

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

**Present:
The Hon'ble Justice Shampa Dutt (Paul)**

CRR 622 of 2025

Kalyan Adhikary

Vs.

The State of West Bengal & Anr.

For the Petitioner : Ms. Esha Acharya,
Ms. Rajashree Mukherjee.

For the State : Mr. Avrojoyoti Das, Ld . APP,
Ms. Madhushri Dutta.

For the Opposite Party No. 2 : Ms. Suman Sehanabis.

Judgment reserved on : 17.06.2026

Judgment delivered on : 17.06.2026

Shampa Dutt (Paul), J.:

1. The present revisional application has been preferred praying for quashing of proceeding in Siliguri Women Police Station Case no. 61 of 2024, dated **29th May, 2024**, under Sections 417/376(2)(n) of the

Indian Penal Code, 1860 pending before the Learned Additional District and Sessions Judge, 2nd Court, Siliguri being Sessions Case No. 105 of 2024, qua the petitioner.

- 2.** The case of the de facto complainant in the present case is that since last four years, the Opposite party No.2 had developed love relation with the Petitioner herein. The Petitioner assured her that he had already divorced his wife and promised to marry her. He used to take her to his house at Siliguri and made physical relation with the complainant at his house. Presently the said Petitioner brought another lady to his house and introduced her as his wife.
- 3.** It appears from the materials on record that the petitioner herein has lodged a complaint dated 22nd May, 2024, prior to the complaint lodged by the Opposite Party No.2 dated 29th May, 2024, before the Officer-in-charge of Siliguri Police Station against Dr. Jyotirmoy Das, stating that, his wife, Smt. Pragna Roy Chowdhury went to North Bengal Medical College for her treatment. At that time, she met Dr. Jyotirmay Das, who is a medical student, and took his wife's phone number and started sending text messages to her. Eventually they both become good friends. Dr. Jyotirmay Das used to call his wife and tell her to meet him at the Medical College which the petitioner was not aware of. He took some private photos and videos of his wife from her phone, which were recorded by her. Some days later, Dr. Jyotirmay Das called the Petitioner and asked him to meet him and then the said Dr. Jyotirmay

Das started to blackmail him showing the private photos and videos of his wife and demanded Rs.50,000/-. The petitioner gave Dr. Jyotirmay Das the demanded money but Dr. Jyotirmay Das started demanding more money. On 17th July, 2024, the Opposite Party No.2, made a written representation before the Commissioner of Police, Siliguri Police Commissionerate, stating that she had a friendly relationship with the petitioner for almost four years. Some days before, Pragna Roy Chowdhury, the wife of the petitioner herein, was caught having an extra-marital affair with one Dr. Jyotirmoy Das, a student of North Bengal Medical College. After being caught, she lodged a false case under Section 498A of the Indian Penal Code, 1860 against the petitioner herein and left the house. The Opposite Party No.2 stated that she used to go to the house of the petitioner to tutor his child. On 27th May, 2024 the above-mentioned Pragna Roy Chowdhury, her father Amulya Ratan Roy Chowdhury, mother Aduri Roy Chowdhury, sister Dipanwita Shukla and Dr. Jyotirmoy Das called the Opposite Party No. 2 and told her to lodge a false rape case against the petitioner and demanded Rs.50,000/- from her. They also threatened her that they would post her private photos on social media. She gave Rs. 35,000/- to them and upon requesting them to delete her photos, they told her they will only delete the photos of her only if she lodged a false case against the petitioner. Being afraid, on 29th May, 2024, the Opposite Party No. 2 lodged a First Information Report and Siliguri Women Police

Station Case No.61 of 2024, dated 29th May, 2024, was started. The Opposite Party No.2 also stated that Dr. Jyotirmoy Das gave her false assurance that he will arrange for her employment as a nurse in the Medical College. On 7th June, 2024 when the Opposite Party no. 2 went to Siliguri Court, she received a phone from an Advocate and also from the wife of the petitioner asking her to give false statements before the Court and to tell that the petitioner has sexually assaulted her and in the event she did not tell according to their instructions, Police will arrest her and start a case against her. In the said written representation the Opposite Party also mentions that she has come to know that the said Dr Jyotirmoy Das still has her private pictures. She requested the concerned Police Official to take steps so that her pictures are not misused.

4. In course of hearing learned counsel for the **de facto complainant has placed a document wherein it is stated by the de facto complainant that she has filed the said application before the Officer-in-charge, Jalpaiguri P. S. stating that she was forced to file the present case against the petitioner herein by the wife of the petitioner for the reasons as noted therein** and the learned counsel for the de facto complainant submits that necessary orders may be passed.
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 (both major) 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 622 of 2025 is allowed.**
9. The proceeding in Siliguri Women Police Station Case no. 61 of 2024, dated 29th May, 2024, under Sections 417/376(2)(n) of the Indian Penal Code, 1860 pending before the Learned Additional District and Sessions Judge, 2nd Court, Siliguri being Sessions Case No. 105 of 2024, **is hereby quashed in respect of the petitioner herein namely Kalyan Adhikary.**
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.)