

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 387 of 2024

Jyotirmoy Das

Vs.

The State of West Bengal & Anr.

For the Petitioner

: Mr. Sandip Mandal,
Mr. Abhilash Mittal,
Mr. Amit Saha,
Mr. Roumyadip Saha.

For the State

: Mr. Avrojoyti Das, Ld . APP
Ms. Madhushri Dutta.

For the Opposite Party No. 2

: Mr. Bhaskar Roy Mahasaya.

Judgment reserved on

: 17.06.2026

Judgment delivered on

: 17.06.2026

Shampa Dutt (Paul), J.:

1. The revisional application has been preferred praying for quashing of the First Information report and subsequent proceedings being Siliguri Women Police Station Case No. 93/2024 dated 19.08.2024 under section 69 of Bharatiya Nyaya Sanhita, 2023 (BNS) corresponding to G.R. Case No. 2891/2024 pending before the Learned Additional Chief Judicial Magistrate, Siliguri.
2. The allegations as made out in the written complaint against the present petitioner is that:-

*“The opposite party no. 2 has been introduced with the petitioner and a friendship has been stated between them. It is further alleged therein that the petitioner and the Opposite party No. 2 had exchanged their mobile phone numbers and the petitioner had started to call the opposite party no. 2 on her phone number. It is further alleged therein that on 09.01.2023, the petitioner called the opposite party no. 2 and requested her to come to the North Bengal Medical College Hostel due to some urgent work and in response of the said call, when the opposite party no. 2 reached the said hostel, the petitioner had offered cold drink to the opposite party no. 2 and after consuming the same, she started to feel uneasy and drowsy and taking advantage of that the petitioner has raped her and the petitioner has also taken some nude photographs and video of the opposite party no. 2 on the mobile of the petitioner. Thereafter, when the opposite party no. 2 told the petitioner that she will disclose the said act of the petitioner to all, the petitioner has taken the opposite party no. 2 in his confidence and **he promised to marry her** and he started to continue the physical relation with the opposite party no. 2 for a considerable time. After elapsing of few months, the*

opposite party no.2 came to know that the petitioner has been staying with another girl and the petitioner then refused to marry her.”

3. The petitioner's case is that one Kalyan Adhikary, son of Sri Bholanath Adhikary, resident of South Bharatnagar, Fhuleshwari, Post Office and Police Station Siliguri, Dist. Darjeeling lodged a complaint on behalf of his legally married wife Smt. Pragna Roy Chowdhury against the petitioner on 22.05.2024 to the Officer In-Charge, Siliguri Police Station, alleging therein that the petitioner made a friendship with said Pragna Roy Chowdhury and used to insist her to meet with the petitioner in Medical College Campus. It was further alleged therein that during the said friendship relation, the petitioner somehow managed to transfer some data of still photographs and video from the mobile phone of said Pragna Roy Chowdhury in his own mobile. After that he stated to blackmail said Kalyan Adhikary and extorted a sum of Rs. 50,000/- (Rupees Fifty Thousand) only by threatening to circulate the same in social media and it has also been alleged that the petitioner has also demanded more money from Sri Kalyan Adhikary and for that he was compelled to lodge the above mentioned complaint and on the basis of the said complaint, Inspector In-Charge, Siliguri Police Station, started a case being Siliguri Police Station Case No. 485 of 2024 dated 22.05.2024 under section 385 and 506 of Indian Penal Code, 1860. The Opposite Party No. 2 has lodged a written

complaint on 29.05.2024 with the Inspector in charge, Siliguri Women Police Station against Sri Kalyan Adhikary alleging that said Kalyan Adhikary has developed a friendship relation with the opposite party no. 2 for a considerable time and he established a physical relation with the opposite party no.2 by taking her in confidence to enter into the marriage with her but ultimately said Kalyan Adhikary refused to marry her and ultimately the opposite party no.2 has lodged the above mentioned complaint and on the basis of the said complaint, Inspector In-Charge, Siliguri Women Police Station, started a case being Siliguri Women Police Station Case No. 61 of 2024 dated **29.05.2024** under section 417/ 376(2) (n) of Indian Penal Code, 1860.

4. The de facto complainant has now stated and given in writing to the police that she was forced and threatened to file the complaint against the said Kalyan Adhikary by his wife (Document is with the records in CRR 622 of 2025).

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. It appears from the materials on record that the opposite party no. 2/de facto complainant has lodged one complaint against said Kalyan Adhikary being Siliguri Women Police Station Case No. 61 of 2024 dated **29.05.2024** under section 417/ 376(2) (n) of Indian Penal Code, 1860, and subsequently the present case was registered against the petitioner herein on 19.08.2024 on similar allegations.
7. 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.
8. 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.
9. **Criminal Revision being CRR 387 of 2024 is allowed.**
10. The proceedings being Siliguri Women Police Station Case No. 93/2024 dated 19.08.2024 under section 69 of Bharatiya Nyaya Sanhita, 2023 (BNS) corresponding to G.R. Case No. 2891/2024 pending before the Learned Additional Chief Judicial Magistrate,

Siliguri, **is hereby quashed in respect of the petitioner herein namely Jyotirmoy Das.**

- 11.** All connected application, if any, stands disposed of.
- 12.** Interim order, if any, stands vacated.
- 13.** Let a copy of the Judgment be sent to the learned trial Court for compliance.
- 14.** 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.)