



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 310 OF 2025

Ashish s/o Bruj Bhushan Pande
Age : 34 Years,
Occupation Service,
Permanent resident of House of
late P. N. Trivedi,
Road No. 1, North Patel Nagar,
Near Ravi Chowk, P.O. Kesari Nagar,
Patna – 800024 (Bihar)
Presently residing at
Flat No.1 Benz Residency,
Bishnupur, Shillong 793005.

... Revision Petitioner
[Accused]

Versus

1. State of Maharashtra
Through In-charge Police Inspector,
Shivaji Nagar Police Station, Latur,
Taluka and District Latur.

2. X Y Z

... Respondents

.....
Mr. Satej Jadhav h/f Mr. Avinash M. Reddy, Advocate for the Revision
Petitioner
Mr. N. R. Dayma, APP for Respondent No.1-State.
Mr. Ram Shinde, Advocate for Respondent No.2 (appointed through
Legal Aid)

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 16.02.2026

Pronounced on : 20.02.2026

ORDER :

1. Present revision is an offshoot of order dated 26.06.2023 passed by Additional Sessions Judge, Latur on Exhibit 26 in Sessions Case No. 65 of 2022 which was pressed into service for discharge by invoking Section 227 of Cr.P.C.

2. One FIR bearing No. 131 of 2019 came to be registered at Shivajinagar Police Station, Latur for offence under Sections 376, 323, 506 and 34 of IPC on the statement of victim/xyz dated 25.03.2019. Its substance is that, informant who is a native of Patna, was working in a company. While working there, she got acquainted with present revision petitioner who was also hailing from Patna. He helped her to procure place to reside and also arranged a flat. Revision petitioner, having got acquainted, used to visit her since she shifted there from 25.12.2012. According to her, their friendship grew and finally on 14.02.2013 revision petitioner proposed her but she avoided. However, according to her, time to time he was meeting her. Further according to her, as they were both belonging to same place, they were taking care of each other and their friendship grew. Around March 2013, he sent her air ticket and called her to Delhi and from there they both went to Shimla for outing. She claims that while they

were put up in the same room, he demanded physical relation with her but she suggested indulging in same after marriage. However, at that time he even gave her a ring to wear saying that now they are like engaged, but at such time also when she refused, he allegedly took her to a temple at Shimla, applied vermilion and said that she is now almost his wife and suggested keeping physical relations, and therefore, she reported that, from March 2013 to April 2013 there were physical relations between them.

3. She further reported that, whenever she opened discussion about marriage, he postponed it on the pretext of marriage of his elder sister and assured to marry her thereafter. She further claims that, wherever he got transferred, he took her along and projected her as his wife. She claims that, even in the marriage of his elder sister, she was introduced to his family members and she was treated by everyone like a family member. She also claims to have financially contributed to the marriage of his sister and then, when she insisted him to get married, her father took her to the family of revision petitioner, but her father was not treated properly and revision petitioner's father allegedly said that they belong to lower caste. According to victim, when she talked with his mother, she asked victim to arrange Rs.50,00,000/- and said that they desire a girl

having Government service for their son. Later again she went at his place at Patna to meet his parents and there she claims that she was abused by the parents and younger sister of revision petitioner and was driven out of the house. His father threatened her not to call again saying that she belongs to lower caste. She claims that meanwhile she and revision petitioner were meeting and from 3rd January 2019 to 7th January 2019 he called her at his place at old Ausa road and maintained physical relation with her. When on 22.03.2019 she came from Patna to meet him at Latur, he again assured her to perform temple marriage with her and on 23.03.2019, by playing fraud on her, he took her to hotel Gold Embassy on the pretext of preparation of marriage. There he also obtained her urine sample to confirm pregnancy and finally on 24.03.2019, when she again insisted for marriage, he beat her on the road. Hence the above report.

4. Chargesheet shows that, after registration of crime, police drew spot panchanama, attempted to get her physically examined through doctor at Government Hospital, Latur, recorded statements of witnesses namely, Shankarrao Deshmukh, Sanjay Mane, Kunal Deshmukh and Rajiv Prabhu.

5. Sum and substance of the argument made by learned counsel for the revision petitioner is that, firstly, victim was almost 30 years of age at the time of FIR. There was long standing acquaintance of almost five to six years. That, there is nothing on record to show that since inception, revision petitioner had no intention to marry her. Further, according to him, on the contrary, her own statement shows that there was even wedding ring offered by revision petitioner. That, even her statement shows that he also introduced her to his family members in the marriage of his elder sister. That, during several physical relations thereafter, there was no utterance of promise of marriage. That, there is no material to show that since inception revision petitioner had intended to cheat her and he took disadvantage of her. On the other hand, he submitted that, merely because of caste difference when talks did not materialized further, at a belated stage, false accusations are levelled. That she herself came to his work place, spent time with him and without any resistance, indulged in physical intimacy and merely because later on relations turned sour and bitter, false complaint has been filed. That, whatever relations were developed between them were between two consenting adults and by no stretch of imagination it can be brought under the ambit of rape or against wish, leave aside false promise of marriage.

Learned counsel points out that he is confining his case only to the extent of Section 376 IPC and not other penal Sections with which revision petitioner is charged. In support of his contentions, he seeks reliance on *Rajnish Singh alias Soni v. State of Uttar Pradesh and Another* (2025) 4 SCC 197, *Biswajyoti Chatterjee v. State of West Bengal and Another* 2025 INSC 458 as well as *Harish Panditrao Bhailume v. State of Maharashtra Through it's Police Inspector and Others* 2023 SCC OnLine Bom 2214 and urges to allow the discharge application.

6. Per contra, learned counsel for the victim as well as learned APP, both strongly resisted the above relief on the ground that, there are accusations in the complaint that since beginning there was promise to marry but it was never meant to be met or completed. Disadvantage of friendship has been taken on the pretext of marriage. They pointed out that there are statements of independent witnesses to whom accused allegedly disclosed and projected her to be his wife. Therefore, there being sufficiency of material, they both justify the order of rejection of discharge and also prayed to dismiss the revision.

7. What is discerned from papers on record is that, informant has given her age at the time of FIR as 29 years and therefore she is

apparently a full grown adult. She also seems to be qualified as she herself stated that, she was rendering service in a company at Kolkata around December 2012. Her report is that, she got acquainted with accused during her above service and further, according to her, they both hail from Patna. According to her they met somewhere around 25.12.2012. She states that, he helped her in procuring premises for stay and she claims that, as he was frequently visiting her at her said premises, their acquaintance grew into friendship. After two months or so, i.e. on 14.02.2013 since they met first time on 25.12.2012, he proposed her which she claims to have turned down. Then she has narrated about he sending her air tickets and consequently she going to Delhi and then joining him to a trip to Shimla. In report itself she states they were put up in one room itself, and during such stay in the hotel, she claims that, he demanded physical relations from her and then, she suggested doing everything after marriage. However, according to her, he was not in the mood to listen and he gave her a ring and asked her to wear it and allegedly said that she should consider that they are engaged and when she refused, she claims that, he took her to a temple in Shimla and made the priest of the temple utter the rituals of marriage and applied vermilion to her and thereafter allegedly declared that now she is his wife and as such, there is no hurdle for maintaining relations and therefore, she herself

states that, since March 2013 to April 2013 at Shimla and even thereafter he maintained physical relations with her. According to her, whenever she opened the discussion of marriage, he told her that, he would talk to his parents after marriage of his elder sister. Then she has narrated about participating in marriage of his elder sister, and then about the episodes of her father being humiliated by his father and she being abused by his mother, father and younger sister and the alleged threats by his father to not to call her. However, yet again she has stated that meanwhile she continued to meet revision petitioner and he maintained physical relations with her by calling her at his house at old Ausa road. She speaks of preparations of marriage projected at a hotel and her pregnancy test being done. Finally, on 24.03.2019, she alleges refusal and being beaten by him and on next day she seems to have approached police with above accusations.

8. Thus, the net result of above discussion is that, as stated above, informant is almost a full grown and qualified lady. Though she alleges promise of marriage, she has accepted the ring offered by him and was also party to the alleged temple marriage at Shimla after which he allegedly sought physical relations. It is noticed that, though he sent her air tickets, she has reached Delhi and joined him to

Shimla and moreover, had spent time in the same room at Shimla but during such residence, prior to visiting temple she has not alleged any sexual encounter between them. Apparently, when she reported that there were several sexual encounters between them from March 2013 to April 2013, she has not uttered the same to be forcible or on false promise of marriage. Therefore, apparently she being consenting party, whatever relations developed were consensual and that too, between two consenting adults. Apparently, even after refusal of father of revision petitioner for their marriage on account of caste differences and in spite of alleged humiliation and threat, she claims to have continued to meet revision petitioner and had also visited his place and maintained physical relations even at that point of time.

9. From the above discussion, it is prominently emerging that, there were no physical relations on the promise of marriage from the inception. She has spent almost seven years in his company, joined him to different places, stayed with him and therefore, her contentions at later point of time on their relation becoming sour, that only because of false promise of marriage she was cheated, is difficult to swallow.

10. The Hon'ble Apex Court in para 18 of the judgment in ***Pramod Suryabhan Pawar v. State of Maharashtra***, reported in (2019) 9 SCC 608, on the point of promise of marriage, has made following observations :

“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.”

11. Similarly, in the case of ***Uday v. State of Karnataka***, reported in (2003) 4 SCC 46, in para 21, has made observations on similar lines and the same are also borrowed and reproduced hereunder :

“21. It therefore appears that the consensus of judicial opinion is in favour of the view that the consent given by the prosecutrix to sexual intercourse with a person with whom she is deeply in love on a promise that he would marry her on a later date, cannot be said to be given under

a misconception of fact. A false promise is not a fact within the meaning of the Code. We are inclined to agree with this view, but we must add that there is no straitjacket formula for determining whether consent given by the prosecutrix to sexual intercourse is voluntary, or whether it is given under a misconception of fact. In the ultimate analysis, the tests laid down by the courts provide at best guidance to the judicial mind while considering a question of consent, but the court must, in each case, consider the evidence before it and the surrounding circumstances, before reaching a conclusion, because each case has its own peculiar facts which may have a bearing on the question whether the consent was voluntary, or was given under a misconception of fact. It must also weigh the evidence keeping in view the fact that the burden is on the prosecution to prove each and every ingredient of the offence, absence of consent being one of them.”

12. Yet again, the Hon’ble Apex Court in a very recent judgment in ***Pramod Kumar Navratna v. State of Chhattisgarh & others*** [Criminal Appeal arising out of Special Leave Petition (Criminal) No. 4452 of 2025], reported in 2026 INSC 124 involving charges of similar nature for attracting Section 376(2)(n) of IPC, has made very relevant observations in para 22 which are reproduced below :

“ 22. The Courts have to be extremely careful and cautious in identifying the genuine cases filed under Section 376(2) (n) of the IPC by identifying the essential ingredients to constitute the said offence i.e. there should be a promise of marriage made by the accused solely with a view to obtain consent for sexual relations and without having any intent of fulfilling said promise from the very beginning, and that such false promise of marriage had a direct bearing on the prosecutrix giving her consent for sexual relations. Such genuine cases that deserve prosecution of the accused must be clearly demarcated from the litigation that arises from the cases of consensual relationships between consenting adults going acrimonious on account of dispute and disagreement or a future change of mind.”

13. Taking hint from above settled judicial precedent, here, as stated above, informant is a full grown adult of 30 years of age and moreover qualified and having maintained prolonged association for more than six years, it is not conceivable that only on the false promise of marriage, her disadvantage has been taken. Therefore, in the light of above discussion, case for discharge, but only to the extent of charge under Section 376 IPC, is made out and not for the remaining penal sections. Hence, the following order :

ORDER

- I. The Criminal Revision Application is partly allowed.
- II. The order dated 26.06.2023 passed by Additional Sessions Judge, Latur below Exhibit 26 in Sessions Case No. 65 of 2022, is hereby quashed and set aside.
- III. The revision petitioner stands discharged only to the extent of offence under Section 376 of IPC in Sessions Case No. 65 of 2022 (Crime No. 131 of 2019 registered at Shivaji Nagar Police Station, Latur).
- IV. Needless to mention that the revision petitioner is not discharged from the rest of the offences mentioned in Crime No. 131 of 2019 registered at Shivaji Nagar Police Station, Latur.
- V. The Criminal Revision Application is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]