



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

CRIMINAL APPLICATION (APL) NO. 1348 OF 2025

Ravinath Bhivaji Shrirame
Aged about 29 years, Occ. Service,
R/o. Yaygaon (Chorti),
Taluka – Brahmapuri,
District – Chandrapur.

... Applicant

Versus

1. State of Maharashtra,
Through Police Station Officer,
Police Station Brahmapuri,
District – Chandrapur.

2. Shital d/o Ravidas Ramteke
Aged about 30 years, Occ. Household,
R/o. Bamni, Taluka – Nagbhid,
District – Chandrapur.

... Non-applicants

Mr. Vijay N. Morande, Advocate for applicant.

Mr. N.B. Jawade, APP for non-applicant No.1.

Mr. Viren Joshi, Advocate (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, JJ.
DATE : 23.01.2026

ORAL JUDGMENT:

Heard.

(2) **Admit.**

(3) Heard finally with the consent of the learned
counsel for the respective parties.

(4) Present application is preferred by the applicant for quashing of the First Information Report in connection with Crime No.262/2025 registered with Police Station Brahmapuri, District – Chandrapur, for the offence punishable under Sections 64, 64(2)(m), 69, 115(2) and 352 of the Bharatiya Nyaya Sanhita, 2023.

(5) The crime is registered on the basis of the report lodged by the non-applicant No.2 on an allegation that in the year 2013, she was studying in First year of Graduation in Govindrao Warjurkar Arts and Commerce College, Nagbhid, and at the relevant time, she got acquaintance with the present applicant. They were communicating with each other and the friendship was developed between them. After completion of the graduation, they both went to the respective villages. However, in the year 2019, her father died and therefore, the present applicant came to her house to console her at the relevant time, he has proposed her for marriage. Thereafter, the communication started between them and love affair was developed between them. As the said marriage proposal was opposed by her family members, she started residing on a rented premises and the present applicant was visiting her rented premises and on the promise of marriage, he has subjected her for the forceful sexual assault. Since

2022, the dispute started between them and as per allegation, he has harassed her for various reasons and also declined to perform marriage with her. On the basis of the said report, police have registered the crime against the present applicant.

(6) Heard learned counsel for the applicant, who submitted that the non-applicant No.2 is a grownup lady, aged about 30 years, by understanding the repercussions of her act, she entered into the relationship, this is the relationship between the two adult members and knowingly they entered into the said relationship, therefore, mere breach of promise is not sufficient to attract the offence punishable under Section 376 of the Indian Penal Code. He further submitted that the statement of the victim itself shows that it was her family members, who were opposed the said marriage, and therefore, the marriage was not performed. Thus, it cannot be said that the present applicant has given a false promise of marriage but the reason for non fulfillment of marriage also reveals from the First Information Report. In view of that, no offence is made out against the present applicant. In view of that, the application deserves to be allowed.

(7) Per contra, learned APP strongly opposed for the same and submitted that considering that the victim was subjected for sexual assault on the false promise of marriage, the offence is made out and hence, application deserves to be rejected.

(8) Learned appointed counsel also endorsed the same contention in addition to that he submitted that the recitals of the FIR and the statement of the victim reveal that after dispute arose between them, she was subjected for the harassment by the present applicant and subsequently, denied to perform the marriage with her. Thus, on the basis of the false promise of marriage, she was subjected for the sexual assault and therefore, the application deserves to be rejected.

(9) On hearing both the sides and on perusal of the recitals of the FIR and the statement of the victim, it reveals that there was a long standing relationship between the victim and the present applicant i.e. since 2013. Subsequently, the dispute arose between them and therefore, the FIR came to be lodged. It also reveals from the recitals of the FIR that the marriage was not performed as the marriage was opposed by the brother of the victim. Thus, in the instant case, the victim, who herself is a grownup lady and entered into the

relationship after understanding the consequences of her act. Her consent given for the said relationship was out of love affair and she continued with the said relationship with him at least for about five years. Thus, such type of the relationship cannot be termed as an 'rape' defined under the Section 376 of the Indian Penal Code. The prosecutrix is the matured lady entered into the relationship knowing the consequences of her act. Even accepting the submission of the learned counsel for the complainant that under the misconception of the fact that consent was obtained, under Section 90 of IPC a consent given under a misconception of fact is no consent in the eyes of law. But the misconception of fact has to be in proximity of time to the occurrence and cannot be spread over a period of five years. It hardly needs any elaboration that the consent by the appellant was a conscious and informed choice made by her after due deliberations. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order :

ORDER

- (i) The application is allowed.
- (ii) The FIR in connection with Crime No.262/2025 registered with

Police Station Brahmapuri, District – Chandrapur, for the offence punishable under Sections 64, 64(2)(m), 69, 115(2) and 352 of the Bharatiya Nyaya Sanhita, 2023 and the consequent proceeding arising out of the same bearing charge-sheet No.163/2025 is hereby quashed and set aside against the applicant.

(10) The fees of the appointed counsel be quantified as per Rules.

(11) The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]

Prity