HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 661 of 2021

06th April, 2026

Kulvinder Singh -Applicant

Versus

State of Uttarakhand
And Another -Respondents

Presence:-
Mr. Harshpal Sekhon, learned counsel for the applicant.
Mr. Rakesh Joshi, learned Brief Holder for the State.

Hon'ble Alok Mahra, J.

The present Criminal Misc. Application under section 482 Cr.P.C. has been filed by the applicant for quashing and setting-aside the entire proceedings of Criminal Case No. 227 of 2020, State Vs. Kulvinder Singh, under Section 376 of IPC, pending in the Court of Civil Judge (Jr. Div.)/Judicial Magistrate, Jaspur, District Udham Singh Nagar.

2. Facts necessary, to appreciate the controversy, briefly stated, as follows:-

In this case, an FIR was lodged on 30.11.2019 by the complainant/respondent no. 2, wherein, it was alleged that applicant on the false pretext of marriage, have committed rape upon her. After investigation, chargesheet was filed under Section 376 of IPC against the applicant.

3. Learned counsel for the applicant would submit that the applicant has been falsely implicated in the case. The Investigating Officer, without application of mind, just reiterated the versions of the FIR in the chargesheet. It is further submitted that even if the contents of the FIR are taken on the face value, then also it is an admitted case of the complainant that there was a cordial relationship between the complainant and the applicant since last two years before lodging of the FIR. Learned counsel for the applicant further submits that it is also mentioned in the FIR that the applicant took the complainant to meet his parents regarding their marriage. Learned counsel for the applicant further submits that complaint was filed just to pressurize the applicant. It is further argued that the complainant has concealed the fact while lodging of the FIR that she was married in the year 2013. Decree of divorce was granted to her on 01.11.2019. Thus, it is argued that during the period for which applicant had allegedly raped the complainant, on the false pretext of marriage, at that time, the marriage of the complainant was subsisting. Thus, ingredients of Section 376 of IPC are not attracted in the present case.

4. To support his case, learned counsel for the applicant has relied upon a judgment passed by Hon'ble Supreme Court in the case of Pramod Kumar Navratna Vs. State of Chattisgarh and Others, (Special Leave Petition (Crl.) No. 4452

of 2025). For ready reference, paragraph Nos. 22 and 25 of the aforesaid judgment are extracted hereinbelow:-

> "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. In view of the aforesaid settled position of law, the respondent No.1-State and the complainant-respondent No.3 has failed to place any material on record to show how the accused-appellant on the subsequent meetings managed to repeatedly coax and dupe the complainant-respondent No.3 into having physical relations with him on the false pretext of marriage considering the fact that within initial meetings, both parties were aware about the marital status of the victim and therefore it cannot be, by any stretch imagination said that the consent of the complainant-respondent No.3 has been vitiated or obtained on fraud and misrepresentation made by the accused-appellant.
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> 25. At this juncture, it is important to place reliance upon the observations in Prashant vs. State of NCT of Delhi, (2025) 5 SCC 764, wherein this Court speaking through one of us (Nagarathna, J.) observed that a mere break-up of a relationship between a consenting couple cannot result in the 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 marriage. Furthermore, this Court in Samadhan vs. State of Maharashtra, 2025 SCC OnLine SC 2528 through one of us (Nagarathna, J.) observed that this Court has, on numerous occasions, taken note of the disquieting tendency wherein failed or broken relationships are given the colour of criminality. The offence of rape, being of the gravest kind, must be invoked only in cases where there exists genuine sexual violence, coercion, or absence of free consent. To convert every soured relationship into an offence of rape not only trivialises the seriousness of the offence but also inflicts upon the accused indelible stigma and grave injustice. Such instances transcend the realm of mere personal discord. The misuse of the criminal justice machinery in this regard is a matter of profound concern for the judiciary already facing a heavy load and calls for condemnation."

5. *Per contra*, learned State Counsel would vehemently oppose the present criminal misc. application and would submit that the offence alleged is of a grave and heinous

nature and the Investigating Officer, after collecting sufficient evidences, has submitted the chargesheet against the present applicant.

6. Heard learned counsel for the parties and perused the record.

7. After perusing the contents of the FIR and the chargesheet, it is apparently clear that it is an admitted case of the complainant that relationship of the applicant and the complainant was consensual and both were major at that time. In fact, the complainant is aged about more than 40 years. Thus, this is not a case of single incident of rape, but, consensual relationship for stretching period of two years and only when the relationship between the complainant and the applicant became sore, the present FIR was lodged by the complainant.

8. In view of the law laid down by Hon'ble Apex Court in the aforesaid case, this Court has no hesitation in holding that the prosecution has failed to make out any offence punishable under Section 376 IPC against the applicant. In such circumstances, allowing the criminal proceedings to continue against the applicant would be an abuse of the process of law. Therefore, this Court is of the considered view that it is a fit case to exercise its inherent jurisdiction under Section 482 Cr.P.C. to secure the ends of justice.

9. Accordingly, the present criminal miscellaneous application filed under Section 482 of the Code of Criminal Procedure, 1973 is allowed and the entire proceedings of Criminal Case No. 227 of 2020, State Vs. Kulvinder Singh, under Section 376 of IPC, pending in the Court of Civil Judge (Jr. Div.)/Judicial Magistrate, Jaspur, District Udham Singh Nagar, is hereby quashed, *qua* the applicant.

(Alok Mahra, J.)
06.04.2026

Ujjwal