, the learned APP for the State has vehemently opposed the prayer made in the present petition. It is submitted that after the registration of the FIR, evidence was collected, and the statement of the complainant was recorded under Section 164 of the Cr.P.C., wherein she had reiterated the allegations made in the FIR. It is argued that since the investigation has been completed, the chargesheet has already been filed and the case is now pending trial, the petitioner is at liberty to raise all the pleas advanced in the present petition before the learned Trial Court, which is the appropriate forum for adjudication of factual disputes. Accordingly, it is prayed that the instant petition be dismissed.

5. Despite being granted several opportunities, the learned counsel for respondent no. 2 did not appear before this Court for addressing arguments. In these circumstances, this Court has **heard** arguments advanced on behalf of the petitioner and the State, and reserved the judgment. This Court has also perused the material placed on record.

6. In the present case, the allegations against the petitioner, in a nutshell, are that he had engaged in sexual relations with respondent no. 2 on the false pretext of marriage and had assured her that they would settle abroad as husband and wife. Relying on this promise, respondent no. 2 had obtained a mutual consent divorce from her husband on 27.03.2018. It is further alleged that on the same day, the petitioner and respondent no. 2 had met, and the petitioner had established physical relations with her in an Oyo Hotel under the



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false assurance of marriage. However, despite repeated assurances, the petitioner had eventually refused to marry her on 20.05.2018, leading to the registration of the present FIR.

7. The primary contention raised by the petitioner is that at the time when the alleged sexual relations were established, the complainant was already married, and therefore, there could be no false promise of marriage. The petitioner asserts that the relationship between him and the complainant was entirely consensual and that no offence under Section 376 of IPC is made out. However, this Court notes that there are specific and categorical allegations against the petitioner, wherein the complainant has stated that he had engaged in physical relations with her on multiple occasions under the false pretext of marriage. It has also been alleged that the petitioner had continuously assured her that he would marry her and had even pressured her to obtain a divorce from her then-husband so that they could start a new life together.

8. It is further significant to note that, as a matter of record, the complainant had, in fact, obtained a mutual consent divorce from her husband on 27.03.2018. As per the allegations, this decision was made entirely based on the insistence of the petitioner and his repeated assurances that he would marry her. The complainant has also alleged that during this period, the petitioner had introduced her to his family and assured her that he would soon discuss their marriage with them. Additionally, she has stated that the petitioner had not only promised her marriage but had also assured her that they



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would settle abroad together. Initially, the petitioner had told the complainant that they would move to the USA, and both of them had prepared for it, even appearing for the IELTS exam. However, after some time, they had changed their plans and decided to move to Australia instead. Despite these promises and commitments, on 20.05.2018, the petitioner ultimately refused to marry the complainant, leading to the registration of the present FIR.

9. In the present case, the allegations made by the complainant are serious in nature and raise questions that cannot be adjudicated at this stage. Whether the petitioner had, in fact, misled the complainant into believing that he would marry her and had induced her to obtain a divorce on the strength of such promises, or whether the relationship between them was purely consensual from the outset, are issues that cannot be adjudicated in a petition under Section 482 of the Cr.P.C. Furthermore, there are specific allegations that after she had obtained divorce from her husband on assurance of marriage by the petitioner, thereafter on false promise of marriage on 27.03.2018, when she had been divorced, he had established sexual relations with her. Thus clearly, she was divorced on 27.03.2018, at the instance and assurance of petitioner and after divorce, he had again on the assurance of marrying her, made physical relations with her.

10. Moreover, it is relevant to note that in the present case, the chargesheet has already been filed, but charges are yet to be framed. The petitioner shall, therefore, have the opportunity to raise all his contentions, including the aspect of the alleged consensual nature of



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the relationship, before the learned Trial Court. The Trial Court shall independently assess the material on record and deal with all such issues strictly in accordance with law.

11. At this stage, however, this Court does not find any ground to interfere with the ongoing criminal proceedings. Accordingly, the present petition alongwith pending application stands dismissed.

12. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 25, 2025/A