IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4825 OF 2025

BHARAT PRABHAKAR RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

…

Shri Vijay P. Latange, Advocate for the applicant.
Mrs. Bharati B. Gunjal, APP for respondent Nos.1 and 2/ State.
Mrs. Sonal H. Bali, advocate a/w Shri A.A. Joshi, Advocate for respondent No.3/ informant.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 29 October 2026

Per Court :-

1. The applicant is seeking quashment of FIR bearing Crime No.298/2025 dated 27.07.2025 registered with the Mukundwadi Police Station, Chhatrapati Sambhajinagar, for the offences punishable under Sections 376, 376(2)(n), 377, 504, 506 of the Indian Penal Code. After completion of investigation, the charge-sheet is filed on 11.09.2025 and the case is registered as Regular Criminal Case No.2783/2025 before the learned Judicial Magistrate, First Class, Aurangabad. The applicant also seeks quashment of the further proceedings.

2. Though, on the one hand, the learned advocate for

the applicant/accused has vehemently canvassed for allowing the application and on the other hand, the learned APP appearing for the respondents/ State and the learned advocate appearing for respondent No.3/ informant, have strenuously opposed the same. However, upon considering the submissions advanced by the learned counsel for the respective parties and upon perusal of the material available on record, including the FIR and the charge-sheet, I find that the controversy involved in the present matter is covered by the judgments of the Hon'ble Supreme Court referred to hereinbelow. Therefore, an elaborate discussion on the rival submissions is not necessary.

3. After hearing the learned counsel for the parties and with their assistance, going through the material placed on record, it is revealed that respondent No.3/prosecutrix was aged about 39 years at the time of lodging the FIR. She came into contact with the applicant in 2015 and friendly relations were developed between them. It is stated that both of them had purchased a flat jointly and started residing therein as husband and wife since 2016. It is alleged that the applicant, while residing with the prosecutrix in the said flat, allegedly promised

to marry her and, on the said pretext, established physical relations with her, including natural and unnatural sexual intercourse. Due to the said physical relationship, respondent No.3 conceived. However, as the applicant was not willing to have a child, he allegedly forced her to undergo an abortion. Accordingly, in the year 2016 itself, she underwent an abortion at Srushti Hospital. Even thereafter, she allegedly conceived on two or three occasions, but the applicant administered certain pills to her, due to which her foetus was aborted. Thereafter, the applicant was transferred to Udgir, District Latur. However, their relationship continued. Whenever respondent No.3 used to ask him about marriage, he used to ignore and avoid the issue.

4. It is further alleged in the FIR that in the year 2023, the brother of the applicant, namely, Vishal Rathod, and his friend Rahul, approached respondent No.3 and asked her to discontinue her relationship with the applicant/ Bharat. They also abused and allegedly assaulted her with a belt and threatened her that if she did not discontinue her relationship with Bharat, they would finish her. Therefore, respondent No.2 lodged the report alleging that, during the period from 2016 to 2024, the applicant,

Bharat Rathod, had established physical relations with her on the pretext of performing marriage. Accordingly, the aforesaid FIR came to be registered.

5. In the face of the allegations in the FIR in the present case, the case of the applicant is squarely covered by the judgment delivered by the Hon'ble Supreme Court in ***Prithvirajan v. The State Represented by the Inspector of Police and Another***, Criminal Appeal No.282 of 2025, arising out of SLP (Crl.) No.12663 of 2022, decided on 20.01.2025. In the said judgment, the Hon’ble Supreme Court has held that merely because physical relations were established on the basis of a promise to marry, the same would not amount to rape. For the offence of rape to be attracted in such circumstances, the two conditions must be satisfied, namely, (i) the accused must have promised to marry the prosecutrix solely to secure her consent for sexual relations, without having any intention of fulfilling the said promise from the very beginning; and (ii) the prosecutrix must have given her consent for sexual relations by being directly influenced by such false promise of marriage. The Hon'ble Supreme Court has also referred to its earlier judgments

in ***Pramod Suryabhan Pawar v. State of Maharashtra and Another*, (2019) 9 SCC 608 and Mahesh Damu Khare vs. The State of Maharashtra and others, 2024 SCC OnLine SC 347**, wherein the distinction between a false promise of marriage and a subsequent breach of promise has been explained.

6. On perusal of the material on record and by applying the aforesaid principles laid down by the Hon'ble Supreme Court, in the case in hand, it is evident that the continued relationship and physical relationship between the applicant and respondent No.3/ prosecutrix, in the absence of material indicating that the physical relationship was established solely on account of a false promise of marriage, would not be sufficient to establish that the consent of respondent No.3 was obtained under a misconception of fact. Unless it is shown that the physical relationship was established solely on the basis of the promise of marriage and that such promise directly influenced the decision of the prosecutrix to engage in sexual relations, it cannot be said that her consent was vitiated on account of a misconception of fact.

7. Even if it is assumed that the applicant had initially

made a promise of marriage to the complainant, the fact that their relationship continued for considerably long period is relevant circumstance while examining the complainant's allegation that her consent throughout these years was under the misconception of fact that the accused would marry her. Further, the material on record indicates that the complainant continued to maintain a prolonged association and physical relationship with the applicant. It is also relevant that she had jointly purchased a flat with the applicant and was residing with him as husband and wife. These circumstances, when considered together, indicate that the relationship between the complainant and the applicant was consensual and that the material on record does not disclose the necessary element of deceit or misconception of fact. Merely because a woman knowingly maintains a physical relationship with a person for a prolonged period, it cannot be presumed that such relationship was solely on account of an alleged promise made by the accused to marry her.

8. In view of the above, there is no material on record to indicate that the applicant had made false promise of marriage from the very inception, with no intention to fulfill the same, and

had thereby induced the complainant to engage in sexual relations with him. Therefore, the essential ingredients of the offence of rape on the ground of false promise of marriage are not made out from the material placed before this Court. In the material placed before this Court in the form of the charge-sheet, it nowhere appears that the initial promise to marry allegedly made by the applicant was false from the very beginning. On the contrary, the material indicates that the relationship between the applicant and respondent No.3 continued for considerably long period. Under these circumstances, permitting the applicant to face trial would be nothing short of an abuse of the process of the Court. The same cannot be permitted. Hence, the following order:-

ORDER

(a) The Criminal Application is allowed.

(b) FIR bearing Crime No.298/2025 dated 27.07.2025 registered with the Mukundwadi Police Station, Chhatrapati Sambhajinagar and the further consequential proceedings arising out of the said FIR, are quashed and set aside.

kps (SUSHIL M. GHODESWAR, J.)