



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

CRIMINAL APPLICATION (APL) NO. 124 OF 2026

1. **Sevaram Bharatlal Maraskolhe**

Aged about 34 years,
Occupation : Service,
R/o Village Mahendrawadi,
Taluka Ghodadongri, District
Baitul, Madhya Pradesh

APPLICANT

// V E R S U S //

1. **The State of Maharashtra,**
Through Police Station Officer,
Police Station Warud,
District Amravati (Rural)

NON-APPLICANTS

2. **XYZ, Victim in Crime No.275/2025**
Registered with Police Station
Warud, Dist. Amravati (Rural)

Mr. S.B. Gandhe, Advocate for the applicant.
Mrs M.A. Barbade APP for non-applicant No.1 /State.
Mr. N.J. Patil, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 06.04.2026

ORAL JUDGMENT :

1. Heard.

2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.

3. By this application applicant is seeking to quash the First Information Report in connection with crime No.275/2025 registered at Police Station Warud District Amravati for the offences punishable under Sections 64(2)(m) and 69 of the Bharatiya Nyaya Sanhita, 2023 and consequent proceeding arising out of same bearing RCC No.182/2025 pending before the learned Judicial Magistrate First Class, Court No.1, Warud.

4. The crime is registered on the report lodged by non-applicant No.2 on an allegation that she got acquaintance with the present applicant through the Facebook. Thereafter started communication with each other. The applicant who was serving in SSB as a Constable disclosed to her that he wants to marry with her and thereafter on the promise of marriage she was subjected for the forceful sexual assault. Subsequently, the present applicant has denied to perform the marriage with her. Therefore, she approached to the police station and lodged the report. On the basis of the said report, police have registered the crime against the present applicant. After registration of the crime victim was

referred for the medical examination. The relevant statements of the witnesses have recorded and after completion of the investigation, charge-sheet was submitted against the present applicant.

5. During pendency of this application the applicant and the non-applicant No.2 entered into the settlement and she filed her reply stating that the relationship was consensual in nature and there was no force used by the present applicant and therefore, she does not want to proceed with further criminal proceeding.

6. Heard learned counsel for the applicant who submitted that even accepting the allegation as it is the relationship was consensual in nature. Mere breach of promise is not sufficient to attract the offence punishable under Section 64 (m) of the BNS. He also invited my attention towards the various statements of the witnesses and submitted that the statements of the witnesses also disclose that though she has roamed with present applicant at various places, she has not made any complaint to anybody. She also stayed along with him in the Hotel

Soni, Badora Chowk at Baitul wherein also she has not shown any displeasure about the relationship between both of them which sufficiently shows that relationship is consensual in nature. He further submitted that as per the recitals of the FIR they got acquaintance with each other in the year 2020. The FIR came to be lodged in the year 2025. Thus, the relationship between both of them was more than five years. Thus, there was no proximity of time to the occurrence and therefore, the application deserves to be allowed.

7. Per contra learned APP strongly opposed the said contention and submitted that considering on the promise of marriage she was subjected for the sexual assault. Thus, under the misconception of fact, consent was obtained and therefore, application deserves to be rejected.

8. On the contrary learned counsel for the non-applicant No.2 has supported the contention of the applicant for quashing of the FIR.

9. After hearing both the sides and on perusal of the entire investigation papers it reveals that initially she made an allegation that she was subjected for the forceful sexual assault by the present applicant on the promise of marriage. There is no dispute that victim is a 30 years grown up woman, knows the consequences of her act, could not be said to have acted under the alleged false promise given by the applicant or under the misconception of fact. It is well settled that under Section 90 of the IPC a consent given under the 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 non-applicant No.2 was conscious and informed choice made by her after due deliberation. Considering all these aspects and statement of the victim that it was a consensual relationship which she has stated in her affidavit. The recitals of the FIR also shows that there was a consensual relationship between both of them. This fact is further apparent from the various statements of the witnesses including the document which is collected during the investigation papers show that present applicant stayed along with non-applicant No.2 in various hotels and lodges. If these

facts are accepted as it is the observation of the Hon'ble Apex Court in the case of *Pramod Suryabhan Pawar vs The State Of Maharashtra and another* reported in (2019) 9 SCC 608 is relevant here, wherein in paragraph No.18 by considering the catena of decisions the Hon'ble Apex Court has summarised the legal position and held as under "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.

10. In the light of the above observations the allegation in the FIR indicates that since 2020 the complainant/non-applicant No.2 was in relationship with the present applicant. Two adult persons entered into love relationship and thereafter developed

the physical relationship between them which was consensual in nature and therefore, no offence is made out against the present applicant. In view of that application deserves to be allowed.

11. Hence, I proceed to pass the following order:-

ORDER

(i) The Criminal Application is allowed.

(ii) The First Information Report in connection with crime No.275/2025 registered at Police Station Warud District Amravati for the offences punishable under Sections 64(2)(m) and 69 of the Bharatiya Nyaya Sanhita, 2023 and consequent proceeding arising out of same bearing RCC No.182/2025 pending before the learned Judicial Magistrate First Class, Court No.1, Warud, is quashed and set aside to the extent of the present applicant.

12. The criminal application stands disposed of in the above said terms.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)