



2025:AHC:193455

A.F.R.

Judgment Reserved On 14.10.2025

Judgment Delivered on 04.11.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 24989 of 2024

Ravi Pal

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Jitendra Kumar Pandey, Om Prakash Yadav

Counsel for Opposite Party(s) : Anchal Kumar Rao, G.A., Prince Kumar Srivastava, Rakesh Yadav, Yakub Ali Ansari

Court No. - 81

HON'BLE AVNISH SAXENA, J.

1. It is required to mention at the threshold that on 10.09.2025 this Court has passed the order that, opposite party no.2, Ms Shivani Bhatt, present in person and stated that she is not in a position to engage a counsel to contest the case, hence, directed Registrar General to appoint an Advocate as amicus curiae to represent her. By subsequent order dated 07.10.2025, this Court has further made observation that Ms Shivani Bhatt is already represented by Sri Prince Kumar Srivastava, Advocate who was present in the Court along with opposite party no.2, in person and ready for arguments. The amicus curiae, therefore, has not been appointed and with the consent of parties 14.10.2025 (2.00 p.m.) fixed for arguments.

2. Heard, Sri Om Prakash Yadav, learned counsel for the applicant, Sri Prince Kumar Srivastava, learned counsel for opposite party no.2 as well as the opposite party no.2, in person and Sri S.K. Rai, learned A.G.A.-I for the State.

3. Before dealing with the arguments made by the parties, it would be expedient to deal with the F.I.R. lodged by opposite party no.2 on 17.01.2024 against the applicant-accused, Ankit Pal (brother of the accused),

Mahendra Pal (father of the accused) and Munni Devi (mother of the accused) at Police Station Sahjanawa, District Gorakhpur which was registered at Case Crime No. 46 of 2024 under Sections 376 and 120-B I.P.C. It is alleged that opposite party no.2 ('victim' for the sake of brevity) is resident of Seikhpur, Post-Dhirauli Babu, Police Station Chhavani, District Basti, who, since her childhood was residing with her maternal grand parents at Village Punda, Post-Rithuakhor, Police Station Sahjanawa, District Gorakhpur. Some years' back the victim came in contact with accused through her friend Reetu Pandey, later on, they exchanged their phone numbers and started chatting. It is during these chats that the accused has given proposal of marriage to the victim, but the victim did not trust the accused, on which the accused has intimated her that he has disclosed about the proposal of their marriage with his family. On 21.11.2023, the accused-applicant took the victim to his residence at Bharwaliya Khurd, Police Station Sipriganj, District Gorakhpur and introduced her with his parents. The parents intimated that they have no objection about the marriage and at their instance the accused took the victim to his room, where she stayed from morning till evening and the accused has committed rape on her on false assurance of marriage. When she objected, the accused assured her that he will certainly marry her. On 23.11.2023, the accused has taken her to Gorakhpur, where they have checked in a hotel behind railway station. They stayed there for the night and again accused committed rape on her. On the next day, when the victim has asked the accused for court marriage, he started dilly-dallying. She then intimated the incident to the younger brother of the accused, Ankit Pal. He has also assured her that his parents are ready for the marriage and further assured that his brother will marry her. She then talked to the father of the accused, who has refused, on which she went to Sipriganj Police Station and intimated the incident to the Darogaji, who has called the family members of the accused and entered some paper work. Thereafter, the accused has taken the victim to Delhi for visit where she again asked the accused for the court marriage, but he did not marry her and only gave false assurance. She stayed there with the accused for nearly a month and was subjected to rape on these days. On 03.01.2024, the accused has left her alone at Delhi. The victim states that the accused applicant and his family members committed conspiracy and she was subjected to rape by the accused on false assurance of marriage pursuant to that conspiracy.

4. The victim has given her statement under Sections 161 and 164 Cr.P.C. on the same terms.

5. After investigation the Police has submitted charge-sheet against the applicant for the offence under Section 376 I.P.C., whereas, other accused namely Ankit Pal, Mahendra Pal and Munni Devi were not charge-sheeted.

6. The accused has challenged the charge-sheet on the ground that the victim

has not disclosed about the details of her being introduced to the accused applicant; there was consensual sexual relations between the applicant and victim; there is no details and particulars about consent of parents of the accused for marriage; no details about proposal of marriage from the family of the accused or the victim; the averment in F.I.R. shows that the victim on her own came to the residence of the accused, checked in the hotel and went to Delhi. The F.I.R. is delayed as on 03.01.2024 the victim has stated to be left by the accused, whereas, the F.I.R. has been lodged on 17.01.2024.

7. It is stated by the learned counsel for the applicant accused that date of birth of victim is 24.01.2001 as per her high school certificate. There was no medical corroboration of rape in medical report. The statement of the victim recorded under Sections 161 and 164 Cr.P.C. is mere repetition of the contents of the F.I.R. The accused applicant is innocent and committed no offence as alleged by the victim, rather falsely implicated him due to ulterior motive of the victim. The applicant has no criminal history and his family has also been falsely involved just for the purpose of extortion. The victim has concocted a story in the F.I.R., though she was never taken to the residence of the accused on 21.11.2023. There was no proposal of marriage and the accused applicant has not visited Delhi with the victim, or left her alone on 03.01.2024. The victim was a consenting party and allegations were leveled against the applicant by the victim when she was caught by the Police at Delhi. The F.I.R. is frivolous, vexatious and concocted and abuse of process of law. The Investigating Officer did not collect any material to substantiate the offence of rape, but despite that charge-sheet has been submitted against accused applicant for offence under Section 376 I.P.C. He, therefore moved application under Section 482 Cr.P.C. to quash the charge-sheet and entire proceeding of case. In support of his contention learned counsel has relied on cases of **Pramod Suryabhan Pawar Versus State of Maharashtra and another (2019) 9 SCC 608 (relevant paragraphs- 12,13,14 and 16)**, **Sonu alias Subhash Kumar versus State of UP (2021) 18 SCC 517(relevant paragraphs- 8,11 and 12)** and **Amol Bhagwan Nehul versus State of Maharashtra and another (2025) SCC OnLine SC 1230 (relevant paragraphs- 9 and 11)**.

8. Learned A.G.A has submitted that during the course of investigation the Investigating Officer has collected sufficient, credible and cogent material against the applicant and submitted charge-sheet on 05.04.2024 for offence under Section 376 I.P.C. The Magistrate has taken cognizance on the charge-sheet and charge has been framed against the accused. He further submits that there is no delay in lodging the F.I.R. The statement of victim recorded under Sections 161 and 164 Cr.P.C. are intact. The accused-applicant has entered into sexual relations with opposite party no. 2, knowing fully well that he has given false assurance of marriage. The crime is heinous in nature.

The application moved by the accused-applicant for quashing the charge-sheet does not have merit and as such the application deserves to be dismissed.

9. Learned counsel for opposite party no. 2 has submitted that the accused applicant has committed rape on the victim, despite her objection to enter into physical relations before the marriage. She made every endeavour to persuade the accused to marry her and physical relations would only be after the marriage, but every time consent obtained by false assurance of marriage made by the accused that he will certainly marry her and committed rape. This physical relation does not fall in the category of consented or consensual sex. The victim went to the Police Station after 23.11.2023 and narrated her plight to *Darogaji*. It is on the instance of Police that the family members of the accused-applicant were called and some paper work were undertaken. It is thereafter that the victim went to Delhi along with accused with the firm belief that the accused will marry her, but the accused left her in lurch on 03.01.2024. The victim was not in a position to return to her native place and lodged the F.I.R. after reaching her maternal grand parents. He submits that the judgment relied on by the accused applicant cannot support his case because the genesis of the proposal of marriage was false and it was intended by the accused that he will enter into physical relations with the victim by giving her false assurance of marriage. He, therefore, submits that the application moved by the applicant is devoid of merit and is liable to be dismissed.

10. This court has taken into consideration the rival submissions made by the parties and perused the record.

11. To appreciate the facts it would be expedient to quote paragraph-18 of judgment of Hon'ble the Supreme Court in **Pramod Suryabhan Pawar** (supra) relied on by the applicant:-

"18. 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."

12. The allegations contained in F.I.R. lodged by the victim and her consistent statement recorded under Sections 161 and 164 Cr.P.C. reveal the following facts which are required to be considered on the face of it to

ascertain as to whether the promise of marriage was false at its very inception and its sole purpose was to fetch consent of the victim:

- i) The victim, since her childhood, was residing with her maternal grand parents at Gorakhpur away from her parents, who resided at Basti. This evinces the psychology of victim.
- ii) The first instance mentioned in the F.I.R. of committing rape is of 21.11.2023, when the accused-applicant is alleged to have taken the victim to his residence, where the marriage was assured by the accused and his parents.
- iii) Subsequent instance is of 23.11.2023, when the accused has allegedly taken the victim to a hotel at Gorakhpur and committed rape. This instance was intimated to the Police by the victim.
- iv) The third instance is of taking the victim to Delhi. This was allegedly on the assurance of parents of the accused, who had given consent of marriage at Police Station, when they were called at Police Station Sipriganj, Gorakhpur.

13. All these instances mentioned in the F.I.R. and statement of victim, on the face of it shows that there was intentional false promise of marriage, which has direct nexus to influence the consent of the victim and are subject matter of trial.

14. In the case of **Pramod Suryabhan Pawar** (supra) the accused was Deputy Commandant in CRPF, while the victim was Assistant Commissioner of Sales Tax and Hon'ble Supreme Court found that allegations in the F.I.R. did not on the face of it indicate that the promise by the appellant was false, or that the complainant engaged in sexual relations on the basis of this promise.

15. In case of **Sonu alias Subhash Kumar** (supra) relied on by the accused applicant is based on different facts, wherein the victim developed voluntary relations of husband and wife with accused after falling in love with the accused. It is thereafter that accused and family members refused to marry her, which led to the lodging of the F.I.R.

16. The case of **Amol Bhagwan Nehul** (supra) is on different fact. In that case allegation of sexual intercourse on false promise of marriage was levelled by the complainant whose first marriage was subsisting and the accused-appellant, 23 years of age, was a student of Bachelor of Science (Agriculture) and the victim used to visit the college of accused. In this backdrop, Hon'ble the Supreme Court has made observation that the consent was not the outcome of inducement or misrepresentation.

17. Therefore, the cited cases relied on by the applicant are of no help to the applicant.

18. In view of the foregoing discussions, the application moved by the applicant is devoid of merit and deserves to be dismissed.

19. The application under Section 482 Cr.P.C. is, accordingly, dismissed. The interim order dated 01.08.2024 stands vacated.

November 4, 2025

MN/-

(Avnish Saxena,J.)