



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.489/2025

Darshan S/o Prakashchand Dugad,
Aged around 28 years., Occu. Service
(Police), R/o Hanuman Chowk,
VTC : Arni, Sub District Arni,
District Yavatmal - 445 103.

... Applicant

- Versus -

1. State of Maharashtra,
through Police Station Officer,
Immamwada Police Station, Nagpur
FIR No.151/2025.

2. Complainant - X,
through Assistant Commissionerate
of Police I/C Police Station
Immamwada, Nagpur.

... Non-applicants.

Mr. Rahul M. Bhangde, Advocate for the Applicant.
Mr. N.B. Jawade, A.P.P. for the Non-applicant No.1/State.
Mr. U.P. Dable, Advocate for the Non-applicant No.2.

CORAM: MRS. VRUSHALI V. JOSHI, J.
DATED: 7.5.2026.

JUDGMENT

By the present application, the applicant is seeking to quash and set aside the F.I.R. and charge sheet arising out of Crime No.0151/2025, registered by the non-applicant No.1, for the offence punishable under Sections 69 and 64(2)(m) of the Bhartiya Nyaya

Sanhita, 2023 (BNS) and for the offence punishable under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(vii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SCST Act).

2. The prosecution's case, in brief, is as under:-

The non-applicant No.2/complainant is a Doctor. She was having acquaintance with the applicant through Instagram. They became friends of each other and having good talking terms. It is her allegation that the applicant was aware that she belongs to Scheduled Caste. Upon insistence by the applicant, she met him at various places and also extended him financial help of more than Rs.50,000/- from time to time and also paid hotel bills regularly. It is alleged that the applicant used to meet the non-applicant No.2 on various occasions while she was undertaking education at Lata Mangeshkar Medical College, Nagpur.

On 10.11.2022, the applicant has committed first sexual intercourse with the complainant on the false pretext of marriage at Hotel Orient Grant, Ashok Chowk, Nagpur and thereafter at Hotels and also at house of cousin sister of the applicant namely Chandani Chhajed R/o Nagpur on various occasions.

It is alleged that since the applicant has promised to marry her, she went with him at Kerala from 24.11.2022 to 11.12.2022 where applicant has committed sexual intercourse with her on the pretext of performing marriage with her. The non-applicant No.2 has also went to Hyderabad, Mumbai and Pune on various occasions where the applicant had physical relations with her on the pretext of false promise of marriage.

In April 2024, the applicant refused to marry with her and quarrelled with her and abused her. Thereafter in July 2024, the non-applicant No.2 went to Hyderabad for giving understanding to the applicant and pacify the quarrel between them, at that time, at Hotel Best Western Ashoka, Hyderabad the applicant committed last intercourse with her and then he abused, quarrelled and assaulted her with kicks and fists due to which she came back to Nagpur. Thereafter on 23.11.2024 she called the applicant and asked him to meet her. However, the applicant abused her on caste and quarrelled with her and broke the relations with her and blocked her from all social media platforms.

The allegations are made against the cousin sister of the applicant that she has also abused the complainant on caste on various occasions. Thus, it is alleged that since July 2022 the applicant has sexually exploited the complainant on the false pretext of marriage with her and then denied to marry her and thereby harassed her physically, mentally and economically. Therefore, she has lodged the complaint and the crime is registered.

3. The learned Advocate for the applicant has submitted that the F.I.R. has been lodged on the basis of baseless and motivated allegations arising out of purely personal and consensual relationship which has subsequently turned sour. It is contended that even if the allegations are accepted at their face value, no offence much less offence under Section 376 of IPC, is made out and continuation of criminal proceedings would amount to an abuse of process of law. The applicant is a well educated person and he is serving as a Sub-Divisional Police Officer and has unblemished

service record. The prosecution's case arises out of a love relationship between the applicant and the complainant which developed over a period of time. The material on record indicates that the parties were acquainted with each other and maintaining regular interaction between them which culminated into an intimate relationship. The relationship was purely consensual and based on mutual affection and was not induced by any fraudulent promise. The F.I.R. came to be lodged only after the dispute arose between them, particularly concerning marriage, thereby indicating that the complaint is lodged as an afterthought triggered by breakdown of relationship.

There was no false promise of marriage by the applicant from the inception and the allegations are motivated, exaggerated and devoid of substantive material.

The learned Advocate for the applicant has relied on number of judgments in support of his submission that where parties have a prolonged voluntary relationship, meeting frequently, cohabiting and engaging in intimacy, the consent implied be considered not to be vitiated by misconception under Section 376 of IPC. Rape involves the accusations against the women's will or without her consent. The consent implies a conscious, reasoned and voluntary agreement. Thus, mere breach of promise of marriage does not constitute rape.

4. The learned Advocate for the non-applicant No.2 has specifically stated that on 25.1.2025 the complainant went to Akalkuan, Nandurbar by bus to the office of the applicant, he asked her to go back and he cannot meet her. Accordingly, she returned back. While she was going to Dhule he threatened her that he would

send a car from elsewhere. It is alleged that it was his plan to kill her and, therefore, she did not change the bus. In said bus she met with an incident when some boys who were present in the bus, had touched her inappropriately. She saved her life by staying at Dhule in hotel. She has provided receipts, records and video recordings of the hotel. She has also provided the photos, videos and call records of applicant Darshan and his maternal sister Chandani for having physically, mentally and financially exploited her July 2022.

The applicant established physical relations with her on the pretext of marriage and thereafter refused to marry thereby vitiated her consent. The F.I.R. discloses the *prima facie* commission of cognizable offence and, therefore, the investigation ought not to be interdicted at the threshold. It is alleged that the applicant induced the complainant to fall into physical relationship on the false pretext of marriage and thereby vitiated the consent within the meaning of Section 90 of IPC. The non-applicant No.2 further submitted that the question of consent from inception is a matter of evidence and requires trial and cannot be adjudicated upon in proceedings under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023.

He has placed reliance on the judgment in M/s. Neeharika Infrastructure Pvt. Ltd. V/s. State of Maharashtra, AIR 2021 SC 1918 to urge that the Court ought to exercise circumspection at the stage of investigation, particularly when the allegations pertain to a serious offence affecting bodily autonomy and dignity of a woman and, therefore, the proceedings should be permitted to continue in accordance with law.

The learned Advocate for the non-applicant No.2 has further stated that though the applicant has relied on the judgment in Uday

V/s. State of Karnataka, (2003) 4 SCC 46 wherein it is held that it is not necessary to consider the question as to whether in a case of rape the misconception of fact must be confined to the circumstances falling under Section 375 fourthly and fifthly, or whether consent given under a misconception of fact contemplated by Section 90 has a wider application so as to include circumstances not enumerated in Section 375 IPC. These observations are in appeal against conviction i.e. after full-fledged trial and not at an initial state and they are not helpful in this case. Hence, prayed to reject the application.

5. The learned A.P.P. opposed the application on similar grounds stating that the offence is very serious and committed against a woman who is a member of Scheduled Caste by the applicant who is a government servant. The accusations are well founded and prima facie the evidence is available against the applicant. Though the complainant is major, however, the consent obtained by the applicant is not a free consent in the eyes of law and, therefore, the applicant is not entitled for claiming any relief of quashing of F.I.R. Hence, prayed to reject the application.

6. The question arise in this case is about the consent of the complainant, whether it was obtained under misconception of fact of false promise of marriage or whether material on record indicates a consensual relationship between two adults which subsequently failed thereby rendering the criminal proceedings an abuse of process of law.

7. Admittedly, the applicant and the non-applicant No.2 were having relations from 2022 to 2024. They met on Instagram and they got acquainted with each other. From the F.I.R. it is clear that she went with him to Kerala and stayed there for more than 15 to 16 days with him. She also stayed with him at Hyderabad, Mumbai and Pune. On various occasions they had physical relations with consent. Though the non-applicant No.2 has stated that the relations were under the pretext of marriage, even after refusal by the applicant to marry in April 2024, they met in Hyderabad and had sexual intercourse. The allegations are made that he abused her, quarried with her and assaulted her with kicks and fist blows due to which she came back to Nagpur. Again on 23.11.2024 she asked him for marriage and thereafter he blocked her on all social media platforms and abused her by naming her caste.

8. It appears from the record that during the course of their relationship, not a single complaint has been filed by the non-applicant No.2 regarding false promise of marriage by the applicant and she continued the same for two years upon her own wish without there being any protest or complaint from her side.

9. The question arises for consideration is, whether the applicant acknowledged any physical relationship with the non-applicant No.2 based on deception or false promise to marry. The allegations of rape in the present case are made entirely on non-applicant No.2's claim that the applicant established physical relations with her on false pretext of marriage.

10. The applicant has relied on the judgment of the Hon'ble Apex Court in Criminal Appeal No.5001/2025 [arising out of Special Leave Petition No.6906/2025] (Samadhan S/o Sitaram Manmothe V/s. State of Maharashtra and another) wherein the Hon'ble Apex Court has cited judgement in Mahesh Damu Khare V/s. State of Maharashtra, (2024) 11 SCC 398 wherein the following observations are made:

“27. In our view, if a man is accused of having sexual relationship by making a false promise of marriage and if he is to be held criminally liable, any such physical relationship must be traceable directly to the false promise made and not qualified by other circumstances or consideration. A woman may have reasons to have physical relationship other than the promise of marriage made by the man, such as personal liking for the male partner without insisting upon formal marital ties.

28. Thus, in a situation where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical relationship was purely because of the alleged promise made by the appellant to marry her. Thus, unless it can be shown that the physical relationship was purely because of the promise of marriage, thereby having a direct nexus with the physical relationship without being influenced by any other consideration, it cannot be said that there was vitiation of consent under misconception of fact.

(underlining by us)

In the case in hand the relationship continued for a period of two years which is a considerable period. The applicant and non-applicant No.2 remained close and emotionally involved. The physical intimacy that occurred during the course of functioning of relationship cannot be retrospectively termed as an incidence of offence of rape as is observed by this Court in above said matter.

Only because the relationship failed to culminate into marriage, it cannot be termed as rape.

11. In case of Prashant V/s. State of NCT of Delhi, (2025) 5 SCC 764 the Hon'ble Apex Court observed as under:-

“20. 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.”

(underlying by us)

12. The Hon'ble Apex Court in above-said appeal has observed that “this Court is conscious of the societal context in which, in a country such as ours, the institution of marriage holds deep social and cultural significance. It is, therefore, not uncommon for a woman to repose complete faith in her partner and to consent to

physical intimacy on the assurance that such a relationship would culminate in a lawful and socially recognised marriage. In such circumstances, the promise of marriage becomes the very foundation of her consent, rendering it conditional rather than absolute. It is, thus, conceivable that such consent may stand vitiated where it is established that the promise of marriage was illusory, made in bad faith, and with no genuine intention of fulfilment, solely to exploit the woman. The law must remain sensitive to such genuine cases where trust has been breached and dignity violated, lest the protective scope of Section 376 of the IPC be reduced to a mere formality for those truly aggrieved. At the same time, the invocation of this principle must rest upon credible evidence and concrete facts, and not on unsubstantiated allegations or moral conjecture.”

13. It is observed by the Hon’ble Apex Court in *Rajnish Singh V/s. State of Uttar Pradesh*, (2025) 4 SCC 197 that when a women willingly engages herself in long term sexual relationship with a man fully aware of its nature and without any cogent evidence to show that such relationship was induced by misconception of fact or false promise of marriage made in bad faith from inception, the man cannot be held guilty of rape under Section 376 of IPC. If the victim has wilfully agreed to maintain the sexual relations then the accused is not liable for the offence of rape. Furthermore, the non-applicant No.2 being a major and an educated individual, voluntarily associated with the applicant and entered into physical intimacy on her on volition. It is manifest that the relationship between the parties was consensual and, therefore, in absence of an express statement to that effect in the memo of application, as emphasized

in the impugned order, cannot be held against the applicant when the same can be otherwise clearly discerned.

14. In Mahesh Damu (supra) the Hon'ble Supreme Court has considered Section 90 of IPC and observed as under:-

“29. It must also be clear that for a promise to be a false promise to amount to misconception of fact within the meaning of Section 90 IPC, it must have been made from the very beginning with an intention to deceive the woman to persuade her to have a physical relationship. Therefore, if it is established that such consent was given under a misconception of fact, the said consent is vitiated and not a valid consent. In this regard we may refer to Deepak Gulati v. State of Haryana [Deepak Gulati v. State of Haryana, (2013) 7 SCC 675 : (2013) 3 SCC (Cri) 660], in which it was held as follows: (SCC pp. 682-84, paras 21 & 24)

“21. Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives, and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accused; and whether the consent involved was given after wholly understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to

have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was mala fide, and that he had clandestine motives.

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24. Hence, it is evident that there must be adequate evidence to show that at the relevant time i.e. at the initial stage itself, the accused had no intention whatsoever, of keeping his promise to marry the victim. There may, of course, be circumstances, when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. *The ‘failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term “misconception of fact”, the fact must have an immediate relevance’.* Section 90 IPC cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her.”

(underlining by us)

15. The learned Advocate for the applicant has relied on the judgment in Girish V/s. State of Maharashtra, 2024 SCC OnLine Bom 5646, wherein it is observed that it must be established that the promise was false at inception and directly influenced the woman’s

consent. Where the relationship is based on mutual love and prolonged association or voluntary intimacy and not solely on misrepresentation, the consent is not invalidated.

In case in hand, the complaint itself demonstrates that the relations were out of love and they willingly had sexual relations at different places where she stayed with him and enjoyed his company.

16. In Vipul Ram Praful Mhaisane V/s. State of Maharashtra, 2024 SCC OnLine 4889 and Nitesh V/s. State of Maharashtra, 2023 SCC OnLine Bom SCC 3328, principles enumerated in State of Haryana V/s. Bhajan Lal, 1992 Supp (1) SCC 335, are reiterated that if the well educated adult woman voluntarily makes intimacy with the accused for nearly 3 years and travelled with him and same was consensual association rather than one induced solely by misrepresentation, the accused is not liable.

17. In Pravesh V/s. State of Maharashtra, 2025 SCC OnLine Bom 4099, also the facts about the consensual association is observed.

18. In Saurabh V/s. State of Maharashtra, 2025 SCC OnLine Bom 5413 it is observed that even if the initial act is assumed to have been induced by a false promise of marriage, the subsequent uninterrupted course of conduct wherein the prosecutrix willingly maintained relationship indicates that her consent was not vitiated by such misconception. The consistent conduct reflects merely a romantic relationship which later deteriorated.

19. In Vishal V/s. State of Maharashtra, 2025 SCC OnLine 4777, the complainant herself admitted about prolonged intimacy and there was no specific allegations on caste to attract the provisions of SCST Act.

20. In Pradip V/s. State of Maharashtra, 2025 SCC OnLine 3164, the prolonged relationship, admissions in the compromise deed and the surrounding circumstances clearly pointed out a voluntary and consensual association between two matured individuals. In such scenario, continuation of criminal proceedings would not satisfy the ingredients of the alleged offence and would amount to an abuse of process of law.

21. The learned Advocate for the applicant has also relied on the following judgment in support of his contention that when the relationship is consensual then it cannot be termed as rape under Section 376 of IPC.

- i) Pranay V/s. State of Maharashtra, 2025 SCC Online Bom 4295,*
- ii) Shripal V/s. State of Maharashtra, 2025 SCC OnLine Bom 4527,*
- iii) Shailendra Kumar Dipak Mate V/s. State of Maharashtra, 2025 SCC OnLine Bom 4682,*
- iv) Hitesh V/s. State of Maharashtra, 2025 SCC OnLine Bom 5415,*
- v) Hira V/s. State of Maharashtra, 2025 SCC OnLine Bom 4844,*
- vi) Bhimrao V/s. State of Maharashtra, 2025 SCC OnLine Bom 4364,*
- vii) Shardul Shivdas Ukey V/s. State of Maharashtra, 2025 SCC OnLine Bom 5412,*
- viii) Atish Pankaj Sarkar V/s. State of Maharashtra, 2025 SCC OnLine Bom 3856,*

- ix) Suresh Namdev Unale V/s. State of Maharashtra, 2025 SCC OnLine Bom 5417,*
- x) Dinesh Ashok Adagale V/s. State of Maharashtra, 2025 SCC OnLine Bom 4204,*
- xi) Pramod Suryabhan Pawar V/s. State of Maharashtra, (2019) 9 SCC 608,*
- xii) Biswajyoti Chatterjee V/s. State of Maharashtra, 2025 SCC OnLine SC 741,*
- xiii) Uday V/s. State of Karnataka, (2003) 4 SCC 46, and*
- xiv) Salimbhai Hamidbhai Menon V/s. State of Gujarat, (2022) 18 SCC 662.*

22. In view of the observations in above-said authorities, the acts complained of in the present case occurred within the control of a relationship and were committed voluntarily and willingly. The continuation of prosecution in such facts against the applicant would be nothing but an abuse of court machinery.

23. For the aforesaid reasons, following order is passed.

ORDER

- i) The F.I.R. and charge sheet arising out of Crime No.0151/2025, registered by the non-applicant No.1, for the offence punishable under Sections 69 and 64(2)(m) of the BNS and for the offence punishable under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(vii) of the SCST Act are quashed and set aside.
- ii) The application is allowed in the above terms and disposed of.

(MRS. VRUSHALI V. JOSHI, J.)