2026 INSC 124

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026

(Arising out of Special Leave Petition (Crl.) No.4452 of 2025)

PRAMOD KUMAR NAVRATNA ...APPELLANT

VERSUS

STATE OF CHHATTISGARH & OTHERS ...RESPONDENTS

J U D G M E N T

NAGARATHNA, J.

Leave granted.

2. This appeal arises out of order dated 03.03.2025 passed by the High Court for the State of Chhattisgarh at Bilaspur in WPCR No.117/2025 dismissing the Writ Petition filed under Article 226 of Constitution of India preferred by the accused-appellant herein and thereby refusing to quash the proceedings arising out of the FIR No.213/2025 dated 06.02.2025 registered at Sarkanda Police

Station, District Bilaspur under Section 376(2)(n) of the Indian Penal Code, 1860 (for short, "IPC") that was registered by the complainant-respondent No.3.

3. Briefly stated, the facts of the case are that the complainant-respondent No.3, an Advocate by profession, solemnized marriage with one Mitendra Kumar Dhirde on 02.06.2011 and subsequently gave birth to a boy named Ojash on 12.04.2012. Thereafter, owing to matrimonial discord between the couple, the husband sought divorce by filing the divorce petition Civil Case No.F/232A/2018 against the complainant-respondent No.3 on 10.12.2018 under Section 13(1)(ia) of Hindu Marriage Act, 1955 before the Family Court, Raigarh, Chhattisgarh. The contentions and grievances of the parties in the said divorce petition are not germane to the facts of the present case and hence are not dealt with herein. Suffice it to say that the said divorce petition was dismissed by the Family Court on 27.11.2024 and an appeal No.FA(MAT)/11/2025 against the said order was preferred by the husband of the complainant-respondent No.3 on 10.01.2025 which is currently pending adjudication before the High Court of Chhattisgarh at Bilaspur.

Therefore, at the time of disposal of the present petition, the complainant-respondent No.3 is married and has a son.

4. It is stated that on 18.09.2022, the complainant-respondent No.3 had come into contact with the accused-appellant who is also an Advocate by profession, at a social event wherein both developed a mutual liking and fondness for each other and thereafter stayed in contact with each other.

5. On 06.02.2025, the complainant-respondent No.3 lodged an FIR No.213/2025 dated 06.02.2025 at Police Station Sarkanda at District Bilaspur, Chhattisgarh under Section 376(2)(n) of the IPC against the accused-appellant alleging that he had raped her on a false promise of marriage. The allegations against the accused-appellant contained in the said FIR can be crystallised as hereunder:

i. That the complainant-respondent No.3 got acquainted with the accused-appellant during a social event wherein both the parties developed a cordial relationship based on their similar profession. The accused-appellant thereafter, on a regular basis, used to pick up and drop the complainant-respondent No.3 to and from her house.

That, the accused-appellant was told by the complainant-respondent No.3 that there were divorce proceedings pending before the Family Court between her and her husband.

ii. On 18.09.2022, while going to a Mahan Bada Jarhabhata meeting, the accused-appellant took the complainant-respondent No.3 to his friend's house in Geetanjali Phase-02, Sarkanda on the pretext of picking up some of his essential documents from the said location.

iii. Thereafter, in the guise of seeking help from the complainant-respondent No.3, the accused-appellant raped her. Upon protest and threat of lodgement of police complaint, the accused-appellant told the complainant-respondent No.3 that he likes her and wants to marry her and thereafter he proceeded to apply vermilion on her head.

iv. Subsequently, on different occasions the accused-appellant indulged in physical relations with the complainant-respondent No.3 whilst he kept verbally

assuring her that he will marry her and meet and talk to her family about the same.

v. Thereafter, the complainant-respondent No.3 informed the accused-appellant that she was pregnant with his child. Upon hearing the said information, he became evasive about the topic of marriage and said that he was neither ready for a social marriage nor for a child and consequently forced her to consume tablets for abortion.

vi. On 27.01.2025, the complainant-respondent No.3 visited the residence of the accused-appellant to confront him and his family about the said situation and was received with hostility by the members of the family of the accused-appellant who proceeded to assault and threaten the complainant-respondent No.3 with dire consequences and threw her out of the house.

6. Thereafter, alleging harassment and blackmail on behalf of the complainant-respondent No.3, the accused-appellant lodged a complaint before Superintendent of Police, District Bilaspur on 06.02.2025 wherein he alleged that the complainant-respondent

No.3 had been harassing him and his family with demand of marriage whilst threatening to commit suicide if the said demands of marriage were not met. It has further been alleged by the accused-appellant in the said complaint that he had never thought about marrying her but instead always saw her as a good friend and a colleague with whom he shared workspace.

7. Apprehending arrest in connection with the FIR No.213/2025, the accused-appellant preferred Anticipatory Bail Application under Section 482 of BNSS in MCRCA No.285/2025 before the High Court of Chhattisgarh at Bilaspur. The said Anticipatory Bail Application was allowed by the High Court by its order dated 03.03.2025. While allowing the said Anticipatory Bail Application, the High Court observed that upon perusal of the statement made by the complainant-respondent No.3 under Section 183 of BNSS, it appeared that she was married and had a 10-11 years old son and had indulged in a consensual relationship with the accused-appellant. Pursuant thereto, the accused-appellant was formally arrested on 28.03.2025 and thereafter released on bail.

8. On the same day i.e. 03.03.2025 when the accused-appellant was allowed the relief of anticipatory bail by the High Court of

Chhattisgarh in MCRCA No.285/2025, the WPCR No.117/2025 filed by him seeking relief of quashment of the FIR No.213/2025 and all consequential proceedings thereto was dismissed. While dismissing the said Writ Petition, the High Court observed that the complainant-respondent No.3 has made vivid allegations against the accused-appellant that on the pretext of marriage, she was induced into sexual intercourse after which, ultimately, he refused to marry her. On the point of quality of consent, it was observed that the misconception of fact or pretext of marriage are questions of fact which require proper investigation and therefore, at the nascent stage of investigation, it cannot be said with a certainty that the allegations levelled by the complainant-respondent No.3 are false and no *prima facie* offence has been made out and therefore the High Court, in its wisdom, found no ground to interfere with the proceedings emanating from the said FIR.

9. In the interregnum, the Investigating Officer submitted Final Report No.269/2025 under Section 192 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS' for short) on 02.04.2025 against the accused-appellant alleging commission of offence u/s 376(2)(n) of the IPC and in pursuance thereto, Sessions

Case No.89/2025 has been instituted before the Court of District and Sessions Judge, Bilaspur to try the accused-appellant for the aforesaid offence.

10. We have heard the learned counsel for the accused-appellant and learned counsel for respondent No.1-State as well as the complainant-respondent No.3. We have perused the material on record.

11. Learned counsel for the accused-appellant submitted that the alleged victim is a thirty-three years old married lady and an advocate by profession with a son aged 10-11 years old and therefore has knowledge of her well-being and hence by any stretch of imagination, it cannot be said that she was duped on the pretext of marriage considering her marital status and her occupation. It was further submitted that she voluntarily developed physical relationship with the accused-appellant which continued up to January 2025 which in itself goes on to show that she was a consenting party with the accused-appellant and hence no offence of rape is made out even from the contents of the FIR itself. Further, it has been alleged that the accused-appellant himself was the victim of the act of the complainant-respondent No.3 as she had

been blackmailing him for which the he had filed a complaint to the Superintendent of Police on 06.02.2025 and therefore, in the absence of any *prima facie* ingredients to constitute the offence of rape, he cannot be prosecuted for the same. He further submitted that the accused-appellant had also applied for grant of anticipatory bail registered as MCRCA No.285/2025 before the High Court of Chhattisgarh which was allowed *vide* the order dated 03.03.2025. Therefore, in view of the facts and circumstances of the case, the petition may be allowed and the impugned FIR may be quashed.

12. *Per contra,* the learned counsel for the respondent No.1-State contended that the facts of the present case are not only heinous but also grave in nature for which the accused-appellant, if found guilty, would be liable to be punished. Furthermore, it has also been contended that through the investigation, there has been a recovery of WhatsApp conversation exchanged between the accused-appellant and the complainant-respondent No.3 wherefrom it is apparent that the accused-appellant was aware that the complainant-respondent No.3 was having a matrimonial dispute with her husband and therefore in a pre-planned manner

induced her into a physical relationship for satisfying his lust under the false pretext of marriage and thereafter impregnated her without having any actual intention to honour his promise. Therefore, it was argued that any argument on the consent of the prosecutrix stands vitiated at the very threshold by fraud and misconception induced by the accused-appellant.

13. On the other hand, the learned counsel for the complainant-respondent No.3 has contended that the police officials after due investigation found that offence has been made out against the accused-appellant and consequently Chargesheet No.269/2025 has been filed on 02.04.2025 under section 376(2)(n) of the IPC and Sessions Case No.89/2025 has been instituted. It was further contended that the accused-appellant, being an advocate himself, knows the implications of law and has committed the sexual offence with intention and full knowledge. That apart, it was contended by the counsel that the accused-appellant is not appearing before the Sessions Judge and therefore is delaying the trial and he has an alternative remedy of arguing the case before the Sessions Judge on the point of discharge instead of pursuing the remedy of quashing the FIR before this Court. It has been

pointed out by the learned counsel that only fourteen witnesses have been listed in the chargesheet for examination and hence there is no scope for delay of trial and the same may be concluded within six months and therefore all the questions regarding the consent of the complainant-respondent No.3 and its quality can be decided at the stage of trial itself.

14. We have given our thorough consideration to the arguments advanced at the Bar and the material on record.

15. In the instant case the allegations in the FIR are under Section 376(2)(n) of the IPC. An offence of rape, if established in terms of Section 375 of the IPC, is punishable under Section 376 of the IPC. In the present case, the second description of Section 376 is relevant which is set out below: :

> **"376. Punishment for rape. —** (1). Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.
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> 2. Whoever, -
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> xxx
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> (n) commits rape repeatedly on the same woman,
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> shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may

extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation.—For the purposes of this sub-section,—

(a) "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861 (5 of 1861);

(d) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children."

16. Section 376(2)(n) of the IPC provides for enhanced punishment in cases where rape is committed repeatedly on the same woman. It mandates rigorous imprisonment for a term of not less than ten years which may extend to life imprisonment for the remainder of the person's natural life. The object of this provision is to address aggravated instances of sexual assault where the

offence is not a single incident but has occurred repeatedly on the same victim. The expression "repeatedly" employed in the provision is of significance. It contemplates more than one act of sexual assault, committed at different points in time on the same victim. Courts have consistently interpreted this phrase to mean a series of acts that are separate in nature and not a continuation of a single transaction. In genuine cases under Section 376(2)(n) of the IPC, the pattern is usually unmistakable; it is an initial act of sexual assault, followed by multiple acts under fear, pressure, captivity, or continued deceit, often when the woman is rendered vulnerable and unable to escape the situation.

17. At the outset, we refer to the ratio in the case of ***Naim Ahamed vs. State (NCT of Delhi), (2023) 15 SCC 385*** whereby this Court had decided a similar matter, wherein allegedly, the prosecutrix had also given her consent for a sexual relationship with the accused-appellant therein, upon an assurance to marry. The prosecutrix, who was herself a married woman having three children, had continued to have such a relationship with the accused-appellant, at least for about five years till she gave the

complaint. In the conspectus of such facts and circumstances, this Court had observed as under:

> "21. The bone of contention raised on behalf of the respondents is that the prosecutrix had given her consent for sexual relationship under the misconception of fact, as the accused had given a false promise to marry her and subsequently he did not marry, and therefore such consent was no consent in the eye of the law and the case fell under Clause Secondly of Section 375 IPC. In this regard, it is pertinent to note that there is a difference between giving a false promise and committing breach of promise by the accused. In case of false promise, the accused right from the beginning would not have any intention to marry the prosecutrix and would have cheated or deceived the prosecutrix by giving a false promise to marry her only with a view to satisfy his lust, whereas in case of breach of promise, one cannot deny a possibility that the accused might have given a promise with all seriousness to marry her, and subsequently might have encountered certain circumstances unforeseen by him or the circumstances beyond his control, which prevented him to fulfil his promise. So, it would be a folly to treat each breach of promise to marry as a false promise and to prosecute a person for the offence under Section 376. As stated earlier, each case would depend upon its proved facts before the court."

18. It has been time and again settled by this Court, that the mere fact that the parties indulged in physical relations pursuant to a promise to marry will not amount to a rape in every case. An offence under Section 375 of the IPC could only be made out, if promise of marriage was made by the accused solely with a view to obtain consent for sexual relations 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. The issue for consideration is whether, given the facts and circumstances of the case and after examining the FIR, the High Court was correct in refusing to quash the ongoing criminal proceedings against the accused-appellant arising out of FIR No.213/2025 dated 06.02.2025 and the Chargesheet No.269/2025.

19. Upon a careful consideration of the record in the present case, we are unable to discern any material that would warrant the invocation of Section 376(2)(n) of the IPC. The facts of the present case unmistakably indicate towards a classic case of a consensual relationship turning acrimonious. Upon perusal of the records of the case, it is evident that the complainant-respondent No.3 is a married lady with a ten years old child. The said marriage was solemnized on 02.06.2011 and although divorce proceedings are currently pending adjudication between her and her husband, by no stretch of imagination can it be held that the complainant-respondent No.3 was eligible for being married with the accused-appellant on 18.09.2022, the date on which the first of the multiple

instances of acts of rape on the false pretext of marriage has been committed by the accused-appellant are alleged. Therefore, even for the sake of argument, if the contention of the respondent No.1 - State and the complainant-respondent No.3 is accepted that there indeed was a false promise of marriage based on which the accused-appellant indulged in sexual activities, such a promise would not be legally enforceable or even capable of being acted upon as the victim herself was not eligible for marriage, neither on the date of the first alleged act of offence i.e. 18.09.2022 nor on any subsequent dates wherein the parties indulged in the sexual activities, till the point of the date of registration of FIR i.e. 06.02.2025. The said embargo arises from sub-clause (i) of Section 5 of the Hindu Marriage Act,1955 which categorically prohibits marriage between two individuals if either of them have a living spouse. The said position of law has been reiterated under sub-clause (i) of Section 4 of the Special Marriage Act, 1954.

20. In other words, the law prohibits bigamous unions and therefore disallows parties from entering into a second marriage during the subsistence of their first marriage. It is, therefore, difficult to accept the view that the complainant-respondent No.3,

who herself is an advocate, was oblivious to the said settled position of law and hence was duped and induced by the accused-appellant into having sexual relations with him on different occasions on the pretext of marriage especially when both the parties were cognizant of the marital status of the complainant-respondent No.3.

21. At this juncture, it is also pertinent to mention that the complainant-respondent No.3 is a thirty-three years old woman and an advocate by profession and not a naïve or gullible woman incapable of taking decisions for herself. It would be remiss not to mention, at the cost of repetition, that the complainant-respondent No.3 is herself an advocate and therefore she should have exercised her prudence and discretion before engaging the already burdened State machinery into a roving criminal litigation.

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.

23. At this stage, it is material to refer to the decision of this Court in ***Mahesh Damu Khare vs. State of Maharashtra, (2024) 11 SCC 398***, wherein the following observations were made:

> "29. It must also be clear that for a promise to be a false promise to amount to misconception of fact within the meaning of Section 90 IPC, it must have been made from the very beginning with an intention to deceive the woman to persuade her to have a physical relationship. Therefore, if it is established that such consent was given under a misconception of fact, the said consent is vitiated and not a valid consent. …"

24. On a perusal of the allegations made in the present case, it is an admitted fact that the complainant-respondent No.3, within the first initial meetings told the accused-appellant that she was a married woman with divorce proceedings pending before the Family Court. Therefore, in the same breath, she cannot be allowed to claim and allege that she was also coaxed by the accused-appellant into having a physical relationship with him on the false pretext of marriage as the two facts cannot stand together on the same plane and simultaneously as both are antagonistic and antithetical to each other. In our opinion, the facts of the present case clearly indicate a consensual relationship gone sour whereas both the parties should have exercised restraint and should have refrained from involving the State into their personal relationship turning rancour.

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.

26. In this regard, it would be apposite to rely on the judgment in the case of ***State of Haryana vs. Bhajan Lal, 1992 Suppl (1) SCC 335 ("Bhajan Lal")*** with particular reference to paragraph 102 therein, where this Court observed thus:

> "102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power Under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.
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> (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.
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> (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.

xxx

(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."

27. On a careful consideration of the aforementioned judicial dictum, we find that the offence alleged against the accused-appellant herein is not made out at all. In fact, we find that the allegation of rape on false pretext of marriage even when taken on its face value, does not amount to an offence of rape and hence not liable for punishment under Section 376(2)(n) of the IPC in the instant case and therefore, the judgment of this Court in the case of ***Bhajan Lal*** squarely apply to the facts of these cases. Therefore, it is neither expedient nor in the interest of justice to permit the present prosecution emanating from the FIR and consequent Sessions Case No.89/2025 to continue.

28. In view of the aforesaid discussion and keeping the judicial dicta laid down by this Court in mind we set aside the impugned order dated 03.03.2025 of the High Court and consequently, FIR No.213/2025 dated 06.02.2025 registered with Sarkanda Police Station at district Bilaspur and the Chargesheet No.269/2025, and the consequent proceedings arising out of the said proceedings in Sessions Case No.89/2025 are quashed.

The appeal is allowed in the aforesaid terms.

.....J.
(B.V. NAGARATHNA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
FEBRUARY 05, 2026.