

**IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD**  
**SITTING AT LUCKNOW**

**Court No. - 15**

**Case :- CRIMINAL REVISION No. - 566 of 2025**

**Revisionist :-** Rakesh Rathore

**Opposite Party :-** State Of U.P. Thru. Addl. Chief Secy. Home/Prin. Secy. Home Lko And  
Another

**Counsel for Revisionist :-** Nadeem Murtaza, Arun Sinha, Purnendu Chakravarty, Siddhartha Sinha, Wali Nawaz Khan

**Counsel for Opposite Party :-** G.A.

**Hon'ble Subhash Vidyarthi J.**

1. Heard Sri Arun Sinha, Sri Nadeem Murtaza, Sri Purnendu Chakravarty and Sri Wali Nawaz Khan, the learned counsel for the revisionist and Sri Vinod Kumar Shahi, the learned Additional Advocate General and Sri Anurag Verma, the learned Additional Government Advocate-I for the State.
2. By means of the instant revision filed under Section 442 of B.N.S.S., the revisionist has challenged validity of an order dated 05.05.2025 passed by the learned Additional District & Sessions Judge, F.T.C. (O.A.W.), Sitapur in Sessions Trial No. 242/2025 (State v. Rakesh Rathore) arising out of Case Crime No. 16 of 2025, under Sections 64(2), 351(3), 127(2), 69 of B.N.S., Police Station Kotwali, District Sitapur, whereby the application for discharge filed by the revisionist has been rejected by the trial court.
3. Briefly stated, the facts of the case are that the opposite party no. 2 lodged an FIR No. 16/2025 on 17.01.2025 stating that she came in contact with the revisionist in the year 2018 while he was a member of the Legislative Assembly of the State. The revisionist proposed a political alliance and partnership with the informant under his protection. The informant accepted the offer and started participating in political activities. After some time, the applicant got the informant appointed as District Chairperson – Women of Tailik Mahasangh, Sitapur (of which the revisionist is the National Chairperson). Thus an

intimacy developed between the revisionist and the informant and the informant started having immense trust upon him. The revisionist called the informant at about 01:00 p.m. in the month of March, 2020 and he raped her inside his house. The revisionist blackmailed the informant and made a false promise that he would divorce his wife and make the informant his life partner and will ensure her political progress. Thereafter the revisionist repetitively made physical relations with the informant. When the revisionist got elected as a Member of Parliament in the year 2024, he called the informant to his house at about 09:00 a.m. on 24.08.2024, forcibly made her sign some blank papers and said that she would live as his concubine, otherwise he would defame her.

4. In the statement of the informant recorded under Section 180 B.N.S.S., she reiterated the FIR version. The medico legal examination report of the informant mentions that she is a woman aged 49 years. No mark of injuries or sign of use of force were mentioned in the medico legal examination report.
5. In the statement of the victim recorded under Section 183 B.N.S.S., she stated that she came in contact with the revisionist in the year 2018 and she used to frequently visit his home. The revisionist has repetitively raped her since the year 2020 and he had promised that he would divorce his wife and marry the informant. She further stated that the revisionist had called her to his home on 28.04.2024, raped her and made her sign on some blank papers. Now the revisionist is threatening to defame the informant and her family members and he has threatened to demolish the informant's school.
6. The transcript of a telephonic conversion between the informant and the revisionist is a part of the case diary which call has purportedly been made by the informant through the mobile phone of her daughter-in-law, wherein the informant stated that the revisionist had stated that he would divorce his wife and keep the informant as his wife and she demanded fulfillment of this promise and the revisionist did not deny it.

7. The Investigating Officer has recorded statements of the informant's husband, her son and her daughter-in-law, all of whom have supported the FIR version and have stated that the informant came into contact with the revisionist in the year 2018, the revisionist had made her District Chairperson of Tailik Mahasangh, Sitapur and he allured for political upliftment of the informant. The informant used to frequently visit the informant's home. At times the revisionist used to call her at night and sometimes she used to come back home in the morning.
8. After investigation, the Investigating Officer has submitted a charge sheet on 10.03.2025.
9. The revisionist had filed an application for his discharge on the ground that the material collected during investigation does not even prima facie make out the commission of any offence by the revisionist.
10. The trial court relied upon the judgment of the Hon'ble Supreme Court in the case of **P. Vijayan v. State of Kerala**: (2010) 2 SCC 398, **M.E.Shivlinga Murthi v. CBI**: (2020) 2 SCC 763 and **State (NCT of Delhi) v. Shiv Charan Bansal**, (2020) 2 SCC 290 and came to a conclusion that there was sufficient material available to prima facie make out a case for trial of the applicant for offences under Sections 64(2), 351(3), 127(2), 69 of B.N.S.
11. After rejecting the application for discharge, the trial court had fixed 13.05.2025 for framing of charges. A supplementary affidavit has been filed on behalf of the revisionist stating that on 13.05.2025, an application for adjournment was filed on behalf of the revisionist stating that he intends to file a revision against the order dated 05.05.2025 before this Court. This application was allowed by the trial court and the next date was fixed as 16.05.2025 for framing of charges. On 16.05.2025, an application was filed on behalf of the revisionist stating that the present revision has already been filed before this Court and he has full hope of success in the revision. In these circumstances, framing of charges against the revisionist will cause an irreparable injury to him. However, the trial court rejected the application for adjournment and has framed charges against the

applicant on 16.05.2025 in spite of being apprised of the fact that the instant revision has already been filed before this Court.

12. Assailing the validity of the aforesaid order dated 05.05.2025, the learned counsel for the revisionist has submitted that the informant is a married lady aged 49 years, she runs a school as per her own version, she has been the District Chairperson of Tailik Mahasangh, even one of her sons is already married. The revisionist is also a married person aged 60 years. The persons who have come forward to give their statements supporting the informant's allegation that the revisionist has sexually exploited her under a false promise of marriage, are the informant's husband, son and daughter-in-law.
13. In these circumstances, the allegation that the revisionist raped the informant under allurement of marrying her, is apparently absurd.
14. In **State of Haryana v. Bhajan Lal**: 1992 Supp (1) SCC 335, the Hon'ble Supreme Court has given the following categories of cases by way of illustration wherein the power under Section 482 Cr.P.C. can be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, with the caution that it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

*“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence,*

*no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

*(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

15. The learned Counsel for the revisionist has submitted that the present case falls within the categories 5 and 7 of the examples given by the Hon’ble Supreme Court in the case of **Bhajan Lal** (Supra).
16. The learned Counsel for the revisionist has also relied upon a decision of the Hon’ble Supreme Court in the case of **Biswajyoti Chatterjee v. State of West Bengal**: 2025 SCC OnLine SC 741, wherein the Hon’ble Supreme Court has set aside an order passed by Calcutta High Court rejecting an application for discharge. The Hon’ble Supreme Court has inter alia observed that the complainant was well aware that the accused person was married. She had been receiving financial help from the accused person and she must have carefully weighed her decision before entering into a relationship with the appellant. In these circumstances, it is improbable that the complainant had engaged in a physical relationship with the accused person on account of an assurance of marriage. The Hon’ble Supreme Court has further observed that:-

*“20. We find that there is a growing tendency of resorting to initiation of criminal proceedings when relationships turn sour. Every consensual relationship, where a possibility of marriage may exist, cannot be given a colour of a false pretext to marry, in the event of a fall out. It is such lis that amounts to an abuse of*

*process of law, and it is under such circumstances, that we deem fit to terminate the proceedings at the stage of charge itself.”*

17. The learned Additional Advocate General and the learned AGA-I have opposed the prayer for grant of interim relief. They have submitted that the probative value of evidence cannot be scrutinized by the trial court at the time of deciding the discharge application or framing of charges and it cannot be done by this Court while entertaining a revision against an order rejecting a discharge application. They have submitted that there is sufficient material to support the charges levelled against the revisionist which make out a case for trial of the revisionist. The merits of the case will be decided by the trial court after giving an opportunity to the prosecution as well as to the defence for leading evidence in support of their respective case.
18. The matter requires consideration.
19. Admit.
20. Issue notice to the opposite party no. 2 returnable at an early date. The learned Counsel for the revisionist shall take necessary steps within seven days.
21. The opposite party may file a counter affidavit within a period of four weeks. The rejoinder affidavit, if any, may be filed within two weeks thereafter.
22. List this case in the week commencing 28<sup>th</sup> July, 2025.
23. Keeping in view the peculiar facts of the case where a 49 years old married lady having her husband, a married son and a daughter-in-law with her side, who is running a school and who has held the office of District Chairperson – Women of Tailik Mahasangh, claims that the revisionist – who is a married man aged about 60 years, sexually exploited her repetitively since the year 2020 under an allurement of divorcing his wife and marrying the informant; that the persons who are supporting this allegation of the informant are her own husband, son and daughter-in-law and all of them have stated that the revisionist has committed an offence against the informant by not marrying her; that it is nobody's case that the informant had ever promised to divorce her husband, without which the married

informant cannot marry any other person and also keeping in view the great haste shown by the trial court in first granting time to the revisionist on 13.05.2025 for filing a revision before this Court and thereafter proceeding to frame charges on 16.05.2025 even though the trial Court was informed that the present revision has already been filed on 15.05.2025, I am of the view that a case for grant of interim relief is made out and the proceedings of the trial court deserve to be stayed.

24. Accordingly, it is provided as an interim measure that the impugned order dated 05.05.2025 passed by the learned Additional District & Sessions Judge, F.T.C. (O.A.W.), Sitapur in Sessions Trial No. 242/2025 (State v. Rakesh Rathore) arising out of Case Crime No. 16 of 2025, under Sections 64(2), 351(3), 127(2), 69 of B.N.S., Police Station Kotwali, District Sitapur, and the entire proceedings of the aforesaid case, shall remain stayed till the next date of listing.

**[Subhash Vidyarthi, J.]**

Order Date: 20.05.2025  
Pradeep/-