IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2025
[SPECIAL LEAVE PETITION (CRL.) NO. 7004 OF 2025)

KUNAL CHATTERJEE **Appellant (s)**

VERSUS

THE STATE OF WEST BENGAL & ORS. **Respondent(s)**

O R D E R

Leave granted.

The appellant before this Court is an accused in a case under Sections 417, 376, 506 read with Section 34 of the Indian Penal Code and Section 6 of the POCSO Act. The complaint is the prosecutrix, who at the time of lodging of the FIR, was a major, but alleges that she was a minor and was the age of 15 years, i.e. more than three years back, when the appellant and the prosecutrix had a consensual relationship and the complainant agreed to be in relationship after the appellant had promised to marry her.

After she became major, the appellant backed out from his promise and the prosecutrix was humiliated by the parents of the present appellant. Thus, the

prosecutrix was constrained to file an FIR, not only against the appellant, but also against his father, mother and uncle. This is the case of the prosecution.

The substance of the FIR is that she was admittedly in a relationship at the time she was a minor, and she entered into the relationship on the promise of marriage. Hence, the case of rape is made out, and that too rape of a child.

The accused had invoked the inherent jurisdiction of the Calcutta High Court for quashing of the FIR. As far as father, mother and uncle of the appellant are concerned, the High Court did quash the proceedings under Section 482 Cr.P.C. But the proceedings as against the present appellant were kept alive. Now, the appellant is before this Court praying that proceedings are liable to be quashed qua him as well.

The learned counsel appearing for the State and the complainant have vehemently opposed the prayer for quashing of the proceedings.

We have heard learned counsel for the parties at length. Learned counsel appearing for the State has

relied upon the definition of 'Rape' and would argue that the consent given by the minor is no consent and it would still be a rape. In our considered opinion, as regarding the rape being committed by the appellant when the prosecutrix was a minor, there is absolutely no evidence, and definitely no forensic evidence with the prosecution. It is only an allegation in the FIR after more than 03 years, in order to make out a case under the POCSO Act, that such an act of rape was committed three years back when she was a minor. She also categorically states that she consented to the act as there was a promise of marriage by the appellant.

This Court has held in several decisions that promise to marriage and the subsequent physical relationship between the two with consent would not amount to rape and the reasons therein have been assigned ***(****See:* ***Prithivirajan*** *v.* ***State, 2025 SCC OnLine SC 696, Pramod Suryabhan Pawar*** *v.* ***State of Maharashtra, (2019) 9 SCC 608, Maheshwar Tigga*** *v.* ***State of Jharkhand, (2020) 10 SCC 108)***.

Under the present facts and circumstances of the case and the nature of the evidence with the prosecution, particularly the long delay in lodging the FIR itself suggest that the present criminal proceedings lodged against the appellant are nothing but an abuse of the process of law and the High Court ought to have invoked its inherent jurisdiction in the case of the appellant as well as it did while quashing the proceedings for the remaining accused.

Under these circumstances, we allow this appeal and quash the proceedings against the appellant, as these are nothing but an abuse of the process of law.

Pending interlocutory application(s), if any, is/are disposed of.

.....J.
[SUDHANSHU DHULIA]

.....J.
[ARAVIND KUMAR]

New Delhi;
JULY 29, 2025.

ITEM NO.24 COURT NO.8 SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 7004/2025

[Arising out of impugned final judgment and order dated 07-05-2024 in CRR No. 2676/2022 passed by the High Court at Calcutta]

KUNAL CHATTERJEE Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL & ORS. Respondent(s)

FOR ADMISSION and I.R.
IA No. 106719/2025 - EXEMPTION FROM FILING O.T.

Date : 29-07-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) : Mr. Sunando Raha, Adv.
Mr. Sk Sayan Uddin, Adv.
Mr. Kunal Malik, AOR
Mr. Akash Singh Rana, Adv.
Ms. Anna Oommen, Adv.

For Respondent(s) : Mr. Parag Chaturvedi, Adv.
Mr. Mrinal Prajapati, Adv.
(for State)

Mr. Smarhar Singh, Adv.
Mr. Bikram Mandal, Adv.
(for complainant)

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA) (RENU BALA GAMBHIR)
ASTT. REGISTRAR-cum-PS ASSISTANT REGISTRAR

(Signed order is placed on the file)