2026:AHC:209208

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 7697 of 2022

Raju Upadhyay

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Akhilesh Kumar Mishra, Satyendra Narayan Singh
Counsel for Respondent(s)	:	G.A., Ravindra Prakash Srivastava

Court No. - 91

HON'BLE SANTOSH RAI, J.

1. Case called out. None appears on behalf of opposite party no.2.

2. Heard learned counsel for the appellant and learned A.G.A. for the State and perused the record.

3. The present appeal has been filed under Section 14A(1) of S.C. & S.T. Act by the appellant to set aside the impugned charge-sheet dated 08.07.2022 and cognizance order dated 18.07.2022 passed by Exclusive Special Judge, S.C. & S.T. Act Basti in Special S.T. No.675 of 2022 (State vs. Raju Upadhyay) arising out of case crime no.160 of 2022, under Section 376 I.P.C. and Section 3(2) (v-a) of S.C. & S.T. Act, P.S. Kotwali, District Basti.

4. Tersely, as per the F.I.R. version, the complainant was working as a cook and residing in a room at Satendra Guest House. About nine months prior to the complaint, the manager of the guest house, Raju Upadhyay-appellant, induced her into a relationship on the pretext of marriage and established physical relations with her. When she insisted upon marriage, he continued to maintain physical relations on the assurance of marrying her, resulting in her becoming pregnant. Thereafter, upon coming to know of her pregnancy, the accused allegedly left the guest house and absconded.

5. Briefly, the grounds of the appeal are that the impugned charge-sheet dated 08.07.2022 and cognizance order dated 18.07.2022 passed by Exclusive Special Judge, S.C. & S.T. Act Basti is wholly

illegal and not sustainable in the eyes of law. The impugned order is based on surmises and conjunctures as such same is liable to be quashed.

6. Learned counsel for the accused-appellant has submitted that the accused-appellant has been falsely implicated in the present case and that the prosecution version, even if taken at its face value, does not disclose the commission of the alleged offence. It is contended that the victim was a major and was already married to Anil for about twelve years ago and had a daughter from the said wedlock. It is further submitted that the victim was in contact with the accused-appellant and that the relationship between them was consensual. The allegation that the accused-appellant established physical relations with the victim on the false promise of marriage is stated to be an afterthought. It is further submitted that there are material inconsistencies in the prosecution version and that the statements of the victim, particularly her statement under Section 164 Cr.P.C., do not inspire confidence. Learned counsel for the appellant has relied upon following judgements of Hon'ble Supreme Court:-

1. Pramod Suryabahan Pawar vs. State of Maharashtra and another, 2019 0 Supreme (SC)901

2. Sonu @ Subhash Kumar vs. State of Uttar Pradesh and another passed in Criminal Appeal No.233 of 2021 (arising out of S.L.P.(Crl) No.11218 of 2019) on 01.03.2021

3. Shambhu Kharwar vs. State of U.P. and another, AIR 2022 Supreme Court 3901

4.Amol Bhagwan Nehul vs. The State of Maharashtra and another Criminal Appeal No.Nil of 2025 (arising out of SLP (Crl.No.10044 of 2024)

7. Per contra, learned A.G.A. has opposed the submissions advanced on behalf of the accused-appellant and has submitted that the accused-appellant is specifically named in the F.I.R. and that the victim has consistently supported the prosecution case in her statements recorded under Sections 161 and 164 Cr.P.C. It is submitted that the victim has specifically stated that the accused-

appellant established physical relations with her on the false promise of solemnizing marriage, as a result whereof she became pregnant. Learned A.G.A. has further submitted that the allegations made by the victim disclose a prima facie case against the accused-appellant and that, at this stage, the Court is not required to undertake a meticulous examination of the evidence or conduct a mini-trial. It is, therefore, submitted that no interference is warranted in the impugned proceedings and that the appeal/application is liable to be dismissed.

8. Accused-appellant Raju Upadhyay is named in the First Information Report. The victim/informant was working as a helper at Satyendra Guest House. It is alleged that the accused-appellant established physical relations with her on the false promise of solemnizing marriage. After registration of the FIR on 31.03.2022, the statement of the victim was recorded under Section 161 Cr.P.C., wherein she stated that she had married with Anil about twelve years ago and had a daughter. She further stated that subsequently she came into contact with the accused-appellant, who established physical relations with her on the false promise of marriage, as a result whereof she became pregnant. In her subsequent statement under Section 164 Cr.P.C., she reiterated the prosecution version and specifically attributed the alleged act of sexual intercourse on the false promise of marriage to the accused-appellant.

9. Learned counsel for the appellant submitted that a false promise of marriage does not, by itself, fall within the scope of absence of consent as contemplated under Section 375 IPC. Learned A.G.A. opposed the submission and contended that the consent obtained on a false promise of marriage cannot be treated as free and voluntary consent and that the allegations prima facie constitute an offence under Section 375 IPC.

10. Considering the allegations contained in the FIR and the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C., a prima facie case is made out against the accused-appellant. If the appellant claims innocence, the same can be considered and adjudicated upon by the trial court on the basis of

evidence adduced by the parties. At the stage of taking cognizance, the Court is only required to examine whether a prima facie case is made out. It is not required to undertake a meticulous appreciation of evidence or conduct a mini-trial.

11. Accordingly, no ground for interference is made out. The criminal appeal is, accordingly, **dismissed.**

October 6, 2026
Asha

(Santosh Rai,J.)

Digitally signed by :-
ASHA
High Court of Judicature at Allahabad