

IN THE HIGH COURT AT CALCUTTA

CIRCUIT BENCH AT JALPAIGURI

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 485 of 2025

Agnivo Bandyopadhyay

vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Prajnadeepta Roy,
Mr. Jaimallya Bhattacharya.

For the Opposite Party : Mr. Avijit Kundu,
Mr. Sourav Lohani.

For the State : Mr. Avrojoyti Das, Id. APP,
Ms. Panchali Deb Sikder (Nag).

Judgment reserved on : 16.06.2026

Judgment delivered on : 18.06.2026

Shampa Dutt (Paul), J.:

1. The revisional application has been preferred challenging an order dated 10.09.2025, passed by the learned Additional Sessions Judge, Fast Track Court, Siliguri, in Sessions Case No. 70 of 2025, arising out of Matigara P.S. Case No. 167 of 2024 dated 11.03.2024 under Sections

417/376/506 of the Indian Penal Code, corresponding to G.R. Case No. 838 of 2024.

2. Vide the impugned order, the petitioner's prayer for discharge was rejected by the learned Additional District and Sessions Judge. Hence, the prayer for quashing.
3. The allegation in the present case as made against the petitioner herein in the written complaint is to the effect that the de facto complainant and the petitioner herein being doctors by profession were first introduced on 16th April, 2023. The de facto complainant met the petitioner at Siliguri and has alleged that she was administered something in her drink for which she became drowsy and then went to the petitioner's bed room, where the Petitioner allegedly touched her inappropriately and ended up having a physical relationship. It is alleged that the petitioner herein assured the de facto complainant that he would marry her. Subsequently, the de facto complainant got a job at Siliguri. The de facto complainant has alleged that she became aware that the petitioner has taken some intimate photographs and states that again the petitioner assured to marry her and they again had a physical relationship.
4. It appears that the parties continued to meet and have physical relationship and finally it is stated that the petitioner herein has refused to continue the relationship with her. In her statement as recorded under Section 164 of the Cr.P.C., the complainant has again stated that on the false promise to marry, the petitioner had physical

relationship with the de facto complainant. At the time of the alleged incident, **the de facto complainant was aged about 29 years.**

5. The Supreme Court in ***Prashant vs. State of NCT of Delhi, 2024 SCC OnLine SC 3375, decided on November 20, 2024***, held:-

“17. In the present case, the issue that had to be addressed by the High Court was whether, assuming all the allegations in the FIR are correct as they stand, an offence punishable under Sections 376 and 506 IPC were made out. A bare perusal of the FIR reveals that the appellant and the complainant first came in contact in the year 2017 and established a relationship thereafter. The parties met multiple times at various places during the years 2017 and 2019, including at parks and their respective houses. Although the complainant stated that the appellant had a forceful sexual relationship with her, neither did she stop meeting the appellant thereafter, nor did she file a criminal complaint during the said period.

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 part. Moreover, it would have been improbable for the appellant to ascertain the complainant's residential address, as mentioned in the FIR unless such information had been voluntarily provided by the complainant herself. It is also revealed that, at one point, both parties had an intention to marry each other, though this plan ultimately did not materialize. The appellant and the complainant were in a consensual relationship. They are both educated adults. The complainant, after filing the FIR against the appellant, got married in the year 2020 to some other person. Similarly, the appellant was also married in the year 2019. Possibly the marriage of the appellant in the year 2019 has led the complainant to file the FIR against him as they were in a consensual relationship till then.

19. In our view, taking the allegations in the FIR and the charge-sheet as they stand, the crucial ingredients of the offence under Section 376 (2)(n) IPC are absent. A review of the FIR and the complainant's statement under Section 164 CrPC discloses no indication that any promise of marriage was extended at the outset of their relationship in 2017. Therefore, even if the prosecution's case is accepted at its face value, it cannot be concluded that the complainant engaged in a sexual relationship with the appellant solely on account of any assurance of marriage from the appellant. **The relationship between the parties was cordial and also consensual in nature. A mere breakup of a relationship between a consenting couple cannot result in initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marital relationship. Further, both parties are now married to someone else and have moved on in their respective lives. Thus, in our view, the continuation of the prosecution in the present case would amount to a gross abuse of the process of law. Therefore, no purpose would be served by continuing the prosecution.**

22. Recently this Court in *XXXX v. State of Madhya Pradesh*, (2024) 3 SCC 496 held that when the relationship between the parties was purely consensual and when the complainant was aware of the consequences of her actions, the ingredients of the offence of rape were not made out. Similarly, in *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608 arising out of identical facts, this Court has enumerated the following:

“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.””

6. Thus as the relationship between the parties prima facie appears to be **consensual**, the ingredients required to constitute the offences alleged are prima facie not made out against the accused/ petitioner herein.
7. Relying upon paragraph 17, 18, 19 and 22 of the Judgment in ***Prashant vs. State of NCT of Delhi (Supra)***, the present proceeding is liable to be quashed in respect of petitioner herein.
8. **Criminal Revision being CRR 485 of 2025 is allowed.**
9. The proceedings being order dated 10.09.2025, passed by the learned Additional Sessions Judge, Fast Track Court, Siliguri, in Sessions Case No. 70 of 2025, arising out of Matigara P.S. Case No. 167 of 2024 dated 11.03.2024 under Sections 417/376/506 of the Indian Penal Code, corresponding to G.R. Case No. 838 of 2024, **is hereby quashed in respect of the petitioner herein namely Agnivo Bandyopadhyay.**
10. All connected application, if any, stands disposed of.
11. Interim order, if any, stands vacated.
12. Let a copy of the Judgment be sent to the learned trial Court for compliance.

- 13.** Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)