



2025:DHC:9925



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

% Reserved on : 30.10.2025
Pronounced on : 12.11.2025

+ **CRL.A. 637/2016**

MAHINDER SONI

.....Appellant

Through: Mr. Nachiketa Suri and Mr. Ankur Rana,
Advocates

versus

GOVERNMENT OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for State
with SI Pavan Kr. Yadav, PS Sunlight Colony,
Mr. L.K. Singh and Mr. Rajiv Kumar Sharma
Adv. for Complainant

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The appellant stands convicted in the proceedings arising out of FIR No. 214/2012 registered under Section 376 IPC at P.S. Sunlight Colony. By judgment dated 04.05.2016, the Sessions Court convicted the appellant for the offence punishable under Section 376 IPC, and by order on sentence dated 14.05.2016, sentenced him to undergo rigorous imprisonment for a period of 7 years and to pay a fine of Rs.10,000/-, in default whereof he was directed to undergo simple imprisonment for 6 months. The benefit under Section 428 Cr.P.C. was also extended to the appellant.

His sentence was suspended during pendency of the present appeal vide order dated 23.10.2019.



2. The prosecution case, as briefly stated by the Trial Court, has been reproduced hereunder:

“1. On 04.06.2012, the prosecutrix (name withheld to protect her identity) came at the police station Sunlight Colony, New Delhi and got recorded her statement alleging therein that her father died in 2001. She has been doing BA. She takes dance classes to meet the household expenses. She knew the accused for about 5 - 6 months. He was tenant in her house since November 2011. He wanted to marry her. She also agreed to marry him.

2. She alleged that on 09.02.2012, the accused took her in a guest house at Sarai Kale Khan for outing. Although, she refused but he committed sexual intercourse with her against her wishes. He told her that he would marry her. On that pretext, he took her to Honey Guest House, Sarai Kale Khan for 4 - 5 times where he committed sexual intercourse with her against her wishes. He also committed sexual intercourse with her in his Maruti van. When she asked him to marry her, he refused and said that she does not have any evidence for their relations.

3. On completion of investigation, the chargesheet was filed by the police and, thereafter, charges were framed against the appellant under Sections 376/420 IPC, to which he pleaded not guilty and claimed trial.

4. The prosecution, in support of its case, examined 10 witnesses. The material witnesses included the prosecutrix (PW-3), who reiterated the allegations made in her complaint (Ex. PW-3/A); PW-1/‘A’, the maternal uncle of the prosecutrix, who stated that he had spoken to the appellant about marriage, sent him Rs.10,000/- through the prosecutrix, and offered to support their household expenses; and PW-4/‘SS’, the mother of the prosecutrix, who had rented a room in the house to the appellant and later deposed that he had refused marriage after exploiting her daughter.

The remaining witnesses included PW-2/HC Kalu Ram, who recorded the FIR (Ex. PW-2/A); PW-5/Dr. Shruti Gupta, who conducted the medical



examination of the prosecutrix and prepared the MLC (Ex. PW-3/B), noting that her hymen was torn; PW-6/WCt. *Lichhma*, who accompanied the prosecutrix to AIIMS and handed over the medical exhibits to the I.O.; PW-7/Ms. *Mona Tardi Kerketta*, learned MM who recorded the statement of the prosecutrix under Section 164 Cr.P.C. (Ex. PW-3/C); PW-8/WSI *Kamini Gupta*, the I.O., who recorded the initial complaint, made endorsement (Ex. PW-8/A), got the FIR registered, collected the MLCs, arrested the appellant, and obtained the FSL reports (Ex. PW-8/E and Ex. PW-8/E1); PW-9/Dr. *Adarsh Kumar*, who proved the MLC of the appellant (Ex. PW-9/A); and PW-10/HC *Ravinder Kumar*, who proved the *malkhana* entries regarding deposit and dispatch of the case exhibits.

5. In his statement under Section 313 Cr.P.C., the appellant denied all incriminating evidence and asserted that he never had physical relations with the prosecutrix nor made any promise to marry her. He stated that the mother of the prosecutrix had wanted him to marry her daughter, and when he refused, he was falsely implicated. He further stated that he worked as a van driver, used to drop children to school, and occasionally gave the prosecutrix a lift from her dance classes. According to him, it was the prosecutrix who repeatedly proposed marriage, but he asked her to speak to his parents.

6. The prosecutrix/PW-3 deposed that she was residing with her mother and giving dance training to children in Preet Vihar when the appellant, along with his family, took one room on rent in their house in 2011. She stated that after about a month, the appellant started talking to her, and in January 2012, he proposed marriage to her. Though she initially refused, he



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continued to insist, and they later resumed talking. She deposed that on 09.02.2012, while she was returning from her dance academy and reached the Preet Vihar Metro Station, the appellant met her there, picked her up in his Maruti van, and took her to Honey Guest House at Sarai Kale Khan, where he committed sexual intercourse with her despite her resistance. The appellant repeated his promise to marry her. Thereafter, he continued to have sexual intercourse with her on the same assurance of marriage, including two or three times in his car and about four or five times at the same guest house. She further stated that in May 2012, when she again asked him to marry her, he finally refused, saying that he had no money for marriage or for a house. She deposed that she thereafter went to P.S. Sunlight Colony along with her mother and lodged the complaint (Ex. PW-3/A), was medically examined at AIIMS, and later gave her statement under Section 164 Cr.P.C. (Ex. PW-3/C) before the Metropolitan Magistrate.

On being recalled for cross-examination, the prosecutrix denied the suggestion that whatever she had stated to the police was done after deliberation with her mother and the police. When she was confronted with her prior statement and inconsistencies were pointed out, she stated that she narrated the complete facts to the police, however she did not know whether the police had recorded them in the same manner. When the appellant refused to marry her, she spoke to his parents but they expressed their helplessness in this regard. She admitted that when she went to P.S. Sunlight Colony to make her complaint against the appellant, he was already present at the police station, and the police officials took the two of them for their respective medical examinations together. She denied the suggestion that



she had made deliberate improvements in her statement under Section 164 Cr.P.C. after due deliberation.

7. PW-1/'A', the maternal uncle of the prosecutrix, deposed that on 22.05.2012 his sister, the mother of the prosecutrix, called him and informed that the appellant had established physical relations with her daughter and was now refusing to marry her. He stated that he thereafter spoke to the appellant over the phone and asked him to marry the prosecutrix, to which the appellant replied that he had no money at that time to meet marriage expenses. PW-1 stated that he assured the appellant of financial help and sent Rs.10,000/- through the prosecutrix and also offered to bear household expenses for two to three months, but the appellant still refused to marry her. He further stated that, during this conversation, the appellant admitted his physical relations with the prosecutrix.

In his cross-examination, PW-1 clarified that he did not know the appellant prior to 22.05.2012, and that he had spoken to him only once when the prosecutrix had dialled the number. He also stated that the prosecutrix later told him that the appellant had refused to accept the money. He denied the suggestion that the appellant had admitted any physical relationship in his presence.

8. PW-4/'SS', the mother of the prosecutrix, deposed that the appellant had taken one room on rent in their house along with his family and had been residing there as a tenant. She stated that in the year 2012, while she was searching for a bridegroom for her daughter, the prosecutrix told her that the appellant had proposed marriage and, on that pretext, had committed rape with her and thereafter refused to marry her. PW-4 further stated that



when she confronted the appellant, he replied that he had only used her daughter and was no longer concerned with her. She also deposed that she thereafter spoke to the father of the appellant and requested him to come to their house to discuss the matter, but he declined and told her to do whatever she liked. She stated that she ultimately went to P.S. Sunlight Colony in 2012, along with her daughter, to lodge the complaint against the appellant.

9. The medical evidence, as proved by PW-5/*Dr. Shruti Gupta*, shows that the hymen of the prosecutrix was torn. However, no external or internal injuries were noted on her person that would suggest the use of force. The medical examination was conducted on 04.06.2012, wherein the prosecutrix and her mother narrated a history of multiple sexual assaults upon the prosecutrix by the appellant, with the last stated contact being on 12.05.2012.

10. The FSL reports (Ex. PW-8/E and Ex. PW-8/E1) confirm that no semen was detected on the vaginal smear of the prosecutrix, penile swab or underwear of the appellant, and that no blood was found on the appellant's underwear. The medical examination of the appellant (Ex. PW-9/A) proved by *Dr. Adarsh Kumar* indicates that he was capable of performing sexual intercourse under normal circumstances. The I.O, PW-8/WSI *Kamini Gupta*, deposed to the collection of these exhibits and the receipt of the FSL results. Collectively, the medical and scientific evidence remains inconclusive and does not lend support to the allegation of forcible sexual intercourse.

11. On a careful appraisal of the record, it emerges that the appellant and the prosecutrix had been acquainted since late 2011 and had known each other for several months before the alleged first incident of 09.02.2012. The



appellant had proposed marriage to the prosecutrix in January 2012, and the two appear to have continued their association thereafter. According to the prosecution, the first incident occurred on 09.02.2012 when the prosecutrix was taken to Honey Guest House at Sarai Kale Khan, and the appellant is then stated to have continued physical relations with her on the assurance of marriage until May 2012, when he allegedly refused to marry her. The complaint, however, was lodged only on 04.06.2012.

12. The record further reflects that the prosecutrix continued to remain in contact with the appellant throughout this period and that they met frequently. She herself deposed that she accompanied him to public places such as I.P. Park; and that he continued to take her to the same Honey Guest House on four to five occasions, besides having physical relations with her in his Maruti van. Her own version, therefore, establishes that the parties maintained a close and voluntary association for several months during which sexual intercourse took place multiple times, until their relationship eventually broke down in May 2012 when the appellant is said to have declined marriage.

13. There is no dispute regarding the identity of the appellant, who has, in any event, been identified in Court by the prosecutrix (PW-3) as well as by her mother (PW-4) and maternal uncle (PW-1). The testimony of PW-1 shows inconsistency on a material aspect: while he initially stated in his examination-in-chief that the appellant had admitted to him having physical relations with the prosecutrix, he retracted from that statement in cross-examination and denied that any such admission had been made in his presence. Moreover, although both the prosecutrix and her mother asserted



that they had spoken to the appellant's parents regarding his conduct, the prosecution did not examine either of them. In these circumstances, and keeping in view the lapse of time between the alleged first act on 09.02.2012 and the eventual complaint in June 2012, the parties' continued contact and repeated sexual relations during that period, and the absence of corroborative medical or forensic material, this Court finds that substantial doubt arises as to whether the physical relationship, if any, was non-consensual or vitiated by misconception of fact.

14. A sexual relationship maintained over a period of time between two adults ordinarily raises a presumption of valid and conscious consent. However, if it is shown that, at the very time of making a promise of marriage, the promisor never intended to honour it and made such promise solely to induce the woman into sexual relations, the consent so obtained would stand vitiated by misconception of fact. A subsequent refusal or failure to marry, by itself, would not render the original promise false. To establish that the promise was false from the inception, the prosecution must prove that the intention to deceive existed at the very outset¹.

15. While seized of allegations relating to false promise of marriage, the Supreme Court, in Deepak Gulati Vs. State of Haryana², observed as under:

“21. Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives, and had made a false promise

¹ Pramod Suryabhan Pawar Vs. State of Maharashtra, (2019) 9 SCC 608

² (2013) 7 SCC 675



to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. 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. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was mala fide, and that he had clandestine motives.”

16. At this stage, the Court further takes note of a recent judgment of the Supreme Court³, wherein, while examining a challenge to the High Court’s refusal to quash an FIR registered under Sections 376(2)(n) and 506 IPC, it was held that a mere breakdown of a relationship between a consenting couple cannot by itself warrant initiation of criminal proceedings. It was observed that what began as a consensual relationship between the parties cannot later be coloured as non-consensual merely because it did not culminate in marriage. The Court further noted that, although the complainant alleged that the accused had physical relations with her under compulsion, she continued to meet him thereafter and did not lodge any complaint during that period, observing as under:

“18. It is inconceivable that the complainant would continue to meet the appellant or maintain a prolonged association or physical relationship with him in the absence of voluntary consent on her

³ Prashant v. State of NCT of Delhi, (2025) 5 SCC 764; relying on Pramod Suryabhan Pawar v. State of Maharashtra, *supra*



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part...”

17. On an overall appreciation of the record and in light of the principles discussed hereinabove, this Court finds that certain aspects of the prosecutrix’s testimony do not fully align with her earlier statements and the surrounding circumstances. Her improvement on the aspect of the way the marriage proposal was given and accepted, her continued association with the appellant for several months after the alleged incident, the unexplained delay in approaching the authorities, and the absence of any corroborative medical or forensic evidence cumulatively create doubt about the prosecution version. Having regard to the totality of the material on record, this Court is not persuaded to hold that the prosecution has proved that the physical relationship, if any, was without her consent or that her consent stood vitiated.

18. Accordingly, the impugned judgment of conviction is set aside, and the appellant is acquitted. The personal bond furnished by him stands cancelled, and his surety is discharged.

19. A copy of this decision be communicated to the Trial Court as well as to the concerned Jail Superintendent.

MANOJ KUMAR OHRI
(JUDGE)

NOVEMBER 12, 2025/nb